



**American-Arab Anti-Discrimination Committee**  
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#### In Memoriam

Hala Salaam Maksoud, PhD  
(1943-2002)  
Alex Odeh  
(1944-1985)

February 26, 2009

Timothy J. Keefer  
Acting Officer  
Office for Civil Rights and Civil Liberties  
US Department of Homeland Security

Kindly consider this letter as a formal complaint and request for investigation on behalf of the American-Arab Anti-Discrimination Committee (ADC) in reference to Operation Frontline and the disparate impact it had on the Arab and Muslim immigrant and non-immigrant communities in our nation. ADC is also respectfully requesting a full and comprehensive investigation by DHS CRCL into Operation Frontline.

Enclosed please find the press release issued by ADC and Yale Law School on October 20, 2008 on Operation Frontline. The press release provides a detailed chronology of ADC's involvement with the Operation, when it was coined by the media as the "October Plan" in 2004. Below is also a brief summary of actions taken by ADC to get more information about the Operation:

- 1) In November 2004, ADC requested a nationality breakdown of those arrested by ICE, in connection with the operation, then known as the "October Plan," in response to the community's concerns and based on significant media coverage that the community is being subject to racial, national origin or religious profiling.
- 2) On December 14, 2004, ADC filed a Freedom of Information Act (FOIA) request to gain access to data on the nationalities of those arrested, and determine the percentage of Arabs, South Asians and Muslims who are affected.
- 3) On March 3, 2005, ADC filed an administrative appeal with the DHS Privacy Office.
- 4) On February 8, 2006, represented by Kirkland & Ellis, LLP, ADC filed a new FOIA request, to which DHS never responded.
- 5) On October 17, 2006, ADC filed a lawsuit against DHS and its component ICE in the U.S. District Court for the District of Columbia, with the goal of the disclosure of government records concerning the national origin, ethnicity, race, religion, and gender of the individuals detained under the "October Plan."

The Yale Law School National Litigation Project also filed FOIA requests to get more information on the operation on October 11, 2006, and filed a lawsuit on November 21, 2006 in the U.S. District for the District of Connecticut. In partial settlement of the Yale's lawsuit, US Immigration and Customs Enforcement (ICE) released hundreds of records on Operation Frontline, including the first public data on the program and a statistically scientific random sample of 300 Operation Frontline investigation files. *With the release of the information, there is no pending litigation involving this specific matter at the current time.*

#### Information on the Operation:

According to the documents released by ICE, the implementation of Operation Frontline started in May 2004 "to support the government-wide Interagency Security Plan" in order



to “detect, prevent, and disrupt terrorist activities.” This was allegedly performed “through targeted enforcement and reassignment of resources.” The second phase of the Operation started effective October 4, 2004, one month before the 2004 Presidential elections, and lasted until the Inauguration in 2005. The Office of Investigations implemented the second phase by combining ICE resources, intelligence and authorities with the support from the Detention and Removal Operations, and the National Fugitive Operations Program.

The released documents also revealed a close coordination and sharing of information between ICE and FBI. According to the documents, ICE analyzed “data sets to identify persons with possible issues related to national security and immigration violations. ICE then generate[d] leads for ICE field offices to further develop violations and remove persons in violation.” The documents further stated, “both initiatives have significant potential to enhance the ability to detect, disrupt, and dismantle terrorist cells operating within the United States.”

Moreover, according to the Office of Management and Budget’s Program Assessment Rating Tool for Fiscal Year 2006, with an eye on the programs implemented under DHS, Operation Frontline is explained as a program “designed to detect, deter, and disrupt terrorist operations” leading up to the Presidential elections through the 2005 Inauguration. “[The Office of Investigations] OI continuously responds to shifting and evolving threats to effectively target the highest priorities. The National Security Investigations Division (NSI) recently partnered with the FBI to support its analytical “Fall Threat” initiative and, simultaneously, formed, funded and staffed “Operation Front Line,” to address potential vulnerabilities in immigration and trade systems relative to the national security of the United States.”

Finally, in a briefing by the ICE National Security Division on Operation Frontline in front of the Subcommittee on Immigration, Border Security and Claims, on November 10, 2004, the mission of Operation Front Line was “apply[ing] real-time threat information to detect, prevent, and disrupt terrorist activities.” The briefing went on to explain that the “two major elements to Frontline [were]: 1. Exploiting unique information databases, including SEVIS, NSEERS, US VISIT, and tactically act upon that information, [and] 2. Dynamic intelligence driven enforcement initiatives of Immigration and Customs Laws resulting in the prevention and disruption of terrorist travel both domestically and abroad.”

### **Disparate Impact on the Community:**

ICE released a statistically scientific random sample of 300 Operation Frontline investigation files. The random sample established that **79 percent of those investigated were from Muslim-majority countries**, most notably from Pakistan, Turkey, Morocco and Egypt. Those investigated also include lawful permanent residents. Also, according to statistics released by the Department of Homeland Security for FY 2005, people from the countries targeted by Operation Frontline comprise less than .003% of deportable aliens nationally. Based on the random sample proffered by ICE, the statistics released by DHS on deportable aliens then confirm that citizens from **Muslim majority countries were 1,280 times more likely to be targeted by Operation Frontline** than citizens from other countries.

These results run contrary to what ICE stated publicly regarding the structure and nature of Operation Frontline, mainly that “[r]ace, religion or ethnicity were not criteria used in identifying or arresting the violators [of immigration law].” ICE also stated that Operation Frontline “focused on immigration violators that may have posed an enhanced public safety or national security threat, [and that the] arrests were predicated on violations of immigration law.”

The questions used during the investigations leave little doubt as to whether criteria of religion or ethnicity were factors in the program. In fact, there were questions about:

- 1) The amount of times alien visits the local mosque,
- 2) The number of times alien prays,
- 3) The level of alien’s “religiosity”,
- 4) The attendees of the local mosque,
- 5) The conversations transpired at the local mosque, and



6) Whether alien was recruited by Muslim fanatics.

Other questions included the knowledge or possession of any specialized skills, such as chemical knowledge, scuba diving or driving license; the ownership of any guns, explosives, chemical/ bio component; the wire of money transfer—which was mostly sent to aliens’ families overseas; bank accounts; travel patterns; **information on rallies or demonstrations**; information of aliens’ friends in Physics or Chemistry departments on campuses; and **aliens’ opinion of the United States** to which an alien responded that [he/she] was “living the American Dream, and cared greatly for the equal opportunities, rights and values that are afforded in America.”

The success of Operation Frontline in preventing terrorist activities is also in doubt. In short, the program either shed light on individuals who had not complied with SEVIS, mainly failure to enroll in/ register for classes, or for early withdrawal, all of which are considered minor immigration violations. Moreover, many of the investigations’ conclusory statements speak volume of the null level of success of Operation Frontline’s initial mission. Below is a sample of recurring statements in the investigations:

- Outside agency checks revealed no derogatory information
- There are no further leads at this time, case closed.
- [It] did not uncover any information that would indicate [that subject] is currently engaged in activities that could constitute a threat to national security
- No Evidence of an ICE related violation was discovered.
- “SA[Special agents] ... confirmed that there was nothing in [blacked out info]to corroborate National Security Interest in [blacked out info] and recommended that the case be closed.”
- Record checks including vetting through [blacked out info] were conducted with negative results.
- Investigative has determined subject poses no known risk to the national security of the United States.
- No derogatory information was obtained from the ...interview.
- No further investigation is warranted at this time.
- Office will close this case

In some cases, there did not even seem to be investigative leads. For instance, in one case, a “requested investigation was initiated in *an attempt* to determine [...] current immigration status, and whether or not [blacked out info] is removable at this time.” This statement was followed by the fact that “[n]o ICE violations (criminal or administrative) have been identified.”

**Conclusion:**

In the aftermath of 9/11, federal immigration law was used as one of the tools designed to detain individuals suspected of having ties to terrorism but with no evidence or charges related to such ties. Most notably, in the year following the attacks, 762 aliens from Arab and Muslim countries were detained based on the FBI’s assessment that these individuals were connected to terrorism. In some cases, the FBI did not possess concrete evidence to substantiate such assessment nor file any charges; rather, it opted to detain these individuals until they are cleared by immigration authorities. The result of this practice led to the release of many who were eventually not charged with any criminal or immigration violations, and to the charging of others for mostly civil immigration law violations, ultimately leading to their detention and deportation. It has also been established that some of these violations did not warrant deportation in the pre 9-11 world.

Similar practices burgeoned in the post 9-11 era, and resurfaced in spite of the rather null level of success and effectiveness in finding terrorists or those connected to terrorism. The National Security-Entry Exit Registration System (NSEERS); commonly known as the “Special Registration Program,” was another practice where immigration law was used as a counterterrorism tool with no real success. Similar to previous practices, the end result of NSEERS was the



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deportation of thousands of individuals, with not a single individual being charged with a terrorism related crime. Similarly with Operation Frontline, not a single individual was charged with terrorism related crimes.

As documented in the past eight years, such selective enforcement on a particular segment of the population did not render our country any safer and resulted in further alienation and mistrust between federal law enforcement and the Arab, Muslim, and South Asian populations. There were in fact no actual or investigative leads used to identify those aliens.

These practices have also been found to be costly, wasting government resources, ineffective in finding terrorists, in violation of the rights of non-citizens, and finally counterproductive as they cast a wide net on the Arab and Muslim communities, treating them as suspects, and alienating the very communities, whose skills and cultural understanding are currently most needed in the legitimate efforts to keep our nation safe.

Finally, ADC respectfully requests 1) a complete and comprehensive investigation into Operation Frontline and its impact on the Arab, Muslim, and South Asian communities, and 2) a public explanation from DHS, particularly in view of the repeated public statements issued by ICE in relation to Operation Frontline in 2004, and in light of the continuous and repeated assurances that the agency does not engage in racial profiling practices.

Sincerely,

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National Executive Director

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Legal Advisor

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ADC Legal Department

Enc.: October 20, 2008 Joint ADC / Yale University School of Law Press Release