

Impact of September 11 on Traditional Openness to Immigrants and Non-Immigrants: An Arab-American Community Perspective

Carol Khawly

The American-Arab Anti-Discrimination Committee

The horrific terrorist attacks of September 11 have had a severe impact on our nation's traditional openness to immigrants and non-immigrants. Immediately after the attacks, the Arab-American community and those immigrants from the Arab or Muslim worlds, experienced an unprecedented backlash in the form of hate crimes, discrimination and various civil liberties violations. The number of discrimination complaints in the workplace, public accommodations, and at airports received by the American-Arab Anti-Discrimination Committee (ADC) increased tremendously following the events of

September 11.¹ The government also instituted a series of discriminatory policies and administrative measures, which targeted specific immigrant communities in the United States, mainly the Arab-American and South Asian communities. These policies included massive secret detentions, selective enforcement of the law through "voluntary" interviews and deportation of Middle Eastern men, a plan to fingerprint immigrants and visitors from certain Arab or Muslim countries, and targeting Middle Eastern men for heightened enforcement of minor immigration law violations. This paper will briefly present a general overview of the above-mentioned policies, as well as, their effect on the Arab-American community.

In an effort to combat terrorism, the government launched an extensive program of preventive detention. As a result, scores of immigrants of Arab or South Asian descent were secretly detained by the government, not for any criminal activity, but merely on the basis of their ethnicity. According to a report by the American Civil Liberties Union (ACLU), around 75 men, largely of Arab and South Asian origin were rounded up in the first few days after the attacks and held in secretive federal custody.² The number of detainees continued to grow as the government continued to selectively target Middle

¹ ADC, which is non-profit and non-partisan, is the largest Arab-American civil rights organization in the United States dedicated to protecting the rights of Arab Americans and preserving their cultural heritage.

² Ronald Weich, "Insatiable Appetite: The Government's Demand for New and Unnecessary Power After September 11," An ACLU Report, April 2002, p.5.

Eastern men for questioning.

ADC has documented various incidents on those detained and the conditions surrounding their detentions. Reports have shown serious civil rights violations, where many have been beaten, held incommunicado (without access to an attorney or family) under arbitrary and restrictive confinement for extended periods. While most have been held under immigration violations, others have been held as material witnesses or federal and criminal charges. Accounts indicate that nearly all have been jailed on minor visa violations (immigration offenses which would not have resulted in prolonged confinement prior to September 11) or because of neighbors' suspicions. Dr. Al-Badr Al-Hazmi, for example, a Saudi national and radiologist, was held incommunicado for several weeks before the FBI admitted that they made a mistake and released him without filing any charges. He was also not allowed to see an attorney and was denied access to his family. Recently, a former Boston taxi driver, Nabil Almarabh, once identified by authorities as a major terrorism suspect was kept in solitary confinement for more than eight months before he had an opportunity to see a judge or a lawyer.³

The Department of Justice (DOJ) has admitted that there are over 1,200 people who have been detained after September 11 before it stopped releasing numbers in

November.⁴ Human and civil rights groups, however, believe that due to the secrecy surrounding the detentions, the number could be as high as 2,000. According to the *Washington Post*, about 725 people have been detained on immigration charges as part of the September investigation, including 460 still in custody. Still another 370 detainees are held on suspicion of having possible links to terrorist groups and another 100 foreign nationals have been charged with criminal offenses by the federal government.⁵ Of those detained to date, no one has been charged with links to terrorism.

ADC and other civil rights groups are concerned about the deliberate policy of the unconstitutional detentions, violation of due process rights and the secrecy involving detentions. These groups have on several occasions requested information as well as an accounting on the detainees and the condition of detentions from the DOJ, including names of those detained, locations of detentions, names of attorneys representing these individuals and other related information. Despite repeated requests, the government has refused to release such information. On December 5, 2001, ADC and 20 other civil rights organizations filed a lawsuit under the Freedom of Information Act (FOIA) requesting information on the detainees. The case is still pending and the DOJ continues to fight against the release of this information. Papers filed by the government in response to the

³ Steve Fainaru, "Suspect Held for 8 Months Without Seeing Judge," *Washington Post*, June 12, 2002. A1. Almarabh has been arraigned on charges stemming from an attempt to enter the United States illegally last June. If he pleads guilty, he faces a sentence shorter than the term he has already spent in jail.

⁴ Most of those detained have been detained on immigration charges with no connection to the September 11 attacks. Many of those detained under immigration violations are still in custody and have remained in jail for months before the INS brought charges against them.

⁵ Dan Eggen "Delays Cited in Charging Detainees," *Washington Post*, January 15, 2002. A1.

lawsuit show that a number of detainees were held for months without any civil or criminal charges being brought against them.⁶

The government also introduced a series of immigration regulations which have specifically targeted the Arab-American community. On September 21, 2001, the Attorney General instituted new secret proceedings for immigration cases. Chief immigration judge, Michael J. Creppy circulated an internal memo to all immigration judges indicating that certain hearings would be closed to the public and conducted in secret, thus not allowing family, press or visitors to be present. The DOJ has since been conducting its September 11-related immigration cases under these procedures.⁷

On November 9, 2001, the DOJ issued a directive instructing law enforcement agencies to interview 5000 young Arab men between the ages of 18 and 33 who had entered the United States on or after the year 2000 on non-immigrant visas.⁸ An additional 3,000 Arab and South Asian men were targeted in the “second round” of these interviews which was announced on March 20, 2002. While the government insisted that

the interviews were “voluntary,” thousands of Middle Eastern and South Asian men received follow-up letters to submit to these interviews, as others were approached by authorities at their homes and workplace. Those interviewed were asked questions such as, “Are you involved in armed conflict? How do you feel about what happened in New York? Did it make you happy? Did you notice anyone act inappropriately on or around September 11? Which Middle Eastern countries have you visited?” The line of questioning focused on people’s political associations and beliefs and did not reflect any criminal or suspicious activity. This directive smacks of racial profiling and indicates that these individuals were targeted simply because of their ethnicity. The DOJ’s actions suggest that Arabs and Muslims are unpatriotic and disloyal. Although all information divulged in these “voluntary” interviews is now being entered into a federal law enforcement database, none of the individuals interviewed were able to offer any information on the September 11 attacks.⁹

In December 2001, the DOJ initiated another plan, known as the Absconders Apprehension Initiative, to deport 6,000 Arab men who had been in the process of deportation due to violating their immigration status. The 6,000 individuals were selected out of 315,000 others wanted for the same outstanding deportation orders. In a January 25

⁶ Ronald Weich, p. 5.

⁷ The ACLU and Congressman John Conyers (D-MI), who was denied access to an immigration court hearing, filed a lawsuit in January 2002 seeking to open immigration court proceedings and contest this unconstitutional practice. The lawsuit was filed for open court hearings for Rabih Haddad, founder of an Islamic Charity, the Global Relief Foundation, which was raided by federal agents as part of the September 11 investigations.

⁸ Although the plan asked for nonimmigrants to submit to these interviews, ADC received complaints from U.S. citizens of Arab and South Asian descent who were questioned by authorities.

⁹ ADC encouraged members of the community to cooperate with authorities to ensure that the interview process goes smoothly and not result in widespread abuses. ADC, however, continued to play an advisory role advising the community of its legal rights and the right to have an attorney present during those interviews.

internal Justice Department memo, Deputy Attorney General Larry Thompson instructed anti-Terrorism officials, to “apprehend and interrogate thousands of illegal Middle Eastern immigrants who have ignored deportation orders, seeking ways to prosecute any who have ties to terrorism and compiling results to interviews in a new computer database.”¹⁰ The government also placed the names of these 6,000 immigration violators into the Federal Bureau of Investigation’s Watch List essentially treating these individuals as criminals. While the government has the right to deport persons who are here illegally, this plan is blatant discrimination as it targets deportees of Arab or Muslim descent based solely on their religion, ethnicity or national origin. Such selective enforcement based solely on constitutionally protected criteria builds the impression that young Arab men are by definition suspicious and dangerous.

Other measures undertaken by the government include new procedures for scrutinizing visa applications for Arab men from certain Arab and Muslim countries alleged to be sponsors of terrorism. Additionally, the government is attempting to use foreign student advisors in colleges and universities to investigate international students and turn these advisors into an arm of law enforcement. After September 11, many Arab countries, particularly the United Arab Emirates and Saudi Arabia, pulled their scholarship students out of U.S. universities.

The DOJ’s latest plan announced in June 2002 to fingerprint and track thousands of immigrants and lawful visitors upon arrival to the United States from predominantly Arab

or Muslim countries is another discriminatory measure that selectively targets Arabs and Muslims. Of course, there are also concerns raised by the USA PATRIOT Act, which provides the government with sweeping powers to detain non-citizens indefinitely, with little or no due process at the discretion of the Attorney General, and contains provisions that criminalize many kinds of lawful humanitarian and political causes.

It is evident that September 11 changed traditional openness to immigration. While we recognize the need for national security, policies and regulations should not come at the expense of our civil liberties or at the expense of specific communities. Laws and regulations adopted by the government as discussed above have eroded many of the protections afforded in our Constitution and will continue to impact negatively on Arab and Muslim communities in the United States. These policies today will unfortunately contribute to the isolation of these communities.

¹⁰ “Government Targets Absconders Based on Ethnicity,” ADC Press Release, February 8, 2002.