IMMIGRATION POLICY IN FOCUS

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BALANCING FEDERAL, STATE, AND LOCAL PRIORITIES IN POLICE-IMMIGRANT RELATIONS: Lessons from Muslim, Arab, and South Asian Communities Since 9/11*

EXECUTIVE SUMMARY

Since the terrorist attacks of September 11, 2001, changes in federal, state, and local law-enforcement priorities and practices have had a profound impact on America's Muslims, Arabs, and South Asians. Some of these policy shifts applied exclusively or primarily to those communities, such as the federal "special registration" program, selective enforcement of immigration laws based on national origin or religion, and expanded federal counter-terrorism efforts that targeted these communities. At the same time, a wide range of ethnic groups have been affected by the use of state and local police agencies to enforce federal immigration law, and the aggressive use of detention and deportation authority for even minor infractions and technicalities.

Among the findings of this report:

- Before 9/11, under the rubric of the community-policing model, law-enforcement agencies and immigrant and minority communities had carried out extensive efforts to improve trust and reach out to each other.

- After 9/11, these achievements were overshadowed by intense pressure on the federal government to identify and remove potential terrorists. Despite the need to focus efforts on terrorists and their sympathizers, the government used its immigration-enforcement authority to target people who were not linked to terrorist groups or criminal activity, but had violated civil immigration laws and were Muslim, Arab, or South Asian.

- Muslim, Arab, and South Asian groups have reported increased apprehension about contacting the police for domestic disputes or other basic infractions as they witnessed or experienced gross civil-rights and civil-liberties abuses after 9/11.

- Immigrant and minority communities have witnessed an increase in formal cooperation agreements between the Department of Homeland Security (DHS)[1] and state and local law-enforcement agencies under section 287(g) of the Immigration and Nationality Act.

- Since enactment of the USA PATRIOT Act, federal, state, and local police departments have conducted a wider range of surveillance activities in targeted communities, such as planting informants in mosques. The use of informants can produce suspicion throughout the community if handled poorly.

- Many immigrant and minority communities responded to 9/11 as an opportunity for greater civic engagement and outreach to their local police forces. These communities launched concerted efforts to educate the wider public about Muslim, Arab, and South Asian cultures and religions through efforts that went far beyond simply improving relations with law enforcement.

- The experiences of Dearborn, Michigan; Portland, Oregon; and San Jose, California demonstrate the ways in which law-enforcement agencies and community organizations can work together to reduce immigrants' fears, improve cultural awareness among police officials, and maintain the open lines of communication necessary for conducting good police work.

* This report is based on research carried out by Alexander Mirescu for the Immigration Policy Center (IPC), and on information obtained from a public forum and private police-community dialogue organized by the John Jay College of Criminal Justice and the IPC on December 14, 2006. The event was a collaborative effort of the Center for International Human Rights; Center on Race, Crime, and Justice; Center for Crime Prevention and Control; and Office for the Advancement of Research—all at John Jay College; together with the Vera Institute of Justice, the Program on Citizenship and Security at the World Policy Institute, and the Brennan Center for Justice. The event and report were coordinated by Michele Wucker, Executive Director of the World Policy Institute. Both were made possible thanks to the generous support of the ChevronTexaco Foundation and the National Conference for Community and Justice as part of their September 11th Anti-Bias Project Award grants; the MacArthur Foundation Program on Global Migration and Human Mobility; and the John Jay College of Criminal Justice Office for the Advancement of Research.

[1] The Homeland Security Act of 2002 abolished the Immigration and Naturalization Service and moved immigration into the newly created Department of Homeland Security. Immigration activities are divided between Immigration and Customs Enforcement (ICE), Customs and Border Protection (CBP), and Citizenship and Immigration Services (USCIS).

INTRODUCTION

Since the terrorist attacks of September 11, 2001, changes in federal, state, and local law-enforcement priorities and practices have had a profound impact on America's Muslims, Arabs, and South Asians. Some of these policy shifts applied exclusively or primarily to those communities, such as the federal "special registration" program, selective enforcement of immigration laws based on national origin or religion, and expanded federal counter-terrorism efforts that targeted these communities. At the same time, a wide range of ethnic groups have been affected by the use of state and local police agencies to enforce federal immigration law, and the aggressive use of detention and deportation authority for even minor infractions and technicalities.

Across the United States, police departments and Muslim, Arab, and South Asian communities have responded with varied approaches to the new post-September 11 reality. In some cities, serious tensions between law-enforcement agencies and immigrant communities have arisen. Other cities have taken steps to alleviate these tensions and promote dialogue and cooperation with immigrant communities. This report evaluates the challenges and successes of recent trust-building efforts between immigrant communities and local police departments, and the responses of each to new and proposed policies that threaten those efforts. Using the experiences of Muslim, Arab, and South Asian communities, the report offers insights that apply to much broader populations. It draws attention to best practices and policy solutions such as the creation of more effective channels for public dialogue and communication, public education campaigns, officer training and recruiting programs, and forms of cooperation between police and community organizations.

POST-9/11 IMMIGRATION ENFORCEMENT POLICIES

The federal government's response to the events of September 11, 2001, had immediate consequences for police-immigrant relations in Muslim, Arab, and South Asian communities.[2] Over the previous two decades, under the rubric of the community-policing model, law-enforcement agencies and immigrant and ethnic communities had carried out extensive efforts to improve trust and reach out to each other in challenging times. In turn, both had reaped benefits as better communication led to more efficient policing and improved public safety.

After the terrorist attacks, however, these achievements were overshadowed by intense pressure on the federal government to identify and remove potential terrorists. Because all 19 of the 9/11 hijackers were foreigners who had entered the United States on temporary visas, and at least six of them had violated immigration laws,[3] attention focused immediately on enhanced enforcement of immigration law. Despite the need to focus efforts on real terrorists and their sympathizers, the government also used its immigration-enforcement authority to target people who were not linked to actual terrorist groups or criminal activity, but had violated civil immigration laws and were Muslim, Arab, or South Asian.

Federal immigration and counterterrorism priorities quickly trumped the efforts that had been put into building police-immigrant relationships. The increased likelihood of detention and deportation for Muslim, Arab, and South Asian residents with technical visa violations dramatically affected individual and group attitudes toward law-enforcement officials at the local, state, and federal levels. Bolstered by swift passage of the sweeping USA PATRIOT Act in 2001, and strong public support for attacking terrorists by all means necessary, several controversial federal

[2] The geographic term "South Asians" generally implies individuals descended from inhabitants of India, Pakistan, Bangladesh, Sri Lanka, Nepal, and Bhutan. Members of the American South Asian community represent several religions, including Islam, Hinduism, and Sikhism. See Leonard Karen, *The South Asian Americans* (Westport, CT: Greenwood Press 1997). Similarly, the term "Arabs" refers to both Muslim and Christian (Catholic and Greek Orthodox) individuals from Iraq, Morocco, Jordan, Palestine, Egypt, Syria, Lebanon, Algeria, Tunisia, and Libya. According to a 2006 report from the Vera Institute of Justice, *Law Enforcement & Arab American Community Relations after September 11, 2001: Technical Report*, Lebanese represent the numerically largest number of Arabs in the United States, of whom approximately 60 percent are Christian.

[3] 9/11 Commission, "Entry of the 9/11 Hijackers into the United States," Seventh Public Hearing, Staff Statement No. 1 (Washington, DC, January 26-27, 2004), p. 8.

immigration-related policies were implemented, ostensibly to address domestic security threats and to gather information from specific immigrant communities.[4]

One of the first federal initiatives was a mass round-up of more than 1,600 Arab and Muslim individuals who were in the country without legal immigration status. These individuals were identified based on their ethnic origin or religion, not because they had committed criminal or terrorist acts, and few—if any—were ultimately convicted of terrorism-related offenses.[5] Many of these apprehensions were carried out in secret, with family members having great difficulty locating loved ones who had been taken into federal immigration custody. In addition, their trials were closed to the public in an unprecedented fashion, despite the fact that they were not terrorism trials, but simply related to the deportation of individuals with civil immigration law violations.

In January 2002, the Department of Justice (DOJ) announced that it would send teams of federal, state, and local law-enforcement agents after the more than 300,000 people who had remained in the country after being ordered deported, as part of the Absconder Apprehension Initiative. The vast majority of these individuals were undocumented workers who had committed no crimes and were not suspected of terrorism, but had violated federal civil immigration laws. Rather than focusing first on the minority of "absconders" who had committed criminal offenses, DOJ started with the approximately 6,000 men from countries purported to have links with al-Qaeda and other terrorist groups.[6] As part of this initiative, local, state, and federal police agencies were asked to help detain absconders and other offenders whose names were added to the National Crime Information Center (NCIC) database, a computerized index of criminal justice information operated by the Federal Bureau of Investigation (FBI) to help state and local law-enforcement agencies identify criminals wanted by other authorities.[7]

DOJ then created the National Security Entry-Exit Registration System (NSEERS), a program to register, fingerprint, photograph, and question male foreign nationals from certain countries that U.S. authorities identified as supporting terrorism or harboring terrorist groups.[8] Over the course of several months, more than 80,000 men from Middle Eastern countries participated in the related "special registration" process, as it was commonly known. While most of these individuals were lawfully present in the United States, many undocumented immigrants did register under the NSEERS program, and more than 13,000 were placed into deportation proceedings upon identifying themselves to the authorities. No terrorists registered with the authorities under this controversial "national security" program.[9] DOJ also added the names of people believed to have violated the NSEERS re-registration or visa requirements into the NCIC database. By entering the names of violators of both civil and criminal immigration laws into the NCIC, DOJ was also making it clear that they intended to expand the reach of federal immigration-enforcement initiatives and seek assistance from state and local police, who regularly query the NCIC and could detain individuals whose names appeared.

[4] Nicole J. Henderson, et al., *Law Enforcement & Arab American Community Relations after September 11, 2001: Engagement in a Time of Uncertainty* (New York, NY: Vera Institute of Justice, June 2006), p. 3. Also, U.S. Department of Justice, *Report from the Field: The USA PATRIOT Act at Work* (Washington, DC: U.S. Department of Justice, July 2004).

[5] Immigration Policy Center, *Targets of Suspicion: The Impact of Post-9/11 Policies on Muslims, Arabs and South Asians in the United States* (Washington, DC: Immigration Policy Center, American Immigration Law Foundation, May 2004), p. 5.

[6] Michael Janofsky, "9/11 Panel Calls Policies on Immigration Ineffective," *New York Times*, April 17, 2004, p. 8.

[7] Hannah Gladstein, et al., *Blurring the Lines: A Profile of State and Local Police Enforcement of Immigration Law Using the National Crime Information Center Database, 2002-2004* (Washington, DC: Migration Policy Institute, December 2005), p. 6. The NCIC database now includes three immigration categories: 1.) persons previously convicted of a felony and deported; 2.) persons allegedly subject to a final deportation, exclusion, or removal order ("absconders"), but who remain in the country; and, 3.) persons allegedly in violation of an NSEERS requirement.

[8] Nicole J. Henderson, et al., *Law Enforcement & Arab American Community Relations after September 11, 2001: Engagement in a Time of Uncertainty* (New York, NY: Vera Institute of Justice, June 2006), p. 4.

[9] Dan Eggen and Nurith C. Aizenman, "Registration Stirs Panic, Worry: Some Muslim Foreign Nationals Risk Arrest to Meet INS Deadline," *Washington Post*, January 10, 2003.

Since the terrorist attacks of 9/11, communities have also witnessed an increase in formal cooperation agreements between the Department of Homeland Security (DHS)[10] and state and local law-enforcement agencies. In 2002, the Florida Department of Law Enforcement became the first police agency in the United States to sign a partnership agreement with the federal government to receive training and enforce immigration laws under section 287(g) of the Immigration and Nationality Act (INA). Under 287(g), DHS signs a Memorandum of Agreement (MOA) that permits designated police officers to perform certain immigration law enforcement functions under DHS supervision. Since Florida signed its MOA, 46 other law-enforcement agencies have entered into MOAs with DHS.[11] Many law-enforcement organizations, state and local police departments, and immigrant-rights organizations and community groups have grown concerned that the involvement of state and local authorities in immigration enforcement has had a negative impact on American communities.

POST-9/11 POLICIES AND THE IMPACT ON POLICE-COMMUNITY RELATIONS

The experiences of Muslim, Arab, and South Asian communities since 9/11 are instructive as cities and states across the country consider further expanding the immigration-enforcement role of state and local police. An extensive literature dealing with the impact of federal law-enforcement initiatives on immigrant-police relations developed after 9/11. The first group of reports, from 2002 to 2004, addressed a particular set of concerns: hate and bias crimes directed toward Arabs, Muslims, and South Asians;[12] illegal detentions;[13] selective enforcement of immigration laws;[14] mistreatment of non-citizens;[15] and infringements upon constitutional rights and civil liberties.[16] This literature focused attention on the frequently heavy-handed approach of high-ranking government officials and federal officers trying to secure America against further attack. Over the last several years, however, other issues regarding community-police relations have come to light.

Loss of trust and cooperation

Before 9/11, federal law-enforcement agencies, and state and local police departments, relied on the cooperation

[10] The Homeland Security Act of 2002 abolished the Immigration and Naturalization Service and moved immigration into the newly created Department of Homeland Security. Immigration activities are divided between the Immigration and Customs Enforcement (ICE), Customs and Border Protection (CBP), and Citizenship and Immigration Services (USCIS).

[11] For a current list see http://www.ice.gov/partners/287g/Section287_g.htm.

[12] Human Rights Watch, *"We Are Not the Enemy": Hate Crimes against Arabs, Muslims, and Those Perceived to be Arab or Muslim after September 11* (New York, NY: Human Rights Watch, November 2002). Also, brief interviews conducted on September 24, 2006, with Valarie Kaur, director of *Divided We Fall: Americans in the Aftermath*, and Kevin Lee, director of *Dastaar: Defending the Sikh Identity*. Also see http://www.sikhcoalition.org, where a running list of bias and hate crimes is available. As many of my contacts revealed, Sikhs' physical appearance—their *turban* being the most prominent—continues to make them a target of hate crime, despite the fact that they are not Muslim. Indeed, according to my interviews, a disproportionate number of bias and hate crimes has been perpetrated against members of the Sikh community, including several cases of murder, severe beatings, and physical threats.

[13] See Arab American Institute, *Healing the Nation: The Arab American Experience after September 11* (Washington, DC: Arab American Institute, September, 2002), for accounts of responses to the attacks, backlash against the Arab community, and civil liberties violations. This publication was among the first reports to analyze the Arab community's intense public-information and education drive in the wake of 9/11.

[14] See Department of Justice, Office of the Inspector General, *Semiannual Report to Congress: Multicomponent Audits, Review and Investigations,* April 2003. Also see Immigration Policy Center, *Targets of Suspicion: The Impact of Post-9/11 Policies on Muslims, Arabs and South Asians in the United States* (Washington, DC: Immigration Policy Center, American Immigration Law Foundation, May 2004). In addition to the topics of selective application of immigration policy, fear and uncertainty, and legal issues, this report analyses the economic impacts of detention and deportation.

[15] For an account of the Bush administration's policy on detention, see *Amnesty International's Concerns Regarding post September 11 Detention in the USA*, March 2002. See Human Rights Watch, *"We Are Not the Enemy": Hate Crimes against Arabs, Muslims, and Those Perceived to be Arab or Muslim after September 11* (New York, NY: Human Rights Watch, November 2002), for an analysis of the mistreatment of non-citizens swept up in the September 11 dragnet investigations. See also June Han, "*We Are Americans Too": A Comparative Study of the Effects of 9/11 on South Asian Communities* (Cambridge, MA: Discrimination and National Security Initiative, Harvard University, September 2006), for an analysis of the post-9/11 experiences of Indian Hindus, Sikhs, and Pakistani Muslims.

[16] See American Civil Liberties Union, *Insatiable Appetite: The Government's Demand for New and Unnecessary Powers after September* (New York, NY: American Civil Liberties Union, April 2002).

of immigrant communities in cases dealing with a wide range of crimes, including organized crime, gang activity, and drug rings.[17] However, after 9/11, Muslim, Arab, and South Asian groups reported increased apprehension about contacting the police for domestic disputes or other basic infractions as they witnessed or experienced gross civil-rights and civil-liberties abuses.[18] Several recent studies have focused on the growing levels of immigrant distrust toward the police, cultural misunderstandings, and fear of dealing with law enforcement. In some cases, mistrust toward the police has its roots in the experiences of immigrants in their home countries.[19] In other cases, new residents do not understand how U.S. law-enforcement agencies are structured or that, generally, local police are here to protect and serve the community, not to enforce federal civil immigration laws. This apprehension has troubling implications for law enforcement, whose access to pertinent information on criminal activity provided by the immigrant community is in jeopardy.

The broad federal initiatives targeting people based on religion and national origin rather than conduct, and the expanded role of state and local police in immigration enforcement, served to chill relations between members of America's Muslim, Arab, and South Asian communities and the police. Unfortunately, this happened at a time when these communities needed police protection the most, since they were also the targets of serious hate and bias crimes immediately following the 9/11 attacks.[20]

Heightened suspicion of government and law enforcement fueled by the new "anti-terror" and immigration measures produced high levels of anxiety and concern about individual and group civil rights.[21] Community members' fear of, and mistrust toward, the government were palpable, even if no detentions or deportations occurred in their particular city or town.[22]

Mohammad Razvi, executive director of the Brooklyn-based Council of Peoples Organization (COPO), a legal advocacy group working to inform immigrants of their rights, says that fear persists among Brooklyn's South Asians, particularly Pakistanis. Working with other organizations and the city's Human Rights Commission, COPO published a report showing that 83 percent of crime victims did not seek help from the police. The report indicates that a substantial number of unreported incidents are based on immigrants' lack of knowledge about, and trust in, public agencies that could help them.[23] Razvi spoke of several examples in which members of Brooklyn's Pakistani community were mugged or physically assaulted—one case involving a person who suffered serious stab wounds—and refused to seek out either police assistance or medical attention from city hospitals. In another example, a Brooklyn restaurant owner reported a case of vandalism to the New York Police Department (NYPD). The NYPD officer investigating the case verified the man's name in the NCIC database, which ultimately led to his deportation to Turkey. Razvi also cited a sharp increase in detentions and deportations, including hundreds of examples of citizens of Brazil, Trinidad and Tobago, and Barbados, who were detained on minor civil violations, stressing that these activities contributed to general unease among local immigrant residents.

[17] Deborah A. Ramirez, et al., *Developing Partnerships Between Law Enforcement and American Muslim, Arab, and Sikh Communities: A Promising Practices Guide* (Boston, MA: Partnering for Prevention and Community Safety Initiative, Northeastern University School of Law, May 2004), p. 10.

[18] Interview with Marwan Ahmad of the *Muslim Voice* of Phoenix, Arizona, September 8, 2006. According to Ahmad, new immigrants in Phoenix had already transferred their negative impressions of state security institutions from their home societies. These attitudes of not considering police officials to be legitimate intermediaries and keepers of public safety were further exacerbated by post-9/11 initiatives targeting individuals based on national origin and religion instead of conduct.

[19] Anita Khashu, et. al., *Building Strong Police-Immigrant Community Relations: Lessons from a New York City Project* (New York, NY: Vera Institute of Justice, August 2005).

[20] Interview with a community leader of MET, ISOS, and ISGP, September 19, 2006.

[21] Nicole J. Henderson, et al., *Law Enforcement & Arab American Community Relations after September 11, 2001: Engagement in a Time of Uncertainty* (New York, NY: Vera Institute of Justice, June 2006), p. 10.

[22] Interview with a community leader of MET, ISOS, and ISGP, September 19, 2006.

[23] New York City Commission on Human Rights, *Discrimination against Muslims, Arabs and South Asians in New York City After 9/11*, Summer 2003, http://home.nyc.gov/html/cchr/pdf/sur_report.pdf.

Racial and Religious Profiling

Another major concern among Muslim, Arab, and South Asian communities is racial profiling based on country of origin or religion. Ongoing complaints have focused on "flying while Muslim," in which Muslim passengers report experiencing more intense security screening than others and trouble boarding airplanes. Concern over this issue became particularly acute after the high-profile ejection of six Muslim clerics from a U.S. Airways flight in November 2006.[24] The expanded legal powers of law-enforcement officials to observe and arrest suspects have been accompanied by "preventive detention" practices, as well as the 2003 NSEERS requirements. In addition, a large number of South Asian and Middle Eastern Muslims have been detained for various lengths of time under the "material witness" statute.[25] Instituted in October 2001 by then-Attorney General John Ashcroft, this policy permits the temporary detention of witnesses who might possess pertinent information for a criminal proceeding when a subpoena will not guarantee the presence of the individual at the proceeding.[26]

Unfortunately, racial profiling and selective enforcement of immigration law have become a reality for members of Muslim, Arab, and South Asian communities. Virtually all of the community organizations interviewed for this report felt that some form of racial and/or religious profiling had occurred or was still occurring in their communities. Although police interviewed for this report rejected claims that racial profiling has become institutionalized, many did recognize that their behavior changes when they are dealing with individuals falling within certain ethnic and religious categories.

The Use of Informants

The use of informants by law-enforcement authorities is a contentious topic in Muslim, Arab, and South Asian communities, in no small part because of the message sent that being a member of one of these populations increases the likelihood of being involved in terrorist activities. Since enactment of the USA PATRIOT Act, federal, state, and local police departments have conducted a wider range of surveillance activities in targeted communities, such as planting informants in mosques. However, the use of informants produces suspicion throughout the community if handled poorly.[27]

In one case in New York City, a paid police informant was given the task of secretly monitoring individuals' activities in various mosques in Brooklyn and Staten Island. Although the information he provided led to the arrest of Shahawar Siraj, who was subsequently convicted of plotting to detonate an explosive device in the Herald Square metro station,[28] immigrants' fears were considerably heightened as details of the informant's activities were made public. During the trial, testimony suggested that the informant—who was paid $100,000 by the Police Intelligence Division of the NYPD—was poorly trained and appeared to interpret many activities as being suspicious merely because they were religious in nature, not because of any apparent connection to terrorism. In addition, the defendant's lawyers argued that he was entrapped by the

[24] "Airline checks claim of 'Muslim while flying' discrimination," CNN, November 21, 2006, http://www.cnn.com/2006/US/11/21/passengers.removed/.

[25] Several high-profile cases, such as the Brandon Mayfield case from Portland, OR, attempted to link individuals with international terrorist activities. Mayfield, a convert to Islam, was arrested as a material witness in connection with the Madrid bombings of 2003, but was released several weeks later.

[26] Title 18 United States Code § 3144. If it appears from an affidavit filed by a party that the testimony of a person is material in a criminal proceeding, and if it is shown that it may become impracticable to secure the presence of the person by subpoena, a judicial officer may order the arrest of the person and treat the person in accordance with the provisions of section 3142 of this title. No material witness may be detained because of inability to comply with any condition of release if the testimony of such witness can adequately be secured by deposition, and if further detention is not necessary to prevent a failure of justice. Release of a material witness may be delayed for a reasonable period of time until the deposition of the witness can be taken pursuant to the Federal Rules of Criminal Procedure.

[27] For additional accounts of police informants and mosque infiltration, see Aziz Huq, "Policing Terror, Policing Islam: Federal Criminal Law Enforcement, Counter-Terrorism and America's Muslim Minority Communities," in Richard Leone and Greg Anrig, eds., *Liberty Under Attack: Reclaiming Our Freedoms in an Age of Terror* (New York: Public Affairs 2007), pp. 167-188.

[28] William K. Rashbaum "Defense Presses Police Informer About His Job," *New York Times*, May 2, 2006, B1. William K. Rashbaum with additional reporting by Al Baker, "Window Opens On City Tactics Among Muslims," *New York Times*, May 28, 2006. Andrea Elliott, "As Police Watch for Terrorists, Brooklyn Muslims Feel the Eyes," *New York Times*, May 26, 2006.

informant, who pushed him to participate in a fictitious bomb plot by a non-existent terrorist organization. Suspicion created by such episodes hampers the collection of information when police-immigrant relations deteriorate to the point that communities associate the mere giving of information with being an informant.[29]

POST-9/11 RESPONSES TO POLICE-COMMUNITY TENSIONS

Despite the hyperbole surrounding federal "anti-terror" investigations, many immigrant and minority communities responded to 9/11 as an opportunity for greater civic engagement and outreach to their local police forces.[30] These communities launched concerted efforts to educate the wider public about Muslim, Arab, and South Asian cultures and religions through efforts that went far beyond simply improving relations with law enforcement. The main theme running through the more constructive responses has been one of communication and dialogue, whether in improving mutual understanding or working to establish ways of dealing with new federal policies and their implications "on the ground." For example, in cities like San Antonio, Texas and St. Louis, Missouri, and Maryland's Montgomery and Washington counties, interfaith councils and community awareness campaigns were created to offer greater information to city, state, and federal institutions and the public. Outreach activities included energetic participation in interfaith councils, volunteer work in homeless shelters, multi-denominational holiday celebrations, and public awareness campaigns in schools, hospitals, and other public institutions.[31]

Cross-cultural exchange is critical, even in locales where an established immigrant community has developed good working relationships with the local police. Specifically, incorporating new immigrant groups into civic activities can serve to empower new arrivals and bolster the efforts of the more established groups. In areas where little or no prior immigrant settlement has taken place, state or national immigrant and law-enforcement associations both have roles to play in providing new arrivals with community outreach. Within particular metropolitan areas or regions, the sharing of strategies and political support can be instrumental to creating positive change.

Community leaders have pointed out the importance of not only educating police officers about the cultures of the communities they serve, but also educating communities about the culture and expectations of police. Otherwise, misunderstandings can easily arise in events as simple as traffic stops, for example, because immigrants from some countries have been trained that they are supposed to get out of the car and approach police, while in this country the police officer approaches the driver. Police officers have also navigated the tricky territory of proper behavior inside religious institutions such as mosques. After 9/11, police in many cities protected mosques as well as synagogues. In response to concerns about guns being brought into religious buildings, police explained to religious leaders that regulations required them to carry their guns. However, for the purposes of promoting community dialogue, it has not been uncommon to see police officers remove their shoes in non-emergency situations and in general show respect for the communities' practices and beliefs.

The involvement of community-based organizations is essential, particularly in changing attitudes that perpetuate violence and in providing necessary support services to crime victims, from medical care to social work to safe houses. Community organizations can also be a key bridge between crime victims and the police, particularly in helping police to understand what types of interaction with the community might make their work more effective. The experiences of Dearborn, Michigan; Portland, Oregon;

[29] For additional accounts of police informants and mosque infiltration, see Aziz Huq, "Policing Terror, Policing Islam: Federal Criminal Law Enforcement, Counter-Terrorism and America's Muslim Minority Communities," in Richard Leone and Greg Anrig, eds., *Liberty Under Attack: Reclaiming Our Freedoms in an Age of Terror* (New York: Public Affairs 2007), pp. 167-188.

[30] Nicole J. Henderson, et al., *Law Enforcement & Arab American Community Relations after September 11, 2001: Engagement in a Time of Uncertainty* (New York, NY: Vera Institute of Justice, June 2006).

[31] See the Council on American-Islamic Relations, http://www.cair.com. CAIR's website offers further information on various organizations' outreach efforts.

and San Jose, California demonstrate the ways in which law-enforcement agencies and community organizations can work together to reduce immigrants' fears, improve cultural awareness among police officials, and maintain the open lines of communication necessary for conducting good police work.

Dearborn, Michigan

A May 2004 "best practices" guide to policing in the American Sikh, Muslim, and Arab communities, authored by Deborah Ramirez of Northeastern University, analyzes how federal and local police agencies and targeted communities in Dearborn, Michigan, developed a constructive relationship. The first element was law-enforcement officials' adoption of an unorthodox model of counterterrorism investigation.[32] Instead of relying solely upon traditional approaches to counterterrorism, which draw heavily on intelligence from friendly foreign governments and analysis carried out within the law-enforcement and intelligence community, Michigan law-enforcement officers reached out to Arab, Muslim, and Sikh communities on the inherent assumption that they are largely law-abiding. "Michigan law enforcement realized it could enhance its investigations with the cultural, linguistic, and unique perspectives that reside within these communities," Ramirez noted.[33] The second critical factor was the community's strategy of proactively reaching out to law enforcement. To cement a mutual commitment to ongoing engagement, a formal channel was set up to communicate community concerns to police. At the same time, an open media helped law-enforcement and community groups quickly convey accurate information to the public {see Appendix 1: Dearborn Case Study}.[34]

Portland, Oregon and San Jose, California

In the wake of the 9/11 attacks, fear prompted community groups in cities including Portland, Oregon to reach out to the police and to other immigrant groups. From 2002 through 2004, Portland's Muslim community was rocked by a series of FBI investigations and arrests of local Muslim residents accused of engaging in domestic and international terrorist activities, highlighted most visibly by the case of the "Portland Seven."[35] Despite the media attention and federal crackdowns, an intense public education campaign and cooperation between Portland's Muslim, Arab, and South Asian community with the Portland Police Department appears to have been successful in reducing community fears that inhibit successful community policing {See Appendix 2: Portland Case Study}.

Similar to Dearborn, Michigan—where Arab and Muslim immigrants have long-standing civic institutions and relationships with the local police that predate 9/11—dialogue has been critical in maintaining relatively good police-community relations in Portland, and dialogue has been greatly assisted by previously existing civic institutions. Established ethnic groups have provided important assistance to new arrivals, passing on their "lessons learned" to new generations. Portland seems to have profited most from the assistance it received from Japanese Americans, whose experiences during World War II in some ways mirrored those of American Muslims and South Asians in the wake of 9/11.

By providing channels for dialogue between law enforcement and immigrant communities, the creation of public fora has been critical in mitigating fear. The work of police advisory groups in Portland and Dearborn has demonstrated the effectiveness of bringing community leaders and police representatives together at regularly scheduled meetings. Members of advisory boards in both cities have commented that the boards' existence helped to

[32] Deborah A. Ramirez, et al., *Developing Partnerships Between Law Enforcement and American Muslim, Arab, and Sikh Communities: A Promising Practices Guide* (Boston, MA: Partnering for Prevention and Community Safety Initiative, Northeastern University School of Law, May 2004), p. 30.

[33] Ibid.

[34] These community groups included Arab Community Center for Economic and Social Services (ACCESS), Advocates and Leaders for Police and Community Trust (ALPACT), the Michigan Alliance Against Hate Crimes (MIAAHC) and Building Respect in Diverse Groups to Enhance Sensitivity (BRIDGES).

[35] Among the Portland Seven, only one was foreign-born: Muhammad Ibrahim Bilal, who was charged with conspiracy to levy war against the United States, conspiracy to provide material support and resources to al-Qaeda and conspiracy to contribute services to al-Qaeda and the Taliban.

prevent many potential disasters. Moreover, in Portland, community education efforts moved beyond educating law enforcement and incorporated all city and state institutions. The participation of mosques in numerous inter-faith councils has also produced an interesting by-product: when civic groups are informed of one another's benevolent actions, the civic network becomes more inclusive, and cross-cultural concerns can be brought to public officials with greater impact. Police and community leaders point to the importance of commitment from both sides in this process.

William MacDonald's 2004 report, "Police and Immigrants: Community and Security in Post-9/11 America," cites examples from San Jose, California as well as Portland to illustrate how some police departments have emphasized cultural and religious awareness of immigrant groups. MacDonald's report examines how chiefs of police have committed to winning the trust of immigrant communities despite increased pressure to implement federal directives at the local level.[36] For example, the San Jose police chief, a Mormon, announced that he would fast for the 40 days of Ramadan along with his Muslim community members and participate in each nightly feast with a different Muslim family.[37]

CONCLUSION

Immigrant communities, as well as major state and local law-enforcement officials, warn that new policies which involve state and local police in immigration enforcement come with serious dangers and costs. The experiences of Muslim, Arab, and South Asian communities show how federal immigration directives have undermined the hard-won trust that police have built in these communities in recent decades. They also show that constructive, dedicated engagement between police and immigrant communities is more important than ever, not just for daily public-safety and crime-reporting issues, but also for the broader homeland-security imperatives.

Just as the fear of terrorism following the 9/11 attacks created intense pressure on the government to "do something," the current heated debate over illegal immigration is prompting many politicians and government officials to act "tough" rather than "smart." The experiences of Muslim, Arab, and South Asian communities since 9/11 provide clear examples of policy "solutions" which end up creating social, political, and economic costs that greatly outweigh any supposed benefits. However, these experiences also highlight the positive impact that police-community collaboration and dialogue can have for both immigrant communities and effective policing.

APPENDIX 1: DEARBORN CASE STUDY

Southern Michigan, particularly the metro Dearborn area, is home to the nation's highest concentration of American citizens and legal residents of Arab and Muslim origin, who make up almost 30 percent of the local population.[38] Indeed, Southeastern Michigan is the second largest diasporic Arab community outside of the Middle East, exceeded only by Paris, France. Dearborn's experience in maintaining and improving police-immigrant relations, despite serious challenges and obstacles, has been recognized as a model of cooperation, tolerance, and continual accommodation.

Community activity among Dearborn's Muslim, Arab, and South Asian populations takes place in many organizations and at the University of Michigan's Center for Arab American Studies. Two national community organizations, the American-Arab Anti-Discrimination Committee (ADC) and the Council on American Islamic Relations

[36] William F. MacDonald, "Police and Immigrants: Community & Security in Post-9/11 America," in Martha King, ed., *Justice and Safety in America's Immigrant Communities* (Princeton, NJ: Princeton University, 2006), pp. 65-84.

[37] Ibid., p. 68.

[38] Deborah A. Ramirez, et al., *Developing Partnerships Between Law Enforcement and American Muslim, Arab, and Sikh Communities: A Promising Practices Guide* (Boston, MA: Partnering for Prevention and Community Safety Initiative, Northeastern University School of Law, May 2004), p. 17.

(CAIR), have robust chapters in Michigan.[39] In addition, a number of locally active social-services groups are well established. The Arab Community Center for Economic and Social Services (ACCESS), established in the 1970s, has maintained a high profile among Muslims, Arabs, and South Asians in southeastern Michigan and expanded nationwide after 9/11.[40]

Community leaders in Dearborn report that, even before 9/11, they had regular and consistent contact with a wide range of federal, state, and local law-enforcement officials.[41] The organization Advocates and Leaders for Police and Community Trust (ALPACT), established in 2000, has been instrumental in facilitating communication between law-enforcement officials and community leaders. It is composed of representatives of the FBI and state and local police, as well as local community leaders.[42] The organization Building Respect in Diverse Groups to Enhance Sensitivity (BRIDGES) was formed in 2003 to promote dialogue on issues of mutual concern between federal law enforcement and affected vulnerable communities.[43] The comparatively long history of some of these groups, coupled with issue-specific organizations, has produced a unique and positive relationship and open lines of communication between the Muslim, South Asian, and Arab community and police agencies.

Members of the Muslim community report that, beginning on the afternoon of 9/11 and stretching into the days and weeks that followed, the Dearborn Police Department sent cars to patrol extensively throughout the community, with officers regularly visiting local businesses, organizations, and mosques to ensure that all was safe.[44] Human Rights Watch cited pre-9/11 immigrant-police relations as instrumental to bolstering the area Arab and Muslim population's sense of security during a confusing time: "Dearborn police had already identified high-risk communities and were ready to deploy officers where needed within hours of the attacks."[45] Further adding to a sense of public trust was Mayor Michael Guido's public objection to federal immigration directives and proposed legislation to broaden the involvement of local police in immigration enforcement.[46]

Despite these early positive experiences, new local and international developments tested the police-immigrant relationship among Muslim groups in Dearborn.[47] Unlike Portland, which seems to have successfully reduced fear and apprehension, Dearborn's Muslim, Arab, and South Asian community still reports cases of racially or religiously driven discrimination by local and state police officials, despite active community-police interaction. According to Rashida Talib, immigration advocate at ACCESS, many Muslims seeking social services with ACCESS report acts of illegal entry and intimidation on the part of police, but are fearful of causing a scandal by reporting these abuses to officials.[48] This has led groups like ACCESS, BRIDGES, and the ADC to opt for more education and advocacy efforts with the police.

[39] Ibid., p. 17.

[40] Interview with Rashida Talib of ACCESS, September 28, 2006.

[41] Human Rights Watch, *"We Are Not the Enemy": Hate Crimes against Arabs, Muslims, and Those Perceived to be Arab or Muslim after September 11* (New York, NY: Human Rights Watch, November 2002), p. 32.

[42] Interview with Rima Elzin, attorney with ACD Michigan, September 21, 2006.

[43] Deborah A. Ramirez, et al., *Developing Partnerships Between Law Enforcement and American Muslim, Arab, and Sikh Communities: A Promising Practices Guide* (Boston, MA: Partnering for Prevention and Community Safety Initiative, Northeastern University School of Law, May 2004), p. 21. Also see, press release, United States Attorney, Eastern District of Michigan, May 16, 2003.

[44] Deborah A. Ramirez, et al., *Developing Partnerships Between Law Enforcement and American Muslim, Arab, and Sikh Communities: A Promising Practices Guide* (Boston, MA: Partnering for Prevention and Community Safety Initiative, Northeastern University School of Law, May 2004), p. 20.

[45] Human Rights Watch, *"We Are Not the Enemy": Hate Crimes against Arabs, Muslims, and Those Perceived to be Arab or Muslim after September 11* (New York, NY: Human Rights Watch, November 2002), p. 3. Dearborn was successful in keeping hate and bias crimes to near zero. Ramirez states that the *Detroit News* reported that almost 500 incidents of hate crimes were reported nationally, but only two were registered in Dearborn due to the police department's early response. See Deborah A. Ramirez, et al., *Developing Partnerships Between Law Enforcement and American Muslim, Arab, and Sikh Communities: A Promising Practices Guide* (Boston, MA: Partnering for Prevention and Community Safety Initiative, Northeastern University School of Law, May 2004), p. 20.

[46] Interview with Rashida Talib of ACCESS, September 28, 2006.

[47] This phenomenon was mentioned by community leaders in Portland and Phoenix as well.

[48] Interview with Rashida Talib of ACCESS, September 28, 2006.

Clarity on the application of federal immigration law has been important. Rima Elzin, legal counselor of the ADC, and Talib of ACCESS both confirmed that, although proposals such as the CLEAR Act have not become law, police officers and immigrant groups are aware that they are being debated in Congress. Like many other cities with sizable Muslim, Arab, and South Asian populations, considerable confusion persists regarding the mandate of state and local law enforcement. In several cases, individual police officers assume that asking questions pertaining to citizenship or residency status at routine traffic stops or when investigating domestic calls is within their jurisdiction. Indeed, Talib and others described a community meeting in 2006 in which the head of the DHS Office of Civil Rights and Civil Liberties was compelled to repeat several times that bills being deliberated in the House of Representatives are not law and that no officer, local or federal, should assume so. Unfortunately, the blurred line between state and local authority and legislation being debated in Washington, DC, continues to challenge local communities.

A second concern among Dearborn's immigrant groups was a 2006 bill in the Michigan state legislature called the Photo ID Bill, which would introduce a small box on Michigan driver's licenses indicating whether the holder of the license is a U.S. citizen or not. According to Elzin, this would draw attention to non-citizens at routine traffic stops or at the Canadian border, even if they are legal U.S. residents. For this reason, the ADC, ACCESS, and immigrant members of ALPACT, as well as other civil-rights organizations and non-Muslim immigrant advocacy groups, have been advocating against the bill.

Finally, a series of early-morning raids in 2006 caused grave concern among Dearborn's Arab and Muslim residents. The FBI raided the offices of Life for Relief and Development, a Muslim American charity with United Nations-affiliated status, authority from the Departments of State and Defense to operate in Iraq and Afghanistan, and the only Muslim American charity with an Israeli government permit to operate in Israel. The FBI also raided and searched the home of Life's CEO and another prominent member in Missouri.[49] These raids revived some old concerns and fears about civil liberties and federal authorities' ability to intervene in charitable affairs. The raids occurred just a few days before the beginning of the holy month of Ramadan, when many Muslims typically fulfill their *zakat* obligations of giving to those in need. This prompted many individuals to ask themselves how sensitive law-enforcement officials are to cultural and religious events. Although this raid was conducted by the FBI and not state or local police, it further solidified a sense that various law-enforcement authorities did not understand these communities and Islam. Each new incident, however, has served as further motivation to deepen the communities' relationship with federal and local officials.

APPENDIX 2: PORTLAND CASE STUDY

The Portland Police Department was one of the first, and most vocal, police agencies to rebuff pressure from the federal government to help enforce civil immigration laws. Portland cited the necessity of maintaining close working relationships with immigrant groups, as well as the possible diversion of funds and force capacity away from traditional aspects of law enforcement.[50]

As a major urban, commercial, technological, and academic center in the Pacific Northwest, Portland has experienced a considerable increase in Muslim and South Asian populations in recent decades, and Portland's Muslim population has demonstrated high levels of civic engagement, particularly in their relations with the Portland Police Department. The first significant influx of Muslims began in the 1970s and their numbers have been growing

[49] American-Arab Anti-Discrimination Committee (ADC), "Press Release: ADC Calls Upon FBI To Explain Timing of Raids" (Washington, DC: September 21, 2006).

[50] For a review of local vs. national questions on jurisdiction and national security/counter-terrorism, see David Thatcher, "The Local Role in Homeland Security," *Law and Society Review* 39, no. 3 (September 2005): 635-676.

steadily ever since.[51] The first substantial organizational development was when the Islamic Community of Greater Portland applied for 501(c)(3) non-profit status in 1985, with more active organizing taking place in the 1990s.[52]

The post-9/11 experience of Portland's Muslim, Arab, and South Asian communities has been marked by a high level of communication and social engagement between the police and immigrant groups, according to leaders on both sides of the relationship. Shortly after 9/11, in an effort to create "two-way communication," the Portland Police Department established the Arab Muslim Police Advisory Council (AMPAC), which includes representatives from all the major Arab and Muslim organizations in the Portland area. Positive police-immigrant relations appear to have been the product of institutions that already were in place before 9/11, such as regular, well-attended inter-faith dialogues. Several religious and social organizations continue their efforts in community outreach, public education about Islam, and cultural-awareness seminars at local schools, churches, hospitals, retirement centers, and police precincts. These organizations include AMPAC, the Muslim Educational Trust (MET), Islamic Social Services of Oregon State (ISOS), and the Islamic Society of Greater Portland (ISGP)—located at the Bilal Mosque, the oldest Muslim organization in Oregon.[53]

The ISGP was founded with the goal of educating non-Muslims about the faith and its followers. Its constitution, adopted in 1992, stated the following objectives: 1.) To promote closer understanding among all Muslims in the Greater Portland area and to strengthen bonds of friendship and brotherhood among them; 2.) To carry out activities and projects related to religious, social, charitable, and educational aspects of the life of the community; 3.) To foster cordial relationships between Muslims and non-Muslims and to promote the understanding of Islam among non-Muslims.[54]

After 9/11, the community was inspired by the negative World War II experiences of Japanese-Americans and the similarities between this and the treatment of modern-day Muslims in the United States. Indeed, Muslim community leaders and police officials alike mentioned several times the Japanese-American Citizen League (JACL) as an organization that instantly stepped in "to offer their advocacy offices to Muslims and South Asians to prevent any repeat of their World War II experience."[55]

Nevertheless, Portland has hardly been spared fear and apprehension. In 2002, the "Portland Seven" case received much attention, after seven members of Portland's Muslim community were indicted on charges of conspiring to levy war on the United States by joining the Taliban in Afghanistan.[56] The indictment was followed by several house-to-house searches, voluntary interviews, and heightened levels of tension and fear among Muslims, Arabs, and South Asians. During this period, one community leader of MET, ISOS, and ISGP noted that many members of the community felt victimized, but that Muslim leaders were determined to continue their efforts to educate federal, state and local police agencies and the wider public.[57] Their main motivation was to clarify for themselves and the wider community their "new" role in American society and to answer the questions "Who are we?" and "How do we fit in this community?"[58]

[51] No official figures exist on the numbers of Muslims and South Asians in Portland. My interviewees estimated the number at approximately 15,000.

[52] The Pluralism Project at Harvard University, http://www.pluralism.org/research/profiles/display.php?profile=73560. With the exception of the Nation of Islam's Muslim Community Center, most of the Muslim organizations around Portland are relatively recent.

[53] The Pluralism Project at Harvard University, http://www.pluralism.org/research/profiles/display.php?profile=73551. This intention was confirmed in interviews with police officials.

[54] Public engagement and education were also confirmed by a community leader of MET, ISOS and ISGP.

[55] Interview with a community leader of MET, ISOS and ISGP, September 4, 2006.

[56] Julie Sullivan, "Terror Case Stuns Those Who Know Suspects," The Oregonian, October 6, 2002, http://www.oregonlive.com/special/terror/index.ssf?/special/oregonian/terror/1006_stun.html.

[57] Interview with a community leader of MET, ISOS, and ISGP, September 19, 2006.

[58] Interview with a community leader of MET, ISOS, and ISGP, September 4, 2006.

The desire for improved communication was reciprocated by the Portland Police Chief, Mark Kroeker, who helped the Muslim community to establish AMPAC.[59] The Muslim, South Asian, and Arab communities' trust in the Portland Police Department was initially bolstered by Kroeker's refusal to participate in certain federal law-enforcement campaigns that targeted people based on national origin or religion instead of conduct, such as the interviews of Middle Easterners. One of the city attorneys publicly called into question the efficacy of U.S. Attorney General John Ashcroft's interview campaign, claiming that it was in violation of Oregon state law.[60]

Current concerns confronting Portland Muslims, Arabs, and South Asians differ somewhat from those in other cities. Fear of civil-liberties violations exists, but a sense of obligation seems to have overshadowed these fears. After 9/11, initial concerns about the public safety of Muslims were promptly answered by both the Portland Police Department and community leaders of other non-Muslim groups. Despite increased activity on the part of federal authorities, the Portland Police Department's refusal to implement some of the Bush administration's calls for enforcing federal policy bolstered local Muslims' sense of security, as did police-community dialogue and the police department's commitment to working with immigrant groups.

[59] Similar advisory boards exist for the Latino, African-American, and gender-preference minority communities in Portland.

[60] Maxine Bernstein, "Kroeker Meets with Muslim Council," *The Oregonian*, November 5, 2002.

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BALANCING FEDERAL, STATE, AND LOCAL PRIORITIES IN POLICE-IMMIGRANT RELATIONS: Lessons from Muslim, Arab, and South Asian Communities Since 9/11

EXECUTIVE SUMMARY

Since the terrorist attacks of September 11, 2001, changes in federal, state, and local law-enforcement priorities and practices have had a profound impact on America's Muslims, Arabs, and South Asians. Some of these policy shifts applied exclusively or primarily to those communities, such as the federal "special registration" program, selective enforcement of immigration laws based on national origin or religion, and expanded federal counter-terrorism efforts that targeted these communities. At the same time, a wide range of ethnic groups have been affected by the use of state and local police agencies to enforce federal immigration law, and the aggressive use of detention and deportation authority for even minor infractions and technicalities.

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