

Chapter 4

Whose Homeland Security?

On September 11, the wheel of history turned and the world will never be the same. . . . The attacks of September 11 were acts of terrorism against America orchestrated and carried out by individuals living within our borders. Today's terrorists enjoy the benefits of our free society even as they commit themselves to our destruction. They live in our communities—plotting, planning and waiting to kill Americans again.

—Attorney General John Ashcroft (2001b)

ATTORNEY GENERAL John Ashcroft's declaration that "the world will never be the same" was a prescient script for the American government's actions after the 9/11 attacks, whether in the United States, the Arab and Muslim worlds, or other outposts of the global "war on terror." In the United States, the notion that terrorists were hiding in American communities just waiting to attack, living undercover lives that had public veneers of normalcy, provoked fear in the hearts of Americans and cast an air of suspicion on Arab and Muslim Americans. Government statements were clear in their directives: "The federal government cannot fight this reign of terror alone. Every American must help us defend our nation against this enemy" (Ashcroft 2001b). Since terrorists were alleged to be inconspicuously residing in "our communities," the message was apparent: Arabs and Muslims in the United States should be closely observed and their seemingly normal activities should be treated as suspect. Arabs and Muslims, who understood their position as subjects of watchdogs in a panoptical world, were to be placed under a microscope by their non-Arab or non-Muslim neighbors. Study data show that social relationships between themselves, their neighbors, and strangers were commonly perceived by Arab Muslims to have changed into a new set of roles: one party was looking out for danger, while the other was behaving in ways that would demonstrate innocence.

The government's statements and pleas for help thus socially constructed Arabs and Muslims living in the United States as persons who were likely to be connected to the 9/11 attacks and other future acts of terrorism. They were people who, if not terrorists themselves, might be hiding terrorists or covering up their knowledge of brewing terrorist plots. So constructed, Arabs and Muslims in the United States were symbolically reconstituted as people who were not really part of the American nation; they were the "them," and thus not fully eligible for the nation's package of civil and constitutional rights. In fact, they were often described as persons whose presence in the United States was to take advantage of these very rights in order to plot destruction, as in the Ashcroft statement opening this chapter. As a result of the way they were now publicly perceived, many of the persons interviewed for this study were visited by law enforcement authorities because a neighbor or coworker had reported them as acting in a suspicious manner—whether because they made overseas phone calls, because they opened their trunk frequently, or because of the way they were dressed. Others reported being removed from airplanes or denied boarding; some lost their jobs, and some simply reported that life in the United States was no longer the same. These and other aspects of the post-9/11 Arab and Muslim experience, as discussed in this and subsequent chapters, all contributed to a sense of "homeland insecurity." This feeling abated over time, but never really went away during the period of this study.

This chapter focuses on federal government statements and policies implemented after the 9/11 attacks. At the same time as it asked the American public to watch out for suspicious behavior, the government crafted an extensive set of policies aimed at "trimming the haystack" to find the needle that "resists discovery" (Leiken 2004, 136). These measures included mass arrests, preventive detentions, FBI interviews, registration and fingerprinting of tens of thousands of male foreign nationals, widespread wiretapping, secret hearings, closures of charities, criminal indictments, and reviews of private Internet, telecommunication, and financial records, which were secured through more than thirty thousand national security letters issued annually to American businesses after the passage of the USA PATRIOT Act (Cole 2006). These measures were directed almost solely against persons of Arab ethnicity or the Muslim faith. Their ongoing reportage effectively sent a message to the American people that ethnic and religious profiling was acceptable, even necessary, so long as it was directed at these groups.

In the end, few terrorists posing a threat to the United States were actually uncovered by these extraordinary efforts of the American government. Not a single person was convicted of a terrorist crime after eighty thousand domestic special registrations, five thousand preventive detentions, and tens of thousands of FBI interviews, activities referred to by the

Georgetown law professor David Cole as the “most aggressive national campaign of ethnic profiling since World War II” (Cole 2006, 17). The U.S. government claimed to have broken up domestic terrorist cells in Buffalo (Lackawanna), Detroit, Portland, Seattle, and northern Virginia, but none of these groups was proven to have plans to inflict damage on the United States. Only one of the groups, the Lackawanna Six, had an Al-Qaeda connection. This group of young Yemeni American men was not new to the government. They had been reported to the FBI months before the 9/11 attacks by an Arab Muslim neighbor, who learned of their plans to join an Al-Qaeda training camp in Afghanistan in the spring of 2001. Shortly after arriving at the camp, some of the boys fled in fear, wanting nothing to do with what was going on there, while others finished training and later returned home (Purdy and Bergman 2003). They resumed their lives in Lackawanna and were under FBI observation and wiretapping. Although there was no evidence that they ever had plans to stage an attack, they were arrested in September 2002 and heralded with much publicity as the government’s key homegrown terrorist find.

Criminal indictments in “terrorism-related” cases fared slightly better than the outcomes of interviews, mass registrations, charity closures, and detentions without charge: more than four hundred post-9/11 indictments produced some two hundred convictions, very few of which, however, were for terrorism (Eggen and Tate 2005). In fact, only thirty-nine of these “terrorism-related” cases ended in convictions on terrorism charges, and the majority of these convictions were for “support” (encompassing a wide range of noncriminal activities) of a terrorist group, not for actual terrorist activities. The Syracuse-based Transactional Records Access Clearinghouse (TRAC 2003) found that the median sentence handed down in cases the Justice Department identified as “terrorism-related” was fourteen days. New York University’s Center on Law and Security (NYU 2005) found upon review of “terror-related” cases that there were “almost no convictions on charges reflecting dangerous crimes” (1). According to Cole (2006, 18), “several of the government’s most prominent ‘terrorist’ cases have disintegrated under close scrutiny.” While some have argued that the government’s dragnet antiterror tactics had deterrent value, such value is as immeasurable as the claimed deterrent value of the death penalty.

The government’s highly rhetorical public statements, its claims concerning its arrests and roundups that would never be substantiated, and the sensationalized media coverage that accompanied each government action, all led the public to believe that the government was acting intelligently while it was actually producing undue punitive outcomes for many Americans. The government’s actions stoked public fears, while granting it the leeway it wanted to sidestep the rule of law, and appeared to confirm the notion that Arabs and Muslims living in the United States

were posing a collective danger to other Americans, thus encouraging hatemongers anxious to retaliate against any perceived group member. Although the 9/11 Commission (National Commission on Terrorist Attacks Upon the U.S. 2004) found no evidence of Arab American or Muslim American knowledge of, participation in, or support for the 9/11 attacks, its conclusion was never really given much play in the American media or by the Bush administration. The commission found that the persons held responsible for the 9/11 attacks were visitors to the United States who were on a deadly mission and took pains to stay separate from Arab and Muslim American communities, but federal law enforcement authorities appear to have acted on a wholly different set of premises. After “about half a million interviews,” according to one former FBI special agent in charge of counterterrorism, some in government concluded that there was no one “who had they stepped forward could have provided a clue to help us get out in front of this.”¹ The FBI interviews in particular stigmatized Arab and Muslim Americans in the presence of onlookers, who were likely to presume that the visit had been spurred by something serious—something more than a name or a look, a suspicious neighbor, an overseas phone call, or a way of dressing.

Many policy analysts (and many Arab and Muslim Americans) were arguing at the time that Arab and Muslim American communities should be among the government’s primary allies in its domestic antiterrorism work (see, for example, Chishti et al. 2003). Such a strategy would have required a very different perspective, one that viewed Arab and Muslim Americans in an individuated, knowledge-based manner, contained a kernel of trust, and conveyed, instead of a view of collective suspicion built on stereotypes, an understanding that Arab and Muslim Americans also cared about the lives of others. By the fall of 2008, however, academics with direct access to Homeland Security secretary Michael Chertoff were still advising him about the potential usefulness of these types of cooperative efforts.² In other words, seven years after the 9/11 attacks, top-level Bush administration officials were still not convinced of the value of the non-coercive domestic security strategies that were being pursued at the local level in various cities across the nation—a lack of support that produced frustration on the ground.³

Instead, Human Rights Watch (2002) found that Arabs and Muslims who volunteered to help the federal authorities sometimes ended up in indefinite, incommunicado detention. Such arrests were based not on data, but on presumptions of suspicion, grounded in the notion that persons of the Muslim faith or of Arab origins could not be trusted. Human Rights Watch (2005, 6) concluded in “Witness to Abuse” that needless incarcerations “aggravated distrust towards the government in Muslim communities in the United States that have been repeatedly targeted by sweeping, ill-advised, and at times illegal post-September 11 investigation,

arrest, and detention policies." If it had been true that terrorists were lurking inside Arab and Muslim American communities, the government's strategies were counterproductive to finding them because its policies instilled a deep fear of government agents (Cainkar 2004c). In sum, despite nearly unrestricted power, dragnet policies, a cooperative citizenry, and the evidentiary leeway permitted by secret evidence and secret hearings, the government's allegation that Arab and Muslim terrorists were lurking in Arab and Muslim American communities, "plotting, planning and waiting to kill Americans," as Attorney General Ashcroft told the U.S. Mayors Conference in October 2001, was never proven correct. Yet it was the nearly 100 percent rate of false positives during this entire domestic security roundup period that created extensive anxiety among Arabs and Muslims in the United States, producing an understanding that really anything goes. The fundamental human right to personal security was sacrificed, and each person knew it on an individual level.

"Homeland Insecurity"

Let the terrorists among us be warned: If you overstay your visa—even by one day—we will arrest you. If you violate a local law, you will be put in jail and kept in custody as long as possible. We will use every available statute. We will seek every prosecutorial advantage. We will use all our weapons within the law and under the Constitution to protect life and enhance security for America. . . . Some will ask whether a civilized nation—a nation of law and not of men—can use the law to defend itself from barbarians and remain civilized. Our answer, unequivocally, is "yes." Yes, we will defend civilization.

—Attorney General John Ashcroft (2001b)

Substituting "Arab and Muslim men" for the word "terrorists" in this statement by Attorney General Ashcroft provides a proximate rendering of the U.S. government's antiterrorism policies in the aftermath of the 9/11 attacks, and certainly reflects the way those policies were perceived by Arab and Muslim men. In this statement invoking the language of the clash of civilizations, where terrorists, barbarians, visa violators, and local lawbreakers are defined in relationship to each other, the missing link is supplied by Arab and Muslim male noncitizens, the suspects and primary subjects of these particular government strategies. A close reading of John Ashcroft's language in his October 25, 2001, speech shows how Arab and Muslim men who were at most visa violators were transformed into terrorist suspects. The trick is located in the vague definition of "the law," the positioning of the word "or," and the linkage of this blurred language to terrorists:

In the "war on terror," this Department of Justice will arrest and detain any suspected terrorist who has violated *the law*. Our single objective is

to prevent terrorist attacks by taking *suspected terrorists* off the street. If suspects are found not to have links to terrorism or not to have violated the law, they are released. But *terrorists who are in violation of the law* will be convicted, in some cases deported, and in all cases prevented from doing further harm to Americans. [emphasis added]

In the subsequent paragraph of this statement, Ashcroft is able to leverage this vague language to claim that nearly one thousand terrorist arrests had been made:

Within days of the September 11 attacks, we launched this antiterrorism offensive to prevent new attacks on our homeland. To date, our anti-terrorism offensive has arrested or detained *nearly 1,000 individuals* as part of the September 11 terrorism investigation. Those *who violated the law* remain in custody. Taking *suspected terrorists in violation of the law* off the streets and keeping them locked up is our clear strategy to prevent terrorism within our borders. [emphasis added]

In fact, these detainees were overwhelmingly Arab and Muslim men who were arrested on the basis of their looks, or on reports of suspicion, and who could not prove *at that moment* that their presence in the United States was legal. They were then largely unable to obtain release from prison until a host of government agencies proved that they were *not* terrorists—a very lengthy process, only after which visa violators were deported and others were released (Human Rights Watch 2002, 2005). In the end, *none* of these post-9/11 detainees were found to have terrorist connections (Cole 2003; Human Rights Watch 2002, 2005). Yet these statements by government officials offered the American public a grossly exaggerated sense of government accomplishment, as well as of domestic threat. A distinction between terrorists and Arab and Muslim men living in “American communities” was effectively blurred, a technique that should be credited for its efficiency because it flowed easily from prevalent social understandings that Arabs and Muslims were monolithic and inherently violent; government spokespersons simply latched on to these popular stereotypes in existence long before 9/11 and put them to work.

That these ideas were already in place in the American public’s mind is evidenced in Attorney General Ashcroft’s (2001a) statement at a press briefing on September 18, 2001, only seven days after the attacks:

To date the FBI has received more than 96,000 tips and potential leads: more than 54,000 on the website, nearly 9,000 on the hot line, the toll-free WATTS line, and more than 33,000 leads that were generated in the FBI field offices.

These tips and leads singled out Arab and Muslim Americans—citizens, permanent residents, and visitors alike—and eventually led nowhere. Persons who experienced law enforcement visits based on these

tips reported that their allegedly suspicious actions pertained to normal activities interpreted by onlookers as suspicious—for example, unpacking the trunk of the car or opening the mail. The award-winning documentary *Brothers and Others* reported on a man arrested because a postcard of the World Trade Center was taped to his deli counter *and* he was Arab,⁴ while Human Rights Watch (2002) reported the arrest of a man who, with his family, was taking tourist photos, among many other arrests based on profiling alone. Despite President Bush's (2001) statement on September 20 that "no one should be singled out for unfair treatment or unkind words because of their ethnic background or religious faith," the U.S. government was engaging in precisely such actions, lending strength to public suspicion of Arab and Muslim Americans. While Ashcroft asserted that the rule of law and the Constitution would be respected, the constitutionality of many post-9/11 government strategies has been legally challenged (Cole 2006; Chang and Kabat 2004).

This study found that fear of government far outweighed any other post-9/11 fears among Arab Muslim Americans. Their sense of "homeland insecurity" was driven less by the public's behavior than by the government's.⁵ During the period of research, a substantial number of Arab Muslim Americans expressed worry that they might be rounded up and sent to internment camps by agents of the American government—especially if another attack occurred, an event over which they would have no control—and believed that the American government had the power and mass media influence to auger popular support for such an action. From their perspective, "democracy" and "the rule of law" had become hollow phrases that government spokespersons used to defend targeting Arab and Muslim communities. These respondents perceived that the rule of law did not apply to them and that the government could do what it wished to them, with widespread popular approval. Their citizenship, it seemed, had been rendered meaningless. This perspective, and the distinction between the government and the American public, is expressed in the following quote from an interview with an Arab American woman:

I lost trust in American values, to put it very simply. I no longer have the serene sense that I will always be safe here. I feel that being an American citizen is meaningless. That it doesn't really protect you in any way. It's an immense sense of danger, and I've never gotten over it. I did not lose faith in Americans. I think my friends are the same. My relationships with my students haven't suffered. It's the same. On that level, I don't think I suffered, but I think the way I approach things made me less sure-footed, less confident even about the future of our family here. Can you believe it? I came home and told my husband, shouldn't we be putting our money in banks overseas? Maybe one of these days we'll end up being in concentration camps.

An Arab American man articulates the sense of arbitrariness that characterized what he calls the American “police state” as he reflects on the possibility that Arab Americans would find themselves repeating the Japanese American experience with camps.

I suffered, physically no, but mentally and psychologically yes. And I would say, not because I’m Palestinian-born. Primarily because I’m an American citizen—i.e., this is the land of the free, rule of the law, democracy, etc.—and suddenly it became a police state. Human rights, laws, protection against individual [individual protections], and so on, are out of the window. Everybody becomes a target, for whatever reason the government decides. It doesn’t have to be just violations. An edict by somebody in an office makes your life in jeopardy. It did affect me as a Palestinian in that the police state that prevailed after 9/11 reminded me of what happened to the Japanese in this country.

Few persons interviewed in this study said that their lives were unchanged after 9/11. A majority reported a sense of living on the edge in the United States, with lingering fears of government policies that might force their expulsion or internment. At the same time, there was broad recognition that the climate for their treatment as enemies of the United States had been established long before 9/11; as this Arab American woman notes, even American-born Arabs were viewed as foreigners:

The attitude and outlook was always there, it was just exaggerated, making you feel like you’re the enemy, that you’re the bad one, and you’re definitely a foreigner and do not belong in this country, when I was born and raised in this country, and I’m just as much an American as anyone else. I feel like maybe I need to get the hell out of this country because something bad is going to happen to our people here. It’s a horrible feeling.

Many interviewees said that this sense of uncertainty led them to take steps to protect themselves and their families; some sent their college-bound children to schools outside of the United States, for instance, and some accelerated their efforts to build a home overseas. Indeed, a November 2002 survey by the Chicago-based Muslim Civil Rights Center found that 25 percent of immigrant respondents reported seriously considering moving to their country of origin because of the post-9/11 climate.⁶ Some Arab and Muslim American families did choose to leave the United States, while others were forced to leave by the government policies enumerated in this chapter. Most, however, decided to wait and see what the American experience had in store for them.

I don’t feel this is a safe place. I don’t know if I will be here in ten years, whereas at the beginning I had established that I was going to be here in this country, that I had given up on Europe, Lebanon is a bit too hectic. I

don't know what I'm going to do, because this is the country where I thought I would stay and that my daughter will grow up here. I don't know where we're going to be.

I sent my daughter to college in Canada. I do not know what will happen to us here. Who knows what will happen to us here? I want her to be safe.

These findings about fear of the government and the abrogation of the rule of law have been replicated in other studies. The Vera Institute of Justice's national study of Arab Americans finds that community members "expressed greater concern about being victimized by federal policies and practices than by individual acts of harassment" (Henderson et al. 2006, 184). Sally Howell and Andrew Shryock (2003, 449) report that government policies created "a climate in which Middle Easterners and South Asians in the U.S. can be treated as a special population to whom certain legal protections and civil rights no longer apply." Under such conditions, the homeland, whether adopted or by birth, is perceived to be a very insecure place to live.

Government Domestic Security Policies After 9/11

The rest of this chapter offers an inventory of some of the American government's known domestic security policies following the 9/11 attacks. It points out the methods by which these policies were used to target Arab and Muslim American communities. It looks most intensively at the government policy that was visibly the broadest in scope—"special registration"—which brought in for government questioning, fingerprinting, and photographing more than eighty thousand male foreign nationals from Arab and Muslim-majority countries who were living in the United States. By exposing the legal precedents on which this policy rested, we gain insight into the strategic thinking of the government during this time of national crisis. After examining these policies, we look at some of the social-psychological outcomes of the government's secret surveillance on Arab and Muslim Americans. The chapter concludes with a review of some of the active defense that was mobilized on behalf of Arabs and Muslims in the United States. Although the government's exaggerated claims bought popular support for its policies, Arabs and Muslims in the United States did not stand alone in their opposition to them. Finally, to highlight the crucial role that civic inclusion and social relationships with people of influence play in fair treatment and the protection of civil rights (justice), we move to the individual level to look at two very different outcomes of government attempts to define someone as a terrorist—one in which the subject was socially embedded in a white middle-class community and one in which the subject was not so embed-

ded. In the former case, public doubts about the government's allegations of threat were able to significantly challenge the government's attempts to whisk the person away; in the latter case, a Muslim employee of the U.S. military found few allies to contest his incommunicado detention.

Most of the government's post-9/11 national security policies were designed and carried out by the executive branch of government and were subjected to little or no a priori public discussion or debate. Twenty-five of the thirty-seven known U.S. government security initiatives implemented in the first two years after the September 11 attacks either explicitly or implicitly targeted Arabs and Muslims living in the United States, who were singled out by the government as one conflated *group* (Tsao and Gutierrez 2003). These measures included mass arrests, secret and indefinite detentions, prolonged detention of "material witnesses," closed hearings and the use of secret evidence, government eavesdropping on attorney-client conversations, FBI home and work visits, wiretapping, seizures of property, removals of aliens with technical visa violations, freezing the assets of charities, and mandatory special registration. I have argued conservatively that at least 100,000 Arabs and Muslims living in the United States directly experienced one of these measures; others, including the FBI agent quoted earlier, have cited much larger figures.⁷ The most severe measures were taken against noncitizens, who were accorded a lesser set of rights than Arab and Muslim American citizens and permanent residents, whose treatment, in turn, fell below the standard most would consider acceptable for U.S. citizens.

Mass Arrests

The first to be caught in the post-9/11 "investigation dragnet" were some 1,200 Arab or Muslim males (presumably noncitizens) who were arrested shortly after the attacks and detained under high security conditions.⁸ The exact identities and individual fates of these detainees are not known because the federal government has to this date refused to release specific information about them. The government denied a Freedom of Information Act request filed by dozens of organizations and appealed a District Court judge's order to release the names; the U.S. Court of Appeals for the D.C. circuit supported the government's secrecy (Chang and Kabat 2004). Males who matched an Arab/Muslim phenotype and were determined for any reason (or no reason) to be suspicious were the first to be locked up, after which the government looked for violations with which to charge them (Cole 2003). Being unable to prove legal residence in the United States at the moment of contact was a sufficient condition. Arab and Muslim men seen in rental cars or observed taking photos of buildings or tourist sites were arrested by government agents and eventually jailed for months as "persons of interest"—that is, as

potential security threats. Detainees could not be released (or deported) until they were cleared of terrorist connections, a process that took many months. Attorney General Ashcroft announced the rule change on September 18, 2001, that gave government largely unlimited time to find and press charges on persons it had detained by expanding “the twenty-four-hour time period to forty-eight hours, or to an additional reasonable time if necessary under an emergency or in other extraordinary circumstances” (Ashcroft 2001a). On September 21, 2001, in a document known as the Creppy memo, Ashcroft ordered that every immigration hearing designated “of special interest” be held in secret (Cole 2003). By 2003, it was assumed that most of these early detainees had been released and that at least five hundred had been deported. Deportations were based on violations of immigration law, and one had to be *cleared* of terrorist connections to be deported. At least one man, Benatta Benamar, was held in U.S. custody for nearly five years despite being cleared of terrorist involvement in 2001, in a case riddled with abuse, government misconduct, cover-ups, and collusion between the FBI, INS, and government prosecutors (Chang and Kabat 2004, 7). The government netted not a single terrorist suspect from this dragnet operation.

Human Rights Watch (2002, 2005) issued two major investigative reports concerning these post-9/11 arrests. In its first report, “Presumption of Guilt” (Human Rights Watch 2002, 12), it found that government agents used stereotypes to determine who to arrest: “being a male Muslim non-citizen from certain countries became a proxy for suspicious behavior.” Some men were incarcerated “simply because spouses, neighbors, or members of the public said they were ‘suspicious’ or accused them without any credible basis of being terrorists” (12). The Human Rights Watch report concluded: “Operating behind a wall of secrecy, the U.S. Department of Justice thrust scores of Muslim men living in the United States into a Kafkaesque world of indefinite detention without charges and baseless accusations of terrorist links.”⁹ Human Rights Watch’s investigation found that fundamental legal protections were skirted as government officials abused material witness rules based on prejudice and “false, flimsy and irrelevant evidence” (12).

Human Rights Watch’s (2005) second report, “Witness to Abuse,” co-authored by the American Civil Liberties Union (ACLU), reported on its investigation of the cases of seventy persons it was able to locate who were picked up during this period and held on “material witness” charges. Its interviews uncovered aggressive armed arrests and denials of due process rights, as described by Tarek Omar, arrested as a material witness in October 2001:

They treated us like professional terrorists. They put us in cars and had big guns—as if they were going to shoot people, as if we were Osama bin Laden. They didn’t let us speak; they didn’t let us ask why we were in

detention. I never knew for how long we would stay in jail. It felt like we would stay forever. I didn't even know why I was in jail.¹⁰

Interviews also uncovered repeated verbal abuse and physical deprivation during extensive periods of incarceration and frequent use of leg chains, solitary confinement, and banging on cells all night. Some detainees reported recurring strip searches and intentional physical cruelty. These abuses were also investigated by the Justice Department's Office of the Inspector General (2003), which found that intense psychological pressure was used on suspects to extract confessions. In one notable case, government agents claimed that the Egyptian student Abdallah Higazy, who was staying at the Millennium Hilton across from the World Trade Center on September 11, had "confessed" during a polygraph test to owning the radio transmitter found in his room. It later turned out that the radio had been found in another room, that it belonged to an airline pilot, and that the person who turned it over to government agents had lied about its location (Chang and Kabat 2004, 90). The Office of the Inspector General's (2003, 45) investigation of the treatment of post-9/11 detainees at the Metropolitan Detention Center in Brooklyn found a pattern of "unnecessary" body searches that appeared "intended to punish"; they were conducted in the presence of women and filmed in their entirety.

We found evidence indicating that many of the strip searches conducted on the ADMAX SHU (Special Housing Unit) were filmed in their entirety and frequently showed the detainees naked. The strip searches also did not afford the detainees much privacy, leaving them exposed to female officers who were in the vicinity. In addition, the policy for strip searching detainees on the ADMAX SHU was applied inconsistently, many of the strip searches appeared to be unnecessary, and a few appeared to be intended to punish the detainees. For example, many detainees were strip searched after attorney and social visits, even though these visits were in no-contact rooms separated by thick glass, the detainees were restrained, and the visits were filmed. We believe that the BOP (Bureau of Prisons) should develop a national policy regarding the videotaping of strip searches. We also believe MDC management should provide inmates with some degree of privacy when conducting these strip searches, to the extent that security is not compromised. . . . Because a strip search involves three or four officers, the BOP should review its policies of requiring strip searches for circumstances where it would be impossible for an inmate to have obtained contraband, such as after no-contact attorney or social visits, unless the specific circumstances warrant suspicion.

These types of repeated, invasive strip searches were not serving security purposes; rather, they played a symbolic role as degradation ceremonies intended to emasculate. Their repeated use on Arab and

Muslim men in American custody became somewhat characteristic of the post-9/11 world, whether in New York, Abu Ghraib, Iraq, Guantánamo, or elsewhere. The additional features of female onlookers and filming suggest that extra efforts were made to intensify the humiliation based on shared understandings of Arab/Muslim culture: that these aspects would increase the detainee's pain by adding public shame.

Once released from jail, many of these so-called "persons of interest" found that they had been imprinted with a terrorist stigma, which made putting their lives back together extremely difficult. Among those who remained in the United States, follow-up investigative reports indicated that former detainees were shunned by clients, customers, coworkers, and fellow community members. Arab and Muslim Americans feared that the ink of the terrorist stamp that was already tainting them might spill fully onto them and that a simple contact with a former suspect might render them the next person to disappear indefinitely in the hands of the American government and its web of prisons. Under the USA PATRIOT Act, and in consort with aggressive federal agents and prosecutors, "contact" has been used as evidence of aiding and abetting terrorism. Some former detainees intending to stay eventually left the United States because they could not reconstruct their lives—as in the case of the sensationally covered but wrongfully arrested Evansville Eight.¹¹ Human Rights Watch (2005, 98) provides the following account of Tarek Albasti, an Egyptian national arrested as a material witness in October 2001 as one of the Eight, a group that eventually received a government apology for the wrongful arrests:

After we were released we were in hell, you tell yourself, okay, well they released us so everyone should understand we are innocent, but that was not the case. Because I mean there are some people who support you and stuff like this but everyone is curious: did you snitch on somebody else, or did you make a deal with the government, or why were you released, or did you really do something or not. It's just like all this doubt in people's mind. At the time we lost about 30 to 40 percent of our business and then it kept getting worse and worse. And even when we got the apology and the newspaper wrote about it we thought we were going to be slammed because it's an apology on the first page of the newspaper. And [business] is slow. But people remember we were caught and this kind of thing and [business got even] slower. . . . Most of the response from people was, yes, they had enough, okay, they are innocent, [but] let's go back to our life, if they don't like it let's tell them to go back to their home, we are trying to make the country safer.

These arbitrary arrests—simply matching a phenotype seemed to be the first step toward landing in abusive, incommunicado incarceration for months—signaled early on to Arab and Muslim Americans (both citizens and noncitizens) that American legal protections were easily circumvented

and did not apply to them. In fact, it was the very secrecy and lack of transparency in these arrests that sparked fear in members of these communities. This fear was augmented by the statements of government officials: by referring to detainees as “terrorists,” “suspected terrorists,” and “barbarians,” they seemed to ensure that there would be little public outcry over any action the government took. Taken together, these measures produced a very frightening world for Arab and Muslim Americans.

The USA PATRIOT Act

On October 24, 2001, the U.S. Congress passed the executive branch-crafted USA PATRIOT (Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism) Act of 2001; President Bush signed it into law two days later (P.L. 107-56). Under intense pressure from Attorney General Ashcroft, who used the rhetoric of fear in his speech to Congress, the act was quickly passed through the circumvention of normal congressional procedures; only a few congress-people had read the act in its entirety (Cole and Dempsey 2002). Wisconsin Senator Russ Feingold was the act’s sole opponent in the Senate, while some sixty members of the House voted against it. Among a host of other provisions, the USA PATRIOT Act expanded the power of the U.S. government to use surveillance and wiretapping without first showing probable cause, permitted secret searches and access to private records by government agents without oversight, authorized the detention of immigrants on alleged suspicions and the denial of admission to the United States based on a person’s speech, and expanded the concept of guilt by association. From its passage through 2008, the provisions of the PATRIOT Act have been principally used on Arabs and Muslims in the United States and on their community institutions, charities, and businesses. While the act abrogates the fundamental rights of everyone in the United States, it was passed and has been renewed without much public protest. Indeed, these policies seemed to give much of the American public a sense of safety and well-being, partly because they believed that such policies were meant for the country’s Arabs and Muslims and would not be applied to them.

Legal challenges have been brought against sections of the PATRIOT Act. The *Humanitarian Law Project II, et al. v. Ashcroft, et al.* suit filed by the Center for Constitutional Rights challenges the expansion of the definition of criminal material support (to designated foreign terrorist organizations) to include providing “expert advice and assistance,” arguing that the vagueness of this clause could render providing human rights training or expert medical advice criminal acts in support of terrorism (Chang and Kabat 2004). In January 2004, the U.S. District Court in Los Angeles ruled in favor of the plaintiffs, agreeing that this clause was void for vagueness under the First Amendment. Congress amended sections of the

material support statute pertaining to “expert advice and assistance” as well as “services” and “training” in December 2005, but the amendments were struck down by the District Court in 2006. As of the summer of 2007, a government appeal was pending. The *Muslim Community Association of Ann Arbor, et al. v. Ashcroft and Mueller* lawsuit challenged section 215 of the act, which permits the FBI to “obtain in total secrecy ‘any tangible things,’ including ‘books, records, papers, documents, and other items,’ whether they are in a person’s home or in the possession of a third party.” Under section 215, the government does not need to show probable cause for its actions and imposes a gag order on the parties served with a section 215 order, barring them from informing anyone of the government’s actions or the gag order. An FOIA request for information on the government’s use of this and other surveillance tools authorized by the USA PATRIOT Act, filed by the ACLU, was denied by the government, an action upheld by Judge Ellen Segal Huvelle of the U.S. District Court for the District of Columbia (Chang and Kabat 2004). In a second case, however, the same judge rejected the government’s attempt to delay disclosure of section 215 records and ruled that the ACLU was entitled to expedited processing of the request. Judge Huvelle agreed with the ACLU that the information “unquestionably implicates important individual liberties and privacy concerns” given “the ongoing debate regarding the renewal and/or amendment of the Patriot Act.”¹²

These PATRIOT Act surveillance provisions sent a major chill through American Arab and Muslim communities and were another feature of the social context that caused many interviewees to feel unsafe in the United States. We return to this impact later in the chapter when discussing how these laws in combination with the feeling of being watched produced in many Arab and Muslim Americans a type of double-consciousness (Du Bois 1995 [1903]; Fanon 1961 [1953])—a state in which they were watching themselves being watched by others.

Visa Holds

In an effort to gain control over the types of persons entering the United States from Arab and Muslim-majority countries, the State Department issued a classified cable in October 2001 imposing a mandatory twenty-day hold on all non-immigrant visa applications submitted by men age eighteen to forty-five from twenty-six countries, subjecting them to special security clearance. Over time their applications required approval in Washington, with no time limit imposed on the response. The impact of this policy was extensive and received substantial media attention. Foreign students were unable to return to school in the United States; professors, researchers, and Fulbright Scholars requiring non-immigrant visas missed one to two semesters of university work; medical and chemotherapy patients being treated at facilities like the Mayo and Cleveland Clinics were forced out of their treatment cycles; and artists,

musicians, and businessmen were forced to break contracts they had signed. In fiscal year 2002 (October 1, 2001, to September 30, 2002), substantially fewer visitor visas (in all categories) were awarded to persons from the Arab and Muslim-majority countries that would be selected for special registration, except for Eritrea, than in fiscal year 2001, with an overall 39 percent decrease (see table 4.1). These decreases reflect not only increased denials and longer waiting periods, but presumably also diminished interest in visiting the United States given the conditions at the time for Arabs and Muslims in the United States. Decreases also characterized other parts of the world, but to a lesser extent: Europeans experienced a 15 percent decrease, Asians (excluding special registration countries) experienced a 24 percent decrease, and Africans a 23 percent decrease.¹³

FBI Interviews

In November 2001, the Justice Department announced its intention to interview some five thousand individuals who had come to the United States from Arab and Muslim-majority countries since January 1, 2000, on non-immigrant visas. It later announced a second round of interviews with an additional three thousand persons, and then a third round with thousands of Iraqis living in the United States, including persons to whom it had granted refugee status. The actual number of domestic security interviews that were conducted with U.S. citizens and noncitizens is unknown. John Tirman (2005), director of the Center for International Studies at MIT, estimated in April 2005 that the FBI had conducted at least two hundred thousand interviews. Retired FBI agent Rolince quoted earlier spoke of some half a million interviews. One study participant spoke about the disruptions and apprehension caused by the FBI interviews, as well as about what was perceived as the FBI's unprofessional ways of getting information—offering to pay people to spy on others or blackmailing them into cooperating.

FBI investigations into Muslims, particularly those from the Middle East, have caused strains and hardships for families. Some have been targeted again and again. Some have been interviewed by the FBI six times, and asked the same questions that were asked the previous five times; some get visited at their home at 2:00 A.M. Some get visited at their parents' house instead of being contacted directly. The interviews of hundreds of Iraqis were not about national security—they were to get information to invade Iraq. Some are visited at work. Some are visited because the neighbor or the plumber called. They cause problems for people at the airport; people's homes are bugged. Some are being blackmailed to be informants for the FBI. Others are offered money to inform. We are ready to cooperate as partners, not to be bought out in secret. They need smarter, better-trained officers who can really help. The stories don't make you feel safe; everyone is suspect. You don't know who's going to knock at your door.

Table 4.1 Percentage Change and Visitor Visas Approved Fiscal Year 2001 and Fiscal Year 2002

Rank by Number of Visas FY2002	Country	FY 2001	FY2002	Percentage Decrease	Rank by Percentage Decrease	Special Registration Group
9	Iran	20,268	12,284	39%	12	1
18	Iraq	3,071	1,837	40	11	1
24	Libya	449	343	24	19	1
17	Sudan	4,576	2,258	51	7	1
11	Syria	14,399	8,529	41	10	1
22	Afghanistan	1,983	1,178	41	10	2
13	Algeria	7,516	5,084	32	16	2
16	Bahrain	4,671	2,279	51	7	2
20	Eritrea	1,590	1,574	1	21	2
6	Lebanon	32,321	21,741	33	15	2
4	Morocco	26,159	22,775	13	20	2
15	Oman	3,963	2,312	42	9	3
19	Qatar	3,769	1,826	52	6	3
23	Somalia	1,003	429	57	3	3
14	Tunisia	9,161	4,269	53	5	3
12	United Arab Emirates	17,247	6,090	65	2	3
21	Yemen	2,875	1,304	55	4	3
2	Pakistan	95,595	61,538	36	14	4
5	Saudi Arabia	66,721	22,245	67	1	4
8	Bangladesh	21,107	15,556	26	18	5
3	Egypt	61,828	37,381	40	11	5
1	Indonesia	96,961	68,478	29	17	5
7	Jordan	33,548	21,043	37	13	5
10	Kuwait	19,756	11,242	43	8	5
Total		550,537	333,595	39	—	—
—	North and South Korea ^a	841,863	802,552	—	—	2

Source: Author's calculations based on Immigration and Naturalization Service raw data.

^aNorth Koreans were subject to special registration (group 2) although North Korea is not a Muslim majority country. Data provided by the INS combined North and South Korea.

Many interviewees stressed that if they had learned of anything harmful to the United States, they would have been willing informants, because this was their country too. Their lack of any such reporting was interpreted by the government, however, as indicating not an absence of terrorist plots, but community complicity in them.

The Absconders Initiative

In January 2002, the Immigration and Naturalization Service launched the “absconders initiative” to track down and deport 6,000 noncitizen males from (unnamed) “Middle Eastern” countries who had been ordered deported (usually for overstaying a visa) by an immigration judge but had never left the United States. At the time there were an estimated 314,000 so-called absconders in the United States, the vast majority from Latin America. Although fewer than 2 percent were Middle Eastern, the government’s ethnic profiling targeted this group. By May of the same year, the Justice Department reported that 585 Middle Eastern absconders had been caught, and a year later it reported that 1,100 persons had been detained under this initiative (Cole 2003). In a meeting with members of Chicago’s Arab American community at which I was present, top regional federal government officials (such as the U.S. attorney and INS leadership) argued that this initiative did not signal racial profiling because other communities would be approached next. As of 2008, that has not happened.

The Enhanced Border Security and Visa Entry Reform Act and Other Border and Domestic Immigration Control Procedures

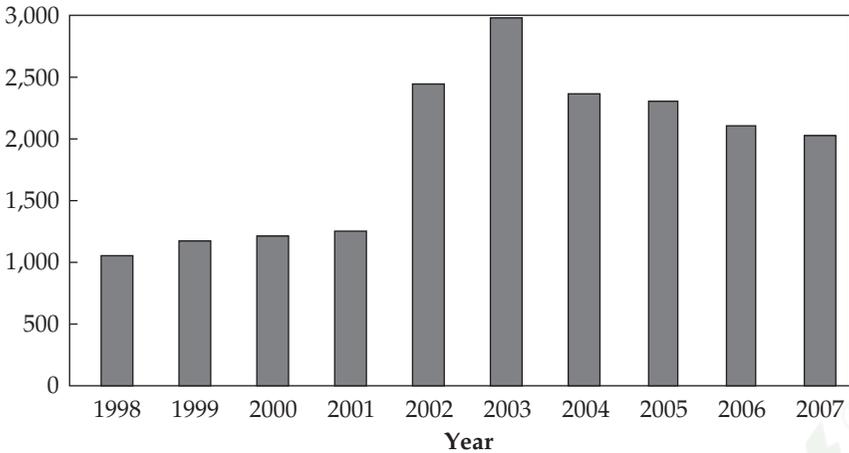
On May 14, 2002, Congress passed the Enhanced Border Security and Visa Entry Reform Act. Among the many provisions of this act—which calls for the integration of INS databases, the development of machine-readable visas, the requirement that all airlines submit to U.S. authorities a list of passengers who have boarded any plane bound for the United States, and stricter monitoring of foreign students—is a restriction on non-immigrant visas for individuals from countries identified by the State Department as state sponsors of terrorism. In late June 2002, the Department of Justice issued an internal memo to the INS and to U.S. Customs requesting that these two agencies seek out and search all Yemenis, including American citizens, entering the United States. Reports circulated that Yemeni Americans were being removed from planes and boarding lines and having to wait hours for security clearances. On July 14, 2002, the INS announced that it would begin enforcing section 265(a) of the Immigration and Nationality Act, which requires all aliens to register changes of address within ten days of moving. According to a participant in a National Immigration Forum conference call of August 15,

2002, one regional INS official openly stated that this rule would not be enforced on everyone. Shortly thereafter, a Palestinian legal immigrant in North Carolina who was stopped for driving four miles over the speed limit was detained for two months and then charged with a misdemeanor for failing to report his address change. The INS was seeking his deportation, but a local immigration judge ruled on August 5 that he could not be deported for this infraction because he did not willfully break this law. The policy change concerning enforcement of section 265(a) ultimately led to the special registration program for Arab and Muslim men.

The Special Registration Program

On September 11, 2002, the Immigration and Naturalization Service implemented the “special registration” program, which required “certain non-immigrant aliens” (hereafter referred to as “visitors”) to register with the U.S. immigration authorities, be fingerprinted and photographed, respond to questioning, and submit to routine reporting.¹⁴ The special registration program had a massive impact on Arab and Muslim American communities. According to the Department of Homeland Security, between September 11, 2002, and June 1, 2003, 127,694 Arab and Muslim men were initially registered at their U.S. port of entry, and another 82,880 were registered in domestic call-in registration.¹⁵ Removal (deportation) orders were issued for 13,434 of the latter group who had visa irregularities, although all were cleared of connections to terrorism. The number of Arabs, Muslims, and others from Muslim-majority countries eventually deported from the nearly 13,500 ordered deported under this program is not known, nor do we know the number of family members they took with them, because persons with a pending application for adjustment of status were permitted to present a case for staying in the United States. Even prior to special registration, more Arabs and Muslims (none accused of terrorist connections) had been removed from the United States since the September 11 attacks than the number of foreign nationals deported for their political beliefs following the infamous 1919 Palmer Raids (Gourevitch 2003).¹⁶ The potential of an additional 13,000 deportees rounded up for visa violations through the special registration program—a highly select group amounting to less than 1 percent of the 3.2 million to 3.6 million persons living in the United States while “out of status” and the 8 million to 12 million undocumented—has few historic precedents, except for perhaps Operation Wetback of the 1950s.¹⁷ Removal data for nationals from countries selected for special registration show significant increases beginning in DHS fiscal year 2002, as seen in figure 4.1 and table 4.2.

In May 2003, after gaining Arab and Muslim American cooperation with the program through community public forums in which they stated that they were not targeting Arabs and Muslims because the pro-

Figure 4.1 All Removals: Countries Selected for Special Registration

Source: Author's compilation based on U.S. Department of Homeland Security. Deportable Alien Control System (DACS), July 2008, Enforcement Case Tracking System (ENFORCE), October 2007.

Note: Data do not include North Korea. Totals include criminal and non-criminal causes for removal, although the largest number in all cases is non-criminal. Increases in removals were also evident after FY 2001 for some non-special registration countries.

gram would be expanded to all visiting aliens, government officials announced the phasing out of the program. During the program's tenure, its scope was never expanded beyond males age sixteen and over from twenty-three Muslim-majority countries, plus heavily Muslim Eritrea and North Korea. Pressed for the criteria behind its selection of countries, government officials stated at times that the countries (whose citizens and nationals were required to register) were selected because of Al-Qaeda presence, although some countries with no proven Al-Qaeda presence were included and some countries with known Al-Qaeda presence, such as Germany and England, were excluded. In a May 19 press statement, the Department of Homeland Security, which had taken over immigration functions from the INS, referred to special registration (eventually renamed NSEERS, for National Security Entry and Exit Registry System) as a "pilot project focusing on a smaller segment of the nonimmigrant alien population deemed to be of risk to national security."¹⁸ Explicit in this statement was the notion that Arab and Muslim males born in Asia, the Middle East, and North Africa posed a security risk to the United States.

Although the exact number is unknown, thousands of Arab and Muslim families with a member whose immigration status was irregular

Table 4.2 Number of Aliens Removed from Countries of Nationality Subject to Special Registration, 1998 to 2007

Fiscal Year	Number Removed from Selected Countries of Nationality
1998	1,056
1999	1,169
2000	1,215
2001	1,262
2002	2,444
2003	2,990
2004	2,361
2005	2,316
2006	2,113
2007	2,032

Source: Author's compilation based on U.S. Department of Homeland Security. Deportable Alien Control System (DACs), July 2008, Enforcement Case Tracking System (ENFORCE), October 2007.

Note: Data do not include North Korea. Totals include criminal and non-criminal causes for removal, although the largest number in all cases is non-criminal. Increases in removals were also evident after FY 2001 for some non-special registration countries.

left the country permanently rather than be subjected to registration, a pattern that particularly characterized the Pakistani American community. While the INS had estimated that fifteen thousand Pakistanis would be subject to call-in registration, the Pakistani embassy estimated the number at sixty-five thousand.¹⁹ In 2002 and 2003, FOR SALE signs were widely evident in Chicago's Pakistani neighborhoods, and many families were reported to have sold their homes at great financial loss. One Chicago attorney with Pakistani clients told me in March 2003: "I advise my clients who have no hope to adjust their status to leave with dignity before the registration program ends. They can't imagine that Americans would want to deport them. The dream of America is over for them. The only other option is to live as a psychological fugitive." Some families—again, largely Pakistani—fled to the Canadian border seeking asylum and were hosted by local churches (see, for example, Saytanides 2003). When the surge became so great at the Lacolle-Champlain port of entry (north of Plattsburg, New York), the INS used police roadblocks and rigid outbound checks to prevent anyone from going north. According to reports posted on a list-serve created just to bring clarity to the special registration process (and mainly used by attorneys), individuals who registered at that border and were found to be out of status were placed immediately in deportation proceedings. All Pakistani men were detained, as well as others on a case-by-case basis.²⁰

Special registration had two components: port-of-entry registration and domestic call-in registration. Port-of-entry registration required visi-

tors from specific countries designated by the attorney general, as well as others who fit certain discretionary “criteria” and “reasons,” to: (1) be fingerprinted and photographed and to “provide information required” by the INS at their U.S. port of entry; (2) report in person to the INS within ten days after staying in the United States for thirty days and to provide “additional documentation confirming compliance” with visa requirements, such as proof of residence, employment, or study, and any “additional information” required by the INS; (3) report annually, in person, to the INS within ten days of the anniversary of entry to the United States with any documentation and additional information required; (4) notify the INS, by mail or other means decided by the attorney general, within ten days of any change of address, job, or school, using a special form for registrants; and (5) report to an INS inspecting officer upon departure and to leave the United States from a port specified by the INS and published in the Federal Register.²¹ The first list of acceptable ports was published on September 30, 2002, and registrants seeking to travel internationally were not free to choose any airport of departure from the United States. Registrants were given “fingerprint identification numbers,” which were written in their passports (sometimes on their I-94).

The attorney general gave INS inspecting officers the discretion to order port-of-entry special registration for visitors of any nationality if the inspecting officer had reason to believe that the person met certain criteria. Some of these criteria were contained in an undated “limited official use” INS memo that became publicly available. They included: unexplained trips to Iran, Iraq, Libya, Sudan, Syria, North Korea, Cuba, Saudi Arabia, Afghanistan, Yemen, Egypt, Somalia, Pakistan, Indonesia, or Malaysia; travel not well explained by the alien; previous overstays; meeting a characterization established by intelligence agencies; identified as requiring monitoring by local, state, or federal law enforcement; the alien’s behavior, demeanor, or answers; or information provided by the alien. Because of this extension, the INS was able to claim: “To date, individuals from well over 100 countries have been registered,” which it offered as proof that the program was not targeting Muslims and Arabs.²²

One impact of the “persons believed to be such” clause was the requirement that dual nationals register, such as persons who were Canadian and Syrian citizens, or Swiss and Iranian citizens. In other words, a man could be a Canadian citizen, but if agents of the U.S. government believed that he originated from any of the targeted countries, he would be subjected to special rules. The Canadian government issued a travel warning for its citizens traveling to the United States shortly after the program began, when Canadians of Arab and Asian descent reported harassment at U.S. borders and after the U.S. government detained and then deported to Syria a returning Canadian citizen in transit at JFK Airport. Canadian citizen Mahar Arar was held in coercive, incommunicado American custody for nearly two weeks and then chained, shackled, and

deported to Syria, where he was imprisoned for about a year and tortured. Arar and the U.S. Center for Constitutional Rights filed a lawsuit against the U.S. government after his return to Canada in 2003. The Canadian government established a Commission of Inquiry into the Actions of Canadian Officials in Relation to Maher Arar, which in 2006 cleared Arar of all terrorism allegations; the commission found that there was no evidence to indicate he had committed any offense or constituted a threat to the security of Canada.²³ The commission also found that the actions of Canadian officials very likely led to his ordeal. Arar's case would become one of many extraordinary renditions conducted by the U.S. government: persons taken into U.S. custody being extrajudicially transferred to third countries for coercive treatment. Research published by *Mother Jones* (Bergen and Tiedemann 2008) documented sixty-seven known cases of extraordinary rendition by the United States government since 1995.

The First Group Required to Register Visiting citizens and nationals of Iran, Iraq, Libya, Syria, and the Sudan were the first groups required to comply with port-of-entry special registration on its effective date of September 11, 2002. The process of designating countries whose citizens and nationals were required to specially register upon entry to the United States required that the attorney general confer with the secretary of State and then publish the countries' names in a Federal Register notice. This quick and simple formula for designating countries was instituted in 1993 under former attorney general Janet Reno, who published a Federal Register notice requiring "certain non-immigrants from Iraq and the Sudan" to register; in 1996 she added non-immigrants with Iranian and Libyan travel documents.²⁴ Former attorney general Dick Thornburg of the Bush Sr. administration was the first to require port-of-entry registration, in 1991, when visitors "bearing Iraqi and Kuwaiti travel documents" were required to do so.²⁵ Ashcroft added Syria to this list on September 6, 2002, and declared that citizens and nationals of these five countries, as well as *persons believed to be such*, were subject to the new, expanded special registration.

"Hey, Arab and Muslim Man: This Notice Is for You" Domestic "call-in" registration for non-immigrants who were already in the United States was implemented on November 6, 2002, when Attorney General Ashcroft published a call-in notice in the Federal Register for "certain visiting citizens and nationals" of Iran, Iraq, Libya, Syria, and the Sudan who had entered the United States and been inspected by the INS prior to September 11, 2002.²⁶ Providing the ten-day notice required by law, these persons were ordered to report to specified INS offices between November 15 and December 16, 2002, unless they were leaving the United States prior to the latter date.²⁷ Call-in special registration was

limited to males age sixteen and older, was based on “intelligence information” and “administrative feasibility,” and excluded applicants for asylum. Although U.S. permanent residents and citizens were excluded from special registration, applicants for adjustment of status (to permanent resident) were required to register. Since the Federal Register is not a commonly read publication, the INS produced flyers to advertise the call-in program with THIS NOTICE IS FOR YOU splayed across the top, eerily reminiscent of the notices posted for Japanese living in the western United States during World War II. The INS also enlisted the cooperation of community and ethnic organizations to publicize the program. Placed in a position similar to Japanese American organizations during the period of Japanese registry prior to internment, community organizations had to promote the program despite their dissent. A *San Jose Mercury News* article (Mangaliman 2003) entitled “Role in Registration Worries Ethnic Media” cited an Iranian magazine editor in California who felt “used by the government” when his publication of the notice contributed to the arrest of hundreds of Iranians.

Upon appearing at an INS office, persons who reported for call-in special registration were required to: answer questions under oath before an immigration officer, who recorded them; present all travel documents, passports, and an I-94; present all government-issued identification; present proof of residence, including land title, lease, or rental agreement; present proof of matriculation at an educational institution or proof of employment, as required by the visa; and provide “such other information as is requested by the immigration officer.” They were also subject to all of the other special registration requirements listed earlier for port-of-entry registration, such as reporting in person annually, reporting changes of address within ten days, and undergoing exit registry upon departure. Willful noncompliers were subject to criminal charges, fines, and removal.

Attorney General Ashcroft amended the Code of Federal Regulations (CFR) to declare the willful failure to register and provide full and truthful disclosure of information a failure to maintain non-immigrant status—a deportable offense.²⁸ He also amended the CFR by declaring that failure to register upon departure from the United States was an unlawful activity, making one presumed to be inadmissible to the United States because one “can reasonably be seen as attempting to reenter for purpose of engaging in an unlawful activity.”²⁹ Ashcroft thus made noncompliance with special registration a bar to immigration, although only Congress has the right to establish such categories of inadmissibility. Conceivably, then, noncompliance with special registration could be used to deny benefits in a future amnesty or legalization program to Arabs and Muslims who entered with inspection but did not specially register, in the absence of challenges to the legality of Ashcroft’s bar.

The arrest and detention of hundreds of registrants, mostly Iranians, in southern California during this first period of special registration sparked nationwide protest as persons voluntarily acting in compliance with the new rules were handcuffed and led off to jail for visa violations. Some reported sleeping on concrete floors in rooms holding up to fifty prisoners. Others reported verbal abuse and body cavity searches. One Iranian-born database manager was handcuffed, leg-shackled, and flown to a grim prison near San Diego, forced to sleep on a cement floor, and awakened at fifteen-minute intervals for five days by guards shouting questions at him. He had registered two days late because he was not sure the program applied to him as a Canadian citizen.³⁰ Most of the detainees were working taxpayers with families who had lived law-abiding lives in the United States for decades, and quite a few had pending applications for permanent residency (Serjeant, Jill. 2002. "Hundreds of Muslim Immigrants Rounded Up in California." Reuters, December 19, 2002). The Iranian American Bar Association issued a request that persons with firsthand knowledge of the detentions and alleged misconduct perpetrated against Iranian nationals call a toll-free number and share their information. The association sought "to ensure transparency and accountability in government" and to analyze whether the detentions or mistreatment by INS officials violated any U.S. laws. Most of the detainees were eventually released on bail, with removal proceedings started by the INS at the same time.

The director of the southern California chapter of the ACLU said the arrests were "reminiscent of the internment of Japanese Americans during world War II" (BBC News Online 2002). As a result of protests surrounding INS handling of this group, Attorney General Ashcroft's Valentine's Day press release stated that "prosecutorial discretion" would be considered if a registrant had a current application for change of status (to permanent residency), the applicant appeared eligible, and no adverse information was revealed from "indices, checks, or other sources." In other words, individuals would be handled on a case-by-case basis, and some who were out of status would be allowed to post bond and appear before an immigration judge. Meanwhile, removal proceedings would be started against them. Stories of shackling, detention, and being shuffled from one detention center to another continued to be reported throughout this round of registration. At the end of January, the INS announced that it had begun deportation proceedings against 2,477 men (McDonnell, Patrick J. 2003. "Registration of foreign men has wide effect." *Los Angeles Times*, January 19, 2003)—about 10 percent of the 25,000 persons (Mangaliman 2003) who had registered at that point.

The Second Group Required to Register On November 22, thirteen more countries were added to the special registration domestic call-in list:

Afghanistan, Algeria, Bahrain, Eritrea, Lebanon, Morocco, North Korea, Oman, Qatar, Somalia, Tunisia, United Arab Emirates, and Yemen. Visiting male citizens and nationals of these countries age sixteen and over who entered the United States with inspection prior to October 1, 2002, were required to report to designated INS offices for special registration between December 2, 2002, and January 10, 2003, unless they left the country by the latter date. The addition of North Korea captured “six of the seven designated state sponsors of terror,” excluding only the Cubans, and was the only country covered by special registration that was not predominantly Muslim.³¹ The INS extended the call-in period for “Groups 1 and 2” through February 7, 2003, in response to protests from community and national organizations across the country. In mid-December, the American-Arab Anti-Discrimination Committee, the Alliance of Iranian Americans, the Council on American Islamic Relations, and the National Council of Pakistani Americans filed a class action lawsuit against the government seeking an injunction against arrests of persons registering without federal warrants and an order preventing deportations without due process. On December 12, Senators Russ Feingold and Edward Kennedy and Representative John Conyers sent a letter to Attorney General Ashcroft requesting suspension of the registration process. The three congressmen demanded that the Department of Justice release information about what it was doing, “to allow Congress and the American people to decide whether the Department has acted appropriately and consistent with the Constitution” (Letter to John Ashcroft, December 12, 2002). But the program forged ahead because, as an executive branch project, there was little recourse available to stop it. Special registration was yet another component of what the journalist Nat Hentoff (2002a) called the Bush administration’s “parallel legal system” in which aliens had different rights than citizens, and some citizens had different rights than other citizens.

The Third Group Required to Register Pakistanis and Saudis were added to the call-in registry on December 16, 2002, and were given from January 13 through February 21 (later extended to March 21) to register, unless they departed the United States by the latter date.³² The demeaning treatment of a young Pakistani man in Chicago seeking to register made the cover of *Chicago Reader* (Sula 2003). The young man was married to an American citizen and looking for work on the “optional practical training” extension of his F-1 student visa, which he received after completing his master’s in electrical engineering. Upon voluntarily arriving for registry at 9:30 A.M. on February 6, he was interviewed, arrested, handcuffed to a Syrian doctor, and then transferred with a dozen other men to a different INS office. His offense was looking for work instead of working. His passport, driver’s license, and work

permit were taken from him. After being fingerprinted and photographed and undergoing a second round of interviews, he was permitted release after payment of a \$7,500 bond. He was then relieved of his watch and keys, transported with other men to an INS detention facility in the Chicago suburbs, and issued a green jumpsuit with "INS" on the back. Now visibly a "national security" prisoner, he was taken at around midnight with other men to another jail in DuPage County, and then at around 4:00 A.M. taken back to the suburban jail and placed in a locked room. Meanwhile, his father-in-law had posted bond but was being sent from place to place looking for his son-in-law. If this young man had been less eager to comply and had waited only four more days to register, he might not have experienced such demeaning treatment: four days after his release from custody, he received his green card application.

The Fourth Group Required to Register The last group to be called in, on January 16, 2003, was male visitors who were citizens and nationals of Jordan, Kuwait, Bangladesh, Egypt, and Indonesia. These individuals were required to register between February 24 and March 28, 2003 (extended to April 25).³³ This round of registration had the greatest impact on Chicago's Arab American community, since Palestinians, most of whom carry Jordanian passports, and Egyptians are the dominant groups in the Chicago metropolitan area. Initially, it was unclear whether Palestinians who carried Jordanian passports but were not full Jordanian citizens (West Bank Palestinians) were required to register. A few community organizations asked the INS for an official opinion on this matter and were told that only Jordanian citizens with a Jordanian identification number and family book (depending on when they received these documents) were required to register. As the final days to register approached, the Arab American Action Network put out a call "to all those interested in advocating for civil liberties and immigrants rights."

Posted 4/20/03 RE: INS' "SPECIAL REGISTRATION" POLICIES

Activists from all over the city will be volunteering to advise and support the nationals of BANGLADESH, EGYPT, INDONESIA, JORDAN, or KUWAIT, who MUST register with the INS by April 25th.

Considering the mass detentions that were implemented by INS authorities in Los Angeles on December 16th of last year, there are worries that the same type of policy may be used here in Chicago on April 25th. Some of the Middle Eastern men, mostly Iranian, detained in Los Angeles were photographed, fingerprinted, interrogated, and strip searched. Some are still in detention, and others have been deported.

To protect the Chicagoans who must register, a team of volunteers will attempt to gather contact information from these immigrants BEFORE they proceed into the Federal Building (where the INS has moved its "special registration" offices) for the registration. The information will be used to advocate for and help provide legal assistance in the event that these immigrants are detained by the INS.

We need people from 8 AM–5 PM from Monday, April 21st through Friday, April 25th, at the Federal Plaza (200 S. Dearborn). Please mention which shift you would be able to cover (morning, afternoon, early evening), how many hours you will be available to help, and whether or not you speak Arabic, Bangla, Bahasa, Malay, or Javanese.³⁴

Banners reading STOP THE DEPORTATIONS and WHAT'S NEXT? CONCENTRATION CAMPS? were held by dissenters standing outside the federal building during this final week of special registration.

Confusion, Arbitrariness, Uncertainty, and Fear One indicator of the type of impact that special registration had on Arab and Muslim communities is the confusion it created even among attorneys, who throughout the special registration program's existence were baffled as to who was covered by it and who was not. Stories of chaos, inconsistency, and arbitrary decisions were circulated among immigration lawyers on a special registration list-serve created by attorneys to help them advise their clients about the process. The rule that "citizens and nationals" of designated countries had to register provoked questions such as: How are citizens and nationals defined? Does it vary by country, and whose rules apply? Does one ever cease to be a citizen of the place in which one was born? Must a dual-citizen register? (Yes, unless one is a U.S. citizen or permanent resident.) Does the type of document with which one entered the United States matter? (In some cases.) What happens to persons who entered on visa waivers or are applicants for adjustment under 245(i)? What about someone who entered the United States as a visitor but has since become a permanent resident? What about travel documents that are not passports?

Immigration attorneys and specialists found it difficult to advise their clients, who faced the possibility of very serious negative consequences (deportation) in the event of bad advice. No one could predict whether someone who appeared for registry and was out of status would be held in detention or released on bond, even if they had a pending application for immigration benefits. There was considerable variation in treatment from case to case and region to region. Bonds for persons considered out of status were set at widely varying levels, ranging from \$1,000 to \$10,000 in cases that otherwise appeared quite similar. While attorneys were legally permitted to be present at the questioning of clients, often they were prevented from doing so.

Questions also surrounded the "additional information" that INS and other agents took from persons who registered. There were reports of agents photocopying credit cards, airline frequent flyer cards, ATM cards, and video rental cards. Some said that every document in their wallets and on their persons was copied. Some were asked by INS agents about their friends, the organizations they belonged to, and their political beliefs. Information was taken under oath so that if at some future date the U.S. government wanted to deport someone, it would only need to allege

that a statement given during registration was false to start the removal process.³⁵ Individuals released on bond usually did not get their travel documents, driver's licenses, work permits, or other forms of identification back. One registrant's post to the list-serve imparts the anxiety induced by the registration process, even among persons with no INS-determined irregularities:

During special registration we gave the INS our information like addresses, employer/school info, credit/debit card numbers, telephone numbers etc., etc. If any of this information changes (like address, employer/school, telephone #) we have to inform the INS using AR-11 form. But what about the rest of the information (which we gave them during registration) like credit/bank card numbers, relative/friends contacts ("who can be contacted if INS cannot reach us"—this explanation was given by the officer who did my registration)? Does INS have some other form for these details or ????

Another post on the same list-serve underscores the arbitrariness and secrecy of the conduct of the government:

I have a colleague at my work who is from Afghanistan. His brother came to the U.S. a month ago from Pakistan to interview with a few hospitals in the U.S. for a residency program. He went on Monday to get an extension on his visa until March, since the match results will not be out before then. When he was at the INS in Des Moines, they took his passport and told him you have to leave the country right away. He came back to Iowa City and changed the ticket that he already had to go back to Pakistan on Wednesday. The FBI came yesterday to his house and took him away. No one knows where he is and they can't contact him. Only he can call them. They told him yesterday that they will keep him till Wednesday and they will take him to the airport. But he (my colleague) got a call from his brother today that they are not letting him go and they are moving him to another facility. Do you know of any organization or someone that can help him. At least to know where his brother is and what are they planning on doing?

The following post by an attorney shows that a now-super-empowered immigration service was able to pick up and detain American citizens without recourse, as long as they fit the "terrorist" phenotype:

Dear Colleagues, My client is a U.S. Citizen of Jordanian origin. Three weeks ago he was picked up by INS and held for 14 days until he was released 2 days before a scheduled appearance before an Immigration Judge. INS kept his naturalization certificate and social security card. He is not politically active and he sells ice-cream on an ice-cream truck. Are there grounds for suing INS? How do we retrieve his naturalization certificate and social security card? Thanks in advance, [attorney's name removed]³⁶

In the end, special registration was nothing short of a massive roundup of male Arab and Asian foreign nationals from predominantly Muslim countries. While it launched the potential removal of some 13,400 Arab and Muslim men from the United States—the 16 percent of registrants who *may* have been out of legal immigration status, many of whom were placed in detention—it produced no terrorists. Indeed, it revealed an incredibly law-abiding population in which fewer than 1 percent of eighty thousand registered men could be tarred with any record of predatory criminal activity.

Special Registration in History

An examination of the historical precedents upon which the Bush administration crafted the special registration program provides clues to the strategic thinking behind it. Attorney General Ashcroft cited legislative authority for the special registration program that encompasses a history going back to the 1798 Alien and Sedition Acts, which were primarily aimed at restraining and deporting aliens living in the United States who were considered subversive. Ashcroft specifically cited as his authority the 1940 Smith Act, formally known as the 1940 Alien Registration Act, which was passed to strengthen national defense in response to fears of Communist and anarchist influences in the United States. It required that all aliens over the age of thirteen be fingerprinted and registered, and it required parents and legal guardians to register those thirteen years of age and younger. In turn, the registrants received a numbered alien registration receipt card from the DOJ/INS proving registry, and they were required to carry this card with them at all times.³⁷ The Smith Act was built on 1919 legislation making past and present membership in “proscribed organizations and subversive classes” grounds for exclusion and deportation, and that act was built on the Alien and Sedition Acts of 1798. The Smith Act was not only aimed at foreigners but also prohibited American citizens from advocating or belonging to a group that advocated or taught the “duty, necessity, desirability, or propriety” of overthrowing any level of government by “force or violence.” The first peacetime federal sedition law since 1798, the Smith Act was the basis of later prosecutions of persons alleged to be members of Communist and Socialist parties. The special registration program thus lies within the family of policies permitting the government to monitor, restrain, and remove persons whose political beliefs and ideologies it perceives as a threat.

The 1950 Internal Security Act (section 265) added the requirements for all aliens of annual registration and ten-day notification of change of address, as well as quarterly registration for temporary aliens. It also made present or former membership in the Communist Party or any other totalitarian party a ground for inadmissibility. It allowed the attorney general

to deport aliens without a hearing if their presence was prejudicial to the public interest. The 1952 Immigration and Nationality Act (also known as the McCarran-Walter Act) brought all prior laws concerning aliens into one comprehensive statute, retaining the registry, reporting, and address notification features.³⁸ In addition to exclusions for the sick, insane, criminal, likely public charges, and anarchists from earlier laws, the 1952 law contains ten provisions for excluding aliens based on their political beliefs, especially communism, anarchy, and any other belief that advocates the overthrow of the U.S. government by unconstitutional means.³⁹ Based on this legal history, we might conclude that being Arab or Muslim was interpreted as a potential ideological threat to the United States, like communism or anarchism, but in this case the threat was measured not by organizational activity but by blood (ethnicity) or religion.

On the other hand, because the special registration program identified persons who had to comply based on their country of birth (citizens and nationals), not their beliefs, it shared features of the family of U.S. policies based on ideas of racial exclusion (beginning with slavery, abolished in 1865, and Indian removal), such as the 1790 Naturalization Law denying naturalized citizenship to nonwhites (repealed in 1952); the 1882 Chinese Exclusion Act (repealed in 1943); the Asia Barred Zone (repealed over time); and immigration quotas, which were enacted in 1921, revised in 1924 and 1952, and finally abolished in 1965, signaling the end of an era in which U.S. immigration policies were based principally on race. After this time, it was considered racist and against liberal democratic principles to blatantly discriminate against persons because of their country of birth. However, in 1981, the potential for the regulation of persons from certain “foreign states” reemerged in immigration legislation. Although they eliminated many reporting requirements for aliens, the 1981 amendments to immigration law permitted the attorney general to give ten-day notice to “natives of any one or more foreign states, or any class or group thereof” and to require them to provide the government with address and other information. Interestingly, the Iran Crisis of 1980 was specifically mentioned in the House Judiciary Committee report submitted for the 1981 law, which noted that “immediate access to records of nonimmigrants may be vital to our nation’s security.”⁴⁰ Attorney General Ashcroft used this law to authorize the call-in component of special registration.⁴¹

Country of birth emerged again in 1991 during the presidency of George H. W. Bush, when Attorney General Dick Thornburg implemented the special registration of persons holding Iraqi and Kuwaiti passports and travel documents, citing the 1940 Smith Act that permitted the registration and fingerprinting of classes of aliens who were permanent residents in the United States.⁴² Thornburg constructed Kuwaitis and Iraqis as a “class” of people.⁴³ From that point on, special registration policies based on country of birth or nationality were applied solely to Arab and Muslim-majority countries, until North Korea was added in November 2002. While it is evi-

dent from this history that Arabs and a broad range of Muslims have been the subjects of place-based discriminatory immigration policies, the question remains: Are these policies about ideology (which includes cultural and religious beliefs) or about national origin and race? This analysis suggests that some members of the American government constructed a connection between “race,” religion, and subversive ideology that was little different from earlier immigration formulas connecting national origin and race with cultural inferiority.

Policies Guided by Stereotypes, Not Knowledge

Homeland security policies cast a net so broadly and indiscriminately over Arab and Muslim men as to suggest that they were guided by stereotypes rather than concrete information. Our rendering of the history of the Arab American experience (chapter 3) lends additional support to such a conclusion by indicating that the nation prior to 9/11 was already riddled by pervasive negative stereotypes of Arabs and Muslims. Over a period of decades, Arabs and Muslims had been rendered homogeneous in American culture as their breadth of difference became less interesting than the acts of violence that negatively affected American allies and interests, which were perpetrated by a minuscule proportion of their hundreds of millions worldwide (in the case of Muslims, 1.2 billion). By commission and omission, interested parties, the mainstream media, and government officials helped to produce a common American understanding that Arabs, and later Muslims, were mostly, and almost innately, about violence and hatred of Americans. “Arabness” as an essence had been put forth as a collectively shared cultural system that stood in opposition to American values and interests, nearly genetic in its individual insurmountability. Scores of scholars and pundits weighed in on this story with their own evidence of the existence of a generic Arab and Muslim “rage” (Said 1997). Criticism of American foreign policies in the Arab world became equated with support for terrorism.

These ideas continue to be invoked in the twenty-first century. Somewhat backhandedly appealing to the notion of genetic predispositions, the neoconservative Gary Schmitt (2003) of the Project for a New American Century has written: “However the early signs suggest that the president is right to believe that the instinct for liberty is not missing from Middle East *genes*” (emphasis added). Nonetheless, Schmitt argues, “American power is key” to maintaining peace and order and to hunting down “Islamic terrorists.” The difficulty in finding Arabs and Muslims who agree with American foreign policies vis-à-vis the Arab and Muslim world is often translated into proof of this insuperable condition and interpreted as support for terrorism—to wit, either you are with us or you support terrorism, a simplistic binary construction that equates policy

disagreements with willingness to kill. Steven Salaita (2006, 82) refers to this syndrome that transforms dissenting Arab and Muslim Americans into terrorists or their supporters as “imperative patriotism.” Attorney General John Ashcroft revealed the shallowness of his actual knowledge of Islam, while holding one of the highest public offices in the United States, when he described Islam as “a religion in which God requires you to send your son to die for him” (Hentoff 2002b). Indeed, a *St. Louis Post-Dispatch* editorial of February 13, 2002 (Editorial. 2002. “On the Record.” p. B6.), observed that the attorney general’s prejudices might lead to unfair targeting and misguided efforts:

Mr. Ashcroft is overseeing the investigation of terrorist activity in the United States, which inevitably involves many Islamic men of Middle Eastern descent. If Mr. Ashcroft believes—on a deeply personal, and usually safely hidden level—that all Muslims practice the kind of radicalism that Al-Qaida and the September 11 hijackers embrace, he could not only unfairly target hosts of innocent people, he could also steer the hunt for terrorists in thousands of wrong directions.

There are many indications that prejudices such as these headed the American government in the wrong direction for a long time before 9/11, and that its perspectives on Arab and Muslim American communities prior to the 9/11 attacks contributed to its own intelligence failures. Since the late 1960s, American government resources vis-à-vis these communities were used largely to silence their dissent. Law-abiding community members who criticized American foreign policies were criminalized. American government agencies focused their time and resources on wire-tapping, interviewing, spying, banning, charging, and trying to deport Arab and Muslim Americans who were engaged in building nonviolent opposition to American foreign policies (Bassiouni 1974, 1991; Butterfield 1999; Akram and Johnson 2004). These activities and the rhetoric behind them seem to have made it impossible for government agents to distinguish between law-abiding Arabs and Muslims and persons who might actually pose a threat to the United States. Arab and Muslim American exclusion from civic institutions and foreign policy debates lent a confirming air to these sweeping notions. After the 9/11 attacks, the American government admitted that it knew almost nothing about Arab and Muslim American communities or about where to look for potential terrorists, and so, armed only with stereotypes, it engaged in dragnet behavior. The words of Attorney General Ashcroft at the U.S. Conference of Mayors on October 25, 2001, are instructive as he compares Robert Kennedy’s intimate *knowledge* of organized crime to the Bush administration’s “growing knowledge” of its subject.

An observer of Robert Kennedy wrote that RFK brought these assets to his successful campaign against organized crime: “A constructive anger.

An intimate knowledge of his subject. A talented team of prosecutors. And, finally, a partner in the White House." Today, as we embark on this campaign against terrorism, we are blessed with a similar set of advantages. Our anger, too, is constructive. *Our knowledge is growing.* Our team is talented. And our leadership in the White House is unparalleled. [emphasis added]

At the intersection of the government's ignorance of the real lives of Arab and Muslim Americans and the availability of a handy toolbox of stereotypes that seemed to endorse the appropriateness of racial and religious profiling, a relationship between the 9/11 attackers and Arab and Muslim Americans was constructed and acted upon. It was these racialized notions, not knowledge, that guided the government's post-9/11 homeland security policies. Only after the most comprehensive and visible of the post-9/11 policies had run their course would government agencies commence with a new approach, one of community engagement, although many at the top in Washington were never particularly convinced of its value. Throughout these periods, however, silent spotlights focused on members of these communities remained in place.

The Deceptive Calm of Surveillance

By late 2003, high-profile government activity in Arab and Muslim American communities appeared to slow down. Mass arrests and special registration had ended, and thousands of visa violators had been expelled from or left the United States (often accompanied by their U.S. citizen family members). In January 2003, FBI director Robert Mueller ordered his field offices to construct their wiretapping and undercover activity goals according to the number of mosques in the field area, thus shining hidden (and not so hidden, according to community members) spotlights on geographic areas with concentrations of Muslims (Isikoff 2003). There were still sensationalized arrests that more often than not fizzled into non-terrorism cases (Chang and Kabat 2004), closures of Muslim charitable institutions, and documented patterns of delays in immigration and naturalization processing (CAIR-Chicago 2007). In his State of the Union address, President Bush (2003) had spoken of *suspected* terrorists around the world meeting with arrest or other unspecified fates—"Let's put it this way: They are no longer a problem to the United States and our friends and allies"—leaving little doubt that the rule of law was still elusive. The everyday concerns of Arab Americans turned to more subtle government security measures, like being watched, secretly wiretapped, or clandestinely searched. An Arab American woman describes this state of deceptive calm:

Yeah. I mean, after September 11, I don't think anybody felt safe, not anyone in general. Nobody felt safe, but Muslims definitely did not feel safe. It's been a couple of years now, so people feel less of the fear and

the shock than they did afterwards. I don't feel that somebody's going to physically hurt me. As far as infringing on my privacy, that's a different story. It's pretty much given that all our phone calls are tapped and our e-mails are read and all that stuff. Who knows if people watch us or not? We don't even know exactly what's happening, but we're very much aware that tabs are being kept on us to make sure that we're not doing anything anti-American.

Similarly, an Arab American man describes his compromised sense of safety as a loss of personal privacy:

I guess I feel safe. Anyone could be at the house, you know. Anybody could get the key from the manager and get in my house if they want to check sometime in the house. I'm not talking about stealing, you know. The Patriot Act allows it, so I don't know if they were there or not. They can come even if I don't know it. They have the ability to come. It doesn't matter, because I have nothing to hide.

Arab Muslims described conducting routine activities, such as loading their car trunks or checking their mail, with the sense that they might be watched. This double-consciousness (Du Bois 1995 [1903]) is qualitatively different from the certainty of being watched. W. E. B. Du Bois expressed it as "this sense of always looking at one's self through the eyes of others" (45). Nadine Naber (2006) describes this phenomenon as "internment of the psyche" as the disciplinary effects of the state penetrate everyday actions. Hatem Bazian (2004) has argued that internment camps are unnecessary when people can be virtually interned, their every movement watched, their every sentence recorded, their every transaction noted by hidden cameras, microphones, Internet tapping, and compilation of phone, bank, credit card, and library records. The government's power and secrecy, and its call for citizens to be watching their Arab and Muslim neighbors, had great capacity to produce a psychological state in which few ever felt fully safe or secure. As study participants describe it, double-consciousness brings about its own particular type of damage, often articulated as a loss of self-confidence. The following quotes from two Arab American women refer to connections and disconnections—being connected to terrorism and disconnected from the community around them, and being forced to take the role of the vigilant "other" when looking at themselves.

I think it affected the quality of my personal life and in terms being connected to the broader community (other than Arab). Because I feel that the Arabs became labeled and I feel that it put us kind of on the defensive mode in trying to explain ourselves that we're not "The Them," whatever "Them" was. I feel that has an impact on the quality of life, so the kids, when they go to school, the issues they had to deal with in

terms of how Arabs were and are stereotyped and perceived. I live in a basically middle-class European American community, and until 9/11 I don't think who we were made a lot of difference to our neighbors. I think they were more troubled when our African American friends came over to our home, but after 9/11 they questioned us in terms of "who are we, where are we from, where are our relatives?" They came and asked me. I didn't feel in the beginning that it was very friendly. I felt like it was "you people" like, "who are you people?" It was like, we'd be standing out there to get the mail, you know, it was kind of like, "look what you people did to us." Then it's part of the disconnectedness and that's part of making you feel uncomfortable in terms of quality of life I think. You lose your self-confidence.

I feel like there's this big burden that I'm carrying around. You know that book *Black Man's Burden*? I don't know who wrote it, but it's kind of like this big burden that you carry around with you wherever you go—that you are an Arab—and they connect you with the Twin Towers and the Pentagon, and they connect you with terrorism. . . . I think that's very difficult. I think people monitor themselves much closer because there's an issue going on presently in terms of who is a terrorist. Those are the issues that as Arabs we feel a lot of pressure.

The loss of confidence among Arab Americans stemmed from a sense that people who already knew them to some degree started looking at them in a new way. Who they were was transformed by images that were not about them; distrust now seemed to define people's approach to them. They had to be conscious of every word and move, and it seemed to them that everything they did was subject to mis- or reinterpretation. Round-the-clock double-consciousness constructs a psychological jail.

You begin to realize that maybe people now are viewing you differently. That's what takes away self-confidence. I mean, I used to be as self-confident as anything, thinking that I don't care what people think of me and I can do anything I want here. I don't have that sense anymore. When I introduce myself to people and I tell them my name, I sort of wait to see what sort of reaction they have on their faces. I really feel that people don't like Arabs and Muslims anymore. They view us with suspicion. I have no direct experience of that . . . nobody rejected my friendship on that level, but I feel that really secretly that's how they view us now.

In May 2004, Attorney General Ashcroft and FBI Director Mueller announced an intensification of domestic antiterrorism activity, although they said they had no new intelligence concerning a threat and were not raising the nation's terror threat level. Another round of FBI interviews was announced, references were made to the upcoming 2004 elections, and the American public was kept on fear-alert and asked to be "extra

vigilant about their surroundings, neighbors, and any suspicious activity.”⁴⁴ This initiative, later revealed as Operation Front Line, a multi-agency effort spearheaded by Immigration and Customs Enforcement (ICE) that used the new NSEERS, SEIS (Student and Exchange Information System), and US-VISIT databases to identify targets, led to 2,556 investigations and 504 arrests of persons largely from Arab- and Muslim-majority countries; none were charged with a terrorism-related crime (Lichtblau 2008; Yale Law School/ADC 2008).

Organized Responses to Government Policies

The public opinion data presented in chapter 3 showed fairly widespread public support for domestic security policies that focused on Arabs and Muslims even when they entailed civil liberties losses, including significant support (nearly 50 percent) for more severe tactics, such as issuing members of these groups special identity cards. In addition, a majority of Americans said that they were willing to sacrifice their own civil liberties to fight the “war on terror.” The poll data also indicated that not everyone held the same views; indeed, there was organized opposition to the government’s methods from the very beginning of its domestic antiterrorism campaign. The Japanese American Citizens League (JACL) was among the first to step forward and issue a statement opposing the secret arrests, reminding Americans of the shame of Japanese internment.⁴⁵ While most of the public and government agencies were reeling from the shock of the attacks and were focused on what could be done to prevent another attack, Arab and Muslim Americans took heart from these dissenting voices, which indicated to them that others were watching what the government was doing. The organized momentum of opposition reached its highest level of coordination (locally and nationally) late in 2002, after the passing of the most intense period of mass arrests, secret detentions, detentions of “material witnesses,” FBI home and work visits, visa denials and delays, and removals of Arabs and Muslims from airplanes (which were often private initiatives) and after passage of the USA PATRIOT Act. It developed around the government’s domestic special registration program and massive call-in of male visitors over age sixteen from Arab and Muslim-majority countries (and North Korea).

The special registration program began in September 2002 and took place over an eight-month period of time. It required voluntary accession to the mandatory program and technical legal advice, embraced a wide range of immigrant and ethnic communities, including Iranians, Syrians, Pakistanis, Sudanese, Afghans, Eritreans, Somalis, and Indonesians, and was “open” and observable until registrants entered an INS office; at that point, its workings became hidden. Arab American, Asian American Muslim, and certain sub-Saharan African Muslim communities may not

have worked together before, but special registration forged a new sense of commonality of status among them, and they worked collaboratively to develop resources and hold community meetings to clarify and advise about special registration. Muslims were not the only religious group affected by this program—based as it was on country of citizenship and nationality, it also called in Christians, Jews, and Baha'is—but it nonetheless gathered together Muslims living in the United States with roots from across the globe and gave a boost to the collective sense of Muslim *umma* (the single community of Muslims) among American Muslims. In Chicago, the Mayor's Advisory Council on Arab Affairs (established under Mayor Harold Washington) of the Chicago Commission on Human Relations actively embraced the civil rights concerns of South Asians, largely because South Asians and Asian Muslims lacked meaningful representation on the Mayor's Council on Asian Affairs.⁴⁶ Muslim American women rose to prominent and visible roles as community organizers, speakers at community events, advisory attorneys, and civil rights activists. Mobilizations expanded to other communities when the special registration program was interpreted in the historical context of Japanese internment, profiling of racialized groups, and collective policies based on race or religion. Members of groups not personally affected by these measures—such as African Americans, Jewish Americans, and Euro-Americans—were increasingly mobilized and vocal in opposition to the government's domestic security policies. The fact that another terrorist attack did not occur certainly lent credibility to this opposition, and one can only speculate what would have happened in that event.

Civil rights and legal advocacy organizations from within and outside the Arab, Asian, African, and Muslim American communities began tracking the experiences of persons subjected to special registration after learning of the humiliating treatment of Iranians in California, who were largely upper-middle-class professionals, a proportion of whom were Jewish. Immigration attorneys joined in advisory and advocacy efforts, especially members of the National Lawyers Guild. The American Immigration Law Association, the National Immigration Forum, the American-Arab Anti-Discrimination Committee, and the American Immigration Law Foundation teamed up to develop a web-based special registration questionnaire to document these experiences. The American Civil Liberties Union took a prominent stance opposing special registration and calling for an end to its arbitrary abuses.

At the local level, members of local coalitions handed out flyers at INS offices asking registrants to call and report on their experiences. In some locations, local branches of the Council on American-Islamic Relations (CAIR) assembled support teams that offered preregistration check-in, free legal advice, and refreshments. CAIR–New York was part of the Coalition Against Special Registration, which established an emergency family fund to assist families of “uncharged” detainees and included an

extensive range of participants from faith-based, labor, ethnic, civil rights, African American, and green organizations.⁴⁷ The Muslim Public Affairs Council (MPAC) in southern California trained human rights monitors and positioned them near INS offices. During the final period of call-in registration, the Arab American Action Network in Chicago assembled teams of multiethnic, religiously diverse volunteers to advise and support registrants on their way to registry. All of these on-site preregistration activities were necessitated by the fact that registrants frequently and arbitrarily disappeared after entering INS offices, entering a limbo world of movement from one detention facility to another.

Domestic special registration was called to an end in May 2003. By that time, Senator Edward Kennedy's office was coordinating with a coalition of national organizations—including the American Immigration Law Association, the Arab-American Anti-Discrimination Committee, the Council on American-Islamic Relations, the American Civil Liberties Union, the National Immigration Project of the National Lawyers Guild, and Hate Free Zone—on the Post-9/11 Public Forum. The coalition sought testimonies from members of affected communities who had “suffered under any of the following Post 9-11 measures”:

Special Registration; Iraqi surveillance and interviews; Arab/Muslim men interviews (the first and second round of a couple thousand “voluntary” interviews); Secret Detentions; Local law enforcement and deputization of police by INS; **Airport raid issues; and Watch lists of any kind (travel, money transfer, etc.). (Siskind 2003)

These activities attested to a vibrant civil society ready to mobilize in opposition to government policies perceived as unjust, but they also drained the financial and human resources of the Arab American, Asian American, and Muslim American institutions so engaged. In Chicago (and probably elsewhere as well), the mainstream and progressive philanthropic organizations stepped in to provide emergency resources for these mobilizations, although secular ethnic organizations found these funds easier to obtain than faith-based Muslim organizations. Local funders such as the Crossroads Fund, the Field Foundation, and Woods Fund, as well as the national Tides Foundation and Four Freedoms Fund, provided emergency money. After the offices of the Arab American Action Network were struck by arson, additional in-kind donations were made by nearby offices of Metropolitan Family Services (formerly United Charities of Chicago) and the Southwest Youth Collaborative. Muslim organizations, especially mosques, were strained as they took on new community action roles that went well beyond their religiously specific ones (Cainkar 2003a, 2004c). Mosques across the nation began holding open houses in an effort to reduce the air of mystery that surrounded them.

The government's actions in the post-9/11 period thus produced a civil society response that ushered in and helped to finance an intensified civic integration of Arab and Muslim American organizations to a degree not witnessed before (at least not outside of Dearborn, Michigan), a topic we return to later in this book. This heightened civic integration took place in a social context that was still characterized by strong negative public attitudes toward Arabs, Muslims, and Islam (the last being subject to the most negative views), hate crimes and harassment, media treatment that ranged from vilification to exploration of Islam, a policy of regional law enforcement engagement of local Arab and Muslim communities in dialogue (supported little by top DHS officials), and FBI announcements of an increasing focus on mosques. These were complex, energetic, and at the same time frightening times when active explorations for new allies occurred in the ever-vigilant framework required by double-consciousness.

On Being “Known”: Connected and Disconnected Insiders and Outsiders

In 2004, while driving through southwest Michigan, I was struck by the preponderance of posters prominently displayed on people's lawns and in front of businesses calling to FREE IBRAHIM. At a time when names like Ibrahim carried great negative stigma, and public support in defense of Muslims was active but certainly not widespread, these posters indicated to me that something different was occurring here. After investigating this story, I came to understand that the effective criminalization of Arab and Muslim Americans following the 9/11 attacks was made possible not only because of widely held stereotypes but also because they were “outsiders” in many places. It would have been much harder for the government to convince the public that mass arrests were required and that the people it had picked up were terrorists if those individuals were well known by people outside of their own communities, especially known by others with a significant degree of social capital. There are a number of post-9/11 “terrorism” cases that can be examined in this light to highlight the social factors that come into play to cast doubt on or empower the government in its charges. Here I briefly summarize two cases that, with similar charges but vastly different processes and outcomes, provide striking examples of the difference that social capital can make.

Ibrahim Parlak was a Turkish Kurd and Muslim who had been granted asylum in the United States in 1992. He owned a popular restaurant in Harbert, Michigan, named Café Gulistan, which served the Lake Michigan beach communities heavily populated by white, upper-middle-class Chicagoans (and former Chicagoans). In July 2004, when Ibrahim Parlak filed for his U.S. citizenship, he was arrested by immigration

authorities (from the Department of Homeland Security) and jailed pending deportation as a terrorist. Prior to coming to the United States, Parlak had been active with the PKK, a Kurdish organization in Turkey that the U.S. government designated as a foreign terrorist organization after 9/11. Parlak's acknowledged membership in the PKK was the basis of his claim for asylum in the United States. In other words, the U.S. government knew he had been an active member of the PKK because it had awarded him political asylum on the basis of his documentation of imprisonment and charge of torture in Turkey for his activities with this group. Neighbors and restaurant patrons, however, knew Parlak well and did not accept the terrorist designation. They trusted that these government allegations were not the truth. They waged an intense campaign to free him, fueled by potlucks and fund-raisers, and created the FREE IBRAHIM signs that were posted across southwest Michigan. Parlak spent ten months in federal custody in Calhoun County Jail in Battle Creek, Michigan, and was released from jail in June 2005. He returned to run his popular Michigan restaurant, was required to report periodically to the DHS authorities in Detroit, and had to wage a legal defense of his case. Rich in social and cultural capital and financial resources, the Free Ibrahim campaign gained thousands of supporters, raised the capital needed for his legal case, and convinced Michigan Senator Jack Levin to introduce a bill in Congress to grant Parlak citizenship. In 2007 Parlak's case was pending with the Board of Immigration Appeals while the Levin-sponsored bill authorizing his citizenship was pending in Congress.⁴⁸ While attending one of the Free Ibrahim fund-raisers—a high-end art auction—during field research, I was surprised to find that Ibrahim's supporters did not see his case as having any relationship to post-9/11 events or the string of terrorist cases launched across the United States. In their view, his case was unique and quite separate from what was happening to other Muslims. I realized that, for them, not only was Ibrahim not a terrorist, but he was an individual, which symbolically disconnected him from the collectivity known as Muslims.

Trust and individuation were not the experience of the American-born Muslim military chaplain James Yee, whom the government, in a charge that received extensive media attention, falsely accused of espionage in the fall of 2003 in an arrest that occurred while he was en route for a home visit. Fellow Guantánamo Bay military officers fingered Yee and a few other Muslim officers for suspicious behaviors based mainly on the fact that they tended to socialize only with each other. Yee claims that, because they were Muslim, their military comrades at the Guantánamo prison camp never accepted them into their social sphere (Yee and Malloy 2005). Yee spent seventy-six days in solitary confinement and extreme deprivation at a Navy brig in Charleston, South Carolina. He eventually learned that he was jailed next to the two highest-charged security detainees within the

United States, Jose Padilla and Zacharias Moussaoui, both of whom reportedly were psychologically damaged by their confinement (Yee and Malloy 2005). Although the military eventually dropped all charges against Yee, he spent years touring the country raising money to pay for his defense, appearing mostly in Muslim contexts. After being fully cleared of all charges, Yee anxiously returned to military service, but resigned shortly thereafter because he was shunned by his military colleagues. Despite vindication, Yee was completely unable to remove the terrorist stigma (which happened, as noted earlier, to many other released detainees). Yee, the Muslim son of Chinese immigrants, was never able to forge a disconnection between himself and the notion that Muslims have a propensity to terrorism because he lacked the social and cultural capital to do so.

These cases give meaning to the remarks of study interviewees about being “connected” (to terrorism) and “disconnected” (from broader communities). While the connections to terrorism were socially constructed, the disconnections were much more complicated. Many communities of Arab and Muslim Americans composed significantly of recent immigrants were socially and civically excluded before 9/11 because they arrived during the period of demonization (described in chapter 3) and because they clustered in ethnic communities that lacked political clout and were not socially integrated with the larger community, conditions evolving from a combination of choice and barriers erected by others. Socially and politically excluded communities, whether resulting from choice or force, can do little to mitigate stereotypes, and their social separateness over time nourishes stereotypes, which encourages further self-protection and closure. Internal community initiatives, in turn, can stress connection to others or difference—the former aiming for broader bases of solidarity while the latter aims for internal solidarity. Chapter 6 shows some of the differential outcomes of social inclusion versus social exclusion at the local neighborhood level for Arab Muslims in metropolitan Chicago, where inclusion produced safety and solidarity and exclusion provided fertile ground for hate crimes under the right conditions.

I argue strongly that local conditions of safety and empowerment for Arab and Muslim Americans may have been (and still are) quite different depending on a range of historic local-level variables, and that such conditions may vary between city and suburb. For example, an examination of Chicago, Detroit, Los Angeles, New York, Cleveland, and Tucson and their surrounding suburbs may reveal varying patterns of social and political inclusion, support, hostility, and power. While many of the anti-Arab and anti-Muslim messages were broadcast nationwide, their meaning was subject to interpretation at the individual and local levels. On a national level, however, Arab and Muslim Americans have faced much larger hurdles to social and political inclusion than locally, although this is beginning to change. I argued in chapter 3 that exclusion at the national

level has been particularly connected to their positioning in foreign policy debates. Connecting the local to the national to the global, I argue that in the end, from a sociological perspective, thousands of Arabs and Muslims living in the United States were jailed, interviewed, registered, watched, or deported, not because they were terrorists, but because they were socially positioned to be unable to contest these claims.

Conclusion

National narratives of the tragedy of 9/11 speak to the grave injury that these violent attacks and the thousands of deaths caused by them delivered to the American nation and people, but these narratives largely exclude the related experiences of millions of Arab and Muslim Americans (who, according to some sources, died in disproportionate numbers on 9/11). Their experiences are instead found in a second body of literature: the reports of civil liberties defenders, hate crimes reporters, attorneys, activists, and scholars who have documented the rights violations, assaults, and harassments they endured in the wake of the 9/11 attacks.⁴⁹ These two separate narratives about the impact of 9/11 on American society seem to mirror the American government's concept of homeland security after the attacks: there was a *de facto* and often *de jure* dichotomy between persons who symbolically lay within "the homeland" and whose safety and rights were being protected, and another group excluded from "the homeland" whose safety and rights were revocable. Arab and Muslim Americans and the immigrants within their communities perceived that they were symbolically placed outside the nation's protective boundaries, that their rights and security were sacrificed so the rest of the nation could feel safer. This effective dichotomization of the American population also gave a green light to the violent expressions of bigots, who signaled this understanding of ingroups and outgroups by the flag-waving that so commonly accompanied harassments of Arab and Muslim Americans after 9/11. This examination of the activities undertaken by the U.S. Departments of Justice and Homeland Security and other federal agencies to preserve "our freedoms" in the years following the 9/11 attacks does provoke questions about whose freedoms and whose homeland were being protected, and whether the rights of one set of Americans can be rightly sacrificed for another set of Americans.⁵⁰ These questions will be addressed by a wider segment of the American population when the two widely different American narratives of 9/11 are merged into one.