



Following the tragic events of September 11, 2001, the United States government engaged in widespread racial profiling against Muslims, Arabs and South Asians. Individuals were targeted in the name of “national security.” The government aggressively used civil immigration laws, criminal laws and criminal procedures, in an sweeping and discriminatory manner to go after members of these communities. Such actions have included:

- large-scale round-ups detained hundreds of Arabs, Muslims and South Asians. Many were then subjected to harsh conditions, prolonged detention, secret immigration trials and deportation, often for minor immigration violations. Not a single successful terrorism conviction resulted from these post-9/11 sweeps¹;
- programs like ‘NSEERS’ that forced non-immigrant men aged 16-45 from mainly Muslim majority countries to register themselves at local immigration offices and ports of entry. More than 80,000 men underwent registration and thousands were subjected to lengthy interrogations and detention, thousands were deported—and many still suffer from severe immigration consequences resulting from the program;
- profiling at border stops and airports where individuals are singled out for intrusive questions, invasive searches and lengthy detentions without reasonable suspicion of criminal activity; and
- using FBI informants to infiltrate mosques and other places where Muslims convene. At times, Muslims were coerced to spy on their own communities or face immigration retaliation.

Profiling based on religion or national origin diverts our precious law enforcement and intelligence resources away from real threats and makes everyone less safe. The 9/11 Commission determined that programs like NSEERS did not demonstrate clear counterterrorism benefits.² Community groups report that members of these targeted communities became so afraid of having any contact with officials that they did not report domestic violence or other crimes, ask for assistance in emergency situations, and, in some cases, did not seek medical treatment³.

Post 9/11 profiling eroded trust in law enforcement and marginalized Muslim, Arab and South Asian communities—alienating those very people whose cooperation we need for intelligence gathering and for rebuilding U.S. relations with the Muslim world.

- A 2006 study commissioned by the Department of Justice found that Arab Americans were significantly fearful and suspicious of federal law enforcement due to government policies. It also found that both community members and law enforcement officers determined that diminished trust was the most important barrier to cooperation.⁴

Racial profiling is wrong. According to the U.S. Constitution and international human rights laws and treaties that are binding on the United States, every person has the fundamental right to equal protection under the law—even in times of terrorist threats or other crises. Dragnet investigation based on such arbitrary factors as race, religion, ethnicity or national origin is profoundly unjust and illegal.

Rights Working Group recommendations:

1. The Obama Administration should revise the 2003 Department of Justice guidance on racial profiling to include profiling based on religion and national origin, to eliminate loopholes that allow for profiling at the border and for national security, and to ensure that the guidance is enforceable.
2. The Department of Homeland Security should terminate the NSEERS program.
3. Congress should introduce and pass the “End Racial Profiling Act” which would ban racial profiling at the federal, state and local level.

¹ David Cole, *Taking Liberties*, The Nation, September 22, 2004, available at <http://www.alternet.org/rights/19948/> and David Cole & Jules Lobel, *Why We’re Losing the War on Terror*, The Nation, September 6, 2007, available at http://www.thenation.com/doc/20070924/cole_lobel.

² Thomas R. Eldridge et al., *9/11 and Terrorist Travel: A Staff Report of the National Commission on Terrorist Attacks Upon the United States* (2004).

³ Immigration Policy Center, *Targets of Suspicion: The Impact of Post-9/11 Policies on Muslims, Arabs and South Asians in the United States*.