

Legislative Fact Sheet

Racial and Religious Profiling Abuses at the U.S. Border

January 1, 2013

The Issue

- For the past several years CAIR has received numerous complaints by American citizens about Customs and Border Protection (CBP) agents repeatedly harassing them at the U.S.-Canada border.
- These complaints include being unnecessarily handcuffed, brandishing of weapons, enduring prolonged periods of detention, invasive and humiliating body searches, and inappropriate questions about religion.
- Agents have unlawfully asked citizens “Which mosque do you go to” “How many times a day do you pray?” “Who is your religious leader?” “Do you pray your morning prayer in the mosque?” and “Who else prays in your mosque?”
- Although community members harassed at the border have filed multiple inquiries through the DHS Traveler Inquiry Program (TRIP), CBP has made no real attempt to provide any means of recourse.
- While CBP says it “strictly prohibits profiling on the basis of race or religion,” its practice of religious questioning is well documented by CAIR, DHS internal documents, and contradicts CBP written policies.

What is being asked of members of Congress?

- Support a strong letter of inquiry to CBP Deputy Commissioner David Aguilar that seeks clarification of CBP’s policies and practices in dealing with religious questioning, profiling, and harassment at the U.S. Border.
- Encourage CBP to adopt new policies and practices that better protect the civil and human rights of all people. Such policies include:
 - Establishing clear accountability and oversight systems that are transparent and responsive to civilian complaints, property damage and confiscation, while maintaining a zero tolerance policy that holds all CBP agents accountable who commit civil and human rights violations.
 - Banning the use of racial or religious profiling (i.e. relying to any degree on actual or perceived race, ethnicity, gender, national origin, or religion in electing which individuals are to subject to routine or spontaneous immigration enforcement activities).
 - Banning all forms of unconstitutional religious questioning at the U.S. border by CBP agents.
 - Installing officer, hold room, and dash-board mounted cameras to record CBP operations.
 - Consulting with an independent commission composed of diverse stakeholders to oversee the implementation of federal policies and programs on the borders and in the immediate interior.

Reasons to Reform Customs and Border Protection Practices

- The First Amendment clearly protects all persons from being questioned about their personal religious beliefs, associations and practices: This right does not end at the U.S. border.
- Such religious questioning is also a violation of the 1993 Religious Freedom Restoration Act, which says the federal government cannot substantially burden a person’s free exercise of religion.
- None of the complaints documented by CAIR included individuals that had ever been charged with a crime. Yet, CBP agents are asking questions that indicate a presumption that adherence to Islam is somehow inherently suspicious.
- Racial or religious profiling is presumed to be a primary motivating factor in the vast majority of complaints received by CAIR. Most complaints come from Americans of descent from Arab or Muslim countries.
- As a result of this invasive questioning, some individuals have been fired from their jobs for falling behind or lost prospective job, business, and educational opportunities. Other have stopped visiting their families in Canada. And some simply choose to no longer vacation in Canada or Mexico.
- Such practices endanger our national security by wasting limited resources, diverting the mission of CBP agents, and creating distrust between these communities and law enforcement agencies.