

Testimony of

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Hearing on
"America after 9/11: Freedom Preserved or Freedom Lost?"

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Mr. Chairman, Ranking Member, Members of the Committee, thank you for convening this important hearing and for inviting me to be with you today.

The horrific terrorist attacks of September 11 were a profound and painful tragedy for all Americans. None of us will ever forget that awful day when thousands of innocent lives were lost.

The attacks were a dual tragedy for Arab Americans. We are Americans and it was our country that was attacked. Arab Americans died in the attacks. Arab Americans were also part of the rescue effort. Dozens of New York City Police and rescue workers who bravely toiled at Ground Zero were Arab Americans. Sadly, however, many Arab Americans were torn away from mourning with our fellow Americans because we became the targets of hate crimes and discrimination. Some assumed our collective guilt because the terrorists were Arabs. Arab Americans and Muslims and other perceived to be Arab and Muslim were the victims of hundreds of bias incidents. According to the Justice Department's Civil Rights Division, "The incidents have consisted of telephone, internet, mail, and face-to-face threats; minor assaults as well as assaults with dangerous weapons and assaults resulting in serious injury and death; and vandalism, shootings, and bombings directed at homes, businesses, and places of worship." As a result of the post-9/11 backlash, in 2001, the FBI reported a 1600% increase in anti-Muslim hate crimes and an almost 500% increase in ethnic-based hate crimes against persons of Arab descent.

Thankfully, the American people rallied to our defense. President Bush spoke out forcefully against hate crimes, as did countless others across the nation. Both the Senate and the House of Representatives unanimously passed resolutions condemning hate crimes against Arab Americans and Muslims. Federal, state and local law enforcement investigated and prosecuted hate crimes, and ordinary citizens defended and protected us, refusing to allow bigots to define America. We will always be grateful that our fellow Americans defended us at that crucial time.

Much has been done in the past two years to combat the threat of terrorism. Among other significant accomplishments, we have deposed the Taliban regime, created the Department of Homeland Security, taken steps to enhance airport and border security, and improved information sharing between intelligence and law enforcement.

Arab Americans are proud to have played a crucial role in these efforts, serving on the front lines of the war on terrorism as police, firefighters, soldiers, FBI agents, and translators. The Arab American Institute has

worked with federal, state and local law enforcement to assist efforts to protect the homeland. We helped to recruit Arab Americans with needed language skills and we have served as a bridge to connect law enforcement with our community.

Recently, working with the Washington Field Office of the FBI, the Arab American Institute helped to create the first Arab American Advisory Committee, which works to facilitate communications between the Arab-American community and the FBI. I proudly serve as a member of the FBI Advisory Committee, which serves as a model and is now being copied across the United States.

As someone who has spent my entire professional life working to bring Arab Americans into the mainstream of American political life and to build a bridge between my country and the Arab world, I am very concerned about the direction of some of our efforts to combat the terrorist threat and the impact these initiatives have on our country and my community. Unfortunately, the Bush administration has devoted too many resources to counterterrorism measures that threaten our civil liberties and do little to improve our security. Going well beyond the provisions of the Patriot Act, John Ashcroft's Justice Department has unleashed a series of high-profile initiatives that explicitly target Arabs and Muslims and have resulted in the detention of thousands of people.

In the immediate aftermath of 9/11, the Justice Department rounded up at least 1200 immigrants, the vast majority of whom were Arab or Muslim. The DOJ refused to release any information about the detainees, and charged that the detentions were related to the 9/11 investigation. At the time, the Arab American Institute and others in the Arab-American community expressed concern about the broad dragnet that the Justice Department had cast in Arab immigrant communities. We fully supported the government's efforts to investigate the 9/11 terrorist attacks, but we questioned the efficacy of this dragnet approach. Based on reports from family members of the detainees, we also were very concerned about the conditions in which the detainees were confined, and their ability to contact counsel and their families.

In response, the Attorney General questioned the patriotism of us and others who raised questions about the DOJ's policies:

To those who scare peace-loving people with phantoms of lost liberty; my message is this: Your tactics only aid terrorists, for they erode our national unity and diminish our resolve. They give ammunition to America's enemies, and pause to America's friends. They encourage people of good will to remain silent in the face of evil.

It is wrong to suggest that patriotic Americans who question the efficacy and impact of their government's policies are supporting terrorists. This assertion, combined with policies and statements that conflate undocumented Arab and Muslim immigrants with terrorists cast a cloud of suspicion over the Arab American community that contributed to additional discrimination.

Last year, the Justice Department's Inspector General issued a report that vindicated our concerns. The IG found that the Justice Department classified 762 of the detainees as "September 11 detainees." The IG concluded that none of these detainees were charged with terrorist-related offenses, and that the decision to detain them was "extremely attenuated" from the 9/11 investigation. The IG concluded that the Justice Department's designation of detainees of interest to the 9/11 investigation was "indiscriminate and haphazard." and did not adequately distinguish between terrorism suspects and other immigration detainees.

The IG also found detainees were subjected to harsh conditions of confinement, including cells that were illuminated 24 hours per day, and confinement to their cells for all but one hour per day. Disturbingly, the IG also found, "a pattern of physical and verbal abuse by some correctional officers at the MDC against some September 11 detainees, particularly during the first months after the attacks."

I'm not suggesting that the government should never use immigration charges to detain a suspected terrorist, but the broad brush of terrorism should not be applied to every out-of-status immigrant who happens to be Arab or Muslim. Our immigration system is fundamentally broken. Comprehensive immigration reform is required to address this problem. We should not confuse the problems with our immigration system with our efforts to combat terrorism. Detaining large numbers of undocumented Arab and Muslim immigrants will not aid our efforts to combat terrorism, and might actually harm them.

Another example of conflating immigration enforcement against Arab and Muslims immigrants and visitors with counterterrorism is the National Security Entry-Exit Registration System (NSEERS) "call-in" program (also known as Special Registration), which requires male visitors from 24 Arab and Muslim countries and North Korea, to register with local INS offices. By singling out a large group of mostly Arabs and Muslims, Special Registration involves a massive investment of law enforcement resources with negligible return. It also creates fear of law enforcement in our immigrant communities, whose cooperation

law enforcement needs. At the same time, these discriminatory practices validate and even feed the suspicion that some have of Arabs and Muslims.

From the outset, NSEERS was plagued by implementation problems. Due to inadequate publicity and INS dissemination of inaccurate and mistranslated information, many individuals who were required to register did not do so. Many who were required to register in the call-in program were technically out of status due to long INS backlogs in processing applications for permanent residency. Many such individuals have been placed in deportation proceedings.

Across the country, many were detained in harsh conditions due to the government's inability to process registrants in a timely fashion. For example, in December 2002, the INS in Los Angeles detained hundreds of men and boys who report they were denied access to legal counsel and their families, held in handcuffs and leg shackles, and forced to sleep standing up due to overcrowding.

In response to criticism that the "call-in" program discriminates against Arabs and Muslims, Justice Department officials originally said that it would be expanded to include visitors from all countries. When the program was transferred to the Department of Homeland Security, the administration announced that the program was being terminated. However, those who were already required to register, including male visitors from every Arab country, are still subject to the program's requirements and penalties for noncompliance, including deportation.

The Department of Homeland Security reports that more than 80,000 people have registered in the call-in. Of these, more than 13,000 have been placed in deportation proceedings. Deporting those who comply with Special Registration will deter others from complying with the program or otherwise cooperating with law enforcement. If a goal of Special Registration is to track possible terrorists, deporting those who comply with the program undermines this aim, especially if it reduces future compliance. The DOJ claims that special registration resulted in the apprehension of 11 suspected terrorists, but DHS reports that none have been charged with terrorist-related activities. This raises questions about the efficacy of the program and the validity of the DOJ claims.

In a similar vein, the Justice Department also launched the "Interview Project," to interview thousands of Arabs and Muslims, including U.S. citizens. The Arab American Institute found that these interviews created fear and suspicion in the community, especially among recent immigrants, and damaged our efforts to build bridges between the community and law enforcement.

Like other DOJ programs that cast a wide net, the interviews created a public impression that federal law enforcement views our entire community with suspicion, which, in some cases, fostered discrimination. For example, we received reports of instances where the FBI visited individuals at their workplace, and then these individuals were subsequently demoted or terminated by their employers.

FBI officials with whom I have spoken also questioned the project's usefulness as a law enforcement and counter-terrorism program. They told me it involved a significant investment of manpower, produced little useful information, and damaged their community outreach efforts.

The General Accounting Office reviewed the Interview Project and concluded:

How and to what extent the interview project - including investigative leads and increased presence of law enforcement in communities - helped the government combat terrorism is hard to measure ... More than half of the law enforcement officers that [the GAO] interviewed raised concerns about the quality of the questions or the value of the responses.

According to the GAO, "Attorneys and advocates told us that interviewed aliens told them that they felt they were being singled out and investigated because of their ethnicity or religious beliefs." The GAO also concluded that many of those interviewed "did not feel the interviews were truly voluntary," and feared "repercussions" if they declined to be interviewed.

I am concerned about these and other government efforts that infringe upon civil liberties for several reasons. First, it is wrong to single out innocent people based on their ethnicity or religion. This runs contrary to the uniquely American ideal of equal protection under the law.

By casting such a wide net, these efforts squander precious law enforcement resources and alienate communities whose cooperation law enforcement needs. They run counter to basic principles of community policing, which reject the use of racial and ethnic profiles and focus on building trust and respect by working cooperatively with community members.

According to polls conducted by the Arab American Institute and Zogby International, the Justice Department's efforts are taking a toll in the Arab American community. Immediately after 9/11 Arab

Americans were heartened by President Bush's strong display of support for the community. In October 2001, 90% said that they were reassured by the President's support, while only six percent were not reassured. By May 2002, those who felt reassured dropped to 54% as opposed to 35% who were not. In a July 2003 poll, the ratio dropped even further, with only 49% now saying that they feel assured by Bush's support for the community while 38% say that they are not assured. Thirty percent of Arab Americans report having experienced some form of discrimination, and 60% say they are now concerned about the long-term impact of discrimination against Arab Americans.

Civil liberties abuses against Arabs and Muslims have been well-publicized in the Arab world, and there is a growing perception that Arab immigrants and visitors are not welcome in the United States. As a result, America is less popular, and it is more politically difficult for our Arab allies to cooperate with our counter-terrorism efforts.

According to polls conducted by the Arab American Institute and Zogby International, Arab public opinion attitudes toward the United States had dropped to dangerously low levels even before the U.S.-led invasion of Iraq. We found that Arabs had strong favorable attitudes toward American values, and also had largely favorable attitudes toward the American people. However, they had extremely negative attitudes toward U.S. policy, which shaped their views of America. To be sure, U.S. policy toward the Israeli-Palestinian conflict and Iraq contribute to these attitudes, but perceptions of civil liberties abuses against Arab and Muslims Americans are also a contributing factor.

The countries polled included some of the United States' strongest allies in the Middle East: Egypt, Jordan, Morocco, Saudi Arabia and the United Arab Emirates. In an earlier AAI/ZI poll, done in March of 2002, we found that U.S. favorable ratings were already quite low. The most significant drops in U.S. ratings occurred in Morocco and Jordan. In 2002, for example, 34% of Jordanians had a positive view of the United States as compared with 61% who had a negative view. In 2003, only 10% of Jordanians now hold a positive view of the United States, while 81% see the country in a negative light. Similarly in Morocco the favorable/unfavorable rating towards the United States in 2002 was 38% to 61% percent. Today it is 9% favorable and 88% unfavorable.

The U.S. favorable/unfavorable rating was already quite low in Egypt, Saudi Arabia, and the UAE. It has remained low. In 2002, the ratings in Egypt were 15% favorable to 76% unfavorable. In 2003, Egyptians' ratings of the United States are 13% favorable and 80% unfavorable. In Saudi Arabia the rating toward the United States was 12% favorable to 87% unfavorable in 2002. Today it has dropped to 3% favorable and 97% unfavorable. In the UAE the ratio showed almost no change from an 11% favorable/87% unfavorable in 2002 to 11% favorable/85% unfavorable in 2003.

Buttressing these poll results are my experiences in the Arab world, where I travel frequently. In conversations with opinion leaders across the region, the concern they raise most frequently is American civil liberties abuses against Arabs and Muslims.

Due to a variety of factors, including fear of discrimination, many fewer Arabs come to the U.S. for medical treatment, tourism, study, or business. In the past, Arab visitors to the U.S. have had a chance to observe first-hand the unique nature of American democracy and freedom and have returned to the Arab world as ambassadors for our values.

In his address on November 6, President Bush rightly linked the spread of democracy to the war on terrorism. Unfortunately, civil liberties abuses against Arabs and Muslims in the U.S. have undermined our openness and have harmed our ability to advocate credibly for democratic reforms in the Middle East. In fact, some Arab governments now point to American practices to justify their own human rights abuses. As President Bush suggested, and as we have learned so painfully, anti-democratic practices and human rights abuses promote instability and create the conditions that breed terrorism. Democratic reformers and human rights activists used to look to the U.S. as an exemplar, the city on a hill. Now they are dismissed by their countrymen when they point to the American experience.

Once we set a high standard for the world, now we have lowered the bar. The damage to our image, to the values we have sought to project, and to our ability to deal more effectively with root causes of terror have been profound.