



Racial Profiling and Counterterrorism

In the years since the 9/11 attacks, Arabs, South Asians, Muslims, and Sikhs have consistently pointed to being singled out for questioning and detention by federal and local agencies, including the U.S. Transportation Security Administration (TSA) and the New York City Police Department (NYPD), among others.

Notwithstanding the fact that racial profiling is unconstitutional and despite the emphatic declaration from the federal government that the practice is “invidious,” “wrong,” “ineffective,” and “harmful to our rich and diverse democracy,” racial profiling is often encouraged by misguided federal programs and policies that incentivize law enforcement authorities to engage in the practice.

While the government claims that its anti-terrorism efforts do not amount to racial profiling, the actions taken—such as the singling out of South Asians, Arabs, Muslims, and Sikhs in the United States—belie this claim.

- In 2011 and 2012, the *Associated Press* exposed widespread surveillance of Muslims by the NYPD and the creation of police records containing information on Muslim people, mosques and campus groups, as well as luncheonettes, “dollar” stores and other legitimate businesses owned or frequented by Muslims, with no apparent link to suspected criminal activity or any obvious improvement in public safety.
- The National Security Entry-Exit Registration System (NSEERS) served as a tool to allow the government to target Arabs, Middle Easterners, Muslims, and South Asians from designated countries by requiring them to register with the federal government, as well as to be fingerprinted, photographed, and interrogated. In April 2011, the U.S. Department of Homeland Security announced that the 25 countries listed under the NSEERS program would be delisted and non-immigrants from those countries would no longer need to comply with the program. The impact on individuals residing in the United States and facing deportation or the denial of an immigration benefit because of NSEERS remains unclear. The NSEERS regulatory framework remains intact, leaving the government the option of reviving the program in the future.
- Another problematic program is Operation Front Line, which allows federal law enforcement authorities to target immigrants and foreign nationals for investigation in order to “detect, deter, and disrupt terrorist operations.” Very little information about the program has been disclosed to the public.
- A wide-ranging and intrusive U.S. Customs and Border Patrol guidance issued in July 2008 states, “in the course of a border search, and *absent individualized suspicion*, officers can review and analyze the information transported by any individual attempting to enter ... the United States.” In addition, the standard to copy documents belonging to a person seeking to enter the U.S. was lowered from a “probable cause” to a “reasonable suspicion” standard. Operating under such a broad and subjective guidance, border agents frequently stop Muslims, Arabs, and South Asians for extensive questioning about their families, faith, political opinions, and other private matters, and subject them to intrusive searches.

- The FBI's Terrorist Screening Center maintains a list of every person who, according to the U.S. government, has "any nexus" to terrorism. Because of misidentification (*i.e.* mistaking non-listed persons for listed persons) and over-classification (*i.e.* assigning listed persons a classification that makes them appear dangerous when they are not), this defective "watch-list" causes many problems for Muslims, Arabs, and South Asians seeking to enter the United States, including those who are U.S. citizens.
- Sikhs have been so consistently targeted for airport screenings by the Department of Homeland Security and the TSA that a national Sikh organization now circulates a quarterly newsletter documenting the incidents. The agencies have gone as far as informing the advocacy group that turbaned Sikh travelers at U.S. airports should always expect to undergo secondary screening in the form of a turban pat-down and/or a metallic detector wand over the turban.

Although defenders of racial profiling in the counterterrorism context argue that terrorism is most likely to be committed by members of a particular racial, ethnic or religious group (in this context, Arabs, South Asians, Muslims, and Sikhs), and that members of that group are, in general, more likely than non-members to be involved in that type of criminal activity, this argument is without merit. **While all the men involved in the 9/11 hijackings were Arab nationals from Muslim countries, terrorist acts are not necessarily perpetrated only by Arabs or Muslims. In short, the fact that the 9/11 hijackers were Arabs means little in predicting who the next terrorists will be.**

For more information on why the assumptions underlying racial profiling are false, read [Restoring a National Consensus: The Need to End Racial Profiling](#), a report of The Leadership Conference on Civil and Human Rights.

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