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Committee on the Judiciary
Subcommittee on the Constitution, Civil Rights & Civil Liberties

Hearing on Racial Profiling and
the Use of Suspect Classifications in Law Enforcement Policy
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Mr. Nadler, Mr. Sensenbrenner, members of the Subcommittee, good afternoon. I appreciate this opportunity to testify on racial and religious profiling. I'll focus on FBI and CBP activities targeting American Muslims.

Law enforcement has a solemn duty to not only protect the American people but to do so consistent with the rights and protections guaranteed by the Constitution to *all* Americans, regardless of race, religion, or ethnicity. And Congress must ensure that they do so.

American Muslims today, however, face less than equal treatment by federal law enforcement in our everyday lives, when we travel, log onto the Internet, or enter a mosque to pray. We worry that we will be monitored, interrogated, or worse, arrested and detained by government agents, for no reason at all. Let me be clear: I'm not referring to legitimate investigations of actual criminal activity. I'm referring to sweeping questioning, searches, and other investigative activities that target innocent Americans and groups. Our nation hasn't seen such widespread abuse since the J. Edgar Hoover era. It's wrong, it's counter-productive, and it must end.

So how did we get here? In 2001, after the horrific attacks on our nation, Congress was understandably eager to help law enforcement do its job. The USA PATRIOT Act was enacted, but it went too far. It granted new, overly broad powers to the FBI to not only investigate criminal activity, but to snoop on innocent Americans. That same year, the FBI launched the first in a series of so-called voluntary interview programs targeting Muslim and Arab Americans for questioning. Director Mueller also instructed each of the FBI's 56 field offices to count the number of mosques and Muslim charities in their area and create a demographic profile.

The word was out: from here on, agents would not be promoted based on their investigations of drug trafficking, mortgage fraud, or other criminal cases. No,

whether you were an agent in Iowa or New York, the paramount focus would be counterterrorism, and you would sink or swim in the Bureau based on cultivating sources and informants, opening investigations, and developing cases targeting the Muslim community. In December 2008, the FBI memorialized this new way of doing business in a revised set of investigative guidelines. Where did this lead us?

By the end of 2005, Michael Rolince, the former head of the Washington Office of the FBI, said that the FBI had conducted nearly 500,000 interviews of Arab and Muslim Americans, and *not a single one* of these interviews yielded information that would have led the FBI to get in front of the 9/11 attacks.

Undeterred, the FBI was well on its way to aggressively developing informants and infiltrating mosques and community organizations. Today, the FBI also monitors Facebook and the Internet. Can you imagine attending your church or synagogue and wondering whether the FBI is peering over your shoulder while you pray? Can you imagine thinking twice before posting a news article on your Facebook account because it just might prompt an FBI visit to your home or workplace? That's the reality for many Muslims today.

Muslim Advocates hears from American Muslims on a regular basis who are seeking guidance, because they have received a surprise visit at their home or workplace by the FBI, with questions about their religious practice, political views, or involvement in community organizations. These actions, which create fear, stigmatize individuals and groups, chill First Amendment protected activities, and sometimes even jeopardize jobs, have been taking place, not based on any evidence of wrongdoing, but based on religious and ethnic discrimination, plain and simple.

But the FBI isn't the only problem. If you have the misfortune of being Muslim at the border, there's a good chance you'll be stopped by a Customs & Border Protection agent before returning home and asked questions that have nothing to do with the purpose of your international travel such as, "what mosque do you attend?" or "how often do you pray?"

Can you imagine being asked what church or synagogue you attend, or how often you pray, by a federal agent? You're probably thinking, "that's none of the government's business, *and* it's protected by the First Amendment." In the America I grew up in, that certainly would have been the case.

But for me and countless other Muslim Americans today, it's not as simple as telling an agent it's none of their business. The consequences of being Muslim at the border are frightening and fraught with peril.

Take for example the case of one prominent community leader, returning home from Canada at a land crossing near Detroit. He and his wife were dragged from their car, handcuffed and detained in front of their young daughters, who were 1 and 3 years old at the time. To this day, his eldest daughter recoils in fear when she sees someone in uniform, afraid that he or she will do harm to her family.

Is this the kind of relationship we want law enforcement developing with Muslim Americans, young and old, one based on fear and mistrust? More importantly, is this the country we aspire to be? I certainly hope not.

Members of the Committee, racial and religious profiling is not only contrary to our nation's guarantee of equal justice under the law; it also yields negative results. Discriminatory policing diverts valuable resources from *legitimate* investigations. It erodes trust between the community and law enforcement, jeopardizing a vital relationship needed to counter *actual* criminal activity. Simply put, racial and religious profiling is bad policing.

Thank you for the opportunity to present the views of Muslim Advocates. I look forward to your questions.