

Council on American-Islamic Relations (CAIR)

Torture, Former Combatants, Political Prisoners, Terror Suspects, & Terrorists

https://www.cair.com/op_ed/congress-should-reform-the-unconstitutional-terrorism-watchlist/

Public Facing Advocacy Writing

Yesterday, Rep. Carson and Muslim, Arab and South Asian American Groups Testified that Congress Should

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Yesterday, the U.S Judiciary Committee held a groundbreaking hearing on [discrimination and the civil rights of the Muslim, Arab, and South Asian American](#) communities. We welcomed the hearing as another opportunity for Congress to commit to protecting the civil rights of all Americans.

While the hearing covered a wide range of interrelating civil liberties issues impacting Muslim, Arab and South Asian communities I noticed that one issue critical to the American Muslim community that usually receives little to no attention in Congress was spotlighted: the federal governments unconstitutional Terrorist Screening Database (TSDB), commonly referred to as the terrorism watchlist.

Usually, the TSDB operates under the radar of Congress. I believe that the reasons Congress does not address the TSDB are twofold.

First, there is a disappointingly bi-partisan reluctance to provide congressional oversight to this illegal program. Authorized by the Bush administration, it has largely operated unaltered by Presidents Obama, Trump and Biden existing without a congressional mandate. In other words, while they have a duty to provide congressional oversight, it is easier to act like it is not their problem.

Second, there is a persistent fear among elected officials that if they reform the watchlist by adopting new laws that better protect and respect the rights of all U.S. citizens and residents, including Muslims, they will be vulnerable to electoral challengers for being weak on national security.

Refreshingly, a number of nonprofit organizational leaders and the longest serving American Muslim in Congress testified about the illegal, discriminatory and bureaucratically-Kafkaesque nature of the terrorism watchlist.

Several key statements were made by hearing witnesses who urged Congress and the federal government to pay better attention to the watchlist and implement reforms.

Federal agencies like the FBI and TSA started suspect lists and No Fly Lists, many times, just because of the way someones name sounded or was spelled. And once someones name was on those lists, it could be a nightmare to get a name removed, testified U.S. Representative Andre Carson.

For almost two decades, CAIR attorneys have found the quickest way to get off the watchlist is not to file a redress complaint through DHSs Traveler Redress Inquiry Program (DHS TRIP), but to sue the government. The government is more likely to remove you from the watchlist than be compelled to justify why they think you should be on it.

FBI agents unfettered access to a growing arsenal of coercive measures include the ability to delay or withhold immigration benefits, interrogate individuals at the border, and place people on watch-lists. They can thus derail individuals ability to travel, be with family, or secure important immigration benefits in exchange for information or affirmative information gathering, [testified](#) Asian-Americans Advancing Justice-Asian Law Caucus National Security and Civil Rights Staff Attorney and Program Manager Hammad A. Alam.

In addition to being used to track and limit the movements of American citizens and residents, the FBI has used the threat of being added to the watchlist (or dangling the possibility of being removed from it) to compel Muslims to spy and report on their families, friends, student groups, and houses of worship.

In 2003, the Terrorist Screening Center was created to monitor potential terrorist suspects and place individuals on a variety of watchlists for surveillance. The fact of a persons presence on a list, and why a person was added, is not provided to listed individuals. Notably, Dearborn, Michigan, a city with approximately 100,000 residents and home to the largest concentration of Arab Americans in the country, was second only to New York City in the number of people on the watchlist, [testified](#) Arab American Institute Executive Director Maya Berry.

First [exposed in 2014](#) by *The Intercept*, we have long since called on Congress to investigate how a federal law enforcement database labeled Dearborn, Michigan, as the second highest population of known or suspected terrorists. Dearborn remains the highest concentration of Arab-Americans in the country. Congress has not yet investigated this matter.

In addition to several innocent people being placed on the no travel/watch lists, there is also the issue of extra searches and surveillance at the airport. For whatever reason, I am almost always one of the people who is randomly selected for additional screenings. If the system is truly random, it should be truly random for everyone and not just targeting a particular group of people. [testified](#) Nashville and Davidson County Council Member At Large Zulfat Suara.

Council Member Suara's experiences of being profiled at the airport by federal authorities is sadly all too common and is popularly referred to as Flying While Muslim. The watchlist continues to play a major factor in Muslims' daily travel experiences being negatively impacted.

In our own [statement for the committee's hearing record](#), we called out the watchlisting system for demonizing and stigmatizing the Muslim community.

The watchlist however remains a relevant issue to the American Muslim community and civil libertarians. Just two weeks ago, [CAIR held a news conference in Washington, D.C.](#), to announce an American Muslims lawsuit against U.S. Customs and Border Protection (CBP) and its agents at Dulles International Airport for repeatedly seizing his electronic devices.

Our lawsuit asserts that CBP agents take these actions not because of any suspicion of illegal activity, but only because a computer connected to the watchlist told them to.

For years, our organization has called on Congress to work with the White House to adopt a TSDB inclusion standard that precludes innocent people, persons who have not been arrested, charged, or convicted of a terrorism-related offense from being listed on the TSDB.

The federal government should also implement due process protections for individuals listed on the TSDB.

We also believe that Congress should support legislation that would prohibit the dissemination of the TSDB to foreign governments, private individuals and corporations and state and local police officers.

Now is the time for Congress to pay better attention to and reform the terrorism watchlist. Inevitably, this reform will happen. It is only a question of when and not if.

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