



ISSUE BRIEF:

Profiling Based on Race, Ethnicity, Religion, and National Origin

Discussion Points:

The Domestic Investigative Operational Guidelines (DIOGs), revised in 2008 by the Department of Justice, grant the FBI, DHS, and other agencies the authority to investigate Americans without any evidence of wrongdoing, encouraging instead systemic ethnic and religious profiling to determine the basis for opening a national security investigation.

Despite assurances by the FBI that the revised guidelines “will be audited and enforced through a rigorous compliance mechanism, [and] are designed to ensure that FBI assessments and investigations are subject to responsible review and approval,” the loophole for national security investigations provided in the 2003 directives actually institutionalizes profiling based on race, religion, ethnicity, and national origin.

Recommendations:

The Department of Justice should conduct a review of the Domestic Investigative Operational Guidelines (DIOGs), as well as the original 2003 guidance on profiling, in order to ensure our law enforcement agencies adopt the most effective and appropriate practices to counter criminal and national security threats.

This policy review process should be in partnership with the Arab American and Muslim communities, allowing for substantive recommendations on how to effectively close the loophole for national security investigations and develop alternatives to racial, ethnic, and religious profiling.