

COUNCIL ON AMERICAN-ISLAMIC RELATIONS
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I. Situation Analysis

The first half of 2002 saw a significant shift in the direction and tone regarding civil rights and security issues. While the Administration continued to issue new presidential orders and Congress continued to pass bills that threaten civil liberties in the United States, it was not at the breakneck pace at which they issued following the September 11 attacks. CAIR and other civil rights groups successfully challenged the use of racial profiling and more editorials and commentaries questioned the powers the government was assuming and the treatment of Arab and Muslim immigrants and communities. The Office of Inspector General announced it would investigate the treatment of detainees at the Passaic and Brooklyn detention centers, and a number of judges struck down the use of secret hearings in immigration cases. Still, the American Muslim community continued to witness major violations of their civil rights with little effective action from Congress.

DOJ expanded its interrogations of Muslim visitors to the US, asking questions about how often they pray and how they viewed September 11. Perhaps most alarmingly, the Treasury Department raided over 20 of the most moderate American Muslim owned businesses, organizations and individual homes with a warrant obtained under a secret affidavit that alleged support for terrorism. Once again, no charges were filed and no apparent wrongdoing has been found, but the effect is to send a message to Americans that, despite the apparent lack of any evidence of wrongdoing, it believes that American Muslims are intimately involved in supporting terrorism. DOJ also announced a plan to fingerprint and photograph 100,000 Muslim visitors to the United States again failing to base its suspicions on specific wrongdoing, but instead focusing broad actions against Muslims as a whole.

Towards the end of May increasing attention fell on the intelligence failures of the FBI and CIA as a prime factor contributing to the September 11 attack. Revelations about what kind of information the FBI and CIA had prior to September 11 led to greater questions about the necessity of the new powers granted to them under the PATRIOT Act and subsequent bills. The Department of Justice deflected these concerns by announcing new domestic guidelines for the FBI and a highly theatrical announcement of the arrest of an alleged al-Qa'ida operative, US citizen Jose Pedilla, who allegedly came to the US to reconnoiter possible targets of a 'dirty bomb.' Ashcroft later had to retreat from some of his claims, but the damage was already done to the American Muslim community.

The new domestic guidelines give the DOJ the unchecked ability to spy on constitutionally protected activities of domestic groups and individuals without even the slightest evidence of wrongdoing, and failed to address the chief causes for the intelligence failure, which was bureaucratic stonewalling and interagency rivalry between the FBI and the CIA. These guidelines, coupled with the stripping of Jose Pedilla's citizenship rights by naming him an 'enemy combatant' seemed to rouse Congress out of its post-September 11 torpor, as the seriousness of the threat to civil rights from the Ashcroft DOJ became alarmingly clear. The act of unilaterally stripping a citizen of his rights and claiming no desire to charge him sent shockwaves through the civil rights community.

A small number of bills were introduced that sought to rectify some restrictions on immigrants, such as the Family Reunification Act, but nothing substantial challenged the major provisions of new laws that undermine basic pillars of America's democratic system. Among the pillars undermined are the system of checks and balances, open government and rule of law. As the administration increasingly undermines the monitoring role of the congress and judiciary, relies on secrecy in its actions and policies, and fails to honor guarantees of due process, the entire American system comes under threat.

The political environment is unlikely to change until after the elections. No politician wants to appear weak on terrorism or soft on domestic security. Although we have many potential allies in Congress from both parties on civil rights issues, few are going to come out strongly and oppose the president in the current