

**PROTECTING THE CIVIL RIGHTS
OF AMERICAN MUSLIMS**

HEARING
BEFORE THE
SUBCOMMITTEE ON THE CONSTITUTION,
CIVIL RIGHTS AND HUMAN RIGHTS
OF THE
COMMITTEE ON THE JUDICIARY
UNITED STATES SENATE
ONE HUNDRED TWELFTH CONGRESS

FIRST SESSION

MARCH 29, 2011

Serial No. J-112-11

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PROTECTING THE CIVIL RIGHTS OF AMERICAN MUSLIMS

TUESDAY, MARCH 29, 2011

UNITED STATES SENATE,
SUBCOMMITTEE ON THE CONSTITUTION, CIVIL RIGHTS
AND HUMAN RIGHTS,
COMMITTEE ON THE JUDICIARY,
Washington, DC.

The Subcommittee met, pursuant to notice, at 10:02 a.m., in Room SD-226, Dirksen Senate Office Building, Hon. Dick Durbin, Chairman of the Subcommittee, presiding.

Present: Senators Leahy, Coons, Blumenthal, Graham, and Kyl.
Also Present: Senator Cardin.

OPENING STATEMENT OF HON. DICK DURBIN, A U.S. SENATOR FROM THE STATE OF ILLINOIS

Chairman DURBIN. This hearing of the Subcommittee on the Constitution, Civil Rights and Human Rights will come to order.

Today is the first hearing of this new Subcommittee, formed by the merging of the Constitution Subcommittee with the Human Rights and the Law Subcommittee, which I chaired for the last 4 years.

I want to personally thank Chairman Pat Leahy for giving me the chance to chair this new Subcommittee. I look forward to working with Senator Lindsey Graham, my friend and colleague and the Ranking Member of the Subcommittee, and the other Members of the Subcommittee who will join us. And after a few remarks from me, after a few of my own personal remarks, I will recognize Senator Leahy and Senator Graham.

I think it is appropriate to hold the first hearing of this new Subcommittee on what is often called the Constitution's "First Freedom"—the freedom of religion.

Many of our Nation's founders fled religious persecution, and they placed great importance on religious freedom. George Washington summed up the prevailing view when he said, and I quote: "In this land of equal liberty, it is our boast that a man's religious tenets will not forfeit the protection of the law."

Despite the Framers' best intentions, throughout our history many religious minorities have faced intolerance.

The lynching of Leo Frank in 1915 is one infamous example, and anti-Semitism continues to be significant in America.

Often, prejudice has been directed at the religions of recent immigrants. In the last century, it was Catholics from places like Ire-

land, Italy, and Lithuania—my mother’s country of origin—whose loyalties were questioned.

I brought to this hearing a family treasure. One hundred years ago, in 1911, my grandmother landed in Baltimore, Maryland, from Lithuania. She brought with her my mother, 2 years old; and my aunt and uncle; and they came down off the boat in Baltimore and somehow found their way to my grandfather in East St. Louis, Illinois. I have no idea how they made that journey not speaking a word of English.

There is no physical evidence left of that journey but this little book. Cardinal, it is a Catholic prayer book written in Lithuanian, printed in 1863, which at the time of their immigration was contraband. The czar had ordered that all prayer books had to be written in Russian. My grandmother, whom I never knew, knew that if she brought this prayer book to America, she would have the freedom to use it. And I remembered that, and it is one of the reasons why this is the first hearing. This freedom of religion meant so much to my grandmother, who was no constitutional scholar, but she knew that America guaranteed that freedom, and that is what this hearing is all about.

Today American Muslims from the Middle East and South Asia are facing similar discrimination. Attorney General Eric Holder put it well when he said that anti-Muslim bigotry is “the civil rights issue of our time.”

This backlash began after the 9/11 terrorist attacks.

In fear and anger, some Americans wrongly struck out at innocent Muslims, Arabs, South Asians, and Sikhs.

Since 9/11, we have worked to combat terrorism. We continue to solicit and receive the support of many Muslim Americans who love this Nation and work with our Government to protect it. At the same time, many law-abiding Muslim Americans face discrimination and charges that they are not real Americans simply because of their religion.

This debate will continue, but terrorism is not the subject of today’s hearing.

We should all agree that it is wrong to blame an entire community for the wrongdoing of a few. Guilt by association is not the American way. And American Muslims are entitled to the same constitutional protections as every other American.

I had many differences with President George W. Bush, but he showed real leadership after 9/11, when he made it clear that our war was with the terrorists who perverted the teachings of Islam, not with Muslims who were faithful to what he called “a faith based upon love, not hate.”

Congress also spoke with a clear voice. I cosponsored a resolution with John Sununu, who was then the only Arab-American in the Senate, who condemned anti-Muslim and anti-Arab bigotry and said that American Muslims “are vibrant, peaceful, and law-abiding, and have greatly contributed to American society.” Our resolution passed both chambers of Congress unanimously.

Today, President Obama continues to speak out as forcefully as President Bush, even though President Obama is challenged by a chorus of harsh voices:

A leading Member of Congress stated bluntly, “There are too many mosques in this country.”

A former Speaker of the House falsely claimed, “America is experiencing an Islamist cultural-political offensive designed to undermine and destroy our civilization.”

And even a prominent religious leader said Islam is “wicked” and “evil.”

Some have even questioned the premise of today’s hearing—that we should protect the civil rights of American Muslims.

Such inflammatory speech from prominent public figures creates a fertile climate for discrimination. It is not surprising that the Anti-Defamation League says we face “an intensified level of anti-Muslim bigotry.”

Last year, the Southern Poverty Law Center, which tracks hate groups, designated five anti-Muslim hate groups for the first time. And we have seen anti-Muslim hate crimes, employment discrimination, bullying in schools, restrictions on mosque construction, and Quran burnings.

Sadly, this is a nationwide phenomenon, including my home State of Illinois. To take just one example, a man was recently sentenced to 15 months in prison for blowing up the van of a Palestinian-American family that was parked in front of the family’s home in Burbank, Illinois.

It is our Government’s responsibility to prevent and punish this kind of illegal discrimination. And it is incumbent on all Americans who love this Nation and the values our Constitution protects to make it clear that defending the civil rights of our Muslim neighbors is as important as the rights of Christians, Jews, and even non-believers.

Of course, the First Amendment protects not just the free exercise of religion but also freedom of speech. But all of us, especially those of us in public life, have a responsibility to choose our words carefully. We must condemn anti-Muslim bigotry and make it clear that we will not tolerate religious discrimination in our communities.

We can protect our Nation and still protect the fundamental freedoms of our Bill of Rights.

I would like to acknowledge Senator Leahy is here. I will let him—

Chairman LEAHY. No, go to Senator Graham.

Chairman DURBIN. Okay. Senator Graham, if you will proceed, and then I will be happy to let Senator Leahy, the Chairman, make a statement.

**OPENING STATEMENT OF HON. LINDSEY GRAHAM,
A U.S. SENATOR FROM THE STATE OF SOUTH CAROLINA**

Senator GRAHAM. Well, thank you. To Senator Durbin, this is a hearing that we need to have, quite frankly. These are difficult issues. And, you know, what does it mean to practice religion in America? Well, it means that I have to stand up for your right to pursue your religion because if I do not stand up for your right, you will not stand up for mine.

But part of freedom of religion and speech means that we can disagree. People can say, “The one thing I have learned about free-

dom of speech, you can go to a funeral of an American serviceman who has been killed in action and say awful things in the name of freedom of speech." I am not so sure—I know I do not agree with the decision, but we are going to have to understand that religions are formed because people have different views. And it is okay to argue. There are just lines you cannot cross. And we are living in a rule-of-law society, so I stand by Senator Durbin and anyone else who wants to send a message. You can have your disagreements, but there are lines we are not going to allow you to cross.

There are thousands of American Muslims serving in our military, and to anyone who will wear the uniform and protect America, God bless you. And that is the unique thing about America, that we are able to attract a wide group of people with different views who will fight for a common cause. And so I do understand where you are coming from.

But there are some real issues to be dealt with. Can we do two things at once. Can we stand up for the rights of Muslim Americans? I think the answer is unequivocally, yes, we must, because if any one group suffers, all of us suffer.

But we are going to have to come to grips with two things that are going on in the world. There are some things going on in the world and there are some things being said in this country that are disturbing. But there are efforts to recruit and radicalize young Muslims in America that have to be dealt with, and I can show you the statistics. What is going on in Europe, we are not immune from that. So the idea that we want to get ahead of an enemy who is trying to come to our shores and radicalize people in our country is a part of this war, and we are at war.

What is going on in Scotland and England when you have doctors that attack an airport, when you have young men raised in London blow themselves up in a subway? Why should we be immune from that? So to the American Muslim Community, I will stand with you to practice your faith and be an integral part of this country. But you are going to have to help your country, probably uniquely compared to anyone else, understand what is going on and fight back. The front lines of this war are at our own back door, in our own neighborhoods. So to the American Muslim community, I will stand with you as you practice your religion and you exercise your rights under the Constitution. But I am asking you to get in this fight as a community and let it be known to your young people that there are lines that you will not cross, and there are radical messages being spread by people who would kill every moderate Muslim, Jew, Gentile, and agnostic alike, that we are all in this together.

I have been to Iraq and Afghanistan enough to know that the biggest victim of radical Islam are fellow Muslims who choose to just basically try to live their life apart from this radical agenda, and for that they meet sometimes a very bad fate. So we are all in this one together. We are all in America together. We must stand up for each other. And to Senator Durbin, I will try to do my part as a Republican to let my party and anyone listening know that I totally get it when it comes to freedom of religion and the ability to practice different faiths. But I would like everyone in the country to know, including Muslim Americans, that the agenda

being set by people who are trying to radicalize young Muslims here in America and throughout the world, it is just as bad for the Muslim-American community as it is for anyone else, because maybe the worst offender of all is someone who practices the faith but rejects their ideology. People in the Mideast who are trying to separate themselves from this radical minority movement within the Muslim faith need our help, and that is why we need to help those people in Libya who are trying to replace Qaddafi. We need to stand by these young people in Egypt who are trying to chart a different path. And you will never convince me that the young women who went into the square in Egypt want to replace Mubarak with the Muslim Brotherhood or al Qaeda.

So we live in very complicated, interesting times, but it always helps to keep it simple. The simple thing for America is to understand that if we cannot accept differences among faith, then maybe yours is next. And the simple thing for every American to understand is that we are at war with an ideology that has no capital to conquer, no air force to shoot down, or no navy to sink. And we are going to have to work hard, and together, to win. To the Muslim-American community, get in this fight and protect your young people and your Nation from radicalization.

Chairman DURBIN. Thank you, Senator Graham.
Senator Leahy.

**OPENING STATEMENT OF HON. PATRICK J. LEAHY,
A U.S. SENATOR FROM THE STATE OF VERMONT**

Chairman LEAHY. Thank you, Senator Durbin, and thank you for holding this hearing. I think it is extraordinarily important, and I am delighted this is the first hearing you and Senator Graham are going to have with your Subcommittee.

We know that the FBI Director has testified before this Committee and others that, in the past few years, there has been a dramatic increase in the activities of domestic hate groups. Some of these activities have resulted in attacks targeting the American Muslim community. To make matters worse, some leaders, as Senator Durbin pointed out, have sought to sow fear and divisiveness against American Muslims. Fanning the flames of hate against those with different faith traditions runs contrary to our American values. Remember, our Nation was founded in large part on the importance of religious freedom.

I welcome the renewed focus by some on our fundamental charter, the Constitution of the United States. But I would remind everybody the Constitution is not a menu with options to choose based on the political whims of the moment. Instead, it is a Constitution that sets forth freedoms and protections for all of us.

The First Amendment in our Bill of Rights is one of the most defining principles of our national character. It preserves all our other rights. By guaranteeing a free press and the free exercise of religion, it ensures an informed electorate and the freedom to worship God as we choose—or not to worship as we choose. Our choice. It guarantees diversity. If you guarantee diversity and protect the idea of diversity, you guarantee democracy.

Now, throughout the history of the world, religious minorities have been persecuted and maligned. There is a long list of religions

whose members have been systematically denied freedom and categorically stigmatized, even exterminated. We must never forget this when we consider religious freedom and religious minorities in this country.

All Americans deserve civil rights protections and the freedoms provided in the Constitution. That does not end with the vital freedoms in the First Amendment. It continues to ensure due process and equal protection. It is bolstered by important civil rights laws that we have passed to guarantee there not be discrimination against religion.

Members of the Committee worked with the late Senator Ted Kennedy and myself over the past several decades to ensure this fundamental freedom. We worked together to pass the Religious Freedom Restoration Act and the Religious Land Use and Institutionalized Persons Act. It has long been a bipartisan issue in the Senate, but more important than being a bipartisan issue, religious freedom, it has been a consistent American value. And that is what really counts the most. American Muslims, like all Americans, must be protected by the rule of law that upholds these constitutional and statutory protections.

We passed the Matthew Shepard Hate Crimes Prevention Act to strengthen the civil rights of all Americans. We responded to law enforcement concerns about the difficulty of bringing criminal prosecutors against those who target their victims because of their religion or ethnicity, their race, their gender, and so on.

Last year, in the run-up to the national elections, the rhetoric became even more heated and threatening. There were threats of Koran burnings, and some have even asserted that Muslim Americans are not entitled to the protection of the First Amendment. That comment should shock and offend anyone who claims to love and respect the Constitution.

Others on the radical right have suggested that Islam, one of the oldest and widely practiced religions on earth, is somehow not a religion at all and so its followers should not have the protections of the First Amendment. That is nonsense, and I would hope that Americans will remember why our Founding Fathers established this great Nation when they hear this kind of divisive rhetoric.

I am glad to see the Assistant Attorney General for Civil Rights, Tom Perez, here; a former Assistant Attorney General for Civil Rights, Alex Acosta; and a former Judiciary Committee counsel, Farhana Khera, here for the hearing. But I am also pleased that one of the leading voices of the Catholic Church in America is here to testify. Cardinal McCarrick's testimony reminds us that we Catholics also had our loyalty to America questioned—not just in the earliest days of our Republic, but during the lifetimes of many of us.

My friend Dick Durbin referred to the Irish and the Italians and the Lithuanians. I knew exactly what he was saying. My Irish ancestors faced this when they first came even to Vermont, now one of the most tolerant States in the country. My father as a teenager faced signs that said “No Irish need apply,” or usually more directly, “No Catholics need apply.”

My Italian grandparents in a small town with an Italian community were seen as different. My mother and uncles and aunts, they

spoke a strange language where some who have heard some of the Vermont accents might think that is a strange language. But when they had Mass, the priest would have to come in the back door and the curtains had to be drawn, shades had to be drawn. Now, that would be inconceivable today.

Members of the Senate of other faiths also know from their own experience that religious and ethnic bigotry can be easy to ignite and very difficult to extinguish. I agree with Cardinal McCarrick that “religious freedom is destroyed by attacks on people ... because of their religion and by the terrible misuse of religion to incite hatred and even justify violence.” When divisive religious rhetoric is used for partisan advantage, it demeans the principles upon which this great Nation was founded.

So, Mr. Chairman, I thank you.

[The prepared statement of Chairman Patrick J. Leahy appears as a submission for the record.]

Chairman DURBIN. Thank you, Chairman Leahy. I appreciate that comment. I know that the Chairman takes great pride in his Irish-Italian heritage, and I have told him he is where the Gaelic meets the garlic.

[Laughter.]

Chairman DURBIN. We have a returning Member here. Senator Ben Cardin was a great Member of the Senate Judiciary Committee for many years and now has gone on to other things—I will not say better things, but other things. But he still continues as Co-Chair of the U.S. Helsinki Commission on Human Rights, and he has asked for an opportunity to give an opening statement and participate in this hearing. Senator Cardin.

**OPENING STATEMENT OF HON. BENJAMIN L. CARDIN,
A U.S. SENATOR FROM THE STATE OF MARYLAND**

Senator CARDIN. Well, Chairman Durbin and Senator Graham, thank you for allowing me to participate in this hearing. I appreciate that very much.

The right to freely profess and practice a faith or not practice a faith is a fundamental right in our country. After more than 200 years, our First Amendment, which states that Congress shall make no laws respecting an establishment of a religion or prohibiting the free exercise thereof, continues to be the envy of people around the world. Even before the First Amendment was ratified, the Constitution contained a very important provision in Article VI, Section 3, that requires all Federal and State officials to swear an oath or affirmation to support the Constitution that provides that no religious test shall ever be required as a qualification to any office or public trust under the United States.

In my own State of Maryland, only Christians could have full participation in public life until the Maryland General Assembly acted in 1825 to pass the so-called Jew bill. I think my ancestors would have been proud to see me elected to the Maryland House of Delegates, the House of Representatives, and now the United States Senate. Among other reasons, my grandparents also came to this country in search of greater religious freedom and tolerance. Yet today, notwithstanding the protections in our Constitution and laws, I am very concerned that we are witnessing the demonization

of a particular religion. For the last decade, Muslim Americans have been the target of a growing wave of anti-Muslim bigotry. It is our obligation to talk about this growing problem and what steps the Government can take to reverse this trend and protect the civil rights of Muslims and all Americans.

In the 111th Congress, we took an important step forward to protect civil rights, and that was the enactment of the Matthew Shepard and James Byrd, Jr. Prevention Act of 2009. This legislation gives the Justice Department new tools to combat hate crimes around the country and strengthens the ability of DOJ to pursue these hate crimes, including hate crimes based on religion.

The Justice Department has indeed stepped up its enforcement to combat hate crimes and discrimination against Muslim Americans. I applaud these actions whether in the criminal law enforcement or aggressive enforcement of our Civil Rights Act, and I do note our first witness, Tom Perez, has been a real leader in that regard.

In 1975, the United States joined all the countries of Europe and established the Conference on Security and Cooperation in Europe, now known as the OSCE. The United States Congress created the U.S. Helsinki Commission to monitor the U.S. participation and compliance with these commitments. I am the Senate Chair of the U.S. Helsinki Commission. In that capacity, I have raised religious and human rights issues in other countries, such as France when in the name of national security the parliament banned burqas or the wearing of other religious articles or when the Swiss restricted the building of mosques or minarets. These policies restricted not only the religious practices of Muslims but also Christians and Jews.

I have also raised human rights issues in the United States when we are out of compliance with our Helsinki commitments. The United States, as a signatory of the 1975 Helsinki Final Act, has accepted a body of international commitments related to the rights of ethnic and religious minorities. In the OSCE context, the United States has pledged to promote a climate of mutual respect, understanding, cooperation, and solidarity among all persons living in its territory without distinction to its ethnic or national origin on religion, and will encourage the solution of problems through dialogue.

The United States has played a leadership role with the OSCE, including the OSCE Parliamentary Assembly, to focus on various aspects of intolerance and discrimination, including against Muslims. The Helsinki Commission has been in the forefront of many related initiatives. During the 111th Congress, I chaired a Commission hearing in which we heard from special representatives from the OSCE, specifically to monitor and report on discrimination. Among those testifying was the OSCE Personal Representative on Combating Intolerance and Discrimination Against Muslims.

The Senate is taking another important step in complying with our OSCE commitments by holding this hearing. We need to encourage the Muslim community in the United States and to engage with them, and I applaud the Chairman for holding this hearing.

We cannot allow individuals or groups to pit Americans against another based on our religious beliefs. This only weakens our coun-

try and its freedoms. Let us hold dear the protections in our Constitution that safeguard the individual rights to freely practice their religion. Our country's strength lies in its diversity and our ability to have strongly held beliefs and differences of opinion while being able to speak freely and not fear reprisals for holding a religious belief that is not shared by the majority of Americans. We need to stand up against intolerance and injustice. Let us come together as a Nation and move forward in a more constructive and hopeful manner.

Chairman DURBIN. Senator Cardin, thank you. It is great to have you back on this panel.

Senator Kyl.

**OPENING STATEMENT OF HON. JON KYL,
A U.S. SENATOR FROM THE STATE OF ARIZONA**

Senator KYL. Thank you, Mr. Chairman, and thank you for holding a hearing where you could entice Cardinal McCarrick to come back and visit with us. We will appreciate hearing from him.

If this hearing reaffirms the need for all Americans to respect each other's faith, then I am sure we can all agree. But if it is part of a narrative that says it is improper to point out the obvious, that too many young Muslims are being radicalized to join jihad and everyone should stand against that, then count me out. The only way to stop terrorists is to recognize where they are coming from. Political correctness cannot stand in the way of identifying those who would do us harm. Nor can we ignore the First Amendment protections.

I am a bit perplexed by the focus of today's hearing. If we are concerned about the most egregious religious hate crimes, then I wonder why we are not talking about crimes against Jews and Christians. According to the last year for which statistics are available from the Department of Justice regarding hate crimes based on religious bias, 71.9 percent were victims because of an offender's anti-Jewish bias—almost 72 percent—8.4 because of anti-Islamic bias, about 6.4 because of anti-Christian bias. So I wonder where our priorities are here.

And how about the persecution in some Muslim countries today? How about the persecution of some in Muslim communities who are former Muslims who have converted to another faith or no faith at all?

The point here is all bigotry is to be condemned, but we are only credible if we are principled in our condemnation. Selective indignation is not helpful.

Thank you, Mr. Chairman.

Chairman DURBIN. Thank you, Senator Kyl.

I would like to ask consent to enter into the record the two-page list of hearings that have been held in both the House and the Senate relating to discrimination against specific religious groups, including Jews and Christians, and note that this is the first hearing relating to any discrimination against those of the Muslim religion. I think it is obvious that we condemn prejudice and bigotry against all religious groups.

Senator Blumenthal, do you have a statement?

**OPENING STATEMENT OF HON. RICHARD BLUMENTHAL,
A U.S. SENATOR FROM THE STATE OF CONNECTICUT**

Senator BLUMENTHAL. I would just like to thank you, Senator Durbin, and also Senator Graham, for conducting this hearing, which I think is by no means, as I understand it, intended to exhaust the subject, going to the point that Senator Kyl very appropriately makes. But I think that it really is designed to raise awareness and show our own commitment to fighting bigotry, hatred, prejudice, intolerance wherever it may exist.

The United States right now is involved in a war against terror. In this very building, two floors below us, there is an ongoing hearing that springs from the war against terror before the Armed Services Committee. In that hearing, there is discussion about the service and sacrifice made by men and women wearing the uniform in places around the globe that we can barely pronounce. They are there to defend those values of freedom and democracy that really we celebrate today by having this hearing and recognizing the threats to our own freedom and democracy when we fail to defend it here at home.

As intolerable as injustice and intolerance are in this country, as dangerous as intolerance and injustice, is indifference, when we are indifferent to hatred and bigotry against anyone based on religion or the content of what people say. And I believe that we are here today so that we can help protect those values at home that are threatened by terrorists abroad and can make sure that every individual is protected in his or her exercise of religion and speech.

Thank you, Mr. Chairman.

Chairman DURBIN. Thank you, Senator Blumenthal.

At this point I would like to turn to our first witness. Thomas Perez is the Assistant Attorney General for the Civil Rights Division in the Justice Department. And if you will please standing first and raise your right hand. Do you affirm that the testimony you are about to give before this Committee will be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. PEREZ. I do.

Chairman DURBIN. Let the record reflect that the witness has answered in the affirmative.

Mr. Perez, thank you for being here. Please proceed with your opening statement, and we will have some follow-up questions.

STATEMENT OF HON. THOMAS E. PEREZ, ASSISTANT ATTORNEY GENERAL, CIVIL RIGHTS DIVISION, U.S. DEPARTMENT OF JUSTICE, WASHINGTON, DC

Mr. PEREZ. Thank you, Chairman Durbin, Ranking Member Graham, and Members of the Subcommittee. My name is Tom Perez. It is an honor to be back in front of this Committee. I know my former boss, Senator Kennedy, is here in spirit today, and it is a real honor to be here to talk about this critical issue with, among others, my home-State Senator, Senator Cardin.

Within hours of the 9/11 terrorist attacks, Muslim Americans, Arab Americans, Sikh Americans, and South Asian Americans nationwide were confronted with a powerful backlash. There was a surge of violence targeting these groups, including threats, assaults, arson, and murder. Two days after the attacks, an indi-

vidual attempted to set fire to cars in the parking lot of a mosque in Seattle and shouted at worshipers fleeing the mosque. On the same day, an individual set fire to a Pakistani-American restaurant in Utah. The first person killed in post-9/11 violence, Balbir Singh Sodhi, was a Sikh, shot while pumping gas at his service station in Arizona 4 days after 9/11. In the 3½ months following the attacks, more than 300 Federal criminal investigations were initiated.

There was also an increase in other instances of discrimination. On the afternoon of 9/11, a hotel in Iowa canceled the reservation that an Arab-American group had made to host a convention.

The Federal Government, under President Bush's leadership, responded forcefully. The Civil Rights Division's Criminal Section created a task force to address hate crimes. Then the civil litigating sections ramped up their work to combat other forms of discrimination.

Our predecessors built a solid foundation. Over the last 2 years, we have worked to build upon that foundation and expand our efforts to engage with the communities to ensure that we are fulfilling our responsibility to protect their civil rights.

One of my predecessors, who is here today, Alex Acosta, was the leader in the administration's response to the 9/11 backlash incidents. Among other things, Dean Acosta established a new position of Special Counsel for Religious Discrimination, and he selected Eric Treene, who remains with me and who is one of my most trusted members of my staff on these issues, along with Mazen Basrawi. We have continued to host regular interagency meetings with representatives of the Arab-American, Muslim, Sikh, and South Asian civic organizations so that we can learn more and do the best job possible.

We have also made it a priority to expand our outreach. In my travels across the country, I have met with leaders from the various communities, not just in Dearborn and L.A. or Chicago, but also I have met the Somali community in the Twin Cities, Muslim leaders in New Haven, Roanoke, Murfreesboro, Tennessee, and elsewhere. These meetings allow us not only to learn about civil rights violations where they are occurring, but also to build bridges to the community, to build trust and understanding.

Regrettably, while nearly a decade has passed since 9/11, we continue to see a steady stream of violence and discrimination targeting Muslim, Arab, Sikh, and South Asian communities. In each city and town where I have met with leaders, I have been struck by the sense of fear that pervades their life, fear of violence, bigotry, hate, discrimination. This headwind of intolerance manifests itself in many different ways.

Last month, we secured a guilty plea from the 50th defendant charged in a Federal criminal case of post-9/11 backlash violence. Last year, three men were sentenced for vandalizing and fire-bombing a mosque in Columbia, Tennessee.

In my outreach, I consistently hear complaints that children face harassment in schools, that they are called "terrorists" and told to go home, even though this is their home. America is indeed where they were born.

We have a regrettably robust docket of cases in the school systems involving harassment of Muslim, Arab, Sikh, and South Asian students. In fact, these sorts of harassment cases are the largest category of religious discrimination cases that our Education Section handles.

We continue to follow the leadership in Republican and Democratic administrations, the bipartisan leadership to combat religious intolerance in the workplace. We have a number of cases involving individuals facing discrimination at work, with the EEOC reporting a 150-percent increase in complaints of discrimination against Muslims since 9/11. Many cases involve blatant, intentional discrimination such as an EEOC case filed during the Bush administration on behalf of two Iranian Muslim employees of a car dealership who were repeatedly harassed by management, called unspeakable words: “terrorist,” “camel jockey,” and other epithets. Similar cases have been brought during the Obama administration.

We also continue the bipartisan tradition of pursuing religious accommodation cases. We recently filed a case on behalf of a Muslim teacher in Illinois who was forbidden to take an unpaid leave for a pilgrimage to Mecca, a requirement of her faith. This case is very similar to the one filed by the EEOC in the Bush administration against a Tennessee hospital that refused to grant a Muslim medical technician a 3-week leave of absence for the pilgrimage.

No person should have to choose between their faith and their work, and Republican and Democratic administrations alike have fought hard to vindicate this principle.

We continue to work hard to enforce RLUIPA. We celebrated the 10-year anniversary of the 24 matters opened by the Civil Rights Division since 9/11 that involve mosques; 14 have been opened in the last 10 months.

Last year, we filed a brief in a State court case involving a proposed mosque—the construction of a community center that included a mosque, and there were neighbors who challenged that and argued that Islam is not a religion and, therefore, the county was wrong to treat the mosque in the same way it would treat a church.

Our brief argued one and really only one thing: Islam is a religion. And we had to file that brief, and the court agreed and dismissed the case.

These issues are and will continue to be nonpartisan.

I applaud again, as I mentioned earlier, the efforts of my friend Alex Acosta on religious freedom. Our efforts are indeed, as you have all noted, a reflection of our values as a society. As a Nation, we believe strongly and unequivocally in religious freedom, and this belief is embodied in the laws that we enforce.

The headwinds of intolerance that so many of the communities we are here to discuss today are facing, as you have all pointed out, are not different from the bigotry confronted by groups throughout our Nation’s history. The good news is that with each wave of intolerance, our Nation has indeed responded, passing new civil rights laws, striking down old laws that sanction discrimination, and eventually recognizing the value of diverse communities and embracing those previously shunned.

Today we are simply using the longstanding tools in our arsenal to address an emerging challenge that threatens the freedom of individuals who want nothing more than for their families to be accepted in their communities, to live their lives, practice their faith, and realize the American dream.

We will continue to use every available tool in our law enforcement arsenal to transform this headwind of intolerance into a tailwind of inclusion and opportunity.

Thank you for the opportunity to participate, and I look forward to answering any questions you may have, Mr. Chairman.

[The prepared statement of Hon. Thomas E. Perez appears as a submission for the record.]

Chairman DURBIN. Thank you, Mr. Perez.

Yesterday, the Chairman of the House Homeland Security Committee criticized this hearing, and he said, "It reinforces the false premise that Muslims are having their civil rights violated."

Your testimony, of course, reflects the reality of discrimination facing Muslim Americans today. I would like to look at the Justice Department's own statistics. Muslims comprise less than 1 percent of the American population, but 14 percent of the Department of Justice's cases of discrimination against religious institutions involve Muslims.

Mr. Perez, according to your testimony, over 50 percent of the Department of Justice's mosque cases have been open since May 2010. You testified you believe that reflected an increase in anti-Muslim sentiment. Can you elaborate?

Mr. PEREZ. I have had the privilege in this job of traveling to probably half the U.S. Attorney's Offices across the country, and as part of our visits to make sure that we are aggressively enforcing civil rights laws and listening, we are, Mr. Chairman, listening and learning, as I did in Chicago, from various stakeholders in the Muslim, Sikh, Arab, and South Asian communities. And it really tears my heart out to listen to the stories.

I will never forget my trip to Tennessee where an imam talked about how his son does not want to go to school because he is so scared that every day they were telling him, "Go home, you terrorist," and this is his home. And we see that across the country, not simply in my own anecdotes but in our work across a wide array of areas—employment, the criminal context, the religious zoning context, and the education context.

Chairman DURBIN. So let us speak to employment discrimination for a moment. According to data from the Equal Employment Opportunity Commission, Muslims account for approximately 25 percent of religious discrimination cases, although, as I mentioned earlier, comprise less than 1 percent of the American population. Mary Jo O'Neill of the EEOC said, and I quote, "There is a level of hatred and animosity that is shocking. I have been doing this for 31 years, and I have never seen such antipathy toward Muslim workers."

Another example: The EEOC filed suit against a meat-packing company, Swift, alleging discrimination against 160 Somali Muslim employees. Among other things, the suit said that, "Managers, supervisors, and other employees regularly throw blood, meat, and bones at the Somali and Muslim employees."

So I would ask you: In the area of employment discrimination, this notion that was expounded by someone in the other body of lack of evidence of discrimination against Muslims, have you found in employment discrimination similar cases?

Mr. PEREZ. We have, and, again, these cases did not start simply in 2009. These cases—and, again, I want to applaud the Bush administration for aggressively pursuing these cases in the post-9/11 universe. A 150-percent increase post-9/11 is a rather eye-popping figure.

Chairman DURBIN. Can I ask you, I would like to—I want to give everybody a chance, and there are quite a few Members here today, which I am honored that that is the case. But in her testimony, Farhana Khera, who is going to follow in the next panel, recommends that the Civil Rights Division create a centralized hotline to receive, refer, and track all civil rights complaints, not just those related to Muslim Americans. She argues that the current decentralized system is confusing for victims who want to contact the Civil Rights Division. She also notes that the lack of a centralized hotline makes it difficult to track and collect data on civil rights complaints, like a breakdown of complaints by race, national origin, and religion.

So, for example, we do not know how many American Jews, Christians, or Muslims have filed complaints with the Civil Rights Division and how many have led to prosecution.

What is your reaction to this suggestion? Does the Division currently have a mechanism for tracking complaints by race, national origin, and religion?

Mr. PEREZ. Yes. We have had this discussion, and I appreciated the suggestion when it was brought to our attention a number of months ago. We now actually have an 800 number for addressing these issues. But the 800 number is not the only portal, and we wanted to make sure that people could file complaints in whatever mechanism was most comfortable. If you are working or living in Phoenix, for instance, you may have a relationship with your local U.S. Attorney's Office, and we did not want to preclude that.

And so the collaboration and coordination that we have done with U.S. Attorney's Offices to make sure we are speaking with one voice is a critically important part of our efforts to make sure that we are tracking these.

As it relates to your question about data collection, as you know, under the Hate Crime Statistics Act reporting is voluntary, and there are many communities where there is no reporting at all. And so while those statistics under the Hate Crime Statistics Act are useful, I think everyone agrees that they understate the amount of violence that we are seeing across the country because of the voluntary nature of the reporting. That is the law, and as a result of that, those are the weaknesses in that data.

Chairman DURBIN. I hate to pre-empt Ms. Khera's testimony by bringing up another point she is going to raise, but since you are here, I am looking for a reaction. She noted that under Title VI of the Civil Rights Act of 1964, which prohibits discrimination by federally funded entities, it covers discrimination on the basis of race or national origin, but not religious discrimination. So discriminating against a person of the Jewish faith, Muslim, Sikh, a stu-

dent perhaps, because of their religion is not prohibited under Title VI. I would note that our former colleague, Senator Specter, who once chaired this Committee, introduced legislation in the last Congress to expand Title VI to cover religious discrimination.

What is your opinion of this loophole in the law? And does it make it more difficult to protect children from discrimination in school?

Mr. PEREZ. Well, we have a number of tools to attack religious discrimination. We have RLUIPA in the zoning context. We have Title II of the Civil Rights Act, which is the public accommodations provisions which have a religious reference. Title IV is the education context, so we do have tools there. Title VII is obviously employment. The Equal Credit Opportunity Act gives us that opportunity there, as well as the Fair Housing Act. And, in addition, until Title VI, although Title VI does not have the word "religion" in it, discrimination against Jews, Arab Muslims, Sikhs, and other members of religious groups can violate the statute if it is based on their actual or perceived shared ancestry or ethnic characteristics rather than their religious practices. And that would be a very fact-specific determination.

Chairman DURBIN. Why wouldn't we want to clarify that? I do not understand why we are stopping short of making it clear that religious discrimination is included. Do you see a policy reason why we should not?

Mr. PEREZ. Well, again, in certain circumstances, Title VI can apply in these situations, and I am happy to have further conversation with you to explain how it can apply in these situations.

Chairman DURBIN. Thanks.

Senator Graham.

Senator GRAHAM. Thank you, Mr. Perez, for your service to the country.

Mr. PEREZ. Good morning, sir.

Senator GRAHAM. I guess my opinion about such matters is that one case is too many.

Mr. PEREZ. I agree.

Senator GRAHAM. Anytime you have an example in America where somebody is being abused because of their faith, I think all of us should join in and push back, as the Bush administration did, as you are doing. So that is my baseline here. I do not know what the numbers are, but, you know, one for me is too many.

To those who have freedom of speech, it is a gift given to you by a lot of people risking their own lives. So when you say things here at home and you do things here at home that create tension based on religious differences, particularly when it is the Muslim community involved, you are putting our soldiers at risk. We have soldiers all over the world of a variety of religions fighting in the name of America, trying to help moderate Muslims defeat radical Islam. And my view is that there are plenty of moderate Muslims out there who need our help and we should be helping because, you know, it is better to fight this war over there than it is here. But at the end of the day, we are all in this together.

So let us talk about the school case in Berkeley, Illinois. It is fascinating. You gave some examples of conduct that I think almost every American would find offensive, and I am sorry that the child

is having a bad experience at school, and we should all speak out against that, because there are plenty of Muslims wearing our uniform and we need to understand that, again, we are all in this together. But the Obama administration I think made a curious decision.

As I understand the fact pattern in Berkeley, Illinois, you had a math teacher—was it Ms. Khan? Is that her name?

Mr. PEREZ. Yes, sir.

Senator GRAHAM. Okay. Who basically wanted to go for a 3-week pilgrimage to participate in the Hajj. Is that correct?

Mr. PEREZ. Yes, Senator.

Senator GRAHAM. And she was the only math lab instructor in that school district, and it was during the school year, and the school district said, “We do not want you to take 3 weeks off because we need you to finish out the school year.”

As I understand civil rights law, it requires the employer to reasonably accommodate the worker’s religious beliefs or practices as long as they do not impose more than a minimum burden on the employer’s operation. Common accommodations include permitting employees to wear religious headgear or arrange a voluntary shift swap with co-workers on the Sabbath.

Quite frankly, Mr. Perez, I think, as former Attorney General Mukasey said, that this is a stretch of the concept. Can she go on the Hajj during the summer? Is there any requirement that she go during the 3 weeks that she chose in the middle of the school year?

Mr. PEREZ. Senator, the law says that an employer has an obligation to reasonably accommodate—

Senator GRAHAM. But my question is: Could the lady in question have met her religious obligations by going in the summer when school was out of session?

Mr. PEREZ. No, sir.

Senator GRAHAM. She could not have?

Mr. PEREZ. No.

Senator GRAHAM. Why?

Mr. PEREZ. Well, I cannot get into the specific facts of the case other than—

Senator GRAHAM. I am no authority on the Hajj, but, I mean, is it just these 3 weeks in this one year that this lady could go?

Mr. PEREZ. The Hajj, as I understand it, sir, is based on a lunar calendar, and the Hajj in this particular year was during this 3-week period. This case—

Senator GRAHAM. No, that is not my question. Put yourself in the school district’s position. If you were a Christian and said, “I want to go to Rome for 3 weeks,” or “I want to go to Jerusalem for 3 weeks in the middle of the school year,” I would say no. You know, I am a Christian. I do not believe there is anything in my faith that says that I get 3 weeks off to observe Easter in any particular year.

My point is that it is my understanding that she could have met her religious obligations without creating this burden of being the only math lab instructor in the school district, and I think that is going too far, quite frankly. And the fact that you took this case up is going to do more damage than good. That is just my 2 cents’ worth about it.

But my question is simple. Is this the only 3 weeks in her life where she could do this?

Mr. PEREZ. Well, Senator, I cannot get into the specific facts of this particular case, but what I can tell you is—

Senator GRAHAM. Would you get back with me about the answer to my question? I know you may not be an expert on when you take a pilgrimage. But my point is I do not think so. I think she could have accommodated her religious beliefs without leaving the school district in the lurch. And it is nothing about her religion. I would say that about any religion. And I just think you are doing more harm than good on that front.

Now, the cases you have described, I stand with you. You fight back. You push back. You bring these cases to court where people are being, you know, mistreated and abused. But my 2 cents' worth, this is the wrong case to have taken up.

Mr. PEREZ. Well, Senator, I just want to point out, because I know you want to make sure the record is complete, this is strikingly similar to a case brought by the Bush administration in 2007 where an individual requested a 3-week leave of absence for a pilgrimage to Mecca, and that, again, the employer—

Senator GRAHAM. Well, they were wrong, too.

Mr. PEREZ. Well, again—

Senator GRAHAM. You know, is it okay to—

Mr. PEREZ [continuing]. I will—

Senator GRAHAM [continuing]. Disagree with the Bush administration?

Mr. PEREZ. Well, I want to make sure—

Senator GRAHAM. I hope so because a lot of people have been doing it lately.

[Laughter.]

Senator GRAHAM. So they were wrong, too. I am just saying this is a good case study of what is too far. I totally agree with you that the other cases you have described all of us should stand up against, someone having material thrown at them and, you know, a kid feeling like he cannot go to school, you know, taunting us. That is not American. But I just think the Obama administration has made a mistake here. If the Bush administration believed this was right, I do not.

One final question. I am running out of time here. Is radicalization of American Muslims on the rise?

Mr. PEREZ. Sir, I am a civil rights expert so it is hard for me to say that the—

Senator GRAHAM. Fair enough. I just want to make a record, and here is what Secretary Napolitano said: "We have seen an increased number of arrests here in the U.S. of individuals suspected of plotting terrorist attacks or supporting terror groups abroad, such as al Qaeda. Home-based terrorism is here, and like violent extremism abroad, it will be part of the threat picture that we must now confront."

She was absolutely right. So I want to do two things. I want to stand by you to make sure that the American Muslim community has the right to practice their religion free of bigotry and hate, because the First Amendment to me, Mr. Chairman, means one thing that is not subject to compromise. It means someone can practice

a religion I do not agree with. And if we ever give in to the fact that that is not true, then who is to say your religion is not next? So I am with you there. But I do understand the concerns that a lot of Americans have that what is going on in Europe is now coming to our shores. So I wish the Obama administration would be more forceful in their approach to fighting homegrown terrorism because I think that is a weakness. Not reading a terrorist suspect their Miranda rights when they have just been caught trying to blow up a van in Times Square is not productive. It is not helpful. So I wish the administration would look at the practice of insisting that Miranda rights be read to someone who just tried to attack America here at the homeland because we need to know what is coming next—not abuse anyone, not torture them, but not say you have a lawyer right after you tried to blow up a van or an airplane.

So I think the Obama administration, quite frankly, needs to change some of its policies when it comes to fighting terrorism here at home, and I will stand with you as you try to push back against legitimate cases of discrimination. But there are two sides to this story, Senator Kyl said, and I want to talk about both, not just one.

Thank you very much.

Chairman DURBIN. Thank you, Senator Graham.

Senator Leahy.

Chairman LEAHY. I do not have any questions. I would just note that the Obama administration has come out with new directives on the use of Miranda warnings which would make very clear if you have got somebody who looks like they have a bomb in Times Square, you can question them about the bomb and not have to stop because of a need for a Miranda warning. I only mention that because sometimes we hear this tossed around by commentators who are misstating what is the rule with the administration.

I would be interested in seeing your response to Senator Graham's question on the Hajj issue. I know that case is pending. I have read a great deal about it. We are talking about *U.S. v. Berkeley, Illinois*, I assume.

Mr. PEREZ. That is correct, Mr. Chairman.

Chairman LEAHY. I would be interested in seeing your response, and I have no questions, Mr. Chairman.

Mr. PEREZ. I will certainly provide you the response, and I am very proud of the work we are doing in that case.

[The information appears as a submission for the record.]

Chairman DURBIN. Thanks, Senator Leahy.

Senator Kyl.

Senator KYL. Thank you.

Mr. PEREZ. Good morning, Senator.

Senator KYL. Good morning, sir. One of the cases that has been brought to our attention is the case of Luqman Abdullah. It created kind of a firestorm of criticism about FBI tactics. It has been one of the examples to accuse law enforcement agencies of overstepping their bounds and unlawfully targeting the Muslim-American community.

I understand your office investigated the Abdullah case and determined that no criminal investigation was warranted. Is that correct?

Mr. PEREZ. We determined that no criminal prosecution was warranted.

Senator KYL. No prosecution was warranted.

Mr. PEREZ. Yes, that is correct, Senator.

Senator KYL. And I assume that your office has reviewed similar allegations of misconduct. Could you just generally characterize for the Committee here today your overall impression of our law enforcement agencies' procedures and tactics in these situations?

Mr. PEREZ. Well, again, our review in that particular case and our review generally is to ensure that in the course of carrying out their duties, there was not any violation of Federal law. In this particular case, it would be the law that says that anyone who is acting under color of law who willfully deprives someone of a right guaranteed by the Constitution—and in this case, it would be the right to be free from the intentional use of excessive force—that was what we were examining. And so our review focused—and it focuses generally, whether it is a Federal law enforcement agent or a State or local law enforcement agent, our review focuses on whether there is evidence of an intentional deprivation of a constitutional right. In that particular case, after a thorough review, we concluded that the case did not present—that the constitutional rights of the individual that you referenced were not violated.

Senator KYL. And now more than a decade after 9/11, do you have a general assessment, especially at the Federal level, of law enforcement procedures and tactics, as I said?

Mr. PEREZ. Procedures and tactics in what context?

Senator KYL. As they relate to situations like this case.

Mr. PEREZ. Well, we review a number of matters not simply involving Federal law enforcement.

Senator KYL. What I am trying to get at—there is no—I am just trying to get a general perception of how we are doing. Are we doing better? Are we doing worse?

Mr. PEREZ. We are working very closely with all of our Federal, State, and local law enforcement colleagues to ensure that we do the best possible job of enforcing the laws and ensuring protections of the Constitution. Those are not mutually exclusive. And I spend a lot of time, Senator, in New Orleans right now making sure that we are building a blueprint for sustainable reform so that we can reduce crime, we can ensure respect for the Constitution, and we can enjoy public confidence in law enforcement. Those are the real benchmarks for our work. And whether it is the Federal or the State or local law enforcement, those are the real benchmarks of, I think, success in our policing. And we certainly work with our colleagues in Federal law enforcement to—I have personally participated in trainings at the Border Patrol academies on police integrity issues and civil rights issues, and our colleagues in Federal law enforcement across the board actively welcome our participation in that because we recognize that, again, we must succeed in reducing crime and respecting the Constitution.

Senator KYL. Sure. I appreciate that. Last Friday, I attended a dinner of American Muslims who complained to me about being intimidated and even threatened by other Muslims because these folks believed in separation of mosque and state, and people who threatened and intimidated them—well, intimidated them because

of those particular beliefs. I am sure that your office would be just as willing to investigate and, where appropriate, prosecute those kinds of cases as in a situation where it is a non-Muslim doing the intimidating or threatening. Would that be accurate?

Mr. PEREZ. That is correct, sir. If we have credible allegations of a potential violation of Federal civil rights laws, we will investigate. In, I believe, the first prosecution under our new hate crimes law, we are, again, aggressively applying that new law that Senators Leahy and Durbin referenced before, and we will follow the facts and make an appropriate judgment of the application of the facts to the law.

Senator KYL. Thank you. One young woman specifically asked me why, after she had reported this—and I will not indicate which city it was in, but after reporting it to the police in the city, she said she got no satisfaction at all. And I did not have much of an answer. What I am going to do is get back to her and tell her of our conversation and see whether maybe communicating with the U.S. Attorney in Arizona, for example—that is one of the ways you suggested this could be done, that there could be some relief in cases like the ones she brought to my attention.

Mr. PEREZ. I am happy to answer any questions that you might have or that your constituent might have.

Senator KYL. Thank you very much. I appreciate it.

Chairman DURBIN. Senator Blumenthal.

Senator BLUMENTHAL. Thank you, Mr. Chairman, and thank you, Mr. Perez, for your very dedicated and distinguished work and the work of the Department of Justice in this area.

Mr. PEREZ. Thank you.

Senator BLUMENTHAL. I want to go back to the question that Senator Durbin was pursuing. Should the laws be strengthened, Federal laws be enhanced in this area to provide more effective tools for Federal enforcement? And if so, in what areas?

Mr. PEREZ. I feel like we have an ample number of tools right now, and we are using them in a very robust fashion. The biggest challenge is always to make sure you have the budget to carry out the laws, and I really appreciated the leadership of the President and the Senate and the House in enabling us to get additional resources in the fiscal year 2010 budget, because with those additional resources, that was the largest infusion of resources in our Division's history. We were able to expand the work in this and other critical areas so that we could, again, do the work in the RLUIPA context because we do see this headwind of intolerance rearing its ugly head in the zoning context. We had a case in suburban Chicago, for instance.

The education setting, that is one of the two or three most frequently heard comments I get when I do outreach, is about bullying in schools. If you are in a learning environment where you cannot learn for whatever reason—and in this particular case, because you are Muslim or Arab or Sikh or South Asian, and you are being told to go home, and this is your home—that is an emerging growth area for us that we must address.

So for me, I guess my biggest wish list is to make sure that we continue to have the resources to enforce these laws.

Senator BLUMENTHAL. Your challenge is primarily in the area of enforcement, not so much the substantive authority that you would see the Congress improving.

Mr. PEREZ. We feel at the moment like we have a large number of tools to do the work we need to do. We are always willing to listen and work with you on—

Senator BLUMENTHAL. Well, let me ask you, then: Wouldn't it make sense to engage or involve the States and local governments more actively in this effort?

Mr. PEREZ. That is an excellent question, and we have a very active program of engagement. For instance, our Community Relations Service has provided training to over 750 law enforcement agencies across the country on precisely these issues of Muslim, Sikh, Arab, South Asian engagement. After the passage of the Matthew Shepard and James Byrd, Jr. Act, we used that new hate crimes law as an opportunity to engage State and local enforcement. And so we have trained literally thousands of officers across the country.

Law enforcement and civil rights enforcement is a joint venture between Federal, State, and local law enforcement, and I completely agree—

Senator BLUMENTHAL. And I know that many States like Connecticut have laws that specifically prohibit crimes based on—

Mr. PEREZ. Correct, and I had the privilege of spending a day in your—

Senator BLUMENTHAL. In New Haven.

Mr. PEREZ [continuing]. In New Haven, a week or two ago, and we had a wonderful conference with the U.S. Attorney, Mr. Fein, and we had a lot of State and local officials there, where we sent a very strong message to the residents of Connecticut that civil rights is indeed this joint venture among Federal, State, and local partners. And so your point is very well taken.

Senator BLUMENTHAL. And I am wondering if you have some guidance that we can take back to our States, to our enforcers at the State and local level as to how they can be more active partners in this effort.

Mr. PEREZ. Communication is key, and we have set up a number of critical coalitions. I was in Detroit recently, for instance, with the U.S. Attorney, and she has a very wide-ranging coalition of community people, Federal, local, State authorities who come together on a monthly basis to discuss issues. And sometimes those meetings can be tense, but they have built trust through that coalition, and when you have that trust established, then when an incident occurs that tests that trust, you at least have that reservoir that you can build from. If you wait until the train wreck to come together for the first time, you are seldom going to be able to forge the necessary consensus.

So that coalition building that we have spent a lot of time doing has really borne fruit for us and I think for the communities as well.

Senator BLUMENTHAL. Is there a written protocol or procedure that you follow in determining whether the enforcement of a hate crime prosecution—and it is a criminal matter that obviously is a violation of State law, it could be prosecuted by State authorities.

Mr. PEREZ. Correct.

Senator BLUMENTHAL. Or by Federal law, and that issue frequently arises as to State, Federal, choices of jurisdiction or venue. But in the civil rights area, do you have one that applies in the hate crimes or bigotry and bias—

Mr. PEREZ. Yes. I spent the better part of a decade as a career prosecutor, a Federal prosecutor doing hate crimes cases, and the short answer is yes, we do have protocols in the U.S. Attorney manual. The most important protocol, though, that we have followed and we will continue to follow is what is in the best interest of the case. And I have personally been involved in a number of hate crimes cases where we have worked them up, and then it was in the best interest of the case for the State to take it.

The murder of the Sikh American in the aftermath of 9/11, that was a State prosecution. The Federal Government did not prosecute that case. It was in the best interest of the case for the State of Arizona to take on that prosecution.

I did a hate crime case in Lubbock, Texas, involving South Bay Nazi Youth, neo-Nazi white supremacists who started a race war targeted at African Americans in this case. In that particular case, the DA came to us and said, "I really want you to take the case." He had just been elected. He was just building his staff. And we deputized one of his people as a special AUSA, and that enabled us to secure the conviction of the three defendants in that case.

So there are U.S. Attorney guidelines, but I think the most important guideline will always be what is in the best interest of the case.

Senator BLUMENTHAL. Thank you very much.

Chairman DURBIN. Thanks, Senator Blumenthal.

Mr. Perez, I have two questions I would like to ask. One is brief. The staff research memo on the issue raised by Senator Graham relative to the teacher asking for 3 weeks for a visit to Mecca for the Hajj, I do not know why Illinois keeps popping up in all these cases, but it turns out that there are other cases that have been considered. In one, *United States v. the Board of Trustees of Southern Illinois University* in 1995, it was about the employer's failure to accommodate an employee who requested leave to attend an 8-day religious festival, the Worldwide Church of God's Feast of Tabernacles, and I see that there have been other cases involving that particular Christian religion and this 8-day leave, 14-day leave that has been requested.

I also find cases here involving discrimination against those who have asked to be spared being scheduled on the Sabbath.

Mr. PEREZ. Correct.

Chairman DURBIN. So there are cases involving Jews, Christians, and in this case Muslims. Am I not correct—and I hope my staff is correct; I believe they are—that these cases are very fact specific with regard to evaluating the impact on the employee's religion and the hardship on the employer, so it really is a fact case to be determined as to whether—

Mr. PEREZ. That is absolutely—

Chairman DURBIN [continuing]. A 3-week absence or an 8-day absence causes a hardship in either or both directions?

Mr. PEREZ. That is absolutely correct, and it is important to note that it is the employer that has the burden of demonstrating—of providing the reasonable accommodation or demonstrating the undue hardship. And there are a long line of cases dating back literally decades. Some were brought by the United States, either the EEOC or DOJ. Some were private cases. They relate to Christian denominations, Seventh-day Adventists, cases involving accommodation 1 day a week of people who are working the Sabbath. So if you work in that particular facility and you do not observe the Sabbath, you are going to work more Saturdays and more Fridays than that person. And, again, that was upheld in the jurisprudence.

I am very proud of the work we are doing in this case, and, again, it is part of a long line of cases brought by Republican and Democratic administrations alike.

Chairman DURBIN. So let me move into one area we have not touched on that I think is timely and controversial and perhaps is still being debated within the administration. A number of States around the country are considering laws prohibiting the use of Islamic religious law, also known as Sharia. For example, Oklahoma adopted a ballot initiative prohibiting courts from using international law or Sharia.

We are all familiar with the way Sharia is interpreted in Iran and Saudi Arabia. Hardly a day goes by that there is not a report in the press of some abuse of this Sharia law by Western standards. But for American Muslims Sharia includes rules dealing with personal matters, like prayer, fasting, marriage, and inheritance. So there is a fear among some Muslim Americans that a strict ban on Sharia would, in fact, inhibit their freedom of religion.

An American Muslim in Oklahoma challenged the anti-Sharia ballot initiative on First Amendment grounds, arguing that the law would prevent courts from carrying out his will, which was drafted in accordance with Islamic law. A Federal court agreed and has enjoined the Oklahoma ballot initiative.

Is the Civil Rights Division, which you represent, monitoring anti-Sharia laws like the one in Oklahoma to determine if, in fact, they do violate the civil rights of American Muslims?

Mr. PEREZ. I am certainly aware of the Oklahoma matter, and I am aware of this conversation in other States. I certainly heard of this in my visit to Tennessee, for instance, where this issue was discussed and raised by one of the litigants in the local litigation where we filed our brief. And so we will continue to review these laws to see if there is a potential Federal civil rights violation, and, again, I am aware of Oklahoma and other settings.

Chairman DURBIN. So at this point there is no case pending or any opinion on your part as to—

Mr. PEREZ. We did not intervene, we have not filed a brief in the Oklahoma matter or any other matter where this issue may be raised.

Chairman DURBIN. Thank you.

Senator Kyl, do you have any other questions?

Senator KYL. No.

Chairman DURBIN. Okay, good. Mr. Perez, thank you for your time. We sure appreciate it.

Mr. PEREZ. Thank you for your time. Thank you for your courtesy.

Chairman DURBIN. I would like to invite the second panel to come up, if they would, please, and I am going to read their bios as they approach the table to save a few moments here, first thanking all of them for being here.

Our first witness who will testify is Farhana Khera, the president and executive director of Muslim Advocates. Prior to joining Muslim Advocates in 2005, Ms. Khera was counsel to the Senate Judiciary's Subcommittee on the Constitution, worked for 6 years with our colleague and friend, Senator Russ Feingold, when he chaired this very same Subcommittee. Prior to the Senate, Ms. Khera was an associate with the law firm of Hogan & Hartson and Ross, Dixon & Masback. Ms. Khera received her B.A. from Wellesley and her J.D. from Cornell Law School, and we are glad to have her back before the Committee. And before I administer to all three, I will just go through the biographies.

Our next witness is a dear friend and someone I respect so much, Cardinal Theodore McCarrick, the Archbishop Emeritus of Washington. Cardinal McCarrick is currently serving as a distinguished visiting scholar in the Kluge Center at the Library of Congress. He served as Archbishop of the Roman Catholic Archdiocese of Washington from 2001 to 2006. On February 21, 2001, 7 weeks after his installation as Archbishop, McCarrick was elevated to the College of Cardinals by Pope John Paul II. That may be a record. I do not know. I have to check in the Vatican Library.

As Archbishop of Washington, McCarrick served as chancellor of the Catholic University of America in Washington, DC, president of the Board of Trustees of the Basilica of the National Shrine of the Immaculate Conception. From 1986 until 2001, he served as the fourth Archbishop of Newark. In 1981, Pope John Paul II appointed him to be the first bishop—I am going to mispronounce this—Metuchen?

Cardinal MCCARRICK. Metuchen, but that is all right.

[Laughter.]

Chairman DURBIN. Metuchen, a newly established diocese in New Jersey. Cardinal McCarrick earned a bachelor's degree and a master's degree from St. Joseph's Seminary in Yonkers, New York. After he was ordained into the priesthood, he went on to earn a second master's degree in social science and a doctoral degree in sociology from the Catholic University of America. It is indeed an honor to have you with us today, and I am going to feel a little bit nervous administering an oath to a Cardinal.

Our next witness is R. Alexander Acosta, the dean of the College of Law at Florida International University. Did I pronounce that right?

Mr. ACOSTA. You did.

Chairman DURBIN. Good. Previously, Mr. Acosta was U.S. Attorney for the Southern District of Florida where, among other high-profile cases, he handled the prosecutions of Jack Abramoff for fraud, Jose Padilla for terrorism, and Charles Taylor, Jr., for torture. Prior to that, Mr. Acosta served as Assistant Attorney General of the Civil Rights Division where he led the Justice Department's efforts to combat the post-9/11 backlash against Arab and

Muslim Americans. Earlier, Mr. Acosta served on the National Labor Relations Board and worked at the law firm of Kirkland & Ellis. He received his B.A. from Harvard College and his law degree from Harvard Law School. He was a law clerk for Justice Samuel Alito, then a Third Circuit Court judge.

I would like to ask all three witnesses, if you do not mind, please stand, and I will follow the ordinary Committee procedure and administer the oath. Raise your right hand. Do you affirm that the testimony you are about to give before the Committee will be the truth, the whole truth, and nothing but the truth, so help you God?

Ms. KHERA. I do.

Cardinal MCCARRICK. I do.

Mr. ACOSTA. I do.

Chairman DURBIN. Thank you. Let the record reflect that all three witnesses have answered in the affirmative.

Ms. Khera, please proceed with your opening statement.

STATEMENT OF FARHANA KHERA, PRESIDENT AND EXECUTIVE DIRECTOR, MUSLIM ADVOCATES, SAN FRANCISCO, CALIFORNIA

Ms. KHERA. Good morning, Mr. Chairman, Members of the Subcommittee. On behalf of Muslim Advocates, thank you for the opportunity to testify on the civil rights of American Muslims today. And, Mr. Chairman and Senator Graham, I want to especially thank you for your leadership in holding this hearing and bringing much needed attention to rising anti-Muslim bigotry.

You know, we have been hearing from Americans from all faith backgrounds and all walks of life who recognize that it has really become a growing menace to the safety and, frankly, the social fabric of our Nation, so it is especially heartening to see bipartisan support on this issue.

I was born and raised in Painted Post, a small town in rural upstate New York. At the start of every school day, like school children across America, I stood and recited the Pledge of Allegiance. The last line of the pledge says that “we are one Nation, under God, indivisible, with liberty and justice for all.” There is no qualifier. It is just simply that we are one Nation with liberty and justice for all.

As this Subcommittee knows well, our Nation has a unique, long-cherished commitment to freedom, particularly religious freedom. In fact, Muslims have been a part of America for centuries, since the first slave ships arrived at its shores. Today American Muslims reflect every race and ethnicity that comprise our Nation’s rich heritage. That is why recent rhetoric demonizing Islam and Muslims—brutal attacks, harassment, and discrimination, and in some cases even threatening to kill Americans, including children, based on their faith—is so vile. It is not who we are as Americans, and it has no place in the schoolhouse, in the workplace, or in our communities.

Nearly 10 years after 9/11, hate crimes motivated by anti-Muslim bias targeting Muslim, Arab, Sikh, and South Asian Americans remain higher than levels before 9/11. Some are deadly.

Late last summer, a New York taxi driver was stabbed and almost died after a passenger asked him whether he was a Muslim.

Just earlier this year, two elderly Sikh men were gunned down while taking an afternoon stroll through their neighborhood in northern California, killing one and critically injuring the other.

Employment discrimination complaints are at an all-time high, with Muslim bias-based complaints comprising 25 percent—25 percent of complaints received by the EEOC from 2008 to 2009—while Muslims comprise only 1 to 2 percent of the entire population.

Opposition to mosque construction is also on the rise and getting uglier. And Muslim, Arab, Sikh, and South Asian parents are more concerned than ever about their children. In one especially egregious case, a Muslim high school student in Staten Island was subjected to a harrowing ordeal in which he was frequently labeled a “terrorist,” punched in the groin, and spat on by fellow teenagers. Sometimes his mother would catch him rocking back and forth saying, “Why me? What did I ever do to them?” One day he was beaten so severely that his mother took him to a doctor. There was blood in his urine, and he suffered from headaches and memory loss. His assailants were later arrested and charged with a hate crime.

This is just one vile example of how anti-Muslim bigotry is playing out ferociously across America today. Parents worry: Will my child be next? And they worry about the future. Will America be hospitable to minority faiths? Will its better angels prevail? Or will the values of freedom and respect become a relic of the past?

Anti-Muslim bigotry has been simmering and growing since the tragic events of September 11th—a terrorist attack that was an attack on all Americans, Muslims included. But in the last several months, anti-Muslim rhetoric has reached a disturbing new level. Prominent religious, military, and even political leaders have joined the fray, feeding fear and hysteria, with some going so far as to say Islam is a cult, not a religion.

Now, one just might want to dismiss such statements as silly and absurd if not for the fact that the vitriol has real life-and-death consequences for Muslim, Arab, Sikh, and South Asian Americans and their families. The message is clear: You are not welcome. Words that were graffitied last year on a sign for a mosque in Murfreesboro, Tennessee.

But what gives me hope, Mr. Chairman, is knowing that more and more Americans from all walks of life are coming together to reject fear and divisiveness because they recognize that it is not American. As former Secretary of State Colin Powell poignantly said, “Is there something wrong with being a Muslim in this country? The answer is no, that is not America.”

I commend the stepped-up enforcement of the Nation’s civil rights laws under the Attorney General’s leadership, but challenges remain and more must be done. I refer the Subcommittee to my written testimony for specific recommendations of steps Congress and the administration should take and ask that my full written testimony be entered for the record. I would be happy to discuss those recommendations later in the hearing.

Thank you.

[The prepared statement of Farhana Khera appears as a submission for the record.]

Chairman DURBIN. Thank you very much, and I can tell as a former staffer you knew you had 5 minutes.

[Laughter.]

Chairman DURBIN. Cardinal McCarrick, please proceed. Your written testimony will be made part of the record.

**STATEMENT OF CARDINAL THEODORE E. MCCARRICK,
ARCHBISHOP EMERITUS OF WASHINGTON ON BEHALF OF
THE UNITED STATES CONFERENCE OF CATHOLIC BISHOPS,
WASHINGTON, DC**

Cardinal MCCARRICK. Thank you, sir. Senator Durbin, Senator Kyl, allow me to thank you for the invitation and opportunity to be with you to offer testimony today. As Archbishop Emeritus of Washington, I am here today representing the United States Conference of Catholic Bishops. I will summarize my remarks and ask—and you graciously accepted—that my full testimony be entered into the record.

My written testimony places the treatment of American Muslims in the broader context of religious liberty from the perspective of our rich American tradition and of our Catholic tradition and experience. As a community that has been the target of religious discrimination, even as was mentioned earlier, we understand the need today to bring attention to protecting the civil rights of our Muslim brothers and sisters. We see religious freedom as an essential foundation for our life together in our Nation and across the globe. Over time we have made much progress together, but we fear this shared foundation is being weakened and undermined by religious prejudice, unwise policies, and polarizing words and tactics which divide us. Most appallingly, religious freedom is destroyed by attacks on people in some countries because of their religion and by the terrible misuse of religion to incite hatred and even justify violence.

Sadly, this fundamental betrayal of religious belief, attacking those of differing religious perspectives in the name of religion, can sometimes be used to promote suspicion and fear of all people associated with a particular religious tradition. This kind of generalized religious prejudice is wrong and unjust and a clear violation of religious freedom. A justified concern for security and the appropriate pursuit of those who pervert religion to attack others cannot be allowed to turn into a new form of religious discrimination and intolerance. This is why we stand with our Muslim brothers and sisters in defense of their dignity and rights, just as we welcome and expect their reciprocity and solidarity with us when the rights of Christians and other religious groups are violated around the world.

In our pluralistic society, religious values and commitments are assets for the common good, not sources of division or conflict. Today we note with particular sadness that Muslim Americans, with whom we have had a positive ongoing dialogue for over two decades, have had their loyalty and beliefs questioned publicly in sweeping and uninformed ways. This compels us to reach out in solidarity in support of their dignity and rights as Americans and believers.

We worry about the rhetoric and actions that target our Muslim neighbors and friends. Like our own historical experience, their very loyalty as Americans and their traditions and values are being threatened.

We remain firmly committed to the defense of religious liberty for all—not just for Catholics—because our commitment is to the dignity of each and every human person.

At the same time, we recognize that not every charge of wrongdoing against people or groups within a religious community amounts to religious discrimination, bias, or bigotry. Religious beliefs are no excuse for threatening others with or carrying out acts of violence. At this particular moment in our Nation's history, we face a real threat to our national security from one kind of terrorism that has its origins in a particular form of extremist ideology which holds itself out, falsely, as authentic Islam.

The legitimate concern for the public order, however, must be pursued with effective skill and respect for religious liberty. In particular, we need to avoid generalizing about any religion, especially about Islam, based solely on the extreme views and conduct of a small group of radical extremists. Those unfounded generalizations and efforts to fan the flames of fear are wrong and unjustified, but are especially inappropriate and hurtful when expressed by leaders in public life. These attacks are a grave injustice against the vast majority of Muslims in the United States who are loyal and productive members of our American society.

For the Catholic bishops, religious freedom and its absence have many expressions, our own history as an immigrant people and a religious minority has its own stories of suspicion, discrimination, and intolerance. And, unfortunately, these are not merely a thing of the past. When the very right of conscience is sometimes attacked, the ability to exercise religious beliefs is subverted. There are well-known contemporary examples where the state would force religious groups and individuals to choose between following their religious beliefs and practices and following the dictates of law. Where is the respect for religious freedom, we ask, in compelling a religious entity to perform an act which contradicts its basic moral principles? Who ultimately suffers by undermining the rights of conscience for religious groups and individuals? It is not merely the integrity of the principle of religious freedom, but also the people whom we serve and employ.

As pastors within a universal church, we Catholic bishops hear the cries and share the pain of believers around the world who suffer persecution, violence, and discrimination simply because of their religious identity. In the last year alone, we have seen dramatic examples of the persecution of Catholic and other Christian communities around the globe. An example that strikes us is this March, Shabaz Bhatti, the Pakistani Minister of Minority Affairs, was assassinated at the hands of Muslim extremists. Mr. Bhatti was a Roman Catholic who had advocated for tolerance and religious freedom for all religious minorities in Pakistan. For this courageous witness, he was brutally murdered.

We appreciate the many sincere expressions of sympathy and condemnation that have come from our religious partners, our dialogue partners in the Muslim community, especially the Islamic So-

ciety of North America, the Islamic Circle of North America. They have stood with us as trusted allies in speaking out against violence and in defense of religious freedom. Solidarity among people of every religion in the face of attacks on people of any one religion is respect for religious freedom in action.

Concluding, as a religious community, our Catholic faith commits us to defend and promote the right to religious freedom for all as a moral priority and a human responsibility. This common commitment to religious freedom is at the heart of American life. It is also an example to a world where too many doubt that people of different religions can live together in peace and mutual respect.

As other countries wrestle with how to treat religious minorities, let them look to our Nation where we work to ensure that our Muslim sisters and brothers are treated with dignity and that their religious identity and beliefs must be treated with respect. Let them here see a people blessed with hard-won religious freedom living out our commitment to the rights of all by demonstrating full respect for the identity, integrity, and freedom of all religions.

Thank you very much.

[The prepared statement of Cardinal Theodore E. McCarrick appears as a submission for the record.]

Chairman DURBIN. Thank you so much, Cardinal. And when I make a closing statement here, I am going to include statements from a wide variety of religious faiths that join in your sentiment in expressing solidarity with Muslim Americans.

At this point, Mr. Acosta, please proceed with your testimony. Your written statement will be made part of the record.

STATEMENT OF R. ALEXANDER ACOSTA, DEAN, COLLEGE OF LAW, FLORIDA INTERNATIONAL UNIVERSITY, MIAMI, FLORIDA

Mr. ACOSTA. Thank you, Mr. Chairman. Chairman Durbin, Senator Kyl, good morning. I want to take a minute to thank you for holding this important hearing, and I also want to take a minute to thank Assistant Attorney General Perez for his words and his Division's current efforts. General Perez graciously made an important point, that the protection of religious liberties is a bipartisan issue. Muslim Americans should take comfort in knowing that the effort to protect their religious liberties has been ongoing since 9/11, has transcended the partisan divide, and I hope continues to transcend the partisan divide.

The title of today's hearing references American Muslims, and I thought it appropriate to begin by discussing two such individuals.

The first is a student at the law school where I am now dean. He is one of our student leaders and, in fact, he is a candidate for student body president. I asked him to send me an email about himself. I was going to summarize it, but I am going to quote it in full because I thought it made a powerful point. He writes: "I am a Muslim, born and raised in the United States. I suppose by most people's standards my childhood was pretty normal. I went to school, tried to get out of doing homework, and spent entirely too much time watching TV. The truth is I was pretty lazy. But that changed when I went to high school. I attended Estero High School, in Estero, Florida, where I was introduced to the Army's Junior Reserves Officer Training Corp. I loved the JROTC pro-

gram. It taught me what it meant to be a leader and why it was important to take responsibility for my actions. I excelled in the program. In fact, I was the first cadet in my class to be made a cadet officer, and I ultimately reached the program's highest rank, cadet lieutenant colonel. But it is not my successes in JROTC that I remember most about high school. Rather, what I remember most about high school," he wrote, "is the confusion, the fear that overcame me on September 11th, when our teacher turned on the classroom television just in time for me to watch the second plane crash into the second tower of the World Trade Center. I knew that my country had been attacked, so I did what I knew was right. Five months later I enlisted in the military."

"I enlisted in the Florida Army National Guard on February 7, 2002, and I transferred to regular active duty on July 27, 2003. In late 2007, I left active duty so that I could go to law school."

Well, this student's name is Mohamed T. Al-Darsani, and last summer, he was selected as one of only 25 first-year law students in the Nation to intern for the Army's Judge Advocate General Corps. His goal is to become a JAG officer.

The second individual that I want to talk about is a young woman by the name of Nashala Hearn. Ms. Hearn testified to this Committee in June 2004. At the time, she was 11.

Nashala's story begins in Oklahoma at the start of the 2003 school year. At the time she told sixth grade teacher that she was Muslim, and that she wore a head scarf as part of her religion. The teacher did not object at the time, and Nashala happily attended school for the next month. That changed on September 11, 2003, when her teacher asked her to remove her head scarf. The school permitted students to wear baseball caps and kippahs, but wanted her to remove her head scarf because it "frightened" other sixth grade students. Nashala declined and was sent to the principal's office. The principal insisted that she remove her head scarf, and when she declined to do so, she was suspended. I authorized the Justice Department to intervene in the case, and eventually, after court action, Nashala was permitted to return to school wearing her head scarf.

I speak about these two individuals because I think that it highlights some important principles, some critical principles that make our Nation great.

The first principle is that foremost we are all Americans. Mr. Al-Darsani is an American. Listen to his words: "I knew that my country had been attacked, so I did what was right. Five months later, I enlisted in the military."

The second principle is religious freedom. Nashala's situation was an opportunity for a public school to teach this principle of freedom. School officials could have taken the opportunity to talk about America's early settlers and their search for freedom to express their faith. School officials could have taken this opportunity to teach basic civics, a topic that is sometimes lacking in our system of education. They could have taken this opportunity to say that fear is wrong, that respect and tolerance for another's faith is right, and that these are founding principles of our Nation. Instead, these public school officials fed the fear, signaling to Nashala's fellow sixth graders that they should be afraid of the head scarf, and

that the head scarf, and by extension her faith, should be suppressed.

Nashala's case, unfortunately, offers an insight into our nature. Our Nation is strong because we respond to attack with resolve. History has shown, however, the need for leadership that tempers resolve with wisdom. President George W. Bush understood this, when on September 17th he visited the Islamic Center of Washington to remind a then resolute Nation that "[t]hose who feel like they can intimidate our fellow citizens to take out their anger . . . should be ashamed of that kind of behavior." President Obama has understood this and has spoken out as well.

Ten years later, as we approach the anniversary of 9/11, I feel obligated to conclude by stating the obvious: As a Nation, we have not forgotten the events of 10 years ago. Emotions remain charged, and the desire to blame remains high. This is a good time, this is a critical time to temper our resolve with wisdom and to recall and to remain true to our American ideals and freedoms. We need to ensure that all people in this land are free to practice their faiths without fear of retaliation or reprisal.

I thank you for the hearing and for your time and look forward to your questions.

[The prepared statement of R. Alexander Acosta appears as a submission for the record.]

Chairman DURBIN. I have been in the Senate for a long time. I cannot recall a panel that has been so impressive. I thank you, all three of you, for your testimony. It was heartfelt and is going to make an excellent record of what we are trying to talk about today.

I want to address an issue raised by Cardinal McCarrick and put it in terms of the topic that is before us. The Cardinal said—I am going to quote you here—"Where is the respect for religious freedom in compelling a religious entity to act in ways which contradict its most basic moral principles?"

And now let us move this principle or thought to the question of Sharia law. You heard the question I asked earlier of Mr. Perez about where the line should be drawn. We certainly know the excesses of Sharia law. They are publicized every day. The killing of this man in Pakistan who made controversy by saying he was opposed to the blasphemy laws, he gave his life for speaking out for tolerance. The same thing, the suggested stoning of women for certain transgressions in Muslim countries. Those for many people are the images of Sharia law.

I would like to ask you, Ms. Khera, put what the Cardinal said in the context of Sharia law and what we know to be excesses in some contexts, but to be part of Muslim religious practice in a very peaceful way in another context.

Ms. KHERA. Right. Mr. Chairman, thank you for that question. I think, as you pointed out and Mr. Perez pointed out earlier as well, for everyday American Muslims what Sharia really means is those guidelines that guide our everyday life, so whether it is prayer, fasting, issues of marriage, in the way that religious law guides those everyday activities for Christians and Jews and other faith communities in the United States.

The kinds of, should I say, excesses of Sharia that you have outlined, I cannot imagine the circumstances under which they would

be tolerated here in America in our legal system. You know, as a legal matter, the Supremacy Clause ensures that the Constitution is the law of the land, no religious law, no foreign law, and that is absolutely important and something that, you know, I am personally very thankful is there.

So I think this question of Sharia and these efforts to introduce bills to ban Sharia are just woefully misguided, and they are chasing a threat that does not exist. But the implications, if they are actually allowed to be enacted, you know, taking, for example, the Oklahoma one, could have very significant consequences in terms of the religious practice of American Muslims here at home, and that is why it does concern us.

Chairman DURBIN. I will ask you to go a step further because the case we talked about here, the American Muslim who raised the case in Oklahoma was objecting saying that it was Sharia law that had guided him in the execution of his will, how he would leave his property after death. Can you give me other illustrations? I mean, as I said, the stereotype of Sharia law is extreme, and we would not countenance it for any religion in this country.

Ms. KHERA. Right.

Chairman DURBIN. Can you give me other illustrations of Sharia law in the life of an American Muslim that you believe should be understood by most?

Ms. KHERA. So the one example you gave is a very good one in terms of the way some people may decide to write a will. It may also entail decisions to get married and those who get married under religious law in terms of how they go about their life, things like the prayer, how they pray, when they pray, fasting, which is also a cornerstone of the faith. Those are just some examples.

Chairman DURBIN. As well I believe donations—

Ms. KHERA. Yes, charity, charitable giving is an obligation for American Muslim as it is for many people of faith in this country.

Chairman DURBIN. And the Hajj?

Ms. KHERA. And the Hajj, yes, thank you—which was a topic earlier in the hearing. Thank you. The pilgrimage is something that is required for American Muslims as well.

Chairman DURBIN. I realized after 9/11 I did not even know the pillars of Islam, and I was trying to recall some of them as you testified.

Mr. Acosta, would you address that in your role as former Assistant Attorney General for Civil Rights, this question of Sharia law?

Mr. ACOSTA. Certainly, I will try to do so, although I will confess to not being familiar with the details of Sharia law. I guess I have two thoughts.

First, I would have concerns about equal protection issues. While a legislature or a State can certainly determine to what laws a State court will look, there are concerns when a particular type of law or a particular religion is singled out as against others, in much the same way that you cannot ban a head scarf but allow other head coverings.

Second, I would also note that as a general rule courts do not apply foreign laws or religious laws. The context where that might come up is in the conflict of law situation when the contract or the will or the document of adhesion references another jurisdiction,

and in that case it is the individuals that are signatories that are asking the court to look beyond the local jurisdiction and apply that other law. So this is a fairly unusual circumstance where that would come up.

Chairman DURBIN. I do not want to misstate your position, but I think initially you said neutrality.

Mr. ACOSTA. Neutrality, absolutely.

Chairman DURBIN. So that you would put whatever that religious belief is in the context of American law.

Mr. ACOSTA. Absolutely.

Chairman DURBIN. That is the way I see it, too. I do not understand the other point of view, and I wanted to see if maybe you could point to some difference that I do not see. But I think we are in agreement on that.

Cardinal McCarrick, I need to ask you about a delicate and controversial issue. You played a role in the great controversy which rocked our country for weeks related to the Part 51, the proposed Islamic center in lower Manhattan. I understand that you were involved in an interfaith effort to stand in solidarity with American Muslims who were experiencing religious discrimination. Can you tell me how you got involved in this and describe that effort to the Committee?

Cardinal MCCARRICK. Well, actually, I was involved only tangentially because it was a New York difficulty, a New York question, and we learned years ago do not get involved in other people's property because you have got enough troubles on your own. But it became such a national issue that people became very confused about it, and the Archbishop in New York, Archbishop Dolan, spoke to it, as did others.

I think it was because I have been very much involved with the Muslim leadership here in this part of the country, especially with the Islamic Society of North America and its leadership, actually because we have been trying to work together to look for peace in the Holy Land. And so we have a very close relationship with the leadership of the Muslim groups and with the leadership of many of the Jewish groups in our area—all of us looking for the two-state solution, and we have become friends over that over the years. And it was that friendship which wanted us to speak out a little more carefully.

A very difficult issue, an issue where you could understand reasons behind both positions, but I think we felt that you could not say this was an un-American thing, you could not say this was something that would destroy the unity of our religious friendship and our religious working together.

That was basically that we wanted to try to keep it above the level of saying this is something that you have to do, you have to attack, you have to speak against. You could see that people of good will could look at both sides, but you had to make sure that they were looking at it at a level where they understood that whatever you decided you could not be condemned for because there were good arguments on both sides.

That often is what is the position that is always best first to take. We run into a world where everything is black and white.

Well, there are a lot of grays in our world, and it is important that we recognize that.

Chairman DURBIN. Thank you, Cardinal.

Senator KYL.

Senator KYL. Thank you.

First of all, Dean Acosta, as a former Assistant Attorney General, let me just ask you a couple questions about Sharia. It seems to me it is one thing to say that Sharia should not be banned, but it is quite another to say that it should or could supplant U.S. civil or criminal law. Would that be a correct way to look at it?

Mr. ACOSTA. I do not see why any foreign law or any religious law could or should supplant U.S. law.

Senator KYL. And if, therefore, it is merely a guide by which people should live their lives from a religious point of view, as has been described here, it could not and it should not allow things like underage marriage or polygamy or things of that sort. Would that be correct?

Mr. ACOSTA. I think the Supremacy Clause makes clear that the U.S. law is the law of the land, absolutely.

Senator KYL. Thank you.

And, Cardinal McCarrick, let me ask you: The U.S. Constitution and the teachings of your church allow all Americans to practice any faith of their choosing or no faith. Is that correct?

Cardinal MCCARRICK. That is, absolutely.

Senator KYL. And it would also allow people to convert to a different faith, would it not?

Cardinal MCCARRICK. Yes. We are not happy about that, but—
[Laughter.]

Cardinal MCCARRICK. That is certainly a part of our position and has been always.

Senator KYL. I think that is correct.

For those who would condemn others in hateful language for doing that, that would not be—while that speech would be permitted, it would not be speech that—well, that speech would be permitted, but would you condemn—I guess I will ask it this way: Would you condemn people who use hateful or inciteful speech against those who have converted to another faith?

Cardinal MCCARRICK. Well, I think generally you should love your neighbor even if you do not love the actions that your neighbor posits. You have to have respect for your neighbor. You might tell your neighbor, “We think you are wrong, we are sorry that you are doing this,” but to attack them as being anything less than your neighbor would certainly not be a Christian point of view.

Senator KYL. Right. Ms. Khera, let me ask you a similar question. You belong to an organization which has been very clear about its positions on the website, for example. I wonder if you have made any public pronouncement or statement condemning those religious leaders who have employed violent or hateful rhetoric or promoted hateful views of other religious groups. Have you done that or has your website done that?

Ms. KHERA. Well, let me, maybe by way of background, just clarify—

Senator KYL. As a former staffer, you know that my time is very limited so do not have a lot of background. I have three quick questions here. Have you done that?

Ms. KHERA. Well, let me just clarify, Senator Kyl. My organization's work is focused on protecting and upholding our constitutional values here at home.

Senator KYL. So you have not condemned the hateful speech of those who have criticized others in the way that I mentioned then?

Ms. KHERA. I guess I would have to know more specifically which particular case you are talking about.

Senator KYL. Well, let me just ask you this. Would you today criticize threats of death or physical harm directed at writers or commentators who have criticized Islamic extremism? You would condemn that today, would you not?

Ms. KHERA. I think we have in our country very cherished fidelity to the First Amendment, and that includes freedom of speech—

Senator KYL. I am not questioning whether people have the right to speak. The question is whether you would agree that that speech is helpful or hurtful, whether you would condemn it or be neutral about it.

Ms. KHERA. Those who would threaten to kill somebody because of their political views, religious views, that is inappropriate.

Senator KYL. And I am specifically talking about the website—I guess I should identify your site here, which I will in just a moment.

Ms. KHERA. It is MuslimAdvocates.org.

Senator KYL. Yes. MuslimAdvocates.org. Is that correct?

Ms. KHERA. Yes.

Senator KYL. Thank you. Let me just refer you to several cases here last year and then ask you about something on your website.

Just last year, U.S. intelligence agents and our justice system uncovered and prosecuted a number of attempted terrorist attacks that were planned by radical Muslim extremists. A compilation produced by the Investigative Project on Terrorism based on recent Justice Department reports lists just the following incidents:

On November 27th, Mohamed Osman Mohamud was arrested and charged with attempting to explode a car bomb in Portland, Oregon.

October 27th, Farooque Ahmed was arrested for attempting to assist others whom he believed to be members of al Qaeda in planning multiple bombings in the metro area here in Washington.

October 19th, Hosam Smadi was sentenced to 24 years in prison for attempting to blow up a skyscraper in Dallas, Texas.

October 18th, a Federal court in Manhattan found that James Cromitie and four others were guilty of attempting to detonate explosives near a synagogue in the Bronx.

On August 2nd, Russell Defreitas and Abdul Kadir were convicted of a conspiracy to attack John F. Kennedy Airport by exploding fuel tanks under the airport.

On June 21st, Faisal Shahzad pleaded guilty to attempting to detonate a car bomb in Times Square. He was sentenced to life in prison.

On March 18th, David Headley pleaded guilty to charges that he participated in planning the November 2008 attacks in Mumbai, India, which killed 164 people.

Every one of these incidents could have resulted in the deaths of hundreds of people. In fact, the Headley plot, of course, did, including six Americans.

All of these terrorists were obviously indifferent to whom they killed, including women and children, and I think we owe a debt of gratitude to the enforcement agents who identified and stopped the plots before they could be carried out.

In view of this history, I was curious about your website, the so-called Community Alert Section, which is apparently directed to American Muslims, and it notes, and I quote, "The FBI is contacting American Muslims to elicit information and advice about addressing violent extremism. Muslim Advocates strongly urges individuals not to speak to law enforcement officials without the presence of a lawyer." And I was stunned that you would issue that kind of instruction to people who would read your site since, obviously, cooperation from Muslim Americans is one of the best ways that law enforcement can uncover terrorist plots like the ones that I described. And it seems to me that it is the civic obligation of all Americans to assist in preventing these heinous crimes, especially given the participation of Muslims in all the attempted attacks that I mentioned. I would think that Muslim Americans would feel a special obligation to help intelligence agencies root this out.

Do you think it is wrong to investigate and prosecute the individuals that I mentioned? And do you stand by the Muslim Advocates Community Alert instructing Muslim Americans not to cooperate with the FBI and other law enforcement investigating potential acts of terrorism, or at least not without having a lawyer present?

Ms. KHERA. Senator Kyl, I fully understand the threat that we are facing. You know, on September 11th, I was working right here in the Capitol, and I ran from the Capitol with my colleagues as we thought planes were approaching. So I fully understand the threat. Those who engage in criminal acts must be stopped and brought to justice. And every American has a civic duty to report criminal activity to law enforcement.

You know, and I might add that Attorney General Holder has actually said that the cooperation of the American Muslim community has been essential to detecting and thwarting terrorist plots.

At the same time, every American has the right to seek legal advice, and that is a right that is guaranteed to every American. And I know you are a lawyer. We are both lawyers. And I think we both know that our legal system is quite complex, and so encouraging community members to seek legal advice as they interact with law enforcement is something that every American has a right to do.

Senator KYL. So you stand by that statement on your website?

Ms. KHERA. I stand by all the statements on my website.

Chairman DURBIN. Thank you very much.

I recall a few weeks after 9/11, just remembering when I raced from the Capitol as you did that day, I flew into O'Hare, and as I went out to get a taxicab, there was a man wearing a turban in the cab. And I got in the cab and sat in the back seat, and as we started to pull away, I said to him, "How have things been for you

since 9/11?" Well, he said, "I am sick, and I wear this turban every day. Some people give me the finger. Some curse at me. Some will not get in my cab. But most people are just fine." He said, "I wish they would get in my cab. I would like to show them something." And he reached over and he pulled down the passenger side visor, and there was a picture of a young man in an American U.S. Army military uniform. And he said, "This is my son. He is somewhere now overseas in the Middle East, and he cannot even tell me. But he is fighting for our country. And my other son is going to enlist in the Marine Corps."

And I thought to myself, the people who were cursing him, if they only knew that this man was putting his two most prized possessions in service to the United States, risking their lives to keep this Nation free.

I cannot quarrel with anyone who argues that we have a threat of terrorism and have to deal with it honestly. What I hope this hearing has suggested is that among the millions of Muslim Americans, the overwhelming majority are patriotic, law-abiding people who simply want to live their lives as we all do in this great and free country. We all have to work to keep it safe, Muslim Americans and those who are not. But the purpose of this hearing was to make it clear that there are some basic and fundamental principles that should guide us in our relationships with one another. And your testimony today, I want to say for all three of you, has been extraordinary.

I would like to close, as I mentioned I would, thanking you again but also noting that some of the groups that have submitted statements in support of this hearing, the Subcommittee received written statements from over 40 different organizations: the ACLU, the Alliance for Justice, the American Jewish Committee, Human Rights First, Interfaith Alliance, Islamic Society of North America, Leadership Conference on Civil and Human Rights, Military Religious Freedom Foundation, Muslim Public Affairs Council, Sikh Coalition, South Asian American Leaders Together, Southern Poverty Law Center, and the United Methodist Church. And without objection, I will put the statements in the record.

[The statements appear as submissions for the record.]

Chairman DURBIN. I wanted to note in particular a statement we received from an interfaith coalition called Shoulder to Shoulder: Standing with American Muslims, Upholding American Values. Among others, this coalition includes the American Baptist Churches USA, Disciples of Christ, the Episcopal Church, Evangelical Lutheran Church, the Islamic Society of North America, the Religious Action Center of Reform Judaism, and the Reconstructionist Rabbinical Association. Here is part of what they said in their statement: "We remain profoundly distressed and saddened by the incidents of violence committed against Muslims in communities across America, by the desecration of Islamic houses of worship, and by the destruction of sacred texts. We stand by the principle that to attack any religion in the United States is to do violence to the religious freedom of all Americans. We encourage all citizens of this country to honor freedoms guaranteed by our Constitution that enable the free exercise of religion across our great land."

That is an appropriate note to close. If there are no further comments from our panel or colleagues, I am going to thank the witnesses again and tell you that the hearing record is going to be open for 2 weeks, and additional materials and questions may be sent your way, which I hope you will reply to in a prompt manner.

Thank you again for being part of this hearing.

[Whereupon, at 11:57 a.m., the Subcommittee was adjourned.]

[Additional material submitted for the record follows.]

APPENDIX

ADDITIONAL MATERIAL SUBMITTED FOR THE RECORD

Witness List

Hearing before the
Senate Committee on the Judiciary
Subcommittee on the Constitution, Civil Rights and Human Rights

on

“Protecting the Civil Rights of American Muslims”

Tuesday, March 29, 2011
Dirksen Senate Office Building, Room 226
10:00 a.m.

Panel I

The Honorable Thomas E. Perez
Assistant Attorney General, Civil Rights Division
U.S. Department of Justice
Washington, DC

Panel II

Farhana Khera
President & Executive Director
Muslim Advocates
San Francisco, CA

Cardinal Theodore E. McCarrick
Archbishop Emeritus of Washington
Washington, DC

R. Alexander Acosta
Dean, College of Law
Florida International University
Miami, FL

PREPARED STATEMENT OF HON. THOMAS E. PEREZ



Department of Justice

STATEMENT OF
THOMAS E. PEREZ
ASSISTANT ATTORNEY GENERAL
CIVIL RIGHTS DIVISION

BEFORE THE
SUBCOMMITTEE ON THE CONSTITUTION, CIVIL RIGHTS, AND HUMAN RIGHTS
COMMITTEE ON THE JUDICIARY
UNITED STATES SENATE

ENTITLED
"PROTECTING THE CIVIL RIGHTS OF MUSLIM AMERICANS"

PRESENTED
MARCH 29, 2011

Good morning Chairman Durbin, Ranking Member Graham, and members of the Subcommittee. Thank you for providing me the opportunity to testify today about the work of the Civil Rights Division to protect the rights of Muslim Americans.

From its very founding, this nation has stood for religious freedom, and from its earliest days it has provided opportunity and hope to people of all faiths and creeds, from all over the world, who have brought with them a myriad of traditions and cultures. Some have come to our shores seeking refuge from persecution or greater opportunities, and still others were brought here against their will. The nation's founding promises of liberty and opportunity have been secured and expanded through blood and tears, civil war and non-violent protest. We can take great pride in the diversity of our nation, and in the fact that the freedoms written into our founding documents and reaffirmed by some of our most cherished laws continue to draw people from every corner of the world. The resulting diversity in our communities has led to a rich cultural fabric that we, as Americans, treasure.

And yet, in each generation, we have seen racial, ethnic and religious minorities -- newcomers and communities of long standing alike -- become the targets of bigotry and hate, usually driven by ignorance, fear or misunderstanding. But stigmatizing and demonizing those who look different or practice a different faith is not tolerable in this country, and our work in the Civil Rights Division is aimed at upholding and protecting the religious freedom guaranteed by our Constitution and federal laws.

President Obama and Attorney General Holder have not only made clear that civil rights enforcement is a top priority, they have repeatedly reasserted the Administration's commitment to protecting the civil rights of all individuals, including Muslim Americans. And they have underscored the contributions of the Muslim American community to our society, including helping to build our economy, playing a leading role in our civic institutions, serving in our armed forces, and working in and with law enforcement to keep our communities safe. The President said it best during his most recent State of the Union address: "American Muslims are part of our American Family."

Regrettably, Arab-American, Muslim American, Sikh-American and South Asian American individuals have become targets for those who wrongfully wish to fix blame on members of these groups for the despicable acts of terrorists. In the early days after 9-11, President Bush made clear to the nation that these terrorist acts were committed by individuals who pervert and distort the peaceful religion of Islam, and that Arab-Americans and Muslim Americans are loyal citizens who suffered as we all did on that fateful morning and who, like all Americans, strive to protect their families, their communities, and their nation.

But, despite these public statements by President Bush and many other public officials and religious leaders, the Civil Rights Division in the weeks and months following 9-11 received hundreds of reports of hate crimes and acts of discrimination committed against Muslim Americans and people mistakenly perceived to be Muslim or Arab. In fact, the first reported incident of violent backlash after 9-11 was the murder of Balbir Singh Sodhi, a Sikh American who was shot while pumping gas at his service station in Mesa, Arizona. In response to these reports, the Civil Rights Division, in conjunction with the Equal Employment Opportunity Commission (EEOC) and Department of Labor, began an initiative to combat Post 9-11 Backlash – an initiative that continues today.

We continue to see hate crimes against Muslims – or those perceived to be Muslim – committed by those, who, in the words of Attorney General Holder, “use the twisted logic that an attack on innocents can somehow be avenged by another attack on innocents.” We continue to see discrimination and harassment in the workplace, in schools and on playgrounds, and before local zoning boards.

For these reasons, working to combat the ongoing Post 9-11 backlash is a top priority for the Civil Rights Division, and we have expanded our work in this area under the leadership of Attorney General Holder.

Hate Crimes

Since 9-11, the Department of Justice has investigated more than 800 incidents involving violence, threats, vandalism and arson against persons perceived to be Muslim or to be of Arab, Middle Eastern, or South Asian origin. The perpetrators of these incidents have employed diverse means, and the incidents have taken many different forms: over the telephone, internet, mail, and face-to-face; from minor assaults to assaults with dangerous weapons and assaults resulting in serious injury and death; through vandalism, shootings, arsons, and bombings directed at homes, businesses, and places of worship.

Federal charges have been brought in 37 cases against 50 defendants, with 45 convictions to date. In addition, the Department has coordinated with and provided assistance to state and local prosecutors in numerous non-federal criminal prosecutions. Although the frequency of these incidents lessened in the months following 9-11, we continue to see a disturbing trend of violence against members of these communities.

Last spring, the final sentencing occurred in the prosecution of three men who, in February 2008, spray-painted swastikas onto the Islamic Center of Columbia, Tennessee, and then burned the mosque to the ground. All three men pleaded guilty, with two of them receiving sentences of more than 14 years in prison.

Last summer, a husband and wife in California were sentenced for assaulting a South Asian business executive who was taking a vacation with his fiancée in Lake Tahoe in the summer of 2009. This assault broke several bones in the man's face. The Department brought this as a Federal case after the state court threw out the state's hate crime charges. The evidence demonstrated that the defendants targeted the victims based on racial animus, and the husband and wife were each sentenced to 18 months in prison.

Last fall, a man was sentenced to 12 months in prison for sending threats to the Central Illinois Mosque and Islamic Center in Urbana, Illinois. Just last month, the Department obtained a guilty plea from a man who set fire to a playground outside a mosque in Arlington, Texas, in July 2010. In his plea hearing, the defendant admitted that his motive was to target persons of Arab or Middle Eastern descent. He is scheduled to be sentenced this summer.

Acts of hate-fueled violence have no place in our nation. But these cases regrettably demonstrate that Muslim, Arab, Sikh, and South Asian Americans continue to face very real threats and acts of violence all too frequently. The Department of Justice will continue to aggressively prosecute such acts.

Employment Discrimination

On the employment front, the Civil Rights Division has a long history of bringing suits to require accommodation of religious observances and practices pursuant to Title VII of the Civil Rights Act of 1964.

Unfortunately, many Muslim and Arab Americans today find themselves targets of discrimination in the workplace. A century ago, being Catholic, my own faith, gave rise to attack in much the same way that being Muslim does today. Many said at the time that you could not be a good American and a good Catholic. One example was the 1923 passage of a law in Oregon prohibiting teachers from wearing religious garb. It was aimed at keeping nuns out of public schools. Over time, this law came to bar teachers of other faiths, including Muslims and Sikhs wearing religious head coverings, from working as teachers in Oregon. The law was reaffirmed in 2009, when it was preserved as an exception to a new religious freedom law. The Civil Rights Division opened an investigation of the law and its application in the fall of 2009 under Title VII. After the Oregon legislature passed and the governor signed a repeal of the law in early 2010, the Division closed its investigation.

Since 2001, the Division has opened a variety of cases of employment discrimination involving the rights of Muslim Americans. In 2005, the Division filed suit against the New York Metropolitan Transit Authority for its policy forbidding employees from wearing religious head coverings with their uniforms, affecting Muslim and Sikh bus drivers, subway operators, and other employees who believe their head coverings are religiously mandated. The suit alleges that a stated no-hats policy has been applied inconsistently, with employees permitted to wear various secular hats and head coverings. We continue to vigorously litigate this case, and recently defeated the MTA's motion for summary judgment.

In February 2009, we reached a consent decree in a suit against the Washington Metropolitan Area Transit Authority regarding its refusal to accommodate a Pentecostal woman bus driver whose beliefs prevented her from wearing pants as mandated by the uniform requirements. The consent decree entered by the court ensured that her rights would be protected, along with those of other similarly situated individuals, including two Muslim women drivers whom we identified in our investigation who also had religious conflicts with the uniform policy.

In June 2009, we filed suit against Essex County, New Jersey, after it dismissed a Muslim female corrections officer for refusing to remove her hijab, or headscarf, while at work. Because of the worker's belief that wearing the hijab was religiously mandated, we reached a settlement with the county requiring a change in policy to allow the worker to wear her hijab.

The Division has also brought a number of cases to protect workers who have requested adjustments to their work schedules to accommodate Sabbath observance or religious holidays. For example, the Division reached a settlement in a case in Plano, Texas, where a Muslim school bus driver had his schedule accommodated for many years to allow him to attend Friday prayers, but whose new supervisor refused to continue the accommodation. The settlement the Division obtained in June 2002 required the school district to continue the accommodation.

This past December, the Civil Rights Division filed a case against the Berkeley School District in Illinois for failing to accommodate a Muslim teacher's desire to take unpaid leave to go on the Hajj pilgrimage to Mecca. The law requires that employers give a reasonable accommodation to workers' sincere religious beliefs, unless doing so would cause an undue hardship for the employer. This case was the first brought in a new collaboration with the Equal Employment Opportunity Commission, which has responsibility for investigating claims of discrimination under Title VII.

We will continue to protect the rights of Arab, Muslim, Sikh, and South Asian American public employees to be free from discrimination as we continue to vigorously enforce Title VII for public employees of all faiths.

Education

As I have traveled around the country, I have heard from concerned Muslim and Sikh parents that their children are targets of bullying and harassment. One parent in central Tennessee sent me a message saying that his child identified 20 students who were calling him names, such as “terrorist,” because of his faith and ethnicity. In this instance, the bullying stopped once the parent contacted the principal. But heartbreaking stories like this happen to kids around the country every day. I was proud to participate in President Obama’s White House conference on bullying prevention earlier this month, and the Civil Rights Division is working with our partners in the federal government to take proactive measures to teach children about tolerance and prevent the kind of intolerance that leads to bullying and harassment in schools.

But where discrimination and harassment occur, we will not hesitate to take action. The Department has been working with the Department of Education to address bullying and harassment in our schools. For example, we are jointly investigating allegations that school districts in and around Minneapolis have failed to stop harassment of Somali Americans.

The Division has also worked to protect Muslim, Arab, Sikh, and South Asian students from other types of discrimination in schools, investigating and bringing a number of cases since 2001. For example, the Department reached a settlement with a Texas school district in 2007 to allow Muslim students to pray together at lunchtime in a room in which other students were permitted to gather for various nonreligious uses. In 2004, the Department intervened on behalf of a Muslim girl in Oklahoma who was suspended from school for wearing a hijab. The matter was resolved by a consent decree that allows the student to wear the headscarf and requires the school to consider requests for religious accommodation.

RLUIPA

In September, we celebrated the 10th anniversary of the passage of the Religious Land Use and Institutionalized Persons Act (RLUIPA). The law was co-sponsored in the Senate by the late Senator Edward M. Kennedy and Senator Orrin Hatch, and was passed unanimously. RLUIPA protects individuals, places of worship, and other religious institutions from religious discrimination and unjustifiable burdens on religious exercise in the application of zoning and landmarking laws. It also protects the rights of prisoners to practice their religion while incarcerated.

Over the last year, we have seen an increase in our RLUIPA cases and investigations involving mosques. Of the 24 RLUIPA matters involving mosques that the Department has opened since the law was passed, 14 have been opened since May 2010. We believe this reflects a regrettable increase in anti-Muslim sentiment.

Last October, the Division took the unusual step of filing an amicus brief in a state court in Tennessee in a case challenging a county's grant of a building permit to the Islamic Center of Murfreesboro. We took what would seem to be the common sense position – consistent with the position by every court to have addressed the issue – that Islam is a religion, the observance of which is constitutionally protected, and that a mosque is a place of worship, just like a church or a synagogue. In the case, however, the plaintiffs alleged that Islam is not a religion, but rather an ideology committed to turning America into a Sharia state. This position clearly lacks even the most basic understanding of a major world religion. We prevailed in November, convincing the court to deny a preliminary injunction against the mosque, but the case continues.

In the prison context, we filed an amicus brief in Khatib v. County of Orange, a case before the Ninth Circuit Court of Appeals, involving a Muslim woman who was denied her right to wear her hijab in a court holding facility. Recently the Ninth Circuit en banc adopted our reasoning in the case and reversed its earlier decision. The Department will continue to enforce the rights of individuals and religious institutions to fair and equal treatment in zoning decisions, and to protect the rights of prisoners.

Engagement

The Attorney General is committed to the Department's full engagement with Muslim communities. On September 7, 2010, he held a meeting with leaders from a wide variety of faiths to address the recent rash of hate-driven incidents against Muslims, and discuss what the Department of Justice and the faith communities could do to reduce such incidents. The Attorney General has spoken often of the importance of protecting the civil rights of Arab-Americans and Muslim Americans, and we continue to enjoy his full support in civil rights work.

Attorney General Holder has made it a priority for the Department to enhance its efforts to engage with local Arab and Muslim American communities. United States Attorneys around the country have been actively increasing their dialogues with these communities, and the Civil Rights Division has participated in a number of productive community meetings with U.S. Attorneys Offices around the country. The Community Relations Service continues to respond to requests from local law enforcement, community leaders, and government officials across the country for training and assistance in developing community capacity to address tension and prevent hate crimes. And the FBI, through a series of programs and efforts, continues to reach out to communities to educate them on the FBI's role and to respond to questions and concerns.

Since 2001, the Civil Rights Division has hosted regular meetings bringing together top officials from federal agencies with the leaders of the Muslim, Arab, Sikh, and South Asian communities to address a variety of issues of concern on the national level. We have continued these meetings during the current Administration.

I have made it a point to speak to and meet with Muslim American communities from across our nation, most recently in New Haven, Connecticut; Davis, California; and Miami, Florida. I, along with my staff and career professionals in the Division, have spoken at and attended a variety of important conventions, conferences and meetings to ensure that the Division is communicating directly with our partners in the community, whom I consider to be our eyes and ears on the ground informing us of where civil rights violations occur. I was proud that the Division received a community service award from the Muslim Public Affairs Council last December for our work, and I attribute it to the dedicated career professionals who have worked hard to protect and defend the rights of Muslim Americans, and other communities that have been affected by the post-9-11 backlash, over the last decade. We will continue to do so as long as individuals in the Muslim, Arab, Sikh, and South Asian communities continue to be subject to unlawful violence, intimidation, and discrimination.

We must not, as a nation, allow fear to fuel intolerance and hate. America has made great progress in realizing our promise of equal justice, but the cases I have described here today are a constant reminder that we have more work to do.

Thank you again for the opportunity to testify today. I am happy to answer any questions you may have.

PREPARED STATEMENT OF FARHANA KHERA



Written Testimony of

**Farhana Khera
President & Executive Director
Muslim Advocates**

**Hearing on
Protecting the Civil Rights of American Muslims**

**U.S. Senate Committee on the Judiciary
Subcommittee on the Constitution, Civil Rights and Human Rights**

March 29, 2011

I. Introduction

On behalf of Muslim Advocates, I welcome the opportunity to testify and submit this testimony on protecting the civil rights of American Muslims to the U.S. Senate Committee on the Judiciary, Subcommittee on the Constitution, Civil Rights and Human Rights.

Muslim Advocates (www.muslimadvocates.org) is a national legal advocacy and educational organization dedicated to promoting and protecting freedom, justice and equality for all, regardless of faith, using the tools of legal advocacy, policy engagement and education and by serving as a legal resource to promote the full participation of Muslims in American civic life. Founded in 2005, Muslim Advocates is a sister entity to the National Association of Muslim Lawyers, a network of Muslim American legal professionals.

Our nation has a unique, long-cherished commitment to freedom, particularly religious freedom. It was founded by those fleeing religious persecution. As a result, the free exercise of religion, regardless of one's religious beliefs, as well as the right to express oneself, to associate and to assemble, became fundamental rights guaranteed to all Americans and embodied in the First Amendment to our Constitution. Indeed, according to the Manuscript Division of the Library of Congress, far from fearing Islam, ". . . it is clear that the Founding Fathers thought about the relationship of Islam to the new nation and were prepared to make a place for it in the republic."¹

¹ James H. Hutson, "The Founding Fathers & Islam: Library Papers Find Early Tolerance for Muslim Faith," *Library of Congress*, May 2002, available at <http://www.loc.gov/loc/lcib/0205/tolerance.html>

Muslims have been an integral part of America since the first slave ships arrived on its shores. Today, American Muslims reflect every race and ethnicity that comprise our nation's rich heritage. Muslims serve our nation as teachers, business owners, factory workers, cab drivers, doctors, lawyers, law enforcement, firefighters, members of Congress, and members of the armed forces. They contribute to every aspect of our nation's economy and society. The essence of our country is *e pluribus unum*: out of many, practicing their faith freely and contributing each in their own way, comes a strong, unified one.

In recent months, however, this unity and the understanding that our nation's strength is rooted in its diverse racial, ethnic and religious communities coming together as one people, one nation, have been increasingly threatened. There has been a disturbing, growing trend of anti-Muslim rhetoric, including irresponsible and dangerous statements by government officials, and a rampant increase in anti-Muslim harassment, discrimination, opposition to mosques, and hate crimes targeting Muslim, Arab, Sikh and South Asian Americans. This increased anti-Muslim rhetoric and hate comes on the heels of increased suspicion by law enforcement since September 11, 2001, where laws and policies have unfairly targeted these communities for increased questioning, searches, seizures, surveillance and other intelligence gathering and law enforcement activities. Yet, Muslim, Arab, Sikh and South Asian Americans are entitled to the same fundamental rights and protections guaranteed by the Constitution to all Americans. As a result, today American Muslims are anxious about their future in a society that increasingly looks upon them with hatred and suspicion and that is moving away from our shared values of freedom, truth and fairness.

This testimony will describe the anti-Muslim climate, provide examples of American Muslims and institutions that have been unfairly targeted, and offer recommendations for how Congress and the U.S. Department of Justice can protect the rights of American Muslims and in turn preserve the fundamental values of our nation.²

II. Rising Anti-Muslim Sentiment

In 2010, our country experienced a marked uptick in anti-Muslim rhetoric, attitudes and incidents. During the summer 2010, media outlets were obsessed with growing opposition to the construction of a Muslim community center in lower Manhattan, conveying to American Muslims that the entire community was being collectively blamed for the acts of a criminal few and demonstrating how a hate group

² Since 9/11, American Muslims, Arabs, and South Asians have been subjected to discriminatory targeting by law enforcement. This includes FBI "voluntary" interviews conducted extensively and disproportionately in these communities; the NSEERS registration program requiring men from primarily Muslim and Arab nations to comply with special registration requirements; and the improper targeting, questioning, searches, surveillance, and data gathering by the FBI and Customs & Border Protection based on the First Amendment protected associations, speech, and religious practices of the American Muslim community. While American Muslims have been the target of numerous government policies that unfairly single them out on the basis of religion, ethnicity, and national origin or First Amendment protected activities, this testimony will focus on rising anti-Muslim sentiment, discrimination, and hate crimes facing the community.

could command the public's and media's attention for months.³ Then, with anti-Muslim vitriol already in high gear, Florida Pastor Terry Jones announced plans to conduct Quran burnings on the anniversary of 9/11, which he called "International Burn a [Qu]ran Day."⁴ While that Quran burning did not take place, another eight apparently copycat incidents of planned and actual Quran burnings were recorded across the country.⁵ By summer's end, a Muslim cab driver in New York City had been stabbed repeatedly after answering affirmatively when his passenger inquired if he was Muslim.⁶ These anti-Muslim activities and incidents continue unabated in 2011.

Recent studies show that anti-Muslim sentiment is increasing amongst the American public. A survey on American values recently conducted by the Public Religion Research Institute found that 45 percent of Americans believe that the values of Islam are at odds with the American way of life.⁷ An analysis of public opinion polls from 2003 to 2010 found that since 2005, the percentage of Democrats, Independents, and Republicans who held favorable views of Islam has declined rapidly. By 2010, 41 percent of Democrats and only 28 percent of Independents and 21 percent of Republicans held favorable views of Islam, compared to 50 percent Democrats, 41 percent of Independents and 34 percent Republicans in 2005.⁸ Another study reports that a majority of Americans (53%) say their opinion of Islam is either "not too favorable" (22%) or "not favorable at all" (31%).⁹ More than 4 in 10 Americans (43%) admit to feeling at least "a little" prejudice toward Muslims, which is more than twice the number who say the same about Christians, Jews, and Buddhists.¹⁰

The Southern Poverty Law Center (SPLC) reports that there has been a dramatic resurgence of hate groups in the U.S.¹¹ For the first time ever, SPLC has designated Pam Geller's recently formed "Stop Islamization of America ("SIOA") as an active anti-

³ "Does America Have a Muslim Problem?" *Time*, Aug. 19, 2010, available at <http://www.time.com/time/nation/article/0,8599,2011798-2,00.html>

⁴ "Pastor Terry Jones says Jesus Christ Would Burn Qurans, Will Go Ahead with Controversial 9/11 Event," *New York Daily News*, Sept. 8, 2010, available at http://www.nydailynews.com/news/national/2010/09/08/2010-09-08_pastor_terry_jones_says_jesus_christ_would_burn_korans_will_go_ahead_with_contro.html

⁵ "Anti-Muslim Bigotry Intensifies in the U.S.," American Defamation League, Aug. 27, 2010, available at http://www.adl.org/main/Extremism/muslim_bigotry.htm?Multi_page_sections=sHeading_4

⁶ "Rider Asks if Cabby is Muslim, Then Stabs Him," *New York Times*, Aug. 25, 2010, available at <http://www.nytimes.com/2010/08/26/nyregion/26cabby.html>

⁷ "Old Alignment, Emerging Fault Lines: Religion in the 2010 Election and Beyond," Public Religion Research Institute, slide 19, 2010, available at <http://www.publicreligion.org/research/?id=294>

⁸ "Fear, Fairness, and Fox News: The Forces Shaping How We Think About American Muslims," Robert Jones. *The Huffington Post*, March 2, 2011, available at http://www.huffingtonpost.com/robert-p-jones-phd/fear-fairness-and-fox-new_b_830350.html

⁹ "Religious Perceptions in America: With an In-Depth Analysis of U.S. Attitudes Toward Muslims and Islam," *Gallup Center for Muslim Studies*, at 7, available at <http://www.abudhabigallupcenter.com/144335/Religious-Perceptions-America.aspx>

¹⁰ *Id.*
¹¹ "U.S. Hate Groups Top 1,000," Southern Poverty Law Center, Feb. 23, 2011, available at <http://www.splcenter.org/get-informed/news/us-hate-groups-top-1000>

Muslim hate group.”¹² It has also designated at least four other groups as anti-Muslim hate groups: Right Wing Extreme in Georgia; Christian Phalange in North Carolina; 9/11 Christian Center at Ground Zero in New York; and Casa D’Ice Signs in Pennsylvania.¹³ It describes anti-Muslim hate groups as typically holding “conspiratorial views regarding the inherent danger to America posed by its Muslim-American community.”¹⁴ Disturbingly, SOIA has won much recognition and support from white supremacist groups such as Stormfront, Council of Conservative Citizens, and American Renaissance, a group that publicly stated that black people are incapable of sustaining civilization.¹⁵

Another anti-Muslim organization, ACT! For America, which recently promoted a vicious hate rally in Southern California, now has a staff of eight that includes a full-time federal lobbyist, a detailed legislative agenda, and a television program, all of which are apparently dedicated to spreading fear, bigotry and misinformation about Islam and Muslims.¹⁶ The ACT! For America founder and CEO Brigitte Gabriel has said that she may be creating a PAC or a 527 organization to get directly involved in campaigns and elections.¹⁷

These hate groups and movements include prominent religious and military leaders who feed the misinformation and fear-mongering campaign. For example, the Rev. Franklin Graham has repeatedly called Islam “evil and wicked,”¹⁸ and U.S. Army Lieutenant General (ret.) and former senior Defense Department official William Boykin has stated, “We need to remember that Islam is not a religion, but a totalitarian way of life with a religious component. Yet we protect the entire thing under the [F]irst [A]mendment. . . . Islam’s objective in America is to replace our Constitution with Sharia law.”¹⁹

Perhaps most frightening is that the extremist and once fringe ideology of these hate groups has now infiltrated the mainstream and government agencies. For example, for some years after 9/11, their hate agenda was primarily relegated to the remote reaches of the blogosphere or media, but in the last year, they have begun to emerge in mainstream media, appearing in such outlets as CNN and *The New York Times*.²⁰ Just

¹² “White Supremacists Find Common Cause with Pam Geller’s Anti-Islam Campaign,” Southern Poverty Law Center’s Hatewatch, Aug. 25, 2010, available at <http://www.splcenter.org/blog/2010/08/25/white-supremacists-find-common-cause-with-pam-gellers-anti-islam-campaign/>

¹³ “Active Anti-Muslim Groups,” Southern Poverty Law Center Intelligence Files, available at <http://www.splcenter.org/node/3502/activegroups>

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ “Brigitte Gabriel Tries to go Mainstream,” Politico, March 7, 2011 available at http://www.politico.com/blogs/bensmith/0311/Brigitte_Gabriel_tries_to_go_mainstream.html

¹⁷ *Id.*

¹⁸ “Rev. Franklin Graham: Islam ‘evil,’” Politico, Oct. 3, 2010, available at http://www.politico.com/blogs/politicolive/1010/Rev_Franklin_Graham_Islam_evil.html

¹⁹ “Boykin: Islam’s Primary Object is Conquest,” Family Security Matters, Aug. 6, 2010, available at http://www.familysecuritymatters.org/publications/id.6966/pub_detail.asp

²⁰ See, e.g., “Pam Geller: In Her Own Words,” *N.Y. Times*, Oct. 8 2010, available at <http://www.nytimes.com/2010/10/10/nyregion/10gellerb.html>; “Drawing U.S. Crowds with Anti-Islam Message,” *N.Y. Times*, March 7, 2011, available at <http://www.nytimes.com/2011/03/08/us/08gabriel.html>.

recently, New York Police Department officers being trained in counterterrorism measures were required to watch an inflammatory, grossly misleading film about Muslims and Islam with footage of bombings and American flags and churches being burned.²¹ The narrator of the film informs the audience, "Americans are being told that most of the mainstream Muslim groups are moderate . . . when in fact if you look a little closer you'll see a very different reality. One of their primary tactics is deception."²² After public outcry, the NYPD acknowledged that the film was "wacky" and "inappropriate," and Commissioner Ray Kelly stated that the film is no longer being used.²³

Suspicion and hostility towards American Muslims manifests themselves in many ways with serious consequences for our society and public safety. Discrimination, harassment, bullying of children, acts of bias-driven violence, and vandalism of or opposition to mosques and community centers have become a haunting reality in the lives of many American Muslims.

III. Divisive Rhetoric & Fear-Mongering by Public Officials

Public officials have an important responsibility to promote freedom, justice, and equality. This is not about "political correctness" or free speech; it is about the responsibilities that elected officials have, particularly at the federal level, when they swear to uphold and defend the Constitution. It is a responsibility to uphold our nation's values and to speak to the American people honestly, fairly and in a way that does not divide us as Americans. Public officials should lead by their actions and words and ensure that "we are talking with each other in a way that heals, not a way that wounds," as President Obama said at the memorial service for the victims of the Tucson shooting.²⁴ All too often, however, public officials do not heed this call, particularly when the topic is American Muslims and Islam.

Public officials regardless of political party should be able to come together and recognize that it is wrong and not who we are as Americans to spread falsehoods, fear and hate of any religious, ethnic or racial group. In 2008, former Secretary of State Colin Powell courageously spoke out against members of his own political party because of their anti-Muslim rhetoric. He poignantly asked, "Is there something wrong with being a

²¹ "NYPD Cops' Training Included an Anti-Muslim Horror Flick," *The Village Voice*, Jan. 19, 2011, available at <http://www.villagevoice.com/2011-01-19/columns/nypd-cops-training-included-an-anti-muslim-horror-flick/>

²² *Id.*

²³ "NYPD gins up cops with Anti-Muslim video," *Salon*, Jan. 19, 2011, available at http://www.salon.com/news/politics/war_room/2011/01/19/nypd_third_jihad. See also "Muslim New Yorkers Seek Dignity, Respect from NYPD," March 22, 2011, available at <http://www.theepochtimes.com/n2/united-states/muslim-new-yorkers-seek-dignity-respect-from-nypd-53403.html>

²⁴ "Obama Asks for Words that Heal, Not Wound," *USA Today*, Jan. 13, 2011, available at http://www.usatoday.com/news/washington/2011-01-13-1Aememorial13_ST_N.htm

Muslim in this country? The answer's no, that's not America."²⁵ And as President Obama recently noted, "American Muslims are part of our American family."²⁶

Nearly ten years after the tragic events of 9/11, however, public officials appear to be increasing their offensive and dangerously misinformed statements about Muslims. To cite just a few recent examples:

- In August 2010, during the controversy over the Muslim community center in lower Manhattan, former U.S. Representative and aspiring presidential candidate Newt Gingrich said that the proposed mosque would be a symbol of Muslim "triumphalism" and compared the building of a Muslim community center two blocks from the site of the 9/11 attacks to "putting a Nazi sign next to the Holocaust Museum . . . [i]t's profoundly and terribly wrong."²⁷
- In January 2011, U.S. Representative Allen West (R-FL) appeared on the South Florida-based program *The Shalom Show* where he was asked how he would manage working with U.S. Representative Keith Ellison (D-MN), a Muslim. He responded that Ellison represents the "antithesis of the principles upon which this country was established."²⁸
- In February 2011, at a House Homeland Security Committee Hearing, U.S. Representative Paul Broun (R-GA) encouraged the use of ethnic and racial profiling to target Muslim, Arab, and South Asian travelers by airport security personnel: "I went through security at TSA . . . [there] was a guy who followed me, very obviously was of Arabian (sic) or Middle Eastern descent. Both of us were not patted down. There was a grandma who followed me, and she was patted down . . . I have yet to see a grandma try to bomb any U.S. facility . . . [s]o I think we need to focus on those who want to do us harm . . ."²⁹
- In February 2011, former Arkansas governor, potential 2012 presidential hopeful, and ordained minister Mike Huckabee exhibited his woeful lack of knowledge about Islam and maligned Muslims, as he criticized two Protestant churches that allowed local Muslims to worship in their facilities on occasion:

²⁵ "Transcript: Colin Powell on Meet the Press Endorses Barack Obama." Clips & Comment, Oct. 19, 2008, available at <http://www.clipsandcomment.com/2008/10/19/transcript-colin-powell-on-meet-the-press-endorses-barack-obama-october-19/>

²⁶ *President Obama's State of the Union Address*, 2011, available at <http://www.chicagotribune.com/news/politics/sns-state-of-the-union-text.0.4239662.full.story>
²⁷ "Three Republicans Criticize Obama's Endorsement of Mosque," Edward Wyatt, *New York Times*, Aug. 14, 2010, available at <http://www.nytimes.com/2010/08/15/us/politics/15reaction.html>

²⁸ "Allen West: Muslim Rep. Keith Ellison Represents the 'antithesis of the principles upon which this country was established,'" *The Washington Independent*, Jan. 24, 2011, available at <http://washingtonindependent.com/105125/allen-west-muslim-rep-keith-ellison-represents-the-antithesis-of-the-principles-upon-which-this-country-was-established>

²⁹ "Understanding the Homeland Threat Landscape: Considerations for the 112th Congress," House Homeland Security Committee Hearing, Feb. 9, 2011, available at www.nctc.gov/.../Transcript-HHSC_Understanding-the-Homeland-Threat.pdf

- “As much as I respect the autonomy of each local church, you just wonder, what are they thinking? If the purpose of a church is to push forward the gospel of Jesus Christ, and then you have a Muslim group that says that Jesus Christ and all the people that follow him are a bunch of infidels who should be essentially obliterated, I have a hard time understanding that.”³⁰
- In February 2011, U.S. Representatives Gary Miller (R-CA) and Ed Royce (R-CA) attended and spoke at an anti-Muslim rally in Orange County, California where protesters shouted hateful comments at American Muslim families attending a fundraiser to support women's shelters and charitable efforts to curb hunger and homelessness.³¹ At the rally, protesters yelled, “You are stupid terrorists! Go home! Go home! Go home!”³² Villa Park Councilwoman Deborah Pauly went so far as to make a death threat, speaking from the stage, “I know quite a few Marines who will be very happy to help these terrorists to an early meeting in paradise.”³³
- While the House Homeland Security Committee hearing held earlier this month on the “radicalization” of the American Muslim community is not the subject of the hearing today before the U.S. Senate Judiciary Subcommittee, we would be remiss not to mention the divisive and irresponsible framing and execution of that hearing. It was the wrongful conflation of religion and violence that formed the basis for Representative Peter King’s decision to focus on the “radicalization” of the American Muslim community. In 2007, he stated, “we have too many mosques in this country. There are too many people who are sympathetic to radical Islam . . . [a]nd it’s a real threat here in this country.”³⁴ Leading up to the hearing earlier this year, Representative King also insinuated that American Muslims are not American.³⁵ The hearing singled out the American Muslim community as uniquely susceptible to violence, a notion that is unfair, unconstitutional, and ignores the range of grave threats to our nation’s security. As the tragic shooting in Tucson, AZ, on January 11, 2011, painfully reminds us, those who engage in extremist violence reflect a range of race, ethnicity, religious affiliation, or political leanings.

³⁰ “Huckabee Draws Heat for Anti-Islam Remarks,” *The Christian Century*, Feb. 21, 2011, available at <http://www.christiancentury.org/article/2011-02/huckabee-draws-heat-anti-islam-remarks>

³¹ “Congressman Ed Royce on defense following anti-Muslim rally uproar,” Rachel Rose Hartman, *The Ticket*, March 4, 2010, available at http://news.yahoo.com/s/yblog_theticket/20110304/pl_yblog_theticket/congressman-ed-royce-on-defense-following-anti-muslim-rally-uproar

³² *Id.*

³³ *Id.*

³⁴ “Rep. Peter King: There are “too many mosques in this country,” *Politico*, Sept. 19, 2007, available at http://www.politico.com/blogs/thecrypt/0907/Rep_King_There_are_too_many_mosques_in_this_country.html

³⁵ *Secure Freedom Radio With Frank Gaffney*, Jan. 6, 2011 (stating, “When a war begins, we’re all Americans. But in this case, this is not the situation. And whether it’s pressure, whether it’s cultural tradition, whatever, the fact is the Muslim community does not cooperate anywhere near to the extent that it should. The irony is that we’re living in two different worlds.”)

These examples demonstrate a breakdown in the norms of civility and respect that Americans expect from our elected officials. There should be no place in political discourse for vitriol and open displays of bias and hatred. Furthermore, the American public is deeply influenced by its public officials. Therefore, taken together, these statements promote a troubling message to Americans: that it is acceptable to engage in bigotry and hatred against a group of Americans based on their faith. Such rhetoric is inappropriate from public officials, and goes against our American values of freedom, truth, and fairness.

IV. Violations of American Muslim Rights & Freedoms

Increasingly, America's promise of life, liberty and the pursuit of happiness is not enjoyed by all American Muslims. As they go about their everyday lives, American Muslims face threats to the rights and freedoms guaranteed to all Americans. These threats and violations include hate crimes, bullying and harassment in schools, discrimination in the workplace, increased levels of vandalism against mosques and community centers, and concerted community opposition against mosque construction proposals. As Attorney General Eric Holder, the nation's top law enforcement official, stated just a few months ago, anti-Muslim bigotry is "the civil rights issue of our time."³⁶ To meet this challenge, it requires a renewed commitment by Congress, government officials, and all Americans to uphold our commitment to freedom, justice and equality for all, regardless of faith.

A. Hate Crimes

The threat of being harassed, assaulted or worse, even killed, because of one's faith, race or ethnicity has become an increasing concern for Muslim, Arab, Sikh and South Asian Americans. For example, between January 2010 and today, there have been numerous cases of alleged hate-motivated physical violence or threats of physical violence, including:

- A Muslim cab driver in NYC was stabbed after telling his passenger that he was Muslim;³⁷
- A Sikh store clerk in Seattle was punched in the head and told "You're not even American, you're (al Qaida). Go back to your country";³⁸
- A Muslim Navy reservist in Southern California was punched in the face while

³⁶ Attorney General Eric Holder's Remarks During Meeting with Muslim Advocates and Faith Leaders, Sept. 7, 2010.

³⁷ "Film Student Accused of Stabbing Muslim Cabbie Charged with Hate Crime," DNAInfo, Aug. 26, 2010, available at <http://www.dnainfo.com/20100825/murray-hill-gramercy/muslim-cab-driver-stabbed-hate-crime>

³⁸ "Sikh Store Clerk Attacked, Called Al-Qaida," UPI, Aug. 31, 2010, available at http://www.upi.com/Top_News/US/2010/08/31/Sikh-store-clerk-attackcd-called-al-Qaida/UPI-83121283303910/

- staffing a booth to answer questions about Islam and Muslims;³⁹
- A Muslim teenager in Iowa was called a "raghead" and a "sand nigger," and had his jaw broken;⁴⁰
- A Muslim high school student in Staten Island was punched, spat on and harassed at school for approximately one year before coming forward;⁴¹
- Two Muslim women in Seattle were called "terrorists" and "suicide bombers" before being physically assaulted at a gas station;⁴²
- A Muslim woman in North Carolina was yelled at and spat on in a store;⁴³
- A Muslim woman in Ohio was followed by a man to a local Islamic Center, where he threatened to kill her and pepper-sprayed her;⁴⁴
- A Muslim woman in Portland was threatened by a neighbor that he would shoot her dog and rape her while she was praying;⁴⁵
- A Muslim woman in Idaho was screamed at in a grocery store by a man who said he had a concealed weapon and had killed Muslims and would kill more.⁴⁶

Earlier this month, an Arab American filmmaker in Chicago was allegedly beaten by four men at a party and kicked in the face repeatedly while being told, "How dare you come in here, you sand nigger. Fucking Usama Bin Laden, you sand nigger."⁴⁷ Also this month in Elk Grove, California, two elderly Sikh men in traditional garb were out walking near their homes one afternoon when a truck drove by and shot at them both, killing one and critically injuring the other.⁴⁸ With no apparent motive, and the Sikh appearance of the men, law enforcement officials stated the circumstances increasingly raise the possibility that the attack was a hate crime.⁴⁹

These are just some recent tragic examples of the very real life and death

³⁹ "California Muslim Assaulted by July 4th Revelers," Research and Information Network, July 7, 2010, available at <http://rain.org.za/california-muslim-assaulted-by-july-4th-revelers/>

⁴⁰ "Iraqi Teen, Muslim Group Say Assault was Racially Motivated," Eastern Iowa News Now, June 28, 2010, available at <http://easterniowanewsnow.com/2010/06/28/iraqi-teen-muslim-group-say-assault-was-racially-motivated/>

⁴¹ "Staten Island Teens Charged with Hate Crime for Attacking Muslim Classmate over Faith," New York Daily News, Oct. 11, 2010, available at http://www.nydailynews.com/news/ny_crime/2010/10/11/2010-10-11_staten_island_teen_charged_with_hate_crime_for_attacking_muslim_classmate_over_faith.html

⁴² "Hate Crime Charges Filed in Attack on Muslim Women," Komo News, Oct. 21, 2010, available at <http://tukwila.komonews.com/content/hate-crime-charges-filed-attack-muslim-women>

⁴³ "Muslim Woman Says Man Cursed, Spat at her in Walmart," WRAL, Oct. 29, 2010, available at <http://www.wral.com/news/local/story/8535518/>

⁴⁴ "Anti-Muslim Hate Crime? Woman Says She Was Followed by Car, Pepper-Sprayed Near Ohio Mosque," CBS News, Dec. 21, 2010, available at http://www.cbsnews.com/8301-504083_162-20026330-504083.html

⁴⁵ "Hate Crime Suspect Arrested, Placed on Immigration Hold," Portland Tribune, Jan. 11, 2011, available at http://www.portlandtribune.com/news/print_story.php?story_id=129479726798952900

⁴⁶ "Man Arrested After Threatening Muslim Woman at Walmart," KTVB, Dec., 24, 2010, available at <http://www.ktvb.com/home/Man-arrested-after-threatening-Muslim-woman-at-Walmart-112435824.html>

⁴⁷ "Filmmaker says 1st Name 'Usama' Led to Beating," *The Chicago Tribune*, March 6, 2011, available at <http://www.chicagotribune.com/news/local/breaking/chibrknews-filmmaker-says-1st-name-usama-led-to-beating-20110307.0.1334947.story>

⁴⁸ "Cops Seek Pickup in Sikh Shooting," Fox40, March, 5, 2011, available at <http://www.fox40.com/news/headlines/ktxl-news-sikhshootingfolo.0.6656491.story>

⁴⁹ *Id.*

consequences of the increasing climate of anti-Muslim hate. Pursuant to the Hate Crimes Statistics Act, the FBI attempts to track hate crimes incidents, which includes a sub-category of religion bias based crimes segregated for “anti-Islamic” hate crimes. The FBI has reported during the period from 2001 to 2009, 1,552 incidents of hate crimes based on “anti-Islamic” bias, resulting in 1,785 offenses.⁵⁰ The number of reported incidents remains substantially above pre-2001 levels.⁵¹ The data for 2010, a year when anti-Muslim bigotry spiked in other areas, has not yet been released.

As stark as these numbers are, however, they do not paint the full scope of the problem. No government agency collects accurate, comprehensive data on hate crimes motivated by anti-Muslim hate targeting Muslim, Arab, Sikh, and South Asian Americans. The FBI does not separately track victims who may be subjected to racial, ethnic or national origin bias motivated crimes based on their Arab, Middle Eastern, South Asian or other ethnic background.

Moreover, the FBI’s hate crimes tracking system, which relies on voluntary reporting by local police departments, is deeply flawed. The Justice Department’s Bureau of Justice Statistics (BJS) has found that the FBI hate crime statistics are inaccurate and woefully undercount the full number of hate crimes.⁵² The study also found that only 44% of hate crimes are reported to the police.⁵³ There are other reasons hate crimes may not be recorded by the FBI: police may fail to record crimes as hate crimes, police departments may fail to report hate crimes to their state reporting agencies, and those agencies in turn may not report the full data to the FBI.⁵⁴ The real number of hate crimes may be *fifteen times higher* than the FBI’s statistics, according to the Southern Poverty Law Center.⁵⁵ In fact, Attorney General Holder has pointed out the gaps in relying solely on current FBI hate crime statistics:

“Many police agencies throughout the country, including in major cities, do not participate in the FBI’s reporting system, and many victims do not report the hate crimes perpetuated against them. In fact, the Bureau of Justice Statistics puts the actual annual number of hate crimes in the tens of thousands. This fact is enough to make one’s blood run cold.”⁵⁶

Furthermore, Muslim, Arab, Sikh, and South Asian communities do not always know where to turn and how to report hate-motivated violence and threats of violence.

⁵⁰ FBI Hate Crimes Statistics for 2001-2009, available at <http://www.fbi.gov/about-us/cjis/ucr/ucr>.

⁵¹ “Confronting the New Faces of Hate: Hate Crimes in America 2009,” *The Leadership Conference on Civil and Human Rights*, at 30, available at: <http://www.civilrights.org/publications/hatecrimes/>

⁵² Harlow, C. W., *Hate Crime Reported by Victims and Police*, Special Report, U.S. Department of Justice, Bureau of Justice Statistics, Nov. 2005 (NCJ 209911), available at <http://bjs.ojp.usdoj.gov/content/pub/pdf/hcrvp.pdf>

⁵³ *Id.* at 4.

⁵⁴ Southern Poverty Law Center, “Report: FBI Hate Crime Statics Vastly Understate Problem,” *Intelligence Report*, Winter 2005, available at <http://www.splcenter.org/get-informed/intelligence-report/browse-all-issues/2005/winter/hate-crime>.

⁵⁵ *Id.*

⁵⁶ U.S. Attorney General Eric Holder, Remarks to the Anti-Defamation League, October 17, 2009, available at http://www.adl.org/Civil_Rights/speech_Eric_Holder.asp.

Regrettably, trust between law enforcement and these affected communities, which is needed to encourage the reporting of crimes, has eroded since 9/11. These communities may fear bringing themselves to law enforcement's attention, which could result in unrelated investigations or surveillance. Affected communities also fear public retaliation, experience language barriers, or believe the police can do nothing.⁵⁷

The U.S. Department of Justice, under both Republican and Democratic administrations, has made an effort to investigate and prosecute crimes motivated by anti-Muslim hate, but more needs to be done. That is why Muslim Advocates supported passage of the Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act of 2009. This law has given the federal government increased authority to engage in hate crimes investigations and prosecutions that local authorities do not or cannot pursue and to assist state and local agencies that take the lead in investigating and prosecuting hate crimes. Significantly, the law has eliminated the requirement that the victim be engaged in one of six enumerated federally protected activities at the time of the crime.⁵⁸ This requirement had greatly narrowed the circumstances under which the federal government could intervene. Now, the Justice Department and FBI can do more to tackle hate crimes. According to Attorney General Holder, the Justice Department has convicted more hate crime defendants in 2010 than in any other year since 2000.⁵⁹ These activities underscore the federal government's stepped-up commitment to protecting all Americans from hate-motivated violence and discrimination. Still, there is more work to be done to ensure the safety of all Americans.

B. Opposition to mosques

The controversy over the Muslim community center in New York City in 2010 was just one example of increasing hostility towards mosques and Islamic centers. Existing and proposed mosque sites across the country have been targeted for vandalism and other criminal acts.⁶⁰ Anti-Muslim graffiti on mosques and protests include statements such as "wake up America, the enemy is here,"⁶¹ "U.S. military is going to kill you all,"⁶² "murderers,"⁶³ and "Jesus hates Muslims."⁶⁴

⁵⁷ Beverly McPhail, "Hating Hate: Policy Implications of Hate Crime Legislation," *The Social Service Review*, Vol. 74, No. 4 (December 2000), p. 641.

⁵⁸ 18 U.S.C. § 245 (2010).

⁵⁹ U.S. Attorney General Eric Holder, Remarks at Muslim Advocates' Annual Banquet, December 10, 2010, available at <http://www.justice.gov/iso/opa/ag/speeches/2010/ag-speech-1012101.html>.

⁶⁰ Pew Forum on Religion & Public Life, "Controversies Over Mosques and Islamic Centers Across the U.S.," September 24, 2010, available at <http://features.pewforum.org/muslim/controversies-over-mosque-and-islamic-centers-across-the-us.html>.

⁶¹ Diana Marcum, "Authorities Investigate Acts of Vandalism at Mosque as Potential Hate Crime," *Los Angeles Times*, September 8, 2010, available at <http://articles.latimes.com/2010/sep/08/local/la-me-0908-madera-mosque-20100908>.

⁶² "Racial Slurs Painted on Cypress Mosque," *NBC LA*, June 4, 2009, available at <http://www.nbclosangeles.com/news/local/Racial-Slurs-Painted-on-Cypress-Mosque.html>.

⁶³ Daniel Tepfer, "Angry Protesters Descend on Mosque," *Connecticut Post*, August 6, 2010, available at <http://www.ctpost.com/news/article/Angry-protesters-descend-on-mosque-606515.php>.

⁶⁴ *Id.*

There have also been efforts to block necessary zoning permits for the construction and expansion of mosques and Muslim community centers. In some cases, the opposition takes the guise of neighbors' concerns about traffic, noise, parking and property values.⁶⁵ In others, however, opponents of mosques and community spaces also cited unfounded and, frankly, hysterical fears about Islam, Sharia law, and terrorism.⁶⁶

With this heightened level of opposition to American Muslim institutions, we are reminded of Congress' historical commitment to religious freedom. On at least two separate occasions in recent years, after the Supreme Court sought to limit the free exercise of religion, Congress enacted legislation to protect religious liberty, particularly religious institutions in zoning disputes. In 2000, Congress enacted the Religious Land Use and Institutionalized Persons Act ("RLUIPA") to prevent local governments from enacting land use regulations that impose substantial burdens on the free exercise of religion, including religious institutions. It did so, in part, because it found that zoning authorities were frequently placing excessive or unreasonable burdens on the ability of congregations to exercise their faith with little to no justification and in violation of the Constitution.

American Muslims today face exactly this kind of subtle and overt discrimination, and it threatens the right to practice their religion guaranteed to them by the Constitution. A particularly egregious example of such opposition involves a proposed mosque in Murfreesboro, Tennessee, where opponents went to court not only to seek an injunction against construction, but to argue that Islam is not a religion and therefore not deserving of First Amendment protections. After the Islamic Center of Murfreesboro announced plans to build a new mosque to accommodate its growing congregation, local Muslims were stunned at the outpouring of anti-Muslim sentiment. Both signs the Center erected at the construction site were vandalized – the first had "not welcome" spray-painted across it; the second was smashed in two.⁶⁷ Even after the Center gained official County approval, there were aggressive protests. Underscoring the level of fear-mongering and ignorance, Ron Ramsey, Tennessee's lieutenant governor and a gubernatorial candidate, wondered publicly, "[W]hether being a Muslim is actually a religion, or is it a nationality, a way of life or cult, whatever you want to call it?"⁶⁸ Congressional candidate Lou Ann Zelenik declared that the Center was "a political movement designed to fracture the moral and political foundation of Middle Tennessee."⁶⁹

Opponents of the mosque asked Frank Gaffney, another leading Muslim-basher, to testify on their behalf. Feeding the fear and hysteria, he argued that, without any basis, Sharia is a threat to the Constitution and that most mosque leaders preach Sharia.⁷⁰ In

⁶⁵ American Civil Liberties Union, "Map - Nationwide Anti-Mosque Activity," available at <http://www.aclu.org/map-nationwide-anti-mosque-activity>.

⁶⁶ *Id.*

⁶⁷ Elisabeth Kauffman, "In Murfreesboro, Tenn.: Church 'Yes,' Mosque 'No:'" *Time*, August 19, 2010, available at <http://www.time.com/time/nation/article/0,8599,2011847,00.html>.

⁶⁸ *Id.*

⁶⁹ *Id.*

⁷⁰ Rachel Slajda, "TN Mosque Opponents Bring in Sharia 'Expert' Frank Gaffney," TPM, September 8, 2010, available at

October, the U.S. Department of Justice filed an amicus brief enforcing RLUIPA and supporting the community's right to construct a mosque, making clear that Islam is a religion entitled to protection under the First Amendment.⁷¹ In fact, U.S. Attorney Jerry E. Martin publicly stated, "To suggest that Islam is not a religion is quite simply ridiculous."⁷² The court denied the plaintiffs' request for temporary injunctive relief halting the mosque's construction,⁷³ and the lawsuit will be heard in April this year.⁷⁴ The Muslim community was heartened by the Justice Department's intervention.

The Murfreesboro case is just one example. Public protests against the construction or expansion of community spaces and mosques continue unabated. The American Civil Liberties Union ("ACLU") has tracked over 60 incidents of anti-mosque activity throughout the country in the past five years.⁷⁵ The Pew Forum on Religious and Public Life has indicated that in the past two years alone, there have been at least 35 proposed mosques and Islamic centers that have encountered community resistance.⁷⁶ One recent example of this emerges in Chicago's DuPage County, where the Muslim Educational and Cultural Center is likely to finally win the County Board's approval after numerous rejections.⁷⁷ This proposal was one of four mosque-related plans to come before the Board, at least two of which were rejected.⁷⁸

C. Employment Discrimination

Amid the growing anti-Muslim sentiment, American Muslims are also facing increased discrimination in the workplace, with complaints ranging from co-workers hurling epithets such as "camel jockey," "terrorist" or "Osama," to not being able to wear headscarves or take prayer breaks.⁷⁹ For example, in August 2010, the Equal Employment Opportunity Commission ("EEOC") sued a meatpacking company on behalf of 160 Somali workers, "saying supervisors and workers had cursed them for

http://tpmmuckraker.talkingpointsmemo.com/2010/09/tn_mosque_opponents_bring_in_national_sharia_ex_per.php.

⁷¹ "Justice Department Files Brief in Support of Continued Construction of Murfreesboro, Tenn., Mosque," Department of Justice, Office of Public Affairs, October, 18, 2010, available at <http://www.justice.gov/opa/pr/2010/October/10-crt-1162.html>.

⁷² *Id.*

⁷³ Christian Grantham, "Judge Denied Mosque Injunction," Murfreesboro Post, November 17, 2010, available at <http://www.murfreesboropost.com/judge-denies-mosque-injunction-cms-25105>.

⁷⁴ Elizabeth Emmons, "Mosque Lawsuit will be Heard in April," Nashville News, February 15, 2011, available at <http://www.wsmv.com/news/26869438/detail.html>.

⁷⁵ American Civil Liberties Union, "Map - Nationwide Anti-Mosque Activity," available at <http://www.aclu.org/map-nationwide-anti-mosque-activity>.

⁷⁶ Pew Forum on Religion & Public Life, "Controversies Over Mosques and Islamic Centers Across the U.S.," September 24, 2010, available at <http://features.pewforum.org/muslim/controversies-over-mosque-and-islamic-centers-across-the-us.html>.

⁷⁷ David Lepasca, "Muslim Cultural Center Appears Near Approval," *New York Times*, March 17, 2011, available at <http://www.nytimes.com/2011/03/18/us/18cncmosque.html>.

⁷⁸ *Id.*

⁷⁹ Steven Greenhouse, "Muslims Report Rising Discrimination at Work," *New York Times*, September 23, 2010, available at <http://www.nytimes.com/2010/09/24/business/24muslim.html>.

being Muslim; thrown blood, meat and bones at them; and interrupted their prayer breaks.”⁸⁰

Title VII of the Civil Rights Act of 1964 prohibits employers from engaging in discrimination, including harassment and retaliation, on the basis of race, sex, color, religion, and national origin.⁸¹ Since 2001, the EEOC has been tracking the number of charges received under Title VII alleging employment discrimination specifically based on race, religion and national origin due to 9/11. Between 9/11/2001 and 9/11/2010, 1,026 charges were filed under Title VII alleging post-9/11 backlash employment discrimination.⁸² In addition, during this same period, the EEOC received 5,750 charges of discrimination based on the complainant’s Muslim faith. For a comparable period of time prior to 9/11/2001 (9/11/1992 to 9/10/2001 (nine years)), the EEOC received 2,186 charges of discrimination based on the complainant’s Muslim faith. Between September 2008 and September 2009, the EEOC had received a record 803 complaints alleging anti-Muslim bias, which was a twenty percent increase from the previous year.⁸³ *Muslims are approximately two percent of the American population, yet, according to this most recent data, their bias complaints accounted for twenty-five percent of the total number.*⁸⁴ Mary Jo O’Neill, regional attorney of the EEOC’s Phoenix office, expressed shock at the level of discrimination: “I’ve been doing this for 31 years, and I’ve never seen such antipathy toward Muslim workers.”⁸⁵

At the same time, gaps in federal law are emerging. Two courts have recently ruled that an employer can segregate and keep out of public view Sikh and Muslim workers who wear turbans or headscarves, respectively.⁸⁶ In response, Sikh Coalition, Muslim Advocates, and a diverse range of faith and civil rights groups have asked the EEOC to issue guidance to employers clarifying that, in the opinion of the nation’s preeminent Title VII enforcement agency, segregating employees on the basis of corporate image constitutes an adverse employment action and can never be deemed “reasonable” under Title VII.⁸⁷

D. Harassment and Bullying of Children

In the post-9/11 world, Muslim, Arab, Sikh and South Asian American children

⁸⁰ *Id.*

⁸¹ Title VII of the Civil Rights Act of 1964, as amended, at 42 U.S.C. § 2000e, *et seq.*

⁸² Charges related to the events of 9/11/01, by an individual who is-or is perceived to be-Muslim, Arab, Afghani, Middle Eastern or South Asian or individuals alleging retaliation related to the events of 9/11/01. See U.S. Equal Employment Opportunity Commission, Fact Sheet: Backlash Employment Discrimination Charges related to the events of 9/11/2001, against individuals who are, or are perceived to be, Muslim, Arab, Afghani, Middle Eastern or South Asian, September 11, 2010.

⁸³ *Id.*

⁸⁴ *Id.*

⁸⁵ Steven Greenhouse, “Muslims Report Rising Discrimination at Work,” *New York Times*, September 23, 2010, available at <http://www.nytimes.com/2010/09/24/business/24muslim.html>.

⁸⁶ *Ali v. Alamo Rent-a-Car, et al.*, No. 00-1041 (4th Cir. 2001); *Birdi v. United Airlines, Corp.*, No. 99 C 5576, 2002 WL 471999, 2002 U.S. Dist. LEXIS 9864 (N.D. Ill. 2002).

⁸⁷ Letter from Agudath Israel of America, et al., to EEOC Commissioners, March 25, 2011 (copy available from Muslim Advocates).

have also been vulnerable to discrimination, harassment, and bullying. According to one education advocate, children from these communities face “ongoing harassment and bullying in classrooms, hallways, the lunch room, recess and on the bus which can make the life of a child or youth miserable, with little recourse.”⁸⁸ Community and civil rights groups have complained that school administrators and teachers either downplay such abuse and perhaps even share the prejudice, or do not know the appropriate response.⁸⁹

No federal agency collects data on harassment and discrimination experienced by children based on their religion. Muslim and Sikh community groups, however, are increasingly documenting cases of harassment and bullying. In one such egregious instance, a Muslim high school student in Staten Island was subjected to a harrowing ordeal in which he was frequently labeled a “terrorist,” punched in the groin, and spat on by fellow teenagers.⁹⁰ He was beaten so severely that there was blood in his urine, and he suffered from headaches and memory loss afterwards.⁹¹ There have also been a series of incidents in Minnesota, where, for example, Muslim students of Somali origin have been targeted by another high school student who created a Facebook group called “I hate the Somalians at Tech High.”⁹² Two Somali students expressed no surprise at this, and said that white students making disparaging remarks about Muslim classmates was entirely common: “They always make fun of us and they say, ‘Go back to your countries,’ and, ‘You guys stink,’ and, ‘This is our country, and we don’t need black people,’ so it’s every single day . . . [i]t’s not several times, it’s all the time.”

In March 2010, Muslim Mothers Against Violence, a community organization, surveyed 78 Muslim male and female youth between 12 and 17 years of age in Northern Virginia about their experiences in school.⁹³ Eighty percent (80%) responded that they had been subjected to bigoted taunts and epithets and harassment, with three-quarters indicating the epithets had occurred more than once. Fifty (50%) report being called names in front of teachers and school administrators. The harassment includes being called “terrorist,” “raghead,” “tower takers,” “bomber,” and “pirate” (referring to Somali children). One youth said, “other minorities are protected but not us,” while another said, “well, it’s hard to avoid; yahoo.com home page covers these conflicts.” One student reported the following experience at school: “My principal saw me wearing a kufi and asked what kind of a Muslim I was. I told him I was regular, and he said if I wore it

⁸⁸ Letter from Maha Elgenaidi, Islamic Networks Group (ING) to Education Secretary Arne Duncan, September 6, 2010, available at <http://www.ing.org/downloads/ING-Letter-to-Arne-Duncan-September-2010.pdf>.

⁸⁹ *Id.*; Sikh Coalition, et al., “Comments on Department of Education Agency Plan for White House Initiative on Asian Americans and Pacific Islanders,” submitted Feb. 17, 2011; Teaching Tolerance, “Combating Anti-Muslim Hate,” available at <http://www.tolerance.org/magazine/number-39-spring-2011/combating-anti-muslim-bias>.

⁹⁰ John Del Signore, “Four Staten Island Teens Arrested for Anti-Muslim Hate Crime,” *Gothamist*, October 10, 2010, available at http://gothamist.com/2010/10/11/four_staten_island_teen_arrested_f.php.

⁹¹ Amy Padnani, “Staten Island student endures the torment of violence and ‘terrorist’ taunts,” *Staten Island Advance*, October 10, 2010, available at http://www.silive.com/news/index.ssf/2010/10/young_student_endures_the_torm.html.

⁹² Ambar Espinoza, “Somali Population, Cultural Tension Rising in St. Cloud,” *MPR News*, March 15, 2010, available at <http://minnesota.publicradio.org/display/web/2010/03/15/st-cloud-tensions>.

⁹³ Copy on file with author at Muslim Mothers Against Violence.

again, I would get in school suspension. My dad told me not to wear it to school again, we don't need trouble." That is a snapshot of the new reality of growing up Muslim in America today, where one's classmates and teachers wield anti-Muslim attitudes and messages that they learn at school, at home and from the media.

Anti-Muslim hate also deeply affects Sikh children. The Sikh Coalition has issued five reports in the last four years documenting ugly and persistent abuse and bullying experienced by Sikh children particularly in New York City and the San Francisco Bay area.⁹⁴ Sikhs are called names such as "Arab" and "terrorists," which is clearly rooted in the climate of anti-Muslim bigotry. Sikh children, who cannot cut their hair for religious reasons, are often threatened with hair-cutting or with having their turbans pulled off, and in certain cases have had their hair forcibly cut and turban lit on fire.

Under federal laws enforced by the U.S. Department of Justice and U.S. Department of Education, schools must protect students from harassment and discrimination on the basis of race, color, or national origin.⁹⁵ While Title VI does not prohibit discrimination based solely on religion, the Education Department has found that "groups that face discrimination on the basis of actual or perceived shared ancestry or ethnic characteristics may not be denied protection under Title VI on the ground that they also share a common faith."⁹⁶ During the last year, the Obama administration has begun to recognize the urgent need to address harassment and bullying of children and has taken steps to encourage efforts to prevent harassment and bullying, including launching a designated website with resources for children, parents and educators, and providing guidance to educators and communities about the legal obligations of schools to prevent and address bullying.⁹⁷ The White House also held a conference earlier this month on bullying in schools and communities and how to prevent it. Valerie Jarrett, President Obama's senior advisor said, "What could be more important than our children? There is a perception that bullying is a rite of passage. And it's not . . . it's just not acceptable."⁹⁸

While these are significant steps forward, given that these issues have risen to a crisis point in the Muslim, Arab, Sikh and South Asian communities, the federal government needs to increase and tailor its prevention and enforcement activities and

⁹⁴ See Sikh Coalition, New York Civil Liberties Union, and Asian American Legal Defense and Education Fund, "Bullying in NYC: Educators Speak Out," February 24, 2011, *available at* http://www.sikhcoalition.org/documents/DOE_Report.2.24.2011.pdf; Sikh Coalition, "2010 Bay Area Civil Rights Report," 2010; Sikh Coalition, New York Civil Liberties Union, and Asian American Legal Defense and Education Fund, "2009 Report Card on NYC Public Schools Anti-Bullying Work," 2009; Sikh Coalition, "2009 Civil Rights Agenda for NYC," 2008; Sikh Coalition, "Hatred in the Hallways," 2007.

⁹⁵ Title VI of the Civil Rights Act of 1964 at 42 U.S.C. § 2000d, *et seq.*

⁹⁶ Dear Colleague Letter on Bullying & Harassment, U.S. Dept. of Education, Oct. 26, 2010, *available at* <http://www2.ed.gov/about/offices/list/ocr/letters/colleague-201010.pdf>.

⁹⁷ Secretary of Education Bullying Law and Policy Memo, Dec. 16, 2010, *available at* http://www.stopbullying.gov/references/white_house_conference/white_house_conference_materials.pdf.

⁹⁸ Jonathan Capehart, "Bullying is Not a Right of Passage," *Washington Post*, PostPartisan Blog, March 10, 2011, *available at* http://www.washingtonpost.com/blogs/post-partisan/post/bullying-is-not-a-rite-of-passage/2011/03/04/ABBp1rQ_blog.html.

resources to address specifically the harassment and bullying experienced by Muslim, Arab, Sikh and South Asian children and youth. It is important that the administration and Congress work tirelessly to ensure that our children feel safe in their schools and communities. As a nation, we should not allow our children, America's future, to be subject to hatred and discrimination.

E. Anti-Sharia Movement

In the past few months, we have witnessed an especially absurd new movement to spread fear and misinformation about Muslims, this time focusing on Islamic religious law called Sharia. These efforts have gone so far as to introduce bills or ballot initiatives in at least a dozen states, including Oklahoma and Tennessee, to ban the use of Sharia law.

Muslims have been a part of America for centuries and have fought for and died defending our country and its ideals. There has not been a single, credible example of an attempt to use Sharia to usurp our Constitution and political system. Moreover, the Supremacy Clause ensures that the Constitution, not any religious or foreign law, is the law of the land.

In November 2010, the people of Oklahoma adopted a ballot initiative prohibiting state and federal courts from using international law or Sharia when making rulings. The author of the proposal, Representative Rex Duncan, declared the necessity of preventing against the "hideous invasion" of Sharia.⁹⁹ A Muslim in Oklahoma successfully challenged the ban on First Amendment grounds, arguing that the law would prevent him from executing a will pursuant to his Islamic beliefs, and won a Temporary Restraining Order and a Permanent Injunction. The U.S. District Court for the Western District of Oklahoma found that the plaintiff made a strong showing of substantial likelihood that the language of the Amendment singled out Sharia and was not therefore facially neutral; that the defendants failed to present evidence that the amendment was justified by any compelling interest or was narrowly tailored;¹⁰⁰ and that there was a substantial likelihood of success on the merits of the claim asserting a violation of the Establishment Clause of the First Amendment.¹⁰¹

The Free Exercise Clause and Establishment Clause of the First Amendment allow a wide array of religious practice in America.¹⁰² If enacted and allowed to stand, anti-Sharia bills like those introduced in Oklahoma and Tennessee would affect the ability of American Muslims to practice their faith. Marriages under religious law would not be recognized, and Muslims would not be allowed to congregate and pray (as the

⁹⁹ Kelly Holt, "Judge Draws Ire in Suspending Oklahoma Sharia Ban," *New American*, November 9, 2010, available at <http://www.thenewamerican.com/index.php/usnews/constitution/5146-judge-draws-ire-in-suspending-oklahoma-sharia-ban>.

¹⁰⁰ *Awad v. Prince, Ziriya et. al.*, W.D. Ok. Case No. 5:10-cv-01186-M, at 13 (Nov. 29, 2010).

¹⁰¹ *Id.* at 10.

¹⁰² Sally Steenland, "Setting the Record Straight on Sharia: An Interview with Intisar Rabb," Center For American Progress, March 8, 2011, available at http://www.americanprogress.org/issues/2011/03/rabb_interview.html.

proposed Tennessee bill envisions), rights enjoyed by every other faith community in America.¹⁰³ These bills are surely unconstitutional, as one federal court has already ruled, since they would abridge the free exercise of religion and suggest a preference by government of one religion over another. Yet, the fear-mongering continues, preying on the ignorance of the American people to level suspicion and hate against their fellow Americans.

V. Conclusion & Recommendations

Anti-Muslim fear-mongering and bigotry is on the rise in America. Even some public officials have lent their support, abandoning their responsibility to promote freedom, truth and fairness. As a result, today, it is becoming increasingly acceptable to demonize Muslims, vandalize mosques, bully and harass children, threaten Muslims with acts of violence, and discriminate against them in the workplace. This is disturbingly reminiscent of an earlier chapter in our nation's history, when, in the midst of a national crisis, our nation persecuted Americans based on their national origin and ethnicity. During World War II, tens of thousands of Japanese Americans were deemed suspicious, arrested and detained in internment camps. Congress, public officials, and all Americans have a solemn responsibility to not allow history to repeat itself. In Attorney General Holder's words, "regardless of color or creed, we are all Americans . . . There can be no 'us' or 'them' among Americans."¹⁰⁴

To combat rising anti-Muslim rhetoric, discrimination, harassment and hate crimes, Muslim Advocates makes the following recommendations:

- 1) Muslim Advocates urges members of Congress and all public officials to refrain from making hateful statements about Islam and the American Muslim community, as well as to condemn those public officials who engage in hateful rhetoric or actions. Anti-Muslim bigotry only serves to divide us as a nation when we should be coming together as one nation to address the many challenges we face.
- 2) Muslim Advocates urges Congress to explore amending Title VI of the Civil Rights Act of 1964 to include religion as a protected class to ensure that religious communities with diverse racial and ethnic compositions, such as Muslim and Sikh communities, can be fully protected from discrimination and harassment in schools.

¹⁰³ TN State Sen. Bill Ketron, who introduced the bill, recently stated that he would amend the bill to remove its offensive and discriminatory provisions; however, we have been unable to locate a copy of the purported amendment to verify the claim. See Tennessee State Senate, Press Release, March 22, 2011, available at <http://www.capitol.tn.gov/senate/members/Ketron/032211.pdf>.

¹⁰⁴ U.S. Attorney General Eric Holder, Remarks at Muslim Advocates' Annual Dinner, December 10, 2010, available at <http://www.justice.gov/iso/opa/ag/speeches/2010/ag-speech-1012101.html>.

- 3) Muslim Advocates urges the administration, particularly the Education Department, to increase and tailor its bullying prevention resources and enforcement to the needs of Muslim, Arab, Sikh and South Asian youth, by:
 - a. Developing tools and mechanisms to educate parents about their rights and the process for filing complaints;
 - b. Conducting civil rights compliance reviews of schools with vulnerable Muslim, Arab, Sikh and South Asian student populations;
 - c. Promoting programs that educate children on the world's religions, as well as on tolerance and respect for those who are different; and
 - d. Collecting data, especially separate data for race, national origin and religion, to fully understand the depth and scope of the problem experienced by Muslim, Arab, Sikh and South Asian American youth.¹⁰⁵
- 4) Muslim Advocates urges the Justice Department to pursue a high profile investigation and prosecution of an anti-Muslim hate crime case to send a clear, strong message that hate crimes will not be tolerated.
- 5) Muslim Advocates urges the Justice Department and U.S. Attorneys to increase and enhance their engagement with state and local law enforcement to ensure that all bias-motivated crimes are prevented, detected, investigated and prosecuted.
- 6) Muslim Advocates urges the Justice Department to encourage state and local law enforcement agencies to report all bias-motivated crimes to the FBI in order to facilitate federal investigations and prosecutions when local authorities are unable to do so and to ensure comprehensive tracking of all hate crimes incidents.
- 7) Muslim Advocates urges Congress to require the Justice Department to collect and track complaints received alleging a violation of RLUIPA, including the basis for the complaint, whether an investigation was opened and its outcome, and to report this data in six months and annually thereafter to Congress and the public. (The first report should include a report to Congress and the public on all RLUIPA complaints received by the Justice Department since the law was enacted in 2010.)
- 8) Last fall, Muslim Advocates urged the Justice Department Civil Rights Division to play a leadership role with other DOJ components and federal agencies, including the Community Relations Service (CRS), HUD, EEOC, and Dept of Education, to create a coordinated federal response to the rise in anti-Muslim hate activities. Muslim Advocates also urged the Attorney General to direct CRS offices to act immediately to defuse tensions where incidents have already occurred and in areas where incitement activities are expected to take place. There has been important progress since last fall. Muslim Advocates urges the

¹⁰⁵ See Sikh Coalition, et al., "Comments on Department of Education Agency Plan for White House Initiative on Asian Americans and Pacific Islanders," submitted Feb. 17, 2011. (Copy available from Sikh Coalition or Muslim Advocates.)

Attorney General and Justice Department to give continued priority attention to these issues.

- 9) Muslim Advocates urges the Justice Department to create a Civil Rights Division hotline and centralized system of tracking complaints and to report this data to Congress: The current system of filing a complaint with the Division lacks a centralized place for receipt and tracking of all complaints of civil rights violations. The current system is also confusing because it instructs members of the public to file complaints with individual sections or other federal agencies. The Civil Rights Division should create one centralized hotline and portal for the receipt, referral and tracking of *all* civil rights complaints to the Division. This data collection and tracking mechanism should include race, ethnicity, national origin and religion categories and sub-categories to ensure that complaints by Muslim, Arab, Sikh and South Asian Americans can be tracked. The Justice Department should report this comprehensive data on civil rights complaints to Congress and the public annually.
- 10) Muslim Advocates urges Congress to require the Justice Department to report in six months and then annually thereafter on the above steps and all other actions it has taken to stem civil rights violations rooted in anti-Muslim hate.
- 11) Muslim Advocates urges Congress to make the following crucial changes to the Hate Crimes Statistics Act to promote comprehensive and more accurate reporting of hate crimes:
 - a. Mandate state and local authorities to report the occurrence of hate crimes to the FBI.
 - b. Specify additional ethnic groups in the Bias Motivation section, under Ethnicity/National Origin. Currently, the statistics only track “Anti-Hispanic” and “Anti-Other Ethnicity.” This does not take into account ethnicities at high risk of being targeted for hate crimes because they are perceived to be Muslims. There should be a section tracking “anti-Arab” crimes and “anti-South Asian” crimes.
 - c. Provide additional specificity in the Bias Motivation section under the “Religion” section. Sikh Americans, for instance, are frequent targets of hate crimes because they are perceived to be Muslim.

PREPARED STATEMENT OF CARDINAL THEODORE E. MCCARRICK

*Testimony by Cardinal Theodore E. McCarrick
Archbishop Emeritus of Washington*

On behalf of the

United States Conference of Catholic Bishops

*before the Senate Judiciary Committee
of the United States Senate*

Subcommittee on The Constitution, Civil Rights and Human Rights

“Protecting the Civil Rights of American Muslims”

March 29, 2011

Peace is based on respect for the rights of all. Conscious of this, the Church champions the fundamental rights of each person. In particular, she promotes and defends respect for life and the religious freedom of everyone.

--Pope Benedict XVI, World Day of Peace Message, January 1, 2007

Mr. Chairman and distinguished members of the Subcommittee, allow me to thank you for the invitation and opportunity to be with you today to offer testimony on the topic of the protection of civil rights and religious freedom. I also express my appreciation for calling this hearing on this fundamental human right and basic principle of American life. I am here today representing the United States Conference of Catholic Bishops. I presently serve as Archbishop Emeritus of the Archdiocese of Washington. I will summarize my remarks and ask that my full written testimony be entered into the record.

The United States Conference of Catholic Bishops welcomes the increased attention to, and seeks greater priority for, religious freedom and civil rights both in our own country and around the world. Freedom of religion is a fundamental civil right and it is more than that. It is a natural human right that flows from the nature of the human person. Without the right to religious freedom, no other human right is secure.

We also welcome a discussion that highlights how various religious communities, including our own Catholic community, have suffered from and still experience religious bigotry, bias and prejudice. We see religious freedom as an essential foundation for our life together in our own nation and across the globe. Over time, we have made much progress together as a people, but we fear this shared foundation is being weakened and undermined by religious prejudice, discrimination and intolerance, unwise policies, and polarizing words and tactics which divide us. Most appallingly, religious freedom is destroyed by attacks on people in some countries because of their religion and by the terrible misuse of religion to incite hatred and even justify violence.

Sadly, this fundamental betrayal of religious belief, attacking those of differing religious perspectives in the name of religion, can sometimes be used to promote suspicion and fear of all people associated with a particular religious tradition. This kind of generalized religious prejudice is wrong and unjust and a clear violation of religious freedom. A justified concern for security and the appropriate pursuit of those who pervert religion to attack others cannot be allowed to turn into a new form of religious discrimination and intolerance. This is why we stand with our Muslim brothers and sisters in defense of their dignity and rights, just as we welcome and expect their reciprocity and solidarity with us when the rights of Christians and other religious groups are violated around the world.

Our Rich American Tradition

At the White House in 2008, Pope Benedict XVI stated, "America's quest for freedom has been guided by the conviction that the principles governing political and social life are intimately linked to a moral order based on the dominion of God the Creator." The American vision insists that people have inalienable human rights endowed "by nature and nature's God;" that all of us have a right to, "life, liberty and the pursuit of happiness." In regard to religious liberty, the American people have come to expect our legislators, judges and other public officials to respect the twin commandments of the religion clauses enshrined in the amendments to the

Constitution— “Congress shall make no law respecting an establishment of religion or, prohibiting the free exercise thereof.” This moral and truly American vision has taken shape, although it has not come easily. Our nation’s struggle to enshrine these values has required moral clarity, commitment and constant vigilance. From the beginning of our great American experiment, we have worked and sometimes struggled as a nation to build a democracy based on the moral conviction that all people “are created equal.” Sadly, our history has been marred by injustices such as the stain of slavery, official hostility to or even direct persecution of particular religious groups including Catholics and others, and various other examples of disregard for the life and dignity of every human person.

In our pluralistic society, religious values and commitments are assets for the common good, not sources of division or conflict. American history demonstrates how people of many religious traditions have contributed greatly to the betterment of the country. Our history demonstrates the accomplishments of this rich heritage. The abolition of slavery and the civil rights movement could not have been successful without the efforts of people of diverse religious traditions coming together to work on behalf of their brothers and sisters in need. It is our faith that calls us to care for the poor, educate the young and heal the sick in services that enrich our nation and strengthen our society.

Our American experience demonstrates that the plurality of religious traditions contributes positively to the moral fabric of the nation and the global community. We live and work alongside others of different beliefs or no belief at all. Religious pluralism is now a global phenomenon. Global communications make us a virtual village. Increased immigration makes us actual neighbors. These new realities can lead to either greater respect for others of differing religious belief or to potentially destructive conflicts. The challenge and struggle before all of us today is to continue to build a culture of respect for religious freedom as a guarantor of human dignity and a contributor to the justice and peace of our nation and the global community. We join Pope Benedict XVI who, in this Capital City in 2008, expressed confidence that we Americans will find in our “religious beliefs a precious source of insight and an inspiration to pursue reasoned, responsible and respectful dialogue in the effort to build a more humane and free society.”

Our Experience

From the perspective of Catholic teaching, religious freedom is one of our most fundamental freedoms, which flows from the right to life itself. The late Pope John Paul II taught that “The most fundamental human freedom is that of practicing one’s faith openly, which for human beings is their reason for living.” The Second Vatican Council in its *Declaration on Religious Freedom (Dignitatis Humanae)* declared that “the right of religious freedom has its foundation in the very dignity of the human person, as this dignity is known through the revealed Word of God and reason itself.”

It is essential to point out that religious liberty begins with the right to worship according to one’s conscience, but it does not end there. Religious freedom includes other vital activities which express our faith, among them are the freedom of conscience in providing healthcare and other human services, the right to establish and maintain schools that authentically reflect our own values, and the right to participate in and contribute to public and community affairs.

Religious freedom is inextricably linked to other fundamental human rights including freedom of association, freedom of speech, and legal recognition of voluntary associations. It is essential to understand that religious freedom is a right of **both** individuals **and** religious institutions.

For the Catholic bishops religious freedom has many faces. As pastors within a universal Church, we hear the cries and share the pain of believers of all religions around the world who suffer persecution, violence and discrimination simply because of their religious identity. In the last year alone, we have seen dramatic examples of the persecution of Catholic and other Christian communities around the globe. The New Year's Day bombing of a Coptic Church in Egypt, the Christmas Eve bombings of Christian churches in Nigeria, and the October 31 attack on worshipers at the Syrian Catholic Church in Baghdad are grim reminders of what is at stake. Earlier this March, the world witnessed the assassination of Shahbaz Bhatti, Pakistan's Minister of Minority Affairs at the hands of Muslim extremists. Mr. Bhatti was a Roman Catholic who advocated for tolerance and religious freedom for religious minorities in Pakistan. He was a courageous advocate who spoke out against his country's repressive blasphemy laws; for this advocacy he was brutally killed.

We appreciate the many sincere expressions of sympathy and condemnation that came from around the world, including from our dialogue partners in the Muslim community, following this act of grave injustice. In particular, our partners in the American Muslim community including the Islamic Society of North America (ISNA) and the Islamic Circle of North America (ICNA) have stood with us as trusted allies in speaking out against violence and injustice and in defense of religious freedom. Solidarity among people of every religion in the face of attacks on people of any one religion is an example of respect for religious freedom in action.

As a Conference of Catholic Bishops we seek to defend the rights of people of other religious traditions, not only members of our Catholic family of faith. Bishops have journeyed to many lands to express our solidarity with diverse groups who have suffered religious persecution and discrimination. We have issued public appeals for legal protections, protested killings and detentions, met with victims and promoted their rights and dignity with officials of the United States and foreign governments. Our Conference is committed to defending and advocating for religious freedom consistently and persistently.

Our own history as an immigrant people and a religious minority is filled with stories of persecution, suspicion, fear and intolerance. We have had our loyalty as Americans questioned. We have suffered bias and discrimination for our religious beliefs, especially in the educational context. Catholics have been explicit targets of the Ku Klux Klan and the Know Nothing Party. The very idea of a Catholic in the White House was questioned. Because of this history, we cannot help but be sensitive to the experiences of other religious groups who suffer prejudice, bias and discrimination.

Offenses against the religious liberty of Catholics, however, are not merely a thing of the past. Indeed, it continues to be important to raise the issue today. Acts of bias and discrimination towards Catholics and our beliefs are often expressed very publicly. For example, we are charged with discrimination or called "bigots" when we advocate for the traditional understanding of marriage between one man and one woman, which many religious and non religious traditions

have supported throughout human history. We advocate for an authentic vision of marriage not to offend or to treat people unjustly, but to offer a positive and healthy model of the human family, which has served as the foundation of society throughout the ages.

The identity and integrity of our Catholic social institutions—or indeed those of other religious traditions—are also being threatened. For example, when the state narrowly defines in legislation which religious institutions are “religious enough” to enjoy religious freedom protections, or when the state imposes restrictions on how religious institutions and individuals are able to serve those in need, the ability to exercise religious freedom in an effective and authentic manner is greatly undermined.

When the very right of conscience is attacked, the ability to exercise religious beliefs is subverted. There are well known contemporary examples where the state would force religious groups and individuals to choose between following their religious beliefs and practices and following the dictates of law. Where is the respect for religious freedom in compelling a religious entity to act in ways which contradict its most basic moral principles? Who ultimately suffers by undermining the rights of conscience for religious groups and individuals? It is not merely the integrity of the principle of religious freedom, but also the people whom we serve and employ.

Many of these attacks on religious freedom and practice are a newer version of an older hostility. Today, these examples of religious discrimination originate less often from a sectarian religious bias, and more often from a radical secular perspective that insists that no moral principle or religious belief should ever challenge individual decisions to do or choose whatever one wants or prefers. Ironically, in the name of this very narrow and socially problematic vision of “freedom,” authentic religious liberty is restricted.

Intolerance Towards Muslims

In our work on religious freedom and other issues we work side by side with other religious groups. We listen carefully to and hear the pleas of those who suffer persecution and discrimination and learn from their everyday experiences. We seek their counsel on how best to stand with them and help them to secure their rights. Today, we note with particular sadness that Muslim Americans, with whom we have had a positive ongoing dialogue for over two decades, have had their loyalty and beliefs questioned publicly in sweeping and uninformed ways. This causes us great concern and compels us to reach out in solidarity in support of their dignity and rights as Americans and believers. We take notice of the rhetoric and see the actions which target our Muslim neighbors and friends. From the sometimes imbalanced criticism and hurtful words leveled at the Muslim community over the planned building of the Park 51 mosque in New York, to the public burning of the Koran by a Christian minister, to the defacing of a mosque in Oregon following the interruption of a planned terrorist attack, Muslim Americans are increasingly facing unjust acts of discrimination and prejudice. Like our own historical experience, their very loyalty as Americans and their traditions and values are being questioned.

We recognize that people of other religious traditions, and also people who do not share a belief in God, also face criticism and bias in the larger society for their beliefs. It is the duty of the Church to urge all people of good will to avoid all forms of religious bigotry, bias and hateful

words that injure the dignity of persons and disrespect their religious convictions. We remain firmly committed to the defense of religious liberty for all—not just for Catholics—because our commitment is based on our concern for the dignity of each and every human person.

At the same time, we recognize that not every charge of wrong-doing against people or groups within a religious community amounts to religious discrimination, bias or bigotry. Religious beliefs are no excuse for threatening others with or carrying out acts of violence. At this particular moment in our nation's history, we face a real threat to our national security from terrorism that has its origins in a particular form of extremist ideology that holds itself out as authentic Islam. These pervasive threats endanger all people both in this country and abroad. We cannot pretend that these threats do not exist. Our government has a duty to understand the threat and confront it effectively in order to keep our citizens safe and to promote and defend the common good of all.

The legitimate concern for the public order, however, must be pursued with effective skill and respect for religious liberty and with particular concern to avoid generalizing about Islam based solely on the extreme views and conduct of a small group of radical extremists. These unfounded generalizations and efforts to fan the flames of fear are wrong and unjustified, but are especially inappropriate and hurtful when expressed by leaders in public life. These attacks are a grave injustice against the vast majority of Muslims in the United States who are loyal and productive members of our American society.

Conclusion

As a religious community, our Catholic faith and our respect for the religious beliefs and freedoms of others commit us to defend and promote the right to religious freedom for all as a moral priority and human responsibility. We do not do this alone but walk along side our neighbors of diverse creeds and religious traditions. Today, that commitment calls upon us to speak a note of caution on how our society approaches the Muslim community. The quality of that approach will declare to the world what kind of society we hope to be, and will shape relationships among our own citizens, for better or worse, for generations to come.

This common commitment to religious freedom is at the heart of American life. It is also an example to a world where too many doubt that people of different religions can live together in peace and mutual respect. As predominantly Muslim societies wrestle with how to treat religious minorities, let them look to our nation where we work to ensure that their Muslim sisters and brothers are treated with dignity and their religious identity and beliefs are treated with respect. Let them see a people blessed with hard won religious freedom living out our commitment to the rights of all by demonstrating full respect for the identity, integrity and freedom of all religions and their institutions.

As a person of faith and a citizen, I thank you for your focus on this timely and imperative topic. I urge you to recommit yourselves to protect and promote religious liberty both at home and abroad as a sign of our respect for the inherent dignity and value of every human person. Lastly, I would like to assure you and your families of my continued prayers as you carry out your service to our nation and the good of its people and the defense of the rights of all.

PREPARED STATEMENT OF R. ALEXANDER ACOSTA



FLORIDA INTERNATIONAL UNIVERSITY

STATEMENT OF

THE HON. R. ALEXANDER ACOSTA

DEAN OF THE COLLEGE OF LAW
FLORIDA INTERNATIONAL UNIVERSITY

BEFORE THE

UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY
SUBCOMMITTEE ON THE CONSTITUTION,
CIVIL RIGHTS AND HUMAN RIGHTS

HEARING ENTITLED
"PROTECTING THE CIVIL RIGHTS OF AMERICAN MUSLIMS"

MARCH 29, 2011

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OFFICE OF THE DEAN

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Chairman Durbin, Ranking Member Graham and distinguished Members of the Committee:

I have been asked to provide testimony regarding the civil rights of American Muslims. I appreciate the opportunity to appear before you to address this important issue.

As the title of today's hearing references American Muslims, I think it appropriate to begin by discussing two such individuals.

The first is a student at the law school where I am now Dean.¹ He is one of our student leaders, and in fact, is a candidate for student body president. I asked him to send me an email about himself. This is what he wrote:

I am a Muslim, born and raised in the United States.

I suppose by most people's standards my childhood was pretty normal. I went to school, tried to get out of doing my homework, and spent entirely too much time watching TV. The truth is I was pretty lazy. But that changed when I went to high school. I attended Estero High School, in Estero Florida, where I was introduced to the Army's Junior Reserves Officer Training Corp (JROTC). I loved the JROTC program. It taught me what it meant to be a leader and why it was important to take responsibility for my actions. I actually excelled in the program. In fact, I was the first cadet in my class to be made a cadet officer, and I ultimately reached the program's highest rank, Cadet Lieutenant Colonel. But it is not my successes in JROTC that I remember most about high school. Rather, what I remember most about high school is the confusion, the fear that overcame me on September 11, 2001, when our teacher turned on the classroom television just in time for us to witness the live coverage of the second hijacked plane crashing into the second tower of the world trade center. I knew that my country had been attacked. So I did what I knew was right, five months later I enlisted in the military.

I enlisted in the Florida Army National Guard on February 7, 2002, and I transferred to Regular Active Duty Army on July 27, 2003. I served three years as a Military Intelligence Analyst in the Security and Intelligence Department of the 44th Medical Command at Fort Bragg, NC. After I finished my tour at Fort Bragg, I served one year in the Busan Military Intelligence Detachment in Busan, South Korea. And to this day, I serve as an intelligence Analyst in the Army Reserves as part of Detachment 1, 2500 Military Intelligence Group.

In late 2007, I left active duty so that I could go to law school. Today, I am second year law student at Florida International University College of Law.

¹ I serve as Dean of the College of Law at Florida International University. FIU is South Florida's recently-established, public law school. We have graduated six classes, and this year, we were ranked for the first time by U.S. News and World Reports.

This student's name is Mohamed T. Al-Darsani. Last summer, he was selected as one of only 25 first year law students in the nation to intern for the Army's Judge Advocate General Corps. His goal is to become a JAG attorney.

The second individual about whom I would like to speak is a young woman by the name of Nashala Hearn. Ms. Hearn testified before this Committee in June 2004. At the time, she was about 11 year old.

Nashala's story begins in Oklahoma at the start of the 2003 school year, when she told her sixth grade public school teacher that she was Muslim, and that as part of her faith, she wore a headscarf, or hijab. The teacher at that time did not object, and Nashala happily attended school for the next month. That changed on September 11, 2003, when her teacher asked her to remove her headscarf. The school permitted students to wear both non-religious and religious head-coverings, including baseball caps and kippahs, but wanted her to remove her headscarf because it "frightened" other students. Nashala declined, and was sent to the principal's office. Her question for the principal was rather precocious: "My friends can wear their crosses to school. Why can't I wear my hijab?" The principal insisted that she remove her headscarf, and when Nashala declined, citing both her faith and modesty, the principal suspended her from school. Nashala returned to school on October 7, still wearing her headscarf, and was again suspended.

I authorized the Department of Justice to intervene in Nashala's case, a fact I remember with a bit of irony, because shortly after we intervened to protect Nashala's liberties, the nation of France enacted legislation forbidding religious symbols and clothing in schools. France banned headscarves, kippahs, crosses and any other religious clothing or jewelry. Our government, by contrast, protected religious expression.

I speak about these two individuals because I think their stories highlight principles that make our nation great. The first of these principles is that foremost we are all Americans. I grew up under the presidency of Ronald Regan, and have read many of his speeches. A less known talk, but one that captured this principle well, was his response to a question from a high school student in Suitland, Maryland, near the end of his presidency in January 1988. When asked what America stood for, he said:

But this thing about America -- I got a letter from a man the other day, and I'll share it with you. This man said you can go to live in Turkey, but you can't become a Turk. You can go to live in Japan, but you cannot become Japanese -- or Germany or France -- and named all the others. But he said anyone from any corner of the world can come to America and become an American.

Mr. Al-Darsani is an American. Mr. Al-Darsani's thoughts and his actions were undeniably American: "I knew that my country had been attacked, [s]o I did what I knew was right, five months later I enlisted in the military."

Second, we are a nation build on principles of freedom, and high on the list of freedoms is freedom of religious expression. Indeed, as is well known to this Committee, this freedom pre-dates our Constitution. Virginia's Statute for Religious Freedom, written by Thomas Jefferson in 1779, for example, held:

"[N]o man shall be compelled to frequent or support any religious worship, place, or ministry whatsoever, *nor shall be enforced, restrained, molested, or burthened in his body or goods, nor shall otherwise suffer, on account of his religious opinions or belief*; but that all men shall be free to profess, and by argument to maintain, their opinions in matters of religion, and that the same shall in no wise diminish, enlarge, or affect their civil capacities."

The emphasis is added to highlight a corollary of religious freedom, namely the duty to oppose discrimination on the basis of religious belief.

Nashala's situation was an opportunity for a public school to teach this principle of freedom, and to teach its corollary. School officials could have taken this opportunity to talk about America's early settlers and their search for freedom to express their faith. They could have taken this opportunity to teach basic civics, a topic sometimes lacking in our system of education. They could have taken this opportunity to say that fear is wrong, that respect and tolerance for another's faith is right, and that these are founding principles of our nation. Instead, the school officials fed the fear, signaling to Nashala's fellow sixth-graders that the headscarf, and by extension that her faith, should be suppressed.

Nashala's case, unfortunately, offers an insight into our nature. Our nation is strong because we respond to attack with resolve. History has shown the need, however, for leadership that tempers resolve with wisdom.² President George W. Bush understood this, when on September 17, 2001, he visited the Islamic Center of Washington D.C. to remind a resolute nation that "[t]hose who feel like they can intimidate our fellow citizens to take out their anger ... should be ashamed of that kind of behavior." This was not the message many Americans wanted to hear at that time, but the President chose to lead, rather than to be led.

The Justice Department likewise responded following 9-11. Starting in September, 2001, the Department of Justice took great effort to address post-9/11 backlash against Arab-Americans, Muslim-Americans and others, who though members of different faiths (such as Sikh-Americans) were nonetheless the target of backlash. From 2001 through early 2005, the Department investigated more than 630 "backlash" incidents, which resulted in nearly 150 state and local prosecutions (many with federal assistance), and the federal prosecution of 27 defendants in 22 cases. Some were particularly violent. Two incidents, for example, targeted the Islamic Center of El Paso, Texas. In *United States v. Bjarnason*, the Defendant was convicted of e-mailing a threat to burn down the mosque, and in *United States v. Nunez-Flores*, the Defendant was sentenced to imprisonment for 171 months for throwing a "Molotov Cocktail" at the same Islamic Center of El Paso Mosque. Many of these efforts were due to the work of Ralph Boyd, who served as Assistant Attorney General from 2001 through 2003.

The Department's efforts were not limited to criminal actions. We filed in educational and employment settings as well. I already discussed the Hearn matter, and I read that the Division continues to litigate the complaint against the New York

² See e.g., *Korematsu v. United States*, 323 U.S. 214 (1944).

Metropolitan Transit Authority for prohibiting employees from wearing headscarves with their uniforms (a policy that was applied inconsistently, with many employees permitted to wear hats and non-Muslim religious head coverings).

Sometimes, matters can be more subtle and discrimination is expressed through biased land-use or institutional regulations. RLUIPA is a statute that can be of particular help in these settings. The Religious Land Use and Institutionalized Persons Act is among those few pieces of major legislation with such overwhelming support as to pass both the Congress and the Senate by unanimous voice votes. Enacted in 2000, RLUIPA responds to concerns that land-use or institutional rules are often used to extinguish the religious practices of less popular faiths – be they Christian, Jewish, Islamic or other. The statute has received more attention of late, yet I believe it remains underused.

The Department's informal responses to 9-11 were as important as its legal actions. After 9-11, the Civil Rights Division began to host regular meetings between senior representatives from the Arab-American and Muslim-American communities and the leadership of key government agencies, including the FBI and many Homeland agencies. These meetings focused on finding solutions to shared problems, and they worked well. The community representatives often raised valid points and offered useful suggestions. Because all relevant agencies were at the table, valid points could be addressed and suggestions adopted without interagency squabble. Put simply, having all relevant agencies at the table reduced the "ping-pong" effect, where an individual may visit one agency, only to be told that a matter is within the jurisdiction of another agency; and then visit that other agency, only to be told that the matter is within the jurisdiction of the first. These meetings also generated trust between government and the represented communities. The designation of a Special Counsel to the Assistant Attorney General for Post 9-11 National Origin Discrimination was particularly important. The special counsel was tasked with coordinating the Civil Rights Division's various efforts on this issue, and in particular, would follow up on the various matters raised at these meetings to help ensure resolutions.

These efforts following 9-11 were important. They set a tone. They reminded those who might be tempted to take out their anger on an entire community that such actions were wrong. They helped assure Americans like Mr. Al-Darsani that their government would act to protect their rights. This said, these efforts were not without controversy. The appointment of a special counsel to the assistant attorney general, for example, was discussed. Should an individual be appointed to address the rights of a particular community? Such a measure was admittedly extraordinary. History, however, shows that the decision to proceed in this manner was correct. 9-11 was an extraordinary and terrible event, and thus efforts to curb post 9-11 backlash had to be extraordinary as well.

I would like to close with two additional thoughts.

First, I want to thank Assistant Attorney General Perez and the men and women of the Civil Rights Division for their work. I have had the opportunity to review

Assistant Attorney General Perez's testimony. He graciously notes that much of Division's efforts have been ongoing since 2001 and I want to thank him for referencing some of the work done in 2001 to 2005 period.

Second, as we approach the 10th Anniversary of 9-11, I feel obligated to state the obvious. As a nation, we have not forgotten the events of ten years ago. Emotions remain charged, and the desire to blame remains high. Now is good time to remember that no community has a monopoly on any particular type of crime. Now is good time to temper resolve with wisdom and to uphold our principles, as our former President did on September 17th.

Chairman Durbin, Ranking Member Graham and distinguished Members of the Committee, I thank you for your time and I look forward to your questions on this important issue.

PREPARED STATEMENT OF CHAIRMAN PATRICK J. LEAHY

**Statement of Senator Patrick Leahy (D-Vt.)
Chairman, Senate Judiciary Committee
Hearing before the Subcommittee on the Constitution,
Civil Rights, Human Rights, and the Law
“Protecting the Civil Rights of American Muslims”
March 29, 2011**

Director Robert Mueller of the Federal Bureau of Investigation (FBI) has testified before this Committee and others that, in the past few years, there has been a dramatic increase in the activities of domestic hate groups. Some of these activities have resulted in attacks targeting the American Muslim community. To make matters worse, some leaders have sought to sow fear and divisiveness against American Muslims. Fanning the flames of hate against those with different faith traditions runs contrary to our American values. This Nation was founded in large part on the importance of religious freedom.

I welcome the renewed focus by some on our fundamental charter, the Constitution of the United States. The Constitution is not a menu with options to choose based on the political whims of the moment. Instead it sets forth freedoms and protections that are to be guaranteed to all.

The First Amendment in our Bill of Rights is one of the most defining principles of our national character. It helps preserve all of our other rights. By guaranteeing a free press and the free exercise of religion, it ensures an informed electorate and the freedom to worship God as we choose -- or not to worship at all.

Throughout the history of the world, religious minorities have been persecuted and maligned. There is a long list of religions whose members have been systematically denied freedom, categorically stigmatized and even exterminated. We must never forget this when considering religious freedom and religious minorities in this country.

All Americans deserve civil rights protections and the freedoms provided in the Constitution. This does not end with the vital protections afforded by the First Amendment. It continues to ensure due process and equal protection. It is bolstered by important civil rights laws that we have passed to protect the practice of religion without discrimination.

Many of the members of this Committee worked with the late Senator Ted Kennedy and me over the past several decades to ensure this fundamental freedom. We worked together to pass the Religious Freedom Restoration Act and the Religious Land Use and Institutionalized Persons Act. Religious freedom has long been a bipartisan issue in the Senate, but more importantly it has been a consistent American value. American Muslims, like all Americans, must be protected by the rule of law that upholds these constitutional and statutory protections.

During the last several years, I worked to enact the Matthew Shepard Hate Crimes Prevention Act to strengthen the civil rights of all Americans. All of us deserve to feel safe regardless of who we are, who we love, or what religion we choose to practice. This new law expanded the protection of hate crimes laws to those targeted based on their disability, sex, sexual orientation and gender identity. At the same time, it responded to law enforcement concerns about the

difficulty of bringing criminal prosecutions against those who target their victims because of their religion, ethnicity or race.

Last year, in the run up to national elections, the rhetoric grew even more heated and threatening. There were threats of Koran burnings and some have even asserted that Muslim Americans are not entitled to the protection of the First Amendment. That comment should shock and offend anyone who claims to love and respect the Constitution.

Others on the radical right have suggested that Islam, one of the oldest and widely practiced religions on earth, is somehow not a religion at all, as part of their argument that its followers should be denied First Amendment protections. I hope that Americans will remember why our Founding Fathers established this great Nation when such divisive rhetoric is used for partisan purposes.

I welcome the Assistant Attorney General for Civil Rights, Tom Perez; a former Assistant Attorney General for Civil Rights, Alex Acosta; and a former Judiciary Committee counsel, Farhana Khera to the hearing today. I am pleased that one of the leading voices of the Catholic Church in America is here today to testify. Cardinal McCarrick's testimony reminds us that we Catholics also had our loyalty to America questioned – not just in the earliest days of our Republic, but during the lifetimes of many of us. Members of the Senate of other faiths also know from their own experience that religious and ethnic bigotry can be easy to ignite and difficult to extinguish. I agree with Cardinal McCarrick that “religious freedom is destroyed by attacks on people . . . because of their religion and by the terrible misuse of religion to incite hatred and even justify violence.” When divisive religious rhetoric is used for partisan advantage it demeans the principles upon which this great Nation was founded.

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QUESTIONS SUBMITTED TO HON. THOMAS E. PEREZ BY SENATOR GRASSLEY

**Questions for Mr. Thomas Perez
Assistant Attorney General, Department of Justice
From Senator Chuck Grassley**

1. Housing Testing Program

In 2008, a complaint was filed with the DOJ Office of the Inspector General (OIG) regarding Darryl Foster, then head of the Housing Testing Program in the Housing and Civil Enforcement Section of the Civil Rights Division. The OIG investigation involved allegations that Foster had engaged in an inappropriate relationship with the president of an organization over whom he had oversight responsibility for approving contracts with and requests for payments by the organization. Foster was demoted in May 2008 and reassigned to the Voting Section, also receiving a 7-day suspension of duration.

Question:

- (1)(a) What were the specific findings of the OIG report?
- (1)(b) How large was the budget that Foster was responsible for overseeing as head of the Housing Testing Program?
- (1)(c) For what behavior was Foster demoted?
- (1)(d) What kind of message does it send when employees guilty of misconduct are only transferred between sections instead of being fired?

QUESTIONS SUBMITTED TO HON. THOMAS E. PEREZ BY SENATOR KYL

**Questions for Mr. Thomas Perez
Assistant Attorney General, Department of Justice
From Senator Jon Kyl**

Q. What is the federal government doing to protect former Muslims from harassment by Muslim extremists? The penalty for leaving Islam under medieval Islamic law is death. Many extremist groups believe in these barbaric and immoral doctrines, and have threatened converts from Islam with death and serious bodily injury. Has the United States investigated or prosecuted any such cases?

Q. Robert Spencer, an American scholar of Islam and a critic of Islamic extremism, recently noted on his website that he has received the following emailed death threats during the last two years:

- "Robert Spencer has his right to speech. But someday he will slip up, he will visit a place that doesn't honor such infidel 'rights.' And what a day they will have with him. You've heard of head cheese and blood pudding? See, modern hip Muslims like me like to be look different than everybody else in Western society. And we don't like to believe Islam has any real enemies left. But Robert Spencer, well, he will see the sacred text come to life . . . 'fuel the fires of hell . . . ' only when they are done with him. Peace and Love." – September 29, 2010
- "Robert Spencer the Second, born on February 27, 1962, is a hairy man who . . . currently lives on [specific street] in [specific city] with [specific relatives] . . ." – July 28, 2010, from Greenbelt, Maryland
- "Killing of this man is a model... SPENCER-Model..Spencer himself deserves the same? he should be sloughtered like that man. Silencing the EVIL." -- April 4, 2010
- "THIS IS AN OPEN THREAT TO YOU AND YOUR ORGANIZATION TO STAY AWAY FROM MUSLIMS AND ISLAM IF YOU KNOW WHAT IS GOOD FOR YOU. YOU SON OF A BITCH . YOUR MOTHER WAS A C**K-SUCKING WHORE . IF YOU GOT THE GUTS AND BALLS PRINT THIS ON YOUR WEB SITE AND TELL PEOPLE THAT YOU ARE BEING THREATENED. U FILTHY C**K-SUCKER HAVE A NICE DAY" – December 8, 2009
- "Yes. Yes . . . We finally reached out him. Ka'ab Binu Ashraf has been traced. He will be soon found. Will this be like VAN-Gooooordhd. I am not sure. Allah Knows . . . But Spencer you will pay the price . . . Just wait to pay the price." – September 28, 2009

- “Robert . . . It was really good I found you in a local supermarket. and I followed you . . . so i know your address now . . . tell you fool followers you are going to be deceased very soon . . . any one taking your seat and getting killed? I am sure most of your followers are cheeky cowards.” – September 28, 2009
- “Do me a favor Spencer and put this as a blog post like you do to all those threatening mails. Be careful, I am very near to you. I located you and I know you have little security around you. I am coming to slit your throat with a bland knife . . . and it will pain a lot . . . since you misled a lot of people and became a fitnah on earth . . . it is a duty of a good muslim to kill you! go report this to FBI or CIA . . . And don’t worry, I won’t attack you unguarded . . . but i will surely kill you in the most easy manner possible because I don’t like to slaughter human beings . . . Die and go to hell . . . for sure . . . and yea I have a new name for you . . . Robert ‘hawknoseinhell’ spencer.” – September 28, 2009
- “YOU are the most f**king person I have ever seen. Enrooted in islamic hatred, you think your personal statements on Prophet Muhammed will be deemed appropriate. Motherf**ker, I am coming to kill you. I will hack the head off your face and i will kill your family. Wait for your doom. From A mujahid” – October 2, 2006

Mr. Spencer also states that he has contacted the FBI repeatedly about these and other death threats, and that he does so whenever a new death threat comes in. Yet he also reports that there have been no FBI investigations and arrests resulting from any of these threats and his reports to FBI.

Section 875(c) of title 18, United States, clearly makes it a federal criminal offense to send threats such as these by email. It provides that anyone who “transmits in interstate or foreign commerce any communication containing any threat to kidnap any person or any threat to injure the person of another, shall be fined under this title or imprisoned not more than five years, or both.”

In light of section 875(c)’s clear proscription on the threats quoted above, why has there been no investigation of or arrests resulting from any of the above threats that Mr. Spencer has received and reported to the FBI?

Q. Section 248(c)(1) of title 18, United States Code, provides a civil remedy, including statutory damages, to any person who is “intimidated” or otherwise harassed in relation to his participation in certain activities.

Would you support enactment of a similar cause of action that awards similar damages to anyone who is threatened with death or physical injury on account of his commentary on religious or political issues or other matters of public concern?

Q. I have been advised that the FBI's hate crimes data do not differentiate between Muslims who are being targeted by non-Muslims on the one hand, and "apostate" Muslims being targeted by fellow Muslims on the other. Is that true?

Q. Does the U.S. government regard organizations with longstanding ties to the Muslim Brotherhood as reliable partners for outreach to the Muslim American community?

Q. The Director of National Intelligence James Clapper, who described "the Muslim community as a source of advice, counsel and wisdom" in ferreting out extremists in its midst. What organizations and individuals does the Administration consider to be such sources? Are any of these organizations or individuals on which the Administration relies for advice and counsel associated now or in the past with the Muslim Brotherhood? Have any of them been identified as unindicted co-conspirators in the federal terrorism-financing prosecutions?

Q. The Obama administration co-sponsored a version of the Organization of the Islamic Conference's resolution calling on governments to criminalize criticism of religion in the UN Human Rights Council in September 2009. How can such initiatives be reconciled with the First Amendment?

RESPONSES OF HON. THOMAS E. PEREZ TO QUESTIONS SUBMITTED
BY SENATORS GRASSLEY AND KYL

Questions for Mr. Thomas Perez
Assistant Attorney General, Department of Justice
From Senator Jon Kyl
Senate Committee on Judiciary
Subcommittee on the Constitution, Civil Rights and Human Rights
“Protecting the Civil Rights of American Muslims”
March 29, 2011

1. What is the federal government doing to protect former Muslims from harassment by Muslim extremists? The penalty for leaving Islam under medieval Islamic law is death. Many extremist groups believe in these barbaric and immoral doctrines, and have threatened converts from Islam with death and serious bodily injury. Has the United States investigated or prosecuted any such cases?

Response:

The Civil Rights Division prosecutes hate crimes directed at persons because of their religion, and this includes persons who change their religion. A Civil Rights Division official met with the group Former Muslims United on February 19, 2010 to discuss threats against former Muslims, and encouraged the group to forward any threats that they receive. The Civil Rights Division has received at least one such report of receipt of a threat, involving a threat originating outside of the United States. To date, the United States has not opened formal investigations in such cases, or prosecuted any such crimes, but we encourage anyone with information about such a crime to report it.

2. Robert Spencer, an American scholar of Islam and a critic of Islamic extremism, recently noted on his website that he has received the following emailed death threats during the last two years:

- **“Robert Spencer has his right to speech. But someday he will slip up, he will visit a place that doesn't honor such infidel 'rights.' And what a day they will have with him. You've heard of head cheese and blood pudding? See, modern hip Muslims like me like to be look different than everybody else in Western society. And we don't like to believe Islam has any real enemies left. But Robert Spencer, well, he will see the sacred text come to life . . . 'fuel the fires of hell . . . ' only when they are done with him. Peace and Love.” – September 29, 2010**
- **“Robert Spencer the Second, born on February 27, 1962, is a hairy man who . . . currently lives on [specific street] in [specific city] with [specific relatives] . . .” – July 28, 2010, from Greenbelt, Maryland**

- "Killing of this man is a model... SPENCER-Model..Spencer himself deserves the same? he should be sloughtered like that man. Silencing the EVIL." -- April 4, 2010
- "THIS IS AN OPEN THREAT TO YOU AND YOUR ORGANIZATION TO STAY AWAY FROM MUSLIMS AND ISLAM IF YOU KNOW WHAT IS GOOD FOR YOU. YOU SON OF A BITCH . YOUR MOTHER WAS A C**K-SUCKING WHORE . IF YOU GOT THE GUTS AND BALLS PRINT THIS ON YOUR WEB SITE AND TELL PEOPLE THAT YOU ARE BEING THREATENED. U FILTHY C**K-SUCKER HAVE A NICE DAY" – December 8, 2009
- "Yes. Yes . . . We finally reached out him. Ka'ab Binu Ashraf has been traced. He will be soon found. Will this be like VAN-Gooooordhd. I am not sure. Allah Knows . . . But Spencer you will pay the price . . . Just wait to pay the price." – September 28, 2009
- "Robert . . . It was really good I found you in a local supermarket. and I followed you . . . so i know your address now . . . tell you fool followers you are going to be deceased very soon . . . any one taking your seat and getting killed? I am sure most of your followers are cheeky cowards." – September 28, 2009
- "Do me a favor Spencer and put this as a blog post like you do to all those threatening mails. Be careful, I am very near to you. I located you and I know you have little security around you. I am coming to slit your throat with a bland knife . . . and it will pain a lot . . . since you misled a lot of people and became a fitnah on earth . . . it is a duty of a good muslim to kill you! go report this to FBI or CIA . . . And don't worry, I won't attack you unguarded . . . but i will surely kill you in the most easy manner possible because I don't like to slaughter human beings . . . Die and go to hell . . . for sure . . . and yea I have a new name for you . . . Robert 'hawknoseinhell' spencer." – September 28, 2009
- "YYou are the most f**king person I have ever seen. Enrooted in islamic hatred, you think your personal statements on Prophet Muhammed will be deemed appropriate. Motherf**ker, I am coming to kill you. I will hack the head off your face and i will kill your family. Wait for your doom. From A mujahid" – October 2, 2006

Mr. Spencer also states that he has contacted the FBI repeatedly about these and other death threats, and that he does so whenever a new death threat comes in. Yet he also reports that there have been no FBI investigations and arrests resulting from any of these threats and his reports to FBI.

Section 875(c) of title 18, United States, clearly makes it a federal criminal offense to send threats such as these by email. It provides that anyone who "transmits in interstate or foreign commerce any communication containing any threat to kidnap any person or any threat to injure the person of another, shall be fined under this title or imprisoned not more than five years, or both."

In light of section 875(c)'s clear proscription on the threats quoted above, why has there been no investigation of or arrests resulting from any of the above threats that Mr. Spencer has received and reported to the FBI?

Response:

Mr. Spencer registered multiple complaints with the FBI's Joint Terrorism Task Force in Bedford, Massachusetts, between June 2005 and August 2010. These complaints were documented in the FBI's Guardian database. (Guardian is an incident-reporting and management system that collects and manages terrorist threats and reports of suspicious activities. Guardian is intended to ensure that all threats to U.S. persons and interests and suspicious activities with a nexus to terrorism are properly investigated.) The FBI took appropriate steps, including contacting Mr. Spencer, to investigate the threats and ensure his safety.

3. Section 248(c)(1) of title 18, United States Code, provides a civil remedy, including statutory damages, to any person who is "intimidated" or otherwise harassed in relation to his participation in certain activities.

Would you support enactment of a similar cause of action that awards similar damages to anyone who is threatened with death or physical injury on account of his commentary on religious or political issues or other matters of public concern?

Response:

The Department condemns religious discrimination, is firmly committed to the principles of free expression and free exercise of religion guaranteed by the First Amendment, and would be pleased to review any specific legislative proposals that you would like the Administration to review.

I would note that the Department of Justice presently enforces section 245 of title 18, which provides criminal penalties for the willful interference, by force or threat of force, with a person because he/she is or was participating in, or aiding or encouraging other persons to participate in any of certain activities without discrimination as to certain enumerated factors, including religion. The Department also enforces section 249 of title 18, the Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act of 2009, which

prohibits willfully causing bodily or attempting to cause bodily injury with a dangerous weapon when if the crime was motivated by bias, including bias based on a person's religion. In addition as the question notes, the Department has the authority under the Freedom of Access to Clinic Entrances Act (FACE), 18 U.S.C. § 248, to seek criminal or civil penalties in response to threats of force and physical obstruction of reproductive health facilities or places of religious worship.

4. I have been advised that the FBI's hate crimes data do not differentiate between Muslims who are being targeted by non-Muslims on the one hand, and "apostate" Muslims being targeted by fellow Muslims on the other. Is that true?

Response:

The current FBI hate crimes data sheet that forms the basis of its Hate Crimes Report has six categories for religion-based hate crimes, Anti-Jewish, Anti-Catholic, Anti-Protestant, Anti-Islamic (Moslem), Anti-Other Religion, and Anti-Atheism/Agnosticism. On July 6, 2011, the FBI published an updated version of the form, containing seven categories for religion-based hate crimes: Anti-Jewish, Anti-Catholic, Anti-Protestant, Anti-Islamic (Muslim), Anti-Other Religion, Anti-Multiple Religions, Group, and Anti-Atheism/Agnosticism. Neither form has a separate category for "apostate Muslims".

5. Does the U.S. government regard organizations with longstanding ties to the Muslim Brotherhood as reliable partners for outreach to the Muslim American community?

Response:

The Civil Rights Division enforces civil rights laws, including but not limited to criminal laws that protect individuals within the United States from bias motivated violence. The Civil Rights Division engages in outreach with a wide range of Muslim American individuals, communities and community organizations as we do with various communities that face civil rights issues, in order to inform the public about the statutes we enforce, and to ensure that we receive all the information we need to carry out our civil rights law enforcement mission. The scope and nature of any particular outreach effort will vary according to the circumstances and the law enforcement goals we seek to advance. The Civil Rights Division does not meet with the Muslim Brotherhood. The Civil Rights Division reaches out to the same groups under the current Administration as it did under the prior Administration.

6. The Director of National Intelligence James Clapper, who described “the Muslim community as a source of advice, counsel and wisdom” in ferreting out extremists in its midst. What organizations and individuals does the Administration consider to be such sources? Are any of these organizations or individuals on which the Administration relies for advice and counsel associated now or in the past with the Muslim Brotherhood? Have any of them been identified as unindicted co-conspirators in the federal terrorism-financing prosecutions?

Response:

This question is directed toward the Director of National Intelligence and specific statements he made. The Civil Rights Division is not in a position to respond to this question.

7. The Obama administration co-sponsored a version of the Organization of Islamic Cooperation’s resolution calling on governments to criminalize criticism of religion in the UN Human Rights Council in September 2009. How can such initiatives be reconciled with the First Amendment?

Response:

The Obama Administration has not supported any Organization of Islamic Cooperation (OIC) resolutions that call on governments to criminalize criticism of religion. In fact, the Obama Administration, like its predecessor, steadfastly opposed the resolution traditionally proposed by the OIC that sought to protect religions from “defamation” and to prohibit speech critical of religions because such protections are inconsistent with human rights law, in which individuals, not religions, are the subject of protection and because such prohibitions on speech run counter to international law and U.S. protections on free speech. As part of this opposition, the United States lobbied strongly for votes against this traditional “defamation of religions” resolution. Over the past decade, while the OIC-supported resolution passed the UN Human Rights Council each year, it did so by increasingly diminishing margins, in part due to U.S. lobbying efforts. This year (2011), the OIC faced the prospect of finally losing the vote on its resolution, due in large part to U.S. lobbying. It therefore decided not to run the “defamation” resolution, but instead to adopt an entirely new and consensus-oriented approach to combating discrimination and violence based on religion or belief that is entirely compatible with U.S. First Amendment protections and U.S. practice. The new resolution does not purport to protect religion against criticism, and confines criminalization of speech to “incitement to imminent violence,” which is consistent with the U.S. constitutional standard. The consensus resolution focuses on pragmatic and effective approaches such as interfaith outreach and engagement

and other techniques that have proven effective in U.S. practice. The U.S. did not co-sponsor the new resolution, but did join in its passage by consensus.

In 2009, the United States co-sponsored with Egypt a resolution on Freedom of Expression, which calls on governments to protect freedom of expression. The resolution does not condone bans on speech that criticize religions. The aforementioned OIC resolution on combating discrimination and violence based on religion and belief on which we joined consensus earlier this year incorporates some language from the 2009 U.S.-Egypt Freedom of Expression resolution and makes clear that broad bans on speech are not condoned, but rather calls for awareness building, education and other steps that are consistent with U.S. practice and do not infringe on freedom of speech.

Questions for Mr. Thomas Perez
Assistant Attorney General, Department of Justice
From Senator Chuck Grassley
Senate Committee on Judiciary
Subcommittee on the Constitution, Civil Rights and Human Rights
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1. Housing Testing Program

In 2008, a complaint was filed with the DOJ Office of the Inspector General (OIG) regarding Darryl Foster, then head of the Housing Testing Program in the Housing and Civil Enforcement Section of the Civil Rights Division. The OIG investigation involved allegations that Foster had engaged in an inappropriate relationship with the president of an organization over whom he had oversight responsibility for approving contracts with and requests for payments by the organization. Foster was demoted in May 2008 and reassigned to the Voting Section, also receiving a 7-day suspension of duration.

Question:

(1)(a) What were the specific findings of the OIG report?

Response:

The Department expects the highest standards of behavior from all its employees. When issues are discovered, appropriate measures are taken. As a general matter, the Privacy Act and the Department's longstanding policies regarding the confidentiality of Department personnel decisions limit our ability to comment publicly on the merits of specific allegations of misconduct about individual Department employees.

(1)(b) How large was the budget that Foster was responsible for overseeing as head of the Housing Testing Program?

Response:

For fiscal years 2007-2009, the contractor budgets for the Housing Testing Program were as follows:

Fiscal Year 2007: \$235,593
Fiscal Year 2008: \$206,733
Fiscal Year 2009: \$86,751

(1)(c) For what behavior was Foster demoted?

Response:

See the response provided to subpart A, of this question, above.

(1)(d) What kind of message does it send when employees guilty of misconduct are only transferred between sections instead of being fired?

Response:

See the response provided to subpart A, of this question, above.



Written Statement of the
American Civil Liberties Union

Laura W. Murphy
Director, Washington Legislative Office

Michael W. Macleod-Ball
Chief of Staff and First Amendment Counsel

Senate Judiciary Subcommittee on the
Constitution, Civil Rights and Human Rights

March 29, 2011

Protecting the Civil Rights of American Muslims



WASHINGTON LEGISLATIVE OFFICE
 915 15th Street, NW Washington, D.C. 20005
 (202) 544-1681 Fax (202) 546-0738
 Laura W. Murphy
 Director

Chairman Durbin, Ranking Member Graham, and Members of the Subcommittee:

The American Civil Liberties Union (ACLU) expresses its deep gratitude to Chairman Durbin for his wisdom in calling today's hearing and to all the Members of the Subcommittee for participating in this examination of discrimination against the American Muslim community. The ACLU is a non-partisan organization with over half a million members, countless additional activists and supporters, and 53 affiliates nationwide. For more than 90 years, the ACLU has fought for the protection and advancement of individual rights under the Constitution and for fairness and justice throughout our society. The fact that there even needs to be a hearing on this subject is a testament to the stubborn persistence of some forms of discrimination in America in the 21st century and shows why we must never falter in our determination to achieve the ideals of religious freedom, due process, and equal protection memorialized in our Constitution.¹

The freedom to worship in accordance with one's beliefs is a bedrock element of America's view of itself and its system of government. Religious freedom was one of the core features distinguishing the new American republic from other established nations in the late 1700's.² And most Americans today would see discrimination by one individual against another based upon religious belief to be repugnant to standards of fairness and justice in the United States. But when government itself begins to target one segment of American society – a segment defined by its common set of religious beliefs – we lose our ability to guarantee equal treatment and freedom of religion under the law. When we lose constitutional justification for our government's actions, we must do everything within our power to right the wrongs committed against targeted religious minority groups. At the local and national level, such wrongs have been committed against the American Muslim community.

Disrespect for those adhering to the Islamic faith skyrocketed in the wake of 9/11 as the national popular view tracked the mass media's conflation of a small group of attackers

¹ This statement was prepared with the assistance of the ACLU's Program on Freedom of Religion and Belief, Human Rights Program, National Security Project, and Women's Rights Project. More information about ACLU's work in this area can be found at: <http://www.aclu.org/protecting-religious-freedom-muslims>.

² See *West Va. State Bd. of Educ. v. Barnette*, 319 U.S. 624, 641-42 (1943); *County of Allegheny v. Amer. Civil Liberties Union*, 492 U.S. 573, 589-90 (1989). See also Antonio Stango, *The History of Religious Freedom in Europe* (presentation of Italian Helsinki Committee for Human Rights member to the International Coalition for Religious Freedom Conference) (May 29-31, 1998); Paul Harvey, *Beyond Toleration, and Beyond Those Yellowed Class Notes*, *Religion in American History* (Jan. 18, 2009) available at <http://usreligion.blogspot.com/2009/01/beyond-toleration-and-beyond-classroom.html>.

with an entire faith community. Since then, mosques in America have been attacked. Holy books have been defiled. American Muslims have been singled out for special treatment under local laws. Women and men wearing clothing that identifies them as Muslim have experienced harassment and discrimination at work, at school, in public settings, and when they participated in civic life by, for example, going to a motor vehicles office or a courthouse. And federal authorities have targeted them for suspicion, special investigation and restriction. It reflects poorly on America when private individuals engage in discrimination in their daily lives. But when government puts its thumb on the scales against the American Muslim community, not only is that an unconstitutional exercise of governmental authority, it opens a path that allows more and more Americans to believe that bias against their fellow Americans is not only permissible, but lawful. That is a recipe for damaging divisions at home and diminishment of our stature in the rest of the world at a time when we greatly need the cooperation from the adherents of Islam.

I. Societal Discrimination against Muslims

At the time of the founding of our country, America was no stranger to religious intolerance.³ Notwithstanding such tensions, or perhaps because of them, our foundational documents included some of the most protective language then known in the world. From that foundation, our tradition of religious tolerance and acceptance has developed in law, if not always in practice.

American Muslims are not the only faith community to have suffered discrimination even with the protections afforded by the Constitution. Jews, Catholics, Mormons, other religious sects, and atheists have all seen their share of private and public intolerance. But while most such injustices are now in our past, the plight of the American Muslim community is firmly rooted in the post-9/11 era. As just one horrible example of the public scorn Muslims face in America, consider the comments of radio host Bryan Fischer on his well-read blog on March 24, 2011:

Islam has no fundamental First Amendment claims, for the simple reason that it was not written to protect the religion of Islam. Islam is entitled only to the religious liberty we extend to it out of courtesy. . . . Our government has no obligation to allow a treasonous ideology to receive special protections in America. . . .⁴

It is a shame to give wider dissemination to such hateful, hurtful, and utterly ridiculous assertions. But it is absolutely critical to an understanding of the problem faced by members of the Muslim faith in America today. Such comments are being disseminated far and wide, without context, without sufficient opposition. Is it any wonder that some in our American society are spurred on to bigotry and intolerance?

³ Library of Congress, *Religion and the Founding of the American Republic*, Online Exhibition available at <http://www.loc.gov/exhibits/religion/religion.html>.

⁴ Bryan Fischer, *Islam and the First Amendment: Privileges but not Rights*, *Renew America* (Mar. 24, 2011) available at <http://www.renewamerica.com/columns/fischer/110324>.

It has been widely reported that hate crimes committed against American Muslims jumped upward immediately after the September 11, 2001 attacks.⁵ Critically, however, the data shows that hate crimes against American Muslims diminish when government leaders speak out forcefully against discrimination. President Bush and other spoke out strongly against anti-Muslim discriminatory actions in the immediate aftermath of 9/11.⁶ Reports showed a clear drop in the year following the surge in attacks – a trend that appeared to continue for several years. The speeches seemed to have a real effect, with anti-Muslim hate crimes dropping by two thirds in 2002.⁷ Between 2002 and 2008, there was a “long decline” in anti-Muslim hate crimes, with the number of such crimes ranging from 105 to 156 incidents per year.⁸ Unfortunately, there was a notable rise in 2010, appearing to coincide with the burst of publicity over the Park51 community center project in Lower Manhattan.⁹

In addition to hate crimes, private discrimination against American Muslims is well-documented. In its 2010 Legal Advocacy and Policy Review, the American-Arab Anti-Discrimination Committee (ADC) reported an increase in legal complaints received from Americans who are of Arab descent and/or members of the Muslim faith, as well as individuals perceived to fall into these groups. Nearly half of all the reported cases involved either employment discrimination or immigration issues. 13% of the cases fell into the category of general discrimination and/or harassment. Although all of these reports don’t necessarily correspond with actual instances of “discrimination” as the term is understood under the law, the report of an increase is still noteworthy.¹⁰ ADC concluded that the surge in employment discrimination matters impacting Americans who are Arab, Muslim, and/or are perceived to be Arab or Muslim is a “likely attributable to the economic downturn and the backlash experienced by Arab and Muslim communities following the Park51 controversy. The nature of the complaints has ranged from individuals being called ‘terrorists’ or [using racial epithets] by co-workers to unjustified demotions, unfair withholding of promotions, and unfair dismissals.” ADC also reported that a small percentage of housing discrimination complaints, including one

⁵ Tanya Schevitz, *FBI Sees Leap in Anti-Muslim Hate Crimes*, S. F. Chronicle/SFGate.com (Nov. 26, 2002) available at http://articles.sfgate.com/2002-11-26/news/17570762_1_crime-incidents-crime-victims-african-americans; see also Leadership Conference, *Hate Crimes and Discrimination Against Arab-Americans Still Up* (Dec. 16, 2008) available at <http://www.civilrights.org/hatecrimes/united-states/050-arab-hate-crimes.html>.

⁶ American Arab Institute Foundation, *American Leaders Speak Out Against Backlash* (Sep. 2001) available at http://www.aaiusa.org/page/file/e18e4884e7ad3b055a_emkjm vbqu.pdf/Quotes.pdf.

⁷ Curt Anderson, *Hate Crimes Fall After 9/11 Spike*, Associated Press/Seattle Times (Nov. 13, 2003) available at <http://community.seattletimes.nwsourc.com/archive/?date=20031113&slug=hate13>; see also FBI, *Hate Crime Statistics, 2009*, available at <http://www2.fbi.gov/ucr/hc2009/index.html>.

⁸ *Id.*

⁹ Islamic Information Center, *Information Alert* (Aug. 26, 2010) available at <http://www.islamicinformationcenter.org/news-center/news-center/dramatic-increase-in-hate-crimes-against-muslims-anti-islam-sentiment.html>. See generally Website for Park51 Community Center at <http://park51.org/>.

¹⁰ See American-Arab Anti-Discrimination Committee, *2010 ADC Legal Report: Legal Advocacy & Policy Review* available at <http://www.adc.org/media/adc-publications/>.

instance of a group of Muslim women wearing hijab being harassed at a housing project's community center.¹¹

Other sources, however, suggest that the increase in discrimination began well before the Park51 zoning battle. Equal Employment Opportunity Commission (EEOC) statistics show that a record number of Muslim workers are complaining of employment discrimination. The complaints range from co-workers calling colleagues 'terrorist' or 'Osama' to employers barring them from wearing head scarves or taking prayer breaks. Such complaints by Muslim workers totaled 803 in the year ending in September 2009. That represented an increase of 20% from the previous year and nearly 60% from 2005. Although Muslims make up less than two percent of the U. S. population, they accounted for about a quarter of the nearly 3,400 religious discrimination claims filed with the EEOC in the report year. Complaints by Catholics, Sikhs, Protestants, and others – people of all other faiths except Jews – fell in that year, as did claims of race, sex, and age discrimination.¹²

But these are mere statistics. The stories behind the statistics are even more compelling.

- In August 2010, a cab driver was attacked by a 21-year-old film student. Police said the student cursed at the driver after asking him if he was Muslim and then slashed his throat and stabbed him in several places when the cab driver answered in the affirmative.¹³
- In August 2010, a brick was thrown at the Madera Islamic Center in California. Later, signs were posted at the center, one of which stated, "Wake up America, the enemy is here."¹⁴
- In August 2010, the New York Post reported that an apparently inebriated man entered a Queens mosque and shouted anti-Muslim slurs while urinating on prayer rugs and calling worshippers "terrorists".¹⁵
- On May 12, 2010, the Islamic Center of Northeast Florida in Jacksonville was filled with approximately 60 people when a pipe bomb went off. The FBI released a surveillance video of what appeared to be a middle-aged white man carrying a gasoline container in the area of the bombing.¹⁶

¹¹ *Id.*

¹² Steven Greenhouse, *Muslims Report Rising Discrimination at Work*, *N. Y. Times* (Sep. 23, 2010) available at http://www.nytimes.com/2010/09/24/business/24muslim.html?_r=1&hp.

¹³ *Muslim Cabdriver Stabbed in New York Bias Attack*, *Newsweek* (Aug. 25, 2010) available at <http://www.newsweek.com/blogs/the-gaggle/2010/08/25/muslim-cab-driver-stabbed-in-n-y-bias-attack.html>.

¹⁴ *Arrest made in suspected central Calif. hate crime*, *San Francisco Chronicle* (Mar. 10, 2011) available at http://articles.sfgate.com/2011-03-10/news/28678798_1_american-nationalist-brotherhood-holy-month-mosque-near-ground-zero.

¹⁵ *'Drunk' desecration at mosque*, *New York Post* (Aug. 26, 2010) available at http://www.nypost.com/p/news/local/queens/drunk_desecration_at_mosque_fA7FZKYh59hx3Bjika6UGN.

¹⁶ Knowles, David, *FBI Finds Pipe Bomb Used in Blast at Fla. Mosque*, *AOLNews* (May 12, 2010) available at <http://www.aolnews.com/2010/05/12/fbi-finds-pipe-bomb-used-in-blast-at-fla-mosque/>.

- Teenagers were arrested in September 2010 in Carlton, NY, for firing a shotgun and yelling obscenities outside a mosque.¹⁷
- The site of a new Tennessee mosque was damaged by arson in September 2010.¹⁸

That such incidents are happening on a widening scale should be a call for government action in the form of heightened protection and increased government oversight.

II. Government Targeting of Muslims

Unfortunately, the challenges faced by Muslims in America are not limited to issues of personal bias and discrimination. Local, state, and federal government have also heightened the barriers of suspicion and isolation that these communities must overcome to feel a part of the common American experience.

a. Local

American Muslims face challenges from state and local governmental bodies on issues of clothing and appearance, zoning of mosques, and employment. When such challenges rest solely upon the belief system of the targeted individual, which seems to be happening more frequently now than before, the action is unconstitutional and the damage is irreparable. Almost everyone has heard of the Park 51 zoning controversy in Lower Manhattan. While that was a hurtful experience, especially for the Muslim community in that part of New York, government officials acted fairly for the most part and refused to be drawn into the largely artificial controversy generated by political and media leaders who wanted to inflame passions against the American Muslim community for some unknowable reason.¹⁹ Yet there have been many other controversies where public officials deserve a large share of blame. The ACLU or one of its state affiliates has been involved on behalf of many of those aggrieved.

- In localities all around the country, elected officials and political and religious activists have opposed mosque projects, often for pretextual or blatantly discriminatory reasons.²⁰
- In Mayfield, Kentucky, the zoning board reversed a permit originally denied to a local Muslim resident to operate a prayer room in the town's central business district.²¹

¹⁷ *Teens Arrested for Firing Shotgun Outside Western NY Mosque*, gothamist.com (Sep. 1, 2010) available at http://gothamist.com/2010/09/01/teen_arrested_for_yelling_obscentiti.php.

¹⁸ Dan Gilgoff, *Tennessee Mosque Site Fire and Arson, Feds Say*, CNN Belief Blog (Sep. 3, 2010) available at <http://religion.blogs.cnn.com/2010/09/03/tennessee-mosque-site-fire-an-arson-feds-say/>.

¹⁹ Mayor Bloomberg Discusses Landmarks Preservation commission Vote (Aug. 3, 2010) available at http://www.ci.nyc.ny.us/portal/site/nycgov/menuitem.c0935b9a57bb4ef3daf2f1c701c789a0/index.jsp?pageID=mayor_press_release&catID=1194&doc_name=http://www.ci.nyc.ny.us/html/om/html/2010b/pr337-10.html&cc=unused1978&rc=1194&ndi=1.

²⁰ Laurie Goodstein, *Across Nation, Mosque Projects Meet Opposition*, N. Y. Times (Aug. 7, 2010) available at <http://www.nytimes.com/2010/08/08/us/08mosque.html>

- In Portland, Maine, a group of Muslims was compelled to sue to use a former television repair shop they had purchased for prayer services and religious study. The case was resolved only after the city amended its land-use ordinance.²²
- In Washington, the ACLU represented The Islamic Education Center of Seattle, a small Muslim nonprofit organization that holds prayer services, education programs, and cultural activities, after the city of Mountlake Terrace denied the Center a conditional land use permit.²³
- In Georgia, we sued the City of Douglasville on behalf of a devout Muslim woman who was restrained, arrested, and jailed for several hours after refusing to remove her hijab, a religious head covering, in court.²⁴
- In Arizona, we successfully challenged a Maricopa County policy restricting religious head coverings worn by detainees and inmates in county custody.²⁵
- In Delaware, we came to the defense of a Muslim nurse who was told she could not wear her religious head covering to work at the New Castle County Detention Center. After the ACLU's intervention in the matter, the nurse received her requested religious accommodation.²⁶
- In Southern California, we filed suit on behalf of Jameelah Medina, a Muslim woman who was forced by local deputies to remove her religious head covering while she was in custody in San Bernardino County's West Valley Detention Center.²⁷
- Our affiliate in New York successfully brought suit on behalf of a Muslim prison guard who was told that he had to remove his head covering (known as a kufi) while working, even though he had worn it while on duty for many years. A federal judge ordered the New York Department of Corrections to allow the guard to resume wearing his head covering on the job.²⁸
- In Southern California, we filed claims under the Religious Land Use and Institutionalized Persons Act (RLUIPA), the First Amendment, and several state law provisions on behalf of Souhair Khatib, a practicing Muslim woman who was

²¹ ACLU, *Muslim Prayer Space Granted Permit In Kentucky* (2010) available at <http://www.aclu.org/religion-belief/muslim-prayer-space-granted-permit-kentucky>.

²² Zachary Heiden, *A Mosque in Maine*, ACLU Blog of Rights (Jul. 27, 2010) available at <http://www.aclu.org/blog/religion-belief/mosque-maine>.

²³ ACLU *Defense of Religious Practice and Expression* website available at <http://www.aclu.org/aclu-defense-religious-practice-and-expression>.

²⁴ ACLU, *ACLU Files Lawsuit On Behalf Of Muslim Woman Forced To Remove Head Covering In Georgia Courthouse* (2010) available at <http://www.aclu.org/religion-belief-womens-rights/aclu-files-lawsuit-behalf-muslim-woman-forced-remove-head-covering-geo>.

²⁵ ACLU *Defense of Religious Practice and Expression* website available at <http://www.aclu.org/aclu-defense-religious-practice-and-expression>.

²⁶ *Id.*

²⁷ ACLU, *Medina v. County of San Bernardino* (2008) available at <http://www.aclu.org/religion-belief-womens-rights/medina-v-county-san-bernardino>.

²⁸ NYCLU, *Haqq v. Department of Correctional Services* (2007) (defending right of public employees to adhere to religious beliefs while at work) available at <http://www.nyclu.org/node/1062>.

forced to remove her hijab when taken into custody at an Orange County courthouse holding facility.²⁹

- We filed a federal lawsuit in Manhattan challenging a Coast Guard regulation denying merchant marine licenses to those who would not remove coverings for identity photographs.³⁰
- In Wisconsin, we filed suit on behalf of a Muslim woman who had been required to remove her headscarf in front of male prison guards in order to visit her husband at the Columbia Correctional Institution.³¹
- We settled a lawsuit against the city of Omaha on behalf of Lubna Hussein, a practicing Muslim woman who wore a headscarf and long sleeves for religious reasons. She had twice been denied entry to pool property to watch her children swim because she refused to wear a swimsuit.³²
- In Florida, we represented a Muslim homemaker whose driver's license was revoked after she declined on religious grounds to remove her veil for a driver's license photo, even though the state allowed others to obtain driver's permits without photographs at all.³³
- In Virginia, we filed a complaint under the RLUIPA challenging a Virginia Department of Corrections policy requiring inmates to be clean-shaven and to keep their hair short. The policy infringed on the beliefs of Muslim and Rastafarian inmates who have religious objections to cutting their hair.³⁴
- In Arizona, we filed a lawsuit on behalf of a Maricopa County Sheriff's Office detention officer who was demoted and eventually forced to leave for failing to abandon his practice of wearing a beard in accordance with his Muslim faith.³⁵
- In Pennsylvania, we sued on behalf of a devout Muslim firefighter, Curtis DeVeaux, who was suspended for refusing for religious reasons to shave his

²⁹ H.G. Reza, *Muslim sues O.C. over right to wear head scarf*, Los Angeles Times, (Sep. 5, 2007) available at <http://articles.latimes.com/2007/sep/05/local/me-hijab5>

³⁰ ACLU, *NYCLU Challenges Coast Guard Ban on Religious Head Coverings in License Photographs* (2006) available at <http://www.nyclu.org/node/1062>

³¹ ACLU, *Muslim Woman Sues Prison for Forcing Her to Remove Headscarf in Front of Male Guards and Prisoners* (2005) available at <http://www.aclu.org/religion-belief/muslim-woman-sues-prison-forcing-her-remove-headscarf-front-male-guards-and-prisoner>.

³² ACLU, *City of Omaha and ACLU of Nebraska Announce Settlement in Lawsuit Over Muslim Woman Barred from Public Pool* (2005) available at <http://www.aclu.org/religion-belief/city-omaha-and-aclu-nebraska-announce-settlement-lawsuit-over-muslim-woman-barred-pu>.

³³ ACLU, *ACLU Says Orlando Court Decision in Veil Case Permits Government to Needlessly Restrict Religious Freedom Without Enhancing Security* (2003) available at <http://www.aclu.org/religion-belief/aclu-says-orlando-court-decision-veil-case-permits-government-needlessly-restrict-re>.

³⁴ *Id.*

³⁵ ACLU *Defense of Religious Practice and Expression* website available at <http://www.aclu.org/aclu-defense-religious-practice-and-expression>

beard as required by city regulations.³⁶

While this may seem like a long list, it represents just a fraction of the challenges faced by Muslims in American who seek to practice their faith in accordance with their beliefs. When local zoning requirements are met, the establishment of mosques and other religious facilities should not have to face additional hurdles inapplicable to other houses of worship. When religious clothing does not impact the use of a public facility, government officials should not be allowed to bar Muslims from that facility. When matters of personal appearance don't affect one's ability to do a job, government employers must not be permitted to penalize Muslim employees.

b. Federal

i. Material support³⁷

Unfortunately, federal government actions are also harming American Muslims in their efforts to lead normal lives. In 2009, the ACLU released a comprehensive report, *Blocking Faith, Freezing Charity*, documenting the consequence of U.S. government actions on American Muslims' exercise of their right to profess and practice their religion through charitable giving. The ACLU's research shows that U.S. terrorism financing policies and practices are seriously undermining American Muslims' protected constitutional liberties and violating their fundamental human rights to freedom of religion, freedom of association, and freedom from discrimination.

Terrorism financing laws cover (i) schemes under which the government may designate organizations as terrorist through an administrative action in which the government shuts organizations down, often without allegations of criminal wrongdoing (criminal charges are not always brought in such cases), and (ii) criminal prosecutions for material support for terrorism or to a terrorist organization. These regimes raise different issues, but have in common a lack of fundamental due process safeguards and impose guilt by association. As a result, American Muslim organizations and individuals are unfairly targeted in violation both of their First and Fifth Amendment rights and international law. The laws prohibiting material support for terrorism are in desperate need of re-evaluation and reform to make them fair and effective. Intended as a mechanism to starve terrorist organizations of resources, these statutes instead effectively impose guilt by association and fail to provide guidance about what is and is not prohibited. Although the need to ensure that humanitarian aid and charitable donations are not diverted to support terrorism is a real and valid counterterrorism issue, both the material support statutes and the government's interpretation of the statutes raise constitutional and human rights concerns.

³⁶ ACLU, *Pennsylvania Judge Upholds Muslim Firefighter's Religious Liberty in ACLU Lawsuit (2006)* available at <http://www.aclu.org/religion-belief/pennsylvania-judge-upholds-muslim-firefighters-religious-liberty-aclu-lawsuit>

³⁷ This subsection relies wholly upon a report of the ACLU published in June 2009. ACLU, *Blocking Faith, Freezing Charity* (Jun. 2009) available at <http://www.aclu.org/files/pdfs/humanrights/blockingfaith.pdf#page=2>.

These laws have a troubling impact on First Amendment-protected activity. Because the material support statutes impose punishment without regard for the intent or character of the support provided, these statutes punish wholly innocent assistance to arbitrarily blacklisted individuals and organizations, undermine legitimate humanitarian efforts, and can be used to prosecute innocent donors who intend to support only lawful activity through religious practice, humanitarian aid, speech, or association. The government has argued that those who provide support to designated organizations can run afoul of the law even if they oppose the unlawful activities of the designated group, intend their support to be used only for humanitarian purposes, and take precautions to ensure that their support is indeed used for these purposes.³⁸

The government's designation, seizing of assets, and law enforcement raids of Muslim charities; interview of donors to Muslim charities; and criminal prosecution of Muslim charity leaders are, at best, intimidating and have created a chilling effect on American Muslims' charitable giving. The obligation to give Zakat (charity or alms) is one of the core "five pillars" of Islam, the five duties considered essential for all Muslims. The obligation to give Zakat is seen as a sacred duty for all observant Muslims. Many Muslims believe that Zakat must be given to other Muslims and through Muslim charities that are familiar with the religious rules for the handling and distribution of Zakat, although there is not unanimity in this belief.

In interviews with American Muslim donors, the ACLU documented a pervasive fear among Muslim charitable donors that they may be arrested, retroactively prosecuted for donations made in good faith to legal Muslim charities, targeted for law enforcement interviews for exercising their religious obligation to pay Zakat, subpoenaed to testify in a criminal case, subjected to surveillance, deported or denied citizenship or a green card, or otherwise implicated because of charitable donations made in fulfillment of their religious obligation to give Zakat. The actions of our federal government are having a profound impact on the American Muslim community. At the very least, such actions should be carried out using reasonable and understandable standards, and with the extension of appropriate due process rights to those charities and individuals impacted so as to protect against purely arbitrary decision-making.

ii. Attorney General Guidelines

An expansion of FBI investigative powers in the final days of the Bush administration allows racial and religious profiling to creep further into law enforcement and permits suspicionless spying on individuals' religious activities at their places of worship. New guidelines released in late 2008 replaced existing FBI guidelines for five types of investigations. The new guidelines reduced standards for beginning "assessments" (precursors to investigations), conducting surveillance, and gathering evidence, meaning the threshold to beginning investigations across the board was lowered. Under the revised guidelines, FBI agents no longer need "factual predication" to use paid informers, spy on a person's activities, or engage in other types of intrusive surveillance. All that is

³⁸ See *Humanitarian Law Project v. Gonzales*, 380 F. Supp. 2d 1134, 1142-48; *Humanitarian Law Project v. Ashcroft*, 352 F.3d 382, 397 (9th Cir. 2003); *Holder v. Humanitarian Law Project*, 561 U.S. ____ (2010) (upholding government position).

necessary is a hypothetical threat. More troubling still, the guidelines allow a person's race, religion, or ethnic background to be used as a factor in opening an investigation, opening the door for use of racial profiling as a matter of policy.

In fact, law enforcement has begun to monitor activities in certain mosques using paid informants to investigate people not suspected of wrongdoing. A woman in Texas reported FBI agents approaching her to serve as an informant. Similar reports have emanated from other parts of the country including Orange County, California, Michigan, and New York. These activities alone suggest a profiling in practice – one that has no basis in evidence or reliable theory.³⁹

iii. Discredited Radicalization Theory

A law enforcement environment that contemplates using racial and religious profiling as a basis – even one factor – in deciding who to target for investigation is bad enough, but when that construct means reliance upon erroneous theories that assert the dangers associated with one particular set of religious beliefs, a recipe for isolation and resentment is created. Just such a situation is in place today.

Whether due to mistake-laden official reports, demagoguery by political leaders, or media repetition, popular discourse is filled with misinformation about the Islamic faith. The New York City Police Department has issued a report based on fundamentally flawed methodology and erroneous, de-bunked, social science theories warning about the dangers of “radicalization” within the Muslim community in America. Such reports have been wholly discredited. Yet political leaders and the media pick up on the erroneous reports and cast dark aspersions over an entire faith community – that they are deserving of the suspicion and are appropriate targets for heightened government investigation.⁴⁰

III. Conclusion

It is our hope that this hearing will be the beginning of the federal government's effort to change its practices – to stop treating the American Muslim community as a ripe target for suspicion and investigation and instead to acknowledge the harms that have been done to the community by neighbors and by government. We urge Congress to take a closer look at such harms and to consider fashioning appropriate responses. We believe that further oversight into specific instances of known discrimination can be helpful in bringing such practices to a stop. In addition, we urge Congress to modify the material support practices as relates to charities – Muslim charities in particular. We also urge Congress to take such action as may be necessary to change the FBI guidelines now in use that permit racial and religious profiling.

³⁹ *Id.* at 75 – 78.

⁴⁰ ACLU Statement to the House Homeland Security Committee, *The Extent of Radicalization in the American Muslim Community and that Community's Response*, Hearing (March 10, 2011) Available at: <http://www.aclu.org/free-speech-national-security-religion-belief/aclu-statement-house-homeland-security-committee-heari>

Past Congressional Hearings on Discrimination Against Religious Groups

I. U.S. HOUSE OF REPRESENTATIVES

- “Human Rights Implications of the Resurgence of Racism and Anti-Semitism”
House Foreign Affairs Committee, Subcommittee on International Security,
International Organizations and Human Rights
June 15th, 1993
- “Global Dimensions of Anti-Semitism”
House Foreign Affairs Committee, Subcommittee on International Security,
International Organizations, and Human Rights
February 8, 1994
- “Persecution of Christians Worldwide”
House International Relations Committee, Subcommittee on International Operations
and Human Rights
February 15th, 1996
- “Persecution of Jews Worldwide”
House International Relations Committee, Subcommittee on International
Operations and Human Rights
February 27th, 1996
- “Church Fires in the Southeast”
House Judiciary Committee
May 21st, 1996
- “Communist Entrenchment and Religious Persecution in China and Vietnam” (focusing on
oppression of the Falun Gong spiritual order/sect)
House International Relations Committee, Subcommittee on International
Operations and Human Rights
February 13, 2002
- “Falun Gong and China’s Continuing War on Human Rights”
a. House International Relations Committee, Subcommittee on International
Operations and Human Rights
b. July 21st, 2005
- “Combating Anti-Semitism: Protecting Human Rights”
House Foreign Affairs Committee, Subcommittee on International Organizations,
Human Rights, and Oversight
April 14th, 2010
- “Emmitt Till Unsolved Civil Rights Crime Act”
House Judiciary Committee, Subcommittee on the Constitution, Civil Rights, and
Civil Liberties
June 12th, 2007

"Legacy of the Trans-Atlantic Slave Trade"

House Judiciary Committee, Subcommittee on the Constitution, Civil Rights, and
Civil Liberties
December 18th, 2007

II. U.S. SENATE

"Church Burnings"

Senate Judiciary Committee
June 27th, 1996

"Religious Persecution in the Middle East; Faces of the Persecuted" (focusing specifically on
Christian Minorities in the Middle East)

Senate Foreign Relations Committee, Subcommittee on Near Eastern and South Asian
Affairs
May 1st and June 10th, 1997

"Religious Persecution in Sudan" (Focus on persecution of Christians in Sudan)

Senate Foreign Relations Committee, Subcommittee on African Affairs
September 25th, 1997

"Anti-Semitism in Russia"

Senate Foreign Relations Committee, Subcommittee on Europeans Affairs
February 24th, 1999

"Legacies of the Holocaust" (focus on anti-Semitic violence and discrimination)

Senate Foreign Relations Committee
April 5th, 2000

"Native American Sacred Places"

Senate Committee on Indian Affairs
June 4th, 2002

"Anti-Semitism in Europe"

Senate Foreign Relations Committee, Subcommittee on European Affairs
October 22nd, 2003

"Indian American Religious Freedom Act"

Committee on Indian Affairs
July 14, 2004

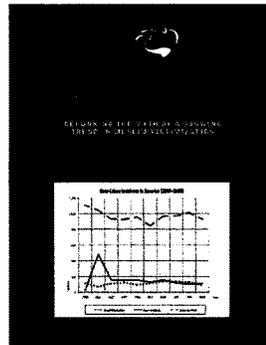
Religious Bias Crimes (2000-2009): Muslim, Christian & Jewish Victims - Debunking the Myth of a Growing Trend in Muslim Victimization

Clare M. Lopez, Roland Peer & Christine Brim

Introduction

Misperceptions about religious bias hate crimes in America are widespread. This study is a longitudinal comparison of religious bias hate crimes, as reported by the FBI, from the pre-9/11 year of 2000 through 2009, the most recent year for which statistics were available.[1] The assertion that religious bias hate crimes against one group in particular, Muslims in America, have proliferated in the years since the attacks of September 11, 2001 has gained acceptance within media and government, thanks to a steady drumbeat of assertions to this effect from a small but vocal group of advocacy organizations.

Internationally, the most aggressive of these is the 57 member state Organization of the Islamic Conference, with its so-called "Islamophobia Observatory." In the U.S., the Council on American-Islamic Relations (CAIR)[2] and the Muslim Public Affairs Council (MPAC)[3] have taken the lead in issuing claims that discrimination and religious bias hate crimes against Muslims are increasing.[4] These organizations have also asserted that "Islamophobia" and statements critical of Islam, Shariah law, or political Islamist organizations such as the Muslim Brotherhood may be linked to the alleged rise in hate crimes. Alternatively, counterterrorism expert Steve Emerson has suggested "In advancing the notion that government policy has resulted in an undeserved backlash against ordinary Muslims, CAIR seeks to muster opposition to the anti-terror laws it finds objectionable." [5]



To inform this public debate about religious bias hate crimes in America, the Center for Security Policy analyzed data from 2000 through 2009 for three FBI-identified victim groups: Jews, Muslims, and Christians (a combined statistic for the purposes of this whitepaper, combining separate FBI data for Catholics and Protestants). The source of all the religion bias crimes information cited in the following report is the FBI's Uniform Crime Reporting Program,[6] which collects crime statistics on an annual basis and presents them online. Appendices B-T at the end of this report present those official FBI statistics in tables and charts showing the comparative incidence of religious hate crimes for Christians, Jews, and Muslims from 2000-2009.

The results may prove surprising to those who took CAIR or MPAC spokesmen at their word. For example, in 2009[7], in totals for a combined five categories of hate crime, from Simple Assault to Crimes Against Property, Jewish victims of hate crimes by religion outnumbered Muslim victims by more than 8 to 1 (1,132 Jewish victims to 132 Muslim victims). Nor is 2009 an anomalous year in terms of these numbers. Across the decade, from 2000 through 2009, Jewish victims of hate crimes by religion outnumbered their Christian and Muslim counterparts, with the exception of a nine-week period following the 9/11 terrorist acts for two categories of bias crimes: simple and aggravated assaults statistics.[8] From 2000 through 2009, for every one hate crime incident against a Muslim, there were six hate crime incidents against Jewish victims (1,580 Muslim incidents versus 9,692 Jewish incidents).

The Center for Security Policy presents this study to inform the dialogue surrounding religious bias crimes in the U.S. and to provide a fact-based resource that analysts, researchers, and citizens can use for a reality check.

Prior Research

Although a number of European academics and institutes (particularly the British[9]) have produced studies on the general topic of "Islamophobia" in the years since the attacks of September 11, 2001, few Americans have tackled "hate crimes" from the objective

perspective of a neutral academic and empirical study based on the available FBI statistics. Two studies are representative, though unlike our study, neither is a longitudinal study encompassing a ten-year period.

Jeffrey Kaplan, an Associate Professor of Religious Studies at the University of Wisconsin Oshkosh authored a report entitled, "Islamophobia in America?: September 11 and Islamophobic Hate Crime." [10] Although this report does reference FBI hate crime statistics, it does so only for the period from 2000-2002, as Kaplan's study focus is that period of time just after the September 11 attacks on the U.S. He concludes that "The intense phase of these attacks comprised approximately nine weeks, after which the number of hate crimes fell sharply" due, he writes, to national leadership from the U.S. president, decisive law enforcement intervention, grassroots outreach to Muslim communities across the country, and a "rapid dissolution of American moral certainty about the War on Terror."

In other research, Steven George Salaita produced a study for the *New Centennial Review* in the Fall of 2006 which set out to "summarize the evolution of the Arab image in American media since Ronald Stockton's seminal 1994 analysis, with emphasis on the role of 9/11, and advance the usage of the term anti-Arab racism as a more accurate replacement for the traditional descriptors Orientalism and Islamophobia in relation to the negative portrayal of Arabs in the United States." [11] Unlike our study, the author approached the topic with a non-empirical framework.

Scholarly research in the area of hate crimes is increasingly a popular area for specialization, as witnessed by the *Journal of Hate Studies*, celebrating its 8th Volume in 2010. [12] A useful short review of the field's scope - though unfortunately not addressing a longitudinal analysis nor the FBI data - can be found in Barbara Perry's essay, "*The more things change...post-9/11 trends in hate crime scholarship*," a summary of the various disciplines' research addressing the issue of hate. [13]

Methodology and Findings

The "Religious Bias Crimes in America" study is a longitudinal look at the instances of religious bias crimes, also known as hate crimes, against Muslims, Christians, and Jews in the United States from 2000 to 2009. The use of the term "Hate Crime" is defined by the FBI in its 1996 *Training Guide for Hate Crime Data Collection* [14] as well as in its Uniform Crime Reporting Program, [15] which find their authorization in the April 23, 1990 "Hate Crime Statistics Act of 1990." [16] This legislation requires the U.S. Department of Justice to compile and publish an annual summary of data about crimes that "manifest prejudice based on race, religion, sexual orientation, or ethnicity." This study focuses on those hate crimes that clearly demonstrate prejudice based on bias against Christians (Catholics and Protestants combined), Jews and Muslims, as identified by the FBI. Three other categories of religious bias crime for which the FBI collects statistics, but which were not included in this study because they are less specific for purposes of comparison are: anti-other religion, anti-multi-religious group, and anti-atheism-agnosticism.

The *Hate Crime Data Collection Guidelines* define a bias crime:

A criminal offense committed against a person or property which is motivated, in whole or in part, by the offender's bias against a race, religion, disability, sexual orientation, or ethnicity/national origin; also known as Hate Crime.

Definitions of the various offenses against person and property are also provided in the *Hate Crime Data Collection Guidelines*. [17]

Three broad categories of religious hate crimes are included in this study: incidents, offenses, and victims. A single incident may include more than one offense (for example, intimidation and robbery). An offense may have more than one victim. A victim may be the target of more than one offense. Data categories for offenses and victims are sub-divided between crimes against persons, and crimes against property. Each of these sub-categories is further broken down by specific types of crimes. For example, crimes against persons include 1) murder and nonnegligent manslaughter, 2) forcible rape, 3) simple assault, 4) aggravated assault, 5) intimidation (by far the largest crimes against persons category), and 6) other. Crimes against property include 1) robbery, 2) burglary, 3) larceny/theft, 4) motor vehicle theft, 5) arson, 6) destruction/damage/vandalism (by far the largest crimes against property category), and 7) other. A third category, crimes against society, (at the same hierarchical level as crimes against persons, and crimes against property) presented only insignificant numbers for all three religions in the study (19 victims for all three religious groups from all ten years combined - see Appendix C, Table 2).

While there has been a slight variation through the years, anti-Jewish hate crimes have hovered around 70% of total anti-religious hate crime, while anti-Muslim violence has accounted for around 10%, and anti-Christian hate crime has totaled slightly less than 10%. Jewish and Muslim populations in America, as noted previously, each are estimated at 6 million persons (with an alternate estimate by Pew for the Muslim population). There was an increase in anti-Muslim violence in 2001 (exceeding both Jewish and Christian rates for simple and aggravated assault), which decreased to the 10% range in 2002, where it has remained (a temporary smaller spike was seen in 2006 against both Jewish and Muslim victims). Even in the anomalous year of 2001, total anti-Muslim incidents, offenses, and number of victims were approximately half of the corresponding anti-Jewish totals (Muslim Incidents - 481, Victims - 546, Offenses - 554; Jewish Incidents - 1043, Victims - 1117, Offenses - 1196). That the terrorist attacks occurred relatively late in the year - in September of 2001 - suggests that the increase in anti-Muslim violence occurred over a period of a few weeks, or more specifically nine weeks as noted in Kaplan's study. Looking at total numbers of victims over the 2000-2009 period, for every Muslim victim from 2000 to 2009, there have been over six (6.13) Jewish incidents of hate crimes. As noted previously, in 2009 the ratio increased: for every Muslim victim, there were even more - over 8 - Jewish victims.

Most anti-religious hate crimes in the United States are not of a violent nature against persons. Aggregating anti-Christian, anti-Muslim, and anti-Jewish hate crimes against persons and property from 2000 to 2009[18], demonstrates that 64% of total hate crimes are crimes against property, and of these, 92% are cases of destruction/damage/vandalism, and the majority of the remaining 8% are burglary and larceny/theft. There have been 38 robbery offenses, or 0.3% of total hate crimes and of these, 23 were anti-Jewish. The rate of arson is very small, accounting for slightly more than 1% of total crimes against property.

Of the remaining 36% of total cases that are crimes against persons, most (77%) are classified as intimidation. Virtually all of the other 23% are simple or aggravated assault. There were no rape cases and only one murder, of a Jewish victim. There was an increase in 2006 in anti-Muslim aggravated assault (24 offenses), compared to 22 anti-Jewish offenses, and in 2009 (11 vs. 9). There were no similar spikes in cases of simple assault, and in other years, anti-Jewish aggravated and simple assault cases are double that of anti-Muslim assault cases. While cases of anti-Jewish aggravated assault decreased between 2008 and 2009 from 25 to 9, anti-Jewish simple assault cases increased sharply from 58 to 82. When compared to the overall population of over 300 million people, anti-religious hate crimes are not highly prevalent in the United States for any religious group. Bias-motivated crime is simply not that common for any religious group in the U.S.

Comparing the prevalence of anti-religious hate crimes by religion requires measuring the number of incidents against the overall population of Christians, Muslims, and Jews in the United States. Self-identified Christians accounted in 2008 for 76% of the adult American population[19], or 173,402,000 persons, significantly higher than for Muslims or Jews, and therefore the relative prevalence of anti-Christian crimes is by far the lowest of the three. Muslim groups in the U.S. such as the Council on American-Islamic Relations (CAIR), with an interest in presenting the U.S. Muslim population as equivalent to the Jewish one, repeatedly have declared the number of Muslims in the U.S. to be about 6 million persons, [20] Within the same range, Chicago Imam Abdul Malik Mujahid, the 2010 Council for a Parliament of the World's Religions' Board of Trustees Chairman, has cited 2001 estimates of 5.8 million and 6.7 million Muslims in America.[21] On February 3, 2011, the Muslim Public Affairs Council (MPAC) similarly cited "the reality of 6 million Muslims." [22] A lower estimate was published by the Pew Research Center in January 2011, when it put the Muslim population of the U.S. at 2.6 million.[23] The 2010 US Census estimates the Jewish population in the United States to be 6.5 million, or 2.1% of the total population in 2009, and this includes those who self-define as Jewish either by religion, ethnicity, or culture. [24] This broad definition thus can be seen as defining an upper boundary for the U.S. Jewish population, given that the FBI hate crime statistics define Judaism as a religion.

The Facts Contradict the Myths

These findings seem to contradict the popular perception that Muslims face more discrimination than Jews in the United States. For example, a Pew poll conducted in 2009 found that 58% of Americans believe there is "a lot of discrimination against" Muslims, opposed to 35% who thought the same for Jews. [25] FBI statistics do show a lower percentage of anti-Jewish hate crimes have identified offenders, which may contribute to the misperception that anti-Jewish hate crimes in the United States are not as prevalent as they really are. Of total known offenders from the period of 2000 to 2009, 56% committed anti-Jewish hate crimes; the number rises to 67% when unknown offenders are included.

The process of local law enforcement data collection and categorization is inconsistent and both over-reporting and under-reporting may occur[26]. The goal of our analysis is to show the *relative* frequency of hate crimes, by religion and by type.

We have looked at primarily at some summary statistics for this report. In addition, we include the tables here as appendices along with a selection of charts. The spreadsheet data tables and charts are available for download in excel format at securefreedom.org.

Hate Crime Rhetoric

Concerns about a backlash against Muslims in America arose in the aftermath of 9/11 and were given added impetus by books, studies, and other publications and statements by various organizations and Muslim leadership figures and groups. The November 2002 report by Human Rights Watch, "We Are Not the Enemy: Hate Crimes Against Arabs, Muslims, and Those Perceived to be Arab or Muslim after September 11"[27] is representative of the genre. Citing a "severe wave of backlash violence" involving "more than two thousand September 11-related backlash incidents" against Arabs and Muslims in the immediate aftermath of the 9/11 terror attacks, the report claims such people were targeted "solely because they shared or were perceived as sharing the national background or religion of the hijackers and al-Qaeda members deemed responsible for attacking the World Trade Center and the Pentagon." [28] Although the report goes on to claim that "comprehensive and reliable national statistics are not available," this study cites the readily-available official FBI statistics that indeed do show a spike from 28 to 481 total hate crimes against Muslims between the years 2000 and 2001; however, according to the FBI figures, even that high mark is exceeded by a factor of two for the typical annual total of hate crimes against Jews in America. [29]

The January 6, 2010 report, "Anti-Terror Lessons of Muslim Americans," produced with funding from the Department of Justice, also cites an "increased anti-Muslim bias" in the years since the 9/11 attacks. This paper's three authors, David Schanzer and Ebrahim Moosa of Duke University and Charles Kurzman from the University of North Carolina at Chapel Hill, assert that Muslim-Americans bear the brunt of government counterterrorism initiatives, some of which they consider discriminatory. [30]

Then there is the Council on American-Islamic Relations (CAIR), which styles itself an organization "that challenges stereotypes of Islam and Muslims" and a "Washington-based Islamic advocacy group" dedicated to challenging "anti-Muslim discrimination nationwide." [31] The CAIR website includes an extensive section on "Islamophobia," [32] a term reportedly coined by the Muslim Brotherhood front group, the International Islamic Institute of Thought (IIIT), [33] in an effort to find a concept useful in beating back critics of Islamic law (shariah) and jihad. [34]

CAIR traces the phenomenon of "Islamophobia" to writing by Samuel Huntington in the 1990s that posited a coming "clash of civilizations" between Islam and the West. CAIR claims that "when 9/11 happened," those already prejudiced against Islam were influenced by "right wing outlets" and "pro-Israeli commentators such as Daniel Pipes, Steven Emerson, Judith Miller, and Bernard Lewis" to amplify an atmosphere of "extreme prejudice, suspicion, and fear against Muslims." [35] Deftly sidestepping the historical record of decades of international terror attacks perpetrated by Muslim jihadis well before 9/11 [36], in addition to centuries of shariah-inspired jihad that preceded the current one [37], CAIR's Islamophobia page cites a number of surveys conducted in the years following 2001 that indicate Americans believe Islam encourages violence, does not teach respect for the beliefs of non-Muslims, or that mosques ought to be monitored by U.S. law enforcement officials. Americans' entirely rational concerns about jihadist attacks and the encroachment of shariah on American society are then described not only as the font of "discrimination, exclusion, and violence" against Muslims (without citing any official statistics to substantiate the accusation), but the naturally-to-be-expected source of Muslims' own "disillusionment, social disorder, and...*irrational violence*." [Emphasis added] [38]

Slander, Blasphemy, and Insult to Islam in Shariah

It is imperative that western societies like ours understand the serious implications within Islamic law for accusations of insult to Islam, Islamic doctrine, or Muslims. Under shariah, the offense of slander is defined very differently than in U.S. law. According to the *'Umdat al-Salik* (or *Reliance of the Traveller*), a book of Islamic law that carries the imprimatur of Cairo's Al-Azhar University, the global seat of Sunni Islamic jurisprudence, Slander "means to mention anything concerning a person [a Muslim] that he would dislike..." [39] Several pages later, a further explanation is provided: "A person should not speak of anything he

notices about people besides that which benefits a Muslim to relate or prevents disobedience." [40] Under Islamic law, truth is no defense against an accusation of slander and the offense is held to be a *Hudud* crime, one deserving the harshest punishment.

Even more serious than Slander under Islamic law is the offense of Blasphemy. The Muslim authorities hold Blasphemy to be insulting or abusing that which is held sacred in Islam. This can include anything from cursing Allah or the prophet Muhammad to irreverent behavior towards Islamic religious beliefs or customs. Even expressing opinions about Islam considered at variance with normative beliefs can be construed as blasphemy under this extremely subjective definition. Not only Muslims traditionally have been held accountable under the Islamic blasphemy laws, but also non-Muslims, especially *dhimmis* (conquered, subjugated People of the Book, *i.e.*, Christians and Jews). "Reviling Muslims" or "Harming the Friends of Allah Most High" are considered serious sins, termed "Enormities". [41] Such offenses are described in Islamic law as those that entail either a threat of punishment in the hereafter, a prescribed *Hadd* punishment, or being accused by Allah or the prophet Muhammad. [42]

Islamic laws on Blasphemy and Slander should not be considered outmoded or an irrelevant remnant of the 7th century: they remain very much in effect in modern times, as the following excerpt from the authoritative Malaysian scholar Mohammad Hashim Kamali's 1997 essay, "Freedom of Expression in Islam", makes clear:

"However, a general observation which should be made here is that in matters which pertain to the dogma of Islam, or those which are regulated by the direct authority of the Qur'an or Sunnah, *criticisms, either from Muslims or non-Muslims, will not be entertained*, as personal or public opinion does not command authority in such matters. Islam is basically a religion of authority, and the values of good and evil, or rights and duties are not determined by reference to public opinion, or popular vote..." [Emphasis added] [43]

It might be added that Dr. Kamali, who was a Professor of Islamic Law and Jurisprudence at the International Islamic University Malaysia and also Dean of the International Institute of Islamic Thought & Civilization (ISTAC) from 1985 - 2007, and is currently Chairman and CEO of the International Institute of Advanced Islamic Studies, Malaysia, is considered not only a leading international academic authority on Islam, but a "moderate Muslim." He was on the advisory group for Imam Feisal Rauf's "Shariah Index Project" and is a listed expert at the purportedly moderate organization World Organization for Resource Development and Education (WORDE). [44]

The deadly intent of the shariah laws on Blasphemy and Slander repeatedly has been demonstrated in recent times: among examples which could be cited are the Ayatollah Khomeini's 1989 *fatwa* against the novelist Salman Rushdie, the 2004 murder of the Dutch filmmaker Theo van Gogh, and Anwar al-Awlaki's 2010 *fatwa* against the Washington state journalist Molly Norris (who was forced into permanent hiding for jesting online about an "Everybody Draw Muhammad Day"). The consequences, therefore, of being accused by a Muslim of offending Islamic beliefs, customs, or laws should not be underestimated. The developing concept of "Islamophobia" obviously is heading in this direction.

Here is a final example. Given the centrality of this doctrine to Islam, the 21 February 2011 demand by CAIR for Fox News program host and former Governor of Arkansas, Mike Huckabee, to apologize for "inaccurate and offensive" comments about Islam and to meet with Muslim leaders to discuss growing Islamophobia in American society" [45] needs to be taken very seriously. CAIR's leadership knows exactly what such an accusation implies under Islamic law; it is to be hoped that the Governor does, too.

There is one more aspect of the Islamic laws on Slander that needs to be mentioned in this regard. Our jihadi enemy does not want the non-Muslim infidel world (and especially our national security leadership) to understand the true character and intentions of those shariah adherents who are dedicated to "eliminating and destroying the Western civilization from within." [46] Specifically, the enemy reserves the right to employ *taqiyya* (deceit and dissimulation) as well as the Islamic laws on obligatory lying [47] to keep such information from those whose knowledge of it could lead to effective defensive measures against shariah. Attempted enforcement of this legally sanctioned code of silence about the genuine nature and objectives of the jihadist enemy is one of the key usages of the Slander and Blasphemy laws in the west. [48]

"Islamophobia" and Defensive Jihad

To carry through the Islamic legal principles inherent in the Slander and Blasphemy laws to their logical end point, it is useful to refer to classical as well as modern pronouncements on the elements that Muslim scholars hold necessary to justify and declare defensive jihad. For, in fact, this justification is where accusations of "Islamophobia", religious "hate crimes," and insult to Islam plausibly lead. In fact, in numerous cases, hate crime violence or intimidating threats of violence against persons and property in response to perceived "blasphemy" has been a response in the last decade in Muslim-majority countries, and also in Canada, Europe, and the U.S. The examples in Muslim-majority countries are too numerous to list, but a sample of U.S. cases include the jihad threats against Molly Norris, creator of "Everybody Draw Mohammed Day", the South Park cartoon producers, and publications that republished the Danish "Muhammed Cartoons."

Classical scholars of Islam, such as Al-Shaybani (8th-9th century disciple of the Hanafi school of jurisprudence and a jurist in his own right) and Ibn Rushd (12th century legal scholar known as Averroes in the West) have written extensively and assertively on the obligatory nature of offensive jihad according to shariah, simply for the purpose of establishing Islam in the world.[49] It was understood both explicitly and implicitly that defensive jihad was obligatory as well. Among the Qur'anic verses commonly cited as justification is the following:

"Fight them until there is no persecution and the religion is Allah's entirely." -- (Q 8:39)

Turning to the modern Islamic scholars, Louay Safi is a Muslim author and scholar who has served at the top ranks of Muslim Brotherhood affiliates in the U.S. He formerly was the Executive Director of the Islamic Society of North America (ISNA)'s Leadership Development Center, Executive Director and Director of Research for the International Institute of Islamic Thought (IIIT), editor of the Journal of Islamic Social Sciences, and President of the Association of Muslim Social Scientists (AMSS) (1999-2003). ISNA, IIIT, and the AMSS all appear on the Muslim Brotherhood's own list of "our organizations and the organizations of our friends." [50] Safi currently serves as Common Word Fellow at the Prince Alwaleed bin Talal Center for Muslim Christian Understanding at Georgetown University. His credentials, in other words, would seem impeccable to speak to Islamic rulings on defensive warfare.

The slim 2001 paperback book, "Peace and the Limits of War," was authored by Safi and published by the IIIT in response to the post-9/11 surge in public awareness of Islam and jihad. While Safi attempts to distance himself from the classical Islamic scholars on the topic of mandatory offensive jihad, he has no such compunctions when it comes to "War in defense of Muslim individuals and property." He writes:

"When wrong is inflicted on a Muslim individual by a member, or members, of another political community....the Islamic state is obligated to make sure the individual, or his family, is compensated for his suffering, and that his rights are upheld...it suffices to say that the Islamic state should ensure that justice has been done to the wronged Muslim, even if that take a declaration of war..."[51]

Perceptions about the prevalence of hate crimes against Muslims matter, especially when considered in the context of Islamic law (shariah), which criminalizes insults to Islam as "slander" or even "blasphemy." [52] A false belief, perpetuated by a few vocal groups, that deliberate religious bias crimes against Muslims are increasing regardless of the lack of support by hard factual data, is corrosive to community relationships at every level of American society, and a potential threat to First Amendment free speech rights and national security. Efforts at the international level, especially by the Organization of the Islamic Conference (OIC)[53], to define any questioning of Islamic doctrine as "hate speech" leading to "hate crimes", such as "Islamophobia" and as a "human rights violation" by way of official resolutions at the United Nations Human Rights Council (UNHRC), directly create the premise for criminalization of free speech. Further, although non-binding at this time, such UNHRC resolutions conceivably could legitimize an eventual *casus belli*, by which an appropriate *fatwa* could declare justification for violent defensive jihad by the forces of Islam. As recently as March 7 2011, James Zogby of the Arab American Institute, formerly with the Democratic National Committee, wrote of critics of the Shariah law and Islamic terrorism in America, that:

If these "professional bigots" have provided the grist, the mill itself was run by the vast network of rightwing talk radio and TV shows and websites and prominent preachers, who have combined to amplify the anti-Muslim message nationwide. Their efforts

have done real damage. They have tormented descent [sic] public servants, created protests that have shuttered legitimate institutions, fomented hate crimes and produced fear in the Muslim community.[54]

Conclusions

This data presented in this study demonstrate that common perceptions about the incidence of "hate crimes" in America that are directed at individuals or groups on the grounds of religious identification often mistakenly ascribe the majority of such offenses to anti-Muslim sentiment. To the contrary, the 2000-2009 FBI crime statistics data used in this study indicate that the majority of U.S. "hate crimes" in fact are perpetrated against Jews. The spike in anti-Muslim hate crimes following 9-11 did not last longer than nine weeks according to prior research. The most important conclusion may be that total religious bias crimes are few in a country of over 300 million persons. In fact, the U.S. is a model as a tolerant country, with a significantly low (and in some cases falling) number of hate crimes, in which most Muslim Americans are fully integrated and accepted, as well as economically and socially successful, fellow citizens.

The persistence, scope, and sophistication of the campaign to portray Muslims in America inaccurately, as making up the majority of "hate crime" victims, points to an organized effort whose potential implications derive from Islamic law (shariah). Insult towards Islam, Islamic doctrine, and individual Muslims, especially by non-Muslim infidels, can carry serious penalties under Shariah law. Further, because the "crimes" of insult, slander, and blasphemy are so subjectively defined in shariah, the doorway is wide open for those with an agenda of victimology to lay a foundation that not inconceivably could lead ultimately to a declaration of "defensive jihad" against persons, property or the broader community. "Homegrown" jihadist terrorism can find its motivation as part of the radicalization process in this heightened, and counter-factual, sense of victimization that justifies organized or "lone wolf" acts of jihad that are rationalized as defensive.

Charts & Data

Charts and data for this Occasional Paper are available in the PDF, or as Microsoft Excel files below:

- [Summary Charts](#)
- [Simple Assault Victims](#)
- [Simple Assault Offenses](#)
- [Property Crime by Offense](#)
- [Offense Type PieChart \(regardless of religion\)](#)
- [Intimidation Victims by Religion](#)
- [Intimidation Offenses by Religion](#)
- [Crimes Against Property by Victim](#)
- [Aggravated Assault by Victim Religion](#)
- [Aggravated Assault by Offense](#)

[1] Center for Security Policy staff and interns contributed to the data entry, analysis, and verification.

[2] The Council on American-Islamic Relations (CAIR) presents itself as an Islamic advocacy group and America's largest Muslim civil liberties advocacy organization. CAIR was included on the Department of Justice's published list of unindicted co-conspirators in the Holy Land Foundation HAMAS terror funding case of 2007-2008. Its Internet home page may be found at <http://www.cair.com/Home.aspx>. See CAIR's reports on bias from 2007 (<http://www.cair.com/Portals/0/pdf/2007-Civil-Rights-Report.pdf>) and 2008 (<http://www.cair.com/Portals/0/pdf/civilrights2008.pdf>).

[3] The Muslim Public Affairs Council (MPAC) calls itself a "Public service agency working for the civil rights of American Muslims". According to the counterterrorism think tank The Investigative Project, "MPAC's public advocacy often involves defending accused terror financiers and opposing law enforcement efforts to root out terrorists and their enablers. In nearly every case, MPAC has responded to investigations by the FBI and the U.S. Treasury Department with complaints that authorities have not proven their allegations, and variations on the constant themes that enforcement actions unfairly single out Muslim groups and 'bear strong signs of politicization.' At the same time, MPAC has been equally diligent in defending individual terrorists uncovered by federal investigations." <http://www.investigativeproject.org/profile/181>, accessed February 28, 2011.

[4] "Behind CAIR's Hate Crimes Report," Daniel Skinner, The Weekly Standard, May 6, 2004, <http://www.weeklystandard.com/Content/Public/Articles/000/000/004/054avcfi.asp>; "CAIR's Hate Crime Nonsense," Daniel Pipes and Sharon Chadha, May 18, 2005, <http://www.danielpipes.org/2627/cairs-hate-crimes-nonsense>; "Fudging the Numbers on Hate Crimes," Mike Pesca, NPR, May 23, 2005, <http://www.npr.org/templates/story/story.php?storyId=4662915>; all accessed February 28, 2011.

[5] "CAIR Pushes Phony Charges of Anti-Muslim Hysteria, Hate Crimes," Investigative Project, April 4, 2008. <http://www.steveemerson.com/2008/04/cair-pushes-phony-charges-of> accessed February 28, 2011.

[6] The FBI Uniform Crime Reporting Program and its annual *Crime in the United States* reports are described online at <http://www.fbi.gov/about-us/cjis/ucr/ucr>

[7] 2009 is the most recent year for which full data are available. See the FBI Hate Crime Statistics for 2009 at <http://www2.fbi.gov/ucr/ucrhc2009/victims.html>, accessed 12 February 2011.

[8] Simple Assaults by Victim by Religion for 2001 (Muslim 66, Jewish 45, Christian 3); Aggravated Assaults by Victim by Religion for 2001 (Muslim 27, Jewish 13, Christian 1)

[9] Neil Chakraborti, editor, *Hate Crime: Concepts, policy, future directions*, Willan Publishing, 2010.

[10] Kaplan, Jeffrey, "Islamophobia in America?: September 11 and Islamophobic Hate Crime," *Journal of Terrorism and Political Violence*, Routledge, Taylor and Francis Group. Accessed 20 February 2011 at <http://www.informaworld.com/smpp/content-db-all-content=a737727150>

[11] Salaita, Steven George, "Beyond Orientalism and Islamophobia: 9/11, Anti-Arab Racism, and the Mythos of National Pride," *CR: The New Centennial Review*, Michigan State University Press, Volume 6, Number 2, Fall 2006, pp. 245-266. Accessed online 21 February 2011 at http://muse.jhu.edu/login?uri=/journals/new_centennial_review/v006/6_2salaita.html

[12] *Journal of Hate Studies*, Volume 8 (No. 1), 2010, <http://journals.gonzaga.edu/index.php/johs/issue/archive> accessed February 28, 2011. The Journal's authors defend a wide spectrum of beliefs, ranging from a positive review for the anti-jihad movie "Obsession" (Vol 5, #1) to numerous articles from a more conventional perspective.

[13] Perry, *Hate Crime: Concepts, Policy, Future Directions*, p. 17

[14] Accessed online 21 February 2011 at <http://www.fbi.gov/about-us/cjis/ucr/hate-crime/trainguidedc99.pdf>

[15] The FBI Uniform Crime Reporting Program and its annual *Crime in the United States* reports are described online at <http://www.fbi.gov/about-us/cjis/ucr/ucr>

[16] 28 U.S.C. § 534. See Appendix C for the full text of this legislation.

[17] *Hate Crime Data Collection Guidelines*, p. 24, <http://www.fbi.gov/about-us/cjis/ucr/hate-crime/hcguidelinesdc99.pdf> accessed February 28, 2011.

[18] This does not include the negligible number (19) of "crimes against society" from 2000-2009 for all three religious groups.

[19] "Self-described Religious Identification of Adult Population: 1990 - 2008," U.S. Census, <http://www.census.gov/compendia/statab/2010/tables/10s0075.pdf>, accessed February 28, 2011.

[20] Ihsan Bagby, Ph.D., Paul M. Perl, Ph.D., Bryan T. Froehle, Ph.D., *The Mosque in America: A National Portrait*, Council on American Islamic Relations, April 26, 2001, p.6: "Estimates of a total Muslim population of 6-7 million in America seem reasonable..."

[21] Abdul Malik Mujahid, "Muslims In America: Profile 2001," Soundvision, <http://www.soundvision.com/info/yearinreview/2001/profile.asp>, accessed February 28, 2011.

[22] "Background Information on Radicalization Hearings," Muslim Public Affairs Council, February 3, 2011. <http://www.mpac.org/programs/government-relations/background-information-on-radicalization-hearings.php#> accessed February 28, 2011.

[23] *The Future of the Global Muslim Population*, Pew Forum on Religion and Public Life, Jan. 27, 2011. <http://pewforum.org/The-Future-of-the-Global-Muslim-Population.aspx>. Accessed 7 March 2011 at <http://pewresearch.org/pubs/1872/muslim-population-projections-worldwide-fast-growth>.

[24] Table 77, *Christian Church Adherents, 2000, and Jewish Population, 2009 - States*. 2010 US Census. <http://www.census.gov/compendia/statab/2011/tables/11s0077.pdf>.

[25] *Muslims Widely Seen as Facing Discrimination*. Pew Forum on Religion and Public Life, Sept. 9, 2009. <http://pewforum.org/Muslim/Muslims-Widely-Seen-As-Facing-Discrimination.aspx>.

[26] "FBI Report Notes Rise in Hate Crimes," Deborah Tedford, NPR, November 23, 2009, <http://www.npr.org/templates/story/story.php?storyId=120715771>, accessed February 28, 2011.

[27] Available in PDF format and accessed 21 February 2011 at <http://www.hrw.org/en/reports/2002/11/14/we-are-not-enemy>

[28] "We Are Not the Enemy: Hate Crimes Against Arabs, Muslims, and Those Perceived to be Arab or Muslim after September 11," *Human Rights Watch*, NOVEMBER 2002 VOL. 14, NO. 6 (G) (p. 4).

[29] See Appendix D, "Hate Crime Trends: 2000-2007"

[30] Schanzer, David, Charles Kurzman, and Ebrahim Moosa, "Anti-Terror Lessons of Muslim-Americans," January 6, 2010. Accessed online 21 February 2011 at <http://www.ncjrs.gov/pdffiles1/nij/grants/229868.pdf>

[31] The official CAIR website is at <http://www.cair.com/Home.aspx>. CAIR's foundational organization, The International Association for Palestine, was included on a list of organizations called "our organizations and the organizations of our friends" in a 1991 Muslim Brotherhood document called "An Explanatory Memorandum on the General Strategic Goal for the Group in North America."

[32] "Islamophobia," <http://www.cair.com/Issues/Islamophobia/Islamophobia.aspx> accessed February 28 2011.

[33] The website of the Herndon, Virginia-based International Institute of Islamic Thought (IIIT) is at <http://www.iiit.org/Home/tabid/36/Default.aspx>. The IIIT, like CAIR, is on the Muslim Brotherhood list of its friends and organizations of friends; also like CAIR, the IIIT was included in a list of unindicted co-conspirators in the 2007-2008 Holy Land Foundation HAMAS terror funding trial.

[34] Muhammad, Abdur-Rahman, "Whether or not Ground Zero mosque is built, U.S. Muslims have access to the American dream," *The New York Daily News* as cited by *The Investigative Project on Terrorism*, September 5, 2010. Accessed online 21 February 2010 at <http://www.investigativeproject.org/2164/whether-or-not-ground-zero-mosque-is-built-us>. Muhammad is a former member of the IIIT, whose by-line states that he "now works to combat Islamic extremism in the American Muslim community."

[35] CAIR "Islamophobia" page; accessed 21 February 2011 at <http://www.cair.com/Issues/Islamophobia/Islamophobia.aspx>

[36] "List of Islamic Terror Attacks Against America Before 9/11," <http://factreal.wordpress.com/2010/01/30/list-of-islamic-attacks-against-america/>, accessed February 28, 2011.

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- [38] "Islamophobia," <http://www.cair.com/Issues/Islamophobia/Islamophobia.aspx>
- [39] *Umdat al-Salik* (Reliance of the Traveller), A Classic Manual of Islamic Sacred Law. Section r2.0: Slander (p. 730).
- [40] *Ibid*, Section r3.0 (p. 741).
- [41] *Ibid*, Section p50.0 (Hurting or Reviling Muslims) and p51.0 (Harming the Friends of Allah Most High) (pp. 686-688).
- [42] *Ibid*, The Author's Introduction, Section p0.0 (pp. 651-2).
- [43] Kamali, Mohammad Hashim, "Freedom of Expression in Islam," *Islamic Text Society*, 1997. From chapter IX. Freedom of Religion (*Al-Hurriyyah al-Diniyyah*). Accessed online 22 February 2011 at www.globalwebpost.com/farooqmi/.../freedom/kamali_freedom.doc
- [44] "Mohammad Hashim Kamali, Biographical Highlights," <http://w.orde.org/specialists/ProfessorMohammadHashimKamali.php> accessed February 28, 2011.
- [45] "Dissemblers At Council On American Islamic Relations - CAIR - Whip Up The Discredited Boogymen Of Islamophobia," *PipelineNews.org*, February 21, 2011. Accessed 22 February 2011 at <http://www.pipelinenews.org/index.cfm?page=cair2212011102.htm>
- [46] "An Explanatory Memorandum on the General Strategic Goal for the Group in North America," a 5/22/91 Muslim Brotherhood document entered into evidence in the 2007-2008 *U.S. v. Holy Land Foundation* HAMAS terror funding trial.
- [47] *Umdat al-Salik*, Section r8.0, Lying (beginning on p. 744).
- [48] "Shariah: The Threat to America," *Center for Security Policy*, October 2010 (pp. 103-106).
- [49] See "The Islamic Law of Nations: Shaybani's Siyar" by Majid Khadduri and Ibn Rushd's magnum opus, "*Bidayat al-Mudtahid wa-Nihayat al-Muqtasid*" for their authoritative treatments of jihad.
- [50] "An Explanatory Memorandum on the General Strategic Goal for the Group in North America," 1991. ISNA also appeared on the U.S. Department of Justice list of unindicted co-conspirators in the 2007-2008 Holy Land Foundation HAMAS terror funding trial.
- [51] Safi, Louay M, "Peace and the Limits of War." *International Institute of Islamic Thought*, Herndon, VA.
- [52] See "Slander (Ghiba)" in Section r2.0 of the *Umdat al-Salik* (Reliance of the Traveller), A Classic Manual of Islamic Sacred Law (pg. 730). For a thorough discussion of Slander and Blasphemy in Islamic law, see also the Center for Security Policy study, "Shariah: The Threat to America," September 22, 2010. Available online at http://www.amazon.com/Shariah-America-Exercise-Competitive-Analysis/dp/098229476X/ref=sr_1_1?ie=UTF8&s=books&qid=1297556949&sr=1-1
- [53] Organization of the Islamic Conference: <http://www.oicun.org/9/20100727101615770.html>
- [54] "Islamophobia can create radicalization," James Zogby, March 7, 2011, The Nation, <http://nation.com.pk/pakistan-news-newspaper-daily-english-online/Opinions/Columns/07-Mar-2011/Islamophobia-can-create-radicalisation/> accessed March 8, 2011.



Testimony Submitted to the United States Senate Judiciary Committee Subcommittee on the Constitution, Civil Rights and Human Rights by Alliance for Justice

March 29, 2011

Alliance for Justice is a national association of over 100 organizations dedicated to advancing justice and democracy. We have an unshakable belief in the right of all Americans to practice their religion without interference and that no citizen should ever be afraid to worship, establish religious communities, or speak openly about their religious precepts. Efforts to broadly demonize the Muslim religion or its adherents are contrary to the most fundamental principles that undergird our nation's values and our Constitution, which guarantees to all Americans an inalienable right to freedom of religion, speech, and peaceable assembly.

It is deeply disturbing to see individuals, organizations, and members of the media intentionally advance bigotry and promote intolerant acts against Muslims, but it is unconscionable for those holding public office to participate in such efforts. Recent efforts by members of Congress to denigrate an entire group of citizens by tarring them as radicals, extremists, or terrorist sympathizers, should not go unanswered and today's hearings are a welcome and hopeful sign that our nation has not forgotten its foundational principles.

When any group is singled out for persecution or investigation, based on nothing more than its religious affiliation, we all lose a measure of our own liberty. The fabric of our free society is eroded when all Muslims are painted as terrorists or potential criminals, despite clear evidence to the contrary, and in spite of the unambiguous message from law enforcement agencies that American Muslims have been active and willing partners in the effort to protect the nation from terrorist attacks. The notion of collective guilt is utterly anathema to American principles and must be rejected without equivocation.

Nothing could do more damage to our ability to protect ourselves from violence than to cut off from American life the very people whose cooperation is desired to help identify those who mean us harm. Our strength as a nation comes from our diversity and from a belief in a common destiny. Scapegoating the entire Muslim community for the acts of a few and directing unremitting hate speech at Muslim beliefs and institutions only serves to create a gulf that divides neighbor from neighbor and weakens the fabric of our society at a time when unity is essential.

The subcommittee and Chairman Durbin are to be commended for standing forthrightly for religious freedom, and reminding us that we are one people united by a shared belief in tolerance, diversity, and liberty.



AMERICAN HUMANIST ASSOCIATION

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Senator Richard J. Durbin
Chairman of the Senate Subcommittee on the
Constitution, Civil Rights, and Human Rights
224 Dirksen Senate Office Building
Washington, DC 20510

March 28, 2011

Dear Senator Durbin,

The American Humanist Association (AHA) wishes to voice its support of the first-ever Congressional hearings on the civil rights of American Muslims, hearings that will be conducted by the Senate Judiciary Subcommittee on the Constitution, Civil Rights, and Human Rights, which you chair. While of course the AHA is opposed to the activities of Islamic extremists, we also oppose the “crusade” mentality in Western circles that condemns all Muslims indiscriminately, and are hopeful that your subcommittee’s hearings will bring balance and perspective to the issue.

Since September 11, 2001, prejudice and discrimination against Muslims have been on the rise in Europe, the United States, and elsewhere. Many individuals are suffering from increased security screenings, hostile media attention, and oppressive new laws, as well as localized acts of violence and widespread disrespect.

The AHA, as an organization that promotes humanism and defends the rights of nontheist and nonreligious Americans, in many ways has very little in common with Islam, but we nevertheless object to unjust discrimination and the unfair treatment of any minority group. By defending civil liberties and secular governance and collaborating with like-minded people of all faiths and philosophies to refine and advance humanistic perspectives, the AHA advances the cherished American ideals of freedom, tolerance, and pluralism. We are hopeful that your subcommittee’s hearings will be a reminder of the importance of these ideals.

Surely violent extremism must be condemned, but fear and ignorance must not become the drivers of hostility, intolerance, and unfair discrimination. Though humanist principles are removed from traditional, supernatural notions of religious faith, we nevertheless firmly believe that religious liberty means freedom for all – freedom to peacefully affirm and practice a faith, freedom from religious coercion, freedom from unfair discrimination, and freedom to peacefully leave or reject a faith.

The AHA objects to any form anti-Muslim bigotry, whether in the form of hate crimes, defamatory speech regarding Islam by public officials, or otherwise. Therefore, we support your subcommittee’s hearings on the civil rights of American Muslims, and urge you to utilize these hearings to bring attention to the issue and advance enlightened public policy.

Very truly yours,

David Niose
President

1777 T Street NW, Washington DC 20009-7125 | T 800.837.3792 202.238.9088 | F 202.238.9003
aha@americanhumanist.org | www.americanhumanist.org





Office of Government
and International Affairs
1156 15th Street, NW
Washington, DC 20005
t: 202.785.4200
f: 202.785.4115
www.ajc.org

**Statement of
Richard T. Foltin, Esq.
Director of National and Legislative Affairs
Office of Government and International Affairs
American Jewish Committee**

**Submitted on behalf of the American Jewish Committee to
The Senate Judiciary Subcommittee
on the Constitution, Civil Rights, and Human Rights**

**Hearing on
“Protecting the Civil Rights of American Muslims”**

Held on March 29, 2011

**T: (202) 785-5463, F: (202) 659-9896
e-mail: foltinr@ajc.org**

My name is Richard Foltin. I am Director of National and Legislative Affairs in the Office of Government and International Affairs of the American Jewish Committee. I appreciate the opportunity to submit a statement on behalf of AJC for the record of this hearing on “Protecting the Civil Rights of Muslim Americans.”

Since its establishment in 1906 in response to persecution of Jews taking place in Russia, AJC has been strongly committed to the security of our country and the American Jewish community, as well as to protecting the civil rights and civil liberties of the Jewish community and of all Americans. It has long been a priority of AJC’s mission to promote better relations and interfaith understanding among the nation’s faith communities, including the Muslim community.

It is appropriate and praiseworthy that this committee hold a hearing on civil rights issues impacting the Muslim American community. As we are all aware, this hearing comes at a time when many of our Muslim fellow civilians feel vulnerable and uncertain as they face continuing—and, we have reason to fear in light of the harsh rhetoric of the last several months, even increasing—violence and discrimination directed at Muslims and those who are perceived as Muslims.

There is no question that our nation faces a threat of homegrown terrorism inspired by Islamic extremist ideology and its continuing impact on our country—not the only such threat, to be sure, but one that looms large, especially when one considers that the Jewish community has been specifically targeted by Islamic extremist homegrown terrorists. Nevertheless, even as we must not hesitate to identify and confront the very real threat of an Islamic extremist ideology and its purveyors that imperils our nation’s security, we must also be ever-vigilant against discrimination. It is essential that we all tread carefully—avoiding rhetoric that smacks of stereotyping members of a particular faith and avoiding actions that amount to discrimination against, much less persecution of, members of a faith group based on their identity or beliefs, or on the illegal actions of a few.

For the Jewish American community—as members of a people that has known all too well what it is to be victims of discrimination, demonization and persecution—even more is required of us than that we avoid stereotyping and discriminatory actions of our own. It is incumbent upon us to speak out as well, to respond when we see discriminatory actions and hear expressions of bigotry, to stand up for the civil rights and civil liberties of Muslim Americans. It is incumbent upon us, as well, to assure that Muslims in America are protected in the free exercise of our First Liberty, the freedom to practice one’s faith and to organize communities in order to pray and congregate in fellowship. And we are mindful, moreover, that a threat to the religious liberty of Muslims is a threat to the religious liberty of all.

We are proud to reflect on AJC’s history of outreach to Muslims, here in the United States and abroad, our solidarity with Muslim Americans as they confront obstacles to the building of mosques, our rejection of efforts to deny Muslims the ability voluntarily to utilize principles of *Sharia* law in organizing their individual and communal affairs, and our condemnation of bigoted and disrespectful acts and expressions, such as the burning of Korans, even when these actions are constitutionally protected. And, of course, AJC has long been a champion of the need to strengthen our civil rights laws providing for

accommodation of religious practice and a supporter of hate crimes laws, including the federal legislation enacted in 2009.

Thus, as turmoil arose in the wake of the announced intention to build a Muslim community center, the Cordoba Center, two blocks from Ground Zero, AJC executive director David Harris forthrightly stated in a piece published in the *Huffington Post*, “The Cordoba Center has a right to be built in the proposed location,” and reminded readers that “in America we celebrate our tradition of freedom of worship and seek to set an example to others.” In taking this position—at a time when there were challenges to the building of mosques not only at the sensitive locale of downtown Manhattan but also in diverse locations across the country—AJC followed a long-standing history of championing the right of religious communities to build and maintain houses of worship and other institutions that enable them to worship and thrive, as it did in supporting enactment of the Religious Land Use and Institutionalized Persons Act (“RLUIPA”), signed into law by President Clinton in 2000.

And we were quick to condemn Pastor Terry Jones’ plan last September to burn the Koran—thankfully, in the end, not realized¹—as “a blatant attempt to foster hate at a particularly sensitive time in America.” In response to widespread obstruction of mosque construction, Pastor Jones’ odious plans, and violent incidents very possibly provoked by incitement against Muslims, we have been clear on a fundamental principle—anti-Muslim bigotry is no more acceptable in the United States than racism and anti-Semitism.

We view the recent phenomena of legislative initiatives directed at a mythical imminent take-over of our legal system by *Sharia* law, as yet another manifestation of anti-Muslim bigotry—and one that is a profound example of the point expressed above, that a threat to the religious liberty of one is a threat to the religious liberty of all. In order to avoid violating the constitutional prohibition on singling out a particular religion (or religion, as opposed to non-religion) in prohibiting particular conduct, those who want to suppress Islamic religious practice have taken to drafting laws that suppress a wide range of religious or other activities. These anti-*Sharia* initiatives would bar states from applying any religious or foreign law, or even the ability of private actors to resolve private disputes on any body of law other than state law. If enacted, these initiatives would gravely endanger long-standing methods of religious resolution of private disputes upon which many members of the Jewish community, among others, have long relied and which are often viewed as religiously compelled.²

¹ Recent reports indicate that Pastor Jones has participated in the burning of a Koran within the last few days. The minimal attention thus far given this reprehensible act, if the reports are true, is far more appropriate than the world-wide coverage Jones’ plans garnered last year—plans that were clearly announced for no reason except to promote divisiveness and convey disrespect.

² AJC is in the process of preparing friend-of-the-court briefs in two cases involving *Sharia* law. In one case, *Awad v. Ziriax*, AJC is writing in support of a federal trial court’s finding that Oklahoma’s anti-*Sharia* amendment to its state constitution violates the federal Constitution because it singles out one faith for condemnation. AJC plans, as well, to file in the case of *Murray v. Geithner*, supporting—against an Establishment Clause challenge—the government’s efforts to rescue the AIG insurance firm. The

Of course, even in the absence of anti-*Sharia* laws, the ability of Muslims—and of members of all religious communities—to protect their religious freedom has been hampered by the Supreme Court’s unfortunate 1990 decision in *Employment Division v. Smith*, which—in holding that a law impacting religious observance was not susceptible to strict constitutional scrutiny as long as it constitutes a generally applicable rule—has made it more difficult to directly challenge restrictions on religious freedom as applied to newer faiths that do not yet have the ability to wrestle discretionary accommodations from government authority. Notwithstanding the weakened state of constitutional protection of the free exercise of religion, we and other Jewish organizations have remained determined advocates of the need for government to accommodate the religious practices of Muslims and others, where accommodation of such practices would not lead to violation of fundamental public policy. Thus, Jewish groups supported a challenge to a Michigan court rule restricting the ability of a Muslim woman to wear a veil in court, and, in the wake of 9/11, defended the right of Muslim girls to wear headscarves in school.

The civil rights of Muslims—and, again, of members of all faiths—is also hampered by the current state of the law as regards the right of a religiously observant employee to obtain a reasonable accommodation in the workplace of his or her religious practice. While Title VII of the Civil Rights Act of 1964 provides that a reasonable accommodation of a religious practice must be provided unless to do so would constitute an undue hardship, the courts—in a line of cases stretching back to yet another unfortunate Supreme Court decision, the 1977 case of *TWA v. Hardison*—have interpreted this law, particularly the definition of what constitutes an “undue hardship,” in a sharply limited fashion. The result has been that it is often unduly difficult for an employee to obtain an accommodation—thereby placing him or her in the position of needlessly having to choose between faith and livelihood. AJC is proud to be playing a leadership role in an ongoing effort to amend the Civil Rights Act so as to strengthen its religious accommodation provisions.

This is not to say that employees never succeed in legal claims brought in an effort to obtain accommodation of religious practice. The efficacy of the existing law is dependent, in large part, on the willingness of officials charged with enforcement of Title VII to take these cases seriously, and to bring legal action in appropriate cases rather than leave plaintiffs with scarce resources to bring private actions. For this reason, we are appreciative that, however the courts ultimately dispose of it, the Civil Rights Division of the Department of Justice has seen fit to bring an action on behalf of a Muslim complainant seeking an accommodation that will enable her to take leave so that she can fulfill her duty of *hajj*. In filing this and other religious accommodation cases, the current Administration is following the trail marked by recent Justice Departments of both parties, which have been unified in recognizing that the failure to provide reasonable accommodation of a religious practice is a form of employment discrimination, a civil rights violation, no less than facial forms of discrimination.

challenge is based on the fact that some of the firm’s financial products (less than one quarter of one percent) were made *Sharia*-compliant as an accommodation to its Muslim customers.

In recent days, AJC joined other religious and civil rights groups in urging that the EEOC take yet another action in the cause of religious liberty by exercising its regulatory authority to protect employees from workplace segregation based on religion—an action that, if taken, would address the unacceptable practice of giving *hijab*-wearing Muslim women or turban-wearing Sikh men assignments out of public view in the name of “corporate image.”

Finally, but by no means of least concern, is the fact that hate crimes directed at Muslims and those perceived as Muslims—while thankfully not at as high a level as in the days immediately after the events of 9/11—continue to show a marked increase as compared to 2000 and before.³ We are, sadly, well aware that, even over the last decade, Jews remain—as reflected in the Hate Crime Statistics reports prepared annually by the Federal Bureau of Investigation—the targets of the greatest number of hate crimes committed on the basis of perception of the victim’s religious identity. But this is a pride of place no sensible person or community could possibly want—and, if anything, sensitizes us all the more to the plight of Muslims who have been victimized by such crimes.

We live in challenging times. We must, therefore, not hesitate to identify and confront the very real threat of an Islamic extremist ideology and its purveyors that imperils our nation’s security. In doing so, it is crucial that we reach out to Muslim Americans, so as to ensure that they are part of those efforts. Moreover, whatever the threat, we cannot—and must not—turn our back on the tenets of equality before the law and respect for diversity that are the hallmarks of this nation. We must be ever-vigilant against discrimination, and hold true to the principle that Muslims are not to be judged collectively because of the actions of the 9/11 terrorists or of other violent extremists who, in their perversion of Islam, have killed thousands—including, of course, many Muslims.

³ It should go without saying that, of course, even one hate crime—and one victim who must suffer the consequences of that crime—is one too many.

Statement of Larry Cox

Executive Director, Amnesty International USA

Hearing on “Protecting the Rights of Muslim Americans”

**Before the Senate Judiciary Subcommittee on the Constitution, Civil Rights, and
Human Rights**

March 29, 2011

Chairman Durbin, Ranking Member Graham, members of the subcommittee, thank you for giving me the opportunity to contribute to this important and timely hearing. Amnesty International USA thanks the Subcommittee for its work in holding this hearing and for its work to protect the rights of all Americans.

The work of the subcommittee is especially valuable in light of the recent House Homeland Security Committee’s hearing on “ The Extent of Radicalization in the Muslim American Community and that Community’s Response”, which Representative Michael Honda, himself a former Japanese-American internee, decried as something “sinister,” designed “to stoke the fires of anti-Muslim prejudice and Islamophobia.”

I would like to highlight a few points primarily in connection with terrorism, the rights of Muslim Americans, and the insinuation that they as a group represent a particular threat to national security.

The United States rests upon the bedrock notion that the country is built on laws and the Constitution, and that it is a place where freedom of religion and freedom from persecution are guaranteed. The United States is a country of immigrants, and overwhelmingly – with the exception of Native Americans – all of us are migrants, or the children of migrants. Like the Universal Declaration of Human Rights and other international human rights standards, the U.S. Constitution guarantees fundamental equality before the law regardless of race, creed, or color. The many diverse religious and ethnic groups scattered across the country are all strands of the greater American family, that we should all welcome and be proud of.

This is a core American strength in countering the narrative offered by violent extremists of all stripes – and against Al Qaeda in particular. In the wake of 9/11 President Bush deliberately stated that the attacks were not the work of or the responsibility of the Muslim world and urged tolerance. Since the attacks and in particular since the inauguration of Barack Obama in 2008 there have been a number of so called “home grown” attacks which have led some to speculate that there is an increased threat not only domestically but from Muslims in the US in particular.

Let me take this opportunity to address the facts and to set the record straight. According to the recent RAND study *Would be Warriors: Incidents of Terrorist Radicalization in the United States Since September 11, 2001*, by Brian Jenkins, “The volume of domestic terrorism was much greater in the 1970s than it is today”. “That decade saw 60-70 terrorist incidents, most of

them bombings, on US soil every year – a level of terrorist activity 15-20 times that seen in most of the years since 9/11”.

Similarly the Duke Triangle Institute noted that there were in fact fewer plots in 2010 than in 09, and of those, “there were more than 20 terrorist plots by non Muslims in the United States in 2010, including attacks by Joseph Stack who flew a plane into an IRS building in Austin, Texas.”

The notion that specifically profiling Arab Americans as would be effective in preventing terrorism is not borne out by the facts; of the 125 arrests post 9/11, 12 were native born Caucasian, 12 were African American, 7 came from the Balkans. A quick look at recent arrests from Abdul Muttalab – a Nigerian, ‘Jihad Jane’ Colleen La Rose – a Caucasian Michigander, to Antonio Martinez - a Hispanic convert, should dispel any practical rationale to profile based on appearance or race.

Where attacks have taken place or there is reason to be concerned that young people have left the United States to join an armed group – such as Al Shabab in Somalia – frequently it has been Muslim American families who have raised the alarm. Again, in a survey by the Duke Triangle Center “the largest initial single source of information (48 of 120 cases) involved tips from the Muslim American community”.

Groups who engage in terrorism carry a false narrative of struggle, in which they claim to seek to liberate the oppressed and wage a war on the state. In reality, the indiscriminate targeting of vulnerable populations and the destruction of civilian targets is the gravest of human rights abuses. A crucial part of society's response ought therefore to be actively to challenge groups who engage in terrorism for targeting civilians of all creeds and ethnicities. A vibrant, tolerant and integrated society is an anathema to those who have no regard for human life in pursuit of their political objectives, and a law abiding and functioning civil society is the antithesis of everything they would claim to seek.

Thank you.

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GENERAL COUNSEL
LENORE R. KREITMAN



March 29, 2011

Dear Senator:

As the Judiciary Subcommittee on the Constitution, Civil Rights and Human Rights conducts hearings on "Protecting the Civil Rights of American Muslims," we write to provide the Committee with the Anti-Defamation League's views on this specific topic.

A significant level of anti-Muslim bigotry has surfaced in a variety of public forums over the past year. While some of the anti-Muslim sentiment has fed on growing community concerns about Islamic extremism, much of it has focused on various plans to relocate or expand mosques around the country. Many of those debates have been characterized by unfair stereotyping and prejudice that have singled out the Muslim American community for special scrutiny and suspicion.

There are many ways to measure the nature and magnitude of anti-Muslim discrimination and bigotry in the United States. Our statement specifically addresses several forms of hostility:

- Efforts to prevent mosques and other religious institutions from being built in communities;
- Offensive and unwarranted legislative initiatives targeting a phantom threat – the infiltration of Shari'a (Islamic) law into America's judicial system.
- Anti-Muslim discrimination charges filed with the Equal Employment Opportunity Commission (EEOC);
- Reported hate crimes directed against Muslims;

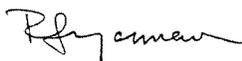
Information on these issues is contained in the attached ADL Background on Anti-Muslim Discrimination and Bigotry, as well as the select list of resources at the end of the Background.

The Anti-Defamation League is known for its creative and innovative anti-bias education and training initiatives. ADL has crafted a variety of training activities, resources, and curriculum lessons that incorporate the topic of anti-Muslim bigotry and provide an opportunity for participants to explore Muslim identity. Background on the League's education and training work in promoting respect and understanding is also included as part of the listing of resources.

The Federal government has an important role to play in addressing the issue of anti-Muslim bigotry – and all forms of racism, discrimination, and anti-Semitism. We applaud the Justice Department's very strong hate crime enforcement efforts and its effective, continuing commitment to promoting and protecting religious freedom rights for all Americans. The Department of Education, as well, has compiled an impressive record of inclusive actions and initiatives – especially its October 26, 2010 Dear Colleague guidance on bullying and harassment for the nation's schools. The Department should also fund program development in this area and promote awareness of initiatives that work. Congress should support Federal agency actions and legislative initiatives that combat discrimination and profiling and promote respect and religious liberty in our schools and communities.

Finally, we believe public officials and, particularly, religious leaders, have a special responsibility to demonstrate sensitivity and respect when addressing the issue of anti-Muslim bigotry. In this regard, we applaud the Subcommittee for holding these hearings and very much hope our background information is helpful to you as you probe this problem and recommend policy responses.

Sincerely,



Robert G. Sugarman
National Chair



Abraham H. Foxman
National Director



Written Statement of the
Council on American-Islamic Relations

On

Protecting the Civil Rights of American Muslims

Submitted to the

Senate Committee on the Judiciary, Subcommittee on the
Constitution, Civil Rights, Human Rights, and the Law

Testimony Prepared by: Corey P. Saylor
Council on American-Islamic Relations (CAIR)
453 New Jersey Ave., SE
Washington, DC 20003
Phone: (202) 384-8857
Fax: (202) 488-0833
E-mail: csaylor@cair.com
Web: www.cair.com

CAIR is America's largest Muslim civil liberties and advocacy organization. Its mission is to enhance the understanding of Islam, encourage dialogue, protect civil liberties, empower American Muslims, and build coalitions that promote justice and mutual understanding.

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Chairman Durbin, Ranking Member Graham and other members of the subcommittee, the Council on American-Islamic Relations (CAIR) thanks you for holding this vital hearing and respectfully submits this written testimony for your consideration.

Past proves need to protect minority rights

Sadly, it is commonplace for minority groups and their leaders to be painted as a threat and be vilified, even by the government. Martin Luther King—a non-violent, shining example of the civil rights movement who now has a federal holiday named after him and who won a Nobel Peace Prize—was branded "the most dangerous and effective Negro leader in the country" in an FBI memo. FBI Director J. Edgar Hoover labeled King a "degenerate."¹

Prior to the Civil War, nativist groups organized to resist German and Irish immigrants of the Roman Catholic faith. Striving to "civilize" Native Americans, the federal government instituted a practice of taking children away from their parents and placing them in off-reservation boarding schools to learn a culture not their own.² These schools still existed in the 1960s.

It took until 1920, 144 years after the signing of the Declaration of Independence, to pass a constitutional amendment granting women the right to vote. The Lilly Ledbetter Act, signed into law in 2009, reminds us that women in America must still struggle for pay equal to that of men for equal work.

Our nation placed Japanese-Americans in internment camps following the 1941 attack on Pearl Harbor. The deeply troubling story of the African-American struggle for full equality is well known.

Muslims have the great fortune to receive guidance, support and wisdom from the many groups who have fought discrimination before us. We see it as a civic duty to stand firm on Islamic and constitutional principles in the face efforts to erode the liberties our nation's founders implemented.

To not do so would be a failure to honor the struggle of those before us and a disservice to the next minority that will be the subject of fear, misunderstanding and discrimination.

Documenting Muslim Community Civil Rights Concerns since 1995

CAIR published a civil rights report annually until 2008, beginning in the wake of the 1995 terrorist bombing of the Murrah Federal Building in Oklahoma City, after which unsubstantiated linkage of "Middle Easterners" to the terror act prompted stereotyping, harassment and actual attacks on Muslims and Arab-Americans across the country.

For the 2008 calendar year, the last year for which we have published our data, CAIR and its affiliate chapters processed a total of 2,728 civil rights complaints. This number represents a 3 percent increase in reported cases from 2007 (2,652 reports) and an 11 percent increase over cases reported in 2006 (2,467 reports).

In that report, we noted increases in incidents at Muslim institutions and schools.

¹ Christensen, Jen. "FBI tracked King's every move," *CNN*, December 29, 2008, <http://www.cnn.com/2008/US/03/31/mlk.fbi.conspiracy/index.html>.

² Bear, Charla. "American Indian Boarding Schools Haunt Many," *NPR*, <http://www.npr.org/templates/story/story.php?storyId=1651686S>.

CAIR's report covering 2009 and 2010 will be issued in the near future. This new report will also explore the expanding phenomenon of Islamophobia.

The Four Major Issues Impacting the Civil Liberties of American Muslims

These issues are of equal concern to CAIR and are not presented in any particular order.

Fury directed at places of worship

In 2009-2010, CAIR documented more than fifty incidents of violence, threats, vandalism and the use of Islamophobic rhetoric—such as opponents of a the proposed mosque in Roxbury, Mass. claiming without evidence the planners had terrorist ties—targeting mosques.

In May 2010, a firebomb was detonated outside the Islamic Center of Northeast Florida. Approximately sixty people were inside at the time.

Also during the 2009-2010 time period, the playground of the Dar El-Eman Islamic Center in Arlington, TX was set ablaze. In Murfreesboro, Tenn. nine shots were fired near a mosque. In Illinois, a man was indicted after he threatened to plant a bomb at a mosque. The FBI reported an apparent attack on the Salman Al-Farisi Islamic Center in Corvallis, Ore.

Along with these disturbing incidents are efforts to block mosques and Islamic Centers from obtaining permits and other items needed to build or expand their facilities.

The Department of Justice noted this trend in its "Report on the Tenth Anniversary of the Religious Land Use and Institutionalized Persons Act" (RLUIPA) issued in September 2010:

For example, nearly a decade after the attacks of September 11, 2001, Muslim Americans continue to struggle for acceptance in many communities, and still face discrimination. Of 18 RLUIPA matters involving possible discrimination against Muslims that the Department has monitored since September 11, 2001, eight have been opened since May of 2010. This fact is a sober reminder that, even in the 21st century, challenges to true religious liberty remain.

Concern over use of Muslim-Bashers as law enforcement trainers

In December 2010, CAIR called on Attorney General Eric H. Holder Jr. to review Justice Department policies on the reported use of anti-Muslim extremists to train counterterrorism officials nationwide.³

CAIR said an investigative report on post-9/11 government surveillance published in the *Washington Post* states: "Seeking to learn more about Islam and terrorism, some law enforcement agencies have hired as trainers self-described experts whose extremist views on Islam and terrorism are considered inaccurate and counterproductive by the FBI and U.S. intelligence agencies."⁴

The Post's report cites cases of individuals who lack formal training "teaching classes on terrorism and Islam to law enforcement officers all over the country." One such trainer tells all his students that Muslims in the United States "want to impose sharia law here."

³ For more information on this subject see also, Stalcup, Meg and Joshua Craze. "How we train our cops to fear Islam," *Washington Monthly*, March/April 2011.

⁴ Priest, Dana and William Arkin. "Monitoring America," *Washington Post*, December 20, 2010.

Another trainer, a former Muslim who converted to Christianity, told the Post he warns officers that "you need to look at the entire pool of Muslims in a community." He recommends that law enforcement authorities "monitor Muslim student groups and local mosques and, if possible, tap their phones."

Since CAIR's December 2010 call *Washington Monthly* published "How We Train Our Cops to Fear Islam" a lengthy story detailing more examples of trainers attempting to instill anti-Muslim bias into law enforcement and homeland security officials. Additionally, Political Research Associates produced "Manufacturing the Muslim Menace" a report further elaborating on the use of biased trainers and the impact on rights and security.

In July 2010, CAIR called on the FBI and Virginia's Tidewater Joint Terrorism Task Force to explain why a leader of an anti-Islam hate group was invited to offer training to state and federal law enforcement officers. Robert Spencer, co-founder of the hate group Stop the Islamization of America⁵ (SIOA), claimed in a blog post that he "gave two two-hour seminars on the belief-system of Islamic jihadists to the Tidewater Joint Terrorism Task Force."

Spencer has referred to Islam's Prophet Muhammad as a "...con man. Someone who is knowing [sic] that what he is saying is false, but is fooling his followers." In the same video he asserts, "From a historical stand point, it is not even clear that Muhammad existed."⁶ In that video he asserts he is writing a book currently entitled *Did Muhammad Exist*. It seems realistic to ask how a trainer who questions the existence of Islam's founder can be expected to present a reasonably-balanced view of the faith.

These are not the only incidents in which national security personnel received anti-Islam training. The Naval Criminal Investigative Service (NCIS) acknowledged in 2010 that an anti-Islam film should not have been used in training offered to security personnel by that military law enforcement agency.

In March 2011, New York City Council members and local and state representatives will join interfaith groups, civil rights leaders, Muslim and immigrant organizations, and a diverse group of concerned community members for a press conference in response to the New York Police Department's (NYPD) use of the disturbing and prejudicial film "The Third Jihad" to train officers working in Muslim communities in New York City.

An article in the *Village Voice* newspaper said, "The Third Jihad," is "a spectacularly offensive smear of American Muslims." The article also states: "It is 72 minutes of gruesome footage of bombing carnage, frenzied crowds, burning American flags, flaming churches, and seething mullahs. All of this is sandwiched between a collection of somber talking heads informing us that, while we were sleeping, the international Islamist Jihad that wrought these horrors has set up shop here and is quietly going about its deadly business."

⁵ The Southern Poverty Law Center lists Stop the Islamization of America among its designated anti-Muslim hate groups, <http://www.splcenter.org/node/3502/activegroups>

⁶ Robert Spencer interview, part 9 "Prophet Mohammad: A Con Man?" (4/26/2010) available at <http://www.livingscoop.com/watch.php?v=NDQd>, Video accessed 7/27/2010. First reference is at 1:14. Second reference is a 0:29.

Osama bin Laden, Al-Qaeda and other violent extremists

The terrorism and complete distortion of Islam generated by bin Laden, Al-Qaeda and other violent extremists provide the breeding ground for anti-Muslim extremism. The violent extremist's campaign to harm our nation directly contributes to the suspicion and civil liberties infringements to which our community is subject. CAIR, along with the mainstream American Muslim community, utterly rejects violent extremists. Our successes and messaging counter the narrative put forth by those who twist our faith and seek to harm our nation.

To more than a billion Muslims worldwide, Islam is a religion that teaches tolerance, freedom and compassion. Those who understand Islam and know Muslims as friends and colleagues realize that Islam is one of the three Abrahamic faiths and that Muslims are contributing members of societies around the world.

Unfortunately, for many who know little of Islam or Muslims, violent extremists have come to represent both, fueling Islamophobia and allowing a space for Islamophobes to flourish. The worldview of these violent extremists is a complete distortion of Islam because Islamic teachings clearly state that the killing of one innocent life is the moral equivalent to the killing of all humanity.

There can be no moral, ethical or religious justification for cowardly attacks on innocent civilians. We condemn terrorism whenever it happens, wherever it happens, whoever commits it.

After reviewing a 2009 report titled *Deadly Vanguard: A Study of Al-Qaida's Violence Against Muslims*, Ralph Peters, wrote in *New York's Daily Post*, "Al-Qaeda does one thing extremely well: killing Muslims."⁷

President Obama echoed this conclusion at a White House Ramadan fastbreaking reception in 2010 when he noted, "In fact, al Qaeda has killed more Muslims than people of any other religion — and that list of victims includes innocent Muslims who were killed on 9/11."

Legislation Interfering in Free Exercise of Religion

The Constitution is the law of the land and CAIR likes it that way. Our organization expends enormous legal and advocacy energy defending its principles. Among those principles, adopted into the Constitution in 1791 as part of the First Amendment, is free exercise of religion.

The term "Sharia" is undoubtedly misunderstood in our nation. American Muslim scholar Suhaib Webb defines the term as, "The Islamic system of law and the totality of the Islamic way of life based on the Qur'an and Sunnah." The Quran is Islam's revealed text. The Sunnah comprises the traditions and practices of the Prophet Muhammad.

'Sharia' is nothing more than the religious traditions that all Muslims use to guide the practice of their faith.

Anti-Sharia bills are being considered in a number of state legislatures. These anti-Sharia measures can easily infringe on free exercise.

⁷ Peters, Ralph, "Killing Muslims, America needs to publicize Al-Qaeda's main 'Achievement,'" *New York Daily Post*, January 23, 2010.

Two of the many anti-Sharia measures introduced around the nation have attracted significant attention.

Identical bills introduced in the Tennessee House and Senate (House Bill 1353/Senate Bill 1028) would criminalize "Sharia organizations," which in the language of the proposed legislation included two or more individuals who support any "rule, precept, instruction, or edict arising directly from the extant rulings of any of the authoritative schools of Islamic jurisprudence of Hanafi, Maliki, Shafi'i, Hanbali, Ja'afariya, or Salafi."

The bills introduced into Tennessee's legislature are a gross violation of both the Establishment and Free Exercise Clauses of the First Amendment.

Amendments fixing some of the major concerns in the Tennessee bills are expected to be introduced during the week of March 28, but until the language of those amendments as introduced can be reviewed significant concerns over the civil liberties implications of this proposed law remain.

In November 2010, Oklahoma voters overwhelmingly approved the "Save Our State" amendment (SQ 755), which banned their state courts from considering or using either international or Sharia law.

A lawsuit filed by Muneer Awad, executive director of CAIR's Oklahoma chapter, said SQ 755 violates the First Amendment's Establishment Clause that bars government bodies from making laws "respecting the establishment of religion."

On Monday, November 28, 2010, CAIR applauded a strongly-worded ruling by a federal judge in Oklahoma granting an injunction that barred certification of SQ 755.

The ruling by Chief Judge Vicki Miles-LaGrange of the United States District Court for the Western District of Oklahoma ordered a preliminary injunction to block the certification of the amendment by the Oklahoma State Board of Elections until a final determination is made based on the merits of Awad's lawsuit.

In her ruling in support of Awad's legal arguments, Judge Miles-LaGrange wrote:

"This order addresses issues that go to the very foundation of our country, our (U.S.) Constitution, and particularly, the Bill of Rights.

"Throughout the course of our country's history, the will of the 'majority' has on occasion conflicted with the constitutional rights of individuals, an occurrence which our founders foresaw and provided for through the Bill of Rights. . .

"Having carefully reviewed the briefs on this issue, and having heard the evidence and arguments presented at the hearing, the Court finds plaintiff has made a strong showing of a substantial likelihood of success on the merits of his claim asserting a violation of the Free Exercise Clause.

"As set forth above, plaintiff has shown that the actual language of the amendment reasonably, and perhaps more reasonably, may be viewed as specifically singling out Sharia Law (plaintiff's faith) and, thus, is not facially neutral.

"Additionally, as set forth above, the Court finds that plaintiff has shown that there is a reasonable probability that the amendment would prevent plaintiff's will from being fully probated by a state court in Oklahoma because it incorporates by reference specific elements of the Islamic prophetic traditions.

"Further, plaintiff has presented evidence that there is a reasonable probability that Muslims, including plaintiff, will be unable to bring actions in Oklahoma state courts for violations of the Oklahoma Religious Freedom Act and for violations of their rights under the United States Constitution if those violations are based upon their religion.

"Finally, the Court finds that defendants have presented no evidence which would show that the amendment is justified by any compelling interest or is narrowly tailored."

Other Significant Civil Liberties Concerns

FBI Sued for Warrantless GPS Surveillance of Calif. Muslim

On March 2, 2011, CAIR filed a civil rights lawsuit against the FBI on behalf of a California Muslim who found a secret GPS tracking device that was placed on his car without first obtaining a warrant.

Yasir Afifi, a Santa Clara, Calif., student discovered the device when he took his car in for an oil change. A friend of Afifi's posted pictures of the device online, asking if anyone knew what it was. FBI agents later demanded that the device be returned to the bureau.

The lawsuit states that the FBI violated Afifi's First, Fourth and Fifth Amendment rights when the bureau failed to obtain a warrant to place the GPS tracking device on his car to monitor his daily activities.

Afifi seeks an order preventing another tracking device being attached to his vehicle without a search warrant. The requested order would also bar the FBI from using tracking devices without first obtaining a search warrant.

Over broad surveillance of Muslims based solely on religion

On February 23, 2011, the Council on American-Islamic Relations of the Greater Los Angeles Area (CAIR-LA), the ACLU of Southern California (ACLU/SC), and the law firm Hadsell Stormer Keeny Richardson & Renick LLP announced the filing of a federal class action lawsuit against the FBI for infiltrating mainstream mosques in Southern California and targeting Muslim Americans for surveillance solely because of their religion.

For over 14 months between 2006 and 2007, FBI agents planted an informant in Orange County mosques who posed as a convert to Islam and through whom the FBI collected names, telephone numbers, e-mails, and other information on hundreds of California Muslims. Sheikh Yassir Fazaga, Ali Malik, and Yassir AbdelRahim - plaintiffs in the case-are three of the many individuals who came in contact with the bureau's informant.

According to the lawsuit, the FBI directed the informant, a convicted felon named Craig Monteilh, to gather as much information as possible on members of the Muslim community, and to focus on people

who were more devout in their religious practice, irrespective of whether any particular individual was believed to be involved in criminal activity.

Monteilh's role as an FBI informant was not revealed until February 2009, first in court documents, in which the FBI and local law enforcement revealed his role, and then through his own statements which have been reported widely in the press.

The lawsuit seeks injunctive relief on behalf of all people targeted by the FBI agents and their informant, requiring the FBI to turn over or destroy all information collected through the discriminatory investigation, as well as damages for emotional distress for the three named plaintiffs

Concerns over FBI and other agencies pursuing lines of questioning related to First Amendment protected activities

CAIR frequently receives reports from individual Muslims who have been approached by FBI or JTTF officers for a voluntary interview or questioning during border stops.

Some of the more troubling reported questions include:

- What mosque do you go to?
- Who is the imam (prayer leader)?
- What do you think about him?
- How many times a day do you pray?
- What's your opinion on the war in Iraq?
- Who prays fajr (the pre-dawn pray) at the mosque?

While answering such questions is voluntary, it is difficult for outside observers to accurately assess the sense of discomfort and the desire to prove that "I have nothing to hide" to law enforcement agents that an interviewee may feel.

CAIR has collected multiple instances of consequences that can result from such innocent participation in these interviews – problems with travel, immigration hold ups, and sometimes even damage to their reputation because the FBI will show up at their mosque or job asking about them. For this reason, the organization advises our constituents to cooperate with law enforcement, but also to have an attorney present when appropriate.

American Muslims abroad face denial of due process, pressure to become informants

In July, 2010, CAIR issued an advisory to American Muslims—whether citizens, permanent residents or visa holders—warning of the risk of "forced exile" when traveling overseas or attempting to return to the United States. Muslim travelers were urged to know their legal rights.

CAIR has received a number of reports of American Muslims stranded overseas when they are placed on the government's no-fly list. Those barred from returning to the United States report being denied proper legal representation, being subjected to pressure tactics to give up the constitutionally-guaranteed right to remain silent, having their passports confiscated without due process, and being pressured to become informants for the FBI. These individuals are generally not told why they were placed on the no-fly list or how to remove their names from the list. Obviously, they were not on the list prior to their travel overseas.

FBI agents have reportedly told a number of individuals that they face being stranded outside the United States longer, or forever, unless they give up their rights to legal representation or to refuse interrogations and polygraph tests.

But even those who submitted to interrogations without an attorney or to the "lie detector" tests often remain stranded.

In one case, Gulet Mohamed alleged that he was tortured while in detention in Kuwait and faced unconstitutional coercion to answer questions by FBI agents who ignored his repeated requests for legal representation. Mohamed was allowed to return to the United States only after CAIR filed a legal complaint on his behalf.

Unindicted Co-Conspirator (UCC) Designation: Court Says Government Violated Muslim Groups' Rights

In May 2007, the Department of Justice publicly named 306 individuals and organizations as "unindicted co-conspirators" (UCC) in conjunction with the Holy Land Foundation case. The UCC list includes three of the largest American Muslim organizations – The Islamic Society of North America (the largest Muslim organization in America), The North American Islamic Trust (the largest Muslim endowment/trust in America) and the Council on American-Islamic Relations (the largest Muslim civil liberties group in America).

In November, 2010, a federal appeals court ruled that federal prosecutors violated the rights of major American Muslim organizations by including them on a list of "unindicted co-conspirators" in a terror-related case.

"According to one senior law-enforcement official (who asked not to be named talking about an ongoing case), the listing of ISNA, CAIR and other groups as 'unindicted co-conspirators' was largely a tactical move by the government." (Newsweek, 8/08/2007)

The U.S. Court of Appeals for the Fifth Circuit found that the U.S. Department of Justice violated the Fifth Amendment rights of the North American Islamic Trust (NAIT), and by implication the rights of similarly-named Muslim organizations, when it included them on the publicly-filed list in 2007.

The court also ruled that inclusion on the list was the result of "simply an untested allegation of the Government, made in anticipation of a possible evidentiary dispute that never came to pass." According to the ruling, "The allegation did not improperly enjoy the imprimatur of grand jury approval, nor was it erroneously conceded, implicitly or explicitly, as part of any plea."

In addressing the guilt by association argument raised by the government, the court said: "[A] broadly worded conclusion regarding a party's 'association' with various other entities is not grounded in any legal rule that would give that conclusion substance and boundaries. As such, the district court's statements regarding NAIT's 'association' . . . went beyond what was relevant to the any hypothetical evidentiary issue and may have obfuscated the underlying Fifth Amendment issue."

In re Smith, 656 F.2d 1101, 1107 (5th Cir. 1981) indicates that sullyng a person's name as an unindicted co-conspirator is a Fifth Amendment violation because it does not allow the unindicted co-conspirator a "forum for vindication".

Finally, the public naming of third parties that have not been officially charged with a crime is clearly against the Department of Justice's guidelines in the United States Attorney's Manual. (U.S.A.M)

- U.S.A.M. 9-11.130 specifically deals with limitations on naming persons or entities as unindicted co-conspirators.
- The guideline states that "[t]he practice of naming individuals as unindicted co-conspirators in an indictment charging a criminal conspiracy has been severely criticized in United States v. Briggs, 514 F.2d 794 (5th Cir. 1975)." U.S.A.M. 9-11.130.
- Furthermore, the guideline states that: "[o]rdinarily, there is no need to name a person as an unindicted co-conspirator in an indictment in order to fulfill any legitimate prosecutorial interest or duty. For purposes of indictment itself, it is sufficient, for example, to allege that the defendant conspired with 'another person or persons known.' The identity of the person can be supplied, upon request, in a bill of particulars. With respect to the trial, the person's identity and status as a co-conspirator can be established, for evidentiary purposes, through the introduction of proof sufficient to invoke the co-conspirator hearsay exception without subjecting the person to the burden of a formal accusation by a grand jury." U.S.A.M. 9-11.130.
- Finally, the guideline avers that "[i]n the absence of some significant justification, federal prosecutors generally should not identify unindicted co-conspirators in conspiracy indictments." U.S.A.M. 9-11.130.

Hate groups formed to oppose Muslim civil rights

A number of groups have made espousing anti-Muslim bigotry a centerpiece of their activities. Two of the most egregious are Stop the Islamization of America and Act! For America.

Stop the Islamization of America (SIOA), Pamela Geller and Robert Spencer

Geller, an "anti-Islam activist"⁸ who self-identifies as a "racist-Islamophobic-anti-Muslim-bigot,"⁹ runs the blog "Atlas Shrugs."

Along with Robert Spencer, she is co-founder of the group "Stop the Islamization of America." SIOA has been labeled both a "hate group and a "rabidly anti-Muslim group"¹⁰ by the Southern Poverty Law Center.

The United States Patent and Trademark Office refused to grant SIOA a trademark because: "The applied-for mark refers to Muslims in a disparaging manner because by definition it implies that conversion or conformity to Islam is something that needs to be stopped or caused to cease."

Geller has also accused President Obama of anti-Semitism and claimed the president does the bidding of "Islamic overlords."¹¹

Geller posted images on her blog purporting to depict Islam's Prophet Muhammad. Several of those images show the prophet as a pig. Another image, headlined "Piss Be Upon Him," shows one of the

⁸ Institute for Research and Education on Human Rights, "Tea Party Nationalism," Fall, 2010.

⁹ Barnard, Anne and Alan Feuer, "Outraged, and Outrageous," *The New York Times*, October 8, 2010.

¹⁰ Beirich, Heidi. "White Supremacists Find Common Cause with Pam Geller's Anti-Islam Campaign." *Southern Poverty Law Center Blog* (blog). <http://www.splcenter.org/blog/>.

¹¹ Burke, Daniel. "Pamela Geller, 'Queen of Muslim Bashers,' At Center of N.Y. 'Mosque' Debate." *The Huffington Post*. http://www.huffingtonpost.com/2010/08/20/pamela-gellerqueen-of-mus_n_689709.html.

controversial Danish cartoons of the prophet covered in urine. ("Piss Be Upon Him" is designed to mock the traditional phrase "Peace Be Upon Him" that Muslims use when mentioning any prophet of God.)

Geller is tied to the British hate group the English Defense League (EDL). The EDL is known for their "street intimidation" and "violent rhetoric," and is aligned with neo-Nazi movements and far-right racist groups.¹² Deemed by the Southern Poverty Law Center to be a "thuggish anti-Muslim street movement," the EDL has joined Geller in her crusade against the Park 51 initiative. Members of the group joined Geller at the September 11 protest of the Park 51 project.

As noted earlier in this testimony, Spencer has referred to Islam's Prophet Muhammad as a "con man. Someone who is knowing [sic] that what he is saying is false, but is fooling his followers." In the same video he asserts, "From a historical stand point, it is not even clear that Muhammad existed."¹³

In a special report, the independent national media watch group Fairness & Accuracy in Reporting (FAIR), identified Spencer as one of the "Dirty Dozen: America's Leading Islamophobes" who systematically "spread fear, bigotry, and misinformation."¹⁴

In that report, FAIR notes, "By selectively ignoring inconvenient Islamic texts and commentaries, Spencer concludes that Islam is innately extremist and violent, and quotes Spencer as saying, 'Unfortunately, however, jihad as warfare against non-believers in order to institute 'Sharia' worldwide is not propaganda or ignorance, or a heretical doctrine held by a tiny minority of extremists. Instead, it is a constant element of mainstream Islamic theology.'"

In 2006, Spencer participated in a conference honoring anti-Muslim, anti-immigrant Dutch politician Pim Fortuyn, who sought to legalize government discrimination in the Netherlands. Spencer proudly highlights his participation in this conference among his "Notable Speaking Engagements."¹⁵ Fortuyn's anti-Muslim views and the resulting backlash against Muslims living in the Netherlands are noted in the Department of State's International Religious Freedom Reports for 2002 and 2005.

Act! For America and Brigitte Gabriel

ACT! for America leader Brigitte Gabriel once told the *Australian Jewish News*: "Every practicing Muslim is a radical Muslim."¹⁶ Gabriel also claimed that "Islamofascism is a politically-correct word...it's the vehicle for Islam...Islam is the problem."

When asked whether Americans should "resist Muslims who want to seek political office in this nation," Gabriel said:

¹² Zaitchik, Alexander. "The British (Extremists) Are Coming—Or, the English Defence League Hearts Pam Geller." Southern Poverty Law Center Blog. <http://www.splcenter.org/blog/2010/09/16/the-british-extremists-are-coming-or-the-english-defence-league-hearts-pam-geller/>.

¹³ "Robert Spencer-26/04/2010-Part interview, part 9- 'Prophet Mohammed: a Mohammad: A Con Man?'" Living Scoop video, 2:17, posted by "NYC_ITV," April 26, 2010, [http://www.livingscoop.com/watch.php?v=NDQ4,%20Video%20accessed%207/27/2010.\(4/26/2010\)](http://www.livingscoop.com/watch.php?v=NDQ4,%20Video%20accessed%207/27/2010.(4/26/2010)) available at <http://www.livingscoop.com/watch.php?v=NDQ4>, Video accessed 7/27/2010. First reference is at 1:14. Second reference is a 0:29.

¹⁴ Fairness and Accuracy in Reporting. "Smearcasting: How Islamophobes Spread Fear, Bigotry and Misinformation," October 2008.

¹⁵ Jihad Watch. "About Robert Spencer," <http://www.jihadwatch.org/about-robert-spencer.html>.

¹⁶ Spencer, Robert. "About Robert Spencer," Jihad Watch, <http://www.jihadwatch.org/about-robert-spencer.html>.

¹⁶ Hoyt, Clark "A Radical Islamophobe?" *New York Times*, <http://publiceditor.blogs.nytimes.com/2008/08/21/a-radical-islamophobe/?scp=4&sq=%22brigitte%20gabriel%22&st=cse>

"Absolutely. If a Muslim who has—who is—a practicing Muslim who believes the word of the Koran to be the word of Allah, who abides by Islam, who goes to mosque and prays every Friday, who prays five times a day—this practicing Muslim, who believes in the teachings of the Koran, cannot be a loyal citizen to the United States of America."¹⁷

Along with her stated desire to have Muslims barred from public office, Gabriel has also claimed that Arabs "have no soul"¹⁸ and that Muslims worship "something they call 'Allah,' which is very different from the God we believe [in]."

Gabriel also stated: "America and the West are doomed to failure in this war unless they stand up and identify the real enemy: Islam."¹⁹

Recommendations

The Federal Government Should Take Steps that Encourage or Compel States to Reform Their Oversight of Counter Terrorism Training

As noted by the author's of "How We Train Our Cops to fear Islam," State accreditation should be made mandatory for counterterrorism training courses—it often isn't—and the accreditation process itself must also be toughened. There should be subject-matter experts who evaluate courses, and they should sit in on classroom sessions anonymously. If such a system of state-based oversight worked properly, then bad trainers would have their state accreditation revoked, and they would no longer be allowed to teach in the state. If states agreed to share lists of bad trainers, then the trainer would effectively be banned nationwide."

Elected Officials Should Ensure that the Department of Justice will Swiftly Challenge any state law, such as SQ 755, that infringes on the Free Exercise of Religion

Lawmakers should investigate legitimate concerns about law enforcement tactics and avoid granting law enforcement broad powers without appropriate checks and balances

For instance, a DoJ IG report released in January 2010 found "widespread use of exigent letters and other informal requests for telephone records that did not comply with legal requirements of FBI policies governing acquisition of these records."²⁰

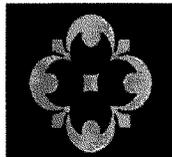
The same report finds that, "FBI personnel routinely uploaded telephone toll billing records obtained in response to exigent letters into a [redacted] database where the records were available for review and analysis by [redacted] employees throughout the government who were authorized to access the database.

¹⁷ Rodda, Chris. "Obsession 'Stars' Have Lectured at U.S. Military Colleges; U.S. Navy Uses Film." The Huffington Post. <http://www.huffingtonpost.com/chris-rodde/obsession-stars-have-lectured-at-126693.html>.

¹⁸ Gabriel, Brigitte. Speech at Christians United for Israel (CUFI), March 11, 2008. <http://www.youtube.com/watch?v=aaocTdW0tJ4>

¹⁹ Gabriel, Brigitte. "Because They Hate," *Front Page Magazine*, <http://archive.frontpagemag.com/readArticle.aspx?ARTID=5480>.

²⁰ *A Review of the Federal Bureau of Investigation's Use of Exigent Letters and Other Informal Requests for Telephone Records*. Department of Justice, Office of the Inspector General. January 2010.



A Written Statement from the Chicago Chapter of the Council on American-Islamic Relations (CAIR-Chicago)

To the Senate Judiciary Committee
Subcommittee on the Constitution, Civil Rights and Human Rights

“Protecting the Civil Rights of American Muslims”
March 29, 2011

Dear Chairman Durbin and Ranking Member Graham,

We thank you for holding this vital hearing.

The issue of civil rights is an important one, not only for Muslims, but for all Americans. As Rev. Dr. Martin Luther King famously stated, “injustice anywhere is a threat to justice everywhere.” As the civil rights and liberties of Muslims are infringed, so too are the rights of all Americans affected. This is because each time we pull at the thread of our liberties, we threaten to tear the fabric of our Constitutional values.

As a civil rights organization dedicated to advocating and legally representing Muslims in America who have experienced various forms of discrimination and violations of their civil rights, we are in a unique position to provide the Senate Judiciary Committee information on the types of civil rights violations reported by the Muslim community. We are pleased to share this information with you in hopes that it will give the Committee a better idea of the pertinent issues on the ground. Attached are compilations of CAIR-Chicago’s Civil Rights Department Annual Report for the years 2007 (Exhibit A), 2008 (Exhibit B), 2009 (Exhibit C) and 2010 (Exhibit D). It is our hope that the Committee views these reports as a sampling of the greater national issues facing Muslim Americans today.

There have consistently been over three hundred cases of discrimination reported to CAIR-Chicago each year since 2007. In 2007, 391 cases of discrimination were reported. In 2008, 307 cases were reported. In 2009, 305 cases were reported. In 2010, the number of reported cases increased to 342 cases of discrimination. Among those cases, in each year since 2007, the largest type of complaint involved government agencies or officials. The second largest type of case reported is employment discrimination. In the years 2007, 2008 and 2009, the third largest type of complaint reported dealt with prison

accommodation/discrimination issues. In 2010, for the first time in our history, the third largest type of case reported to our office involved discrimination in schools.

With regard to reported cases involving government agencies, during the years 2008 and 2009, the largest number of cases involved the U.S. Citizenship and Immigration Service (USCIS). The second largest number of cases involved local police agencies. The third largest number of cases involved the Federal Bureau of Investigation (FBI). In 2010, the order changed, placing USCIS as the largest, the FBI as the second largest, and local police agencies as the third largest number of government-related cases reported.

Our data has led us to conclude that the Muslim community experiences spikes in incidents of discrimination during times when anti-Muslim sentiments pervade mainstream discourse. Additionally, the Committee must not overlook the possibility that government policies play a role in fostering anti-Muslim rhetoric in mainstream America. Government activities with respect to intelligence gathering, No-Fly lists preventing U.S. citizens from re-entry into the United States, and criminal designations by the Department of Justice of prominent Muslim organizations, where no due process has been afforded, all contribute to the paranoia that has engulfed our nation about its Muslim citizenry. *See* Written Testimony Submitted by the Council on American-Islamic Relations (CAIR), D.C. Office (discussing important issues regarding FBI surveillance, anti-Muslim legislation, hate crimes and hate groups directed at Muslims and other important issues facing American Muslims). When the government itself treats the Muslim community as a suspect class, it is not surprising that this view trickles down to society, and that individuals act out against their Muslim neighbors, colleagues or classmates in a discriminatory (at times even criminal) manner.

We echo the recommendations of our counterpart in D.C. The federal government should take steps to encourage or compel states to reform their oversight of counter-terrorism training. Further, elected officials should ensure that the Department of Justice will swiftly challenge any state legislation that infringes on the free exercise of religion. Finally, lawmakers should investigate legitimate concerns about law enforcement tactics and avoid granting law enforcement broad powers without appropriate checks and balances.

We understand that the Muslim community is only the most recent minority group to experience vilification and discrimination throughout history, and in that vein we see this as an opportunity to contribute positively to our nation's pursuit to create a more perfect union. We hope that this submission serves to help the Committee find ways to address the important civil rights issues facing our society today.

Sincerely,

CAIR-Chicago

EXHIBIT A
CAIR-Chicago 2007
Civil Rights Department Annual Report

CAIR-Chicago 2007 Annual Report

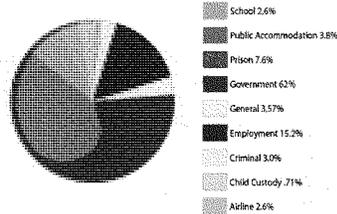
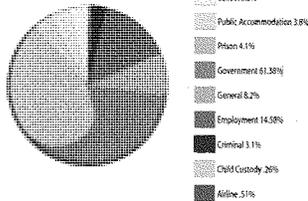
YEAR IN REVIEW

Civil Rights

The Civil Rights Department has experienced tremendous success and development in the past year. In 2007, 391 cases were reported to CAIR-Chicago, and the number of active cases has nearly doubled from 2006. The consistent high volume of cases seen by the Civil Rights Department illustrates the continuing need for Muslims to have access to legal representation when facing discrimination, as well as the growing trust in CAIR-Chicago to do the job. However, this also means that CAIR-Chicago must be able to expand its Civil Rights Department in order to meet the ever-growing needs of the Muslim community.

No. of Cases Reported in 2007 391

Airline	3
Child custody	1
Criminal	12
Employment	57
General	32
Government	240
Prison	16
Public Accommodation	15
School	15



Total Active Cases from 2007 420

Airline	5
Child Custody	3
Criminal	13
Employment	64
General	15
Government	261
Prison	32
Public Accommodation	16
School	11

Projects Launched in 2008

* FBI Project

o 2006 has seen an increasing number of Muslims who report having been contacted by the FBI for interviews. CAIR-Chicago has represented Muslims who have been contacted by the FBI and remains in communication with the FBI regarding any possible misconduct by agents.

* Pegasus Project

The Pegasus Project, which is sponsored by the Chicago Committee to Defend the Bill

YEAR IN REVIEW

Civil Rights (continued)

of Rights and Pegasus Players, seeks to educate high school students about constitutional rights. At the end of the term, students will turn what they learn into plays which will be submitted to the Chicago Young Playwrights Festival.

Ongoing Projects

* Free Campus Coalition

o The Free Campus Coalition aims to protect and advocate for the right of faculty, staff and students to engage freely in intellectual exploration and discourse on American university and college campuses. It will provide a network of support to faculty, staff and students whose academic freedom is in peril. In 2006, the Coalition's work focused on Professor Norman Finkelstein's denial of tenure at DePaul University.

* Coalition to Protect People's Rights (CPPR)

o The Coalition to Protect People's Rights united in order to raise public awareness about the United States government's violation of Mr. Muhammad Salah and Abdelhaleem Ashqar's due process rights. The Coalition, which is comprised of civil rights groups, human rights groups, community-based organizations, and concerned individuals, advocates for the safeguarding of people's rights protected by the United States' Constitution and the Universal Declaration of Human Rights. Throughout

the past year, the Civil Rights Department has worked to mobilize the community around the case by sponsoring events, fostering public discussion of the issues, and urging community members to attend the trial and write to the district court judge to show support for Muhammad Salah and Abdelhaleem Ashqar.

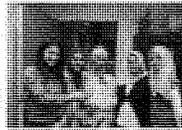
* Citizenship Delay Project

o The Citizenship Delay Project has worked to end the lengthy delays in the citizenship process for Muslims applying for citizenship by political and legal means. Currently, 298 cases of citizenship delays have been reported. In 2006, CAIR-Chicago filed a class action law suit with the National Immigrant Justice Center and Competition Law Group. As a result of the class action and individual law suits filed on behalf of individuals delayed in obtaining citizenship, many who have been delayed were granted citizenship. However, the Civil Rights Department will have to expand if it is going to be able to meet the growing demand for legal representation in citizenship delays.

* Employment Discrimination Project

o This project seeks to help Muslims facing religious discrimination at the workplace. Fifty-seven cases of employment discrimination were reported in 2007, many having been resolved positively through negotiations and mediations with employers. Additionally, several law suits have been filed on behalf of Muslims who experienced discrimination in the workplace.

YEAR IN REVIEW



Civil Rights (continued)

* Prison Project

o This project looks to secure the rights of Muslim inmates to practice their religion freely as well as to ensure that inmates are treated humanely. In the past, it sponsored the donation of Qurans to Muslim inmates and presented to state prison officials regarding the religious accommodation of Muslims. Throughout 2007, the project has been working to challenge policies affecting the rights and treatment of Muslim inmates.

*Police Misconduct Project

o This project advocates and represents clients in cases of police misconduct. In 2007, CAIR-Illinois signed on in support of a report issued entitled "The failure of Special Prosecutors Edward J. Egan and Robert D. Boyle to Fairly Investigate Police Torture in Chicago." The project has also represented individual clients who have experienced police misconduct.

* Travel Free Project

o This project seeks to look into complaints of Muslims being detained upon re-entry to the country when traveling due to their names being put on a "watch list" by the

Transportation and Security Administration (TSA). The project assists Muslims in going through the proper procedures for being safe-listed. Additionally, it also represents individuals who have experienced discrimination while traveling.

Civil Rights Outreach

The Civil Rights Department has sponsored and participated in events pertaining to the struggle for civil liberties for Muslims in America. The following are events that the Civil Rights Department participated in during the 2007 year.

- CAIR-Chicago Co-hosts Comprehensive Immigration Reform and Citizenship Delay Workshop
- CAIR-Chicago Staff Attorney Speaks on panel on Immigration Law and the effects of September 11 at Kirkland & Ellis, LLP.
- CAIR-Chicago Staff Attorney speaks at National Town Hall on Hate Crimes
- DePaul Students Act to Protect Academic Freedom on Campus

YEAR IN REVIEW



Civil Rights (continued)

- CAIR-Chicago Prison Project Coordinator Speaks at the Advisory Board Meeting of the Illinois Department of Corrections
- CAIR-Chicago Prison Project Coordinator Speaks on Religious Discrimination in Prisons
- CAIR-Chicago Civil Rights Coordinator Speaks on Panel at Columbia College
- CAIR-Chicago Civil Rights Coordinator Speaks at Islamic Foundation School on Malcolm X Day
- CAIR-Chicago Staff Attorney Presents at Depaul Legal Clinic
- CAIR-Chicago Legal Advisor Speaks at Wellesley College
- CAIR-Chicago Civil Rights Coordinator Participates in Teaching Constitution to Students
- CAIR-Chicago Volunteer Attorney Speaks on Civil Liberties Panel

- CAIR-Chicago Civil Rights Coordinator Speaks at Rally Protesting Guantanamo Bay

Civil Rights Publications

- Heena Musabji and Christina Abraham, *The Threat to Civil Liberties and its Effect on Muslims in America*. DePaul Journal for Social Justice, Vol. 1, No. 1 (Fall 2007).

Communications/Media

CAIR-Chicago continued a variety of proactive initiatives aimed at projecting a fair and accurate image of Islam and Muslims in the media. 2007 saw the rapid expansion into numerous new mediums designed to more effectively challenge the bias, bigotry, and prejudice in America's public discourse on Islam and Muslims. It was a year of firsts in many areas, not the least of which was the milestone launch of its redesigned website.

EXHIBIT B
CAIR-Chicago 2008
Civil Rights Department Annual Report

CIVIL RIGHTS

YEAR IN REVIEW

The Civil Rights Department has experienced tremendous successes in the past year.

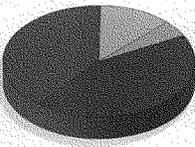
In 2008, 307 cases were reported to CAIR-Chicago with 291 cases actively pursued by department personnel.

The consistently high volume of cases seen by the Civil Rights Department illustrates the continuing need for Muslims to have access to legal representation when facing discrimination and the growing trust in CAIR-Chicago to do the job.

This high demand underscores the need to expand its Civil Rights Department in order to meet the ever-growing needs of the Muslim community.

EMPLOYMENT CASES IN FOCUS: 41 TOTAL

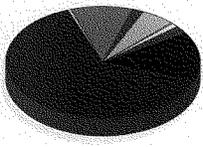
Beard	2
Harassment	18
Headscarf	0
Other	16
Prayer	5



Prayer	12.2%
Other	39.02%
Headscarf	0%
Harassment	43.90%
Beard	4.88%

CASES REPORTED IN 2008 - 307 TOTAL

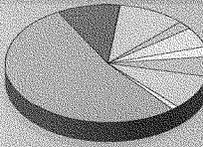
Airport	1
Child Custody	3
Criminal	7
Employment	41
General	23
Government	180
Hate Mail/Hate Phone Calls	2
Prison	29
Public Accommodation	6
School	15



School	4.89%
Public Accommodation	1.95%
Prison	9.45%
Hate Mail/Phone Calls	0.65%
Government	58.63%
Employment	13.36%
Criminal	2.28%
Child Custody	0.98%
Airport	0.33%

GOVERNMENT CASES IN FOCUS: 180 TOTAL

Customs and Border Protection (CBP)	0
Department of Motor Vehicles (DMV)	4
Federal Bureau of Investigation (FBI)	10
Immigration and Customs Enforcement (ICE)	5
Other	10
Police	17
Transportation Security Administration (TSA)	2
USCIS/Naturalization	95
USCIS/Other	18
USCIS/Permanent Residency	19



USCIS/Permanent Residency	10.56%
USCIS/Other	10%
USCIS/Naturalization	52.78%
TSA	1.11%
Police	9.44%
Other	5.56%
ICE	2.78%
FBI	5.56%
DMV	2.22%
CBP	0%

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CIVIL RIGHTS

LAW BY REVIEW



Prof. Michael Guiberson, visiting the CAIR-Chicago office after being named U.S. citizen.

"Citizenship Truly Sweet" - Despite Long, Bitter Fight

After a long legal battle, University of Illinois Professor Michael Guiberson and family members on a U.S. citizen this past summer. Guiberson and his wife sought to make the transition without experiencing problems as a potential threat to national security or espionage that was discussed by a judge. CAIR-Chicago attorneys fought on behalf of Guiberson and his wife for six years for his citizenship. "CAIR's advocacy, stemming from his visits to Iran and cloning as a Ph.D. student, was key to our success in challenging discriminatory citizenship practices," said CAIR-Chicago Civil Rights Director Christine Alford. Guiberson's case is a landmark example of the challenges faced by non-citizens frustrated over long delays in their citizenship applications, never receiving final citizenship with one of the agencies from being issued a passport.

COUNTERING POLICE MISCONDUCT

Over 47 cases of police misconduct were reported to CAIR-Chicago in 2008. In these cases, CAIR-Chicago filed complaints and obtained, on behalf of individuals who were victims of police misconduct, police records and other information.

THE INTERVIEWEE - LEGAL REPRESENTATION

2008 saw a large number of Muslims who report having been contacted by the FBI for interviews. CAIR-Chicago represented these individuals to ensure that none of their rights were violated and helped in communication with the FBI regarding any possible misconduct by agents.

LGBT RIGHTS

CAIR-Chicago has worked to secure the right of persons to serve in the military. CAIR-Chicago filed a lawsuit on behalf of a gay man who was discharged from the military. The lawsuit was dismissed by the court. CAIR-Chicago is currently working to secure the right of persons to serve in the military. CAIR-Chicago filed a lawsuit on behalf of a gay man who was discharged from the military. The lawsuit was dismissed by the court. CAIR-Chicago is currently working to secure the right of persons to serve in the military.

ONGOING DEPARTMENT PROJECTS

FREE CAMPUS COALITION

The Free Campus Coalition aims to protect and promote the free rights to campus speech at institutions across the United States. CAIR-Chicago continues to provide support to the coalition's efforts to help and students whose schools are not doing so.

CITIZENSHIP DELAY PROJECT

A part of the Civil Rights Department's most successful work has been to employ judicial and legal means to end the lengthy delays in the citizenship process for Muslims. The case of attorney help individuals reported over 2004. All their cases will now be resolved.

In 2008, CAIR-Chicago filed a lawsuit on behalf of a man with the National Immigration and Justice Council and Citizenship Law Center. As a result of the lawsuit, the man's name was removed from the national law center's list of individuals delayed in obtaining citizenship, many who had been delayed largely were granted citizenship.

The Civil Rights Department's commitment to work to end the growing number of the legal delays in the citizenship process. The project's most significant success in obtaining citizenship of delay in the administration of the citizenship of the man and others.

CAIR-Chicago Annual Report 2008

CIVIL RIGHTS

LINKING DEPARTMENT PROJECTS

EDUCATIONAL OUTREACH

Each year, Civil Rights Department staff coordinate a variety of events to educate the public about the Department's work. These include:

- Host Department Constitution: Civil Rights in the Workplace, Department of Human Rights, Community, and Economic Chicago and Immigration and the Legal Profession
- Host Department Open House: Open House for the Public
- Host Public Hearings: Public Hearings on the Department's Work
- Host Public Meetings: Public Meetings on the Department's Work
- Host Public Meetings: Public Meetings on the Department's Work



CAR Chicago "Know Your Rights" materials



We went from the Swift plant to the outside the factory

CARR Chicago Defends 170 Mexican Workers Fired From Plant

More than 170 Mexican immigrants received coverage from CARR Chicago when they were fired from a plant in Grouting, Illinois. The workers began when workers organized their union, began to organize with prayer groups. Many of the employees needed that work to support their families, but the company refused the reasonable accommodations. CARR Chicago is helping the workers fight for their jobs in Nebraska as well.

YOUTH EDUCATION

CARR Chicago is part of the national "Know Your Rights" campaign. The campaign is designed to educate young people about their rights in the workplace. The campaign is designed to educate young people about their rights in the workplace. The campaign is designed to educate young people about their rights in the workplace.

TRAVELING EXHIBIT

CARR Chicago works to ensure that information is available to all workers. The traveling exhibit is designed to educate workers about their rights in the workplace. The traveling exhibit is designed to educate workers about their rights in the workplace.

THE RIGHT TO WORK

A lot of employees are concerned about their rights in the workplace. The traveling exhibit is designed to educate workers about their rights in the workplace. The traveling exhibit is designed to educate workers about their rights in the workplace.

CAR Chicago Annual Report 2008

EXHIBIT C
CAIR-Chicago 2009
Civil Rights Department Annual Report

Civil Rights



Christina Abraham, Civil Rights Director, helped found the Civil Rights Department in 2005 when she began working for CAIR-Chicago as a volunteer.

CAIR-Chicago's Civil Rights Department fights to protect the civil liberties and equal rights of American Muslims. The department provides legal representation to victims of various forms of discrimination. Our expertise in the area of civil liberties affords us the ability to resolve incidents including hate crimes, employment discrimination, immigration and citizenship delays, religious bias in public schools and institutions, and banking, lending and housing discrimination. We pursue the appropriate remedying measures ranging from cultural sensitivity training for the perpetrating party to full litigation.

CAIR-Chicago ensures that every incident is also logged and recorded. This research is subsequently published by CAIR-Chicago in reports that aim to educate the public on the plight of American Muslims' civil rights.

Civil Rights Department Recap of 2009

In 2009, the Civil Rights Department at CAIR-Chicago met major milestones in its important work to defend the civil rights of American Muslims. CAIR-Chicago was the first Muslim civil rights organization ever to fully and successfully litigate a case of discrimination

"We legally advocate on behalf of those who have been victims of discrimination and hate crimes."

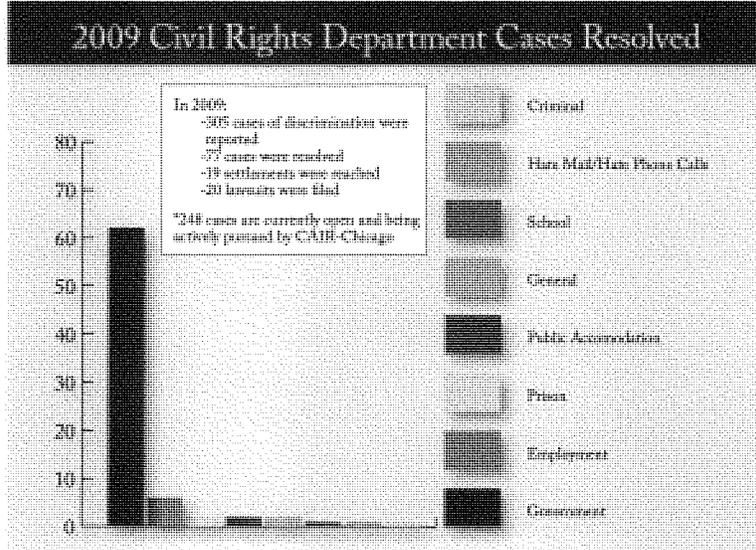


Kevin Vadak, CAIR-Chicago's Staff Attorney, joined the organization in 2008 and brought with him seven years of previous litigation experience.

in *Yasin v. Sheriff of Cook County*. The verdict granted Officer Yasin compensatory damages of \$200,000. CAIR-Chicago's Civil Rights Department is also pleased to say that it helped 47 Muslims become American citizens in 2009 through its work on the Citizenship Delay Project. In addition, we have seen a number of successes throughout the year in our various other casework. The Civil Rights Department has tirelessly worked to resolve a number of cases ranging from employment discrimination to public accommodation and discrimination at schools.

In 2009: 305 cases of discrimination were reported, 77 cases were resolved, 19 settlements were reached, and 20 lawsuits were filed. 248 cases are currently open and being actively pursued by CAIR-Chicago.

The successes of the Civil Rights Department have been recognized both nationally and internationally. In 2009, Chicago-area law schools sought out CAIR-Chicago staff to speak to law students and lawyers on various issues such as constitutional law, and civil and human rights. CAIR-Chicago's Civil Rights Director, Christina Abraham, accepted an appointment to the advisory board of the BRussell's Tribunal, an international organization that seeks to prosecute war criminals. Ms. Abraham was invited to participate in a U.S. State Department delegation to the Philippines to discuss CAIR-Chicago's work with similar



Filipino NGO's. In addition, Staff Attorney Kevin Vodak and Civil Rights Director Christina Abraham have conducted interviews and published articles on important legal issues.

Citizenship Delay

CAIR-Chicago's Citizenship Delay Project has been working since 2006 to end lengthy delays faced by Muslims applying for citizenship through political and legal means. This initiative also made its mark in 2009 by helping 47 individuals attain citizenship after being subjected to years of unnecessary delay. In total, CAIR-Chicago has received 454 reports of citizenship delay over the last four years, and of those cases, 367 have been resolved.

In 2006, CAIR-Chicago filed a class action lawsuit with the National Immigrant Justice Center and Competition Law Group, and as a result of the class action and dozens of individual lawsuits filed each year, many delayed citizenship applications have been granted. CAIR-Chicago's Civil Rights Director Christina Abraham continues to file complaints on behalf of individuals facing delays. Due to the growing amount of litigation regarding this matter, U.S. Citizenship and Immigration Services has taken measures to decrease the wait time for individuals applying for citizenship; as a result, less people are now caught in unreasonably lengthy delays in becoming American citizens.

Discrimination in Educational Institutions

CAIR-Chicago has taken up several complaints regarding discrimination in schools and universities. Civil Rights Director Christina Abraham was actively involved in protesting the University of Chicago's invitation of former Israeli Prime Minister Ehud Olmert to speak at the school. She legally represented a protester who was arrested at the event and spoke

Civil Rights



out against the University's decision to invite a contentious speaker accused of committing brutal war crimes.

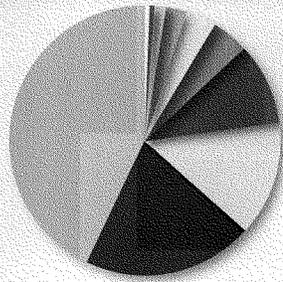
In addition, Civil Rights Department personnel actively worked to reinstate a suburban high school student who was indefinitely suspended by school administrators shortly after the attack on Fort Hood. CAIR-Chicago met with the school's administration and the student's parents and negotiated his reinstatement.

Staff Attorney Kevin Vodak represented a young student who was expelled from school after an altercation with other boys who had been harassing the student because of his religion and national origin. CAIR-Chicago assisted in filing a complaint with the U.S. Department of Education regarding the discriminatory treatment of the young boy and continues to represent him in the matter.

Employment Discrimination

The Civil Rights Department pursues resolutions to incidents of discrimination committed in the workplace against employees due to their Islamic faith affiliation, or in some cases, because they are thought to be Muslim. It receives numerous such reports each year.

Breakdown of Cases Reported in 2009



- Government
- Employment
- Prison
- General
- Public Accommodation
- School
- Criminal
- Airport
- Hate Mail/Hate Phone Calls
- Child Custody



2009 saw a historic victory for CAIR-Chicago and the Muslim community in the employment discrimination case of *Yasin v. Cook County Sheriff's Department*. CAIR-Chicago's Civil Rights team litigated on behalf of Officer Abraham Yasin, a Palestinian American, who was harassed by fellow officers for years with racial slurs such as "terrorist," "Hussein," "sand ni"er," "bin Laden," "shoe bomber," and "camel jockey". Despite repeatedly reporting the incidents, multiple supervisors and the Internal Affairs Division failed to take adequate corrective action. The jury awarded Officer Abraham Yasin \$200,000 in damages for the harassment, confirming that he suffered from a hostile and abusive work environment.

CAIR-Chicago also made major gains in 2009 in the case of over 200 Somali meatpacking plant workers who alleged discrimination. In 2008 Muslim workers at the Swift Co. plant in Grand Island, Nebraska, began facing harassment, and in many cases termination, after requesting that their break schedules be adjusted to allow them to perform their daily prayers. After a year-long investigation the U.S. Equal Employment Opportunity Commission (EEOC) determined that "such accommodation would not have posed an undue hardship to [Swift]" and that the evidence establishes that Swift's supervisors "subjected Somali Muslim Employees to unlawful harassment, disparate treatment, and discrimination ... based on their religion, national origin, race, and color." CAIR-Chicago is now in communication with the EEOC to prepare for litigation against the company.



Civil Rights



CAIR-Chicago filed action in federal court against Columbia College in 2009 on behalf of a Palestinian Muslim instructor who claims to have suffered wrongful termination after a student falsely reported that she made an anti-Semitic comment in class. CAIR-Chicago maintains that the College failed to conduct a thorough investigation into the claims or question witnesses before firing the instructor. This case is currently ongoing.

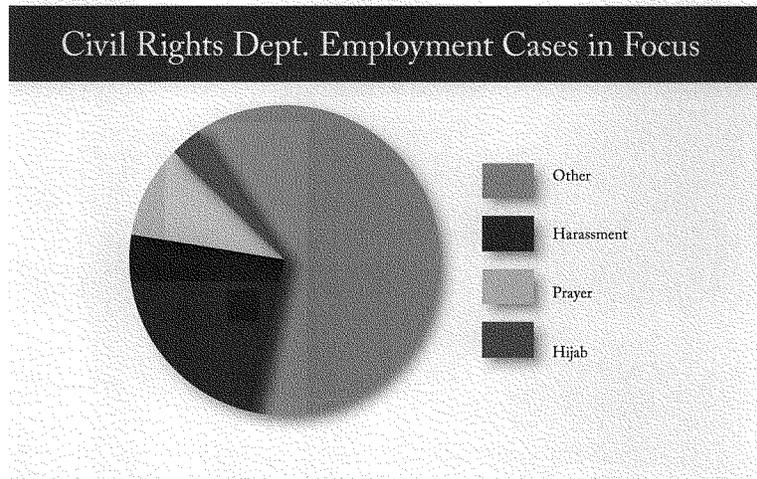
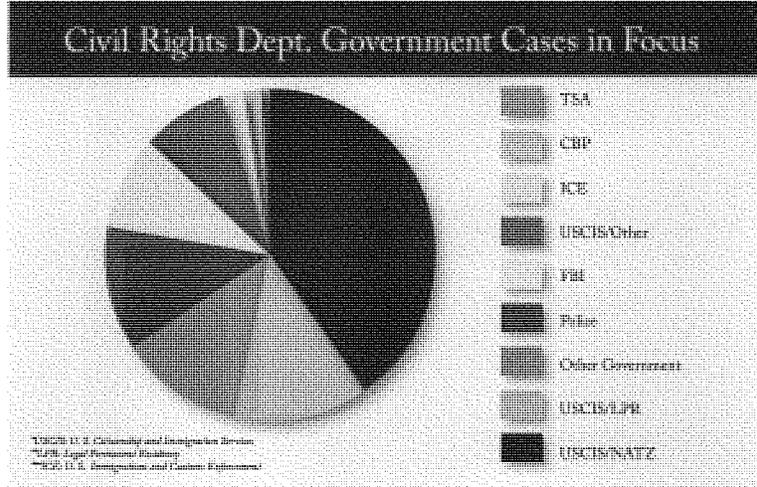
A complaint was also filed in federal court alleging that the trucking company USF Holland and YRC Worldwide Inc. discriminated against an African-American Muslim employee. The man reported to CAIR-Chicago that he was verbally abused based on his race, religion and disability and that the trucking company also refused to compensate him for an on-the-job injury that ended his career. This case is also in progress.

FBI Interviews

2009 saw a large number of Muslims reporting that they have been contacted by the FBI for interviews, some claiming that agents used intimidating tactics to coerce them into speaking without an attorney present. Our Civil Rights Department represented these individuals during their interviews to ensure that none of their rights were violated. CAIR-Chicago remains in communication with the FBI regarding any possible misconduct by agents.

Representing YOU and the Community

- Civil Rights Director Christian Abraham participates as State Department Delegation to the Philippines.
- Staff Attorney Gavin Wadik presents Know Your Rights lecture at the Muslim Community Center (MCC) in Chicago.
- Civil Rights Director Christian Abraham participates in panel discussion on Case at Kent Law School.
- Civil Rights Director Christian Abraham presents to Senior High School students on constitutional rights as part of the "Acting Free Program" sponsored by Ferguson Elzy and the Chicago Coalition in Defend the Bill of Rights.
- Civil Rights Director Christian Abraham speaks on panel entitled "Lesson Six: History: Japanese American Internment and the War on Terror" at Northwestern Law School.
- Staff Attorney Gavin Wadik participates in panel discussion at Northwestern Law School on Chicago area surveillance issues.
- Staff Attorney Gavin Wadik and Civil Rights Director Christian Abraham present at event entitled "The War on Terror and the Rights of Muslims," sponsored by the American Constitutional Society.



Officer Abraham Yasin

"Today's victory is not only for me, but for justice, fair play, and equality regardless of race, gender, or creed."

CAIR-Chicago made civil rights history in July 2009 when it won the legal case *Yasin v. Sheriff of Cook County*. The jury verdict favored an Arab-American correctional officer in a discrimination case. The verdict awarded Officer Abraham Yasin \$200,000 in damages for harassment that created a hostile and abusive work environment. This was the first major jury litigated case on which a Muslim not-for-profit organization was the primary attorney – a first not only for CAIR-Chicago, but also for any Muslim organization in the U.S.

CAIR-Chicago began pro-bono litigation on behalf of Officer Yasin in 2007 after he reported experiencing harassment by other correctional officers starting in December 2004. Cook County officers continuously and anonymously targeted Yasin with racial slurs such as "terrorist," "Hussein," "sand n****er," "bin Laden," "shoe bomber," and "camel jockey" verbally and via graffiti on his locker. Yasin testified that his co-workers made calls over the radio and telephone about his ancestry and national origin as many as ten times a day and countless times for over a one-year period. Despite repeatedly reporting the incidents, the Cook County Sheriff's department told him that if he could not handle it, he should get a civilian job. Multiple supervisors and the Internal Affairs Division failed to take adequate corrective action.

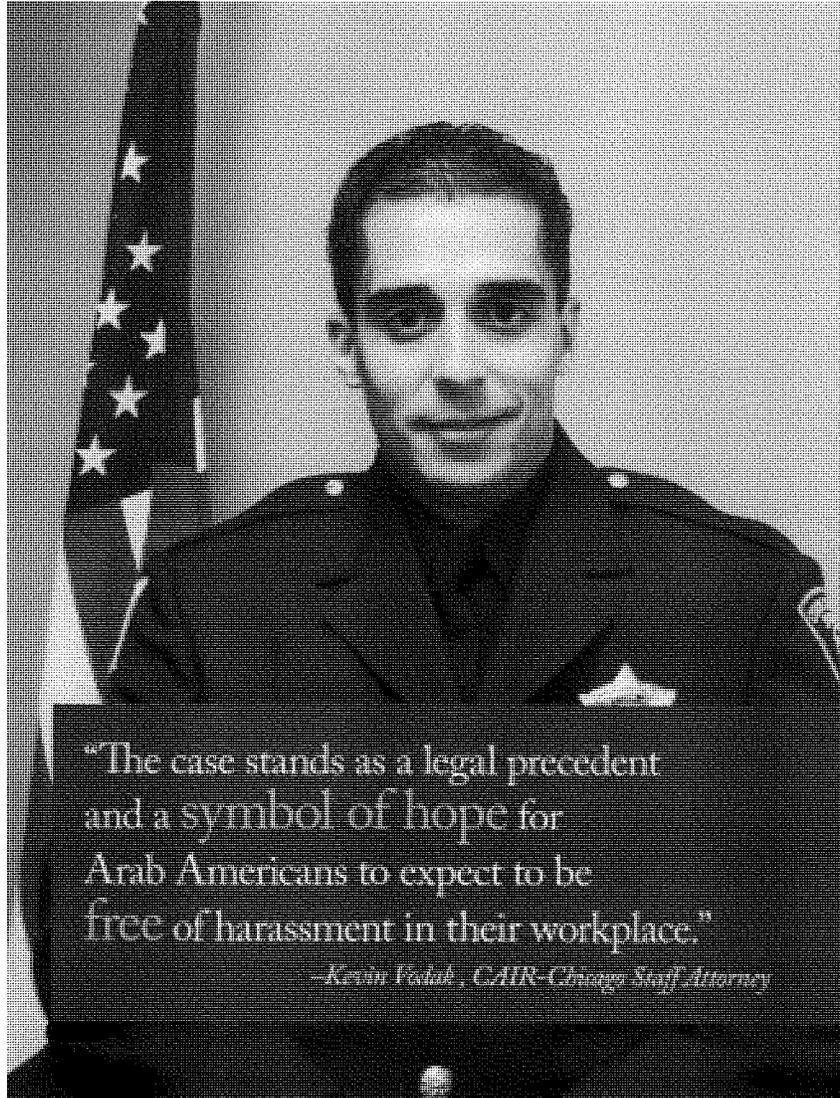
Yasin contacted 12 private attorneys who, reluctant to go up against the Cook County's Sheriff's Department, all declined to represent him. He then came to CAIR-Chicago,

and upon reviewing the facts, the Civil Rights Department took on his case. Following months of preparation, the case went before a jury in July of 2009. After a three-day trial, the verdict was read in Officer Yasin's favor, awarding him the full \$200,000 demanded. Officer Yasin, who had suffered severe emotional distress, was vindicated, and a precedent was set for others like him.

In a statement Officer Yasin said, "After having agonized for so long, I can finally feel a sense of relief and vindication. I served my country in uniform with dignity and honor and felt betrayed that my service would be met by some of my fellows with racial slurs, harassment, and ridicule. This is not what our country is about. Today's victory is not only for me, but for justice, fair play, and equality regardless of race, gender, or creed."

"This was an unprecedented decision by jury-trial in the state of Illinois," said CAIR-Chicago Staff Attorney Kevin Vodak. "The case stands as a legal precedent and a symbol of hope for Arab-Americans to expect to be free of harassment in their workplace. The jury sent a clear message that no one is above the law in this matter, including the Cook County Sheriff."

Yasin v. Sheriff of Cook County represents yet another notable milestone in CAIR-Chicago's growth and progress as an organization sworn to serve Muslim Americans with professionalism and efficiency within the areas of its mission statement: defending civil rights, fighting bigotry, and promoting tolerance.



"The case stands as a legal precedent
and a symbol of hope for
Arab Americans to expect to be
free of harassment in their workplace."

-Kevin Fadaeh, CAIR-Chicago Staff Attorney

CAIR-Chicago Helps Hundreds of Muslims Become U.S. Citizens

U.S. Naturalization

On July 23, 2009 Naim Zaita raised his hand, recited the Oath of Allegiance, and was sworn in as a United States citizen. After attempting to gain citizenship for nearly 4 years, this was a triumphant day for Zaita.

"I felt so good, and my family was very excited," says Zaita. "I was so happy to finally have all those years of waiting behind me."

Mr. Zaita is one of 367 individuals CAIR-Chicago's Citizenship Delay Project has successfully helped in obtaining U.S. citizenship. CAIR-Chicago has been working since 2006 to end lengthy delays faced by Muslims stuck in the citizenship and naturalization process. In 2009 alone CAIR-Chicago received 81 complaints of unusual delays.

According to United States law an applicant must receive a decision about his citizenship within 120 days of the interview, but for hundreds of Muslims, as well as people with Arabic names, this process is prolonged for years. CAIR-Chicago Civil Rights Director Christina Abraham says that delays are due to inefficiencies in the administrative process such as background checks and the post-interview adjudication process.

When a name is searched in the government's name-check database, Abraham explains, every spelling variation of the name, and every name combination, is searched.

Another client passed his citizenship test in 2005, but for four years his application was pending a background check. Later, USCIS sent a letter rejecting his citizenship, claiming he missed a scheduled interview date allegedly sent in writing. Neither the man nor his representatives ever received

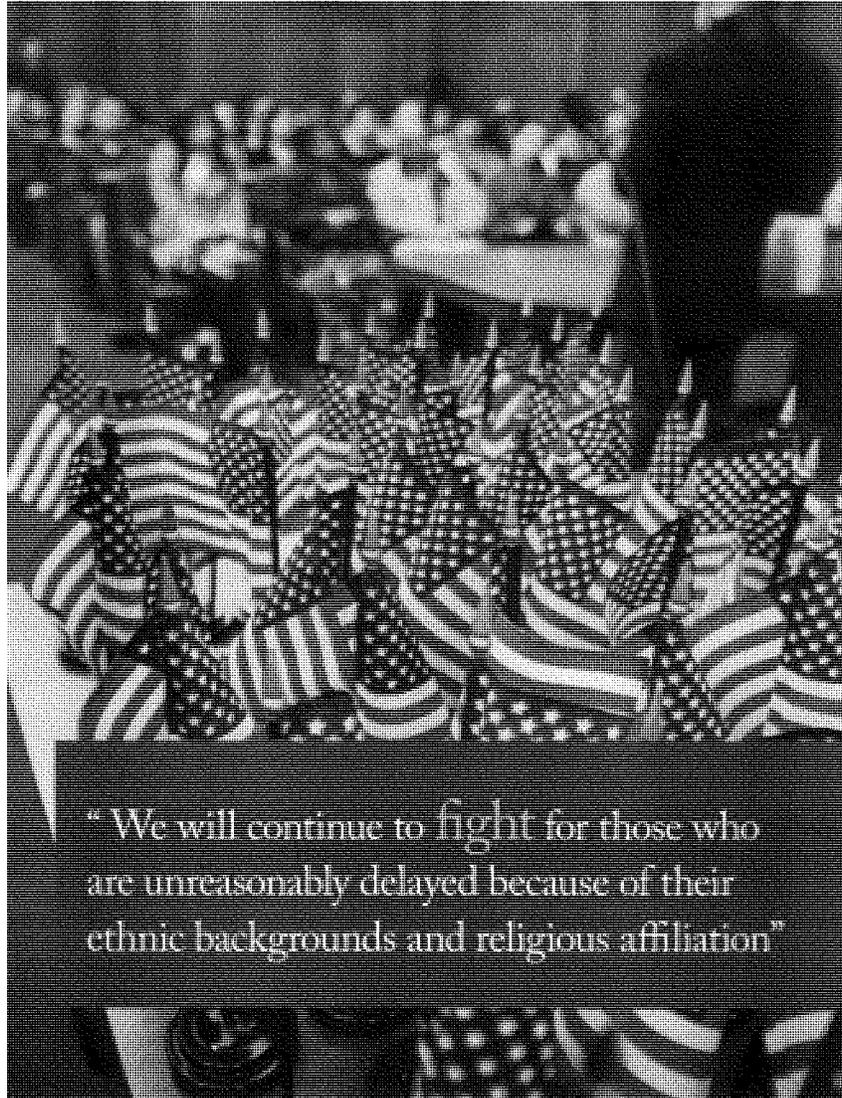
any such interview notice. As a result, CAIR-Chicago appealed his case and was granted a hearing.

"It shouldn't take years for an applicant to receive a response," Abraham says. "People are stuck in limbo and do not know their status. They have family members they want to bring to the United States and jobs waiting for them. Their future plans are hinging on whether they get this citizenship or not. Even if the application is going to be rejected, these individuals deserve to know within a reasonable period of time so that they can begin to plan their futures accordingly."

In 2006, CAIR-Chicago filed a class action lawsuit with the National Immigrant Justice Center and Competition Law Group, and as a result of the class action and dozens of individual lawsuits filed each year, many delayed citizenship applications have been granted.

CAIR-Chicago's Civil Rights Department continues to file complaints on a regular basis on behalf of individuals facing delays. Due to the growing amount of litigation regarding this matter, U.S. Citizenship and Immigration Services has taken measures to decrease the wait time for individuals applying for citizenship; subsequently less people are now caught in unreasonably lengthy delays in becoming American citizens.

"We will continue to fight for those who are unreasonably delayed because of their ethnic backgrounds or religious affiliation" says Abraham.



“ We will continue to fight for those who are unreasonably delayed because of their ethnic backgrounds and religious affiliation ”

Muslim Woman Attacked for Wearing Headscarf, Speaks out and Fights Back

Amal Abusumayah

Days after the Fort Hood shooting in November, 2009, Amal Abusumayah of Tinley Park, IL was shopping at a Jewel grocery store when a woman standing near her began shouting negative comments about Muslims in regard to the incident. Amal ignored the comments and continued her shopping. Later, as she was checking out, the same woman came from behind her and tightly pulled on her scarf in an attempt to pull it off.

Amal, a stay-at-home mother of four children, said she was "shaken up", but immediately called Tinley Park police who came to the scene and detained the attacker, 54-year-old bank teller Valerie Kenney. Police officers encouraged her to press charges, but instead she told police to let Kenney go.

"I just wanted to forget about the whole thing. These things are quite common. I thought telling the police was enough," said Amal.

After coming home and talking to her family about the incident she began to think about the implications of her decision.

"Women usually won't report it because they see no point," said Amal. "Another Muslim woman in Tinley Park had her headscarf completely pulled off at the mall just a year earlier, and security guards did nothing."

Amal realized that she needed to challenge these crimes, and decided to press charges as an example for other Muslim women while sending a clear message to those individuals who harbor aggression toward Muslim Americans.

"I wanted to show other racist people who might think of putting their hands on a Muslim woman that if they do this they'll have to face consequences."

Amal also contacted CAIR-Chicago who began to advocate on her behalf and reached out to the FBI to involve them in the matter, (certain hate crimes can be prosecuted as federal crimes).

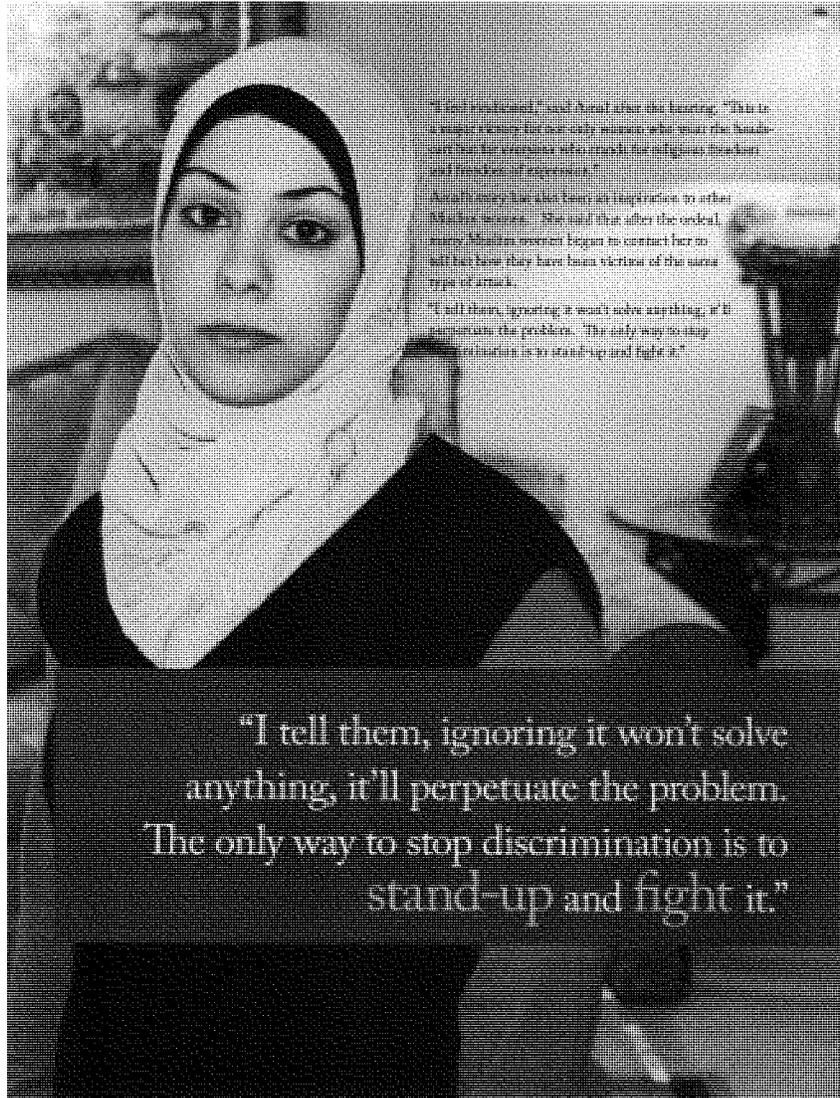
"In other countries, like in France and Turkey, Muslim women don't have as many rights and when they're harassed, no one helps them. But here in America we have rights; we have a supportive government, so we should be the ones standing up for Muslim women," said Amal.

CAIR-Chicago also generated media coverage on Amal's behalf to make sure she could get her message across to the general public. The story was covered by every major news service in Chicago, including TV stations, radio stations, and newspapers. The incident was also reported on by national and international media outlets.

On January 5, 2010, a plea agreement was reached between state prosecutors and Kenney. Prosecutors said as part of the plea deal, the charges were changed to battery and parts of the Hate Crimes Law sentencing guidelines were applied. Kenney was sentenced to 2 years probation, 200 hours of community service, and a \$2,500 dollar fine.

Kenney apologized openly in court to Amal, her family, and the Muslim community.

"We are happy with the decision and we hope this sends a message to the public that this sort of behavior should not be tolerated by a fair and just society," said Civil Rights Director Christina Abraham, who attended the hearing with Amal. "I think the terms of the plea agreement adequately address the issue and gave the defendant an opportunity to learn from her mistake."



"I feel emotional," said Khalid after the hearing. "This is a tough situation for not only women who wear the headscarf but for everyone who stands up against attackers and smokers of aggression."

Awadh's story has also been an inspiration to other Muslim women. She said that after the ordeal, many Muslim women began to contact her to tell her how they have been victims of the same type of attack.

"I tell them, ignoring it won't solve anything, if it continues the problem. The only way to stop discrimination is to stand-up and fight it."

"I tell them, ignoring it won't solve anything, it'll perpetuate the problem. The only way to stop discrimination is to stand-up and fight it."

EXHIBIT D
CAIR-Chicago 2010
Civil Rights Department Annual Report

Civil Rights



Christina Abraham, Civil Rights Director, helped found the Civil Rights Department in 2005 when she began working for CAIR-Chicago as a volunteer.

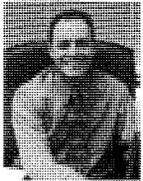
CAIR-Chicago's Civil Rights Department fights to protect the civil liberties and equal rights of American Muslims. The department provides legal representation to victims of various forms of discrimination. Our expertise in the area of civil liberties affords us the ability to resolve incidents including hate crimes, employment discrimination, immigration and citizenship delays, religious bias in public schools and institutions, and banking, lending and housing discrimination. We pursue the appropriate remedying measures ranging from cultural sensitivity training for the perpetrating party to full litigation.

CAIR-Chicago ensures that every incident is also logged and recorded. This research is subsequently published by CAIR-Chicago in reports that aim to educate the public on the plight of American Muslims' civil rights.

Civil Rights Department Recap of 2010

The Civil Rights Department of CAIR-Chicago continued its important work in 2010, litigating cases that will shape case law involving discrimination against Muslims in America. We have seen a number of successes throughout the year through our various

"We legally advocate on behalf of those who have been victims of discrimination and hate crimes."

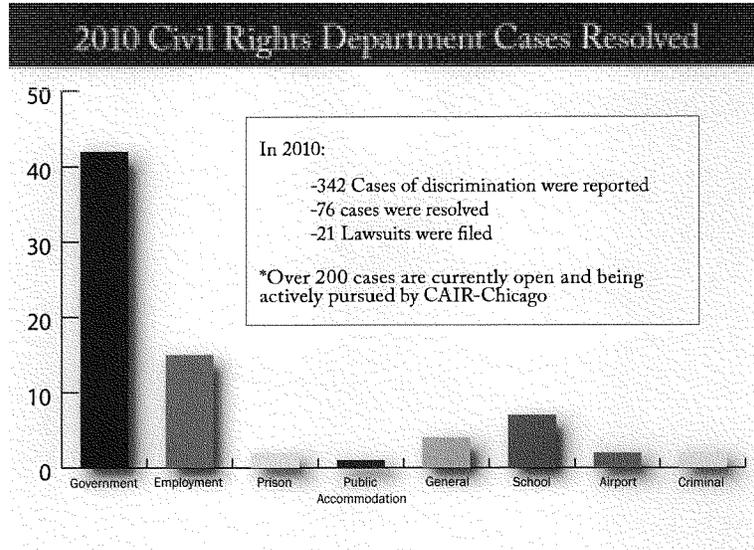


Kevin Vadak, CAIR-Chicago's Staff Attorney, joined the organization in 2008 and brought with him seven years of previous litigation experience.

casework. This year saw spikes in the number of cases reported involving the FBI as well as discrimination in schools. Our Civil Rights Director and Staff Attorney have worked tirelessly to resolve these and a number of other cases ranging from employment discrimination to immigration and public accommodation.

This year, the Department filed an intervenor's complaint on behalf of dozens of Somali Muslim factory workers in the class action lawsuit EEOC v. JBS Swift. CAIR-Chicago is also challenging the implications of the Department of Justice's designation of Muslim Americans as "unindicted co-conspirators" in its case, *Mustapha v. Illinois State Police*. In response to DuPage County's discriminatory denial of a special use permit for the Irsbad Learning Center, a suburban mosque and Islamic school, CAIR-Chicago filed suit in federal court. Additionally, CAIR-Chicago is pleased to announce that it has helped 22 individuals become American citizens through the work of its Citizenship Delay Project.

The Civil Rights Department's goals for 2011 are bolder than ever. We hope to continue in the fight to protect the civil liberties guaranteed by this nation's Constitution and look forward to your continued support.



Key Cases

The case of EEOC v. JBS Swift is a major class action lawsuit that has been filed by the Equal Employment Opportunity Commission (EEOC), a federal agency that investigates employment discrimination claims. In 2010, the EEOC found that JBS Swift had discriminated against its Somali Muslim factory workers at a plant in Grand Island, Nebraska when it refused to accommodate a prayer break for the employees during the month of Ramadan. Management of the company even went so far as to terminate employees that rallied for their rights, and used their personal break time to pray, and forced employees to sign written promises not to pray during work hours. CAIR-Chicago has filed an intervenor's complaint on behalf of dozens of the Somali workers, thereby participating in the litigation of this milestone case.

CAIR-Chicago is also challenging the Illinois State Police's (ISP) decision to revoke the chaplaincy of Imam Kifah Mustapha. Imam Mustapha applied to be a police chaplain, was accepted after undergoing standard background checks, and even underwent training for the program. His chaplaincy was revoked after members of the ISP read an article written by the Investigative Project on Terrorism, a group led by notorious anti-Muslim blogger Steven Emerson. The defamatory article argued that Imam Mustapha should not have been accepted as an ISP chaplain because of his designation as an unindicted co-conspirator in the Department of Justice's case against the Holy Land Foundation. Despite the fact that Imam Mustapha, along with the 300 plus other Muslim organizations and individuals named on the list, had never been charged with any criminal activity, the ISP revoked his chaplaincy. CAIR-Chicago filed suit alleging, among other things, that the ISP violated the First and Fourteenth Amendments in their actions.

Civil Rights



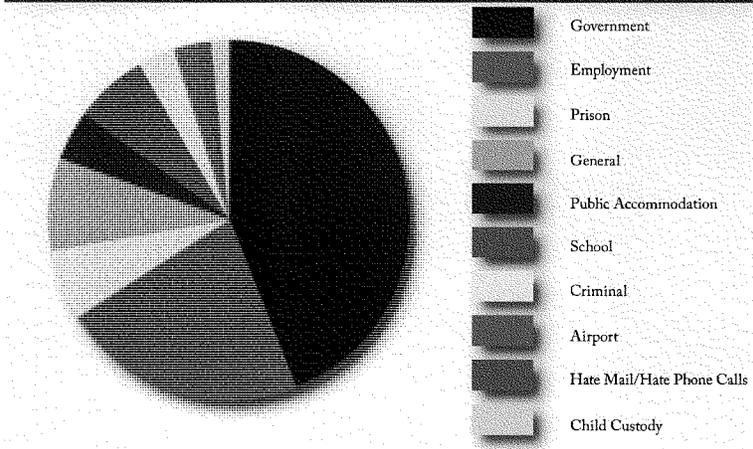
CAIR-Chicago Staff Attorney Kevin Vodak speaks at a press conference.

In 2010, CAIR-Chicago was also active in challenging discrimination against religious institutions in DuPage County. The Department filed suit on behalf of the Irshad Learning Center against DuPage County for its denial of a special use permit for the learning center. The Irshad Learning Center is one of three Muslim religious institutions experiencing difficulty in obtaining special use permits to establish religious institutions in the county. We are also monitoring the application processes for The Muslim Educational and Cultural Center of America (MECCA) and the Islamic Center of the West Suburbs (ICWS).

FBI Interviews

This year saw a large number of Muslims reporting that they have been contacted by the FBI for interviews, some claiming that agents used intimidating and coercive tactics. Our Civil Rights Department represented these individuals during their interviews to ensure that none of their rights were violated. CAIR-Chicago remains in communication with the FBI regarding any possible misconduct by agents.

Breakdown of Cases Reported in 2010





Above: Sen. Durbin speaks at an ICIRR immigration reform rally as Senate hopeful Alexi Giannoulias, Congressman Gutierrez and Ahmed Rehab look on.

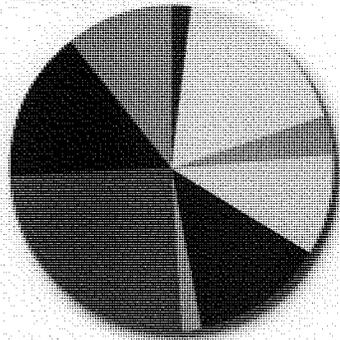
Citizenship Delay

CAIR-Chicago's Citizenship Delay Project has been working since 2006 to end lengthy, unlawful delays faced by Muslims applying for citizenship through political and legal means. In 2010, CAIR-Chicago helped 22 individuals attain citizenship after being subjected to years of unnecessary delay. Overall, CAIR-Chicago has received 494 reports of citizenship delay over the last four years. Of those cases, 317 have been resolved.

Representing YOU and the Community

- Civil Rights Director Christina Abraham speaking at the Northwestern Law School DePaul University College of Law and John Marshall Law School as Muslim Americanized citizens and being in America. He will be presented to Northwestern University students a Medal about the Patriot Act and civil liberties.
- Staff attorney Kevin Vachal spoke on a panel at the 2010 ISNA Convention entitled "Seeking Justice through the Courts: A Multicultural Approach to Resolving Civil Rights," along with Christina Abraham.
- Christina Abraham underwent an interview at the American Islamic College for Hamza, Special Agent in Charge of the FBI Chicago Field Office.
- Since January 2010, Kevin Vachal has been actively supporting Muslims in DuPage County seeking the permits as well as challenging a municipal ordinance seeking to establish any form religious assembly in non-designated residential areas.
- Christina Abraham presented on the status of Muslims in America at the National Executive Council of the Episcopal Peace Fellowship.
- Kevin Vachal participated to protest against FBI raids on the homes of anti-war activists.
- Christina Abraham presented at the Council on American Muslim Professionals (CAMF) on employment discrimination.

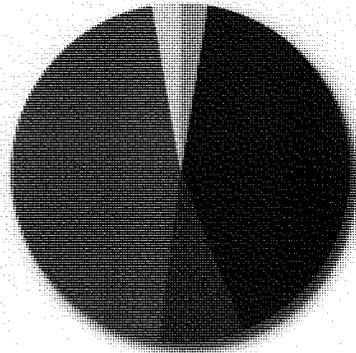
Civil Rights Dept. Government Cases Reported in Focus



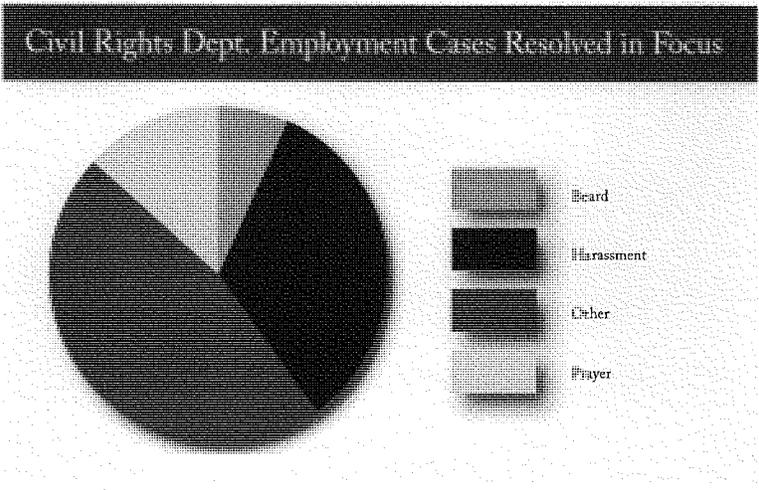
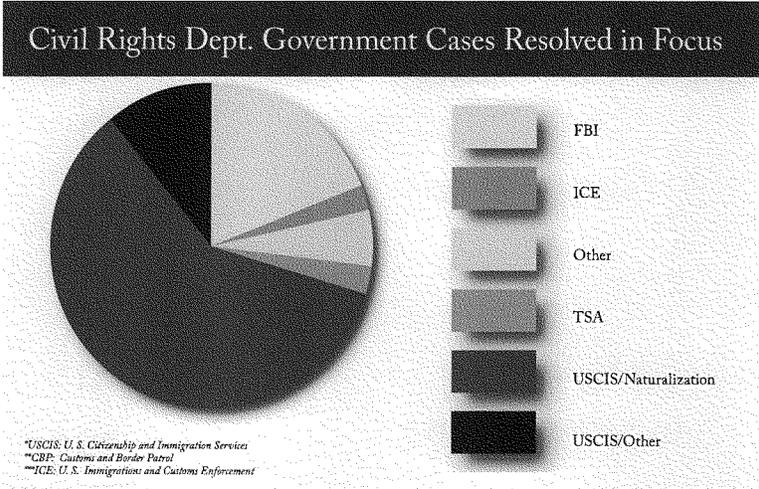
- CBP
- FBI
- ICE
- Other
- Police
- TSA
- USCIS/Naturalization
- USCIS/Other
- USCIS/LPR

**CBP: Customs and Border Patrol
 **ICE: U. S. Immigration and Customs Enforcement
 ***USCIS: U. S. Citizenship and Immigration Services
 ****LPR: Legal Permanent Residency*

Civil Rights Dept. Employment Cases Reported in Focus



- Beard
- Harassment
- Hijab
- Other
- Prayer



Imam Kifah

“The ISP hired Imam Kifah, trained him, then terminated him due to the allegations of a blogger.”

Mustapha

In December 2009, the Illinois State Police (ISP) appointed Imam Kifah Mustapha to serve as a police chaplain and offer counseling to Muslim members of the police force. Imam Kifah, one of the most prominent Muslim leaders in the Chicago area, was to be the first and only Muslim appointed to the chaplaincy in ISP history.

After going through background checks, receiving official training and being confirmed for the position, the ISP suddenly informed Kifah in January 2010 that he needed to undergo another background check, with no official reason cited. However, Kifah later received information that the ISP had been alarmed by an internet report attacking him. In August, the ISP dismissed Kifah from the chaplaincy program, citing he failed the background check.

“The ISP actually hired Imam Kifah Mustapha and trained him as a chaplain and then terminated him due to the allegations of anti-Muslim blogger Steven Emerson,” said CAIR-Chicago Civil Rights Director Christina Abraham.

Emerson’s blog, the Investigative Project on Terrorism, criticizes Imam Kifah’s appointment as chaplain and accused Kifah of serving on the “Palestine Committee of the Muslim Brotherhood,” although no such committee exists.

Emerson, a known Islamophobe and self-proclaimed “expert on terrorism” has a mile-long track record of spreading anti-Muslim sentiment on his vitriolic blog. The so-called scholar has made a profession out of defaming Muslim activists and preventing American Muslim civic participation.

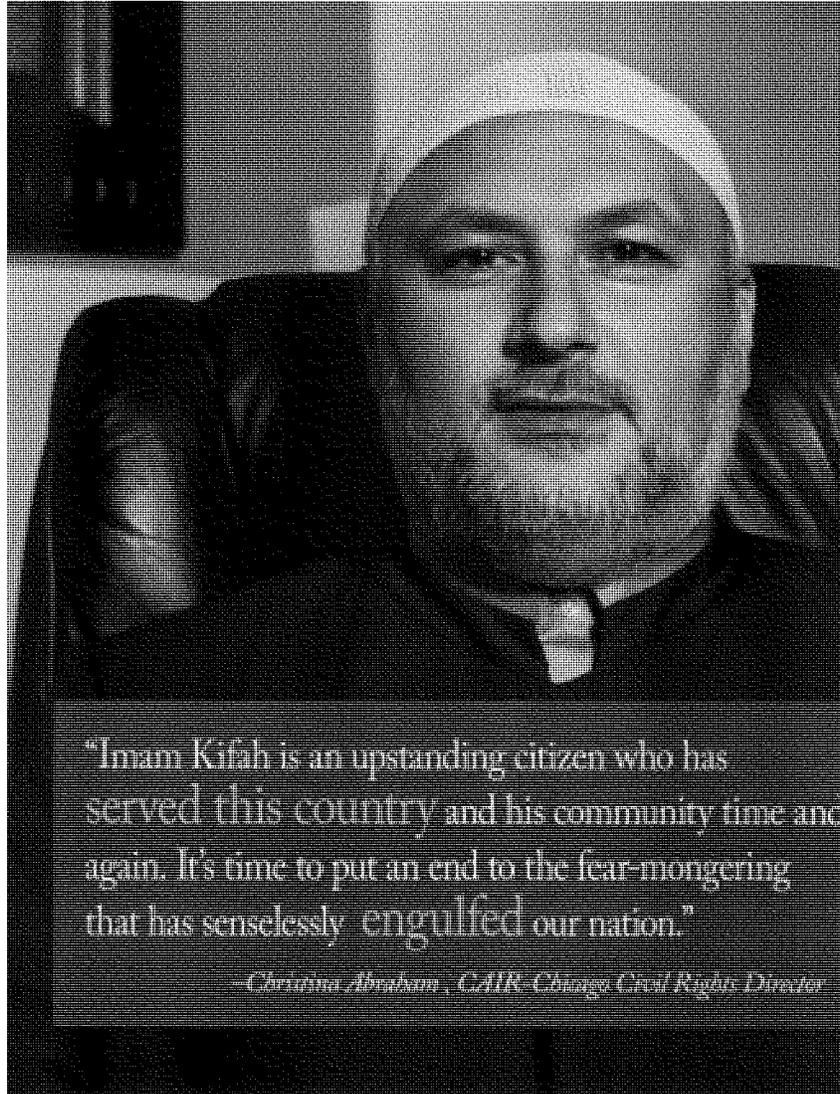
Emerson got himself blacklisted after the Oklahoma City bombing when he impulsively sounded the alarm that the attack must have been committed by Muslims; a declaration soon proved to be completely false.

Despite his discredited reputation, Emerson is unfortunately still able to influence ignorant consumers of his hate campaign, as evidenced by the fact that the ISP let his rantings affect their decision about Kifah.

“The ISP’s decision to rebuke Imam Kifah’s chaplaincy position based on innuendo from a well-known Islamophobe is abominable. Unfortunately, this episode of exclusion is part of a larger trend of fear and smear campaigns against Muslim leaders seeking to be civically active in their communities,” said Ahmed Rehab, Executive Director of CAIR-Chicago.

“The ISP’s actions here are reminiscent of the Red Scare in the 1950s, when our nation smeared individuals based on suspicion and paranoia rather than evidence of wrongdoing,” said CAIR-Chicago Staff Attorney Kevin Vodak. “The McCarthy era taught us that our government cannot engage in guilt by association.”

Indeed, CAIR-Chicago did not let this cowardly act of discrimination go unchallenged. In September, CAIR-Chicago filed a lawsuit against the ISP on behalf of Kifah, alleging discrimination based on race, religion and national origin. The suit also cites the denial of Kifah’s First Amendment right to freedom of association, which bars the government from imposing guilt by association.



“Imam Kifah is an upstanding citizen who has served this country and his community time and again. It’s time to put an end to the fear-mongering that has senselessly engulfed our nation.”

-Christina Abraham, CAIR Chicago Civil Rights Director

"It's not a popular sentiment to support an application by Muslims, no matter how good that application is."

Irshad Learning Center

At a church in suburban Chicago, parishioners are gathering to worship together.

The call to prayer is not for Christians, but for Muslims from the Irshad Learning Center (ILC) who temporarily use the church.

"Irshad Learning Center is a shelter for faith, for people who want to once in a while get together and pray together, worship, and perhaps help their kids get some acquaintance with their faith and cultural background," said Mojtaba Noursalehi, a member of the Board of the ILC.

In early 2010 DuPage County rejected a permit for the ILC, and as a result CAIR-Chicago has filed a lawsuit on their behalf.

The suit was filed under the Religious Land Use and Institutionalized Persons Act of 2000, the First Amendment to the Constitution – affording the free exercise of religion, speech and assembly – and the Fourteenth Amendment's Equal Protection Clause. State law bases include the Illinois Religious Freedom Restoration Act.

All zoning requirements were met by the ILC and no reasons were given by the County Board for the rejection. When the board denied the request, Muslim community members feared that Islamophobia influenced the decision. Anti-Muslim protests were taking place outside the County Board meeting, and false accusations against the ILC were made by representatives of the anti-Muslim group Act! For America during the meeting where the decision was made.

Mahmood Ghassemi, chairman of the Irshad Board, said the group did everything it was asked to do to meet county requirements and satisfy neighbors but, "our good will was not reciprocated by neighbors or by the officials."

Board members clearly weren't swayed by the concessions that the ILC made, including barring exterior sound amplification, prohibiting events and activities on the property after 10:30 p.m., allowing no more than one live-in caretaker and restricting the number of parking spaces.

"Based on the allegations and complaints, we believe the County Board and other zoning officials imposed a higher standard for the ILC as a Muslim religious institution," said CAIR-Chicago Staff Attorney Kevin Vodak. "The ILC is pursuing full recourse under federal and state law. We will do all we can to ensure the ILC is able to use the property as intended and recovers its losses."

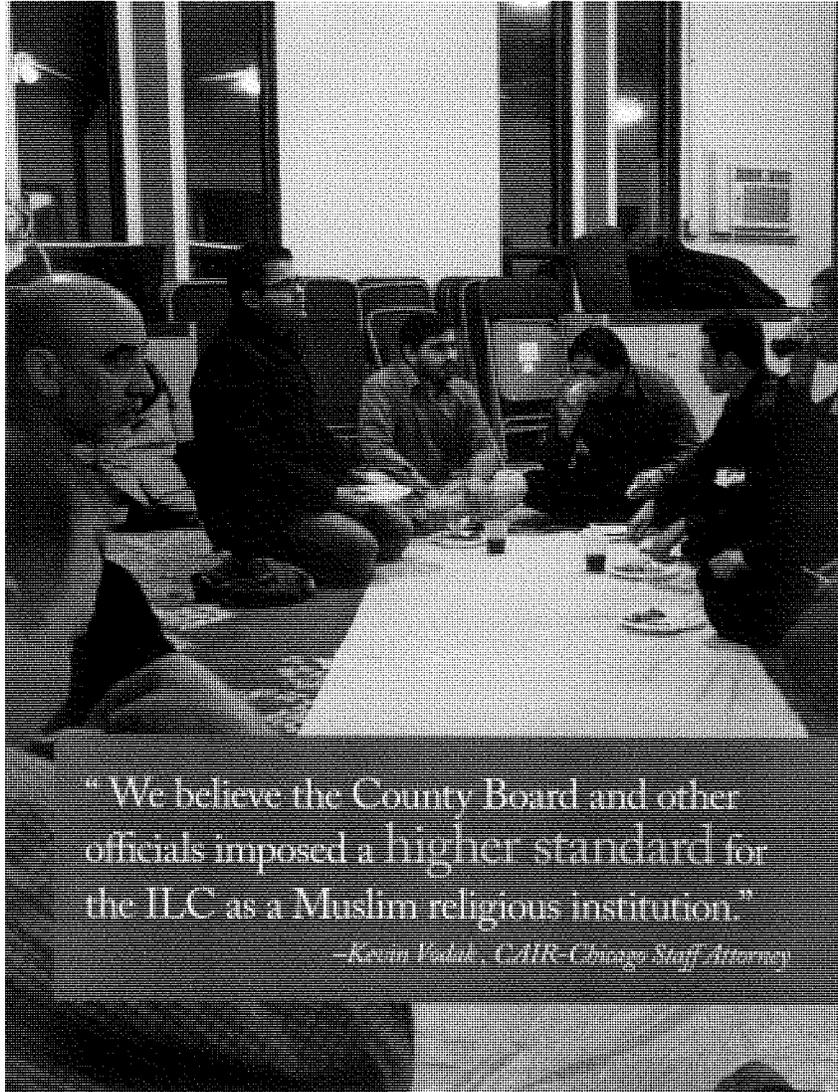
The Irshad Learning Center is one example of many Muslim religious institutions across the country that met resistance in 2010. In fact, it's one of three just in unincorporated DuPage County.

Even more disturbingly, DuPage officials recently proposed amendments to the Zoning Ordinance that would ban any new religious institutions in residential areas, citing an "oversaturation of religious institutions" in the area.

CAIR-Chicago and other interfaith leaders held a press conference to condemn this action, as an encroachment on first amendment rights. The amendments appear targeted at Islamic religious organizations, as Muslims are the predominant individuals currently seeking to establish assemblies in the county. Places of worship for other religions have been built in the county without resistance for decades, and now that Muslims are building, all of a sudden community leaders are saying there are too many places of worship.

"This is reminiscent of the rhetoric used to keep Jewish families out of certain neighborhoods in the fifties," said Jane Ramsey, Executive Director of the Jewish Council on Urban Affairs (JCUA). "My family had to deal with those zoning ordinances back then and this is steeped in the same kind of rhetoric."

CAIR-Chicago is currently still working on the case of the Irshad Learning Center, and along with other interfaith groups, we are doing everything we can to prevent the proposed ban on new religious institutions in DuPage County from passing.



"We believe the County Board and other officials imposed a higher standard for the ILC as a Muslim religious institution."

-Kevin Vothak, CAIR-Chicago Staff Attorney

"Everyone deserves to be able to earn a living without sacrificing their beliefs to put food on the table."

Swift Factory Workers

CAIR-Chicago filed a discrimination lawsuit in federal court in November of 2010 on behalf of 49 Muslims of Somali heritage who were fired from a JBS Swift meat packing plant in Nebraska. The lawsuit intervenes in a class action filed by the Equal Employment Opportunity Commission (EEOC) in August.

In 2008, Muslim workers at the plant began facing harassment, and in some cases termination, after requesting that their break schedules be adjusted to allow them to perform their daily prayers. (Title VII of the Civil Rights Act of 1964 mandates that employers must accommodate the religious practices of employees unless it causes the employer undue hardship.) The employees went on strike to demand their rights, but subsequently, over a hundred Muslim employees were fired.

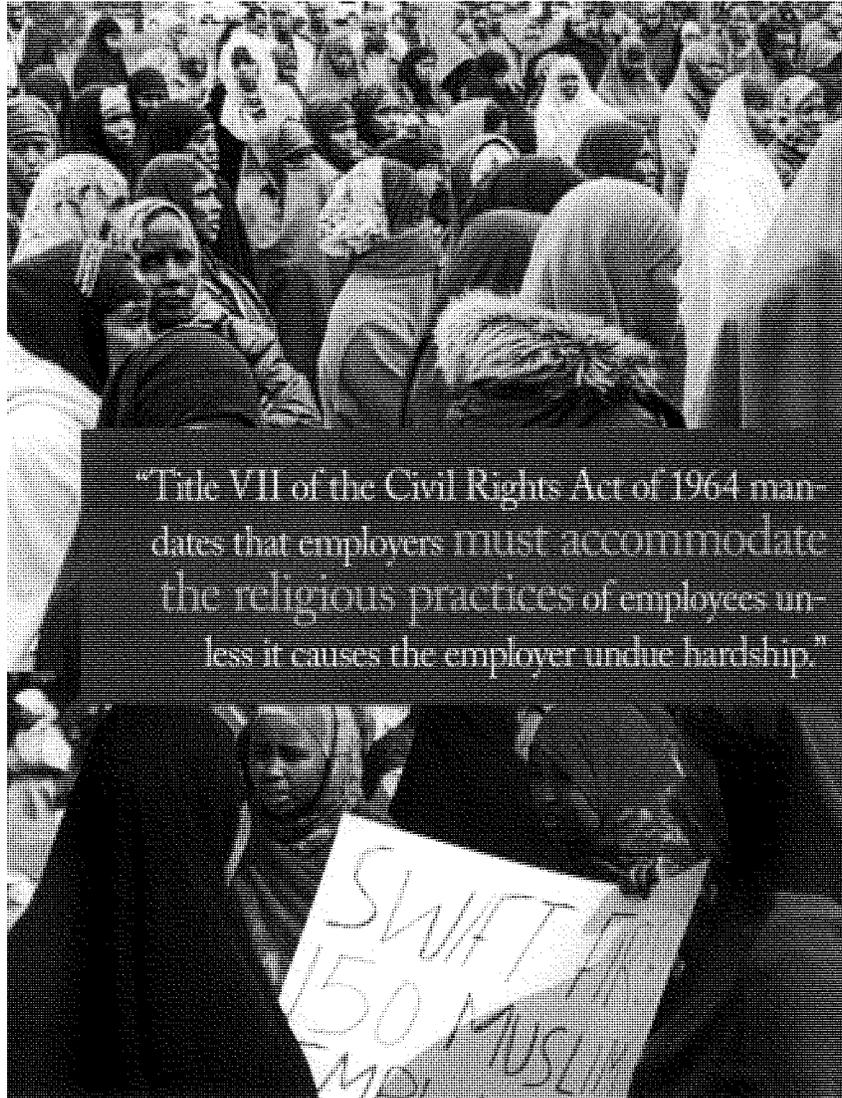
After a yearlong investigation into the complaints, the EEOC determined "such accommodation would not have posed an undue hardship to [Swift]" and that the evidence further establishes that Swift's supervisors "subjected Somali Muslim Employees to unlawful harassment, disparate treatment, and discrimination in terms and conditions of employment based on their religion, national origin, race, and color." The EEOC also confirmed that some employees were unlawfully terminated in retaliation for their requests for religious accommodation.

Almost every day, former Swift employees contact CAIR-Chicago asking about any update or progress in their case against their former employer. Since their termination from Swift, they have dispersed around the United States looking for new employment opportunities while retaining hope that they will receive justice for the harm done to them.

"These individuals have been dealing with this issue for well over two years. Some of them call multiple times a week, asking if there are any new developments in their case. You can hear the sadness in their voice as they retell the stories of harassment and discrimination they experienced while employed by JBS Swift," said Civil Rights Law Clerk Sufyan Sohel.

According to the narratives of these former Swift employees, they were not allowed to use their break times to perform their obligatory prayers. Despite warnings from their supervisors, some continued to attempt to pray, only to be stopped - mid prayer - and threatened with their jobs.

"These employees worked hard and did not ask for special treatment. All workers are granted short breaks. Supervisors at the plant, however, did not like that breaks were used to perform Islamic prayers," said Civil Rights Director Christina Abraham. "Everyone deserves to be able to earn a living without sacrificing their beliefs to put food on the table."



CONGRESSMAN KEITH ELLISON (MN-05)

COMMENTS SUBMITTED TO THE SENATE JUDICIARY SUBCOMMITTEE ON
THE CONSTITUTION, CIVIL RIGHTS AND HUMAN RIGHTS

HEARING ON THE CIVIL RIGHTS OF AMERICAN MUSLIMS

MARCH 29, 2011

Chairman Durbin,

Thank you for holding this important hearing. I appreciate your efforts to protect the civil rights of all Americans, including those who subscribe to the Islamic faith. Unfortunately, dozens of incidents threatened the civil liberties of American Muslims last year. While FBI hate crime statistics have not yet been released for 2010, the Southern Poverty Law Center reports that anti-Islamic incidents spiked significantly in 2010. In that year alone:

- A pipe bomb exploded on May 12 during evening prayers at a mosque in Jacksonville, Florida.
- On June 11, two men in Sunnydale, California attacked a man and called him a "terrorist" when they discovered he was Muslim.
- On June 28, a demonstrator against a proposed mosque in Brooklyn threatened to blow it up with a bomb.
- In May, ads on city buses in Miami and New York encouraged Muslims to leave their faith, referring to it as "the falsity of Islam."
- In July, a resident of Edmond, Oklahoma placed an anti-Islamic sign in her front yard, facing her new Muslim neighbors, which read, "There is no such thing as a peace-loving Muslim."
- Also in July, arsonists lit a playground on fire at a mosque in Arlington, Texas.
- In August, an arsonist damaged the construction site of a planned mosque in Murfreesboro, TN. Protests and lawsuits against the mosque continue.
- The week of August 23rd, a brick was thrown at the Madera Islamic Center in California, and messages were left behind, including, "Wake up America, the enemy is here," and "No temple for the god of terrorism."
- On August 24, 2010, a college student stabbed a New York City cab driver in the neck and arm after it was revealed that he was Muslim.

- On August 25, a man broke into a New York mosque, called worshippers “terrorists” and urinated on their prayer rugs.
- Also in August, a teenager fired a shotgun outside a mosque in Carlton, New York, and was later arrested for shouting obscenities at worshippers during Ramadan services.
- In September, an arsonist torched the trunk of a car parked outside an Islamic community center in Lafayette, Louisiana.
- Also in September, a man in Fairview Heights, Illinois, who had previously threatened Muslims and planned to burn a Quran, engaged in a seven-hour standoff with authorities when they attempted to question him.
- In the weeks leading up to September 11, 2010, a Florida pastor encouraged people around the world to participate in “International Burn a Quran Day.”
- On September 11, 2010, anti-Muslim activist Pamela Geller and Dutch lawmaker Geert Wilders, who has compared the Quran to *Mein Kampf*, organized a large protest against the proposed Park51 Islamic Community center in New York.
- In November, 70 percent of voters in Oklahoma approved a ballot measure blocking judges from considering Islamic or international law in their rulings.

This disturbing trend has not let up in the new year. On January 24, 2011, a California man was arrested and charged with terrorism after attempting to ignite a car bomb at the Islamic Center of America, the largest mosque in the United States.

Recent trends make the need for this hearing clear. They indicate that not only the civil rights of American Muslims are under threat, but their very physical safety is sometimes in danger, too. I applaud your efforts to shine a light on this problem and ways we can overcome it. It is critical that we protect the Constitutionally guaranteed rights of all Americans, regardless of their race, class, sexual orientation or religion.

If I may be of assistance in these endeavors, please do not hesitate to contact my office.

Sincerely,

Keith Ellison (MN-05)

Outside Witness Statement of

**Ahlam Jbara
Associate Director
Council of Islamic Organizations of Greater Chicago**

Hearing on Protecting the Civil Rights and Liberties of American Muslims

**U.S. Senate
Judiciary Subcommittee on the Constitution, Civil Rights and Human Rights**

March 27, 2011

Dear Chairman Durbin and Other Distinguished Members of this Subcommittee:

I submit this Statement in my capacity as Associate Director of the Council of Islamic Organizations of Greater Chicago (hereinafter, the "Council" or "CIOGC") to the U.S. Senate Judiciary Subcommittee on the Constitution, Civil Rights and Human Rights with respect to its forthcoming hearing entitled "Protecting the Civil Rights of American Muslims."

Background on the Council of Islamic Organizations of Greater Chicago

The Council of Islamic Organizations of Greater Chicago (www.ciogc.org) is a federation of over 50 mosques, Islamic schools and other Muslim organizations throughout the state of Illinois. The Council's member organizations collectively represent over 400,000 Muslims. The Council works to coordinate the activities of our member organizations as well as provide education, training, networking and advocacy to and on behalf of our member organizations and the Muslim community.

The Council works closely with governmental and law enforcement agencies at the local, state and federal levels. Council representatives meet regularly with the Department of Homeland Security (DHS), the Federal Bureau of Investigation (FBI) and other agencies in Chicago roundtable meetings organized by the office of Civil Rights and Civil Liberties of DHS. These meetings serve to strengthen the relationship between federal law enforcement and the Muslim community and improve coordination – with the express purpose of keeping our communities safe from extremism and protecting civil liberties. These regularly held meetings are clear examples of the level of cooperation between different Muslim American organizations and law enforcement agencies at the local and national levels.

Representatives of the Council also participated in several meetings organized by DHS in Washington D.C, where more than 20 national and regional Muslim organizations were invited for discussion on fighting violent extremism. Frank and open feedback was provided by Muslim leaders about different DHS initiatives, and that has in my view helped develop better policies, as well as improve their implementation at the community level.

The Council also places high priority on our community's youth and on civic engagement. Our youth activities and programs promote character, spirituality and citizenship. For example, for the past three years, we sponsor the "Illinois Muslim Action Day" – a highly anticipated event which brings together hundreds of students and Muslims of all ages and from across the state to travel to Springfield, our State's capital. There, they engage directly with their elected representatives and advocate for reform in such areas as education, health and nutrition, refugee assistance and the environment. Haleema Shah, a 10th grade student from Islamic Foundation School in Villa Park, remarked on her experience: "I enjoyed the amount of action

that was taking place in the Senate chambers and being able to feel like I was trusted with some great responsibilities.” Another student remarked: ““I didn't know how real these people were. I was just able to go up to them and tell them what I thought was important about our laws!”

We believe that engaging youth at the civic level helps promote a balanced and strong American identity that prevents alienation and radicalization. We also provide sensitivity training to public schools, leadership development programs, writing workshops, teacher trainings and other community-based activities.

Concerns regarding the Civil Rights and Liberties of American Muslims in the Chicagoland Area

The civil rights struggle of American Muslims mirrors to a great extent the challenges many other newer faith communities have faced since the founding of our nation. Catholics, for example, suffered immense bigotry, discrimination and, at times, mob violence. In the mid-1800's, our nation witnessed the rise of a very powerful anti-Catholic nativist movement, often referred to as the “Know-Nothings.” This movement achieved a frightening amount of political power at the time. Its rallying cry: the fear that Catholics, beholden to the Pope, were engaged in a secret plot to subjugate America to ecclesiastical authority.

Today's “Know-Nothings” are driving efforts to pass so-called anti-Shariah legislation, which has been passed or proposed in approximately 13 states. Proponents of these efforts claim that “Shariah” undermines the Constitution. As one state legislator put it, Muslims have come to America to “take away liberties and freedom from our children.”¹ Frank Gaffney, perhaps the most prominent of the fear mongers, argues that Muslims who practice “Shariah” should be tried

¹ McKinnley, Jr., James C. (2010, November 12). Oklahoma Surprise: Islam as an Election Issue. *New York Times*. Retrieved from <http://nytimes.com>

for sedition.² This is insanity. These allegations are premised on gross mischaracterizations of the term “Shariah,” and are ultimately un-Constitutional and un-American. At worst, these efforts threaten to criminalize basic Islamic practices like prayer, fasting and charitable giving since these religious acts are governed by “Shariah.” At a minimum, these efforts are thinly veiled expressions of contempt of all things Muslim; and all based on a level of ignorance that is simply unacceptable.

Such xenophobia harkens back to another dark chapter in our country’s history. During World War II, Japanese Americans were stripped of their liberties and taken from their homes to live in internment camps. In fact, I would like to thank, in particular, leaders in the Japanese American community of Chicago who have come forward with their support in the fight against Islamophobia.

Last summer, during the height of the controversy over the Islamic community center in Lower Manhattan, Mayor Bloomberg stood firm for freedom of religion and against bigotry. Mayor Bloomberg reminded us that the struggles of Muslim Americans are not too dissimilar from his own forefathers. He recalled in his remarks the story of a small Jewish community living in lower Manhattan, which had petitioned Dutch governor Peter Stuyvesant for the right to build a synagogue. They were turned down.

Now in many ways, Muslim Americans face that same mistrust and abuse, bred of ignorance and intolerance. Some of the challenges we face are unique: an unnervingly high number of Americans continue to mistakenly conflate Islam with the acts of murderers on 9/11; our military is engaged in now three Muslim majority countries; and there is widespread unemployment and economic anxiety.

² “Gaffney thinks Muslims practicing Sharia should be tried for Sedition”. Right Wing Watch. Posted March 12, 2011. Accessed March 27, 2011 (<http://www.rightwingwatch.org/content/gaffney-wants-muslims-practicing-sharia-prosecuted-sedition>)

Here in Chicago and across Illinois, we have seen an increase in civil rights cases over the past few years. Such cases range from employment discrimination claims to zoning and land use challenges to hate crimes directed at individual Muslims. On the issue of zoning rights, we have faced an unusually difficult time in DuPage County, where a number of Muslim communities have sought permission to build. We appreciate the DuPage County Board for their recent approval of the MECCA application, but we continue to be concerned at the hurdles other Muslim communities are facing such as the Irshad Center and the Islamic Center of Western Suburbs. On the issue of discrimination, we continue to see too many private employment claims and a number of claims involving public entities, such as a recent matter involving a family who were barred from a public pool on account of their dress, the targeting of Middle Eastern business by officials of the suburban village of Worth and discrimination claims involving Columbia College.

In Chicagoland, we strongly support and work closely with the Chicago chapter of the Council of Islamic American Relations (CAIR Chicago). CAIR Chicago handles and monitors civil rights cases on behalf of employees, mosques and individuals facing immigration and/or other issues with governmental agencies. CAIR Chicago keeps an updated digest of civil rights claims and incidents on its website at: <http://www.cairchicago.org/civil-rights-case-digest/>

Proposed Measures to Improve Civil Rights of Muslim Americans

In the spirit of these hearings, we make several recommendations. First, we believe that there should be a focused effort to strengthen, whether by additional staffing or the allocation of additional resources, the Office of Civil Rights at the United States Department of Justice. On the state level, we propose that the Attorney General of the State of Illinois form a commission

to explore ways in which the State can better address civil right violations. A similar effort can be made in Chicago and other municipalities.

In addition, the Council advocates that government and law enforcement officials at every level receive objective educational and sensitivity training about Islam and Muslims. Islamic illiteracy in the United States is simply unacceptable. A recent Gallop poll showed that 53 percent of Americans view Islam negatively and more than four out of 10 admit to being at least a little prejudiced against Muslims. This prejudice stems from lack of education as the poll showed that 40 percent of those who responded had little knowledge about the faith and 23 percent had none at all. Together, we must find ways to better educate Americans about their Muslim neighbors.

The government should also take into consideration numerous studies that provide recommendations on the civic and political integration of American Muslims. In 2006, the Chicago Council on Global Affairs convened a Task Force of American Muslims and non-Muslims to explore the ways in which Muslim Americans can be better integrated into this nation's civic and political life and developed several strategies. In addition, a recent Duke-UNC study entitled "The Extent of Radicalization in the American Muslim Community and that Community's Response," funded by the federal government, also offers several such suggestions. For example: encouraging political mobilization of the American Muslim community, promoting public denunciations of violence against Muslims, and improving the relationship between law enforcement and Muslim American communities. Better relationships can be established by law enforcement by developing policies on the appropriate use of informants in Muslim-American communities and discuss these policies openly with community leaders as well as hiring more Muslims by law enforcement.

In conclusion, discrimination against Americans based on their faith is divisive, un-American and a direct challenge to the pluralism that makes our nation great. Chairman Durbin, your leadership on protecting civil liberties is well established. We appreciate you once again taking a strong stand to defend these liberties.

**WRITTEN STATEMENT SUBMITTED TO SENATE JUDICIARY
SUBCOMMITTEE ON THE CONSTITUTION, CIVIL SOCIETY AND
HUMAN RIGHTS**

"Protecting the Civil Rights of American Muslims"

Tuesday | March 29, 2011 | 10:00 a.m. | Dirksen Senate Office Building Rm226

The Threat of Islamophobia to American Muslim Civil Rights

Dr. Muqtedar Khan

Associate Professor, University of Delaware
Fellow, Institute for Social Policy and Understanding

"The overwhelming majority of Muslim Americans are outstanding Americans and make enormous contributions to our country" – Rep. Peter King, Republican from NY.

I want to preface my comments with an expression of gratitude to Senator Richard Durban from Illinois for raising national awareness about the precarious condition of American Muslims' civil rights. At a time when Muslim bashing has become the country's favorite past time, it is indeed lionhearted of Senator Durban to recognize that Muslims too are Americans and therefore entitled to the same human rights that all other Americans enjoy. More importantly this hearing sends the message that not all Americans are Islamophobic and that America does take its responsibility to safeguard Muslims and their civil rights seriously. I also want to express my thanks for giving me this opportunity to contribute a written statement on the issue at hand. It is indeed a great honor.

For the past few months, American Muslims have been forced to suffer an incredibly hostile civic environment in which, prominent politicians, religious leaders and political commentators have expressed egregiously hateful sentiments towards Muslims and their beliefs. Some prominent mainstream leaders have launched sustained campaigns to marginalize American Muslims and deprive them of protections guaranteed by the

Bill of Rights enshrined in our constitution. State after state has embarked on legislative endeavors to make the practice of Islam illegal in the World's oldest democracy.

Using disingenuous and mendacious distinctions between Islam and Islamic Shariah, between Muslims and radical Muslims; a coalition of individuals and groups associated with the far right and conservative perspective are using *law as cover for prejudice* and are seeking to make the very practice of Islam unacceptable in America. An emerging anti-Muslim ideology is using hateful symbolism such as 'Quran burning', falsely claiming that '80% of American Muslims are extremists', and political gamesmanship like 'banning the shariah' to create and sustain an atmosphere and culture of extreme hostility, suspicion, and hate towards Islam and Muslims. It is this hateful ethos that is putting Muslim rights at risk. It encourages people to ill-treat Muslims and allows law enforcement to act without regard for the constitutional rights of Muslims.

Admittedly there have been several instances of terrorism related instances involving American Muslims in the past 10 years and they have caused 40 deaths. The most prominent generator of anti-American hate on the Internet, which now enjoys monopoly as the dominant source of radicalization of American Muslims, is Anwar Awlaki, an American born Muslim. The threat of terrorism remains a vital concern and American Muslims more than anyone else are acutely aware of it for terrorism presents a double threat to American Muslims. American Muslims are as likely to be victims of terrorism as anyone else, but unlike everyone else they also have to suffer the consequence of the inevitable backlash.

Usually in democracies, laws, leaders and law enforcement agencies, protect minority rights and hate groups and fringe elements become threats, but unfortunately in the U.S. these very same guardians have become fountainheads of discrimination. This, in my opinion is the biggest danger since this trend is *mainstreaming Islamophobia*. In the rest of my statement, I will highlight the two main trends through which Islamophobia is becoming a national phenomenon that then leads to a rights compromising culture.

Law as Cover for Islamophobia

A prominent segment of the American political right, associated with the emerging conservative social movement the Tea Party, has deployed a two-prong strategy to demonize Islam and Muslim beliefs. Their strategy seeks to argue that (a) the U.S.

constitutional guarantees with regards to freedom of speech do not apply to Islam and (b) they seek to in fact ban the very practice of Islam in the U.S. by moving state legislatures to “ban the Sharia”. This subversive strategy that uses both the US Constitution and law in the service of intolerance reflects either a misunderstanding of the idea of religious liberty or a deliberate disregard for the very principle of religious freedom.

Islam and the First Amendment

Bryan Fischer, of the American Family Association is one of the many conservatives advocating the idea that the first amendment in the U.S. constitution does not protect non-Christians. He argues that the First Amendment was written to protect Christianity and does not protect Islam because Islam requires Muslims to rob, kill and pillage Christians.¹ Similar statements arguing that the First Amendment does not or should not be allowed to protect Islam have been made by General William Boykin², a U.S. army veteran turned preacher of hate, Lynne Torgerson a Republican Congressional Candidate from Minnesota in the general elections of 2010³, and Martin Peretz a prominent conservative and a longtime Editor-in-Chief of The New Republic.⁴

This idea that the US Constitution does not protect Islam is a declaration of war on the civil rights and human rights of American Muslims. It is also an assault on the US Constitution. In order to make discrimination against Muslims legally and politically acceptable, these hate mongering Islamophobes, have to first maul and diminish the US constitution. Discrediting their view does not only serve to protect American Muslims’ civil rights but also the dignity and sanctity of the US. Constitution. If a handful of extremists and fringe elements were airing these sentiments, then they can be ignored as cost of free speech in a free society, but if it is a concerted effort by a prominent section of the society and geared towards to impacting national policy, then it should be recognized for what it is, a threat to the most precious of American values – freedom of religion.

James Iredell, one of the first justices of the U.S. Supreme Court and a devout Anglican Christian who knew the founding fathers and the framers of the constitution personally, maintained that:

“I consider the clause under consideration as one of the strongest proofs that could be adduced, that it was the intention of those who formed this system to establish a

general religious liberty in America.”⁵

He also emphasized explicitly that the First Amendment protects Muslims (he used the term Mohematans a term often used in the past to identify Muslims as followers of Prophet Muhammed), and excluding them would undermine the very principle of religious liberty and open the door for persecution.

“But it is objected that the people of America may, perhaps, choose representatives who have no religion at all, and that pagans and Mahometans may be admitted into offices. But how is it possible to exclude any set of men, without taking away that principle of religious freedom which we ourselves so warmly contend for? This is the foundation on which persecution has been raised in every part of the world. The people in power were always right, and everybody else wrong. If you admit the least difference, the door to persecution is opened.”⁶

The views of Justice Iredell, I submit, are representative of the fact that the original intent of the First Amendment did not exclude Muslims from its purview. Indeed it protects Muslims from precisely the kind of exclusionary politics advanced by the likes of Martin Peretz and Bryan Fischer.

Making Shariah Illegal

For the past one-year, Republican State legislators have been attempting to pass bills that will ban the practice of Islamic Sharia in the U.S. and in U.S. courts. This is allegedly a preemptive strategy to prevent the imposition of Sharia in America. The endeavor has manifested itself in different avatars in Tennessee, Missouri and Florida. A referendum to the same effect was stayed in Oklahoma. It is apparent that unless the US Constitution is amended such laws, even if passed by bigoted legislators, will not pass muster at the courts. But I suspect that the media attention that such initiatives garner have become a source of political capital for some members of the Republican party who are determined to traffic in prejudice for political gain. But the damage these pernicious legal shenanigans bring to the social fabric of our country is immeasurable. The discourse that is necessary in order to pass anti-Sharia bills is making hatred part of the daily diet of Americans.

The anti-Sharia advocates try to make the distinction between peaceful practice of Islam

and the hateful rhetoric of terrorists when they are questioned, but their discourse includes false propaganda that Islam preaches the killing of Christians, and that the Sharia is a narrow legal doctrine limited to hateful things. The Sharia in fact encompasses both – Islamic belief and Islamic practice. Banning the Sharia entails prohibiting Muslims from believing that there is one God, from giving alms to the poor, from fasting, from pilgrimage and from prayer; since all these pillars of Islam are the cardinal elements of the Sharia. The Sharia also teaches Muslims that Christians are not infidels but *people of the book* who belong with Jews and Muslims to the Abrahamic tradition of monotheism.⁷

This whole premise that America will be Islamized if preemptive steps are not taken is laughable. According to a religious identification survey, 76% of Americans identify themselves as Christians⁸. In spite of this majority and after decades of activism by conservative politicians and concerned Christians, they have failed to impose on America, one principle of the Christian Sharia -- prohibition of abortion. How can Muslims who according to the same survey constitute less than 1% of the population, living in an America infested with Islamophobia, impose the Sharia on the rest of America? In fact even in countries where Muslims are in overwhelming majority they have managed to implement the Sharia often in only symbolic ways. The anti-Sharia advocates are needlessly undermining our social and cultural harmony by fighting a fight that is absolutely unnecessary.

The principle purpose of the Bill of Rights in the US constitution is twofold; to ensure equality and justice. The protection of religious liberty requires that all Americans be treated equally when it comes to the practice of religion. No legal differentiation is acceptable. And all enjoy the opportunity to not only practice their religious beliefs but to defend and express them. The various legal strategies that Islamophobes are employing against Islam and Muslims are an affront to the very idea of liberty. I conclude by quoting the doyen of religious liberty in America, Thomas Jefferson who settled this issue long before the U.S. Constitution was even crafted. Writing about the rejection of the effort by some in the State of Virginia to limit religious freedoms enshrined in the Virginia Statute of Religious Freedom in 1786, which guarantees the religious liberty of all people, Jefferson wrote:

“was rejected by the great majority, in proof that they meant to comprehend within the mantle of its protection, the Jew and the Gentile, the Christian and Mahometan, the Hindoo, the infidel of every denomination.”

The issue of whether Muslims' religious liberty is protected in America was settled ages ago. It is a shame that we need to remind ourselves of it again.

Islamophobia as a Spectacle

Islamophobia has become a public spectacle. Religious leaders, politicians and members of the new emerging news-cum-celebrity profession of radio and television hosts, are all resorting to Muslim bashing as an easy way to attract media attention, raise funds and increase their public profile and in some circles popularity. Wearing bigotry on one's sleeve as a badge of honor has become a performative style in American political culture.

Two recent events, a congressional hearing hosted by Rep. Peter King the Chair of the House Committee on Homeland Security on Muslim Radicalization on March 10, 2011, and the burning of the Quran on March 21, 2011 by Pastor Terry Jones and his congregation in Florida after holding a "trial of the Quran"⁹, show how Islamophobia has become a spectator sport. The Peter King hearing was designed to use the august institution of the Congress to propagate two beliefs held by Congressman Peter King: (a) that Muslims are not cooperating with US law enforcement in the struggle against terrorists and (b) that a vast majority of Muslims, over 80% of them, are radicalized. Peter King's struggle to find reliable sources who would corroborate his prejudicial fancies are well recorded in the media. There is overwhelming evidence that proves that most American Muslims are law abiding and moderate in their outlook, and many of the terror plots exposed in the past have been due to cooperation from the Muslim community. To his credit, Peter King did recognize this. See his comment quoted at the beginning of this statement.

Peter Kings' hearings did not make America safer. They made American Muslim civil rights unsafe, demonized an entire community and may actually contribute to radicalizing and alienating some Muslims and reducing their cooperation with the government. But the hearings did generate a spectacle of prejudice and definitely raised Peter King's profile among those with whom intolerance and hatred sits comfortably. It also confirmed the view of many in the Muslim World that America's war against Islam is not over yet. These hearings were such a bonanza for radical groups efforts at recruitment that surely Al Qaeda would have been happy to sponsor them.

The mock trial of the Quran that Pastor Terry Jones oversaw and the punishment that he meted out to the Holy Quran ironically shows that it is not the Quran but Christian pastors like Jones who are guilty of propagating and preaching hate. The act was clearly designed to insult millions of devout Muslims who revere the Quran. But sadly it was also an attempt to win a bigger share of the market of prejudice that now thrives in the U.S.

Final Thoughts

Islamophobia is witnessing a spectacular growth in the American public sphere. It creates an environment that casts suspicion on all Muslims, demonizes their faith and makes their lives difficult in small and big ways. There are increasing incidents of discrimination while travelling, in the job market, and while reentering the country after foreign trips. Every time Muslims try to construct a place of worship it is being used as an opportunity for Islam bashing and to garner political capital at the expense of Muslims. Law enforcement agencies, even though they enjoy a great deal of cooperation from the community continue to use religious profiling as a tool. The systematic and steady erosion of Muslim civil rights is also a slow and systematic corrosion of our constitution and our democracy.

Dear members of the Senate Judiciary Subcommittee on the Constitution, as members of the United States Senate, you all have sworn to uphold and defend the US constitution. The biggest threat to the constitution today manifests as Islamophobia. Protect the constitution by rejecting Islamophobia.

¹ See Bryan Fischer, "Islam and the First Amendment: Privileges but not Rights," published in *Renew America*, March 24, 2011. See on the World Wide Web at: <http://www.renewamerica.com/columns/fischer/110324>

² General William Boykin's Essay on the subject can be read here: <http://www.euro-islam.info/2011/02/25/an-essay-by-gen-william-g-boykin-former-u-s-general-says-constitution-should-not-protect-muslims/>

³ See <http://loganswarning.com/2009/12/11/togerson-for-congress-islam-should-not-have-1st-amendment-status/>

⁴ See <http://www.tnr.com/blog/77475/the-new-york-times-laments-sadly-wary-misunderstanding-muslim-americans-really-it-sadly-w>

⁵ See his comments made during the debate in North Carolina ratifying convention http://press-pubs.uchicago.edu/founders/print_documents/amend1_religions52.html.

⁶ See Ibid.

⁷ See my argument about the compatibility of the Islamic Sharia and Judeo-Christian values, "Sharia is based on Ten Commandments," The OnFaith blog of The Washington Post, August 4, 2010. http://onfaith.washingtonpost.com/onfaith/panelists/muqtedar_khan/2010/07/islamic_sharia_is_based_on_the_ten_commandments.html

⁸ The survey was conducted by Barry A. Kosmin and Ariela Keysar of Trinity College, see http://b27.cc.trincoll.edu/weblogs/AmericanReligionSurvey-ARIS/reports/ARIS_Report_2008.pdf

⁹ http://www.usatoday.com/news/religion/2011-03-21-quran-burning-florida_N.htm



245 SECOND STREET, NE
 WASHINGTON, DC 20002-5795 USA
 PHONE (202) 547-6000
 TOLL FREE PHONE (800) 630-1330
 FAX (202) 547-6019
<http://www.fcnl.org>

FRIENDS COMMITTEE ON NATIONAL LEGISLATION

... a Quaker lobby in the public interest

PROTECTING THE CIVIL RIGHTS OF AMERICAN MUSLIMS

Hearing before the Senate Judiciary Subcommittee
 on the Constitution, Civil Rights, and Human Rights
 March 29, 2011

STATEMENT FOR THE RECORD

from the

FRIENDS COMMITTEE ON NATIONAL LEGISLATION

In November 2009, the General Committee of the Friends Committee on National Legislation (FCNL) gathered in Washington D.C., representing 26 regional bodies (Yearly Meetings) of Quakers from all over the country. The general committee gathers each year to undertake decisions on policies and priorities to be pursued by the national organization. In this particular meeting, the gathered body took an extraordinary step, to adopt a "minute" (a resolution) on relations with American Muslims. The minute arose out of deep-felt concern for evident violations of the civil rights and religious freedom of American Muslims. Here are some excerpts from that minute:

"The Friends Committee on National Legislation works in a time of extraordinary challenges that demand extraordinary effort. One underplayed but critical issue among us and our organizations is the sometimes abusive treatment, whether subtle or overt, of American Muslims.

As Quakers, we at FCNL seek a global household built on the foundation of the power of love and the force of truth. Our work begins with ourselves and our own country. This work must include our embrace of the "other," replacing "tolerance" with acceptance of sustained relations and collaboration on issues of mutual concern. Americans of African, Latino, and Asian descent have long experienced racial, ethnic, and economic discrimination. Especially since 9/11, American Muslims have suffered a triple-edged stereotype: foreigner, infidel, and terrorist-sympathizer.

The Christian roots of Quakerism bring us Jesus' answer to "Who is my neighbor?" in his parable of the Good Samaritan [Luke 10: 35-37]. Paul heard this message and worked to open the community of believers to the Other, regardless of ethnicity, status, or gender.

[Gal. 3:28]. Many Quakers have extended their hands to every Other over the centuries.

Our shared service and policy activities with Muslim and other minority organizations could make a long term contribution to peace and justice and better address shared legislative and community concerns.”

The minute committed the FCNL to work against religious discrimination, racial profiling, and violence directed toward American Muslims and commended similar action and attention by Friends as individuals and as meetings and church congregations around the country.

At the national level, FCNL has continued to collaborate with American Muslims on important issues such as the ban on torture, protecting programs for low income people, immigration, and supporting religious freedom for all. The FCNL gathered thousands of signatures to a petition to “Stand with American Muslims,” who were being told they could not build a cultural center close to the site of the World Trade Center in New York.

We wrote to members of the House Committee on Homeland Security, urging them reject the premise of the committee’s hearing on “The Extent of Radicalization in the American Muslim Community and that Community’s Response.” We expressed our view, as a faith-based group, that “it is inappropriate for Congress to inquire into the teachings and practices of any religion. Congress is empowered, rather, to inquire into criminal actions and plans that are detrimental to the United States, without regard to religion.” We noted, in addition, the “unfairness and disingenuousness of singling out this one religion, when the majority of terrorist acts committed in this country in recent decades have been committed by people with other or no religious roots.”

We now share a concern that members of your committee have expressed about the threatening and violent consequences of the House hearing, which sadly are already evident. We appreciate the occasion your committee is providing to look into the discriminatory and even dangerous attention visited upon this growing minority group within American society.

This society has had to grow and change many times as each succeeding generation notes and responds to the arrival of “new” members in communities across the country. The key is recognizing that we are, in fact, all members of our communities; it is in our common interest to discover and accept our common humanity. We welcome the inquiry of the Senate Judiciary Committee’s subcommittee on the Constitution, Civil Rights, and Human Rights into ways to protect the civil rights of this threatened group of Americans.



General Board of Church and Society of The United Methodist Church

100 Maryland Avenue, N.E., Washington, D.C. 20002-(202) 408-5600
 Fax (202) 483-5619 • E-mail: gbcs@umc-gbcs.org • Website www.umc-gbcs.org

Statement of the General Board of Church and Society of The United Methodist Church

**Submitted to the Senate Judiciary Subcommittee on the Constitution,
 Civil Rights, and Human Rights**

For the March 29, 2011 Hearing: “Protecting the Civil Rights of Muslims”

The United Methodist Church is the third largest denomination in the United States and has over 11 million members worldwide. The General Board of Church and Society is tasked with bringing “the whole of human life, activities, possessions, use of resources, and community and world relationships into conformity with the will of God. It shall show the members of the Church and society that the reconciliation that God effected through Christ involves personal, social, and civic righteousness.”

We applaud Senator Durbin and Senator Graham for holding a hearing on “Protecting the Civil Rights of Muslims.” Their leadership in holding this hearing proves that defending the rights of religious minorities is a bipartisan issue.

We are concerned about the recent spate of anti-Muslim bigotry, including Qu’ran burnings, restrictions on mosque construction, hate crimes, and hate speech directed against Muslims. Too often Muslims and other religious minorities have been demonized and marginalized during discussions of such issues as national security. There is a better way to unite and secure our nation than by marginalizing an entire religious group in the United States.

The United States is known throughout the world for securing religious liberty for all religious groups. Yet, it is also sadly true that at times in our history particular groups have been singled out for unjust discrimination and have been made the object of scorn and animosity. We are profoundly distressed and deeply saddened by the incidents of violence committed against Muslims, the desecration of Islamic houses of worship, and the threatened burning of copies of the Qu’ran. These attacks represent a widespread practice of discrimination and bigotry against Muslims and must not be tolerated.

In the face of the violent attacks and discrimination on Muslims, The United Methodist Church states:

These persons are suffering the effects of a particularly virulent prejudice too often aided and abetted by statements and images in the media and by rhetoric from some of the highest political leadership. The suffering of this community has increased dramatically since the tragic events of September 11, 2001. As part of the fabric of racism in the U.S.A., in which both subtle and violent acts continue against ethnic

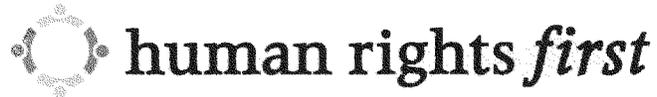
groups and persons, such acts are also being perpetrated against the Arab and Muslim communities in the U.S.A. These expressions of racism manifested in violent acts have also increased since September 11, 2001.

Arab American organization offices, mosques, and Islamic centers have been bombed and torched. Leaders of these communities have been murdered and questionable uses of law have been utilized to stifle the rights of association and freedom of expression. Arab persons and/or persons looking like Arabs are being detained in airports and other places without justification. They are continually subjected to harassment and discrimination. Though discriminatory acts against Arabs and Muslims do not stand in isolation from similar acts perpetrated against other racial and ethnic persons in the U.S.A., their existence and effects upon Arabs and Muslims have been little acknowledged in U.S. society. ("Prejudice Against Muslims and Arabs in the U.S.A.," *United Methodist Book of Resolutions*)

As United Methodists, we seek to counter stereotypical and bigoted statements made against Muslims by working to shed light on these incidents and to create space for greater relational understanding and acceptance. We join with Jews, Muslims and members of all religions that are represented in the United States in our thankfulness to live in a democracy whose Constitution guarantees religious liberty for all. We wish to secure that liberty for all religions. We are committed to building a future in which religious differences no longer lead to hostility or division between communities. We strongly believe that such diversity can enrich our public discourse and further instill in us the determination to address the great moral challenges that face our nation and our world. Exploiting religious differences as a wedge to advance political agendas or ideologies cannot be justified for any reason.

We call on our elected leaders and members of the media to join in a renewed commitment to mutual learning and respect among religions. National and local religious leaders also have a special responsibility to teach with accuracy, fairness and respect about other faith traditions. The partnerships that have developed in recent years between synagogues, mosques, and churches provide a foundation for interfaith education and collaborative efforts to address issues of injustice in our communities. What we can accomplish together is far more than we can achieve working in isolation from one another. This collaboration can provide for healing between religious divisions that have brought about so much hurt, especially to members of religious minorities.

We are convinced that elected leaders and religious leaders must partner together to denounce derision, misinformation and outright bigotry directed against Muslims. Silence is no longer acceptable. Only by taking this stand, can we fulfill the highest calling of our respective faiths, and thereby help to create a safer and stronger nation for all of our people. We again applaud this hearing and look forward to continued partnership in preserving the civil rights of all people of all religions.



"PROTECTING THE CIVIL RIGHTS OF AMERICAN MUSLIMS"

Statement before

Subcommittee on the Constitution, Civil Rights, and Human Rights

Senate Committee on the Judiciary

Chairman Richard Durbin

By

PAUL LEGENDRE

Director, Fighting Discrimination Program

Human Rights First

March 29, 2011

INTRODUCTION

On behalf of Human Rights First (HRF), I thank you, Mr. Chairman, for examining the issue of civil rights protections for American Muslims. We are grateful for the opportunity to submit testimony to make the case that this is also a human rights issue.

HRF has been monitoring anti-Muslim violence and other bias-motivated crimes since 2002 and pressing for stronger government action to combat it. Our advocacy has been based on documentation of the problem in Europe and North America in the following reports:

- *Everyday Fears: A Survey of Violent Hate Crimes in Europe and North America* (2005);
- *2007 Hate Crime Survey: Islamophobia* (2007);
- *2008 Hate Crime Survey: Anti-Muslim Violence* (2008). Updated in 2010 and 2011.

Our focus has been on the problem of anti-Muslim violence and related hostility and on practical steps that governments and others can take to more effectively combat this problem, while respecting other fundamental freedoms.

Anti-Muslim violence in the U.S. is a unique and complex form of racism and religious intolerance. While attacks on Muslims may often be motivated by racist or ethnic bias, intolerance is increasingly directed at Muslim immigrants and other minorities, who are perceived to be Muslim, expressly because of their religion.

This statement reflects our findings on the incidence of violent hate crimes against Muslims in the U.S., together with recommendations for action. HRF has long maintained that anti-Muslim violence, as well as other forms of hate crime, must be viewed and responded to as a serious violation of human rights and that the U.S. Government can and must do more to confront these abuses. Likewise, we believe it is important that these violations be challenged, not just by victims' groups or those who represent communities of targeted individuals, but by all those who seek to advance universal rights and freedoms.

U.S. leadership is essential to human rights progress around the world. A founding value for the U.S., the promotion of civil rights and religious freedom is a priority in America's foreign policy. Still, our success abroad will depend on an unfaltering, uncompromising protection of the individual civil and human rights in our own society.

Civil rights abuses against American Muslims—or any other group singled out on account of their religion, race, or ethnicity—threaten to compromise this fundamental stance, undermine core American values, and weaken the U.S.'s reputation among foreign foes and friends alike. HRF hopes that, through this Congressional hearing and further follow-up action, the United States government will continue to uphold and reaffirm the civil rights of American Muslims, sending a strong signal globally that the U.S. leads by example in guaranteeing the fundamental rights of all of its citizens.

ATTACKS ON INDIVIDUALS, PLACES OF WORSHIP, CENTERS OF ISLAMIC CULTURE, AND CEMETERIES

The United States is one of the few countries that conducts systematic official monitoring and recording of anti-Muslim hate crimes. For the reporting year 2009, the last year for which data is available, the Federal Bureau of Investigation reported 107 “anti-Islamic” incidents, registering a slight increase from 2008 (105).¹ Of the offenses motivated by religious bias, 9.3 percent were anti-Muslim (up from 7.7 percent in 2008).

Hate crimes place people of Middle East and South Asian origins under threat whether or not they are Muslims, even as Muslims faced the double discrimination of racism and religious prejudice. There are also indicators suggesting that many anti-Muslim incidents go undocumented. This is due to underreporting of incidents by victims of hate crime, but also because of underrecording by law enforcement officials. Despite a steady increase in the number of agencies that participate in the hate crime data collection program (14,422, up 5.1 percent from 13,690 in 2008), far fewer agencies (2,034, down 5.5 percent from 2,145 in 2008), actually reported any hate crimes in their jurisdiction. Nearly four thousand police jurisdictions still do not participate in the voluntary program. **One important step going forward would be for the Department of Justice to enhance hate crime reporting by local jurisdictions, working with agencies that have not participated, have underrecorded, or have reported “zero” hate crimes in the past.**

Reporting is critical because it establishes the patterns where hate crimes may more likely occur, and thus enables law enforcement to better protect communities and individuals at risk. Individuals who fear violence cannot move freely in the towns and cities where they reside. Even where hate crimes do not involve severe violence, the result may be progressive marginalization and exclusion, preventing those under threat from the exercise of a range of rights. Fear of violence—compounded by the lack of trust in state authorities to respond to it adequately—may deter people from venturing out even to places of worship. Accounts of individual cases continue to highlight the high exposure of visible minorities distinguished by particular clothing or other signs of faith. Severe incidents, particularly murders, remain rare. Lower-level assaults and day-to-day harassment occur far more frequently, although often go unreported. Some recent examples include the following:

- On February 4, 2011, a Muslim man was stabbed with a pocket knife in Saint Petersburg, **Florida**. A discussion about religion turned violent when the victim said he was a Muslim. The perpetrator became upset, grabbed the victim, and stabbed him in the neck. The victim required medical treatment, and the alleged perpetrator was arrested on a charge of aggravated battery.²
- The filmmaker Usama Alshaibi claimed he was beaten after telling people his first name was “Usama” at a party in Fairfield, **Iowa**, on March 6, 2011. Alshaibi says he walked into a house and was assaulted by four men upon telling them what his name was. Alshaibi was punched in the face and the head and knocked down. Fairfield Police said they were investigating the incident as a hate crime.³

¹ U.S. Department of Justice, Federal Bureau of Investigation, Criminal Justice Information Services Division, “Hate Crime Statistics 2009,” October 2010, <http://www2.fbi.gov/ucr/hc2009/incidents.html>.

² Kameel Stanley, “St. Petersburg man accused of hate crime against Muslim,” *The St. Petersburg Times*, February 5, 2011, <http://www.tampabay.com/news/publicsafety/crime/st-pete-man-accused-of-hate-crime-against-muslim/1149809>.

³ <http://www.chicagotribune.com/news/local/breaking/chibrknews-filmmaker-says-1st-name-usama-led-to-beating-20110307.0.1334947.story>

- On August 25, 2010, in **New York City**, a city cab driver Ahmed Sharif was stabbed multiple times by an intoxicated passenger who allegedly asked if the driver was Muslim. The 21-year-old perpetrator was detained and charged with attempted murder, assault, aggravated harassment, and possession of a weapon. Hate crime provisions were included in the charges that were upheld in January 2011, while the trial is scheduled to resume in March 2011.⁴
- On December 21, 2010, a 20-year-old woman was assaulted in her mosque's parking lot in Columbus, **Ohio**. The victim, a Somali immigrant, was attacked with pepper spray as the perpetrator shouted anti-Muslim slurs at her and told her to "tell the Muslims to go back from wherever they are from." The F.B.I. opened a hate crime investigation into the assault.⁵
- On October 21, 2010, King County prosecutors charged a woman with a hate crime after she allegedly kicked one Muslim woman and slammed a car door on her leg, pushed another Muslim woman and yelled epithets at both of them Saturday at a gas station in Tukwila, near Seattle, **Washington**. The incident occurred at a gas station, as the victims were filling up their car's gas tank. The unprovoked perpetrator, upon noticing the Muslim women, started yelling anti-Muslim slurs and told them to "go back to their country."⁶

Mosques and other places of worship are easily identifiable targets of anti-Muslim hate crime. Some examples of acts of vandalism and arson—a wave of which took place amidst the national debate over construction of the "Ground Zero mosque" in New York—include the following:

- An Islamic Center in Madera, **California**, has been vandalized multiple times since August 18, 2010. A brick nearly smashed one of the windows, and three signs were found at the Center's mosque. The incidents are under investigation as hate crimes.⁷
- In August 2010, at the beginning of the Muslim holy month of Ramadan, five teenagers were honking horns and yelling slurs outside a mosque in Waterport, **New York**. The five youths were arrested after the son of one of the founders of the mosque was sideswiped by a sport utility vehicle. Another teenager was charged with firing a shotgun in the air near the mosque a few days earlier.⁸
- In **Tennessee**, a suspicious fire damaged four pieces of construction equipment at the site of a future mosque in Murfreesboro on August 28, 2010. An investigation as a possible hate crime was initiated. The incident was thought to be connected to proposals to expand the Islamic Center of Murfreesboro, which has existed for 30 years.⁹ The expansion proposals are currently being challenged in county courts, with the next hearing scheduled for April 13, 2011.¹⁰
- A playground at the Dar El-Eman Islamic Center in Arlington, **Texas**, was vandalized with racial slurs and graffiti, and later part of the center was set on fire in July.¹¹ A 34-year-old man faces hate

⁴ James Gordon Meek, "Justice Dept. probes Muslim cab driver Ahmed Sharif's throat slashing as possible hate crime," *The New York Daily News*, September 7, 2010, http://www.nydailynews.com/ny_local/2010/09/07/2010-09-07_justice_dept_probes_muslim_cab_driver_ahmed_sharif_s_throat_slashing_as_possible_hate_crime.html; and Associated Press, "Hate-crime case in NYC cabbie slashing upheld," *the Wall Street Journal*, January 26, 2011, <http://online.wsj.com/article/APdfe4524503646edb4cc1e5140958a03.html>.

⁵ "Muslim woman attacked in US," *PressTV*, December 22, 2010, <http://www.presstv.ir/detail/156567.html>.

⁶ Janet I. Tu, "Woman charged with hate crime against two Muslim women," *The Seattle Times*, October 21, 2010,

http://seattletimes.nwsource.com/html/localnews/2013220695_muslimwomen22m.html.

⁷ Diana Marcum, "Authorities investigate acts of vandalism at mosque as potential hate crime," *The Los Angeles Times*, September 8, 2010,

<http://www.latimes.com/news/local/la-me-0908-madera-mosque-20100908.0.6603004.story>.

⁸ "Spreading Intolerance," *The Watertown Daily Times*, September 8, 2010,

<http://www.watertowndailytimes.com/article/20100908/OPINION01/309089975>.

⁹ Mark Bell, "Arson at future Islamic Center site 'takes it to a whole new level,'" *The Tennessean*, August 28, 2010,

<http://www.tennessean.com/article/D4/20100828/NEWS01/100828009/Apparent+arson+under+investigation+at+site+of+future+Islamic+Center>.

¹⁰ "Murfreesboro mosque hearing delayed until April," *The Tennessean*, February 17, 2011,

<http://www.tennessean.com/article/20110217/NEWS01/102170346/Murfreesboro-mosque-hearing-delayed-until-April>.

¹¹ Craig Civale, "Arlington mosque braces for anti-Muslim protests," *WFLA.com*, September 8, 2010,

<http://www.wfla.com/news/local/Arlington-mosque-braces-for--102406549.html>.

crime charges on allegations that he set fire to playground equipment. If convicted, the perpetrator will be sentenced to up to 20 years in prison.¹²

THREATS TO RELIGIOUS FREEDOM

There are a range of threats to religious freedom faced by American Muslims. Among these concerns are discriminatory policies and legislative proposals—such as the denial of permits to build or operate mosques and religious centers. Requests for permits to build mosques have been increasingly debated and scrutinized across the United States, particularly in the wake of the national debates in the summer of 2010 over the construction of an Islamic center in downtown Manhattan, New York. Some examples include:

- Members of the Islamic Community Center of Phoenix, **Arizona**, found resistance from the neighborhood and some members of the city government even though the building of the mosque has been going on for years. Vandals broke into the new building, spilling paint on the floors and breaking windows. The Center’s chairman of the board stated that the “Ground Zero dispute” was partly to blame for the problems.¹³
- In DuPage County, **Illinois**, the County Board proposed a ban on opening new religious facilities in unincorporated residential areas following proposals to expand or build three Muslim sites. The request by the Irshad Learning Center for a conditional permit for a place of worship and school in Naperville was denied (on the grounds of being inconsistent with the subdivision) and the potential expansions of Islamic centers in West Chicago and Willowbrook were also debated. Muslim groups concerned claimed discrimination was at the heart of these debates.¹⁴
- In Temecula, **California**, protests were raging over the proposed construction of a mosque on land owned by the Muslim community. On July 30, some 35 critics rallied across the street from the Islamic Center of Temecula Valley, holding signs and shouting anti-Islamic slogans as the community’s Muslims were gathering for a Friday worship. In January 2011, the City Council voted to allow 150 families to build a mosque despite opposition from residents.¹⁵

ANTI-MUSLIM INTOLERANCE AND HATE SPEECH

Xenophobic and anti-Muslim rhetoric in the public discourse—in particular when coming from American political leaders and public officials—enhances a climate of intolerance and contributes to the marginalization of Muslims. The aggressive “us versus them” discourse can weaken the sense of security and may threaten the physical well-being of Muslim communities. Intolerant public discourse that goes unchallenged can foster indifference to abuses committed against members of minority groups. **While freedom of speech allows considerable latitude for offensive and hateful speech, intolerant discourse can and must be challenged in ways that respect free expression.**

¹² Jason Trahan, “Arlington man faces civil rights charges in fire at mosque,” *The Dallas Morning News*, February 22, 2011, <http://www.dallasnews.com/news/community-news/arlington/headlines/20110222-arlington-man-faces-civil-rights-charges-in-fire-at-mosque.ece>

¹³ Rachel Zoll, “For US Muslims, a 9/11 anniversary like no other,” *The Associated Press*, September 5, 2010, <http://www.google.com/hostednews/ap/article/ALeqM5iYMr4MEmlVu6my2WD-ogleNrlTOAD9I1876G0>

¹⁴ Susan Frick Carlman, “DuPage officials awaiting decision in Irshad case,” *The Glen Ellyn Sun*, August 25, 2010, http://www.suburbanchicagonews.com/glenellynsun/news/2632206.Irshad-case-DuPage-officials_SCN082410.article

¹⁵ Kevin O’Leary, “In Southern California, a Very Local Mosque Dispute,” *TIME*, August 21, 2010, <http://www.time.com/time/nation/article/0,8599,2012134,00.html>

HRF underscores the example of the reaction from individuals, as well as political, military, and faith leaders to the “Burn a Koran Day.” In summer 2010, a reverend with a 50-person congregation in Gainesville, Florida, capitalized on the wave of Muslim-bashing and fearmongering over the “Ground Zero mosque” debates in New York City and announced plans to publicly burn a Koran to mark the anniversary of the 9/11 attacks. The controversy surrounding the “Burn A Koran Day” prompted a wave of public outcry, leading to the eventual cancellation of the event, which was in the end overshadowed by interfaith events demonstrating solidarity and commitment to tolerance and diversity. In the days and weeks leading up to the proposed “Burn A Koran Day,” more than twenty religious organizations in Gainesville, Florida, united in hosting a series of events to affirm religious solidarity. Religious leaders incorporated Muslim, Jewish, and Christian scriptures into worship services focusing on peace and understanding. Religious leaders also called on state and local public officials to speak out against bigotry.

HRF also maintains that efforts to “scrutinize” or “investigate” American Muslims—such as was the case during the recent hearing on “The Extent of Radicalization in the American Muslim Community and That Community’s Response”—are counterproductive and may undermine attempts to address ongoing threats to U.S. national security. The hearing sponsored by Congressman Peter King (R-NY) did go forward, although was condemned by broad swaths of the American public and criticized by many political leaders and law enforcement officials. In targeting or scrutinizing American Muslims as “potential terrorists,” public officials can damage the U.S.’s international credibility in upholding freedom of religion and nondiscrimination and impact its ability to advance these fundamental rights globally. HRF seeks to promote policies that allow for the pursuit of legitimate national security goals that don’t entail the investigation of an entire community based on religion, race, gender, sexual orientation, or other similar characteristics.

Human Rights First submitted [a statement to the House Homeland Security Committee](#) describing how targeting American Muslims undermined effective local and federal law enforcement to counter terrorism. HRF’s statement underscored the United States must constantly assess how to identify, mitigate, prepare for, and respond to threats to our national security. Human Rights First also joined an array of security experts and local law enforcement who have stressed that the best practices of thwarting terrorist plots include a multilayered approach that rests on trust between government and community, and who have also cautioned that racial and religious profiling can undermine our national security at home and abroad.

THE SHARED NATURE OF BIAS-MOTIVATED VIOLENCE

The violence and hostility facing the Muslim community in the United States today is unique human rights violation, but also should be seen as part of a broader problem of hate crime in which people are targeted because of their race, ethnicity, religion, sexual orientation, gender identity, and disability.

In addition to anti-Muslim violence:

- People of African descent have comprised the largest number of victims of violent hate crime, reflecting longstanding patterns of such crimes in the United States.

- New trends of rising anti-immigrant violence have also been part of the larger pattern of racism and xenophobia. In these new patterns of violence, people of Hispanic origin, both immigrants and American citizens, have faced rising levels of violence driven by prejudice and hatred.
- Jews have continued to be among the principal victims of racist violence combined with religious hatred and prejudice.
- Attacks founded on sexual orientation and gender identity have been characterized by a high level of violence, with a higher proportion of personal assaults than in other categories of hate crime.
- People with disabilities have been targeted for abuse, torture, and murder. The number of attacks against disabled people is generally understood to be severely undercounted.

The shared nature of the problem of bias-motivated violence underscores the need for the government to continue to pursue comprehensive approaches to the full range of forms of hate crime, including by broadly reaching out to affected communities. **Strong government responses that show hate crimes will be prosecuted to the full extent of the law send an unequivocal signal that such incidents will not be tolerated by society. They also reassure members of communities under threat that their right to security is guaranteed and nonnegotiable.**

RECOMMENDATIONS FOR U.S. GOVERNMENT OFFICIALS AND POLITICAL LEADERS

1. Respond to Hate Crime in the United States

- Senior political leaders and law enforcement officials at all levels of government should publicly condemn violent hate crimes when they occur and ensure a vigorous law enforcement and criminal justice response.
- The Department of Justice should take steps to increase, through training and technical assistance programs, hate crime reporting by local jurisdictions, targeting agencies that have not participated, have underreported, or have reported “zero” hate crimes in the past.
- The Department of Justice and/or the Department of Homeland Security should study the causes and repercussions of bias-motivated violence and report publicly on the findings.
- The Department of Justice and other relevant bodies should enhance outreach to Muslim communities and civil society groups to reduce fear and assist victims, advance police-community relations, and encourage improved reporting of hate crimes to the police.

2. Respond to Intolerant Discourse in the United States

Political leaders, government and other officials serving in public office should:

- Pledge to refrain from using rhetoric that incites violence or promotes acts that curtail the enjoyment of the rights of others.
- Speak out publicly and consistently to condemn such speech when it occurs; build political consensus—reaching out across political party lines—to encourage speaking out.
- Use every opportunity to affirm common bonds of humanity and to guarantee equal protection under the law without discrimination for all individuals—citizens and noncitizens—in their jurisdiction. Leaders should take advantage of their positions to promote interreligious and intercultural understanding as well as policies and practices of nondiscrimination.

3. Lead Global Efforts to Combat Hate Crime

Hate crime has been on the rise in many parts of the world and the U.S. has long been engaged in international efforts to confront it. The following are actions the executive and legislative branches of the United States government can take to build on past success and to advance a vigorous human rights response to violent hate crimes globally.

The State Department should:

- Maintain strong and inclusive State Department monitoring and public reporting on racist, xenophobic and other forms of bias-motivated violence in the annual country reports on human rights practices—including by consulting with civil society groups as well as providing appropriate training for human rights officers and other relevant mission staff abroad.
- Raise violent hate crime issues with representatives of foreign governments and encouraging, where appropriate, legal and other policy responses, including those contained in Human Rights First's ten-point plan for combating violent hate crime.
- Offer appropriate technical assistance, sharing of best practices, and other forms of cooperation, including training of police and prosecutors in investigating, recording, reporting and prosecuting violent hate crimes as well as translation of Department of Justice and Federal Bureau of Investigation (FBI) materials on hate crimes.
- Support action by civil society, including by supporting efforts to build the capacity of civil society groups and other actors to combat hate crime.

Members of the U.S. Congress should work to:

- Organize International Visitors Programs on combating bias-motivated violence for representatives of law enforcement, victim communities, human rights groups, and legal advocates.
- Encourage efforts of intergovernmental organizations like the Organization for Security and Cooperation in Europe (OSCE) to strengthen their engagement with member states on combating violent hate crime.

RECOMMENDATIONS TO STATES:

TEN-POINT PLAN FOR COMBATING HATE CRIMES

Human Rights First's Ten-Point Plan is a set of recommendations for governments facing the challenge of combating hate crime. The plan is developed based on Human Rights First's decade-long research of incidents of bias-motivated violence.

1. **Acknowledge and condemn violent hate crimes whenever they occur.** Senior government leaders should send immediate, strong, public, and consistent messages that violent crimes which appear to be motivated by prejudice and intolerance will be investigated thoroughly and prosecuted to the full extent of the law.
2. **Enact laws that expressly address hate crimes.** Recognizing the particular harm caused by violent hate crimes, governments should enact laws that establish specific offenses or provide enhanced penalties for violent crimes committed because of the victim's race, religion, ethnicity, sexual orientation, gender, gender identity, mental and physical disabilities, or other similar status.

3. **Strengthen enforcement and prosecute offenders.** Governments should ensure that those responsible for hate crimes are held accountable under the law, that the enforcement of hate crime laws is a priority for the criminal justice system, and that the record of their enforcement is well documented and publicized.
4. **Provide adequate instructions and resources to law enforcement bodies.** Governments should ensure that police and investigators—as the first responders in cases of violent crime—are specifically instructed and have the necessary procedures, resources and training to identify, investigate and register bias motives before the courts, and that prosecutors have been trained to bring evidence of bias motivations and apply the legal measures required to prosecute hate crimes.
5. **Undertake parliamentary, interagency or other special inquiries into the problem of hate crimes.** Such public, official inquiries should encourage public debate, investigate ways to better respond to hate crimes, and seek creative ways to address the roots of intolerance and discrimination through education and other means.
6. **Monitor and report on hate crimes.** Governments should maintain official systems of monitoring and public reporting to provide accurate data for informed policy decisions to combat violent hate crimes. Such systems should include anonymous and disaggregated information on bias motivations and/or victim groups, and should monitor incidents and offenses, as well as prosecutions. Governments should consider establishing third party complaint procedures to encourage greater reporting of hate crimes and conducting periodic hate crime victimization surveys to monitor underreporting by victims and underrecording by police.
7. **Create and strengthen antidiscrimination bodies.** Official antidiscrimination and human rights bodies should have the authority to address hate crimes through monitoring, reporting, and assistance to victims.
8. **Reach out to community groups.** Governments should conduct outreach and education efforts to communities and civil society groups to reduce fear and assist victims, advance police-community relations, encourage improved reporting of hate crimes to the police and improve the quality of data collection by law enforcement bodies.
9. **Speak out against official intolerance and bigotry.** Freedom of speech allows considerable latitude for offensive and hateful speech, but public figures should be held to a higher standard. Members of parliament and local government leaders should be held politically accountable for bigoted words that encourage discrimination and violence and create a climate of fear for minorities.
10. **Encourage international cooperation on hate crimes.** Governments should support and strengthen the mandates of intergovernmental organizations that are addressing discrimination—like the Organization for Security and Cooperation in Europe, the European Commission against Racism and Intolerance, and the Fundamental Rights Agency—including by encouraging such organizations to raise the capacity of and train police, prosecutors, and judges, as well as other official bodies and civil society groups to combat violent hate crimes. Governments should also provide a detailed accounting on the incidence and nature of hate crimes to these bodies in accordance with relevant commitments.

**Written Testimony of
Rev. Dr. C. Welton Gaddy, President of Interfaith Alliance
Submitted to
The Senate Committee on the Judiciary, Subcommittee on the Constitution, Civil Rights
and Human Rights
for the Hearing Record on
“Protecting the Civil Rights of American Muslims.”
March 29, 2011**

As a Baptist minister, a patriotic American and the President of Interfaith Alliance, a national, non-partisan organization that celebrates religious freedom and is dedicated to protecting faith and freedom and whose 185,000 members nationwide belong to 75 faith traditions as well as those without a faith tradition, I submit this testimony to the Senate Judiciary Subcommittee on the Constitution, Civil Rights and Human Rights for the record of the hearing on “Protecting the Civil Rights of American Muslims.”

There exists in our country today a pervasive and unsettling trend of anti-Muslim fear, bigotry and rhetoric and a general lack of understanding about Islam. This climate calls us to question not only whether we as leaders in the religious freedom community are doing enough to spread the truth to combat the misconceptions being perpetuated about Islam, but also whether enough is being done by our government to protect the civil and religious freedom rights of American Muslims and other American minorities. The answer to the latter question might very well be “yes,” and I hope that it is, but a hearing of this nature is both necessary and important to determine if this is the case.

Interfaith Alliance’s work is driven by the fundamental principle that protecting religious freedom is most critical in times of crisis and controversy. Even the most basic knowledge of the history of the First Amendment includes the understanding that religious freedom exists in part to protect the rights of the minority from what Alexis de Tocqueville not unrealistically called the tyranny of the majority. In fact, it would not be a stretch to say that if our Founding Fathers had relied on polling data, the First Amendment might not exist at all. Unfortunately, in today’s political climate, defending the rights of the American Muslim community may not ensure an “electoral win”, but there is no question that it is the right thing to do.

Recently we have seen the anti-Muslim trend spread across our nation at all levels of society. We have seen it in the inflammatory rhetoric in our national dialogue; in the recently-held Congressional investigation into the so-called radicalization of the Muslim community; in state legislatures’ proposals to effectively criminalize Shariah law; and in local debates over whether the building of mosques should be permissible. It is clear that those of us who stand up for the religious freedom of all faith communities have our work cut out for us. Freedom of religion as guaranteed by the First Amendment protects the freedom of all Americans to believe in any religious faith, without fear of criticism, retribution, or investigation because of it. In our nation, all people and all faiths are equal with none favored over any other. These freedoms are an integral part of American democracy.

Thank you for the opportunity to submit testimony on this important issue.

New York Neighbors for American Values**Testimony before the Senate Judiciary Subcommittee on the Constitution, Civil Rights, and Human Rights****“Protecting the Civil Rights of American Muslims”**

This testimony is submitted on behalf of New York Neighbors for American Values, a coalition of over 150 organizations and individuals that works in New York City to promote the American constitutional values of religious freedom, diversity and equality and to counteract anti-Muslim and anti-Islamic rhetoric and actions. We came together to respond to the manufactured controversy surrounding the building of an Islamic Community Center in lower Manhattan. We continue to work together to diffuse the prejudice and confusion that has led many individuals, even those that profess goodwill towards Muslim Americans, to believe that there is some basis to treat this community differently than others. There is never such a basis for discrimination, and all communities deserve to have their civil rights protected.

The frenzy around the Islamic Community Center perfectly illustrates how easily a few agenda-driven individuals and organizations can fan the flames of ignorance and misunderstanding into full-fledged hatred and hysteria. Individuals were encouraged to see the community center not as one example of the wonderful diversity and vibrancy of New York City, but as a threat.

Our coalition has experienced firsthand how easily bigoted and alarmist rhetoric can transmute into an attack on the civil rights of the entire Muslim community in an area. While the proposed Islamic Center in lower Manhattan was the focus of national and even international attention this past summer and fall, two new proposed mosques in different boroughs in New York City have met with neighborhood opposition based on stereotyping and fear. The same kinds of fear mongering tactics are being used across the country to enact discriminatory policies that infringe the civil rights of American Muslims at city, state and national levels. We stand firmly in our belief that any kind of anti-Muslim discrimination stands diametrically opposed to the American values we hold dear.

We have been continually surprised with the number of individuals – including friends, family and organizations we work with – who profess to support civil rights generally but are willing to exempt Muslims from civil rights protections. Civil rights are truly protected only if they are protected for all groups; if Muslims can be exempted from civil rights protections it is not hard to imagine any number of other groups that could be exempted from civil rights protections according to the whims of daily political climate. Our experience underscores the necessity to educate individuals and communities about the need for increased protections of the civil rights of *all* Americans, including Muslim Americans, as well as official recognition that this community has an equal right to the full constitutional protections of anyone living in the United States.

We commend Senator Durbin and the Senate Judiciary Subcommittee on the Constitution, Civil Rights, and Human Rights for convening this hearing, and we encourage you to continue to take a leadership role in addressing these issues both at a national level and within your constituencies.

STATEMENT OF

**MARGARET HUANG, EXECUTIVE DIRECTOR
RIGHTS WORKING GROUP**

HEARING ON PROTECTING THE CIVIL RIGHTS OF AMERICAN MUSLIMS

**SENATE JUDICIARY SUBCOMMITTEE ON THE CONSTITUTION,
CIVIL RIGHTS AND HUMAN RIGHTS**

UNITED STATES SENATE

TUESDAY, MARCH 29, 2011

Chairman Durbin, Ranking Member Graham, and members of the Subcommittee: My name is Margaret Huang, and I am honored to submit this testimony for the record on behalf of the Rights Working Group regarding today's hearing on "Protecting the Civil Rights of American Muslims."

Formed in the aftermath of September 11th, the Rights Working Group (RWG) is a national coalition of nearly 300 organizations from across the country representing civil liberties, national security, immigrant rights and human rights advocates. RWG seeks to restore due process and human rights protections that have eroded since 9/11, ensuring that the rights of all people in the U.S. are respected regardless of citizenship or immigration status, race, national origin, religion or ethnicity. Among our core principles is protecting the right to free exercise of religion without fear of government intrusion or intimidation. RWG applauds the Subcommittee for addressing how the current climate of anti-Muslim hate impacts the civil rights of Muslims in America. This hearing is of vital importance and we hope this is the beginning of a longer discussion about how best to protect the rights of Muslim Americans.

The United States was founded on the ideal of religious freedom, and our participatory democracy requires that all of us are able to freely exercise our freedoms of speech, religion, and association without fear. Many of our government's policies and practices in recent years have fostered hostility toward and fear of the Muslim community in America. For example, House Homeland Security Committee Chair Peter King's recent hearing on Muslim radicalization seemed to many a Congressional endorsement to treat Muslims as suspect simply because of their religion. Many national security and immigration enforcement policies have targeted Muslims and signaled that American Muslims are dangerous, suspicious, and disloyal. These policies include Department of Justice law enforcement guidance which allows for religious profiling in the name of national security,¹⁶ Transportation and Security Administration screening policies based on the profiling of Muslims,¹⁷ and the National Security Entry-Exit Registration System which forced thousands of Muslims living in America to undergo special registration.¹⁸ Law enforcement tactics of increased surveillance such as infiltration of mosques and charitable organizations have furthered animosity towards and marginalization of Muslims.¹⁹ In addition, the End Racial Profiling Act, which was first introduced in 2001 and prohibits racial and religious profiling by law enforcement, has yet to be passed by Congress. These governmental policies and the failure to take affirmative legislative steps to end racial and religious profiling have created a chilling effect upon the religious practice of Muslims in

¹⁶ See United States Department of Justice, "The Attorney General's Guide for Domestic FBI Operations," December 2008 available at <http://www.justice.gov/ag/readingroom/guidelines.pdf>.

¹⁷ See Grier, Peter, "US-bound passengers from 14 countries face new airport security," *The Christian Science Monitor*, Jan. 4, 2010 available at <http://www.csmonitor.com/USA/2010/0104/US-bound-passengers-from-14-countries-face-new-airport-security-reporting-on-the-TSA's-14-country-protocol-targeting-passport-holders-from-14-countries-13-of-which-are-predominantly-Muslim-countries>.

¹⁸ See American-Arab Anti-Discrimination Committee, "NSEERS: The Consequences of America's Efforts to Secure Its Borders," Mar. 31, 2009 available at <http://www.adc.org/PDF/nseerspaper.pdf>.

¹⁹ City and County of San Francisco Human Rights Commission, *Community Concerns of Surveillance, Racial and Religious Profiling of Arab, Middle Eastern, Muslim, and South Asian Communities and Potential Reactivation of SFPD Intelligence Gathering*, Feb. 24, 2011 available at <http://www.sfhrc.org/Modules/ShowDocument.aspx?documentid=983>.

America. According to a civil rights attorney in San Francisco, “One of the things we hear most often is that people are afraid that federal and local law enforcement are collaborating to infiltrate mosques. So they’re less willing to exercise their religious duty to go to the mosque to participate in group prayers.”²⁰ A community member in San Francisco states, “The FBI agent I spoke with informs me that his department spies on my mosque on a regular basis. I told him and his department that our mosques are places of worship, not spy stations.”²¹

In addition to compromising the ability of the Muslim community to fully exercise its freedom of religion, these governmental policies lead to further divisions in our communities. “American Muslims today are more likely to be victims of hate crimes or harassment....Last year, a New York cabbie’s throat was slashed by a passenger, reportedly because he was a Muslim. A Florida mosque was firebombed while 60 Muslims prayed inside. Arson fires ravaged mosques in Tennessee and Oregon....anti-Muslim rhetoric is fueling anti-Muslim violence.”²² In the past five years, anti-mosque incidents have occurred in 21 states.²³ This growing anti-Muslim hate can be seen in state legislatures where anti-Sharia laws are being proposed and passed, boldly trampling on the First Amendment.²⁴ Others are looking to local governments to restrict the

²⁰ *Id.* at 19.

²¹ *See id.*

²² Star Tribune Editorial, “Terror hearings fuel anti-Muslim fears,” February 25, 2011, available at <http://www.startribune.com/opinion/editorials/116955498.html>. *See also* Human Rights Watch, “WE ARE NOT THE ENEMY” Hate Crimes Against Arabs, Muslims, and Those Perceived to be Arab or Muslim after September 11, Vol. 14, No. 6, November 2002, available at <http://www.hrw.org/en/reports/2002/11/14/we-are-not-enemy>.

²³ Goldschmidt, Debra, “CNN Poll: Most Americans ‘okay’ with a mosque in their community,” *CNN*, Mar. 24, 2011 available at <http://politicalticker.blogs.cnn.com/2011/03/24/cnn-poll-most-americans-okay-with-a-mosque-in-their-community/>.

²⁴ *See* Waters, David, “Anti-sharia laws: Legislating religiosity,” *The Washington Post*, Mar. 8, 2011 available at http://www.washingtonpost.com/blogs/under-god/post/anti-sharia-laws-legislating-religiosity-/2011/03/08/AB6FDAP_blog.html.

construction of new mosques.²⁵ Employment discrimination against Muslims is also on the rise.²⁶

This climate of hate has instilled significant fear of law enforcement and government in communities of Muslims and those perceived to be Muslim. Such fears result in a decline of reports by victims of crime, such as domestic violence victims, seeking law enforcement assistance; some crime victims from targeted communities fail to seek necessary emergency medical attention.²⁷ The right of Muslims in America to safety, religion, and free expression are threatened. In this moment in history we must examine our proud tradition of religious tolerance and recommit to the core principle of our country – religious freedom.

Rights Working Group applauds the Subcommittee’s efforts to highlight how the civil rights of Muslims are under siege today and investigate how these rights can and should be protected. In the words of President Obama, “This is America, and our commitment to religious freedom must be unshakeable. The principle that people of all faiths are welcome in this country, and will not be treated differently by their government, is essential to who we are.”²⁸ Rights Working Group offers the following recommendations:

²⁵ See Kauffman, Elisabeth, “In Murfreesboro, Tenn.: Church ‘Yes,’ Mosque ‘No,’” *TIME*, Aug. 19, 2010 available at <http://www.time.com/time/nation/article/0,8599,2011847,00.html>. See also Akbar, Farah, “Controversy Over Islam and Mosques Spreads Beyond Park 51,” *Gotham Gazette*, Sep. 2010 available at <http://www.gothamgazette.com/article/civilrights/20100914/3/3362>.

²⁶ See Chisti, Muzaffer A. et al, “AMERICA’S CHALLENGE Domestic Security, Civil Liberties, and National Unity after September 11,” Migration Policy Institute, 2003 available at http://www.migrationpolicy.org/pubs/Americas_Challenges.pdf.

²⁷ Immigration Policy Center, “BALANCING FEDERAL, STATE, AND LOCAL PRIORITIES IN POLICE-IMMIGRATION RELATIONS: Lessons from Muslim, Arab, and South Asian Communities Since 9/11,” *Immigration Policy IN FOCUS*, Vol. 6, Iss. 3 at 5, June 2008.

²⁸ Mataconis, Doug, “President Obama Defends ‘Ground Zero’ Mosque, Religious Freedom,” *Outside the Beltway*, Aug. 14, 2010 available at <http://www.outsidethebeltway.com/president-obama-defends-ground-zero-mosque-religious-freedom/> quoting President Obama’s remarks at the August 2010 White House Iftar Dinner.

- The Subcommittee should reaffirm a strong commitment to ensuring that Muslims in the United States can enjoy religious freedom, civil liberties, and their other constitutional and human rights.
- Subcommittee members should make strong statements against any intolerance, discrimination or hate crimes directed at the Muslim American community.
- Subcommittee members should urge the Department of Justice to revise its 2003 racial profiling guidance to eliminate the loophole that allows racial and religious profiling in the name of national security and speak out against policies that target Muslim communities.
- Congress should introduce and pass the “End Racial Profiling Act” instating a federal ban on profiling based on race, religion, ethnicity and national origin at the federal, state and local levels.

Thank you again for this opportunity to express the views of the Rights Working Group coalition. We would welcome the opportunity for further dialogue and discussion about these important issues.

**Written Testimony of
Rev. Dr. C. Welton Gaddy, President of Interfaith Alliance
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There exists in our country today a pervasive and unsettling trend of anti-Muslim fear, bigotry and rhetoric and a general lack of understanding about Islam. This climate calls us to question not only whether we as leaders in the religious freedom community are doing enough to spread the truth to combat the misconceptions being perpetuated about Islam, but also whether enough is being done by our government to protect the civil and religious freedom rights of American Muslims and other American minorities. The answer to the latter question might very well be “yes,” and I hope that it is, but a hearing of this nature is both necessary and important to determine if this is the case.

Interfaith Alliance’s work is driven by the fundamental principle that protecting religious freedom is most critical in times of crisis and controversy. Even the most basic knowledge of the history of the First Amendment includes the understanding that religious freedom exists in part to protect the rights of the minority from what Alexis de Tocqueville not unrealistically called the tyranny of the majority. In fact, it would not be a stretch to say that if our Founding Fathers had relied on polling data, the First Amendment might not exist at all. Unfortunately, in today’s political climate, defending the rights of the American Muslim community may not ensure an “electoral win”, but there is no question that it is the right thing to do.

Recently we have seen the anti-Muslim trend spread across our nation at all levels of society. We have seen it in the inflammatory rhetoric in our national dialogue; in the recently-held Congressional investigation into the so-called radicalization of the Muslim community; in state legislatures’ proposals to effectively criminalize Shariah law; and in local debates over whether the building of mosques should be permissible. It is clear that those of us who stand up for the religious freedom of all faith communities have our work cut out for us. Freedom of religion as guaranteed by the First Amendment protects the freedom of all Americans to believe in any religious faith, without fear of criticism, retribution, or investigation because of it. In our nation, all people and all faiths are equal with none favored over any other. These freedoms are an integral part of American democracy.

Thank you for the opportunity to submit testimony on this important issue.

Interfaith Worker Justice



1020 West Bryn Mawr, 4th Fl. • Chicago, IL 60660-4627
Phone: (773) 728-8400 • Fax: (773) 728-8409
www.interfaithworkerjustice.org

Interfaith Worker Justice Applauds Hearing on the Civil Rights of Muslims

March 25, 2011

Dear Chairman Durbin, Ranking Member Graham, and Members of the Senate Subcommittee on the Constitution, Civil Rights, and Human Rights:

Interfaith Worker Justice (IWJ) is pleased that a Senate Subcommittee has called for a Congressional hearing on the civil rights of American Muslims. These Americans have suffered anti-Muslim bigotry, including Qur'an burnings, restrictions on mosque construction, hate crimes, and hate speech because of their religious beliefs.

IWJ is a national network that calls upon religious values to improve wages, benefits, and working conditions for workers by educating and organizing present and future religious leaders, interfaith coalitions, and workers centers.

By exposing this prejudice and intolerance against our fellow citizens, the Senate Subcommittee on the Constitution, Civil Rights, and Human Rights permits America to redress these injustices.

It is fitting that the topic for first hearing of a newly formed subcommittee should be religious freedom, since the right to worship freely is guaranteed by our Constitution. No country on earth should offer a better place for the followers of the three great religions that call Abraham their father, Jews, Christians, and Muslims, to live in harmony and work together for the common good.

For more information contact:
Thomas Shellabarger
Public Policy Associate
Interfaith Worker Justice
D.C. Public Policy Office
tshellabarger@iwj.org
202-525-3055 (Office)
301-335-3147 (Cell)



Statement of

C. Eduardo Vargas, Director of Advocacy & Public Policy

INTERSECTIONS INTERNATIONAL

before

U.S. Senate Committee on the Judiciary
Subcommittee on the Constitution, Civil Rights and Human Rights

on

"PROTECTING THE CIVIL RIGHTS OF AMERICAN MUSLIMS"

30 March 2010

Statement

I am C. Eduardo Vargas, the Director of Advocacy & Public Policy at Intersections International. Thank you for this opportunity to submit a statement in support of protecting the civil rights of American Muslims. The issue is especially important in today's turbulent times.

Intersections International, is a multi-faith, multi-cultural initiative of The Collegiate Church of New York. The Collegiate Church was established in 1628, and is the oldest continuous religious institution in New York. Intersections is dedicated to forging a common ground for global social justice, and we strive to accomplish this by working with different individuals and communities to develop strategies and solutions for peace, justice, and reconciliation. Throughout Intersections' history, we have been very active in building productive relationships between those of the Muslim faith and the general society at local, national, and international levels.

The growing suspicion and bigotry towards American Muslims during the last decade has created a palpable sense of insecurity and inequality among Americans who profess Islam—a faith that has had its place in United States history since our very beginning as a nation.

Of particular concern is the vitriol that has engulfed our society as a result of misperceptions and misunderstandings of the Islamic faith. To address this situation, Intersections launched 2008 a major initiative called ChangeTheStory (CTS). CTS is a web based resource that offers an interactive experience where users—Muslim and non-Muslim alike—can meet their neighbors, learn about Islam and apply techniques of interfaith dialogue and action to local communities. This resource has been instrumental in developing tools and providing helpful information for educators, religious leaders and individuals concerned with building bridges of understanding across lines of faith and culture.

Being a New York based organization we have found that as a whole our nation has not yet healed from the barbaric attacks of 11 September 2001. Incorrectly, many have attributed the 9/11 attacks to Islam and not to fanaticism. Seeing a need to help heal this still open wound, to dispel misperceptions that affect our American Muslim compatriots, and to avoid any anti-Muslim fervor as we approach the tenth anniversary of 9/11, a coalition of New York interfaith organizations has launched Prepare New York (PNY).

PNY is a coalition of New York based interfaith organizations including—Intersections International, Auburn Seminary and its Center for Multifaith Education, Interfaith Center of New York, Odyssey Networks, Quest, and Tanenbaum Center for Interreligious Understanding and its Religion and Diversity Education Program—who are committed to preparing New York City—and the nation—for the 10-year anniversary of 9/11 by promoting civil dialogue, education on religious pluralism, support for the Muslim community, and coordinating events on the day of the anniversary. The purpose of the coalition is to shift the emphasis from one of fear and mistrust to one that celebrates New York's extraordinary diversity of religious freedom and expression.

We believe that much of the intolerance that is so pervasive towards Muslim Americans is based on ignorance and fear, often itself fostered by the media. There are enormous challenges in providing accurate information to the public, with giant barriers in our public education system. This

is further compounded by other governmental hearings which unfairly target communities based on their religious beliefs.

We applaud Senator Durbin and the Subcommittee on the Constitution, Civil Rights and Human Rights for holding these timely hearings which will ensure that civil rights and liberties are upheld for all Americans regardless of their religion. We believe meaningful enforcement of civil rights laws to assure the human and civil rights of Muslim Americans is essential as the larger task of building understanding and tolerance through education and engagement continues.

It is our hope that our organization's commitment to peace, dialogue, and social justice can be of use to this Subcommittee's efforts to make the United States a more harmonious and prosperous place to live.

Intersections International
274 Fifth Avenue
New York, NY 10001
+1.212.351.7066
www.IntersectionsInternational.org

**Written Testimony of
The Islamic Society of North America
Submitted to
U.S. Senate Judiciary Subcommittee on The Constitution, Civil Rights, and Human
Rights
for the Hearing Record on
"Protecting the Civil Rights of American Muslims."
March 29, 2011**

The Islamic Society of North America applauds the Senate Judiciary Committee for holding today's hearing on "Protecting the Civil Rights of American Muslims." Reports indicate that in the past year, there has been a significant increase in incidents of bigotry against Muslims in America, as well as those who are perceived to be Muslims. We are pleased that the Committee is taking such an important step to address such incidents that violate our American values.

Over the course of history, Congress has established a precedence of holding hearings to address discrimination against minority groups. Given the recent rise in anti-Muslim sentiment, there is an urgent need for this particular hearing, and we hope that a positive outcome will result.

Congressional leadership is critical to moving our nation's rhetoric in a more positive direction, and to demonstrating that American Muslims are, as President Obama noted in his State of the Union address, "part of our American family." Oftentimes we are invited to the table only to discuss issues pertaining to national security, but our community has much more to contribute to our nation.

We are pleased with the U.S. Department of Justice's outreach to minority communities in the United States, particularly to the American Muslim community. The Assistant Attorney General has been actively involved in resolving situations where the constitutional rights of a community member have been violated. He and his predecessor have been strong supporters of the freedom of religion, as guaranteed by the First Amendment, and have appropriately enforced this each time the need has arisen.

We are committed to building a future in which religious differences no longer lead to hostility or division between communities. We believe that our pluralistic society, as envisioned by our Founding Fathers, will continue to enrich our public discourse and to address the great moral challenges that face our nation and our world.

American interreligious representatives first came together in mass to support the American Muslim community on September 7th of last year to publicly condemn the rise in anti-Muslim rhetoric and actions, and we were grateful for their faithful demonstration of love for their neighbors in this country. Following that summit in September, ISNA and the interfaith community joined together once again to form an inter-religious campaign entitled, "Shoulder-to-Shoulder: Standing with American Muslims; Upholding American Values." Members of the campaign include representatives from a variety of national faith-based, interfaith, religious organizations, including the National Council of Churches, the Union for Reform Judaism, the United States Conference of Catholic Bishops, and 21 others. We are pleased to know that Cardinal Theodore McCarrick, who prominently led the religious leaders on September 7th, will be testifying at today's hearing.

When the House Committee on Homeland Security first announced it would hold hearings on national security that singled out the Muslim community, the members of Shoulder-to-Shoulder were immediately ready to stand in solidarity with the American Muslim community to vocalize their opposition to such unjustified public scrutiny of one community from among our many communities of faith. Similarly, they have publicly declared their gratitude for today's hearing before the Senate Committee on the Judiciary as a step in the right direction.

We commend Chairman Richard Durbin and Ranking Member Lindsey Graham for their outstanding bipartisan leadership of this hearing. American Muslims are teachers, doctors, public officials, construction workers, servicemen and servicewomen, and counselors, and contribute to the fabric of our American society every day. We thank you for holding a hearing that seeks to protect our civil rights, as guaranteed under the Constitution, and we thank you for the opportunity to submit testimony to the Committee.

The Leadership Conference
on Civil and Human Rights

1629 K Street, NW 202.466.3311 voice
10th Floor 202.466.3435 fax
Washington, DC www.civilrights.org
20006



**STATEMENT OF WADE HENDERSON, PRESIDENT & CEO, THE LEADERSHIP
CONFERENCE ON CIVIL AND HUMAN RIGHTS**

**HEARING ON
“PROTECTING THE CIVIL RIGHTS OF AMERICAN MUSLIMS”**

**SUBCOMMITTEE ON THE CONSTITUTION, CIVIL RIGHTS AND HUMAN RIGHTS
UNITED STATES SENATE**

**MARCH 29, 2011
Washington, DC**

Chairman Durbin, Ranking Member Graham, and members of the Committee: I am Wade Henderson, President & CEO of The Leadership Conference on Civil and Human Rights. Thank you for the opportunity to submit testimony for the record on this important topic.

The Leadership Conference on Civil and Human Rights is a coalition charged by its diverse membership of more than 200 national organizations to promote and protect the civil and human rights of all persons in the United States. Founded in 1950 by A. Philip Randolph, Arnold Aronson, and Roy Wilkins, The Leadership Conference works in support of policies that further the goal of equality under law through legislative advocacy and public education.

I applaud the Subcommittee for holding this hearing on a matter of great importance to our coalition. With recent media and Congressional attention focused on Muslim Americans, much of it intended to inflame racial and religious tensions, we believe that this hearing is a timely reminder that all in this country deserve equal rights and fair treatment, without regard to their religious beliefs, the color of their skin, their sexual orientation, gender, gender identity, disability status, national origin, or ethnic background.

Anti-Muslim sentiment has been on the rise in our country since September 11, 2001. Recent examples of anti-Muslim public discourse include the backlash against the Park51 Muslim community center in Lower Manhattan; the hostilities against the Islamic center in Murfreesboro, Tennessee; and the widespread, sensationalistic coverage of plans by a small, nondenominational church in Gainesville, Florida to host an “International Burn a Quran” Day. We even heard a U.S. Congressman tell U.S. Department of Homeland Security Secretary Janet Napolitano that Muslims should be profiled at airports.

The sad fact is that American Muslims, Arabs and Sikhs are already being profiled at airports. Consider the June 2010 testimony of Amardeep Singh, director of programs for the Sikh Coalition before the Subcommittee on the Constitution, Civil Rights, and Civil Liberties of the House Judiciary. . Singh, a second-generation American, described how, on a return trip from a family vacation in Mexico, he was pulled aside and forced to hold his 18-month old son Azaad while the boy was patted down, and his Elmo book was searched.

Such absurd practices are not based on sound policy. Though profiling was deemed unconstitutional by the Supreme Court, "[Restoring a National Consensus: The Need to End Racial Profiling in America](#)," a report just released by The Leadership Conference, documents how racial profiling persists, often encouraged by misguided federal policies. Our report describes how the bipartisan national consensus to end racial profiling that had developed prior to 9/11 has all but evaporated in the 10 years following the September 11, 2001 attacks. The report illustrates how the use of racial profiling has expanded, not only in the counterterrorism context, but also in the context in which it originally arose—the fight against drug trafficking and other street-level crimes—as well as in the effort to enforce immigration laws.

As our report documents, since the 9/11 attacks, the federal government has focused massive investigatory resources on Arabs and Muslims, and those presumed to be Arabs or Muslims, singling them out for questioning, detention, and other law enforcement activities. Among the law enforcement activities that enshrine profiling under the guise of counterterrorism and immigration enforcement are: the National Security Entry-Exit Registration System (NSEERS), which requires certain individuals from predominantly Muslim countries to register with the federal government and be fingerprinted, photographed and interrogated; Operation Front Line (OFL), intended to "detect, deter, and disrupt terror operations" by amassing a list of targeted individuals for investigation, the overwhelming majority of whom were Muslims; Customs and Border Patrol guidance allowing for border searches without individualized suspicion; and the FBI's Terrorist Screening Center, which created watch lists that both misidentified and over-classified individuals. These activities contribute to the belief that it is acceptable to treat Muslims and Arabs as suspect--and that cannot continue. It is not only the right to the free exercise of religion, but a right to safety from physical threat or harm, that is at stake. By enforcing practices that profile one group, law enforcement officials are fueling discriminatory and inaccurate beliefs. Such beliefs, in turn, may stimulate hateful and violent reactions.

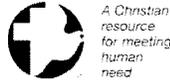
Hate crime activity against Muslim Americans is a serious concern. As our 2009 report "[Confronting the New Faces of Hate: Hate Crimes in America](#)" documents, the number of hate crimes directed against Arab Americans, Muslims, and Sikhs escalated dramatically following the terrorist attacks of September 11, 2001 and continues to remain above the pre-2001 levels. While the 2009 enactment of the Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act will go a long way toward reducing the number of hate crimes in this country, we know that many hate crimes against Arab Americans, Muslims and Sikhs continue to go unreported. Hate crimes are not only intended to intimidate the individual being attacked, but to impact all

members of the victim's community, creating an atmosphere of fear, distrust, and isolation of targeted communities, tearing apart the fabric of American society.

The charged, vitriolic environment that we now face must change. Muslim, Arab and Sikh Americans are our neighbors, our teachers, our doctors, our firefighters, and our taxi drivers. They are an essential a component of the American patchwork. And they must not be demonized or ostracized or physically threatened because of the religion they choose to practice or the color of their skin.

It is hearings like this one, focusing on the importance of just and equal treatment for American Muslims, which will help heal the wounds and bridge the gap. As we witness the devastation around the world—ranging from the national disasters facing Japan or political violence in Libya—we must come together to recognize the greatness of this nation, which comes from our diversity, our tolerance, our cooperation, and our respect. We must work together to honor the founding principles of this nation, and to welcome all to live and worship in safety and freedom.

Thank you for your leadership on this important issue.



**Mennonite
Central
Committee
U.S.**

920 Pennsylvania Ave. SE
Washington, D.C.
20003

Washington Office

Tel: (202) 544-6564
Fax: (202) 544-2820
mccwash@mcc.org

March 29, 2011

In response to the attacks of September 11, 2001, many members of Mennonite and Brethren in Christ congregations reached out to Muslims in their communities to support and encourage them. In the face of ever-increasing anti-Islam sentiment, Mennonite Central Committee (MCC) U.S. urges congregations to redouble those efforts.

We also call upon the U.S. government to protect the religious rights and freedoms of all peoples. We applaud Senator Durbin and Senator Graham for holding a hearing on "Protecting the Civil Rights of Muslims." Their leadership in holding this hearing demonstrates that defending the rights of religious minorities can and must be a bipartisan issue.

Too often Muslims and other religious minorities have been demonized and marginalized during discussions of national security. Anabaptist history provides a sobering reminder of the need to respect those with a different faith. During the 1500s in Europe, religious and political leaders persecuted Anabaptist believers, with thousands facing violence or death as a result of their beliefs. Because of this history, Anabaptists around the world have long advocated for freedom of religious expression for people of all faiths.

As Christians, we take the example of Jesus, who reached out in love and respect to all who drew near to him. He recognized the human dignity and worth in every person, as created in God's image (Genesis 1:27). He challenged his followers to extend compassion without reservation (Matthew 22:34-40; 1 John 4:7-21).

MCC's work around the world, including in predominantly Muslim countries, has shown us the importance of interfaith bridge-building. MCC is committed to continuing and strengthening this work in international contexts but encourages Anabaptists in the United States to also find ways to build these bridges in their own communities.

We are committed to building a future in which religious differences no longer lead to hostility or division between communities. We strongly believe that such diversity can enrich our public discourse about the great moral challenges that face our nation and our world. Exploiting religious differences as a wedge to advance political agendas or ideologies cannot be justified.

It is vital that leaders in the public sphere address and denounce derision, misinformation or outright bigotry directed against Muslims or other religious groups. Silence is not acceptable. Only by taking this stand, can we fulfill the highest calling of our faith tradition—to love God and love our neighbors—, and thereby help to create a safer and stronger nation for all of our people.

We again applaud this hearing and look forward to continued partnership in preserving the civil rights of all people of all religions.

Submitted for the record by Mennonite Central Committee U.S., Washington Office.

Contact: Christina Warner, Legislative Assistant for Domestic Affairs

cwarner@mcc.org (202) 544-6564 ext. 111



MILITARY RELIGIOUS FREEDOM
FOUNDATION

From : The Military Religious Freedom Foundation (MRFF; www.militaryreligiousfreedom.org)

To: The Senate Committee on the Judiciary, Subcommittee on the Constitution, Civil Rights and Human Rights
-Hearing Title; "Protecting the Civil Rights of American Muslims"

Date Submitted: Monday, March 28, 2011

Subject: Military Religious Freedom Foundation's Testimony

My name is Michael L. "Mikey" Weinstein. I am the Founder and President of the "Military Religious Freedom Foundation" (MRFF). MRFF is a nonprofit 501(c)3 charitable organization with the sole mission of protecting the Constitutionally guaranteed civil rights of United States armed forces personnel and veterans. In this regard, MRFF focuses exclusively on protecting its clients religious freedom civil rights as specified in both the "Free Exercise" and "No Establishment" clauses of the First Amendment of the United States Constitution and, additionally, Article VI, Clause 3's guarantee of "no religious test." MRFF currently represents the interests of well in excess of 22,000 United States marines, soldiers, sailors, airmen, cadets and midshipmen at West Point, the Air Force Academy, Annapolis and other service academies, coast guard personnel, reservists, national guard personnel and veterans. Approximately 96% of MRFF's clients are self-professed Christians (about 3/4 are Protestants of numerous denominations and the remaining 1/4 are mostly Roman Catholic). Those approximately 4% of MRFF's clients who are not of the Christian faith represent a veritable rainbow of other faith traditions including, but not limited to, Buddhists, Hindus, Jews, Muslims, Sikhs, Native American spiritualists as well as agnostics and atheists. To become a MRFF "client" a complainant must only contact MRFF requesting personal guidance and assistance in confronting unconstitutional religious prejudice and discrimination. The first attachment to this testimony will provide a more comprehensive description of my personal background as well as the background of MRFF and its civil rights activism in the aforementioned cause. We are especially proud of the fact that, to date, MRFF has received three Nobel Peace Prize nominations; two for 2010 and one for the current year of 2011.

13170-B CENTRAL AVENUE SE SUITE 255 ALBUQUERQUE, NM 87123 800-736-5109
WWW.MILITARYRELIGIOUSFREEDOM.ORG



MILITARY RELIGIOUS FREEDOM
 f o u n d a t i o n

Please allow me to thank the Senate Committee members and staffers, from the bottom of my heart, for having the courage of will and strength of character to convene an official Congressional hearing to finally cast light on the despicable scourge of civil rights violations against Muslim American victims. I would like to further express my sincerest gratitude to the Senate Committee for extending the formal invitation to MRFF to provide testimony in this historic and critical hearing. As of today, Monday, March 28, 2011, MRFF has 261 Muslim American clients who are proud members of the United States armed forces. MRFF's Muslim American client caseload dramatically increased immediately after the tragic shootings at Fort Hood. The second, third, and fourth attachments to this testimony will describe the wretched abuse of Muslim American U.S. military members, quantitatively and qualitatively, with far more breadth of specificity than is either reasonably prudent or practical within the scope of my instant testimony. Please take the precious time to review with substantial diligence all of this additional information. It is at once shocking and disturbing. There is so much abject pain, suffering, degradation, dehumanization, and marginalization to tell that it would take a book, a long book, to do the whole sordid tale of the civil rights abuse of Muslim Americans in uniform true justice. Such is neither the purpose nor scope of my personal testimony submitted today. A few years ago, one of our MRFF clients wrote us a letter in which he asserted that MRFF was the "voice he and his fellow U.S. military members were not allowed to speak with." That simple yet elegant statement has become MRFF's standard bearer. I will try today, here and now, to very briefly be the "voice" for MRFF's 261 afflicted Muslim American armed forces members.

Ladies and gentlemen, the enormity of the civil rights abuses against Muslim American U.S. military members can best be described as grievously systemic and perversely and perniciously profound throughout the United States armed forces. Where to even begin? As MRFF's attached material will clearly show, anti-Muslim prejudice and discrimination is inextricably intertwined into the very DNA of today's American military. It is as prevalent as gravity. As an example, let me tell the Committee that there exists unrestricted and wide use by military officers and enlisted personnel of the derogatory racist terms such as "towel head," "raghead," "camel jockey" or the most universally used term of "Haji" to describe their Muslim American colleagues in uniform as well as all Muslims everywhere. In formal military training exercises, Muslim American members are very often reminded that "the enemy" in the War on Terror is Islam as an entire religion, and, accordingly, that any of its adherents and followers are seriously suspect. Official and honored speakers contracted by the Department of Defense spew this same filthy screed of "We Are At War With Islam" to captive, eager audiences of our military's best and brightest. It happens every day. Military life is very different from civilian life. Unless one has served in America's military it is almost impossible to appropriately convey the formidable magnitude of the communal, ritualistic, adversarial, almost tribal, imperative to be viewed as a trusted and respected member of the military unit team. Muslim American military members have been told repeatedly that they have no place in America's military because of their faith. They have been told that, as Muslims, they cannot and will not be allowed into the otherwise impenetrable brotherhood and sisterhood of trust and loyalty of their respective military organizations.



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They have been unjustly denied leave time. They have been unjustly discarded in the military's health care system. They have been unjustly denied rank and choice assignments. They have been unlawfully detained and falsely accused of vile crimes and offenses of moral turpitude. They have been the innocent and helpless victims of scurrilous rumors and ruinous innuendo. They have been unjustly ordered to perform odious and remedial military tasks and chores. They and their loving families have been derided as exemplifying "the enemy amongst us." They and their families have been assaulted and abused both stateside and abroad. They and their families have endured hurtful and humiliating taunts and threats, delivered in the middle of the dark night and in the bright sun of daylight, both overt and indirectly nuanced. They and their families have been accused of not being "real Americans" and told that they are not remotely welcome in America. They and their families have been told to "go back to your Arab lands." When they try to complain to their respective chains of command or the Inspector General's Office or the military EEO office they receive no cognizable relief. They have nowhere to turn unless they are prepared to "go public" in the media which constitutes instant professional military career suicide and, further, induces the genuine risks of personal safety for the Muslim American military member and his or her family as well. When a Muslim American military member is told that they sorely lack intelligence, courage, honor, trustworthiness, loyalty, ethics, character, and integrity simply because of their Muslim faith, well, there is absolutely no difference between that putrescent and disgusting statement and telling someone that they are stupid because of the color of their skin or because they are female. The instances of these and many other civil rights violations against Muslim Americans in uniform are quite simply legion in magnitude and Jovian in proportion.

I asked one of MRFF's 261 Muslim American clients for his own words to buttress my testimony today. He wants me to tell you that he is an honored graduate of one of our U.S. military academies. He has served multiple combat tours in both Iraq and Afghanistan. He is highly decorated and has received both the Purple Heart and the Silver and Bronze Stars for exemplary courage in battle. Because he appears to be caucasian and has a last name that, as he says, is not particularly indicative of his deep and steadfast Muslim faith, most of his colleagues do not know immediately that he is Muslim. Thus, he has a vast trove of heart-breaking incidents to describe perpetrated by the unadulterated candor of those not initially aware of his Muslim faith. He tells of his children being harassed, baited, and proselytized at on base elementary schools to "save their souls from the evils of Islam and Allah." He tells of his wife being spat upon while shopping at the base commissary and whispered about and given looks of revulsion when she shops in the Post Exchange store or even gets gas at the base gas station. He tells of the endless indignation of having ALL of his faith of Islam, and thus, ALL Muslims everywhere, being brazenly and openly painted with the single brush of the extremists of the faith such as the Taliban or al-Qaeda. He tells of the shame and humiliation of always being the "go to guy" to explain and justify any act of terrorism committed by fellow Muslims anywhere in the world.



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He tells of he and his family endlessly enduring the painful direct and indirect actions of everyday disrespect and dismissiveness for merely being Muslims. He tells of being ruthlessly indoctrinated, from his first days as a cadet/midshipman at the Academy to his current position as an officer, with the belief America's military is a Christian military and that its greatest enemy is Islam and its followers. He tells of his repeated attempts to protect and speak for his subordinate Muslim American military members and describes with tears how these many attempts are futile and essentially brutally trivialized by the responsible military chain of command. He tells of officially endorsed Islamophobia rampant and pandemic throughout the U.S. military and of Muslim Americans therein being deliberately besieged and baited with slanderous lies and related defamation until they reach the breaking point of human toleration for such civil rights abuses and they just snap. He tells of whatever behavior follows that "snap" as being falsely manufactured and otherwise used, post hoc ergo propter hoc, to justify the original civil rights abuse which initially generated this primal-scream-for-help "snap" in the very first place. He tells of the unbearable loneliness and estrangement of being told in innumerable ways that he is not a reliable or dependable part of either his own combat unit or the entire United States military because of the fatal flaw of being a "suspicious Muslim." He tells of countless instances of being both directly and indirectly proselytized by both fundamentalist Christian military chaplains and his equally fundamentalist Christian direct military chain of command. He tells of having to constantly memorize the names of Muslim Americans who have been killed or grievously wounded in combat so that he can repeatedly tell his rapacious tormentors of his brother and sister Muslim American's deeds of honorable combat sacrifice to counter the barrage of never-ending disparagements and related civil rights violations against Muslim Americans. He tells of advising many other fellow Muslim American military members and their spouses and children to likewise memorize these names and their stories. He tells of horrendously callous and ambivalent responses to these names of the dead and wounded by his afflictors. And his lamentable and harrowing testimony is but one of the 261 stories MRFF has to tell the Senate Committee. Our fellow Americans of the Muslim faith in the profession of arms cry out for justice and equality. They do not want special treatment under the law; they want equal treatment. They want you, honored United States Senators and honored staff, to know that the United States Constitution does not protect their "civil privileges;" no, it protects their civil rights. He wants you to know that Muslim Americans in the U.S. military are every bit as patriotic and courageous and valuable as their non-Muslim colleagues. He wants you to see him as a Muslim American and not an American Muslim. There is a massive difference in the salient terminology as the word "Muslim" is an adjective in the former and a noun in the latter. And he wants you to appreciate how important it is for you and all of America to distinguish the two.



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Please understand that the dire consequences of the rampant and universal civil rights abuses against Muslim Americans in the United States military cannot adequately be described as merely a "problem" or an "issue" or a "challenge." It is nothing less than a full-fledged national security threat. There are three acutely relevant reasons why; to wit, (1) its well known existence enrages our Islamic allies both abroad and domestically; (2) it incalculably emboldens our Islamic enemies both abroad and domestically; and, (3) it absolutely demoralizes our own troops and, thus, is a fatally divisive and metastasizing malignancy to the necessity and imperative of good order and discipline in the United States armed forces. This overt tyranny cum national security threat must cease immediately. Obviously the command structure of the U.S. military is complicit via both acts of malfeasance and misfeasance. Thus, who will stop this oppression if not Congress? Quis custodiet ipsos custodes? (Who will guard the guards?) Dr. Stanley Milgram's famous assertion seems so sadly applicable here: "The disappearance of a sense of responsibility is the most far-reaching consequence of submission to authority."

In closing, I am reminded of the great words of another afflicted American, Dr. Martin Luther King, Jr. Dr. King once said that, in the end, we remember not the words of our enemies, but the silence of our friends...and that there comes a time when silence becomes betrayal. Further, Dr. King said that we must learn to live as brothers or perish as fools. Honorable United States Senators and staff, the Military Religious Freedom Foundation thanks you for the distinct honor of presenting this tragic testimony to your assemblage this day. This hearing must be a dramatic catalyst of a true clarion call to action! MRFF begs you, implores you to not remain silent any longer. MRFF beseeches you to not permit our fellow non-Muslim countrymen and women throughout our American military forces to continue to inflict wicked civil rights violations upon their Muslim American brothers and sisters in arms. Please decisively act immediately and do not let the afflicters ignominiously cause us, one and all, to perish as fools by their forsaking of the oath they all swore to support and defend the Constitution of the United States and the precious civil rights afforded therein.

Sincerely,

Michael L. "Mikey" Weinstein, Esq.
 President and Founder
 Military Religious Freedom Foundation
 mikey@militaryreligiousfreedom.org
 www.militaryreligiousfreedom.org

Attachments:

- 1: About Michael L. "Mikey" Weinstein (1 page)
- 2: Addendum on Muslim Harassment in the United States Military (1 page, introducing attachments 3 & 4)
- 3: News Articles Pertaining to Muslim Harassment in the United States Military (17 pages)
- 4: "Against All Enemies, Foreign and Domestic," a chapter from the book *Attitudes Aren't Free: Thinking Deeply about Diversity in the US Armed Forces*, published by Air University Press, Maxwell AFB in 2010 (30 pages)

About Michael L. "Mikey" Weinstein

For background information and recent news articles pertaining to the Military Religious Freedom Foundation, please visit www.militaryreligiousfreedom.org/moment

Mikey Weinstein is the undisputed leader of the national movement to restore the obliterated wall separating church and state in the most technologically lethal organization ever created by humankind: the United States armed forces. Described by Harper's magazine as the constitutional conscience of the U.S. military, a man determined to force accountability, Mikey's family has a long and distinguished U.S. military history spanning three consecutive generations of military academy graduates and over 130 years of combined active duty military service in every major combat engagement our country has been in from World War I to the current Global War on Terror.

Mikey is a 1977 Honor Graduate of the United States Air Force Academy. Mikey has been married for over 33 years to his wife, Bonnie. He is the proud parent of two sons and one daughter. His oldest son and daughter-in-law are 2004 Graduates, and Mikey's youngest son graduated in the Class of 2007 from the Air Force Academy and is the sixth member of Mikey's family to attend the Academy. His father is a distinguished graduate of the United States Naval Academy. Mikey spent 10 years in the Air force as a "JAG" or military attorney serving as both a Federal prosecutor and criminal defense attorney.

A registered Republican, he also spent over three years in the West Wing of the Reagan Administration as legal counsel in the White House. In his final position there, Mikey was named the Committee Management Officer of the much-publicized Iran-Contra Investigation in his capacity as Assistant General Counsel of The White House Office of Administration, Executive Office of the President of the United States. Mikey has held numerous positions in corporate America as a senior executive businessman and attorney.

After stints at prominent law firms in both New York City and Washington D.C., Mikey served as the first General Counsel to Texas billionaire and two-time Presidential candidate H. Ross Perot and Perot Systems Corporation. He left Mr. Perot's employ in 2006 to focus his fulltime attention on the nonprofit charitable foundation he founded to directly battle the far-right militant radical evangelical religious fundamentalists: The Military Religious Freedom Foundation. (<http://www.militaryreligiousfreedom.org>)

Mikey has appeared innumerable times on all of the major cable and terrestrial TV news networks and is a frequent guest on national radio networks as well. His constitutional activism has been covered and profiled extensively in the print media including the Associated Press, The New York Times, the Washington Post, the L.A. Times, the Denver Post, The Guardian and many other national and international newspapers and periodicals including Time magazine.

St. Martins Press in New York released Mikey's book, "With God On Our Side: One Man's War Against an Evangelical Coup in America's Military" in October 2006. The paperback version was released in February 2008 with the Foreword being written by Ambassador Joseph Wilson IV. The book is an expose on the systemic problem of religious intolerance throughout the United States armed forces. Mikey recently made his international film debut in the Hollywood adaptation of James Carroll's New York Times best selling book detailing the 2,000 year bloody history between the Church and the Jews, entitled "Constantine's Sword", and directed by Oscar nominee Oren Jacoby.

Mikey was named one of the 50 most influential Jews in America by the Forward, one of the nation's preeminent Jewish publications. He also has received a nomination for the JFK's Profile in Courage Award and received the Buzzflash Wings of Justice Award. In addition Mikey was honored by a distinguished civil rights organization Jews for Racial and Economic Justice with the Rabbi Marshall T. Meyer Risk-Taker Award, for those who have taken extraordinary risks in the pursuit of justice.

Reviled by the militant radical evangelical fundamentalist Christian far-right, Mikey has been given many names by his enemies including Satan, Satan's lawyer, the Antichrist, That Godless, Secular Leftist, The Antagonizer of All Christians, The Most Dangerous Man in America and, most recently and perhaps most colorfully, The Field General of the Godless Armies of Satan.

On October 15, 2009, the Military Religious Freedom Foundation was officially nominated for the 2010 Nobel Peace Prize. The nominator, who wishes to remain anonymous, happens to be the only Christian in the upper chamber of his country's national parliament; the country is an ally of the United States. Shortly thereafter, another anonymous Qualified Nominator submitted a second official nomination for MRFF for the 2010 Nobel Peace Prize. On October 13, 2010, for the second consecutive year, the Military Religious Freedom Foundation was officially nominated again for the 2011 Nobel Peace Prize.

On November 30, 2010, Americans United for the Separation of Church and State announced that Mikey Weinstein would become AU's first ever "Person of the Year" in 2011. In their press release, AU describes MRFF as "the leading voice protecting church-state separation in the military."



MILITARY RELIGIOUS FREEDOM
F O U N D A T I O N

Addendum on Muslim Harassment in the United States Military:

It is abundantly clear from the numerous reports and complaints received by the Military Religious Freedom Foundation (MRFF) from Muslims serving in the U.S. military that a negative attitude towards those of the Islamic faith not only exists, but has resulted in the harassment, humiliation, and even the completely unwarranted detention of Muslim service members.

The reports received by MRFF are typically about individual experiences and incidents, such as the mistreatment and humiliation of Muslim recruits by their drill sergeants or incidents of non-commissioned officers (NCO) and officers telling formations of soldiers that the current wars are a holy war against Islam. But what leads an NCO to think that it's perfectly acceptable to humiliate a Muslim American soldier by calling them "haji" or dressing them up in Arab garb to play the role of "terrorist" in a training exercise, or an officer to proclaim to their subordinates that we're in a war against Islam?

In part, this attitude that such behavior is acceptable may come from the growing suspicion of American Muslims fomented by the widespread fear-mongering and Islamophobic propaganda from the civilian sphere, which is, of course, beyond the control of the military. However, when this suspicion and bigotry is not only condoned but even endorsed by the military establishment itself, a clear message is sent throughout the ranks that the denigration, mistreatment, and abuse of Muslim service members is not only allowed but encouraged.

It is therefore imperative to look at the underlying causes within the military that have led to the negative attitude and unrestrained bigoted behavior of so many NCOs and officers towards their Muslim subordinates, which, in turn, sets the example for the troops beneath these NCOs and officers to perpetrate the same offenses against their Muslim peers.

As the examples in the attached articles and book chapter will show, there are a number of ways in which the military itself has caused or exacerbated the bigotry and mistreatment faced by so many Muslims now serving in the U.S. armed forces.

Among the most obvious and most egregious ways in which the military is endorsing and fostering a culture of intolerance and suspicion towards Muslim service members is through what is being taught to NCOs, officers, and future officers at the U.S. military's colleges and service academies. The attached articles include examples of the invitation of some of the most deplorable and offensive speakers on the anti-Muslim speaking circuit to lecture at U.S. Air Force Academy, the Joint Forces Staff College, and other U.S. military colleges, as well as the use and endorsement by the Naval War College of a politically motivated anti-Muslim propaganda film. The Department of Defense also demonstrates its tolerance for intolerance through its association, and in some cases official partnership, with some of the most virulently anti-Muslim preachers and ministries in America, two cases of which are included in the attached articles.

The attached book chapter, "Against All Enemies, Foreign and Domestic," from the book *Attitudes Aren't Free: Thinking Deeply about Diversity in the US Armed Forces*, published by Air University Press, Maxwell Air Force Base in 2010, details a variety of issues related to religion in the military, including a number of additional examples of ways in which the U.S. military has, and continues to, actively contribute to its own growing problem of anti-Muslim sentiment among its ranks.

HUFFPOST MEDIA

Chris Rodda

Senior Research Director, Military Religious Freedom Foundation

Posted: September 25, 2008 09:26 AM

Obsession "Stars" Have Lectured at U.S. Military Colleges; U.S. Navy Uses Film

In the past year and a half, two of the Islamophobic fear mongers featured in *Obsession: Radical Islam's War Against the West* -- the politically useful anti-Muslim documentary currently being distributed by the millions in swing states via DVDs inserted in major newspapers -- have been invited to speak at U.S. Military Colleges.

In February 2008, Walid Shoebat, along with his fellow self-proclaimed ex-terrorists turned fundamentalist Christians, appeared at the U.S. Air Force Academy's 50th Annual Academy Assembly. In June 2007, Brigitte Gabriel, founder of the American Congress for Truth and author of *Because They Hate*, delivered a lecture at the Joint Forces Staff College (JFSC).

The following quotes are all from the question and answer segment of Brigitte Gabriel's lecture at the JFSC.

In answer to the question, "Should we resist Muslims who want to seek political office in this nation?," Gabriel replied:

"Absolutely. If a Muslim who has -- who is -- a practicing Muslim who believes the word of the Koran to be the word of Allah, who abides by Islam, who goes to mosque and prays every Friday, who prays five times a day -- this practicing Muslim, who believes in the teachings of the Koran, cannot be a loyal citizen to the United States of America."

As part of her answer to this same question, Gabriel asserted that a Muslim's oath of

office is meaningless, giving the following reason:

"A Muslim is allowed to lie under any situation to make Islam, or for the benefit of Islam in the long run. A Muslim sworn to office can lay his hand on the Koran and say 'I swear that I'm telling the truth and nothing but the truth,' fully knowing that he is lying because the same Koran that he is swearing on justifies his lying in order to advance the cause of Islam. What is worrisome about that is when we are faced with war and a Muslim political official in office has to make a decision either in the interest of the United States, which is considered infidel according to the teachings of Islam, and our Constitution is incompatible [sic] with Islam -- not compatible -- that Muslim in office will always have his loyalty to Islam."

The next question came from a soldier who introduced himself as Muslim who has been serving in the U.S. Army for the past 19 years. He asked Gabriel if she was a member of Hasbara Fellowship. Gabriel not only answered that she was not a member, but asked, "What's Hasbara Fellowship?" Gabriel is currently listed as a speaker on the official website of Hasbara Fellowships as a member of the organization's Speakers Bureau, and has been since 2005.

Here's what Gabriel had to say about terrorists entering the U.S. from Mexico:

"Those Al Qaeda members and Hezbollah members who are coming into the United States, they are immediately going from the Mexican border into the major cities where there is large Islamic concentration in the United States, such as 'Dearbornistan' Michigan..."

And, on the Islamic community in the U.S. and racial profiling:

"We need to see more patriotism and less terrorism, and especially on the part of the Islamic community in this country, who are good at nothing but complaining about every single thing instead of standing up and working with us in fighting the enemy in our country."

And, finally, Gabriel's advice to Americans who see a mosque being built in their

community:

"I tell them, if you see a mosque being built in your community, and you are worried about suspicious activities happening in the mosque, go down to city hall. Find out who owns the deed to that mosque. Is it a Saudi foundation? Is it names of some Islamic sheik outside of the United States of America? Write those names down. It's public information -- for free. Write the information down. Come home. Call the F.B.I. in your local community. Turn the names to the F.B.I. and the F.B.I. can start checking. Are these people on the most wanted list? Do they have links to terrorism? This is how we can help our government as citizens..."

Brigitte Gabriel's lecture was part of the JFSC's Islam elective, a course open only to American military and national security personnel. Foreign students attending the college, which include students from Islamic allies who would obviously be appalled and outraged by the likes of Gabriel, are not allowed to take this course.

Just as appalling and outrageous as Gabriel's JFSC lecture was the February 2008 appearance of the "three ex-terrorists" at the U.S. Air Force Academy. The three members of this traveling anti-Muslim sideshow, paid \$13,000 to speak at the 50th Annual Academy Assembly on the topic "Dismantling Terrorism: Developing Actionable Solutions for Today's Plague of Violence," are Walid Shoebat, Zachariah Anani, and Kamal Saleem. Shoebat, who appears in *Obsession* and sells the film on his website, has also spoken at Tim LaHaye's Pre-Trib (Pre-Tribulation) Research Center conferences and John Hagee's Christians United for Israel (CUFI) events. Zachariah Anani is a Lebanese-born Canadian citizen who claims to have killed 223 people while a Muslim terrorist. Kamal Saleem, under his real name, Khodor Shami, worked for Pat Robertson's Christian Broadcasting Network for sixteen years, was hired by James Dobson's Focus on the Family in 2003, and founded Koome Ministries in 2006 to "expose the true agenda of [Muslims] who would deceive our nation and the free nations of the world."

The claims of the three ex-terrorists about their exploits as Muslim terrorists have long been questioned by academics and terrorism experts who have found a plethora of

unlikelyhoods and outright impossibilities in their stories. The most obvious question, of course, is why, if their stories are true, haven't these three self-proclaimed terrorists, who have been traveling the country for years admitting to numerous killings and other terrorist acts, not been deported or jailed. Well, apparently, even our government's terrorist hunters don't believe these guys. According to a *New York Times* article about the trio's appearance at the Air Force Academy, "A spokesman for the F.B.I. said there were no warrants for their arrest."

After demands by the Military Religious Freedom Foundation (MRFF) for equal time to counter the anti-Muslim screed of the three ex-terrorists, the Air Force Academy eventually allowed MRFF founder and president, and Academy graduate, Mikey Weinstein, and two MRFF Advisory Board members, Islam expert Reza Aslan and former Ambassador Joe Wilson, to speak to (deprogram) the cadets.

In addition to *Obsession* cast members Brigitte Gabriel and Walid Shoebat speaking at U.S. military colleges, Gregory Ross, the film's co-writer and director, stated in an interview that the film is being used by the U.S. Navy. According to Ross, who is also Communications Director for Clarion Fund, the organization that produced the film and is now funding the DVD newspaper insert scheme, "I know that the U.S. Department of the Navy uses the film and that it has also been shown on Capitol Hill on many occasions in order to education [sic] politicians."

HUFFPOST RELIGION

Chris Rodda

Senior Research Director, Military Religious Freedom Foundation

Posted: April 21, 2010 04:09 PM

MRFF Demands that Pentagon Disinvite Franklin Graham from NDP Event

The Military Religious Freedom Foundation (MRFF) has sent the following letter to Secretary of Defense Robert Gates, demanding, for the reasons explained in the letter, that Franklin Graham be uninvited as the keynote speaker for the Pentagon's upcoming National Day of Prayer event. The request for MRFF's assistance from a group of Muslim military personnel and DoD employees at the Pentagon, which is enclosed with the letter to Secretary Gates, follows.

April 19, 2010

Dear Secretary Gates,

On behalf of a courageous community of United States military personnel and DoD employees of the Muslim faith at the Pentagon who have contacted the Military Religious Freedom Foundation (MRFF) for help regarding the choice of Franklin Graham as the speaker for the Pentagon's May 6, 2010 National Day of Prayer event, MRFF hereby demands, for the reasons explained below, that the Pentagon Chaplains Office immediately rescind its invitation to Mr. Graham and choose a more appropriate and inclusive speaker for this high profile event. (See attached request for MRFF assistance.)

You may recall the outrage of the Muslim community, as well as members of other religious faiths, when Mr. Graham was invited to speak at the Pentagon in 2003 -- outrage prompted particularly by Mr. Graham's statements following the attacks of 9/11 in which he called the whole of the religion of Islam "evil" and

"wicked." Mr. Graham has never retracted or apologized for these statements, and, in fact, was still defending them as recently as December 2009 in an appearance on CNN.

MRFF also strongly objects in the most fervent magnitude to the Constitutionally noxious affiliation of the Pentagon's National Day of Prayer event with the National Day of Prayer Task Force (NDPTF). This illegal affiliation violates the Joint Ethics Regulation (DoD 5500.7-R) regarding the strictly prohibited endorsement of a non-federal entity (Section 3-209), and DoD Instruction 5410.19, which, likewise, prohibits the providing of a selective benefit or preferential treatment to any organization (Sections 6.7.1 and 6.7.2).

By making it a regular practice to have the NDPTF's honorary chairman, who this year is Franklin Graham, as the designated keynote speaker for the Pentagon's event, and by using the promotional materials supplied by the NDPTF, the Pentagon Chaplains Office has clearly turned the Pentagon's event into an official NDPTF event. No other interpretation is reasonable, rational, or possible.

There is, of course, no issue with the Pentagon Chaplains Office hosting an NDP event. The outrageous issue, in the instant matter, is the Pentagon's hosting of an event affiliated with the NDPTF, a private organization headed by Shirley Dobson, wife of Focus on the Family founder Dr. James Dobson. The NDPTF has become the de facto "official" sponsor of the National Day of Prayer, and, by its comprehensively exclusive restrictions and blatantly sectarian requirements, has made all NDPTF affiliated events exclusively fundamentalist Christian in scope, message, and nature.

To begin with, all NDPTF volunteers must subscribe to the following "Statement of Belief," a statement which universally excludes not only all non-Christians and non-religious, but, in point of fact, even many Christians themselves.

"I believe that the Holy Bible is the inerrant Word of The Living God. I believe that Jesus Christ is the Son of God and the only One by which I can obtain salvation and have an ongoing relationship with God. I believe in the deity of our

Lord Jesus Christ, his virgin birth, his sinless life, his miracles, the atoning work of his shed blood, his resurrection and ascension, his intercession and his coming return to power and glory. I believe that those who follow Jesus are family and there should be unity among all who claim his name."

But even more incontrovertibly, NDPTF event coordinators must agree, by subscribing to the following statement, to restrict any participation beyond simply attending an event to Christians and only Christians.

"I commit that NDP activities I serve with will be conducted solely by Christians while those with differing beliefs are welcome to attend."

The NDPTF also has an "Official Policy Statement on Participation of 'Non-Judeo-Christian' groups in the National Day of Prayer," which states:

"The National Day of Prayer Task Force was a creation of the National Prayer Committee for the expressed purpose of organizing and promoting prayer observances conforming to a Judeo-Christian system of values. People with other theological and philosophical views are, of course, free to organize and participate in activities that are consistent with their own beliefs."

While the NDPTF, of course, has every right, as a private organization, to organize exclusively Christian events and to prohibit the participation of non-Christians, the Pentagon Chaplains Office absolutely cannot endorse or provide a selective benefit to this non-federal entity by shamefully, disgracefully, and unconstitutionally affiliating the Pentagon NDP event with it.

Given the heinously hurtful, bigoted, and very public continual statements of Mr. Graham against the entirety of the religion of Islam, and his position as honorary chairman of the NDPTF, the Military Religious Freedom Foundation hereby demands that the Pentagon Chaplains Office immediately rescind its invitation to Mr. Graham, permanently distance itself from the NDPTF, and simply do the right thing; to wit, make the Pentagon NDP event inclusive of all honorable and noble United States military personnel and DoD employees, regardless of religious beliefs, who wish to participate.

Michael L. "Mikey" Weinstein, Esq.
Founder & President
Military Religious Freedom Foundation
www.militaryreligiousfreedom.org

Enclosure

CC:

President Barack Obama
John M. McHugh - Secretary of the Army
Ray Mabus - Secretary of the Navy
Michael B. Donley - Secretary of the Air Force
Admiral Michael Mullen - Chairman of the Joint Chiefs of Staff
General James E. Cartwright - Vice Chairman of the Joint Chiefs of Staff
General George W. Casey, Jr. - Chief of Staff of the United States Army
Admiral Gary Roughead - Chief of Naval Operations
General Norton A. Schwartz - Chief of Staff of the United States Air Force
General James T. Conway - Commandant of the Marine Corps

Request for MRFF's assistance from Muslim military personnel and DoD employees at the Pentagon:

Dear Mr. Weinstein,

We request the assistance of the Military Religious Freedom Foundation with a matter that concerns all Americans. As Muslim members of the U.S. military and the Pentagon worship community, we are dumbfounded that the Pentagon Chaplain's Office has invited Mr. Franklin Graham to be the guest speaker at the National Day of Prayer at the Pentagon on May 6, 2010.

Seven years ago, the Pentagon Chaplain's Office invited Mr. Graham to speak at the Pentagon, dismissing the concerns of the Pentagon Muslim worship community, as well as those of the Muslim community at large. At that time, the Pentagon chaplain claimed a lack of knowledge of Mr. Graham's opinions on

Islam and Muslims. The current Pentagon chaplain made the same claim and dismissed our concerns by stating that Mr. Graham's comments are old news anyway.

That anyone serving in the Pentagon now could claim a lack of knowledge of Mr. Graham's very public, negative comments about Islam and Muslims stretches the limits of credulity. Mr. Graham never retracted his previous bigoted statements ("We're not attacking Islam but Islam has attacked us. The God of Islam is not the same God. He's not the son of God of the Christian or Judeo-Christian faith. It's a different God, and I believe it [Islam] is a very evil and wicked religion."). And, as recently as December 2009, in a CNN interview with Campbell Brown, Mr. Graham reiterated his negative views of Islam and Muslims by stating, "But there are millions of wonderful Muslim people. And I love them. I have friends that are Muslims and I work in those countries. But I don't agree with the teachings of Islam and I find it to be a very violent religion." We have attached an excerpt of the interview transcript, as well as a link of the video, for your information because it contains even more troubling statements by Graham.

The bigoted viewpoints repeatedly expressed by Mr. Graham, without retraction or apology, contradict not only Department of Defense policy but also our overall national policy, as articulated by President Obama. Once again, we hope and pray that the Pentagon Chaplain's Office will reconsider its invitation to Mr. Graham and instead invite more inclusive and honorable clergy persons to speak at the Pentagon.

Respectfully,

Members of the Pentagon Muslim Community

Mark DeMoss, a spokesman for Franklin Graham, has confirmed to the *Associated Press* that Graham has not changed his views on Islam.

HUFFPOST POLITICS

Chris Rodda

Senior Research Director, Military Religious Freedom Foundation

Posted: June 13, 2008 05:50 PM

Christian Ministry Attacks Obama and Lies About Bibles For Our Troops

The almost incomprehensible attack on Barack Obama found below is excerpted from a "Sermon of the Month" by Dr. Cecil Todd, founder of Revival Fires International, a 501(c)3 ministry which, "at the request of the Chief Chaplains of the Pentagon," has been shipping Bibles to Iraq, via military airlift, since 2003. According to a Revival Fires press release this "full Bible is designed and authorized by the Chief Chaplains of the Pentagon." This Pentagon involvement and Bible distribution led Navy chaplain LCDR Brian K. Waite to Revival Fires.

In 2001, LCDR Waite, then a mega-church pastor and reserve chaplain, published a virulently anti-Muslim book titled *Islam Uncovered* -- a book which was pulled from the shelves in 2002 due to plagiarism and faked endorsements. A few months later, Waite was accepted into the Naval Chaplain Corps. As an active duty chaplain, Waite has not only endorsed Revival Fires in uniform on the ministry's website, but appeared on advertisements for, and as a featured speaker at, their 2006 and 2007 campmeetings. He is also scheduled to appear at their 2008 campmeeting, to be held June 24-28. Past speakers at Cecil Todd's campmeetings have included such notables as John Hagee, Rod Parsley, Tim LaHaye, and ex-Judge Roy Moore.

The Military Religious Freedom Foundation (MRFF) recently exposed LCDR Waite's anti-Muslim writings, his plagiarism scandal, his blatant violations of military regulations in endorsing Revival Fires Ministries, and his diploma-mill

educational background. Waite's anti-Muslim ideology led to his dismissal from the faculty of the Graduate Theological Foundation, a civilian institution where he was the director of a Military Ministries doctoral program, but no apparent action by the military.

The following are some excerpts from "Who I Want In The White House!," Cecil Todd's May 2008 "Sermon of the Month."

"Today, a fierce political battle rages across our nation, as once again the American people will be choosing who will lead our country as President, for the next four years!

"The top contenders in this race are Hillary Clinton, Barack Hussein Obama and John McCain -- all three of these Presidential wannabe's are U.S. Senators.

"Many sincere -- seeking Americans are asking **'WHO WOULD BE THE BEST PERSON OF THESE THREE PEOPLE TO SERVE AS PRESIDENT OF THE MOST POWERFUL NATION IN THE WORLD?'**"

[...]

"As a minister, I am forbidden by law to tell you how to vote! (I would never do that!) Yet, we all know this law is being broken again and again by many ministers, who are pushing their liberal candidates! I will urge you , 'Do not vote as a Democrat ... and do not vote as a Republican ... **BUT AS A CHILD OF GOD BE SURE TO VOTE!**'

"As a servant of the most high God, I beg you, 'Do not vote for a 'baby-killer,' or a promoter of the homosexual life-style or someone who will sell-out our freedoms as a nation and as Christians! That does narrow down the candidates!"

[...]

"There are those today (even some who are Christians!) who mistakenly say, 'Christians shouldn't get involved in politics!' For many years this was my position. However, while we were silent, some politicians and the liberal courts stole prayer, Bible reading, the Ten Commandments from our public schools and many more of our freedoms!

"I believe the 'freedom-stealers' have used the mis-application of our First Amendment to try and silence our tongues!

"Our First Amendment actually says, '**Congress shall make no laws respecting an establishment of religion, OR PROHIBITING THE FREE EXERCISE THEREOF!**'

"This amendment is very plain to most freedom-loving Americans! In my opinion, these enemies of freedom have twisted this amendment to advance their social and political agenda and to try and 'shut the mouths' of the people like us who want to stand up for what our country stands for!

"While we were sleeping instead of weeping ... while we were playing instead of praying ... while we were feasting instead of fasting, the enemies of freedom have come in and stolen our precious God-given liberties!

"I'm convinced the separation of Church and State will come at the rapture -- when Jesus comes back! If we don't have a rapture real soon, I'm afraid our nation will have a 'rupture!'

"**Until then, should we mix Christianity and politics?** With so much corruption, lying, deceit and lack of Christian principles and morality in our government, there is no place where Christianity is needed more! We must have more of 'God in our Government', more of 'Christ in our Congress' and 'less sin in our Senate!'"

[...]

"I WANT SOMEONE IN THE WHITE-HOUSE WHO WILL

EXPOSE THE WICKED AGENDA OF THE RADICAL MUSLIMS!

"Jesus said it plain -- **'I am the way, the truth and the life ... no one comes to the Father, but by me!'** (John 14:6)

"The Muslims tell us **'Mohamed is the only way!'** But when Mohamed died, he was buried and his flesh and bones rotted in the grave! However, when Jesus died, He was buried, but the third day, He arose! He lives! He lives! Jesus says, **'I am He that lives and was dead and Behold, I am alive forevermore; and I have the keys of death and hell!'** (Rev. 1:18)

"Country after country have already been taken over by these radical Muslims! They lost their freedom of speech, their freedom to vote and their freedom to assemble and worship as a Christian! If we don't use it -- we will lose it! We are on a countdown to Global War ... A nuclear showdown with Iran is coming ... this show-down will affect every person on planet Earth!

"Christians in Muslim nations are now persecuted and murdered! The women and young girls are raped and used to satisfy the sexual desires of their leaders. It is common for some Muslim clerics to have several women and girls as their wives!

"And the ultimate desire of the Muslims is to make the United States a Muslim nation! And today, our nation is fast embracing the Muslim religion! Muslims now get special privileges in many of our public schools and colleges ... they have become school board members ... elected to public office as Alderman and Councilmen in our cities, some are even Senators and Congressmen! Their clerics lead in prayer in the U.S. Congress and Senate in Washington, D.C.

"Now -- **GOD FORBID** -- We have one of our Presidential candidates who was raised a Muslim ... he was trained in a Muslim school -- he will rarely (if ever!) pledge to our flag if he can avoid it. He is never seen wearing an

American Flag on his lapel -- and his middle name is 'Hussein!' And yet he wants to be President of these United States! I say, 'He doesn't qualify to be a dog-catcher!' And his wife appears to be less patriotic than he is!

HERE'S MORE DISTURBING INFORMATION! He doesn't want his middle name used -- ('Hussein'). Why not just use the first letter of his first name (Barack), and the first letter (Obama), of his last name! That would be 'B.O!' That means, '**HE STINKS!**' Perhaps, if we would just add the word 'nation' to his last name, we would get the true meaning of who he is - - '**OBAMA-NATION!**' That's something to think about.

"He is a good talker -- most politicians are! Some politicians have given new meaning to the word 'air-bag!' But never listen to what a politician says! **They will say what you want to hear to get your vote! But after they get into office they do as they please!**

"BARACK 'HUSSEIN' OBAMA'S voting record is more liberal than Ted Kennedy's! That should tell you what to expect from an Obama Presidency!

"If Obama is not a Muslim, why are so many Muslims (some are even suspected terrorists!) supporting and backing Obama for President? If he is truly a Christian (as he claims!) would these Muslims be supporting him? You know the answer!

"Be informed ... a Muslim is taught it is alright to lie, if it will advance the Muslim agenda! Mark my words, 'The Muslims' will lie again and again to get their man (or woman) in a position of power and influence!

"Why is Obama pushing so hard to bring our troops home? Why is that so important to him and his supporters? I believe I know why ... the evidence is in, I believe **OBAMA IS STILL A MUSLIM IN HIS HEART!** He doesn't want his Muslim brothers and sisters killed! In my opinion -- **Barack 'Hussein' Obama** is posing as a Christian to get your vote!

"If Obama does get into office you will see! Mark my words, if that happens we will have 'hell to pay!'

According to the U.S. Department of Justice, we have at least 35 cities across America with **'HOME-GROWN' ISLAMIC TERRORIST** in training! **IN TRAINING FOR WHAT? TO ATTACK AND BRING DOWN OUR COUNTRY! THEY ARE PREPARING TO ATTACK NOW!** My sources say, they have guns, plenty of ammunition, dynamite, machine guns, AK-47's and high-powered rifles! I am now informed that two of the nineteen Muslim terrorist who attacked us on 9-11 were from one of these 'Muslim terrorist training camps!'

These 'Home-Grown' terrorists compounds are located all over the U.S. You would probably be shocked to know how close they are to you. They are in Texas, Oklahoma, Alabama, Colorado, Georgia, California, Tennessee, Virginia, South Carolina, West Virginia, Maryland, New York, Washington State, Michigan, Pennsylvania, Massachusetts, and several other cities! **(I have a map that shows the location of all 35 cities across America where these radical Muslims are in training -- plus, much more information about this! Write or call our Revival Fires office for this map and this shocking information!) You will be shaken to your toes! You will be driven to your knees! You will say with me and millions of others --**

"WAKE-UP AMERICA! WAKE-UP AND LOOK-UP! BEFORE IT IS TOO LATE!

"I sure don't want a Muslim or a Muslim sympathizer in the White House, do you? I want someone who will expose this awful threat and do something about this planned Muslim take-over of our country!"

In a Memorial Day message on the Revival Fires International website, evangelist Tim Todd, son of Revival Fires founder Cecil Todd, urged his followers to "make an eternal investment into the lives of our U.S. Armed Forces serving in Iraq and

Afghanistan" by donating money to send Bibles to the troops.

Tim Todd explained why private donations for military Bibles are so desperately needed: "Our government no longer provides Bibles for our troops! Because of the foolish 'separation of church and state' battle going on in this country, our military stopped this years ago."

This is an outright lie, as evidenced by many recent Department of Defense contracts for the purchase of Bibles. Topping the list of Bible contractors are the International Bible Society, with over \$450,000 in DoD contracts for Bibles between 2002 and 2007, and Tammy's Bible and Book Store, with close to \$300,000 during this same period. Countless smaller contracts, ranging from a few thousand to tens of thousands of dollars, have been awarded to various Christian book dealers and distributors for Bibles and other Christian books.

Todd continued: "However, the U.S. military does give a copy of the Koran to all of our soldiers so they can 'know their enemy.' I say we need to give our soldiers a copy of the Bible so they can 'know their savior!!!"

Here, too, a simple search of DoD contracts is all that's needed to dispute Tim Todd's claim. If Qur'ans were being given to all of our troops, as Todd would have his readers believe, there would be some record of their purchase, but there isn't. The only government agency to buy the Qur'an in bulk has been the Justice Department, for the use of the F.B.I. There hasn't been a single such DoD contract for the purchase of Qur'ans.

Is there really a Bible shortage among our troops? It certainly doesn't appear so. If the numbers of Bibles claimed to have been shipped to Iraq by all of the organizations sending them were added up, there have actually been more Bibles shipped than troops deployed. And, in addition to the large number of Bibles purchased by the DoD and those sent to Iraq by private organizations, Bibles are freely distributed to untold thousands of basic trainees by ministries such as Campus Crusade for Christ before they're deployed. In fact, so many groups have been distributing Bibles to our soldiers that Eric Horner Ministries, which hands

out camouflage covered New Testaments from the International Bible Society, reported in March 2007: "We recently visited Ft Jackson SC for a concert and gave out around 250 copies of the New Testament with Psalms and Proverbs to our young soldiers. We had hoped to give out more but we learned there had just been a group on base handing them out as well."

But, while plenty of Bibles seem to be available to those who want them, ministries like Revival Fires have "made it a top priority to see to it that **every** soldier on foreign soil receives a copy of the Word of God!" -- *whether they want one or not*. Other organizations have similar evangelistic goals, but Revival Fires is one of the few to have a formal relationship with the U.S. military, shipping, "at the request of the Chief Chaplains of the Pentagon," Bibles "designed and authorized by the Chief Chaplains of the Pentagon" via military airlift to Iraq, and using an active duty U.S. military chaplain to endorse and raise money for their organization.



AGAINST ALL ENEMIES, FOREIGN AND DOMESTIC

Chris Rodda

Top 10 Ways to Convince the Muslims We're on a Crusade

10. Have Top US Military Officers, Defense Department Officials, and Politicians Say We're in a Religious War.

We couldn't have gotten off to a better start on winning hearts and minds back in 2003, when US Army Lt Gen William "Jerry" Boykin decided to go on a speaking tour of churches, publicly proclaiming in uniform that the global war on terrorism (GWOT) was really a battle between Satan and Christians, and making comments like, "We in the Army of God, in the House of God, the Kingdom of God have been raised for such a time as this." Of course, Boykin knew what he was talking about. After all, a decade earlier he had captured the dangerous Somali warlord Osman Atto and was very clear about the reason that happened—"I knew that my God was a real God, and his was an idol."

President Bush, in spite of the fact that Boykin believed he was "in the White House because God put him there," wasn't too pleased with these remarks, but still, the general's friends stood by him—friends like then-Cong. Robin Hayes (R-NC), who, speaking at a Rotary Club meeting in his hometown a few years later, pronounced that stability in Iraq ultimately depended on "spreading the message of Jesus Christ, the message of peace on earth, good will towards men," and "everything depends on everyone learning about the birth of the Savior."¹

While few such statements have been as overt or widely publicized as those of Boykin and Hayes, plenty of other military leaders and policy makers are on record espousing similar views. When asked what effect such statements have on the US military operations in Iraq and Afghanistan, a retired Air Force officer appearing on MSNBC in a segment about the remarks of Congressman Hayes answered:

Well, it's not helpful if this stuff gets back to the Iraqis, and of course in the days of the internet and the blogosphere out there it's likely that it could. And you

Portions of this article were originally published in the *Daily Kos* on 18 September 2009.

know our troops have enough problems over there just doing their jobs. Having to defend what a U.S. congressman might say, because you know, when you bring up the idea of proselytizing Christianity, to a lot of Muslims, that's very offensive, and if we can keep religion out of what we're trying to do over there, which is very difficult, it would be a lot easier for our troops. . . . If you're trying to be a unit trainer to, say, an Iraqi battalion and the battalion religious advisor, the imam, would come in and say look what a congressman said, it just takes away from what we're trying to do.²

Nevertheless, some representatives of our government continue to present the war on terror as a spiritual battle, promoting the specious notion that victory in Iraq and Afghanistan is somehow necessary to preserve our own religious freedom here in America. "Thomas Jefferson would understand the threat we face today—tyranny in the name of religion," asserted a top Army official at a West Point graduation ceremony. "Your sons and daughters are fighting to protect our citizens . . . from zealots who would restrain, molest, burden, and cause to suffer those who do not share their religious beliefs, deny us, whom they call infidels, our unalienable rights."³ And, finding it vitally important for Congress to recognize "the importance of Christmas and the Christian faith," another congressman made his case: "American men and women in uniform are fighting a battle across the world so that all Americans might continue to freely exercise their faith."⁴ As of yet, nobody making such statements has offered any explanation of *how* the outcome of this war could possibly affect the free exercise of religion by Americans.

9. Have Top US Military Officers Appear in a Video Showing Just How Christian the Pentagon Is.

In addition to providing propaganda material to our enemies, public endorsements of Christianity by US military leaders can also cause concern among our Muslim allies. It might have seemed like a good idea at the time, but the situation became very awkward for Air Force Maj Gen Pete Sutton shortly after he appeared in a promotional video for the Christian Embassy.⁵ Dressed in uniform and using their official titles, several high-ranking military officers and DOD civilians gave testimonials and made statements such as "we're the aroma of Jesus Christ," which were publicly available on the Christian Embassy's Web site. What Sutton didn't know when he appeared in this video was that he would soon be assigned as the US European Command's chief of defense cooperation to Turkey, a country in which religion and government are strictly separated. According to the DOD Inspector General's report on the investigation of allegations relating to the video:

Maj Gen Sutton testified that while in Turkey in his current duty position, his Turkish driver approached him with an article in the Turkish newspaper 'Sabah.' That article featured a photograph of Maj Gen Sutton in uniform and described him as a member of a radical fundamentalist sect. The article in the online edition of Sabah also included still photographs taken from the Christian Embassy video. Maj Gen Sutton's duties in Ankara included establishing good relations with his counterparts on the Turkish General Staff. Maj Gen Sutton testified

that Turkey is a predominantly Muslim nation, with religious matters being kept strictly separate from matters of state. He said that when the article was published in *Sabah*, it caused his Turkish counterparts concern, and a number of Turkish general officers asked him to explain his participation in the video.⁶

Unfortunately, there is no shortage of uniformed military personnel endorsing fundamentalist Christian organizations and military ministries, some of which have clearly publicized missions that include proselytizing Muslims. These videos are easily found on the Internet, providing plenty of potential propaganda material for recruiting by extremists.

8. Plant Crosses in Muslim Lands and Make Sure They're Big Enough to Be Visible from Really Far Away.

As Gen Norman Schwarzkopf recounted in his autobiography, *It Doesn't Take a Hero*, back in 1990, when US troops were deployed to Saudi Arabia for Operation Desert Shield, an attempt by a Christian missionary organization to use the military to proselytize Saudi Muslims led the Pentagon to issue strict guidelines on religious activities and displays of religion in the region. It was left to the discretion of individual company commanders to determine how visible religious services should be, depending on their particular location's proximity to Saudi populations. In some cases, decisions were made not to display crucifixes or other religious symbols, even at worship services. There were a few complaints about these decisions, but the majority of the troops willingly complied, understanding that these decisions were being made for their own security. According to General Schwarzkopf, even his request that chaplains refrain from wearing crosses on their uniforms received an unexpectedly positive reaction, with the chaplains not only agreeing with the policy, but also going a step further by calling themselves "morale officers" rather than chaplains.

But now, in Iraq and Afghanistan, General Schwarzkopf's commonsense policies and priority of keeping the troops safe have been replaced by a flaunting of Christianity by Christian troops and chaplains who feel that nothing comes before their right to exercise their religion, even if it means putting the safety of their fellow troops at risk. Numerous photos, some posted on official military Web sites, show conspicuously displayed Christian symbols, such as large crosses, being erected on and around our military bases in Iraq and Afghanistan.⁷

Large Christian murals have been painted on the outside of the T-barriers surrounding a chapel on Forward Operating Base (FOB) Warhorse in Iraq. In addition to being a highly visible display of Christianity to Iraqis on the base, photos of these murals were posted on an official military Web site.⁸ It is even more important that the regulation prohibiting displays of any particular religion on the grounds of an Army chapel—a regulation that protects the religious freedom of our Soldiers by keeping chapels neutral and welcoming Soldiers of all faiths—be strictly enforced on our bases in Iraq and Afghanistan. Yet there is clear and credible evidence that those in charge routinely overlook such regulations.

7. Paint Crosses and Christian Messages on Military Vehicles and Drive Them through Iraq.

For those Iraqis who may not see the overt stationary displays of Christianity on and near US military bases in their country, there have been plenty of mobile Christian messages painted on our tanks and other vehicles that patrol their streets.

The title of Jeff Sharlet's May 2009 *Harper's Magazine* cover story, "Jesus Killed Mohammed: The Crusade for a Christian Military," actually comes from one such vehicular message—the words "Jesus killed Mohammed" were painted in *large red Arabic lettering* on a Bradley fighting vehicle, drawing fire from nearly every doorway as it was driven through Samarra. Other vehicles have sported everything from the Islamic crescent overlaid with the internationally recognized red circle and slash "no" sign to large crucifixes hanging from gun barrels. A military public relations office even officially released a photo of the tank named "New Testament."⁹

6. Make Sure That Our Christian Soldiers and Chaplains See the War As a Way to Fulfill the Great Commission.

To many fundamentalist Christians, the "Great Commission" from Matthew 28:19—"Go and make disciples of all nations"—trumps all man-made laws, including military regulations. It's hard to find a military ministry whose mission statement doesn't, in one way or another, include fulfilling the Great Commission. Thus, it is not surprising that many service members who've been influenced by these military ministries are conflicted about their mission, a conflict often leading some of these service members to disregard the military's prohibition on proselytizing.

Campus Crusade for Christ's (CCC) Military Ministry,¹⁰ a parachurch ministry active at all of the largest US military training installations, the service academies, and on ROTC campuses, frequently states its goal of turning the US military into a force of "government-paid missionaries for Christ." The vision statement of another organization, Military Missions Network,¹¹ is "an expanding global network of kingdom-minded movements of evangelism and discipleship reaching the world through the military of the world."

Describing the duties of a CCC Military Ministry position at Lackland Air Force Base and Fort Sam Houston in Texas, for example, the organization's Web site stated, "Responsibilities include working with Chaplains and Military personnel to bring lost soldiers closer to Christ, build them in their faith and send them out into the world as government paid missionaries."¹²

CCC's Valor ministry,¹³ which primarily targets future officers on ROTC campuses, states, "The Valor ROTC cadet and midshipman ministry reaches our future military leaders at their initial entry points on college campuses, helps them grow in their faith, then sends them to their first duty assignments throughout the world as 'government-paid missionaries for Christ.'"¹⁴

In a promotional video filmed at the US Air Force Academy, a USAFA CCC program director pronounced that CCC's purpose is to "make Jesus Christ the issue at the Academy," and for the cadets to be "government paid missionaries" by the time they leave.¹⁵

According to a CCC Military Ministry instructional publication uncovered in 2007, CCC's mission is not simply to provide Bible studies to allow Christians in the military to exercise their religion, as its defenders claim. The instructions state, "We should never be satisfied with just having Bible studies of like-minded believers. We need to take seriously the Great Commission."¹⁶

Whatever one's position on the issue of evangelism, the undeniable fact is that all of the above quotes, as well as the video filmed at the Air Force Academy, were found on the Internet, which, of course, means that any extremist looking for recruiting tools could also find this easily accessible "evidence" that the US military is being groomed to be a force of crusaders.

5. Post Photos on the Internet of US Soldiers with Their Rifles and Bibles.

CCC's indoctrination of basic trainees at Fort Jackson, South Carolina, the Army's largest basic training installation, is a program called "God's Basic Training," in which the recruits are taught that "The Military = 'God's Ministers'" and that one of their responsibilities is "to punish those who do evil" as "God's servant, an angel of wrath."¹⁷

Until being exposed (and taken down), the Fort Jackson CCC Military Ministry had a Web site containing not only its Bible study materials, but also numerous photos of smiling trainees posed with their rifles and Bibles.¹⁸ Obviously, no explanation is necessary to see the propaganda value of photos like these.

4. Invite Virulently Anti-Muslim Speakers to Lecture at Our Military Colleges and Service Academies.

In June 2007, anti-Muslim activist Brigitte Gabriel, author of *Because They Hate*, was allowed to deliver a lecture at the Joint Forces Staff College (JFSC).¹⁹ In February 2008, the 3 Ex-Terrorists,²⁰ a trio of self-proclaimed former Muslim terrorists turned fundamentalist Christians, appeared at the US Air Force Academy's 50th Annual Academy Assembly, in spite of the fact that their claims about their terrorist pasts have long been questioned by both academics and terrorism experts.²¹

Gabriel's JFSC lecture, which was broadcast to the world on C-SPAN, eventually ended up on YouTube,²² and articles about the ex-terrorists' Air Force Academy presentation, which included details such as Walid Shoebat's pronouncement that converting Muslims to Christianity was a good way to defeat terrorism, also ended up online,²³ providing yet more "evidence" to extremists that the US military's training includes teaching cadets, officers, and senior non-commissioned officers (NCO) that Islam is evil and must be stopped.

3. Have a Christian TV Network Broadcast to the World That the Military Is Helping Missionaries Convert Muslims.

Travel the Road, a popular Christian reality TV series that airs on the Trinity Broadcasting Network (TBN), follows the exploits of two “extreme” missionaries who travel to remote, and often dangerous, parts of the world to fulfill their two-part mission to “(1) Vigorously spread the gospel to people who are either cut off from active mission work, or have never heard the gospel,” and “(2) Produce dynamic media content to display the life of missions, and thus, through these episodic series electrify a new generation to accomplish the Great Commission.”

The second season of the series ended with three episodes filmed in Afghanistan. To film these episodes, the missionaries were embedded with US troops as “journalists,” staying on US military bases and accompanying and filming troops on patrols—all for the purposes of evangelizing Afghan Muslims and producing a television show promoting the Christian religion. As the first of the program’s three Afghanistan episodes clearly showed, these missionaries were able to waltz into Afghanistan without any of the advance approval and planning required for embedded journalists and, within two days, be embedded with an Army unit.

A question that many will ask is whether or not the Army knew what these missionaries were up to. According to ABC News *Nightline*, which did a segment on the embedded missionaries, the answer from one of the missionaries was yes: “They knew what we were doing. We told them that we were born again Christians, we’re here doing ministry, we shoot for this TV station and we want to embed and see what it was like.”²⁴

USCENTCOM’s General Order 1A (now GO-1B) prohibits any and all proselytizing in its area of responsibility (AOR) and applies to civilians accompanying US troops as well as military personnel. Yet despite this directive, the US Army facilitated the evangelizing of Afghans by these Christian missionaries, which included the distribution of New Testaments in the Dari language. Numerous Soldiers and NCOs, as well as several officers, including one general, appeared in the program.²⁵

While the Army’s participation in the *Travel the Road* program is certainly one of the most prominent examples of broadcasting to the world that the US military was aiding missionaries who were trying to convert Muslims, it is regrettably not the only example.

In September 2008, the Discovery Channel’s Military Channel aired a two-hour program titled *God’s Soldier*. Filmed at FOB McHenry in Hawijah, Iraq, the program’s credits identified that it had been “produced with the full co-operation of the 2-27 Infantry Battalion ‘Wolfhounds.’” The co-producer of the program was Jerusalem Productions, a British production company whose “primary aim is to increase understanding and knowledge of the Christian religion and to promote Christian values, via the broadcast media, to as wide an audience as possible.”

Bible verse text captions appearing between segments of the program included “I did not come to bring peace, but the sword” and “put on the full armor of God so that when the day of evil comes, you may stand your ground.”

This was one of the prayers uttered by the program’s star, CPT Charles Popov, an evangelical Christian Army chaplain, during a scene in which he was blessing a group of Soldiers about to go out on a patrol: “I pray that you would give them the ability to exterminate the enemy and to accomplish the task that they’ve been sent forth by God and country to do. In Christ’s name I pray. Amen.” That prayer was followed by a scene in which the chaplain, sounding an awful lot like the Campus Crusade Bible study described earlier, said to the Soldiers: “Every soldier should know Romans 13, that the government is set up by God, and the magistrate, or the one who wields the sword—you have not swords but 50 cal and [unintelligible] like that—does not yield it in vain because the magistrate has been called, as you, to execute wrath upon those who do evil.”

The scene that tops them all, however, is one in which Popov is setting up a nativity pageant for Christmas—using the unit’s Iraqi interpreters to play some of the roles. The chaplain described this as some sort of cultural exchange, with US troops recognizing Ramadan, and Muslim interpreters, in turn, celebrating Christmas. The notion of this merely being a harmless cultural exchange is absurd. US Soldiers participating in a Muslim religious observance are not risking death by doing so, while Muslims, in a country where many consider converting to Christianity a death penalty offense, are. Broadcasting to the world via the Discovery Channel that US Army personnel were putting Muslims in a Christmas pageant not only provides more fodder for radical Islam extremists, but also exposes the Iraqis who are helping the US military to grave danger.²⁶

2. Make Sure Bibles and Evangelizing Materials Sent to Muslim Lands Have Official US Military Emblems on Them.

It’s not hard to imagine what message is being communicated to the Iraqis and Afghans when hundreds of thousands of Bibles with official US military emblems show up in their countries. Some of these military Bibles are produced by private organizations, and others are officially authorized by the military. One of the officially distributed editions has both the Multi-National Corps-Iraq and I Corps seals imprinted on a camouflage background cover. And it doesn’t stop with Bibles.²⁷

A chief warrant officer from the 101st Airborne Division, for example, referring to a special military edition of a Bible study daily devotional published and donated by Bible Pathways Ministries, told Mission Network News that “the soldiers who are patrolling and walking the streets are taking along this copy, and they’re using it to minister to the local residents,” and that his “division is also getting ready to head toward Afghanistan, so there will be copies heading out with the soldiers.” Just like the many civilian missionaries who see the wars in Iraq and Afghanistan as a window of opportunity to evangelize Muslims, the warrant officer continued, “The soldiers are being placed in strategic

places with a purpose. They're continuing to spread the Word." This daily devotional, admittedly being used by the 101st Airborne Division "to minister to the local residents," has the official military branch seals on its cover, giving the impression that it is an official US military publication. And while these logos are sometimes used without permission and may have been on this particular book, the Iraqis and Afghans don't know that.²⁸

The chiefs of chaplains even designed one of the Bibles sporting the official military logos. An organization called Revival Fires Ministries has, "at the request of the Chief Chaplains of the Pentagon," been promoting, collecting money for, and shipping these Bibles to Iraq since 2003. A formal arrangement between the Pentagon and Revival Fires has allowed these Bibles to be shipped via military airlift.

To promote these Bibles, a Navy chaplain, whose own anti-Muslim book was taken off the market when it was revealed that much of its content had been plagiarized and some of the endorsements on its cover fabricated, has improperly appeared in uniform at three of Revival Fires' rancorously anti-Muslim camp meetings²⁹ and also endorses the ministry on the Web sites of both its founder, Cecil Todd, and his son, evangelist Tim Todd. At one point, the chaplain's photo and endorsement appeared right next to the following statement on the younger Todd's Web site: "We must let the Muslims, the Hare Krishnas, the Hindus, the Buddhists and all other cults and false religions know, 'You are welcome to live in America . . . but this is a Christian nation . . . this is God's country! If you don't like our emphasis on Christ, prayer and the Holy Bible, you are free to leave anytime!'"³⁰

1. Send Lots of Arabic, Dari, and Pashtu Language Bibles to Convert the Muslims.

Arguably worse than any English language Bibles stamped with official US military emblems are the countless thousands of Arabic, Dari, and Pashtu Bibles making their way into Iraq and Afghanistan, often with the help of US military personnel.

In his autobiography, General Schwarzkopf recounted his 1990 run-in with one fundamentalist Christian organization—an incident that made it clear that the Saudis' fears and complaints of Christian proselytizing were not unfounded. While some of the Saudis' fears, as the general explained, had resulted from Iraqi propaganda about American troops disrespecting Islamic shrines, the attempt by this religious organization to get US troops to distribute tens of thousands of Arabic language New Testaments to Muslims was real.

The Saudi concern about religious pollution seemed overblown to me but understandable, and on a few occasions I agreed they really did have a gripe. There was a fundamentalist Christian group in North Carolina called Samaritan's Purse that had the bright idea of sending unsolicited copies of the New Testament in Arabic to our troops. A little note with each book read: "Enclosed is a copy of the New Testament in the Arab language. You may want to get a Saudi friend to help you to read it." One

day Khalid³¹ handed me a copy. "What is this all about?" he asked mildly. This time he didn't need to protest—he knew how dismayed I'd be.

This was the incident that, as mentioned earlier, led to the implementation of strict guidelines on religious activities of military personnel in Muslim countries.

A recent al-Jazeera English news report showed US troops at Bagram Airfield in Afghanistan discussing the distribution of Dari and Pashtu language Bibles to the local Afghans.³² While the US military claimed that these Bibles were destroyed and that this was an isolated incident, countless other examples seem to indicate that these incidents are anything but isolated.

In the newsletter of the International Ministerial Fellowship (IMF), an Army chaplain described the evangelizing he was doing while passing out food in the predominantly Sunni village of Ad Dawr: "I am able to give them tracts on how to be saved, printed in Arabic. I wish I had enough Arabic Bibles to give them as well. The issue of mailing Arabic Bibles into Iraq from the U.S. is difficult (given the current postal regulations prohibiting all religious materials contrary to Islam except for personal use of the soldiers). But the hunger for the Word of God in Iraq is very great, as I have witnessed first-hand."³³

Another Army chaplain, in an article titled "Kingdom Building in Combat Boots," wrote: "But the most amazing thing is that I was constantly led to stop and talk with Iraqis working at the Coalition Provisional Authority. I learned their names, became a part of their lives, and shared Jesus Christ by distributing DVDs and Arabic Bibles."³⁴

And here's one from a private organization, boasting of the help it gets from military personnel to distribute its Bibles: "OnlyOneCross.com recently sent a case of Arabic Bibles to a Brother who is working in a detention center in Iraq."³⁵

Another organization, the Salvation Evangelistic Association, now has the Soldiers they converted at Fort Leonard Wood, Missouri, distributing the Arabic Bibles for them: "Many young men in training at Fort Leonard Wood were converted to Christ. The Lord led us on to preaching in Army camps in the US, Korea, and the Philippines. We are now supplying Arabic Bibles for distribution by our troops in Iraq."³⁶

Then there was a lieutenant colonel, whose religious zeal was so extreme that a missionary had to explain to him that he was putting his troops at risk. The missionary's organization had already shipped 20,000 Arabic-language "Soul-Winning Booklets" into theater with more on the way. The lieutenant colonel, who knew the missionary from the states, had gone to his hotel with 15–20 armed troops and literally blocked off an entire city block with tanks and Humvees to secure the area. He offered to use his troops to protect the missionaries who were there on an evangelical mission to convert the Muslims. The missionary later remarked, "I had to tell [the lieutenant colonel] that it would probably be best if he and his unit left as soon as possible. . . . The Iraqi people in the hotel and those on the street were to say the least, very concerned. I did not want to bring that much attention to the hotel for fear that the terrorists would target the area as well."³⁷

In a video from Soldiers Bible Ministry, an Army chaplain boasts about managing to get Swahili Bibles into Iraq to evangelize Muslim workers from Uganda employed by the US military, in spite of the regulations prohibiting this. Referring to this shipment of Bibles, the chaplain said, “Actually, they’re in Baghdad right now. Somehow the enemy tried to get ‘em hung up there. There was a threat they were gonna get shipped back to the States and all that. We prayed, and they’re gonna be picked up in a couple of days. God raised someone up right there in Baghdad that’s gonna go—a Christian colonel that’s stationed there in Baghdad, and he’s gonna go and get the Bibles.”³⁸ Despite its disregard of military regulations, Soldiers Bible Ministry is officially endorsed by the Army’s chief of chaplains, with the following statement on his Web site: “Thanks so much for your invaluable ministry of the Word to our Soldiers.”³⁹

In addition to Bibles, other Arabic language Christian books are being shipped into Iraq for distribution by our troops. The January 2009 newsletter of Worldwide Military Baptist Missions, for example, included photos of its English-Arabic proselytizing materials, an English-Arabic New Testament, and an English-Arabic Gospel of John. This is from the caption for these photos: “In 2008, we shipped over 226,000 gospel tracts, 21,000 Bibles, New Testaments and gospels of John (to include English-Arabic ones!) and 404 ‘discipleship kits’ to service members & churches for use in war zones, on ships and near military bases around the world.”⁴⁰

Clearly, converting the Iraqis and Afghans is a pet project of numerous private organizations, some with the help of the military, as well as military personnel and military ministries. In one case, a DOD-authorized chaplain endorsing agency actually set up a well-organized network of 40 of its chaplains in Iraq to receive and distribute Arabic Bibles and an Arabic gospel tract titled “Who Is Jesus” for a private missionary organization.⁴¹ All of these groups and individuals have found ways to circumvent the prohibition on sending religious materials contrary to Islam into the region. There are literally thousands of people involved, and hundreds of thousands of Arabic and other native language Bibles, tracts, videos, and audio cassettes have made their way into Iraq and Afghanistan, along with Christian comic books, coloring books, and other materials to evangelize Muslim children. The line between joining the military and joining the ministry has seemingly become increasingly blurred for many.

Joining the Military = Joining the Ministry

To Campus Crusade for Christ, basic training installations and the military service academies are “gateways”—the places that young and vulnerable military personnel pass through early in their careers. This was the explanation of its gateway strategy that appeared on CCC’s Military Ministry Web site: “Young recruits are under great pressure as they enter the military at their initial training gateways. The demands of drill instructors push recruits and new cadets to the edge. This is why they are most open to the ‘good news.’ We target specific locations, like Lackland AFB and Fort Jackson, where large numbers

of military members transition early in their career. These sites are excellent locations to pursue our strategic goals."⁴²

According to CCC's executive director, "We must pursue our particular means for transforming the nation—through the military. And the military may well be the most influential way to affect that spiritual superstructure. Militaries exercise, generally speaking, the most intensive and purposeful indoctrination program of citizens."⁴³

At Fort Jackson, the largest Army basic training installation, trainees attending CCC's "God's Basic Training" Bible studies are taught that by joining the military, they've become ministers of God. This is also taught by CCC's Valor ministry, which targets future officers on ROTC campuses.

A Valor ministry video titled "God and the Military" is a presentation given at Texas A&M by a Texas pastor to an audience of cadets and an assortment of officers from the various branches of the military. The pastor's presentation opens:

I, a number of years ago, was speaking at the University of North Texas—it happens to be my alma mater, up in Denton, Texas—and I was speaking to an ROTC group up there and when I stepped in I said, "It's good to be speaking to all you men and women who are in the ministry," and they all kind of looked at me, and I think they wondered if maybe I had found the wrong room, or if they were in the wrong room, and I assured them that I was speaking to men and women in the ministry, these that were going to be future officers.⁴⁴

The stated mission of CCC's ministry for enlisted personnel is "Evangelize and Disciple All Enlisted Members of the US Military. Utilize Ministry at each basic training center and beyond. Transform our culture through the US Military."⁴⁵

Cadence International⁴⁶ is another large military ministry that targets young service members, seeing those who are likely to be deployed to war zones as low-hanging fruit. One of the reasons given by Cadence for the success of its "strategic ministry" "Deployment and possibly deadly combat are ever-present possibilities. They are shaken. Shaken people are usually more ready to hear about God than those who are at ease, making them more responsive to the gospel."⁴⁷

Organizations like CCC's Military Ministry and Cadence could not succeed in their goals without the sanction and aid of the military commanders who allow them to conduct their missionary recruiting activities on their installations. And there is no shortage of military officers who not only condone but also participate in and promote these activities. The Officers' Christian Fellowship, an organization consisting of over 15,000 officers and operating on virtually every US military installation worldwide, which has frequently stated its goal to "create a spiritually transformed US military with Ambassadors for Christ in uniform, empowered by the Holy Spirit,"⁴⁸ has actually partnered with CCC's Military Ministry.

In addition to the military-wide organizations like Campus Crusade, there are also a number of coercive religious programs on individual bases. A basic training schedule from Fort Leonard Wood described "Free Day Away," a

program attended by all trainees during their fifth week of training, as follows: “Soldiers spend the day away from Fort Leonard Wood and training in the town of Lebanon. Free Day Away is designed as a stress relief that helps soldiers return to training re-motivated and rejuvenated.”

Omitted from this event description was that this day was actually spent at the Tabernacle Baptist Church and included a fundamentalist religious service. All facilities that the trainees were permitted to go to during this free time (a bowling alley, a convenience store, etc.) are owned by the church. Numerous Soldiers have reported that they were unaware that this part of their “training” was run by a church until they were being loaded onto the church’s buses that came to pick them up, and those who wanted to opt out of the church service once they were there were not permitted to do so.

While claims are made that Free Day Away and other religious programs and events conducted at basic training installations are not mandatory, these words make little or no difference to the trainees. As anyone who has gone through basic training is well aware, no trainee wants to stand out, and almost none would risk being singled out as different or difficult by speaking up and telling their drill sergeant that they don’t want to attend a program or event because it goes against their religious beliefs.

Spiritual Fitness

“Spiritual fitness” is the military’s new code phrase for promoting religion, and the religion being promoted is Christianity. There are spiritual fitness centers, spiritual fitness programs, spiritual fitness concerts, spiritual fitness runs and walks, and so forth.

This year, for example, Fort Eustis, Virginia, and Fort Lee, Virginia, have been holding a spiritual fitness concert series. At Fort Eustis, it’s actually called the “Commanding General’s Spiritual Fitness Concert Series.” This is a Christian concert series. All of the performers are Christian recording artists. Photos from one of the Fort Lee concerts show crosses everywhere, and one photo’s caption even says that the performer “took a moment to read a Bible passage” during her set.⁴⁹ In some cases, attendance at Christian concerts held at basic training installations has been mandatory for the Soldiers in training.⁵⁰

In March 2008, a program was presented at a commander’s call at RAF Lakenheath, England. This commander’s call was mandatory for an estimated 1,000 service members, and the PowerPoint version of the presentation was e-mailed to an additional 4,000–5,000 members. The “spiritual fitness” segment of this presentation was titled “A New Approach to Suicide Prevention: Developing Purpose-Driven Airmen,” a takeoff on Rick Warren’s *The Purpose Driven Life*. The presentation also incorporated creationism into suicide prevention. One slide, titled “Contrasting Theories of Hope, 2 Ultimate Theories Explaining Our Existence,” has two columns, the first titled “Chance,” and the second “Design,” comparing Charles Darwin and “Random/Chaos” to God and “Purpose/Design.” Darwin, creationism, and religion are also part of a

chart comparing the former Soviet Union to the United States, which concludes that “Naturalism/Evolution/Atheism” lead to people being “in bondage” and having “no hope,” while theism leads to “People of Freedom” and “People of Hope/Destiny.”⁵¹

Strong Bonds

Strong Bonds is an Army-wide evangelistic Christian program operating under the guise of a predeployment and postdeployment family wellness and marriage-training program. Strong Bonds events are typically held at ski lodges, beach resorts, and other attractive vacation spots, luring Soldiers who would never attend a religious retreat to sign up for the free vacation.

The materials officially authorized by the Army for Strong Bonds are not religious, but there’s a loophole. These authorized materials are only required to be used for a minimal number of the mandatory training hours, leaving the remaining mandatory training hours open for other materials selected by the chaplain running the retreat. In some cases, the chaplains do stick to the authorized materials and keep the program nonreligious, but this is not the norm.

At one Strong Bonds weekend, the attendees, upon arrival, were handed a camouflage box called “Every Soldier’s Battle Kit.” This kit was imprinted with the name New Life Ministries and the ministry’s phone number and Web site, and contained *The Life Recovery Bible* and four volumes by a Christian author. They were also given several Christian devotional books and *The Five Love Languages* by pastor Gary Chapman, who is described on his Web site as “the leading author in biblical marriage counseling.” Pastor Chapman’s book was used as the core of the Saturday portion of the training, at which a video of Chapman, full of Bible verses and a call to “love your partner like Jesus loved the church,” was also shown.⁵²

DOD contracts also show the frequent hiring of Christian entertainers and speakers for Strong Bonds events. One base, for example, contracted, at a cost of \$38,269, an organization called Unlimited Potential, Inc.⁵³ to provide “social services” for a Strong Bonds event. Unlimited Potential, Inc. is an evangelical baseball ministry that has a military ministry whose mission is “to assist commanders and chaplains in providing religious support to military service members and their families by sharing the life-changing Gospel of Jesus Christ through the medium of baseball” and “to use our God-given abilities in baseball to reach those who do not have a personal relationship with Jesus Christ.” This same ministry has been “serving Christ through baseball” at a number of other Army bases in the United States, as well as many bases overseas.

Godspam

The use of official military e-mail to send religious messages is another ongoing problem. These e-mails range in content from Bible verses and

evangelistic Christian messages to “invitations” from superiors to worship services and Bible studies.

One recent e-mail, widely distributed to an Air Force installation’s e-mail list, contained an essay by the executive director of the Officers’ Christian Fellowship. The essay began by posing the question, “Why do you serve in our military?” The answer was:

We serve our Lord by serving our nation, our family or prospective future family, and so that we have something that we can share with God’s people in need. But what is the greatest need? Why do we serve our God as Joshua exhorted? We serve our God because of what Jesus did for us on the Cross. We are blessed to be able, through our lives in the military, to demonstrate the message of salvation to those who have not heard or received it. It was by God’s grace through faith that we were brought fully into His family and presence. Our love for Him motivates us to serve Him in our military, to serve and work for our families, and to serve and work to enable the message of salvation to reach those who have yet to accept Him as Lord and Savior.

In another recent case, an Air Force colonel sent out an e-mail to a large number of subordinates containing a link to an “inspirational” video. Not only was the video an overt promotion of Christianity, but the Web site linked to was a far right Catholic Web site containing material attacking the president and vice president of the United States, including an image of the president depicted as Adolf Hitler.⁵⁴

Often, command staff and NCOs forward religious e-mails to a base or a unit on behalf of a chaplain. A recent example of this was a flyer for a Bible study titled “Moses the Leader: How Would You Like to Lead 1,000,000 Whiners?” Numerous recipients of this e-mail complained about its negative stereotype of Jews, as well as the fact that it was e-mailed to the base e-mail list by command staff.

Occasionally, officers and NCOs send out e-mails inviting their subordinates to religious events that they themselves are hosting, putting the recipients in the position of wondering if not attending their superior’s religious event will negatively affect their career, and if those who do attend will be shown favoritism.

For example, the Soldiers of a platoon in Iraq recently received an e-mail that had a flyer⁵⁵ attached to it for a Christian men’s conference being hosted by their platoon sergeant. The flyer had the unit and division emblems on it, and the sender of the e-mail, an E-7, listed himself as a minister and the host of the event.

This platoon sergeant had been sending out religious e-mails almost daily, including one with an attachment titled “Psalm 23 (For the Work Place),” which began, “The Lord is my real boss, and I shall not want,” and ended with, “When it’s all said and done, I’ll be working for Him a whole lot longer and for that, I BLESS HIS NAME!!!!!!”⁵⁶ Another contained several Bible verses, preceded by the following statement: “There are many things that work to keep us from completing our life-missions. Over the years, I’ve debated whether the worst enemy is procrastination or discouragement. If Satan can’t get us to put off our life missions, then he’ll try to get us to quit altogether.”

Overt Promotions of Christianity in Military Publications

Numerous chaplains, as well as a few commanders and other officers and NCOs, are taking advantage of their military base newspapers and unit newsletters as another forum for promoting Christianity. While some would argue that protection of free speech applies and that anyone can publish virtually anything anywhere, when the publication is an officially sponsored base newspaper and the authors are members of the military, the perception is an official endorsement of these religious messages.

In an article titled "Living in Victory," a publication of the Louisiana National Guard, one chaplain explained how having Jesus as "your reference point to victory is crucial," how "victory is not something that is ahead of us, but has already been accomplished by Jesus' completed victory on the cross," and why "when you experience defeat, it just shows you that you need to quickly get your branch reconnected to the Vine, who is the Victorious Life of Christ in you." He summed up his piece by telling the troops that they "are Champions 'in Jesus Christ.'"⁵⁷

In a column about Independence Day in a Marine unit newsletter, the chaplain got off to a good start, explaining in his opening paragraph how our independence from England led to "people having the right to worship in accordance with their own faith tradition," and that the First Amendment is "the reason the military has chaplains to uphold every service member's . . . right to worship in accordance to their particular faith group tradition." The rest of his article, however, was all about promoting one "particular faith group tradition"—his.

I always remind people that we live in a fallen world, darkened by sin and evil because mankind wanted their independence from God. I also remind people of the incredible cost our Heavenly Father paid with the sacrifice of his one and only Son who died in our place in order that whomever [*sic*] would believe in Him would not perish but have everlasting life (John 3:16). In other words, our Heavenly Father through his Son paid the ultimate price, even death on a cross in order that whomever [*sic*] would believe could live a life independent from sin. Therefore, because of this great sacrifice paid by the Son of God any and every person can walk in victory beyond the struggles, skeletons in one's closet, and temptations that can keep us from being men and women of honor, courage and commitment.⁵⁸

Writing about the upcoming move of the headquarters of an Air National Guard fighter wing, a chaplain assistant compared the move to Moses, the tabernacle, and the Christian Holy Spirit. She wrote:

I have been studying about the life of Moses and recently studied how the Israelites set up the tabernacle. I won't go into all of the details about the tabernacle, but I do want to tell you about the "cloud" since I found the cloud to be very interesting and perfect for our upcoming Wing HQ move. . . .

The cloud was a gift to the Israelites that the Lord had given to them for protection from the hot and cold. This cloud is like the Christian Holy Spirit that we have available to us today. The cloud was a gift and the Holy Spirit is a gift that all human beings can receive. The Holy Spirit helps us to make decisions and enables us to know when we need to move just like the cloud did for the Israelites.⁵⁹

Sometimes, in addition to promoting Christianity, the articles get political, as in this example from one Army base newspaper. In an article titled “Virtue of Truth,” the chaplain condemns all the “sins” of our “progressive” culture—freedom of choice, gay marriage, and so forth. He then injects the word “progressive” into a quote from the apostle John, a word that appears nowhere in the Bible verse he quotes, and adds the word “progressive” again before a quote from Pope John Paul II, although that word was not used by the late pontiff.

At the heart of all sin is pride. This is the kind of pride that makes itself the arbiter of right and wrong. This is good to remember in an age when euthanasia is called mercy, suicide termed “creative medicine” and abortion described as “freedom of choice.” All three are really murder.

Today, marriage is too often considered outdated as an institution and divorce is considered the better option. Even more disturbing, opposition to same-sex marriage is thought to be bigoted and intolerant. This makes adultery and sodomy very uncomfortable terms in some people’s lexicon.

In contrast with today’s attitudes, the apostle John reminds us: “Anyone who is so ‘progressive’ as not to remain in the teaching of the Christ does not have God; whoever remains in the teaching has the Father and the Son” (2 John 9).⁶⁰

The last example comes from an article titled “The Opportunity to Follow Is Afforded to Us All,” written by an Air Force master sergeant:

There’s a tremendous biblical illustration of the ever-present duplicitous nature of followership between leading and accepting and executing orders.

This passage tells of a military leader in command of 100 followers. One day this leader, who is not a religious man, compassionately sends messengers to ask Jesus to pray for a dying subordinate. Jesus, so motivated by this compassionate appeal, deviates from his intended course to visit this kindhearted leader. However, just prior to Jesus’ arrival to the installation, the leader sends his followers to stop Jesus from coming to his installation, deeming himself not worthy of hosting such an esteemed visitor. This is where the leader communicates through his followers the most convicting principle of true followership. His principled statement is, “I know authority because I am under the authority of my superior officers, and I have authority over my soldiers. I only need to say, ‘Go,’ and they go, or ‘Come,’ and they come.” This very powerful confession prompts Jesus to clearly identify the next principle of responsible followership. The scripture reads, “when Jesus heard this, he was amazed and said to the crowd following him, ‘I tell you, I have not seen faith, or confidence, like this in all the land . . .’” The leader’s statement truly reflects the heart of followership. Followership is firmly rooted in confident obedience. And followership and leadership are transitional meaning to pass back and forth between positions. This compassionate military leader knew that even though he was not a religious man, demonstrating his willingness to follow Jesus’ command without question would save his follower’s life.⁶¹

The master sergeant who wrote the above is from the wing’s Equal Opportunity Office—the very office where an Airman would go for help if he or she had a complaint about an inappropriate promotion of religion, like this article written by this master sergeant.

Religious Programs for Military Children

Nobody would disagree that military personnel and their families should have the opportunity to worship as they choose. This is the justification for the military providing chaplains and chapels, and it is a reasonable one. But just how much support of religion is necessary to ensure this access to worship opportunities?

Countless DOD contracts show that what the government is providing for religion on military bases goes far beyond chaplains and chapels and, in many cases, far beyond what would be available to most civilians in their communities or towns. If a civilian church doesn't happen to have any talented musicians in its congregation, for example, the congregation might have to deal with having less than professional quality music at their services. Not so in military chapels. If chapels want better music, they hire professional musicians and music directors, contracted by the DOD. If a civilian church wants to start a youth program or provide religious education classes, it might have to find volunteers to run them. Military chapels hire base religious education directors, also paid for with DOD contracts.

And, while the contracting of these religious "service providers" is in itself highly questionable, the larger problem is that these contracts are almost exclusively open only to Christians. Contract descriptions, in complete disregard of the Constitution's "no religious test" clause, make this abundantly clear by including requirements such as "contractor shall ensure all programs and activities are inclusive of all Christian traditions," and the contractor will "use a variety of communications medium that shall appeal to a diverse group of youth, such as music, skits, games, humor, and a clear, concise, relevant presentation of the Gospel."⁶²

The most egregious practices are found in the programs for the children of military personnel. These youth programs, many funded by DOD contracts, are designed to target and evangelize the "unchurched" among our military youth. The tactics employed by these government-contracted Christian ministries to achieve this goal range from luring teenagers with irresistible events and activities to infiltrating the off-post public middle and high schools attended by military children. One of these organizations, Youth for Christ Military Youth Ministry, actually goes as far as stalking military children, following their school buses to find out where they live and what schools they go to.

Incredibly, even the job descriptions in some DOD contracts make it clear that stalking kids is expected. One recently posted Army base position required that the contractor target "locations and activities where youth live and spend time, such as neighborhood community centers, school and sports and recreational activities, etc." to draw in "youth that are not regularly affiliated with established chapel congregational youth programs."⁶³

According to a video interview⁶⁴ of Fort Riley's religious education director about one of the base's exclusively Christian youth programs, the mission of the program, called Spiritual Rangers, is "to train young men to be Godly leaders by instilling in them biblical character, values and principles and thus giving them a sense of what it truly means to be a man." This video, which was aired

on the base's local cable access channel, described a program where teenage boys get to do things like using the base's close combat tactical trainer, engagement skills trainer, and helicopter flight simulator—in other words, the coolest video games *ever!* And all a kid on Fort Riley has to do to play them is hang out with the “godly” men and memorize some scripture.

Military Community Youth Ministries (MCYM),⁶⁵ whose Club Beyond program “seeks to celebrate life with military kids and introduce them to the Life-giver, Jesus Christ,” has received millions of dollars in DOD contracts and operates on dozens of US military bases, both overseas and in the United States.

MCYM's Contracting Officer's Performance Evaluation, a form to be filled out each year by a “person duly appointed with the authority to enter into and to administer contracts on behalf of the government” at the installations where the organization is contracted, not only shows that MCYM's mission is to target non-Christian children, but also that the contracting officer actually rates MCYM on its success in this constitutional violation. These are two of the questions on the evaluation form:

1. MCYM staff are expected to conduct outreach ministry to teens who have no relationship with the chapel or established churches. What is your assessment of this ministry objective?
2. MCYM staff are expected to present the Gospel to teens with due respect to their spiritual traditions, i.e. to engage in evangelism but not proselytization. This means that they are not to endorse a particular theology or denomination or creed excepting that which is generally accepted as representing the principle tenets [*sic*] of the Christian faith with a focus on introducing teens to Jesus Christ and to help teens develop in their faith in God. What is your assessment of this ministry objective?⁶⁶

Saying that they “engage in evangelism but not proselytization” is questionable at best. MCYM narrowly defines refraining from proselytization as not trying to convert someone from one Christian denomination to another and places no restrictions on evangelizing those teenagers who need some “introducing” to Jesus Christ.

One of MCYM's “partner” organizations is Youth for Christ's Military Youth Ministry. Actually, Youth for Christ (YFC) and MCYM are one and the same. Both have the same address and phone number, and the YFC Military Youth Ministry mission statement states only one mission—to partner with MCYM: “The Mission of Youth For Christ Military Youth Ministry is to partner with Military Community Youth Ministries (MCYM) in assisting and equipping Commanders, Chaplains, Parents, Volunteers and local Youth for Christ (YFC) chapters on behalf of reaching military teens with the Good News of Jesus Christ.”⁶⁷

YFC Military Youth Ministry is just the arm of MCYM that goes after military children who attend off-post public schools, and its first step in obtaining a contract from the military is to convince a chaplain that his or her base needs its services. To do this convincing, YFC provides a fill-in-the-blank

template for a YFC “steering committee” to write up an assessment to present to the installation chaplain. The first part of completing this assessment is for the YFC steering committee to attempt to get a meeting with the local high school principal. This is done with a cold call to the principal in which committee members say, according to the script provided by YFC, that they are assisting the base chaplains, even though this phone call appears to be made prior to approaching the chaplains:

Example when you call the principle [*sic*] of the local high school: Hello my name is and I am assisting the chaplains of Fort _____ by putting together several facts concerning adolescent culture and youth serving organizations in our community. Could I drop by and ask a few questions?

Here are a few more sections of YFC’s assessment template, including the instruction to essentially stalk the children by following their public school buses:

3. a. _____ High School. The principle [*sic*] is _____. I spoke with _____ and he indicated that he would be willing/unwilling to allow me campus access. He did indicate that he would be glad to allow me to support students by attending practices, games, rehearsals and school activities on an “as invited” basis. My general impression is that _____ and will continue to develop my relationships at the High School.

b. _____ Middle School. The principle [*sic*] is _____.

ASSESSMENT [*sic*]:

6. Demographics

a. High School: This is a completely unscientific measurement but I followed the buses around for three days. Each morning four buses leave the installation in [*sic*] route to the high school. There are approximately _____ students on these buses. Students are primarily picked up in the _____, _____ and _____ neighborhoods. Students appeared to be equally spread over the four different grade levels with slightly more/less 9th and 10th graders.

b. Middle School: See a above.⁶⁸

Like MCYM, Malachi Youth Ministries,⁶⁹ the youth division of Cadence International, is funded by DOD contracts. In addition to teenagers, Cadence International also targets the younger children of military personnel, partnering with Child Evangelism Fellowship (CEF) “to anchor children in the hope of Jesus and lead them to living fully devoted to Him” by getting the elementary school children into Good News Clubs on their bases and in their schools.⁷⁰

Cadence and CEF have the “mutual goal of reaching every child of the US military around the world,” and clearly they will have the support and aid of the military itself to achieve this goal, based on statements like this one from the deputy installation chaplain at one large Army base, who, in a video promoting CEF, proclaimed, “The harvest is ready, and I mean it’s out there in more abundance than we have ability to harvest.”⁷¹

Religious Tests

In addition to the unconstitutional “religious tests” found in job requirements for DOD contracts, there are a number of service members who have expressed concerns about the requirement to disclose their religion on forms whose purposes would include no legitimate reason to contain any information about their religion. Two examples are the Army Officer Record Brief (ORB) and the Air Force Single Unit Retrieval Format (SURF). The ORB and the SURF are forms whose purpose is to provide information on the career history, education, and special skills of officers. The information contained in these forms is used for job placement, award nominations, applications to military training programs and colleges, and so forth. The religion of an officer should never be a factor in career decisions or recommendations, yet the Army’s ORB now contains a block for the officer’s religion, and the Air Force’s SURF, a recently implemented electronic form, also lists the officer’s religion.

Fear of Making Complaints through Military Channels

The almost universal problem faced by military personnel who encounter any of the problems listed above is the fear of what might happen if they report a violation of regulations or bring a complaint to their superiors or the Equal Opportunity Office. Service members who fear harassment from both peers and superiors, negative effects on their careers, and occasionally even physical harm often refrain from reporting violations of regulations regarding religion, even when those violations are personally impacting their or their family’s lives. Few ever decide to file official complaints, allowing military spokespersons, when an issue is reported or uncovered, to say that it was an isolated incident and to quickly point out how few official complaints have been filed. Clearly, the number of official complaints filed, usually said to be less than 100, is unrealistically small given that over 15,000 service members have contacted the Military Religious Freedom Foundation for assistance from 2005 to 2009. The disparity in these numbers is something that cannot be ignored.

Recommendations

After dealing with thousands of service members and carefully examining virtually every military regulation that would apply to their concerns and complaints, the Military Religious Freedom Foundation has concluded that there are very few situations in which the existing regulations are the problem. The problem is that these existing regulations are not being followed or enforced.

One important exception, however, relating to the proselytizing of Muslims in Iraq and Afghanistan, must be noted here. Because CENTCOM’s General Order 1B, in its list of prohibited activities in the CENTCOM AOR, lists only “*proselytizing* of any religion” as being prohibited, Christian military personnel

intent on converting Muslims are getting around this crucial prohibition. How? By saying that the order only prohibits proselytizing, but not evangelizing, and claiming that activities such as distributing Arabic and other native-language Bibles are merely evangelizing and thus do not violate the order. Simply changing the wording of GO-1B to “*evangelizing or proselytizing* of any religion” would leave no loophole for those who rely on semantics to continue their attempts to convert the Iraqis and Afghans to Christianity.

Setting the Record Straight Regarding the Military Chaplaincy

Ever since chaplains praying in Jesus’ name at nonreligious military functions and ceremonies became a hot-button issue, a distorted version of the history of the chaplaincy has emerged. This altered history of the chaplaincy has one purpose—to make it appear that the military chaplaincy has existed continuously since the Revolutionary War, with no problems or objections until recent years. This is accomplished by simply leaving a few minor gaps in the history, such as most of the nineteenth century.

***MYTH:** The chaplaincy has been an essential part of the military since the Revolutionary War.*

***FACT:** The military chaplaincy was almost nonexistent between the end of the Revolutionary War and the Civil War.*

There really wasn’t much of a military chaplaincy at all during the War of 1812 or up through and including the Mexican-American War. Naval commanders were authorized to appoint chaplains, but many of these were not ordained ministers, and their purpose was as much to be instructors in everything from reading and writing to navigational skills as it was to be preachers. Some officers even saw their authority to appoint chaplains as a way to get a personal secretary and chose them for their ability to perform that job, with little regard for their religious qualifications.

During the War of 1812, there was only one Army chaplain for as many as 8,000 men, and, with the exception of the 1818 appointment of a chaplain at West Point who doubled as a professor of history, geography, and ethics, there were no new Army chaplains until 1838, when a small number of post chaplains were authorized. But these post chaplains were not members of the military. They were civilian employees hired by the post’s administrators, and like their counterparts in the Navy, they were hired mainly as teachers and also served as everything from librarians to mess officers to defense counsel during courts-martial. Post chaplains, since they were not in the military, were not assigned to a military unit, but to their post, so when the Mexican-American War began, they did not accompany the troops.

In 1847, Congress passed a law transferring control over post chaplains from the post administrators to the secretary of war, giving the secretary of war

the authority to require a chaplain to accompany his post's troops into the field whenever a majority of the troops were deployed. Those chaplains who refused to go were fired. This 1847 law caused a bit of a problem, however, because it neglected to actually give anyone the authority to appoint chaplains. In fact, when President Polk appointed two Catholic priests as "chaplains" in an effort to stop the propaganda that the war was an attack upon the Mexicans' religion, he made them as political appointments rather than chaplain appointments, saying that there was no law authorizing Army chaplains.

The total number of Army chaplains during the Mexican-American War was 15, including the two Catholic priests who weren't actually chaplains. The chaplaincy grew much larger during the Civil War, of course, with the appointment of a chaplain for each regiment. But when the war ended, the chaplaincy was reduced to the 30 post chaplains authorized in 1838, even though the regular Army was twice the size it had been in 1838. Six additional chaplains were authorized for the six black regiments of the regular Army, but this was reduced to four in 1869. The number of chaplains authorized for the Army would remain 34 until 1898.

***MYTH:** There were no problems with or objections to chaplains until recent years.*

***FACT:** There was a widespread campaign to completely abolish the chaplaincy in the mid-1800s.*

By the late 1840s, opposition to government-paid chaplains was growing, and a vigorous campaign to abolish both the military and congressional chaplaincies would go on for well over a decade, supported by both members of the military and civilians, including churches and religious leaders. Hundreds of petitions, signed by thousands of Americans, were sent to Congress during the 1840s and 1850s calling for an end to all government-paid chaplains. A large part of the American public of the mid-1800s objected to chaplaincy establishments on constitutional grounds; religious organizations objected to them on both religious and constitutional grounds; and military personnel, including chaplains, had complaints of religious coercion and discrimination uncannily similar to those heard today.

Take, for example, the following statement, which was written in 1858: "Mr. Hamlin presented the memorial of Joseph Stockbridge, a chaplain in the navy, praying the enactment of a law to protect chaplains in the performance of divine service on shipboard, according to the practices and customs of the churches of which they may be members."⁷² Given the current disputes over chaplains' prayers, this statement could just as easily be from 2010.

A common complaint in the military during the nineteenth century was the takeover of the chaplaincy by Episcopalians. Once the Episcopalians gained control, all members of the military, regardless of their religion or denomination, began to be forced or coerced to attend Episcopalian worship services, and non-Episcopalian chaplains were being forced to perform these services.

While the particular "bully" denomination may have changed since the petition of the naval officers in 1858, the issue has not. In the mid-1800s it was the

Episcopalians; in 2010 it's fundamentalist Protestants. And, as in the mid-1880s, this is also not an issue of Christians versus non-Christians. The overwhelming majority of the petitions received by the Congresses of the 1840s and 1850s were written and signed by Christians and Christian religious organizations, just as the majority of complaints received by the Military Religious Freedom Foundation—96 percent of them—are from self-identified Christians, both Protestant and Catholic.

Beginning in 1848, hundreds of petitions poured into both houses of Congress. The first of these petitions to be presented in the Senate was from a Baptist association in North Carolina:

Mr. Badger presented the memorial, petition, and remonstrance of the ministers and delegates representing the churches which compose the Kehukee Primitive Baptist Association, assembled in Conference with the Baptist Church at Great Swamp, Pitt County, North Carolina praying that Congress will abolish all laws or resolutions now in force respecting the establishment of religion, whereby Chaplains to Congress, the army, and navy, are employed and paid to exercise their religious functions.

Mr. Badger said he wished it to be understood that he did not concur in the object of this memorial. He thought the petitioners were entirely wrong. But as the petition was couched in respectful language, he would ask for its reading and would then move that it be laid on the table and printed.⁷³

Five years later, as a member of the Senate Judiciary Committee, Senator Badger, a devout Episcopalian, would write a very pro-Christian report dismissing the countless petitions received by that time to abolish the chaplaincy—a report that is frequently quoted by today's Christian nationalists to show just how very religious and pro-Christian Congress was in the nineteenth century. These historical revisionists simply neglect to mention that Badger's report, and a similar report written a year later by an equally religious member of a House committee,⁷⁴ had anything to do with a campaign to abolish the chaplaincy. Acknowledging the historical context of these reports would, of course, contradict their claims that there were no complaints or questions about the constitutionality of government religious establishments until modern-day secularists decided to wage a war on Christianity.

Obviously, Senator Badger, who had already stated in 1848 that he “did not concur in the object” of the Baptists' petition to abolish the chaplaincy, was not someone who was going to be objective in considering the many similar petitions he was asked to report on in 1853. So it was no big surprise that Badger's report dismissed the petitions, stating that “the whole view of the petitioners seems founded upon mistaken conceptions of the meaning of the Constitution,” and that the Founding Fathers “did not intend to spread over all the public authorities and the whole public action of the nation the dead and revolting spectacle of atheistical apathy.”⁷⁵

In 1860, Congress addressed the issue of commanders forcing chaplains to conduct worship services of a faith tradition other than their own with a provision stating, “Every chaplain shall be permitted to conduct public worship according to

the manner and forms of the church of which he may be a member.”⁷⁶ They did not, however, address the issue of the hijacking of the chaplaincy of one denomination, even though an investigation had shown the complaints to be valid.

Instead of moving forward, Congress soon took a giant step backwards, mandating in August 1861, in the act that authorized the appointment of regimental chaplains for the Union Army, that all chaplains be Christians.⁷⁷ A similar provision was in the act for the regular Army—the act passed in July 1861 authorizing the president to raise a volunteer force stated that a chaplain “must be a regular ordained minister of a Christian denomination.”⁷⁸ No prior legislation authorizing chaplains had ever mandated that chaplains had to be of a particular religion or even that they had to be ordained ministers. Apparently, the earlier Congresses were familiar with that pesky “no religious test” clause in the Constitution, applying it even to the office of chaplain. The criteria for a chaplain in the 1838 law authorizing post chaplains, for example, was simply that “such person as they may think proper to officiate as chaplain.”⁷⁹

But the 1861 law requiring chaplains to be Christians was quickly and successfully challenged. The usual practice at the time for appointing Army chaplains was for each regiment to elect its own chaplain, and a regiment from Pennsylvania had elected a Jewish cantor. When the Young Men’s Christian Association exposed this grievous violation of the 1861 chaplain law, the Jewish chaplain resigned rather than face the humiliation of losing his commission. But the regiment decided to test the constitutionality of the law. This time they chose a rabbi, knowing full well that his application for a commission would be denied. After a public outcry over the denial of the rabbi’s commission, which included numerous petitions from Jewish organizations, groups of citizens, and even the members of one state legislature, the provision requiring chaplains to be Christians was repealed.⁸⁰ A few months later, in September 1862, President Lincoln legally commissioned the first Jewish chaplain.

Another issue during the mid-nineteenth-century chaplain battle was over a naval regulation from 1800 giving commanders the authority to force their subordinates to attend religious services.⁸¹ It had been enacted during the very religious Adams administration and remained in force in 1858. This example is often used by historical revisionists to show that “it is simply inconceivable that the members of the First Congress, who drafted the Establishment Clause, thought it to prohibit chaplain-led prayer at military ceremonies, having passed legislation not only approving that practice, but indeed requiring service members to attend divine services.” However, what these revisionists fail to mention is that, in 1858, this act was protested by a group of naval officers⁸² who successfully petitioned Congress to amend it to make religious services optional.

As already mentioned, most of the protests against government-paid chaplains came from Christians, and it’s absolutely remarkable how similar the opinions of these nineteenth century Christians were to those of the modern-day “secularists” who are currently trying to destroy Christianity. The following was written by Rev. William Anderson Scott, one of the most prominent Presbyterian ministers of his day, in his 1859 book *The Bible and Politics*. Reverend

Scott's book was written in large part to refute the arguments being used by those who wanted the Bible in public schools, another issue that is far from new, but it also addressed the issue of government-paid chaplains, including the following from a section on military chaplains:

Is it constitutional to take the public money to pay a chaplain for religious services that are not acceptable to a majority of the rank and file of the army? I do not think so. If the majority of a regiment, or of the men on board a man-of-war, should elect a chaplain, then, possibly, the Government might make an appropriation to pay him, though I doubt whether this is constitutional, and I do not believe it the best way. I believe that the supplying of religious consolations to the members of our Legislature, and to the officers and men of our army and navy, according to our organic laws, should be left to themselves, just as it is to our merchant ships and to our frontier settlements—that is, to their own voluntary support. Our blacksmiths, police officers, Front-street merchants, lawyers and physicians all need the blessings of religion; but they must provide for their own individual wants. And, in the same way, I would leave the army and the navy and the legislatures, and I would do so the more readily, because the different churches and voluntary religious societies would then all stand truly on an equality, and hold themselves ready to help in furnishing such supplies. Suppose a regiment is ordered to the wilderness, let the men elect a chaplain and pay him themselves. Then they will be more likely to profit by his services. Or let a missionary society, by the vote of the citizen soldiers, be asked to send them a minister of religion. If the government appoints a Protestant chaplain, is it a disobedience of orders for a Catholic to refuse to accept of his services? I see nothing but difficulty and the engendering of constant sectarian feuds and bad feeling, if the Federal Government touches anything that is religious.⁸³

Clearly, this nineteenth century Presbyterian minister must have been trying to destroy Christianity and turn the military into a bunch of atheists.

What Would the Founding Father of the US Military Think?

The version of history in which the inconvenient events of the 1800s are simply ignored typically begins with the many instances of George Washington issuing orders regarding chaplains and religious services and usually includes his 1776 directive for each regiment to procure a chaplain. What's omitted is that a year later, when Congress wanted to cut the number of chaplains from one per regiment to one per brigade, an act that would put many regiments under chaplains who were not of similar beliefs to the Soldiers, Washington and his generals strongly objected.

This is what Washington wrote to the Continental Congress in 1777 on behalf of his generals:

It has been suggested, that **it has a tendency to introduce religious disputes into the Army, which above all things should be avoided, and in many instances would compel men to a mode of Worship which they do not profess.** The old Establishment gives every Regiment an Opportunity of having a Chaplain of their own religious Sentiments, it is founded on a plan of a more generous

toleration, and the choice of the Chaplains to officiate, has been generally in the Regiments. Supposing one Chaplain could do the duties of a Brigade, (which supposition However is inadmissible, when we view things in practice) that being composed of four or five, perhaps in some instances, Six Regiments, there might be so many different modes of Worship. I have mentioned the Opinion of the Officers and these hints to Congress upon this Subject; from a principle of duty and because I am well assured, *it is most foreign to their wishes or intention to excite by any act, the smallest uneasiness and jealousy among the Troops.*⁸⁴ (emphasis added)

Washington and his generals worried about the “smallest uneasiness” over religion and objected to anything that would “compel men to a mode of worship that they didn’t profess.” What would they have to say about what’s going on in today’s military? Regardless of the side one happens to be on, few would disagree that the current issues are causing far more than the “smallest uneasiness.”

Notes

1. “Hayes: Most Troops Will Be Home by 2008,” *Concord Standard and Mount Pleasant Times*, 21 December 2006.
2. Lt Col Rick Francona, retired US Air Force intelligence officer, appearing on MSNBC, 28 December 2006.
3. Pete Geren, then secretary of the Army (commencement remarks, United States Military Academy, West Point, NY, 31 May 2008), <http://www.army.mil/-ncws/2008/06/02/9573-west-point-commencement-remarks-by-secretary-of-the-army-pete-geren/>. Secretary Geren was also among the civilian DOD officials who appeared in the Christian Embassy video.
4. Rep. Trent Franks (R-AZ), remarks on “Religious Freedom,” 11 December 2007, Congressional Record, H15291.
5. Christian Embassy is the arm of Campus Crusade for Christ operating at the Pentagon. The Christian Embassy promotional video can be viewed at http://www.militaryreligiousfreedom.org/Media_video/christian-embassy/index.html.
6. DOD Inspector General, “Alleged Misconduct by DoD Officials Concerning Christian Embassy,” Report No. H06L102270308, 20 July 2007, http://www.militaryreligiousfreedom.org/press-releases/christian_embassy_report.pdf.
7. Photos archived at <http://www.militaryreligiousfreedom.org/dodspp>.
8. “Mural Painter,” <http://www.riley.army.mil/NewsViewer.aspx?id=579>. Photos also archived at <http://www.militaryreligiousfreedom.org/dodspp>.
9. Photos archived at <http://www.militaryreligiousfreedom.org/dodspp>.
10. <http://www.militaryministry.org/>.
11. <http://www.militarymissionsnetwork.com>.
12. Web page archived at <http://www.militaryreligiousfreedom.org/dodspp>.
13. <http://www.valormovement.com>.
14. Web page archived at <http://www.militaryreligiousfreedom.org/dodspp>.
15. Video at <http://www.militaryreligiousfreedom.org/video/USAF.mov>.
16. Military Ministry of Campus Crusade for Christ, *Movement Model of Ministry Volume 2*.
17. “God’s Basic Training” Bible study. Page images archived at <http://www.militaryreligiousfreedom.org/dodspp>.
18. Photos archived at <http://www.militaryreligiousfreedom.org/dodspp>.
19. From Brigitte Gabriel’s lecture at the Joint Forces Staff College on 13 June 2007: Questioning a statement in Gabriel’s book, a student asked, “Should we resist Muslims who want to seek political office in this nation?” Gabriel replied:

Absolutely. If a Muslim who has—who is—a practicing Muslim who believes the word of the Koran to be the word of Allah, who abides by Islam, who goes to mosque and prays every Friday, who prays five times a day—this practicing Muslim, who believes in the teachings of the Koran, cannot be a loyal citizen to the United States of America. . . . A Muslim is allowed to lie under any situation to make Islam, or for the benefit of Islam in the long run. A Muslim sworn to office can lay his hand on the Koran and say “I swear that I’m telling the truth and nothing but the truth,” fully knowing that he is lying because the same Koran that he is swearing on justifies his lying in order to advance the cause of Islam. What is worrisome about that is when we are faced with war and a Muslim political official in office has to make a decision either in the interest of the United States, which is considered infidel according to the teachings of Islam, and our Constitution is incompatible [sic] with Islam—not compatible—that Muslim in office will always have his loyalty to Islam.

Among her many other derogatory statements, Gabriel referred to Dearborn, Michigan, as “Dearbornistan” because of its large Muslim community, and, in a comment about racial profiling, said that American Muslims “are good at nothing but complaining about every single thing.”

20. <http://www.3xterrorists.com>.

21. Bethany Duemler, “Alleged Ex-PLO Raises Eyebrows,” *Chimes* (newspaper of Calvin College, where the 3 Ex-Terrorists appeared), 9 November 2007, <http://www-stu.calvin.edu/chimes/article.php?id=3125>; “Doubt Cast on Anani’s Terrorist Claims,” *The Windsor Star*, 20 January 2007, <http://www.canada.com/windsorstar/news/story.html?id=4a479502-4490-408e-bdb5-f2638619a62c>; and Neil MacFarquhar, “Speakers at Academy Said to Make False Claims,” *New York Times*, 7 February 2008, <http://www.nytimes.com/2008/02/07/us/07muslim.html?scp=1&csq=Shoebat&st=nyt>.

22. <http://www.youtube.com/watch?v=2WN5rqKkhUU>; http://www.youtube.com/watch?v=ippQ_ke-NH4; http://www.youtube.com/watch?v=3l_Mc-0MaZM; <http://www.youtube.com/watch?v=thfYB-VejSQ>; and <http://www.youtube.com/watch?v=XlOkAQa1Xs4>.

23. Maria Luisa Tucker, “Reformed Muslim Terrorists’ Preach Christ to College Kids,” *Village Voice*, 19 February 2008, <http://www.villagevoice.com/2008-02-19/news/rcformed-muslim-terrorists-preach-christ-to-college-kids/1>.

24. Video at <http://www.youtube.com/watch?v=2MibbDnH8BM>.

25. Video at <http://www.youtube.com/watch?v=CFqIPj3ciU>.

26. Video at <http://www.youtube.com/watch?v=UVPcjVvvMQU>.

27. Photos of military Bibles archived at <http://www.militaryreligiousfreedom.org/dodspp>.

28. “Ministry Provides Hope in Second Run of Bible Devotional,” *Mission Network News*, 26 November 2007, <http://www.mnnonline.org/article/10592>.

29. In November 2008, the Military Religious Freedom Foundation wrote to the secretary of defense, calling for the DOD inspector general to promptly initiate an investigation into the background and activities of Navy chaplain LCDR Brian K. Waite and requesting that any existing association between the US military and Revival Fires Ministries be immediately terminated. That letter can be found at http://www.militaryreligiousfreedom.org/Gates_Letter.pdf. Video of Lieutenant Commander Waite at a Revival Fires camp meeting and links to additional information regarding this situation can be found at <http://www.militaryreligiousfreedom.org/newsletters/2008-11/video.html>. The Web page is also archived at <http://www.militaryreligiousfreedom.org/dodspp>.

30. Video at http://www.militaryreligiousfreedom.org/Media_video/al_jazeera/index.html.

31. Lt Gen Khalid Bin Sultan al-Saud, commander of Saudi Arabia’s air defense forces, appointed by King Fahd as General Schwarzkopf’s counterpart.

32. “IMF Chaplains Serving in Iraq,” *Gathering*, Spring 2004, <http://www.i-m-f.org/pdfs/Gatherings/Spring2004.pdf>.

33. Ibid.

34. LTC Lyn Brown, “Kingdom Building in Combat Boots,” *Heart & Mind*, Bethel Seminary, Summer 2005, <http://www.bethel.edu/publications/heartmind/2005-summer/bethel-army-boots/>.

35. <http://www.onlyoncross.com>.

36. http://www.larryclayton.org/index.php?option=com_content&view=article&id=27&Itemid=2.

37. <http://www.lightsofliberty.us/iraq.html>.

38. Video at <http://www.youtube.com/watch?v=0B7pBbkZpq0>.
39. <http://soldiersbibleministry.org/Default.aspx?tabid=1783>.
40. Worldwide Military Baptist Missions "Prayer Letter," archived at <http://www.militaryreligiousfreedom.org/dodspp>.
41. For numerous reasons in addition to the distribution of Arabic Bibles, the Military Religious Freedom Foundation has demanded that the DOD revoke the ecclesiastical endorsing authority of this endorsing agency. The letter to the secretary of defense and enclosures detailing the reason for this demand can be found at http://www.militaryreligiousfreedom.org/press-releases/gates_letter.html.
42. Web page archived at <http://www.militaryreligiousfreedom.org/dodspp>.
43. Campus Crusade for Christ Military Ministry Life and Leadership newsletter, October 2005, archived at <http://www.militaryreligiousfreedom.org/dodspp>.
44. *God and the Military*, video, filmed in 1997, re-released on DVD in 2005 for distribution by Campus Crusade for Christ Military Ministry.
45. <http://www.militaryministry.org/about/strategic-objectives/>.
46. <http://www.cadence.org>.
47. <http://www.cadence.org/home/who-we-are/a-strategic-ministry>.
48. Until January 2009, the Officers' Christian Fellowship's official vision statement was "a spiritually transformed military with ambassadors for Christ in uniform, empowered by the Holy Spirit, living with a passion for God and a compassion for the entire military society." Its mission statement was "Christian officers exercising biblical leadership to raise up a godly military." Examples of the use of these statements are archived at <http://www.militaryreligiousfreedom.org/dodspp>.
49. Photos archived at <http://www.militaryreligiousfreedom.org/dodspp>.
50. Several sources confirm that, in some cases, concerts by Eric Horner, a Christian artist who regularly performs at military bases, have been mandatory for basic trainees.
51. <http://www.militaryreligiousfreedom.org/powerpoint/Lakenheath.ppt.htm>.
52. Report of a US Army major in the National Guard who attended this Strong Bonds event.
53. <http://www.fedspending.org>.
54. <http://www.nytimes.com/2009/03/15/washington/15video.html>.
55. Archived at <http://www.militaryreligiousfreedom.org/dodspp>.
56. Archived at <http://www.militaryreligiousfreedom.org/dodspp>.
57. Chaplain Maj. Jeff Mitchell, "Living in Victory," *The Engineer Express*, 225th Engineer Brigade, Louisiana National Guard, 15 July 2009.
58. Chaplain Bailey, 31st Marine Expeditionary Unit newsletter, July 2009.
59. MSgt Diane Watters, *In Formation*, newsletter of the 187th Fighter Wing of the Alabama Air National Guard, February/March 2009.
60. Chaplain Capt Paul-Anthony Halladay, "Virtue of Truth," *The Guidon*, base newspaper of Fort Leonard Wood, 15 April 2009.
61. MSgt Stephen Love, "The Opportunity to Follow Is Afforded to Us All," 460th Space Wing at Buckley Air Force Base, 18 March 2009, <http://www.buckley.af.mil/news/story.asp?id=123138478>.
62. Community-wide Outreach Youth Ministry Program for High School Students, Fort Bragg, North Carolina, Solicitation Number: W9124709T0004, 17 October 2008.
63. Ibid.
64. http://www.militaryreligiousfreedom.org/media_video/spiritual_rangers/index.html.
65. <http://www.mcy.m.org>.
66. Archived at <http://www.militaryreligiousfreedom.org/dodspp>.
67. <http://www.yfcmym.org>.
68. Archived at <http://www.militaryreligiousfreedom.org/dodspp>.
69. <http://www.malachi.org>.
70. <http://www.cefonline.com/content/category/4/102/343/>.
71. Video archived at <http://www.militaryreligiousfreedom.org/dodspp>.
72. *Journal of the Senate of the United States of America*, vol. 50, 35th Cong., 2nd Sess. (Washington, DC: William A. Harris, 1858–59), 53.

73. *The Congressional Globe*, 30th Cong., 2nd Sess., 13 December 1848, 21.
74. *Reports of Committees of the House of Representatives Made During the First Session of the Thirty-Third Congress*, vol. 2, H. Rep. 124 (Washington, DC: A. O. P. Nicholson, 1854).
75. *Reports of Committees of the Senate of the United States for the Second Session of the Thirty-Second Congress, 1852-53*, S. Rep. 376 (Washington, DC: Robert Armstrong, 1853), 4.
76. George P. Sanger, ed., *The Statutes at Large, Treaties, and Proclamations of the United States of America*, vol. 12, 36th Cong., 2nd Sess. (Boston: Little, Brown and Co., 1863), 24.
77. *Ibid.*, 37th Cong., 1st Sess., 288.
78. *Ibid.*, 270.
79. Richard Peters, ed., *The Public Statutes at Large of the United States of America*, vol. 5, 25th Cong., 2nd Sess. (Boston: Little, Brown and Co., 1856), 259.
80. Sanger, ed., *Statutes at Large*, vol. 12, 37th Cong., 2nd Sess., 595.
81. Peters, ed., *Public Statutes at Large*, vol. 2, 45.
82. *Journal of the House of Representatives of the United States*, vol. 54, 35th Cong., 1st Sess. (Washington, DC: James B. Steedman, 1857 [sic]), 792.
83. Rev. W. A. Scott, DD, *The Bible and Politics: Or, An Humble Plea for Equal, Perfect, Absolute Religious Freedom, and Against All Sectarianism in Our Public Schools* (San Francisco: H.H. Bancroft & Co., 1859), 78.
84. George Washington to the president of Congress, 8 June 1777, in John C. Fitzpatrick, ed., *The Writings of George Washington from the Original Manuscript Sources 1745-1799*, vol. 8 (Washington, DC: Government Printing Office, 1933), 203.

About the Author

Chris Rodda is the senior research director for the Military Religious Freedom Foundation and a writer on issues related to religion and politics. Focusing for many years on the issue of the politically motivated revisionism and distortion of American history by the Religious Right, she authored the book *Liars For Jesus: The Religious Right's Alternate Version of American History*, vol. 1, the first of a projected three-volume series debunking the historical myths and lies found everywhere from homeschooling textbooks to congressional debates and legislation to Supreme Court opinions. She is a regular contributor at Talk2Action.org and a blogger on the *Huffington Post*.

The Military Religious Freedom Foundation is a 501(c)(3) founded by Mikey Weinstein in 2005. Weinstein is a 1977 graduate of the US Air Force Academy. MRFF does not seek to rid the military of all religion, as its critics would have people believe. In fact, 96 percent of the service members who seek the assistance of MRFF are Christians, and the work of the foundation is endorsed by a number of religious organizations representing a variety of faiths. For more information, visit <http://www.militaryreligiousfreedom.org>.



**MUSLIM PUBLIC AFFAIRS COUNCIL
STATEMENT FOR THE RECORD**

**UNITED STATES SENATE
JUDICIARY SUBCOMMITTEE ON THE
CONSTITUTION, CIVIL RIGHTS AND
HUMAN RIGHTS**

March 29, 2011

The Muslim Public Affairs Council commends the members of the Senate Judiciary Subcommittee on the Constitution, Civil Rights and Human Rights for holding today's hearing on "Protecting the Civil Rights of American Muslims."

It is our hope this event will be an important starting point for a serious national conversation – one focused on problem solving, not political theater – regarding American Muslims.

The timing of this hearing could not come at a more critical time. Our organization and our coalition partners have been alarmed at the rise of anti-Muslim actions and statements taking place recently.

It is our view that the main source of harmful anti-Muslim actions is sourced in

poisonous rhetoric coming from various private and public figures, including some elected officials.

Here are a few examples of that poisonous rhetoric:

1. **Sweeping generalizations that blame all Muslims and Islam for 9/11.** Not only is this stigmatization unhealthy, as it creates an identity crisis for young American Muslims by driving an us versus them mentality within American society, it is also a false premise. Muslim Americans along with other Americans suffered on 9/11. Those who committed the atrocity of 9/11 cannot be considered religious or even human. They launched a criminal act against all Americans.
2. **Conflating practices in foreign countries with Islam in America.** We see the violations of human rights against women, religious minorities, and any political dissidents throughout the Middle East and South Asia as deviations from Islam. Muslim Americans are key to amplifying the voice of much-needed reform throughout Muslim communities worldwide. It is a shame that this voice is marginalized in public policy discourse on human rights and democracy in Muslim countries.
3. **Accusing Muslims of a “stealth Jihad” to destroy the US Constitution.** This kind of sinister accusation against an entire community shares an unfortunate characteristic with pre-Nazi Germany, i.e. a religious minority accused of a conspiracy to destroy Western society. While we want to emphasize that in no way can America be compared to pre-World War Germany, we must remain cognizant to any strain of dangers to our democracy and vigilant in speaking out against vitriolic rhetoric directed against any minority, be they Hispanic, African American or Muslim. Hate and intolerance are actually the threats to our constitution.
4. **“Anti-Sharia” rhetoric.** This political wedge issue has mischaracterized the integration of Muslims into American pluralism as infiltration. The more involved and integrated Muslim American communities become, the more threatening they are to xenophobes. Sharia is a concept in Islam that deserves a serious discussion. We cannot afford let this be used as a source of political exploitation to use fear in motivating those with prejudices against Muslims to race to the voting booth. Sharia means “the way,” and it is not exclusive to Islam. In fact, the development of a corpus of Christian ethics and Jewish halakha as two parallel examples is very common with American religious communities. Notwithstanding its complexity, Sharia for Muslim Americans demands that social responsibility is an Islamic obligation, and when we pledge allegiance to the flag of the United States, it is sealed with a pledge to God to fulfill our promises. Sharia demands that Muslim Americans are among the best of

American citizens.

There is no doubt that hate speech is protected speech under the U.S. Constitution. What we call for is a collective response to hate speech—responsible speech by civic and political leaders that condemns the scapegoating and stereotyping of any group of Americans. It is a matter of defending our democratic way of life and enriching pluralism.

Moreover when poisonous rhetoric steps over in criminal and discriminatory behavior, it is important for government officials to enforce the Constitution and civil rights statutes. In particular we are concerned about issues such as school bullying, workplace discrimination, religious land use.

Important examples include the frequent verbal and physical harassment of Muslim children and those perceived to be Muslim (such as Sikhs). They are bullied at school campuses around the country, called things like “terrorist” and “camel jockey”. In some instances, schoolteachers and administrators have engaged in problematic behaviors like forcing a female Muslim student to remove her headscarf or allowing outside speakers to demonize Islam in social studies classes.¹

In the workplace, there have been instances of Muslim American workers facing bias or denied greater employment opportunities and religious accommodations. “According to data from the Equal Employment Opportunity Commission, in fiscal years 2000 and 2001, the commission received 284 and 330 charges, respectively, of religious discrimination by Muslim workers... with the number jumping to 803 in 2009.”²

Unfortunately even Muslims’ places of worship often face harsh opposition based on religious discrimination. Cases such in Temecula, CA and Murfreesboro, TN immediately come to mind. Based on figures compiled by the ACLU, nearly three-quarters of recorded anti-mosque activity in the United States has occurred within the past two years.³ Furthermore, 40% of all Justice Department religious

¹ Sabrina Holcomb, “Muslims in America: When Bullying Meets Religion.” *National Education Association*, (No date). Available at: <http://www.nea.org/home/42528.htm>. Last accessed 3/28/11.

² Cathleen O'Connor Schoultz, “Workplace Bias Against Muslims Increasing And Increasingly a Concern for Employers.” *BNA*, (December 2010). Available at: <http://www.employersgroup.com/Content.aspx?id=993>.

³ “Map – Nationwide Anti-Mosque Activity.” *American Civil Liberties Union*, (No date). Available at: <http://www.aclu.org/map-nationwide-anti-mosque-activity>. Last accessed 3/28/11.

land use lawsuits involving Muslim Americans have been filed since May 2009.⁴

It is not enough to merely treat the symptoms of the illness such as acts of discrimination and harassment. Ultimately we will need to address its root causes. As we mentioned at the beginning of this statement, there is no doubt in our view that the motivating source of much of the biased actions taken against Muslim American communities come from poisonous rhetoric.

Therefore, going forward as a nation, it is imperative that our elected officials – across the political spectrum – work in partnership with Muslim American groups to collectively speak out against bigotry towards any American community, including Muslims.

As the Founding Fathers had intended, it is participation in the marketplace of ideas – including from our national leadership – not the government acting as the thought police, which will shape our nation's moral conscience.

Muslim Americans are neither villains nor victims with respect to our political circumstances. They are like any other American group, reaffirming America as home, committed to defending our country against any threat, both domestic and foreign, and enriching American pluralism by making it a better place to live for all.

The contributions of Muslim Americans to all aspects of civil society and public policy discourse will inevitably be seen for what it actually is doing-- strengthening America. At that point, we have succeeded against the current civil rights challenge to all Americans.

⁴ “Justice Department Issues Report on 10th Anniversary of the Religious Land Use and Institutionalized Persons Act.” U.S. Department of Justice, (September 21, 2010). <http://www.justice.gov/opa/pr/2010/September/10-crt-1058.html>.



Statement for the Record

**Senate Judiciary Committee
Subcommittee on the Constitution, Civil Rights and Human Rights**

“Protecting the Civil Rights of American Muslims”

March 29, 2011

The National Immigration Forum works to uphold America's tradition as a nation of immigrants. The Forum advocates for the value of immigrants and immigration to the nation, building support for public policies that reunite families, recognize the importance of immigration to our economy and our communities, protect refugees, encourage newcomers to become new Americans and promote equal protection under the law.

The Forum applauds the Senate for holding this hearing. We have been concerned that, in the wake of September 11, 2001, there has been an increase in discrimination against Muslims. In recent weeks, there has been an escalation of anti-Muslim rhetoric, spurred in part by a decision in the House to hold hearings that, in effect, imply that Muslims in the U.S. are insufficiently loyal to this country.

We do not believe it is appropriate in the United States to single out persons for scrutiny based on their religion. After all, this country was founded by persons seeking religious and political freedom. The decision by House leadership to scrutinize Muslims as a group fit into the recent pattern in the House of using the hearing process to pit groups of Americans against other Americans—and to pit the foreign-born against the native born.

The Senate's hearing is a welcome break from that pattern, and reinforces the idea that we are all American's, subject to the same rights, responsibilities, and protections set out by our laws.

Again, we thank the Senate for conducting this hearing.

R^AIGHTS working group

STATEMENT OF

**MARGARET HUANG, EXECUTIVE DIRECTOR
RIGHTS WORKING GROUP**

HEARING ON PROTECTING THE CIVIL RIGHTS OF AMERICAN MUSLIMS

**SENATE JUDICIARY SUBCOMMITTEE ON THE CONSTITUTION,
CIVIL RIGHTS AND HUMAN RIGHTS**

UNITED STATES SENATE

TUESDAY, MARCH 29, 2011

Chairman Durbin, Ranking Member Graham, and members of the Subcommittee: My name is Margaret Huang, and I am honored to submit this testimony for the record on behalf of the Rights Working Group regarding today's hearing on "Protecting the Civil Rights of American Muslims."

Formed in the aftermath of September 11th, the Rights Working Group (RWG) is a national coalition of nearly 300 organizations from across the country representing civil liberties, national security, immigrant rights and human rights advocates. RWG seeks to restore due process and human rights protections that have eroded since 9/11, ensuring that the rights of all people in the U.S. are respected regardless of citizenship or immigration status, race, national origin, religion or ethnicity. Among our core principles is protecting the right to free exercise of religion without fear of government intrusion or intimidation. RWG applauds the Subcommittee for addressing how the current climate of anti-Muslim hate impacts the civil rights of Muslims in America. This hearing is of vital importance and we hope this is the beginning of a longer discussion about how best to protect the rights of Muslim Americans.

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The United States was founded on the ideal of religious freedom, and our participatory democracy requires that all of us are able to freely exercise our freedoms of speech, religion, and association without fear. Many of our government's policies and practices in recent years have fostered hostility toward and fear of the Muslim community in America. For example, House Homeland Security Committee Chair Peter King's recent hearing on Muslim radicalization seemed to many a Congressional endorsement to treat Muslims as suspect simply because of their religion. Many national security and immigration enforcement policies have targeted Muslims and signaled that American Muslims are dangerous, suspicious, and disloyal. These policies include Department of Justice law enforcement guidance which allows for religious profiling in the name of national security,¹ Transportation and Security Administration screening policies based on the profiling of Muslims,² and the National Security Entry-Exit Registration System which forced thousands of Muslims living in America to undergo special registration.³ Law enforcement tactics of increased surveillance such as infiltration of mosques and charitable organizations have furthered animosity towards and marginalization of Muslims.⁴ In addition, the End Racial Profiling Act, which was first introduced in 2001 and prohibits racial and religious profiling by law enforcement, has yet to be passed by Congress.

¹ See United States Department of Justice, "The Attorney General's Guide for Domestic FBI Operations," December 2008 available at <http://www.justice.gov/ag/readingroom/guidelines.pdf>.

² See Grier, Peter, "US-bound passengers from 14 countries face new airport security," *The Christian Science Monitor*, Jan. 4, 2010 available at <http://www.csmonitor.com/USA/2010/0104/US-bound-passengers-from-14-countries-face-new-airport-security-reporting-on-the-TSA's-14-country-protocol-targeting-passport-holders-from-14-countries-13-of-which-are-predominantly-Muslim-countries>.

³ See American-Arab Anti-Discrimination Committee, "NSEERS: The Consequences of America's Efforts to Secure Its Borders," Mar. 31, 2009 available at <http://www.adc.org/PDF/nseerspaper.pdf>.

⁴ City and County of San Francisco Human Rights Commission, *Community Concerns of Surveillance, Racial and Religious Profiling of Arab, Middle Eastern, Muslim, and South Asian Communities and Potential Reactivation of SFPD Intelligence Gathering*, Feb. 24, 2011 available at <http://www.sf-hrc.org/Modules/ShowDocument.aspx?documentid=983>.

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These governmental policies and the failure to take affirmative legislative steps to end racial and religious profiling have created a chilling effect upon the religious practice of Muslims in America. According to a civil rights attorney in San Francisco, “One of the things we hear most often is that people are afraid that federal and local law enforcement are collaborating to infiltrate mosques. So they’re less willing to exercise their religious duty to go to the mosque to participate in group prayers.”⁵ A community member in San Francisco states, “The FBI agent I spoke with informs me that his department spies on my mosque on a regular basis. I told him and his department that our mosques are places of worship, not spy stations.”⁶

In addition to compromising the ability of the Muslim community to fully exercise its freedom of religion, these governmental policies lead to further divisions in our communities. “American Muslims today are more likely to be victims of hate crimes or harassment.... Last year, a New York cabbie’s throat was slashed by a passenger, reportedly because he was a Muslim. A Florida mosque was firebombed while 60 Muslims prayed inside. Arson fires ravaged mosques in Tennessee and Oregon.... anti-Muslim rhetoric is fueling anti-Muslim violence.”⁷ In the past five years, anti-mosque incidents have occurred in 21 states.⁸ This growing anti-Muslim hate can be seen in state legislatures where anti-Sharia laws are being proposed and passed, boldly

⁵ *Id.* at 19.

⁶ *See id.*

⁷ Star Tribune Editorial, “Terror hearings fuel anti-Muslim fears,” February 25, 2011, available at <http://www.startribune.com/opinion/editorials/116955498.html>. *See also* Human Rights Watch, “WE ARE NOT THE ENEMY” Hate Crimes Against Arabs, Muslims, and Those Perceived to be Arab or Muslim after September 11, Vol. 14, No. 6, November 2002, available at <http://www.hrw.org/en/reports/2002/11/14/we-are-not-enemy>.

⁸ Goldschmidt, Debra, “CNN Poll: Most Americans ‘okay’ with a mosque in their community,” *CNN*, Mar. 24, 2011 available at <http://politicalticker.blogs.cnn.com/2011/03/24/cnn-poll-most-americans-okay-with-a-mosque-in-their-community/>.

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trampling on the First Amendment.⁹ Others are looking to local governments to restrict the construction of new mosques.¹⁰ Employment discrimination against Muslims is also on the rise.¹¹

This climate of hate has instilled significant fear of law enforcement and government in communities of Muslims and those perceived to be Muslim. Such fears result in a decline of reports by victims of crime, such as domestic violence victims, seeking law enforcement assistance; some crime victims from targeted communities fail to seek necessary emergency medical attention.¹² The right of Muslims in America to safety, religion, and free expression are threatened. In this moment in history we must examine our proud tradition of religious tolerance and recommit to the core principle of our country – religious freedom.

Rights Working Group applauds the Subcommittee’s efforts to highlight how the civil rights of Muslims are under siege today and investigate how these rights can and should be protected. In the words of President Obama, “This is America, and our commitment to religious freedom must be unshakeable. The principle that people of all faiths are welcome in this country, and will not

⁹ See Waters, David, “Anti-sharia laws: Legislating religiosity,” *The Washington Post*, Mar. 8, 2011 available at http://www.washingtonpost.com/blogs/under-god/post/anti-sharia-laws-legislating-religiosity-/2011/03/08/AB6FDAP_blog.html.

¹⁰ See Kauffman, Elisabeth, “In Murfreesboro, Tenn.: Church ‘Yes,’ Mosque ‘No,’” *TIME*, Aug. 19, 2010 available at <http://www.time.com/time/nation/article/0,8599,2011847,00.html>. See also Akbar, Farah, “Controversy Over Islam and Mosques Spreads Beyond Park 51,” *Gotham Gazette*, Sep. 2010 available at <http://www.gothamgazette.com/article/civilrights/20100914/3/3362>.

¹¹ See Chisti, Muzaffer A. et al, “AMERICA’S CHALLENGE Domestic Security, Civil Liberties, and National Unity after September 11,” Migration Policy Institute, 2003 available at http://www.migrationpolicy.org/pubs/Americas_Challenges.pdf.

¹² Immigration Policy Center, “BALANCING FEDERAL, STATE, AND LOCAL PRIORITIES IN POLICE-IMMIGRATION RELATIONS: Lessons from Muslim, Arab, and South Asian Communities Since 9/11,” *Immigration Policy IN FOCUS*, Vol. 6, Iss. 3 at 5, June 2008.

RIGHTS working group

be treated differently by their government, is essential to who we are.”¹³ Rights Working Group offers the following recommendations:

- The Subcommittee should reaffirm a strong commitment to ensuring that Muslims in the United States can enjoy religious freedom, civil liberties, and their other constitutional and human rights.
- Subcommittee members should make strong statements against any intolerance, discrimination or hate crimes directed at the Muslim American community.
- Subcommittee members should urge the Department of Justice to revise its 2003 racial profiling guidance to eliminate the loophole that allows racial and religious profiling in the name of national security and speak out against policies that target Muslim communities.
- Congress should introduce and pass the “End Racial Profiling Act” instating a federal ban on profiling based on race, religion, ethnicity and national origin at the federal, state and local levels.

Thank you again for this opportunity to express the views of the Rights Working Group coalition. We would welcome the opportunity for further dialogue and discussion about these important issues.

¹³ Mataconis, Doug, “President Obama Defends ‘Ground Zero’ Mosque, Religious Freedom,” *Outside the Beltway*, Aug. 14, 2010 available at <http://www.outsidethebeltway.com/president-obama-defends-ground-zero-mosque-religious-freedom/> quoting President Obama’s remarks at the August 2010 White House Iftar Dinner.



6930 Carroll Avenue, Suite 506
Takoma Park, MD 20912

Phone: 301.270.1855
Fax: 301.270.1882
info@saalt.org
www.saalt.org

Statement for the Record

South Asian Americans Leading Together

Subcommittee Hearing: "Protecting the Civil Rights of American Muslims"

United States Senate Judiciary Committee

Subcommittee on the Constitution, Civil Rights, and Human Rights

March 29, 2011

As a national nonpartisan non-profit organization that seeks to elevate the voices and perspectives of South Asian individuals and community-based organizations to build a more just and inclusive society in the United States, South Asian Americans Leading Together (SAALT) writes to express its support for the upcoming Senate Judiciary Committee, Subcommittee on the Constitution, Civil Rights, and Human Rights hearing focused on "Protecting the Civil Rights of American Muslims." SAALT also urges Congress to pass measures that will prevent and address civil rights violations occurring against all Americans, including South Asian, Arab, Muslim, and Sikh Americans.

Since September 11th, 2001, Muslim community members living in the United States have endured the pernicious effects of the scapegoating in the public, private, and political spheres – and the resulting civil rights violations have also had a devastating impact on the broader South Asian community. Over the past decade, community members have endured bias, discrimination, and profiling. Incidents of hate crimes, bias-based bullying, and workplace discrimination have continued unabated; community members have been subjected to heightened scrutiny by airport security officials, law enforcement officers, and immigration authorities; and places of worship have been placed under surveillance. In addition, there has been a rise in xenophobic rhetoric against these communities, particularly in the political arena. As the country approaches the tenth anniversary of the tragic events of September 11, 2001, we are presented with an opportunity to reflect upon the values that our country holds dear. The core tenets of freedom, equality, and tolerance have long defined us as a nation. Yet for many, including those belonging to the South Asian, Muslim, and Sikh communities, looking back on the past ten years has also meant struggling with the harsh reality of racism and discrimination.

Civil Rights Violations in the Private Sphere: Hate Crimes, Harassment, and Workplace Discrimination

One facet of civil rights violations perpetrated against community members has been in the form of hate crimes, harassment and workplace discrimination. In fact, during the first week following September 11, 2001, SAALT recorded 645 bias-motivated incidents against South Asians, Muslims, Sikhs and Arabs. The first fatality that resulted from the backlash against community members was the murder of Balbir Singh Sodhi, a Sikh man from Mesa, Arizona. On the morning of September 15th, 2001, Sodhi was planting flowers in front of his gas station in memory of the victims of September 11th. As he was kneeling down, he was shot and killed by Frank Roque. When he was apprehended, Roque shouted, "*I'm an American! I'm a damn American all the way! Arrest me! Let those terrorists run wild!*" Roque shot Sodhi because his appearance and turban were characteristics that he associated with those responsible for the 9/11 attacks. The hate crime sent shock waves throughout the Sikh community.¹

In the ten years that have passed since September 11th, hate crimes have on ongoing on impact the lives of community members. South Asians continue to be targeted on the basis of religious affiliation and national origin.² In fact, more recent tragedies have emerged within the past few months, within the context of the aftermath of the Park51 Muslim cultural center controversy and Congressman Peter King's hearing on radicalization and the Muslim community, including the brutal attack on Ahmed Sharif, a Bangladeshi cab driver who was asked if he was Muslim by passenger who then slashed his throat, and two elderly Sikh gentlemen who were gunned down in a potential hate crime in California. Such cases demonstrate that community members still live in constant fear of being attacked on the basis of their religion or ethnicity. Statistics also demonstrate this case, as the Civil Rights Division of the Department of Justice (DOJ), the Federal Bureau of Investigation (FBI), and the U.S. Attorney's Office have investigated over 750 incidents between 9/11 and March 2007 involving violence, threats, vandalism, and arson against Arabs, Muslims, Sikhs, and South Asians in the United States.³ In 2006, according to the FBI, law enforcement agencies reported over 9,500 hate crimes victims, with over 50% percent targeted on the basis of their race; 18% percent targeted because of their religious beliefs; and 14%

¹ In *Turbans and Terror: Racism after September 11*, Valarie Kaur recounts her experience interviewing one of Mr. Sodhi's nephews, who has dreams about the murder and begs his own father not to wear his turban to work, saying "I don't want what happened to Vaday Papa to happen to you." Clearly, the hate crimes after September 11th have affected not only the victims, but the entire community to which they belong.

² In fact, there were 645 incidents of hate crimes perpetrated against Arabs, Muslims, Sikhs, and South Asians in the week immediately following the terrorist attacks. *American Backlash: Terrorists Bring War Home in More Ways than One*, South Asian Americans Leading Together (2001).

³ *Enforcement and Outreach Following the September 11 Terrorist Attacks*, Department of Justice, Civil Rights Division (March 2007)

targeted because of ethnicity/national origin bias.⁴ Actual figures are likely to be even higher due to underreporting that often occurs within communities.

In addition, while all Americans are constitutionally guaranteed freedom of religion and freedom from racial discrimination, the rights of many South Asians are frequently violated at work, at school, and in other public settings. In fact, the Equal Employment Opportunity Commission (EEOC) reported a significant spike in complaints of workplace discrimination against individuals perceived to be Muslim, Sikh, or South Asian following 9/11.⁵ At its peak, over 500 complaints of workplace-related discrimination complaints, including denying Muslim employees the right to pray at work, were reported in 2005 by the Council on American Islamic Relations (CAIR).⁶ In the past few months, the EEOC has reported a spike in workplace discrimination claims filed by Muslim employees. In addition, Sikhs have been denied jobs as well as entry into places of business unless they remove articles of faith. In fact, a survey conducted among New York City Sikhs showed that one in ten respondents reported being refused employment or denied a job promotion because of their Sikh identity.⁷

In addition, South Asian children also often encounter bias-based bullying in the classroom and mistreatment by school teachers and administrators because of their ethnicity, national origin, or religion. A recent report revealed that over 75% of Sikh male students surveyed in New York City were teased or harassed on the basis of their Sikh identity.⁸ Discrimination in the classroom also affects Muslim students; in 2009, over 150 civil rights complaints were reported involving Muslims in schools across the country.⁹

Civil Rights Violations in the Public Sphere: Racial and Religious Profiling

Another realm where civil rights violations have occurred against South Asian, Muslim, and Sikh community members has been as a result of racial and religious profiling where individuals have been targeted for heightened scrutiny on the basis of certain characteristics unrelated to criminal activity,

⁴ 2006 Hate Crimes Statistics, (Table 1: Incidents, Offenses, Victims, and Known Offenders, by Bias Motivation), Federal Bureau of Investigation (2007).

⁵ Muslim/Arab Employment Discrimination Charges since 9/11, U.S. Equal Employment Opportunity Commission (December 2002).

⁶ The Status of Muslim Civil Rights in the United States, Council on American-Islamic Relations (2007).

⁷ Making Our Voices Heard: A Civil Rights Agenda for New York City Sikhs, The Sikh Coalition (2008).

⁸ Hatred in the Hallways: A Preliminary Report on Bias Against Sikh Students in New York City's Public Schools, The Sikh Coalition (June 2007)

⁹ The Status of Muslim Civil Rights in the United States, Council on American-Islamic Relations (2009).

including their faith. This has occurred in the context of airport travel, immigration, and surveillance of places of worship.

Since September 11th, the Transportation Security Administration (TSA) within the Department of Homeland Security (DHS) has instituted policies violating the rights of those who wear religious headcoverings, including turbans worn by Sikh men and headscarves worn Muslim women. According to guidelines issued in 2007, these individuals were subject to the “possibility of additional security screening, which may include a pat-down search of the headcovering” and “may be referred for additional screening if the security officer cannot reasonably determine that the head area is free of a detectable threat item.” In addition, TSA officers routinely informed passengers that the guidelines automatically mandated searches of certain headcoverings, including the turban, regardless of whether the metal detector was set off. Guidelines were subsequently revised to the current “bulky clothing” screening procedure that leaves it to an individual TSA officer’s discretion to conduct a secondary screening if they believe the headcovering was bulky. It also required a TSA officer to provide the choice a private screening or use of a puffer machine, a self-pat-down and test for chemical traces through a finger swab, or a pat-down of the headcovering from a TSA officer. Despite some improvements to airport screening policies over the past ten years, since November 2010, new policies were put into place resulting in automatic secondary searches of many South Asian travelers who wear religious headcoverings, including turbans. Even prior to the deterioration of screening policies, a report by The Sikh Coalition found that among Sikh travelers surveyed, there was a 100% secondary screening rate for those wearing turbans at certain airports.¹⁰

In addition, South Asians have been targeted for heightened scrutiny by law enforcement based on their religion, national origin or nationality. In fact, in the weeks immediately after 9/11, South Asians, Muslims, and Arabs, were apprehended and detained by the FBI and held without charge¹¹; eventually, most were deported for minor immigration violations rather than any terrorism-related offenses. Programs and practices, such as the National Security Entry-Exit Registration System (NSEERS)¹² and lengthy security background check delays in processing individuals’ naturalization applications, have similarly yielded no proven counterterrorism information while simultaneously resulting in the selective

¹⁰ *The TSA Report Card: A Quarterly Review of Security Screenings of Sikh Travelers in U.S. Airports*, The Sikh Coalition (April 2008).

¹¹ *The September 11 Detainees: A Review of the Treatment of Aliens Held on Immigration Charges in Connection with the Investigation of the September 11 Attacks*, U.S. Department of Justice, Office of the Inspector General (2003).

¹² *Special Registration: Discrimination and Xenophobia as Government Policy*, Asian American Legal Defense and Education Fund (2004).

deportation and denial of immigration benefits of community members based on race, religion, and national origin.

South Asian travelers entering or returning to the United States have also been targeted for detailed interrogation about political views, family members, friends and acquaintances, financial transactions, and religious beliefs. In fact, two civil rights organizations, Asian Law Caucus and Muslim Advocates, have documented complaints about invasive inspections by CBP officers at U.S. ports of entry.¹³ The complaints were overwhelmingly lodged by travelers of South Asian, Muslim, and Middle Eastern descent, and many were U.S. citizens and lawful permanent residents.¹⁴ In addition to intrusive questioning, such travelers have been compelled to turn over personal belongings, including laptop computers, cell phones, letters, digital cameras, confidential company documents, and business cards.¹⁵ Individuals were often quizzed about the knowledge of their documents, photos, and contacts. Items were often searched and copied by CBP officers with virtually no evidence that the individual posed a legitimate threat while simultaneously violating basic privacy rights of those affected.¹⁶

Lastly, since September 11th, law enforcement agencies have increasingly employed tactics that turn community members into the “eyes and ears” of the government to ascertain suspicious activity. While it is vital for all community members to remain vigilant in order to prevent threats, policies and practices implemented by the government have had the effect of turning community members against one another. For example, the FBI often infiltrates mosques and other places where Muslims gather through informants who track the activities of those who attend and even help to promote terrorist plots that entrap unsuspecting Muslim community members.¹⁷ In some instances, anecdotal evidence suggested that community members have been pressured to become informants through monetary incentives, revocation of immigration status, and even the threat of arrest.

¹³ Muslim Advocates, *Unreasonable Intrusions: Investigating the Politics, Faith & Finances of Americans Returning Home* (hereinafter “Muslim Advocates Report”) (April 2009). See also, Asian Law Caucus, *Returning Home: How U.S. Government Practices Undermine Civil Rights At Our Nation’s Doorstep* (hereinafter “Asian Law Caucus Report”) (April 2009).

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ See e.g. Michael Wilson, “In Bronx Bomb Case, Missteps Caught on Tape,” *The New York Times*. See also William K. Rashbaum, “Man Gets 30 Years in Subway Bomb Plot,” *The New York Times*, (January 9, 2007).

Civil Rights Violations in the Political Sphere: Xenophobic Rhetoric in Political Discourse

Political rhetoric based on racial and religious stereotypes has long existed in American history. Since our country's founding, statements and images casting African Americans, Asian Americans, Latinos, and Native Americans have sought to portray those from minority community as the "other" – as individuals who are uncivilized, threats, and should not be trusted. In the years following September 11th, the most recent targets of such rhetoric have been South Asians, Muslims, and Sikhs. In fact, a report by SAALT compiling and analyzing incidents of xenophobic rhetoric in political discourse showed that nearly 75 remarks were made by elected officials and political candidates maligning South Asians, Muslims, and Sikhs as well as Arab Americans.¹⁸ While this is just a sliver of the broader backlash that South Asians, Muslims, and Sikhs have endured, it both mirrors and perpetuates the environment of intolerance that community members face.

Public officials and political candidates making such statements may believe it yields electoral gains by appealing to racism and stereotypes. Yet the fear-mongering promoted by these statements results in a very real cost in the lives of South Asian, Muslim, and Sikh community members. The rhetoric that emerged during the summer of 2010, surrounding the controversy over the proposed construction of the Park51 Islamic Cultural Center, can be seen as a microcosm of how public officials exploited misperceptions about these communities which played a role in leading to violence and discrimination directed against these immigrant and minority community members.

Below is a just a sampling of statements made by political candidates opposing proposed construction of Park51:

- Ron McNeil, candidate for U.S. Congress from Florida stated in August 2010 when asked about Park51, *"I'm totally against it. If I had my way, it would pretty much be over my dead body . . . [t]hat religion is against everything America stands for. If we have to let them build it, make them build it nine stories underground, so we can walk above it as citizens and Christians."*¹⁹

¹⁸ See a full copy of the report, "FROM MACACAS TO TURBAN TOPPERS: THE RISE IN XENOPHOBIC AND RACIST RHETORIC IN AMERICAN POLITICAL DISCOURSE," at <http://bit.ly/a3JikI>. Also enclosed to be submitted into the record.

¹⁹ Candidate: Islam is against everything America stands for," *NewsHerald.com*, Katherine Concepcion (August 17, 2010).

- In June 2010, Congressional candidate Ilario Pantano in North Carolina, stated, *"The suggestion that this mysteriously funded mosque is anything other than a permanent demonstration of Islam's march on the West is naïve at best. . . . This is about marking religious, ideological and territorial conquest. The Mosque is a martyr marker, and it must be stopped."*²⁰
- In June 2010, Congressional candidate and current member of Rutherford County (TN) Planning Commission Lou Ann Zelenik, participated in marches opposing Park51 Cultural Center²¹ and issued a statement through her campaign that included, *"Let there be no mistake. Lou Ann stands with everyone who is opposed to the idea of an Islamic training center being built in our community. This 'Islamic Center' is not part of a religious movement; it is a political movement designed to fracture the moral and political foundation of middle Tennessee ... Until the American Muslim community find it in their hearts to separate themselves from their evil, radical counterparts, to condemn those who want to destroy our civilization and will fight against them, we are not obligated to open our society to any of them."*²²

Even among those who used less inflammatory rhetoric, many public officials urged that it be built "elsewhere" sending the clear and dangerous message that the right to freedom of religion should be applied differently to those who practice Islam. Below are a few examples:

U.S. Senator Mike Crapo of Idaho:

*"I do not believe the construction of this Islamic Center so near to Ground Zero is proper."*²³

U.S. Representative John Boehner of Ohio, House Minority Leader:

*"The decision to build this mosque so close to Ground Zero is deeply troubling."*²⁴

The cumulative effect of such statements was clear. During the summer and fall of 2010, mosques across the country were threatened with vandalism and violence, Qurans were found burned in several cities across the country, and acts of violence have occurred against Muslims and those perceived as

²⁰ <http://dailycaller.com/2010/06/18/a-mosque-at-ground-zero/#ixzz0yPGVmC4e>

²¹ "Zelenik, Black address mosque debate," *Daily News Journal*, Scott Broden, July 18, 2010.

²² "Zelenik issues statement on proposed Islamic center," *Lou Ann for Congress*, June 24, 2010.

²³ <http://www.idahoreporter.com/2010/minnick-and-crapo-too-oppose-ground-zero-mosque/>

²⁴ <http://www.nytimes.com/2010/08/15/us/politics/15reaction.html>

Muslim. For example, a Bangladeshi taxicab driver in New York, Ahmed Sharif was viciously assaulted by a passenger who asked if Sharif was a Muslim,²⁵ and a turbaned Sikh convenience store clerk in Washington State was punched after being called "al-Qaeda."²⁶ Mosques in California, Connecticut, Illinois, Michigan, and New York were vandalized²⁷ and Quran burnings were planned in Florida and occurred elsewhere in the country.²⁸

To reflect the pernicious and evolving forms of civil rights violations that exist today, SAALT recommends legislative solutions that address civil rights violations such workplace discrimination, bias-based bullying, and racial and religious profiling that has occurred over the past ten years, including the following:

- Support policies that end unequal treatment of South Asian, Muslim, and Sikh communities, including anti-profiling (such as the *End Racial Profiling Act*), anti-discrimination (such as the *Workplace Religious Freedom Act*), anti-bias-based bullying (such as the *School Safety Improvement Act*), and hate crimes legislation at the federal, state, and local levels
- Oppose policies that result in discriminatory treatment and profiling of South Asian, Muslim, and Sikh communities, including unwarranted screening of community members by immigration authorities and airline security officers and surveillance of South Asian cultural centers and places of worship
- Refrain from making statements based on harmful stereotypes of South Asian, Muslim, and Sikh communities or candidates (including statements portraying community members as terrorists, uncivilized, economic scapegoats, or un-American)
- Make statements that condemn bias-motivated violence and discrimination against South Asian, Muslim and Sikh communities
- Develop relationships and foster dialogues with South Asian, Muslim, and Sikh constituents to better understand the perspectives, needs, and contributions of community members

²⁵ <http://www.nytimes.com/2010/08/31/nyregion/31cabby.html>

²⁶ http://www.thenewtribune.com/2010/08/31/1321929/man-attacks-man-wearing-turban.html?story_link=email_msg;

http://www.seattletpi.com/local/425902_clerk30.html

²⁷ See e.g. "Car Burned At Islamic Center," *KATC*, Mike Magnoli, September 21, 2010. "Arson reported at Tennessee mosque construction site," *USA Today*, *The Tennessean*, August 29, 2010.

²⁸ "Burnt Quran found outside Tenderloin mosque," *San Francisco Examiner*, Brent Begin, September 18, 2010. "Burnt copy of Quran found outside Muslim community center," *Chicago Tribune*, September 14, 2010. "Bloomington man is fired from NJ Transit job for burning Quran near Ground Zero," *NJ.com*, *The Star-Ledger Continuous News Desk*, September 15, 2010. "Quran burned in East Lansing," *The Detroit News*, Steve Pardo, September 13, 2010.



1413 K STREET NW, 5TH FLOOR, WASHINGTON DC 20005
TELEPHONE: (202) 393-2700 | FACSIMILE (202) 318-4433
WEB: WWW.SALDEF.ORG | EMAIL: INFO@SALDEF.ORG

Testimony of

Sikh American Legal Defense and Education Fund (SALDEF)

Before the

**United States Senate Judiciary Committee
Subcommittee on the Constitution, Civil Rights and Human Rights**

**Hearing on Protecting the Civil Rights of American Muslims
March 29, 2011**

Chairman Durbin, Ranking Member Graham, and members of the Subcommittee on the Constitution, Civil Rights and Human Rights, the Sikh American Legal Defense and Education Fund (SALDEF)¹ thanks you for the privilege to represent the Sikh American community by submitting this statement for the record.

We are here today to discuss the impact of the current climate of mistrust and bigotry against Muslim Americans, and by extension Sikh, Arab, and South Asian American communities, and measures to protect the civil rights of this and all minority communities. The Muslim faith has wrongfully and dangerously been categorized as one of extremism and terrorism. SALDEF

¹The Sikh American Legal Defense and Education Fund (SALDEF), founded in 1996, is the nation's oldest Sikh American civil rights organization and is dedicated to creating an America where Sikh Americans are seen as an integral and accepted part of society. More information is available at www.saldef.org.

strongly condemns the association of *any* faith with extremism and terrorism. For an entire community's faith and patriotism to be doubted is highly problematic given this country's founding commitment to the values of democracy and religious freedom. In the aftermath of Timothy McVeigh's bombing of the federal building in Oklahoma City in 1995, the atrocities committed by Dennis Rader (the BTK Killer) between 1970-2005, and the actions of the Ku Klux Klan, our country did not condemn or vilify an entire faith for the acts of some misguided individuals, and we must be sure to not do that now.

Furthermore, not only have these attacks had a serious effect on the Muslim American community, such ignorant and irresponsible charges create challenges for other persons of/or who appear to be of a certain faith. Specifically, we would like to draw the attention of the Committee to the problems that these incidents and policies have on our constituents, the Sikh American community.

By way of background, the Sikh faith, the world's fifth largest religion, was founded in South Asia over five hundred years ago. Based on the fundamental principles of equality, liberty, and respect for all people, the Sikh faith upholds the same principles we as Americans hold dear. Approximately 500,000 of the 25 million Sikhs worldwide work, study, and raise their families in the United States.

The Sikh American community has a long history in the United States; Sikhs arrived in North America in 1897 and played a pivotal role in the opening of the West, construction of the Panama Canal in 1904, and the building of the railroads in California throughout the 19th and 20th centuries. In 1912, the first *Gurdwara* (Sikh congregational place of worship) was established in Stockton,

California. Notably, Dalip Singh Saund, member of the United States House of Representatives, serving the 29th District of California from 1957 to 1963, was not only the first Sikh American member of the United States Congress, but also the first Asian American member. Since their arrival, Sikh Americans have played a vital economic role and succeeded in all facets of American life.

Observant Sikhs are distinguished by *dastaars* (Sikh turbans), uncut hair, and other articles of faith. Young Sikh American boys cover their uncut hair, which is tied in a top-knot, with a simple piece of fabric. Although almost all persons in the United States who wear turbans are Sikh Americans, the community has faced numerous challenges, including hate crimes targeting community members, racial profiling, workplace discrimination, school bullying, and denial of public accommodation.

In the wake of national and international incidents such as the Iran Hostage Crisis, the Gulf War, the Oklahoma City bombing, and the ongoing war in Iraq, Sikh Americans have been targeted for hate crimes and discrimination by misguided racists and so-called patriots who wrongfully identify Sikh Americans as terrorists based on their identity. The conflation of Sikh Americans—based on their perceived appearance—with terrorists in the minds of fellow citizens has resulted in numerous instances of mistaken identity, sometimes with horrific consequences.

For example, immediately following the 9/11 attacks, hundreds of hate crimes were reported and countless others went unreported. As images of the terrorists responsible for the horrendous act were broadcast by media outlets, especially the image of Osama bin Laden, some Americans began to conflate terrorists with Sikh Americans. Instances of Sikh American cab drivers being beaten, school

children being bullied and taunted, and Sikh American air travelers being told they could not board their flights unless they removed their religiously mandated turbans abounded. It was as if, overnight, a community of Americans was told, “You are not an American.” Sikhs Americans were attacked twice: first by al Qaeda and then by their fellow Americans.

Despite the fact that the first fatal hate crime victim in the days following 9/11 was a Sikh American named Balbir Singh Sodhi, the government and media failed to adequately recognize and respond to the rise in hate crimes against Sikh Americans, Muslim Americans, and others perceived to be of South Asian or Arab descent. Instead, the media perpetuated stereotypes and disseminated stories of ‘suspicious looking individuals’ like Sher Singh, a Sikh American pulled off an Amtrak train right after the attacks by authorities in Rhode Island simply for wearing a turban and having a beard. Sher Singh’s image was touted by national and local news stations, who failed to correct their gross error when it was quickly found that Mr. Singh was an innocent American. This incident shows the true danger of racial profiling as authorities misidentified a non-threat as a threat, as well as the irresponsibility of the media, which transmitted images that drew undue suspicion to innocent individuals.

Other representative incidents following 9/11 include:

- On September 15, 2001, Balbir Singh Sodhi, a Sikh American gas station owner, was the first hate-crime related fatality in the wave of post-9/11 backlash². He was tragically murdered outside of his gas station in Mesa, Arizona by a man who wanted to kill a Muslim in retaliation for the terrorist attacks. He selected Mr. Sodhi simply because he had a beard

²<http://www.saldef.org/news/sikh-americans-condemn-hate-crimes-and-urge-nation-to-unite-demand-protection-from-police-and-public-officials/#more-329>

and wore a turban.

- Swaran Kaur Bhullar³, a Sikh American woman, was attacked by two men who stabbed her in the scalp twice as her car was idling at a red light in San Diego. The men shouted at her, “This is what you get for what you have done to us!” and “I’m going to slash your throat,” before attacking her.
- Attar Singh⁴, an elderly 66-year old Sikh American man, was attacked hours after the attacks on the Twin Towers by two men with a baseball bat near the *Gurdwara* in Queens, New York.
- The Sikh Association of Fresno, a *Gurdwara* in California, was vandalized with racist graffiti, which read, “Rags Go Home” and “It’s Not Your Country⁵.”
- The Lodi Sikh Center was spray-painted with swastikas and racial epithets. The vandalism included remarks such as “killers” and “white power” along with racial epithets directed at Muslims of Middle Eastern origin.⁶
- High school junior Mansheel Singh’s teacher in Fresno, CA pulled his beard and accused him of being a member of the Taliban.
- Dr. Arinder Singh Chadha’s clinic in San Bernardino County, CA was defaced by racist and xenophobic graffiti that read “Kill Muslims” and “Iraq burn.”

Hate crimes are particularly problematic because they provoke fear and can intimidate entire communities. Violence motivated by racism and bigotry in the post 9/11 era has been primarily directed at those perceived to resemble the enemy – a turbaned and bearded Osama bin Laden

³ <http://articles.latimes.com/2002/sep/11/nation/na-911bhullar11>

⁴ <http://live.gothamgazette.com/article/iotw/20011001/200/180>

⁵ <http://pluralism.org/news/view/7344>

⁶ <http://www.recordnet.com/apps/pbcs.dll/article?AID=/20060327/NEWS01/603270308/1001>

and his followers. The federal government officially reported a 1700% increase in 'anti-Muslim' hate crimes, from 28 in 2000 to 481 in 2001.⁷ This only includes crimes both reported to and recorded by police departments. Hate crimes are generally underreported to federal or local officials by minority faith communities based on fear of further discrimination or victimization. Community and civil rights organizations have reported thousands of hate incidents in the years following 9/11, including at least nineteen murders. Out of the estimated nineteen people murdered in the immediate aftermath, four were turbaned Sikh American men.⁸

Many believe that these hate crimes disappeared after the initial 9/11 aftermath. This is regrettably not the case, as Sikh, Muslim, Arab, and others Americans continue to experience a wide-range of prejudice, from employment discrimination to hate-motivated assaults simply because of their perceived identity.

Bias motivated incidents involving the Sikh American community continue to take place, including:

- In September 2007, two Sikh American men were severely beaten by a group of young men in Burtonsville, MD as they went for a walk.⁹
- In May of 2008, a Sikh American high school student had his turban set on fire by a classmate.¹⁰
- In December 2009, an Indianapolis Sikh American was denied a job as an airport bus driver because he refused to remove his religiously mandated turban.¹¹

⁷ <http://www.dwf-film.com/about/facts-on-backlash>

⁸ *ibid.*

⁹ <http://www.saldef.org/news/two-elderly-sikh-americans-men-suffer-vicious-attack-in-maryland/#more-1359>

¹⁰ <http://www.sikhnet.com/daily-news/new-jersey-student-expelled-after-turban-fire>

- In August of 2010, a Sikh American store owner in Seattle was punched in the head and called racial epithets by a customer.¹²
- In November 2010, an elderly Sikh American cab driver was brutally attacked in Sacramento, CA by two passengers who thought he 'looked like a terrorist.' The apprehended assailants plead guilty to committing a hate crime.¹³
- Most recently, just three weeks ago, on March 4, 2011 an elderly Sikh American man was murdered and another left in critical condition following a shooting which law enforcement has called an apparent hate crime.¹⁴ The attackers are still at large.

In fact, in a recent report from the U.S. Equal Employment Opportunity Commission, between 9/11/2001 and 3/11/2011, 1,035 charges were filed under Title VII alleging post-9/11 backlash employment discrimination. Additionally, from 9/11/2001 to 3/11/2011, the EEOC received 6,242 charges of discrimination based on Religion - Muslim. For a comparable period of time, 3/11/1992 to 9/10/2001 (nine and ½ years), EEOC received 2,256 charges of discrimination based on Religion-Muslim.¹⁵ SALDEF has personally been involved with dozens of cases where an employer has rejected an application, terminated an employee, or refused the advancement of an individual specifically because of the mandated identity of a Sikh American man or woman.

Unfortunately, federal, state, and local governments have not done enough to protect Americans of all backgrounds from harassment. In some cases, agencies have taken actions which are

¹¹<http://www.saldef.org/news/public-justice-files-employment-discrimination-suit-on-behalf-of-sikh-american-man/#more-1144>

¹²http://www.seattlepi.com/local/425902_clerk30.html

¹³http://www.dailydemocrat.com/news/ci_17563506

¹⁴<http://www.sacbee.com/2011/03/06/3453199/attack-on-two-sikh-men-seen-as.html>

¹⁵ EEOC Q1-2011 Factsheet

counter-productive to creating an environment of trust with the community. Despite statements to the contrary, the perception exists that the government continues to engage in and policymakers and officials continue to encourage racial, ethnic, and religious profiling.

Often the most counter-productive examples of government action come in the name of national security. Most pointed is the treatment of persons of faith at the nation's airports. For example, because of its screening policies, the Transportation Security Administration (TSA) appears to be targeting Sikh Americans to undergo extra-screening solely because of their religious practices. Sikh Americans are regularly pulled aside for extra-screening, with specific attention paid to their turbans, including in some cases public removal at our nation's airports. At one point, and in practice at some airports still, this screening was effectively mandatory. This is problematic for three reasons. First, it adds to the public perception and gives government sanction to the idea that persons with turbans are threats to be feared. Second, it encourages the perception within law enforcement that Sikh Americans deserve extra scrutiny. Third, the targeting of particular communities was not congruent with the stated policy objective of testing passengers for non-metallic objects as stated by the TSA. The collective experience brought on by these practices has created a sense of resignation among the community that when dealing with the government, in certain spheres, they will be treated as criminal suspects primarily due to their Sikh identity and solely because they choose to exercise their constitutional right to practice their religion.

That is not to say that the certain groups within the government have not recognized the impact of hate crimes and their policies on members of the Sikh, Muslim, and Arab American communities. For example, the Washington Field Office of the Federal Bureau of Investigation

(FBI) continues to work with the Sikh American community in recognition of the fact that Sikh Americans will be targeted along with members of the Muslim American community. SALDEF and the Department of Justice worked together to produce a video entitled "On Common Ground," a cultural awareness training program for law enforcement, however, not enough funding exists to implement the training at law enforcement agencies across the country.

Unfortunately, those types of efforts remain underfunded and discouraged. Federal policymakers need to provide more incentives for government officials and law enforcement at all levels to recognize the impact their policies and actions have on the civil rights of all Americans and to take positive actions to improve the protections of those rights. No longer should law enforcement be presented with a set of perverse incentives to ignore the impact of a crime or policy on the community or to act with such a broad brush that they sacrifice and set aside the constitutional freedoms of any community.

From a historical perspective, we need not look far to see how history is repeating itself. In the aftermath of Pearl Harbor, the only other attack on American soil, thousands of Japanese American citizens were held captive in internment camps simply because they resembled the enemy. After the 9/11 attacks, Sikh, Muslim and Arab Americans have been similarly singled out simply because of a resemblance to the terrorists.

Ten years after 9/11, we are still seeing the result of strong anti-Muslim sentiment. In the last year, we have seen Quran burnings, restrictions on mosque construction, hate crimes, hate speech, and other forms of discrimination. These incidents not only jeopardizes the Muslim

American community's safety and security in this country, they also gravely affect Sikh Americans and other targeted minority communities.

We believe it is imperative that the civil rights and civil liberties of all Americans are protected and that no community is scrutinized or alienated because of the acts of a few misguided individuals. We thank you for your efforts in working to ensure that the religious freedoms of Muslim Americans – as well as all individuals of all faiths – are protected and not trampled upon during this critical juncture in our nation's history. We would also like to thank Chairman Durbin and his staff for their much needed leadership in setting up this forum for open dialogue on the state of religious freedom in the United States. We look forward to working with this panel and your staff in the coming months to ensure that the stated mission of today's hearing is furthered and that all Americans can prosper.

Written Testimony of
Shoulder-to-Shoulder: Standing with American Muslims; Upholding American Values
Submitted to
U.S. Senate Judiciary Subcommittee on The Constitution, Civil Rights, and Human Rights
for the Hearing Record on
“Protecting the Civil Rights of American Muslims.”
March 29, 2011

As American religious leaders, we share a moral obligation to call upon our fellow citizens to treat each other with compassion and honesty, and to foster an ethical commitment to bedrock American values such as pluralism, religious freedom, and mutual respect and understanding—values also at the core of both our religious and democratic traditions.

Last September, we first gathered shoulder-to-shoulder with one another and in solidarity with American Muslims, in order to respond to the anti-Muslim frenzy that emerged as a byproduct of widespread opposition to plans to build an Islamic community center in New York City. Far from seeking to extend the debate about the location of the planned community center, our concern was to address the atmosphere of fear and contempt for fellow Americans of the Muslim faith that the controversy had generated. We were particularly alarmed by threats in Gainesville, FL to burn copies of the Holy Qur'an, and condemned it in the strongest terms. Six months later, we remain profoundly distressed and saddened by the incidents of violence committed against Muslims in communities across America, by the desecration of Islamic houses of worship, and by the destruction of sacred texts. We stand by the principle that to attack any religion in the United States is to do violence to the religious freedom of all Americans. We encourage all citizens of this country to honor freedoms guaranteed by our Constitution that enable the free exercise of religion across our great land.

We are therefore immensely grateful for the Committee's decision to convene hearings on upholding the civil rights of American Muslims. We stand united with all Americans in urging our elected representatives to act as the voice of tolerance, awareness, and hope.

We applaud Senators Richard Durbin and Lindsey Graham for their outstanding leadership in holding this important hearing today. It is our belief that our leaders in Congress and the Administration must lead our nation in standing up for fellow Americans and speaking out for the civil rights of our nation's religious minorities. The Chairman and Ranking Member have proven that this is an issue of great importance to all Americans and one that warrants bipartisan attention.

Muslims are woven into the American tapestry. Muslims serve as teachers and factory workers, doctors and lawyers, social service volunteers and loving parents. They serve proudly and with distinction in police forces and fire departments, and in all branches of the US armed services, alongside people of all faiths and backgrounds. Many Muslim servicemen and servicewomen have given their lives for our country.

In these and many other vocations, Muslims work hard, give back to their communities, and worship in peace. The Muslim community's clergy work closely with the leaders of our nation's other faith groups. We study our sacred texts together, pray together, and join hands to address issues of shared concern, such as homelessness, drug abuse, and violence against women.

We call upon our elected leaders to speak out in support of a renewed commitment to mutual learning among religions. National and local religious leaders also have a special responsibility to teach with accuracy, fairness and respect about other faith traditions. The partnerships that have developed in recent years between synagogues, mosques, and churches provide a foundation for interfaith education and collaborative efforts to address issues of injustice and marginalization in our communities. We can accomplish far more together than we can ever achieve working in isolation from one another. This collaboration can help to nurture healing and reconciliation between members of religious communities that have had little communication or have even been estranged for many years.

As spiritual leaders, we have a moral responsibility and a sacred calling to promote tolerance, respect, and love for our neighbors, regardless of the faith community to which they adhere. To that end, we urge all citizens of good will to join us in promoting tolerance and in standing 'shoulder to shoulder' in solidarity with American Muslims.

Thank you for holding this hearing today, and thank you for the opportunity to submit testimony to the Committee on such an important issue.

* * * * *

Shoulder-to-Shoulder: Standing with American Muslims; Upholding American Values is a campaign of national faith-based organizations and religious denominations to promote tolerance and put an end to anti-Muslim bigotry.



**SIKH COALITION
STATEMENT FOR RECORD**

**UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY**

**Subcommittee on the Constitution, Civil Rights and Human
Rights**

**Subcommittee Hearing: "Protecting the Civil Rights of American
Muslims"**

March 29, 2011

The Sikh Coalition writes to commend Senator Richard Durbin (D-IL) for holding today's Subcommittee Hearing on "Protecting the Civil Rights of American Muslims." Clearly this topic is both necessary and timely. As demonstrated by data maintained by federal and state agencies, civil rights violations disproportionately affect Muslims and those perceived to be Muslim, like Sikh Americans. Given the disproportionate impact of discrimination on the American Muslim community, this hearing is an important means of ensuring our government works to uphold the freedoms that all Americans cherish. We thank Senator Durbin for his leadership in using this Subcommittee to addressing these concerns.

We will use this statement to shine a spotlight on two critical issues affecting Muslim, Sikh, and South Asians in the United States. The first issue we will focus on is the issue of school bullying and violence of Sikh children. The second issue concerns

THE
SIKH COALITION
www.sikhcoalition.org

National Office
48 Exchange Place, Suite 728
New York, NY 10005
t: 212.655.3095
f: 212.208.4611

Western Region Office
39455 Paseo Padre Pkwy., Suite 3550
Fremont, CA 94538
t: 510.659.0900
f: 510.659.0903

Washington DC Office
PO Box 17871
Arlington, VA 22215
t: 202.747.4944
f: 202.330.5574

an odious interpretation of workplace discrimination law that effectively allows Sikhs and Muslims to be segregated out of public view.

I. **School Bullying**

Bias-based school bullying is a "crisis" in the Sikh American community. We place this label --- "crisis" ---- on the situation of the Sikh children soberly, yet truthfully. As our published reports on the issue demonstrate, the *majority* of Sikh children currently suffer bigoted bullying at the hands of their classmates.

In 2008, we issued a report called "Making Our Voices Heard" on the civil rights concerns of Sikh Americans in New York City. Our report, which surveyed over 400 Sikh children in New York City, sadly found that the *majority* of Sikh students suffered bigoted name-calling by their fellow students. Over *one-quarter* reported physical violence from their fellow students, while being called epithets like "terrorist" and "Bin Laden."¹

Similarly, in December 2010 our organization issued a report on the civil rights concerns of Sikh Americans in the San Francisco Bay Area. The report, sadly and similarly, found that *almost seventy percent* of turbaned Sikh boys in the Bay Area biased-based harassment in school.² In addition, our Bay Area civil rights report found that *thirty percent* of the Sikh boys suffered violence from fellow students because of their faith.

¹ See, "Making Our Voices Heard: A Civil Rights Agenda for New York City Sikhs," available at: <http://www.sikhcoalition.org/RaisingOurVoicesReport.pdf>.

² See, "Sikh Coalition Bay Area Civil Rights Report 2010," available at: http://www.sikhcoalition.org/documents/Bay_Area_Civil_Rights_Agenda.pdf

These troubling findings make clear that Sikh Americans have a bullying crisis in school. They do not, however, tell the stories of our children who have suffered. For example, in 2008 Jagmohan Singh Premi, a Sikh boy in New York City, was assaulted by students in his classroom who called him a terrorist. On multiple occasions they would pull off his turban in the presence of teachers. His case was finally brought to light after he was punched in the face by a student holding a pair of keys.³ In Hightstown, New Jersey, Jaskirat Singh, a Sikh boy with a turban, had his turban lit on fire by a fellow student in 2008.⁴ In Queens, New York, Harpal Singh Vacher's religiously-mandated hair was cut off and flushed down a toilet in 2007 by a fellow student in a hate crime.⁵

Unfortunately Title VI of the federal Civil Rights Act of 1964, which gives the United States Department of Education authority to address school bullying, does not include "religion" as a protected class. This huge gap in the law means that when local school officials are not taking effective action to address bullying against Sikhs or children of other faiths, the federal government often has its hands tied .

To its credit, the United States Department of Education has attempted to address bullying affecting Sikh students and other minority religion students by linking it to national origin or race discrimination. Similarly, the United States Justice Department

³ See: <http://www.sikhcoalition.org/advisories/JagmohanHateAssault.htm>

⁴ See: <http://www.sikhcoalition.org/advisories/NJTurbanFire.htm>

⁵ See: <http://www.sikhcoalition.org/advisories/KhalsaKids.htm>

has expressed a strong willingness to take on religious bullying matters through their jurisdiction under Title IV of the Civil Rights Act of 1964.

While these efforts are appreciated, they would be greatly strengthened by including religion as a protected class within Title VI of the federal Civil Rights Act of 1964. In addition, it would help tremendously if Congress should pass the Safe Schools Improvement Act, which would comprehensively and specifically address bias-based school bullying by amending Title IV of the Civil Rights Act of 1964.

Without such Congressional action, the federal government will continue to have its hands tied when Sikhs and other children of faith suffer bullying and violence in schools. The crisis in our community and others, demands Congressional action on this issue.

II. **Workplace Segregation of Muslims and Those Perceived to be Muslim, Including Sikhs**

Title VII of the Civil Rights Act of 1964, as amended ("Title VII"), makes it unlawful for an employer to segregate employees or job applicants "in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect his status as an employee, because of such individual's race, color, religion, sex, or national origin."⁶ With a view toward protecting religious freedom, Title VII also requires employers to reasonably accommodate the religious practices of

⁶ 42 U.S.C. § 2000e-2(a)(2).

their employees unless doing so would impose an undue hardship on the conduct of the employer's business.⁷

Notwithstanding these provisions, at least two federal courts in recent years have misinterpreted Title VII in ways that allow employers to segregate visibly religious employees and job applicants from customers and the general public without violating the law. In one case involving a Muslim woman wearing a headscarf, a court improperly assumed that segregating her from customers did not constitute an "adverse employment action" relating to "compensation, terms, conditions, or privileges of employment" or deprive her of "employment opportunities or otherwise adversely affect [her] status as an employee."⁸ In another case, a court held that an employer satisfied its Title VII obligation to make a "reasonable" accommodation of a turbaned Sikh employee by offering him positions out of public view.⁹

We are troubled by these misinterpretations and the discriminatory impact they have on individuals whose religious observance encompasses adherence to dress and grooming requirements. We believe that segregating such individuals in the workplace inherently constitutes an "adverse employment action" relating to the "terms, conditions, or privileges of employment" and that segregating individuals from customers in the name of so-called "corporate image" policies is inherently unreasonable. Such policies reinforce bigoted stereotypes about what American workers should look like; prevent

⁷ See 42 U.S.C. § 2000e(j).

⁸ See *Ali v. Alamo Rent-a-Car, et al.*, No. 00-1041 (4th Cir. 2001).

⁹ See *Birdi v. United Airlines, Corp.*, No. 99 C 5576, 2002 WL 471999, 2002 U.S. Dist. LEXIS 9864 (N.D. Ill. 2002).

employees of faith from gaining customer service experience, thwarting their professional growth; and clearly undermine the integrative purpose of Title VII.

Workplace segregation is discrimination, and Congress must address this issue in order to fulfill the promise of equal opportunity for all Americans.

Statement of Jim Wallis
President and CEO
Sojourners

Hearing on the Civil Rights of American Muslims

Subcommittee on the Constitution, Civil Rights, and Human Rights
Committee on the Judiciary
United States Senate

March 29, 2011

With the impending 10th anniversary of September 11 this fall, we are witnessing a rise in acts of Islamophobia around the United States, including well-publicized incidents of hate crimes and hate speech toward Muslims. How we face the growing reaction against Muslim-Americans will affect our future as a nation. Do we believe in our principles or not? Do we believe Muslims are also Americans or not? Are we an inclusive and pluralistic nation, or not?

I believe there are a few key questions that get to the heart of the issue. The way we answer them says a lot about ourselves, our own faith, and the collective character of our country.

The first question is this: Does our initial judgment of our neighbors come from their religious labels or the content of their character? I do not advocate a religious pluralism that blurs the distinctions and significant differences between religions, but I do believe that my religious tradition calls me to be a peacemaker and to love my neighbors, especially when I do not agree with them. It is a good thing when you get along with a neighbor with whom you have much in common, but it speaks more highly of your character when you build peace between yourself and a neighbor with whom you have differences.

When Muslim leaders step up to lead initiatives to reduce tensions and promote respect and understanding, do we first judge those leaders by the actions of terrorists (whom they have condemned), or do we judge them by their integrity and character? This does not

mean we then have to agree with them on everything or pretend differences do not exist, but we will love and respect them and work with them to be peacemakers.

The second question asks: Do we believe in freedom for my religion or freedom of religion? The “Establishment” and “Free Exercise” clauses of the First Amendment were nothing less than revolutionary statements. They ignited across the globe a new level of religious freedom and protection. As with many parts of our Constitution, they represent ideals to which we aspire but have not always lived up to. Anti-Catholic sentiment barred Catholics from holding many public offices for years. Anti-Semitism and other forms of religious bigotry have reared their ugly head over and over in our history. But ultimately, many minority groups have flourished in this country, and those who are persecuted in other areas of the world seek asylum here because of our strong history of religious liberty, protection, and freedom. In 2008, our country distinguished itself globally by electing someone of a racial minority as president. We have resisted restrictions on religious expressions targeted at Islam that are appearing in other countries across the world. This speaks greatly to our ability to live up to the ideals in our founding documents.

Finally, we must ask a third question: In the face of global terrorism, who wins when the U.S. restricts religious freedom? Recent acts of anti-Muslim sentiment seem to be saying that Americans win if we restrict the free expression of religion of *some* Americans. It is unfortunate that many of today’s reactions are still a result of 9/11. 9/11 was a crime against humanity, and tragically, it was the first significant encounter many Americans had with radical Islam or Islam of any sort. In order for our country to continue healing, more Americans need to meet and build trust and respect with other Americans who are different than they are — especially with the many Muslims who love this country and the freedoms it affords.

At this time, it is also appropriate to ask, what have we learned? How have we grown as a country? How have we healed, or how have we, in our hurt, turned around and hurt others? These are not either/or questions. We have, in fact, done both: healed and wounded, learned and regressed, grown and shrunk back from the challenges before us. The challenges before us today

lie in our ability to move forward in healing and building the cause of peace while remembering the lessons and lives lost in the past.

If terrorists are able to not only attack us physically but get us to judge our neighbors by labels rather than the content of their character, turn our back on the Constitution and disregard its ideals, and then restrict the religious freedom of other Americans, we all lose. This is a very important moment. Whether we allow religious freedom for Americans of Islamic faith will determine our own character, the integrity of our faith, and our real commitment to the ideals that have distinguished our nation. Let's not let fear and bigotry force us to make the wrong decisions.

Testimony of J. Richard Cohen
President, Southern Poverty Law Center
Before the Subcommittee on the
Constitution, Civil Rights and Human Rights
Committee on the Judiciary
U.S. Senate
March 29, 2011

My name is Richard Cohen. I am the president of the Southern Poverty Law Center, a nonprofit civil rights organization in Montgomery, Alabama. In addition to handling civil rights cases, we monitor the activities of hate groups, antigovernment militias and other extremists in the United States through our Intelligence Project. We also work to reduce prejudice and bigotry among the nation's youth by providing educators across the country with free anti-bias resources through our Teaching Tolerance project.

Anti-Muslim bigotry – and the hate crime it inspires – is a serious problem in our country. Hate crimes spike during periods of controversy involving Muslims. We are once again seeing this phenomenon. To stem this rising tide, our political leaders must speak out forcefully against it. And in our schools, teachers must combat this prejudice by fostering understanding of Islamic culture.

The first spike in anti-Muslim hate crime followed the 9/11 attacks. In 2001, Department of Justice statistics showed a 1,600 percent increase in anti-Muslim hate crime incidents in the United States – 481 incidents reported to the FBI, compared to 28 reported a year before. Because of limitations in the collection of data, these numbers vastly understate the problem; more than half of all hate crimes are never reported to police and many others are incorrectly categorized. An extensive 2005 Department of Justice study concluded that the real level of hate crime is between 20 and 30 times higher than the FBI statistics suggest.¹

The FBI has not released statistics for 2010 or 2011, but our own compilation of news reports suggest that anti-Muslim incidents are again on the rise. We have compiled news reports on 156 anti-Muslim incidents since the terrorist attacks (see attached). Fifty-one of those incidents – approximately one-third – occurred within one year of the September 11, 2001, terrorist attacks.

But since May 2010 – when a controversy erupted over the opening of an Islamic cultural center near the site of the World Trade Center attacks – we have documented 29 anti-Muslim incidents. That means nearly one-fifth of the incidents spanning 10 years occurred within one 10-month period.

¹ Harlow, Caroline Wolf, "Hate Crime Reported by Victims and Police," NCJ 209911, Bureau of Justice Statistics, U.S. Department of Justice, November 2005. see <http://bjs.ojp.usdoj.gov/content/pub/pdf/hcrvp.pdf>

In 2010, Muslims have been harassed, threatened, attacked and stabbed. For example, in August a taxi driver was slashed in the neck and face after his fare discovered he was Muslim. That same month, a piece of construction equipment was set afire and gasoline poured over other pieces of equipment at the future site of an Islamic center in Murfreesboro, Tenn. These attacks touch more than their victims. They tear at the fabric of our society and instill fear in entire communities.

The toxic atmosphere has also entered our schools, manifesting itself in the harassment of Muslim students and teachers as well as in attempts to limit how the history and culture of Islam is taught. Our Teaching Tolerance program, which reaches 400,000 teachers across the country, has seen the effects. This past October, four high school students in Staten Island, New York, were charged with a hate crime after spending more than a year bullying a Muslim classmate, occasionally beating him and calling him a terrorist. A teacher in Arizona contacted us after an angry caller complained that she had invited a representative from the Islamic Speakers Bureau to speak to students about Islam. There are other incidents:

- Sikhs in Queens, New York, have complained about harassment and bullying of their children in schools. Sikh boys are often threatened with having their turbans pulled off, in addition to being called “terrorists.”
- In Cambridge, Massachusetts, when a store burned down, Muslim high school students were asked by classmates if they bombed the store.
- In St. Cloud, Minnesota, Somali refugees have experienced a spate of incidents. In March 2010, for example, a high school student created a short-lived Facebook group called “I hate the Somalians at Tech High.”

Educators also must contend with organizations such as the American Textbook Council, which has criticized textbooks and complained that textbooks don’t highlight “Islamic challenges to global security.” In September 2010, the Texas Board of Education approved a resolution that would require its textbooks to pass an American Textbook Council litmus test and *not* cast Islam in a favorable light.

A Pennsylvania educator told us that a history program had come under attack by several parents because they believed the text was “advocating a positive ‘indoctrination’ of Islam.” This type of scrutiny makes teachers extremely wary of teaching about Islam at all, thus perpetuating the fear and myths that are percolating throughout society and creating this anti-Muslim atmosphere.

We must examine what is helping to fuel this toxic atmosphere. The Southern Poverty Law Center has documented a number of anti-Muslim hate groups operating in the United States. They portray Muslims as fundamentally alien and attribute to its followers an inherent set of negative traits. Muslims are depicted as irrational, intolerant and violent, and their faith is frequently depicted as sanctioning pedophilia, marital rape and child marriage.

These groups also typically hold conspiratorial views regarding the inherent danger to America posed by its Muslim-American community. Muslims are depicted as a fifth column intent on undermining and eventually replacing American democracy and Western civilization with Islamic despotism. Anti-Muslim hate groups allege that Muslims are trying to subvert the rule of law by imposing on Americans their own Islamic legal system, Shariah law. They also broadly defame Islam, which they tend to treat as a monolithic and evil religion. These groups generally hold that Islam has no values in common with other cultures, is inferior to the West and is a violent political ideology rather than a religion.

One of the most prominent anti-Muslim hate groups is Stop Islamization of America, the New York City-based group run by Pam Geller and Robert Spencer. It was instrumental in creating national anger over the so-called Ground Zero mosque. Geller has written that the 9/11 terrorists practiced “pure Islam, original Islam”; described Islam as “the most anti-Semitic, genocidal ideology in the world”; and said Shariah law was taking over the United States. She has said the proposed Islamic center in lower Manhattan would be a “triumphal” monument built on “occupied land.” She has called President Obama “a third worlder and a coward” who is anxious to “appease his Islamic overlords” and “wants jihad to win”; and more.²

We shouldn’t be surprised by the effects of such vitriol on the public. The Pew Research Center found that nearly one-fifth of Americans (18 percent) believed President Obama was a Muslim in August 2010 – up from 11 percent in March 2009, prior to the controversy over the supposed “Ground Zero mosque.” In addition, 43 percent of all Americans said they didn’t know what Obama’s religion is, despite his profession of Christianity.

Another indicator of the hysteria sweeping the country is the introduction of bills in numerous state legislatures to ban the use of Islamic Shariah law in our courts. These bills are based on a completely unfounded fear.³ They are little more than political stunts designed to pander to the country’s growing anti-Muslim sentiment. The real danger is that the fear-mongering associated with these bills will add fuel to the anti-Muslim fire that is brewing.

Political leadership and education is key to tamping down this anti-Muslim xenophobia. Following 9/11, President George W. Bush delivered a series of speeches in which he said Muslims and Arabs *were not* our enemies. He also appeared publicly with imams and other Muslim leaders. At least in part because of his leadership, anti-Muslim hate crimes decreased in 2002 by about 67 percent – a remarkable drop. The lesson, of course, is that it matters what leaders say in the public square.

Teachers can also play a key role. They must be allowed to offer the facts about Islam and dispel the fear and myths about the Muslim community that is allowing this current hostility to grow. School districts should not be cowed into allowing their social studies classes to reflect the fear and prejudices that have gained traction in some communities.

² For more information about anti-Muslim hate groups, see www.splcenter.org

³ Horwitz, Paul, “Bogus Message,” *Montgomery Advertiser*, March 25, 2011. See <http://www.montgomeryadvertiser.com/article/20110327/OPINION0101/103260302/Alabama-Voices-Bogus-message?odyssey=mod|newswell|text|Opinion|p>

Today's political leaders have an important role in speaking out against anti-Muslim hate and bigotry. They must follow the example set by President Bush in the aftermath of the 9/11 attacks and remind the American public we are not at war with Muslims. At the same time, the government must ensure that hate crimes are vigorously prosecuted so that the Muslim community knows the government is on their side.

Anti-Muslim Incidents Since Sept. 11, 2001
Submitted by the Southern Poverty Law Center
to the Subcommittee on the
Constitution, Civil Rights and Human Rights
Committee on the Judiciary
U.S. Senate
March 29, 2011

• **Sept. 11, 2001 – Ronkonkoma, New York**

Brian Harris, 29, was charged with a hate crime after he allegedly held an Arab American at gunpoint while making anti-Arab threats.

• **Sept. 11, 2001 – Eugene, Oregon**

Christopher Paul Younce, 33, was charged with a hate crime after allegedly making a threatening phone call to the Islamic Cultural Center.

• **Sept. 12, 2001 – South Huntington, New York**

Adam Lang, 76, was charged with first-degree reckless endangerment and a hate crime after he allegedly tried to run down a Pakistani woman with his car.

• **Sept. 13, 2001 – Somerset, California**

Craig Jennings, 18; Jeffrey Lizotte, 17, and a 16-year-old were charged with a hate crime after allegedly throwing a Molotov cocktail onto the roof of a convenience store owned by Arab Americans.

• **Sept. 12, 2001 – Salt Lake City, Utah**

Michael Herrick, a 31-year-old white man, was charged with first-degree felony aggravated arson and a hate crime after allegedly starting a fire at a Pakistani family's restaurant.

• **Sept. 13, 2001 – Chicago, Illinois**

Andrew Holden, a 49-year-old white man, was charged with assault, a hate crime and disorderly conduct after allegedly threatening to bomb a food store owned by an Arab American.

• **Sept. 13, 2001 – Bloomington, Indiana**

A Muslim student was allegedly assaulted and verbally harassed by a white student.

• **Sept. 15, 2001 – Mesa, Arizona**

Balbir Singh Sodhi, a 49-year-old Sikh and native of India, was fatally shot outside his gas station by Frank Silva Roque, who mistakenly believed Sodhi was Muslim. Roque then allegedly fired shots at a man of Lebanese descent working at another gas station, and at an Afghan family's residence.

• **Sept. 15, 2001 – Dallas, Texas**

Waqar Hasan, a 46-year-old Pakistani immigrant, was shot to death in his convenience store. Mark Stroman, who allegedly said he was angry with people of Middle Eastern descent after the

9/11 terrorist attacks, was charged with Hasan's murder. Stroman was also charged with the Oct. 4 murder of Vasudev Patel, a 49-year-old native of India, at a gas station convenience store in Mesquite, Texas.

• **Sept. 18, 2001 – Fort Worth, Texas**

Three middle school students were charged with making a terroristic threat after allegedly threatening and harassing a schoolmate of Indian descent.

• **Sept. 19, 2001 – San Francisco, California**

Anti-Arab graffiti was spray-painted on an Iraqi-American grocery store in three separate incidents.

• **Sept. 29, 2001 – Reedley, California**

Abdo Ali Ahmed, a 51-year-old Yemeni man, was shot to death outside his convenience store. Two days earlier a note reading, "We're going to kill all (expletive) Arabs," was left on his car windshield.

• **Oct. 16, 2001 – Racine, Wisconsin**

Andrew E. Savagae, 40, was charged with a hate crime for allegedly yelling at an Indian store owner Savage believed to be of Middle Eastern descent.

• **Oct. 18, 2001 – Detroit, Michigan**

Douglas Snyder, 46, was charged with five counts of felony ethnic intimidation for allegedly using the Internet to threaten Arab Americans.

• **Oct. 21, 2001 – Anaheim, California**

Several Asian men shouted ethnic slurs and allegedly assaulted a man of Asian-Indian descent who they thought was Middle Eastern.

• **Oct. 21, 2001 – New York, New York**

Three men allegedly attacked a Pakistani store owner.

• **Oct. 30, 2001 – Los Angeles, California**

A swastika and the phrase "Go home Arab" was spray-painted on a business owned by an Arab-American man.

• **Oct. 30, 2001 – Elgin, Illinois**

Jose Ares-Torres, 27, was charged with committing a felony hate crime and disorderly conduct for allegedly threatening to kill Muslims.

• **Oct. 31, 2001 – Grand Forks, North Dakota**

Kevin Dvork, 22, was charged with simple assault for allegedly attacking a Saudi Arabian student.

• **Nov. 1, 2001 – Prince William, Virginia**

Stanley Elburn Smith III, 27, and James M. Terrell, 25, were charged with assault and battery, malicious wounding and fraud for allegedly assaulting a Pakistani man.

• **Nov. 2, 2001 – Seattle, Washington**

A 36-year-old man and two teenage boys were charged with suspicion of second-degree arson and malicious harassment after allegedly setting a fire at a local mosque.

• **Nov. 2, 2001 – Tacoma, Washington**

A bomb was detonated outside the home of a family of Middle Eastern descent.

• **Nov. 6, 2001 – Madison, Wisconsin**

Jeremy A. Giese, 21, was charged with a hate crime, criminal damage to property and disorderly conduct for allegedly smashing the window of a bar after seeing two men who appeared to be of Middle Eastern descent.

• **Nov. 7, 2001 – Tulelake, California**

Three white men allegedly fired gunshots while yelling racial slurs at a Latino man they believed was of Arab descent.

• **Nov. 12, 2001 – Trenton, Michigan**

Rob Moran, 20, was charged with ethnic intimidation for allegedly harassing a woman of Palestinian-Muslim descent.

• **Nov. 17, 2001 – Waterbury, Connecticut**

Rocks were thrown through windows at a local mosque during a Ramadan prayer service.

• **Jan. 7, 2002 – Salt Lake City, Utah**

James Herrick, 32, was sentenced to four years in prison for trying to set fire to a Pakistani-American family's business in September 2001.

• **Feb. 2, 2002 – Cooper City, Florida**

A Muslim mosque and school were ransacked.

• **Feb. 19, 2002 – Palermo, New York**

Mitchel Trumble, 18, was charged with felony criminal mischief as a hate crime and fourth-degree criminal mischief for allegedly participating in the destruction of a Sikh temple in November.

• **Feb. 21, 2002 – Norwalk, California**

James Scott Yungkans, 37, was sentenced to a year in jail and placed on three years' probation for threatening a store clerk of Middle Eastern descent in September.

• **March 25, 2002 – Tallahassee, Florida**

Charles Franklin, 51, was charged with burglary and criminal mischief after allegedly vandalizing a local mosque because he hated Muslims.

- **April 10, 2002 – Oswego, New York**

Joshua Centrone, William J. Reeves and Mitcheal W. Trumbull, all 18, and Cassie Hudson, 19, were charged with a hate crime for allegedly burning a Sikh temple in September 2001. Centrone was sentenced in May to three to nine years in prison.

- **April 12, 2002 – Madison, Wisconsin**

Thomas D. Iverson, 45, was sentenced to two years and three months in prison for making a threatening call to a man of Middle Eastern descent in September 2001.

- **May 4, 2002 – Alexandria, Virginia**

Michael Woolls, 24, was charged with assault, attempted assault motivated by bias against national origin, and destruction of property after allegedly throwing a brick through the car window of a man of Middle Eastern descent.

- **May 14, 2002 – New York, New York**

- William Reeves, 18, was sentenced to four to 12 years in prison for setting fire to a Sikh temple in November 2001.

- **May 22, 2002 – Evansville, Indiana**

John Joseph Kirkwood, 28, was sentenced to four years in prison for driving his car into an Islamic center in September.

- **May 28, 2002 – Parish, New York**

Cassie J. Hudson, 19, was sentenced to three months in prison for vandalizing and setting fire to a Sikh temple in November. Hudson was placed on probation for five years, ordered to perform 200 hours of community service and fined \$1,000.

- **May 28, 2002 – Kent, Washington**

John Bethel, 45, was sentenced to nearly two years in prison for assaulting a man of Indian descent after the Sept. 11 terrorist attacks.

- **June 8, 2002 – Gainesville, Florida**

Robert Rowland, 53, was charged with two hate crimes after allegedly threatening three people of Indian descent while spraying them with bug spray.

- **July 7, 2002 – Nassau, New York**

John Yang, 25, was charged with second-degree criminal mischief, second-degree menacing and fourth-degree criminal possession of a dangerous weapon for allegedly threatening to shoot two Muslim brothers while yelling racial slurs. Anti-Muslim epithets were also spray-painted on the family's property.

- **July 15, 2002 – Detroit, Michigan**

Brent D. Seever, 38, was sentenced to life in prison for killing an Arab-American man after the 9/11 terrorist attacks.

- **July 23, 2002 – Heber City, Utah**

A Muslim-owned hotel was set afire.

• **July 30, 2002 – Baltimore, Maryland**

Dennis Odell Coe, a 32-year-old white man, was charged with three counts of committing a crime upon a person for ethnic reasons, two counts of second-degree assault and one count each of malicious destruction of property and disorderly conduct for allegedly attacking two men of Middle Eastern descent.

• **Aug. 6, 2002 – Reno, Nevada**

David Nolette, 15, and Scott Cannady, 17, were sentenced to up to 40 years in prison for the baseball beatings of two Muslim men in March 2001. Nolette and Cannady were also ordered to pay \$563,000 in restitution to one victim and \$850 to the other.

• **Aug. 8, 2002 – Palos Hills, Illinois**

John Stewart, 34, was sentenced to two years of probation and 20 hours of community service for threatening his Syrian neighbors after the 9/11 terrorist attacks.

• **Aug. 22, 2002 – Seminole, Florida**

Dr. Robert Goldstein, 37, was charged with possessing destructive devices and attempting to damage and destroy buildings by means of explosive devices after a police search of his residence turned up 20 homemade explosive devices, two light rockets, a sniper rifle, an assortment of assault rifles and 25,000 rounds of ammunition. Also found was a plan to target Islamic Centers in Florida, with the objective to “Kill all ‘rags’ at this Islamic Education Center.”

• **Aug. 27, 2002 – Boston, Massachusetts**

Zachary J. Rolnik, 40, was sentenced to two months in prison and fined \$5,000 for threatening to kill an Arab-American spokesman and his family.

• **Aug. 28, 2002 – Santa Barbara, California**

Thomas W. Byrne, 42, was charged with suspicion of making terroristic threats, possessing a handgun and committing a hate crime for allegedly attacking and threatening a man of Iranian descent while yelling racial slurs.

• **Aug. 30, 2002 – Palo Alto, California**

Sanjay Nair, an 18-year-old Hindu man, allegedly raped a 15-year-old Muslim girl and made derogatory comments about her religion.

• **Aug. 31, 2002 – Selden, New York**

Richard Bossi, 19, and Matthew Martin, 18, were charged with second-degree aggravated harassment after they allegedly taunted and attacked a Pakistani woman and her 15-year-old son.

• **Sept. 4, 2002 – Chicago, Illinois**

A man allegedly attacked a female Muslim student on a college campus.

• **Sept. 14, 2002 – Sterling, Virginia**

Swastikas and ethnic slurs were spray-painted on a Muslim community center.

• **Sept. 30, 2002 – Boise, Idaho**

A mosque was vandalized after receiving a series of threatening phone calls.

• **Oct. 4, 2002 – Queens, New York**

Two men allegedly attacked a 17-year-old Middle Eastern teenager because of his ethnicity while accusing him of being in the Taliban and blaming him for the 9/11 terrorist attacks.

• **Nov. 19, 2002 – Boston, Massachusetts**

Phea Meas, 24; Jamie Roldan, 23, and another man were charged with a hate crime after allegedly beating a Pakistani convenience store clerk.

• **Dec. 2, 2002 – Annapolis, Maryland**

Ray C. Bailey, 21; David J. Grobani, 19, and Robert J. Canter, 20, were charged with assault and committing a hate crime after allegedly making ethnic slurs and attacking a cab driver of Middle Eastern descent.

• **March 17, 2003 – Boca Raton, Florida**

George Aboujawdeh, 46, was sentenced to one month in prison after repeatedly setting fire to a sign announcing the new site of an Islamic community Center and mosque.

• **March 21, 2003 – Burbank, Illinois**

A fireworks device was thrown into a Palestinian Muslim family's van. Eric K. Nix, 24, was convicted in 2006 of arson, criminal property damage and committing a hate crime.

• **April 14, 2003 – Frederick, Maryland**

A 10-year-old Muslim girl was allegedly harassed repeatedly at school because of her religion.

• **April 22, 2003 – Brooklyn, New York**

Max Abrahamowitz, 29, allegedly assaulted a Muslim woman while yelling racial slurs.

• **May 12, 2003 – Bensalem, Pennsylvania**

Three boys, two white 13-year-olds and a black 12-year-old, allegedly attacked an 8-year-old child of Middle Eastern descent while calling him "you Saddam Hussein helper" and telling him to "go back to Iraq."

• **May 19, 2003 – Tallahassee, Florida**

Charles Franklin, 41, was sentenced to more than two years in federal prison for driving his pickup truck into a mosque while yelling anti-Muslim threats in March 2002.

• **June 4, 2003 – San Diego, California**

Hundreds of copies of a publication portraying Muslim women as sexual objects and ridiculing Jews, Jesus and Palestinians were distributed at the University of California - San Diego.

• **June 22, 2003 – Boston, Massachusetts**

Three men were arrested for allegedly hog-tying, beating and stabbing a pizza deliveryman because they mistakenly believed he was Muslim.

• **June 23, 2003 – Salem, Oregon**

A 12-year-old Israeli Arab boy playing outside his house was allegedly called a terrorist and punched in the face by another 12-year-old.

• **July 24, 2003 – College Park, Maryland**

A wooden cross was burned at an Islamic school. Two 17-year-old boys were charged with harassment related to religious beliefs and damaging the property of a religious entity.

• **Sept. 16, 2003 – Bronx, New York**

A 14-year-old teenage boy was charged with assault, aggravated harassment and menacing for allegedly attacking a Muslim girl while yelling racial slurs.

• **Sept. 18, 2003 – Tempe, Arizona**

A swastika, a thunderbolt-shaped “SS” and other Nazi symbols were spray-painted on a mosque.

• **March 6, 2004 – Lubbock, Texas**

Anti-Islamic and pro-American slogans were written on an Islamic Center that was also burglarized. Four teenagers were charged with burglary.

• **March 9, 2004 – Davis, California**

A white man allegedly made a comment about terrorists to a Middle Eastern man at a gas station and later pointed a handgun at the man and made threatening remarks.

• **April 6, 2004 – Tampa, Florida**

Two women and a man allegedly attacked a Muslim woman, yanking on her headscarf and calling Muslim people violent, reportedly in reaction to the commuter-train bombing in Spain.

• **April 19, 2004 – Dover Township, New Jersey**

Windows at an Islamic Center were broken, walls were damaged and swastikas and sexually explicit and anti-Semitic statements were scrawled on two doors.

• **April 22, 2004 – Denton, Texas**

A window and glass door of an Islamic Society building were shot out.

• **May 10, 2004 – Miami, Florida**

A Muslim mosque was broken into and ransacked. A glass door was smashed, telephone lines were cut, and an alarm system was destroyed.

• **May 11, 2004 – Omaha, Nebraska**

A 33-year-old man allegedly left two threatening voice mail messages on an Islamic Center’s answering machine.

• **May 12, 2004 – Miami, Florida**

Obscenities and a swastika were spray-painted at an Islamic school.

• **May 13, 2004 – Miami, Florida**

A note reading “Kill them all in the name of Allah” was left in an Islamic Center’s mailbox.

• **July 8, 2004 – Edmonds, Washington**

A cross was burned in the front lawn of a family of Middle Eastern descent.

• **July 24, 2004 – Buffalo, New York**

Two women in a car allegedly chased and threatened two teenage sisters while yelling obscenities and making references to the sisters’ Islamic background.

• **Aug. 18, 2004 – New York, New York**

Brian Lydon, 45, was charged with third-degree assault and harassment for allegedly attacking a man of Middle Eastern descent while yelling, “You are Muslim.”

• **Sept. 16, 2004 – Berkeley, California**

Three men allegedly used racial slurs and hurled water bottles at eight Muslim students at the University of California, Berkeley.

• **Sept. 20, 2004 – El Paso, Texas**

Antonio Flores, 57, was charged with arson and weapons charges after he allegedly tossed a makeshift firebomb at children playing outside an Islamic daycare center.

• **Aug. 9, 2005 – Arlington, Virginia**

Three white men allegedly shouted racial slurs at a pregnant black Muslim woman.

• **Oct. 1, 2005 – Coralville, Iowa**

Troy Carter Anderson, 24, was charged with a hate crime and assault causing bodily injury for allegedly punching a Middle Eastern woman outside a bar and calling her a derogatory name.

• **April 1, 2006 – Waco, Texas**

A white man allegedly used anti-Muslim and ethnic slurs and attacked a female Muslim student at Baylor University.

• **July 21, 2006 – Naperville, Illinois**

An Islamic Center was burglarized.

• **July 31, 2006 – Cliffside Park, New Jersey**

A woman and her toddler were allegedly assaulted by their neighbor, who yelled racial slurs and screamed, “You Arabs, I’m going to get you back for Sept. 11.” William Brown, 62, was charged with two counts of aggravated assault and one count of bias intimidation.

• **Oct. 31, 2006 – St. Peters, Missouri**

The letters “KKK” and the words “Kill Muslim” were spray-painted on a Pakistani man’s garage door.

• **Nov. 27, 2006 – Detroit, Michigan**

A group of ten white men assaulted a Muslim man outside his home.

• **Jan. 24, 2007 – Newark, New Jersey**

A mosque was set afire. The blaze appeared to have begun in coils of rope put on a back deck of the building.

• **Feb. 20, 2007 – Ballard, Washington**

A white man and a white woman allegedly used racial slurs against a Yemeni deli owner and his Yemeni employee and called them terrorists before assaulting the owner. Brian D. Lappin, 35, and Nichol A. Kirk, 25, were charged with malicious harassment under the state's hate crime law.

• **May 12, 2007 – Little Falls, New Jersey**

David Liscio, 32, was charged with harassment, making terroristic threats and bias intimidation after he allegedly shouted racial slurs at a Latino Muslim woman.

• **May 22, 2007 – Lynn Haven, Florida**

Thomas E. Plaisted was charged with battery evidencing bias after he allegedly spit on a Muslim child and shoved another at a fast-food restaurant.

• **June 23, 2007 – St. Cloud, Minnesota**

Phillip Joseph Massa, 33, was charged with obstructing the legal process and fourth-degree gross misdemeanor assault motivated by bias after he allegedly assaulted a man of Muslim descent.

• **June 29, 2007 – Nutley, New Jersey**

Kerri A. Livesay, 34, was charged with simple assault and a bias crime after allegedly screaming curses and assaulting a teen wearing traditional Muslim garb at a store.

• **July 6, 2007 – Sarasota, Florida**

Anti-Islamic epithets were spray-painted on a Bosnian family's residence that was then set afire.

• **July 13, 2007 – San Antonio, Texas**

A Muslim family's vehicles were vandalized with messages telling them to move.

• **July 30, 2007 – Shreveport, Louisiana**

Russell Price, 22, a 16-year-old and a 14-year-old were charged with spray-painting profanity and drug symbols on an Islamic Association building.

• **Aug. 6, 2007 – Glendale, Arizona**

A chemical bomb was tossed from a car at a mosque. The bomb landed near two people associated with the Albanian American Islamic Center.

• **July 26, 2007 – Corvallis, Oregon**

Jesse J. Mason, 24, was arrested after allegedly throwing furniture and smashing a window at a residence of two men he believed were of Middle Eastern descent while yelling, “This is America — Arabs and al-Qaida out of the country.” Mason also allegedly had spit on the two men a few days earlier and made similar remarks in front of a bar.

• **Sept. 11, 2007 – Tempe, Arizona**

Michael Estes, 32, was charged with suspicion of disorderly conduct after he allegedly cursed at an imam at an Islamic community center and made other negative remarks to him on the sixth anniversary of the 9/11 terrorist attacks.

• **Sept. 15, 2007 – Matinecock, New York**

An Iranian-American nail salon owner was allegedly beaten by two robbers who called her a “terrorist” and scrawled anti-Muslim messages on a mirror in her shop.

• **Oct. 6, 2007 – Bakersfield, California**

Two men allegedly entered the women's section of a mosque and yelled anti-Middle Eastern slurs such as “terrorists go home.” Later that night, about 10 people allegedly smashed windows and damaged cars at the mosque.

• **Oct. 24, 2007 – Philadelphia, Pennsylvania**

Kia Reid, 35, a former hotel-catering manager who in October 2006 sent her Arab-American boss an anonymous note threatening her children and referring to 9/11, was sentenced to two years of probation.

• **Jan. 14, 2008 – New Hyde Park, New York**

A 63-year-old Sikh man was attacked outside his temple, allegedly by a man who yelled profanities and screamed, “Arab, go back to your country.” David Wood, 36, was second-degree assault as a hate crime, second- and third-degree assault and second-degree aggravated harassment.

• **Jan. 22, 2008 – Blaine, Minnesota**

Three men used bottles of combustible liquid to set a fire in a convenience store. The word “Arab” was also spray-painted on the building.

• **March 11, 2008 – Hayward, California**

Manuel Urango was found guilty of first-degree murder in the death of Alia Ansari, an Afghani-born mother of six. Ansari was killed allegedly because of her Muslim heritage.

• **March 26, 2008 – Nashville, Tennessee**

Eric Ian Baker, 32, Michael Corey Golden, 23, and Jonathan Edward Stone, 18, were indicted on federal civil rights charges for burning down an Islamic Center on Feb. 9, 2008. Stone and Baker reportedly identified themselves as followers of the white supremacist Christian Identity movement.

• **May 22, 2008 – Rochester, Minnesota**

Three teens were charged with bias crimes, including gross misdemeanor harassment, after they allegedly yelled racial slurs and spit on a person outside an Islamic Center.

• **July 3, 2008 – Seattle, Washington**

Edward Campbell, 42, was charged with one count of malicious harassment after he allegedly called a store clerk, whom he believed was Muslim, a terrorist and struck him on the head with a can of beer.

• **Sept. 25, 2008 – Joplin, Missouri**

A sign at the Islamic Society was set afire.

• **Nov. 1, 2008 – Gaithersburg, Maryland**

An Islamic Center was hit with 30 paintball blasts to its building.

• **Jan. 1, 2009 – Miami, Florida**

An Islamic school was sprayed with bullets.

• **Jan. 1, 2009 – Oakland, Pennsylvania**

An Islamic Center was vandalized.

• **June 27, 2009 – Yermo, California**

Ali Abdelhadi Mohd, 51, a native of Jordan, was found burned to death in his family's vacant house that had been set afire. Mohd was at the residence to clean anti-Arab and white supremacist graffiti that had been scrawled inside. A mosque on the family's property also was set afire in 2007.

• **July 1, 2009 – Seattle, Washington**

Eric Lee Garner, 24, was charged with second-degree assault and malicious harassment for allegedly making anti-Muslim remarks and threatening to cut a woman and her infant.

• **Aug. 20, 2009 – Smithtown, New York**

Joseph Ballance, 23, was charged with aggravated harassment for allegedly attempting to run over two Muslim women at a gas station and threatening to kill them because of their religion.

• **Sept. 8, 2009 – Ann Arbor, Michigan**

A 16-year-old Muslim girl of Iraqi heritage was allegedly attacked on a school bus by a group of people who shouted ethnic slurs. Her brother was also allegedly attacked while coming to her defense.

• **Sept. 8, 2009 – Cape Girardeau, Missouri**

Nicholas T. Proffit, 32, was sentenced to three years in prison for vandalizing an Islamic Center in May.

• **Nov. 7, 2009 – Tinley Park, Illinois**

Valerie Kenney, 54, was charged with a hate crime for allegedly yanking the headscarf of a Muslim woman two days after the Fort Hood shootings.

• **Nov. 9, 2009 – Farmingville, New York**

A Muslim woman's home was burglarized, vandalized and defaced with graffiti.

• **Nov. 22, 2009 – Kinsman, Illinois**

Scott Finch and Luke Harty, both 32, were charged with aggravated battery for allegedly assaulting a Muslim man outside a tavern.

• **Dec. 3, 2009 – Coeur d'Alene, Idaho**

Swastikas and a racial slur were spray-painted on a pickup truck belonging to a Muslim man of Jordanian descent.

• **Dec. 8, 2009 – St. Cloud, Minnesota**

Anti-Islamic cartoons featuring swastikas were left on utility poles, one of which was outside a store catering to Somali people.

• **Jan. 1, 2010 – Costa Mesa, CA**

A burned and torn copy of the Koran was left in the parking lot of the Islamic Educational Center for the second time in a month.

• **Jan. 16, 2010 – Murfreesboro, Tennessee**

A sign marking the future site of the city's Islamic Center was spray-painted with the words "not welcome."

• **Feb. 10, 2010 – Nashville, Tennessee**

An Islamic Center was defaced with the words "Muslims Go Home" and a crusade-style cross.

• **May 10, 2010 – Jacksonville, Florida**

A homemade pipe bomb exploded at an Islamic Center.

• **June 11, 2010 – Sunnyvale, California**

A Muslim man who was holding a copy of the Koran was allegedly attacked by two men who called the victim a terrorist.

• **June 23, 2010 – Murfreesboro, Tennessee**

A sign marking the future site of an Islamic Center was vandalized for the second time in less than six months.

• **June 25, 2010 – Bellevue, Washington**

A van parked near a mosque and bearing advertisements about Islam was smeared with what appeared to be dog feces.

• **Aug. 6, 2010 – Arlington, Texas**

Pornographic graffiti depicting Uncle Sam having sex with Allah was spray-painted in the parking lot of an Islamic Center where other acts of graffiti and a fire have occurred.

• **Aug. 20, 2010 – Madera, California**

A brick was thrown at an Islamic Center building. Previously three anti-Islamic signs, including one signed by the "American Nationalist Brotherhood," had been left at the center.

Aug. 24, 2010 – Madera, California

Signs reading, "Wake up America, the enemy is here," were left at an Islamic Center.

• **Aug. 24, 2010 – New York, New York**

Michael Enright, 21, allegedly slashed a taxi driver's neck and face after Enright discovered the man was Muslim. Enright was charged with attempted murder, assault as a hate crime and possession of a weapon.

• **Aug. 25, 2010 – Queens, New York**

A drunken man allegedly shouted anti-Muslim slurs and urinated on prayer rugs in a mosque.

• **Aug. 28, 2010 – Murfreesboro, Tennessee**

A piece of construction equipment was set afire and gasoline was poured over other pieces of equipment at the future site of an Islamic Center.

• **Aug. 30, 2010 – Carlton, New York**

Five teenagers were arrested for allegedly harassing worshippers and yelling obscenities outside a mosque after Ramadan services.

• **Sept. 9, 2010 – Reno, Nevada**

Anti-Muslim graffiti was spray-painted on a retaining wall.

• **Sept. 11, 2010 – Columbus, Ohio**

The numbers "9-11" were spray-painted on windows and countertops at a Muslim-owned market. Some cash and a laptop computer were also stolen and several display cases were vandalized.

• **Sept. 20, 2010 – Lafayette, Louisiana**

A car in the parking lot of an Islamic community center was set afire.

• **Sept. 22, 2010 – Fairview Heights, Illinois**

Roman Otto Conway, 59, was arrested after a seven-hour standoff with law enforcement officers who had come to his residence to investigate telephone threats he allegedly made against the Muslim community and President Obama. Conway also allegedly posted on Facebook that he planned to burn a copy of the Koran.

• **Oct. 4, 2010 – Manhattan, New York**

The wife of the imam of the Muslim community center proposed to be built near the spot of the 9/11 terror attacks said she and her husband had received death threats over an extended period of time.

• **Oct. 10, 2010 – Staten Island, New York**

Three 14-year-old Latino youths and one 15-year-old black youth were charged with assault and aggravated harassment after they allegedly taunted a fellow classmate for his Muslim faith and repeatedly assaulted him from October 2009 to June 2010.

• **Oct. 10, 2010 – Florence, South Carolina**

The words “Pig Chump” were spelled out in bacon outside an Islamic Center.

• **Oct. 13, 2010 – New York, New York**

A Muslim woman and her 4-year-old son were allegedly attacked by a man who called her “a terrorist,” punched her in the face and tried to hit her son.

• **Oct. 16, 2010 – Burien, Washington**

Jennifer Leigh Jennings, 37, was charged with a hate crime after she allegedly kicked one Muslim woman and slammed a car door on another at a gas station while yelling anti-Muslim remarks.

• **Oct. 26, 2010 – Oxford, North Carolina**

A white man was charged with ethnic intimidation after he allegedly shouted slurs and spit on a black woman when he discovered she was Muslim.

• **Nov. 28, 2010 – Portland, Oregon**

An inmate at the county jail allegedly used anti-Muslim slurs and assaulted another inmate.

• **Nov. 29, 2010 – Sacramento, California**

A Muslim cab driver was allegedly attacked by a passenger who allegedly robbed him while making references to Osama Bin Laden.

• **Dec. 14, 2010 – Cincinnati, Ohio**

An E-mail was sent to the Islamic Association of Cincinnati that

stated, "You should know that you are not wanted in Cincinnati ... We don't want you here. Mohammad is a joke. Go back to your desert. Beware. We may just declare jihad on you."

• **Dec. 22, 2010 – Twin Falls, Idaho**

A Muslim woman shopping with her two children was allegedly threatened by a man who claimed he had killed Muslims and planned to kill more and that he had a concealed weapon. The man was charged with felony malicious harassment.

• **Feb. 4, 2011 – St. Petersburg, Florida**

Bradley Kent Strott, 52, allegedly stabbed a 57-year-old Muslim man during a conversation at a bar after the man told Strott he was a Muslim. Strott, who allegedly said, "Muslims are the root of the problem" during the attack, was charged with hate crime aggravated battery.

• **Feb. 13, 2011 – Yorba Linda, California**

A group of 100 protesters taunt Muslims, including small children, entering a fundraising event with statements such as "Muhammad was a child molester!," "Go back home! Terrorists!," and "Why not go have sex with a 9-year-old?" A city councilwoman had earlier told the protesters that she "kn[e]w quite a few Marines who will be very happy to help these terrorists to an early meeting in paradise."

• **March 6, 2011 – Fairfield, Iowa**

An Arab-American filmmaker was repeatedly punched and kicked allegedly by four men who used racial slurs during the attack. The incident occurred after the man, who had entered a residence while looking for a party, told the men his name was Usama.

• **Week of March 7, 2011 – Anaheim, California**

A page torn from a copy of the Koran, with an expletive written on it, was taped to a Muslim woman's car. Foam was sprayed on the driver's seat and the vehicle was vandalized with a key.

Statement pertaining to the Senate Judiciary Committee Hearing, "Protecting the Civil Rights of American Muslims," for submission into the Congressional Record

From: The Unitarian Universalist Association of Congregations

To: Members of the Subcommittee on Constitution, Civil Rights and Human Rights of the Senate Judiciary Committee

March 28th, 2011

The Unitarian Universalist Association (UUA) rejects attempts by some members of Congress to target American Muslims for particular scrutiny based on no other reason than their religious affiliation. The UUA is part of "Shoulder to Shoulder," an interfaith coalition that stands in solidarity with Muslim Americans whom we recognize to be an integral part of our nation's history and cultural landscape. As part of the Shoulder to Shoulder coalition, we condemned the hearing convened by Chair of the House Subcommittee on Immigration and Enforcement Rep. Peter King earlier this month. We commend Sen. Richard Durbin and allies for convening a Senate Subcommittee hearing to ensure that the rights and liberties of Muslim Americans are protected.

One of the founding principles upon which the United States was built is freedom of conscience or religious liberty for every person. From our First Amendment guarantee of freedom of religion to the writings of Thomas Jefferson who explicitly stated that "the mantle of [our law's] protection" be extended to "the Jew and the Gentile, the Christian and the Mohammedan, the Hindoo and Infidel of every denomination," our shared national legacy upholds this right. Unitarian Universalism shares this founding principle. Our Unitarian predecessors, including the nation's second and sixth presidents John and John Quincy Adams, worked tirelessly to ensure that our society treats all equally, whether based on race or religion. The fourth of our association's "Seven Principles" affirms that everyone has the right to "free and responsible search for truth and meaning." In short, just like our nation the faith tradition of Unitarian Universalism is deeply rooted in affirming the right to profess the faith that our consciences call us to profess without fear of political reprisal.

As Dr. Martin Luther King Jr prophetically said, "injustice anywhere is a threat to justice everywhere." An attack on Muslim Americans is an attack on us all; it is an attack on what it means to be American. We thank you for convening this hearing and trust that you will continue to uphold the rights of all Americans regardless of ethnicity or religious affiliation.