

**Testimony before the New York City Council In support of the passage of  
909 Resolution**

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I am here to express deep concern for the mounting civil rights violations against Muslim, Arabs, South Asian and all individuals perceived to be of Middle Eastern decent. The per se violations are being committed by our law enforcement agencies which makes this community feel helpless, fearful and confused about their future in America. The laws and their application are targeting our community based on their national origin, religion and race. Outrageous acts have been committed as a result of the enactment of the US Patriot Act. This Act has made the members of my community feel as if they are not protected by basic civil and human rights.

We should also mention that Profiling has tainted the American legal system for decades if not centuries. The African community has suffered racial profiling for centuries, the Chinese and Japanese experience was another dark episode of our history.

Just as African Americans and Latinos were often unfairly targeted during the war on drugs, Arab and Muslim Americans have become victims of the new war on terrorism.

Also, Profiling of Muslims and Arabs did not only exist after the enactment of the US Patriot Act. After the Oklahoma City bombing, the U.S. Congress passed an antiterrorism bill in 1996. The bill allowed the government to use secret evidence to detain and deport immigrants

suspected of terrorism. The law has been used almost exclusively against Arab and Muslim immigrants.

An immigrant will be denied due process rights under the Fifth Amendment of the US Constitution. He/she cannot face the alleged illegal act since the evidence used against the alien is secret.

The Muslim and Arab communities have been heavily impacted by the Immigration and Naturalization Service's use of secret evidence. This has resulted in the prosecution of over two dozen people almost all of whom are of Arab ethnicity and /or Muslim religious affiliation. In most of these cases, victims have spent long periods of time in jail without charge or the ability to mount any form of effective defense before being released.

The difference between secret evidence and the US Patriot Act is that the US Patriot Act has broadened the government's power to detain and profile Muslims and Arabs without having to articulate the presence of any evidence.

The enactment of the Patriot Act created shortly after September 11, substantially degraded rights and freedoms that were once guaranteed to all Americans. The resulting expansion of government power and the erosion of 1<sup>st</sup>, 4<sup>th</sup>, 5<sup>th</sup>, 6<sup>th</sup> & 8<sup>th</sup> Amendment rights and freedoms have turned the United States into a virtual police state.

The September 11, tragedy has allowed law enforcement agencies complete power to profile Muslims and Arabs without accountability. The passage of US Patriot Act has made it easier for the government to; secretly wiretap and search homes, spy on citizens, and broaden the definition of a terrorist

The application of the US Patriot Act demonstrated results much more devastating than its principles. The Arab and Muslim communities have been specifically targeted and exposed to harsh treatments, humiliation profiling, indefinite detention and discrimination.

### **Extended Detentions without Charges**

In the early stage of the US Patriot Act application, thousands of Arab and Muslim Immigrants were detained for months without access to an attorney or contact with their families. Many were charged with only minor immigration violations. Others faced hearings in secret, behind closed doors and were later deported to their countries of origin. These detainees were considered suspected terrorists based on their national origin, religion or race. The government could not even offer an argument of mere suspicion or probable cause to detain these individuals.

Profiling has become an accepted practice by the public as long as it is targeting Arabs and Muslims. Profiling of Muslims and Arabs is being practiced at a large scale and law enforcement agencies are using the anger and fear in the American Public to evade any accountability.

### **No Fly List**

The other form of profiling that concerns Arab and Muslim Americans is the targeting of Middle Eastern people at airports. "Driving while black" is a term coined by civil rights advocates to indicate racial profiling of African Americans. But in recent years "flying while Arab or Muslim" has entered the vocabulary.

A Muslim Investment banker says he has gotten used to being selected for extra scrutiny by security personnel at airports since the Sept. 11 terrorist attack. He was traveling from Las Vegas to Minneapolis when a Northwest Airlines ticket agent seemed suspicious of him as soon as he presented his driver's license for check in. After being approached by a Northwest Airlines supervisor, the Las Vegas police were called. Officers allegedly questioned and detained him, ordered him to accompany them to a "back room," and then brought in FBI agents before he was finally allowed to leave.

After answering all of the officers' and agents' questions - including providing confidential personal information the FBI agents escorted him back to the ticket counter to tell Northwest Airlines that he was cleared to board the airplane. The Northwest agent refused to allow him to board the plane and transferred him to another airline.

The Investment Banker's name appeared on the Transportation Security Administration's 'No Fly List,' and, as per procedures, the airlines will not allow someone to fly until it has been determined that he is not the same person who is listed. A Commissioned Officer in the United States Air National Guard, of a Middle Eastern Origin was boarding Northwest Airline at one of the Detroit Airports when a Sheriff approached him and told him he could not board the plane. He was interrogated while he and his language were searched. The victim is an Officer in the US Air Force. He had finished training and was returning home. The victim was with other co-officers. The co-officers were not stopped because they did not look Middle Eastern nor have an Arab or Muslim name.

Examples of profiling while flying are numerous and some people face the same experience every time they fly because their name is similar to the names on the "No Fly List". The "No Fly List" is compiled by the Department of Transportation and used by the FAA to identify suspected terrorists. The irony is that some of the terrorist are already in detention but people of the same or similar names are prevented from flying. This usually happens to people with common Muslim names. Just imagine if there was a terrorist named John Smith. Would the government profile any named John Smith? The profiling of the Muslims and Arabs while flying does not protect this country but cause more harm and humiliation to innocent and hard working Americans.

The American Arab Anti-Discrimination Committee has confirmed forty-five reports of airline incidents where the airline personnel also refused to allow Arab Americans to board

the plane because the crew did not feel safe with an Arab on board. We should recognize that private transportation actions are not isolated. They are part of profiling campaign policy set up by the government to target people of Muslim and Arab origin.

### **Profiling by Financial Institution**

Acting as agents for the government, Financial Institutions have been targeting their Muslim and Arab customers. These financial institutions have faced steep fines if they do business with anyone on a list of suspected terrorists offered by the U.S. Treasury's Office of Foreign Asset Control known as (OFAC List). In addition, the USA Patriot Act requires that financial institutions maintain programs to check every new customer against OFAC's online database. The OFAC database lists hundreds of common Arab and Hispanic names, often with few other identifying facts about the suspects.

For instance, Muhammad Ali's name has become a target and whoever is named as such is subject to terrorist investigation. A New York-born Muslim went to his local Western Union in Brooklyn to wire \$80 for schoolbooks to a friend in Connecticut. Mr. Ali's order had been blocked because his name had turned up on a government list of known terrorists. Mohammad Ali is a common name among Muslims just as the Boxer legend Mohammad Ali. The Boxer legend is a Muslim and cannot be considered a suspected terrorist.

With the OFAC database and the Section of the US Patriot Act combined, people of Muslim and Arab names have their accounts closed without explanations, others were requested to offer very intrusive information though they had been customers for 10 to 20 years. Others were refused the opportunity to open a bank account.

### **Special Registration**

The latest governmental episode of Muslim and Arab profiling occurred under the National Security Entry-Exit Registration System (NSEERS), commonly known as “Special Registration.” Under the NSEERS program men and boys over 16 years of age from 25 countries had to report to the INS where they were photographed, fingerprinted, and interviewed under oath. Failure to comply with the requirements of the program is a deportable offense. Ironically, many of the immigrants who complied with the program have been detained, deported and others are waiting deportation due to immigration technicalities resulting from INS bureaucracies such as backlogs in issuing green cards.

This program has targeted people based on their race, national origin and religion. With the exception of North Korea, all the countries in the program are Arab or Muslim. Moreover, the addition and subsequent removal of Armenia from the list of countries raises even more questions about the criteria and process by which countries are included on the list.

In addition, the manner in which this Call-in Registration Program was implemented caused humiliation and degradation for the targeted nationals of Arab and Muslim countries. During the Call-In Registration, these people were subjected to verbal abuse and were treated as if they were criminals. During the Special Registration process, the registrants were denied attorneys’ representation, which interferes with the six-amendment right to counsel. Yet they were interrogated with their hands cuffed as if they had just committed a crime.

The Registration Program has led to the detention of more than 1,700 people and deportation proceedings for approximately 5,400 people.

A Moroccan, married with one US citizen child was verbally abused. He said that he was handcuffed for 7 hours during the interrogation and was held for 28 hours and now he is ordered deported. The man’s adjustment of status has been pending under spousal petition.

An Egyptian family with three US children has lived in this country for 5 years under the Diversity Program. The husband is ordered to be deported. The wife and husband are waiting confirmation for their adjustment of status. The husband works 60 hours a week. He pays his taxes and has no criminal record.

Now that the Call-in Registration process has ended with a clear indication that this program was based on national origin, religion and race, will the data gathered and measures taken under this Call-in-Registration Program serve to combat terrorism? I doubt it.

The profiling of Muslims and Arabs is occurring in all places and sectors to the point that members of the community are not safe even in their own homes or jobs. According to the Guilt by Association Report of 2003 issued by the Council on American-Islamic Relations, Federal Agents raided a number of Muslim homes and offices in Virginia and Georgia. People targeted in the raids are respected community leaders. Those whose homes were targeted said they were handcuffed for hours and women were not allowed to wear their headscarves. No criminal charges were filed and no evidence has been produced to explain the government's action.

Here in New York a client called my office frantic. She stated that an agent from the NYPD with the Anti-Terrorism Task force visited her home and asked her children about the family's religious practices and their travel habits. Thereafter my client spoke to the agent. He asked her about the reason why she used to send her son to Yemen when he was 6 years old. The family is originally from Yemen and the son is now in the US Army. The Agent claimed my client had issued anti-American statements. My client is an active member in the community. She has been vocal on detention of thousands of immigrants and rallied against the war on Iraq. She has been investigated for exercising her first amendment rights. She has been an easy target because she is a Muslim and Arab.

Many Muslims and Arabs have been visited by the FBI on their job. They have been questioned without any legal basis or suspicion. Many of them have been dismissed by their employees as a result.

An FBI agent who visited my office to interview my client stated he had reasonable suspicion that my client was involved in criminal activity. He told me that he reached the conclusion based on the fact that my client had hired me to attend the interview. His argument was that if he had nothing to hide he would not have hired an attorney.

Law enforcement agencies are presently gathering names of people who attend mosques for prayer and spying on their political and religious activities.

I can go on to cite thousand of examples of racial and religious profiling as exhibited by law enforcement agencies after September 11, 2001.

The civil liberties of Muslims continue to deteriorate. There will be further damage to our civil liberties if the Domestic Enhancement Security Act known as the US Patriot Act II is passed. Patriot Act II will chill political dissent. It contains a provision that would go so far as to strip U.S. citizens – even those born in this country – of their citizenship simply for engaging in peaceful expressive activities that are protected by the First Amendment. Additionally, Patriot II will lift court orders that restrict police spying on political and religious groups.

Under Patriot II, law enforcement agencies will be granted new powers to conduct surveillance and to detain in secret and prosecute individuals suspected of “terrorist” crimes under a broadly expanded definition of that term. If the Patriot Act II is passed, the US judicial system will have moved from the troubling secret evidence to no evidence to prosecution at will based on national origin, religion and race.

**New York Bill of Rights Defense campaign**

