

**HATE CRIMES AND THE THREAT
OF DOMESTIC EXTREMISM**

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

SECOND SESSION

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SEPTEMBER 19, 2012
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Serial No. J-112-94

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CONTENTS

SEPTEMBER 19, 2012, 2:46 P.M.

STATEMENTS OF COMMITTEE MEMBERS

	Page
Durbin, Hon. Dick, a U.S. Senator from the State of Illinois	1
prepared statement	86
Leahy, Hon. Patrick J., a U.S. Senator from the State of Vermont,	
prepared statement	84

WITNESSES

Witness List	31
Austin, Jr., Roy L., Deputy Assistant Attorney General, Civil Rights Division, U.S. Department of Justice, Washington, DC	4
prepared statement	32
Clancy, Michael A., Deputy Assistant Director, Counterterrorism Division, Federal Bureau of Investigation, Washington, DC	9
prepared statement	49
Jacobs, James B., Chief Justice Warren E. Burger Professor of Constitutional Law and the Courts, New York University School of Law, New York, New York	22
prepared statement	65
Johnson, Daryl, Founder and Owner, DT Analytics, LLC, Washington, DC	16
prepared statement	68
McAllister, Hon. Scott, Deputy Under Secretary, State and Local Program Office, Office of Intelligence and Analysis, U.S. Department of Homeland Security, Washington, DC	7
prepared statement	54
Saini, Harpreet Singh, Oak Creek, Wisconsin	19
prepared statement	62

QUESTIONS

Questions submitted to Roy L. Austin, Jr., by Senator Coons	89
Questions submitted to Daryl Johnson by Senator Coons	90

ANSWERS

[NOTE: At the time of printing, the Committee had not received responses from Roy L. Austin, Jr.]	
Responses of Daryl Johnson to questions submitted by Senator Coons	91

MISCELLANEOUS SUBMISSIONS FOR THE RECORD

Ali, Wajahat, Esq., Lead Author of "Fear Inc., The Roots of the Islamophobia Network in America," statement	115
American-Arab Anti-Discrimination Committee (ADC), Washington, DC, statement	139
American Civil Liberties Union (ACLU), September 19, 2012, statement	119
American Friends Service Committee (AFSC), Philadelphia, Pennsylvania, statement	126
American Humanist Association, Roy Speckhardt, Executive Director, state- ment	132

IV

	Page
American Jewish Committee (AJC), Richard T. Foltin, Esq., Director, National and Legislative Affairs, Office of Government and International Affairs, statement	136
Anti-Defamation League (ADL), New York, New York, statement	94
Anti-Defamation League (ADL), September 19, 2012, statement	146
Anti-Defamation League (ADL), September 19, 2012, appendix A	161
Anti-Defamation League (ADL), September 19, 2012, appendix B	164
Anti-Defamation League (ADL), September 19, 2012, appendix C	165
Anti-Defamation League (ADL), September 19, 2012, appendix D	168
Applied Research Center (ARC), September 2012, statement	169
Arab American Institute (AAI), Washington, DC, statement	172
Asian American Justice Center (AAJC), Mee Moua, President and Executive Director, statement	179
Asian and Pacific Islander American Health Forum (APIAHF), San Francisco, California, statement	176
Asian Law Caucus (ALC), San Francisco, California, statement	185
Asian Pacific American Legal Center (APALC), September 17, 2012, statement	187
Chu, Hon. Judy, a Representative in Congress from the State of California, statement	195
City of Chicago City Council and Mayor, Chicago, Illinois, September 12, 2012, council resolution	191
City of Chicago Police Department, Chicago, Illinois, Tina Skahill, Chief of the Special Functions Division, statement	194
Council on American-Islamic Relations (CAIR), Corey P. Saylor and Robert S. McCaw, statement	197
Council on American Islamic Relations—Chicago Office (CAIR—Chicago), Chicago, Illinois, statement	209
Daya Inc., Lakshmy Parameswaran, Founder and Board Member, <i>Houston Chronicle</i> , “On 9/11 anniversary, let’s commit to oppose violence,” September 10, 2012, Op-Ed article	212
DC Trans Coalition (DTC), Jason A. Terry, Anti-Violence Organizer, statement	214
Defending Dissent Foundation, Susan Udry, Director, statement	218
Equal Rights Center (ERC), Donald L. Kahl, Executive Director, statement	225
Evangelical Lutheran Church in America (ELCA), September 19, 2012, statement	232
Family Equality Council, Jennifer Chrisler, Executive Director, statement	233
Family of Prakash Singh Rathore, Oak Creek, Wisconsin, statement	234
Family of Punjab Singh, Oak Creek, Wisconsin, statement	385
Family of Ranjit Singh, Oak Creek, Wisconsin, statement	237
Family of Satwant Singh Kaleka, Amardeep Kaleka, son of Satwant Singh Kaleka, Founding Member of the Sikh Temple of Wisconsin, statement	239
Family of Satwant Singh Kaleka, Kanwardeep Singh Kaleka, nephew of Satwant Singh Kaleka, statement	309
Family of Satwant Singh Kaleka, Pardeep Singh Kaleka, son of Satwant Singh Kaleka, statement	315
Family of Sita Singh, Oak Creek, Wisconsin, statement	243
Family of Suveg Singh, Oak Creek, Wisconsin, statement	245
Federation of Jain Associations in North America (JAINA), Dr. Sushil K. Jain, President, statement	299
Franciscan Action Network (FAN), Sister Marie Lucey OSF, Director of Advocacy, statement	247
Gay and Lesbians Opposing Violence (GLOV), Washington, DC, statement	249
Groundswell, Valarie Kaur, Founding Director, statement	252
Gurdwara Sahib Hidden Falls, Plymouth, Michigan, statement	259
Hindu American Foundation (HAF), Suhag A. Shukla, Esq., Executive Director and Legal Counsel, and Samir Kalra, Esq., Director and Senior Fellow for Human Rights, statement	260
Hindu American Seva Charities (HASC), Anju Bhargava, Founder, statement	265
Hmong National Development, Inc. (HND), Bao Vang, President and Chief Executive Officer, statement	269
Howard University School of Law Civil Rights Clinic, Washington, DC, statement	273
Human Rights Campaign (HRC), Allison Herwitt, Legislative Director, statement	276

	Page
Human Rights First, Paul LeGendre, Director, Fighting Discrimination Program, statement	279
Indo-American Heritage Museum (IAHM), Shailja Khatri, President, statement	285
Interfaith Alliance, Rev. Dr. C. Welton Gaddy, President, statement	287
Interfaith Center of New York, Rev. Chloe Breyer, Executive Director, statement	289
International Center for Advocates Against Discrimination (ICAAD), Jaspreet and Hansdeep Singh, Co-Founders, statement	291
Islamic Society of North America (ISNA), Plainfield, Indiana, statement	297
Japanese American Citizens League (JACL), San Francisco, California, statement	303
KARAMAH: Muslim Women Lawyers for Human Rights, Engy Abdelkader, Esq., Vice President, statement	319
LatinoJustice PRLDEF, New York, New York, statement	324
Leadership Conference on Civil and Human Rights, The, Wade Henderson, President and Chief Executive Officer, <i>The Hill</i> , "Time to ensure full and effective enforcement on hate crimes laws," September 19, 2012, Op-Ed article	113
Michigan Roundtable for Diversity and Inclusion, Detroit, Michigan, "Michigan should watch and learn from Senate hearings on Sikh shootings," Op-Ed article	327
Muslim Advocates, Farhana Y. Khera, President and Executive Director, statement	329
Muslim Public Affairs Council (MPAC), September 19, 2012, statement	333
National Action Network (NAN), Reverend Al Sharpton, President and Founder, Reverend Dr. W. Franklyn Richardson, Chairman, and Tamika Mallory, National Executive Director, statement	341
National Asian Pacific American Bar Association (NAPABA), Tina Matsuoka, Executive Director, statement	346
National Asian Pacific American Women's Forum (NAPAWF), September 17, 2012, statement	349
National Association for the Advancement of Colored People (NAACP), Hilary O. Shelton, Director, Washington Bureau, and Senior Vice President for Advocacy and Policy, statement	337
National Association of Social Workers (NASW), Elizabeth J. Clark, Ph.D., A.C.S.W., M.P.H., Executive Director, statement	353
National Coalition for Asian Pacific Community Development (National CAPACD), September 19, 2012, statement	355
National Disability Rights Network (NDRN), September 19, 2012, statement ..	356
National Gay and Lesbian Task Force Action Fund, Rea Carey, Executive Director, statement	359
National Network for Arab American Communities (NNAAC), Nadia Tonova, Director, statement	364
National Queer Asian Pacific Islander Alliance (NQAPIA), Ben de Guzman, Co-Director for Programs, statement	368
NQAPIA, August 8, 2012, appendix	370
North American South Asian Bar Association (NASABA), Emilie R. Ninan, Esq., President, statement	372
Oak Creek Police Department, Oak Creek, Wisconsin, John O. Edwards, Chief of Police, statement	374
Office of the County Executive, Milwaukee County, Wisconsin, Hon. Chris Abele, statement	376
OneAmerica, Hardeep Singh Rekhi, Board Member, <i>The Seattle Times</i> , "All should call out hate after Wisconsin Sikh shooting," August 14, 2012, Op-Ed article	379
OneAmerica, Rich Stolz, Executive Director, statement	378
Organization of Chinese Americans (OCA), Tom Hayashi, Executive Director, statement	380
Parents, Families, and Friends of Lesbians and Gays (PFLAG), Jody Huckaby, Executive Director, statement	382
People For the American Way Foundation, the African American Ministers Leadership Council (AAMLC), and Young People For: Jen Herrick, Senior Policy Analyst, People For the American Way Foundation; Minister Leslie Watson Malachi, Director, African American Religious Affairs, People For the American Way Foundation; and Joy Lawson, Director, Young People For; statement	111

VI

	Page
People for the American Way, African American Ministers Leadership Council, and Young People For, statement	383
Religious Action Center of Reform Judaism, Rabbi David Saperstein, Director, statement	387
Rights Working Group (RWG), Margaret Huang, Executive Director, statement	389
Singh, Santokh, Oak Creek, Wisconsin, statement	396
Shoulder-to-Shoulder, Christina Warner, Campaign Director, statement	399
Shoulder-to-Shoulder, September 17, 2012, appendix	401
Sidhu, Dawinder “Dave” S., Assistant Professor of Law, University of New Mexico School of Law, statement	402
Sikh American Legal Defense and Education Fund (SALDEF), Jasjit Singh, Executive Director, statement	405
Sikh Coalition, New York, New York, statement	410
South Asian American Policy and Research Institute (SAAPRI), Chicago, Illinois, statement	433
South Asian Americans Leading Together (SAALT), Deepa Iyer, Executive Director, statement	435
South Asian Bar Association of New York (SABANY), Neha Dewan, President, statement	444
South Asian Bar Association of Northern California (SABA-NC), statement ...	450
South Asian Network (SAN), Manjusha P. Kulkarni, Esq., Executive Director, statement	454
Southern Poverty Law Center (SPLC), Dr. Heidi L. Beirich, Director, Intelligence Project, statement	458
State of Michigan, Department of Civil Rights, Daniel H. Krichbaum, Ph.D., Director, statement	463
Unitarian Universalist Association of Congregations, Reverend Craig C. Roshaven, Witness Ministries Director, statement	467
Unitarian Universalist Association of Congregations, Boston, Massachusetts, advertisement	470
UNITED SIKHS, New York, New York, statement	471
United States Department of Justice, M. Faith Burton for Judith C. Appelbaum, Acting Assistant Attorney General, Office of Legislative Affairs, September 26, 2012, letter	109
USPAK Foundation, Ellicott City, Maryland, statement	474

HATE CRIMES AND THE THREAT OF DOMESTIC EXTREMISM

WEDNESDAY, SEPTEMBER 19, 2012

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 2:46 p.m., in Room SH-216, Hart Senate Office Building, Hon. Dick Durbin, Chairman of the Subcommittee, presiding.

Present: Senators Durbin and Blumenthal.

Also present: Senator Kohl.

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

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

Today's hearing is entitled "Hate Crimes and the Threat of Domestic Extremism." At the outset, I will make an opening statement, and then we will recognize the Senators as they arrive, including Senator Graham, the Ranking Member on the Subcommittee. Then we will turn to our witnesses.

First, I want to note that there is a significant amount of interest in today's hearing. For those who could not get a seat in the hearing room, we have an overflow room with live video feed. It is next door in the Dirksen Building, Room 226.

Last month, in Oak Creek, Wisconsin, a white supremacist shot and killed six Sikh worshipers in the Oak Creek Gurdwara.

Satwant Singh Kaleka was the founder of the gurdwara. His picture is on my far right you will see in the charts here. Mr. Kaleka fought off the gunmen with a butter knife, which gave others in the temple time to seek refuge. Mr. Kaleka leaves behind his wife, two sons, and three grandchildren. Mr. Kaleka's son, Amardeep, and nephew, Kanwardeep, are with us today, and our deepest condolences go to them.

Paramjit Kaur was a deeply religious woman. Her picture is next to Mr. Kaleka's. On the day of the shooting, she was at the gurdwara for her daily morning prayers. Mrs. Kaur was devoted to her two sons, Kamaljit Singh Saini and Harpreet Singh Saini, working long hours so they could go to school. Kamaljit and Harpreet are here today. We will hear from Harpreet later in the hearing. You and your family are in our thoughts and prayers.

Prakash Singh Rathore had been a priest at the temple for 6 years. His picture is the next one over. He immigrated to the United States in 2006 and was finally able to bring his wife and two children to the United States just 2 months ago, after 6 years of separation.

Ranjit Singh immigrated to the United States in 1997. His picture is the next one over. Mr. Singh was a priest who played the tabla, an Indian drum, during religious ceremonies and mentored young people at the temple. He is survived by his wife and three children.

Sita Singh, Ranjit Singh's younger brother, immigrated to the United States in 1993. He was a priest at the temple, where he led morning prayers every day at 5 a.m. His picture is next to his brothers. Sita Singh is survived by his wife and four children.

Suveg Singh Khattra, who was 82 years old, was a farmer from India who immigrated to the United States with his wife 8 years ago to join his son and daughter-in-law. Mr. Khattra's picture is the next one over. He leaves behind a wife, five children, and seven grandchildren.

The family of each of the six victims has submitted written testimony, and with unanimous consent, that testimony will be part of the record.

[The testimony appears as submissions for the record.]

Chairman DURBIN. Oak Creek, Wisconsin, Police Department Lieutenant Brian Murphy responded to the gurdwara shooting and was shot himself nine times at close range. His picture is on my far left. When other officers arrived at the scene, Lieutenant Murphy urged them to help other shooting victims before they helped him. Thankfully, Lieutenant Murphy, a 21-year veteran of the Oak Creek police force, is expected to recover from his injuries.

Sadly, the shooting in Oak Creek, Wisconsin, was not an isolated incident. More than 6,600 hate crimes were reported to the FBI in the calendar year 2010, the most recent year for statistics. And a 2005 study by the Bureau of Justice Statistics believes that even those crimes that are reported are just a fraction of those that actually occur.

In the week following the Oak Creek shooting, there were numerous attacks on mosques, including a mosque being burned to the ground in Joplin, Missouri; a shooting at a mosque in my home State, in Morton Grove, Illinois, while 500 worshipers were praying inside; and an unidentified perpetrator throwing an improvised explosive device at an Islamic school, again in Illinois, in Lombard, during a prayer service. According to the Justice Department, the increase in discrimination against mosques since 2010 "reflects a regrettable increase in anti-Muslim sentiment."

At the same time, African Americans continue to be targeted by a vast majority of racially motivated hate crimes; Jewish Americans continue to be victims of religiously motivated hate crimes; Latinos are the victims of most ethnically motivated hate crimes; and hundreds of LGBT Americans are the victims of violent hate crimes every single year.

Three years ago, I was honored to stand next to President Obama's side in the East Room of the White House when he signed into law the Matthew Shepard and James Byrd, Jr., Hate Crimes

Prevention Act. Today we will hear about the Justice Department's efforts to use this authority to investigate and prosecute these crimes.

But what are we doing to prevent hate crimes in the first instance? Are sufficient resources being devoted to combating the threat of violent domestic extremism and to protect those who are vulnerable?

The numbers speak for themselves. According to a study by the New America Foundation and Syracuse University, 18 people have been murdered in 10 right-wing terrorist attacks since 9/11; 17 have been killed in 4 attacks by violent Muslim extremists. And, since 9/11, 15 domestic extremists have acquired chemical or biological weapons that they intended to use in attacks. As one public FBI report warned, "right-wing terrorists pose a significant threat due to their propensity for violence."

Well, since 9/11, Congress has held dozens of hearings on the threat posed by al Qaeda and its affiliates. This is the first hearing in many years on the threat of violent domestic extremism. Of course, absolutely we have to continue our efforts to defeat al Qaeda, but we cannot ignore the threat of homegrown non-Islamic terrorism.

In recent weeks, we have been reminded that many around the world do not appreciate America's unique approach to hate speech and blasphemy. So let me be clear. Under our Constitution, we punish criminal acts, not free speech, no matter how offensive or hateful it might be.

But our leaders, our leaders still have a responsibility to speak out against hate speech. That is what President Obama did in condemning the anti-Islamic movie that sparked the protests in the Muslim world.

And that is what President George W. Bush did. It was 6 days after 9/11—11 years ago this week—that President Bush visited an Islamic Center in Washington, D.C., to make it clear that our fight was with al Qaeda, not American Muslims. President Bush said, "The face of terror is not the true faith of Islam. That's not what Islam is all about. Islam is peace."

Now, I had plenty of political differences with President Bush, and I have said that on many occasions. But I believe that his leadership as President helped to stop an anti-Muslim backlash after 9/11 because he spoke out so clearly so quickly.

I am sorry to say that many political leaders are failing to follow his example and the example of President Obama. One recent example, several Members of the House of Representatives have gone so far as to question the loyalty of American Muslims serving in the Obama administration.

Now, this kind of rhetoric is inconsistent with our heritage as a diverse nation of immigrants. Most Americans realize our diversity is our strength. They do not question the religious background of their fellow citizens. When Lieutenant Murphy rushed into a hail of bullets at the Oak Creek Gurdwara, he was not questioning first the religion of the victims. He knew they needed help, and he responded.

In conclusion, I hope this hearing will redouble our efforts to combat the threat of domestic extremism and to take whatever steps are necessary to protect the vulnerable in America.

Some would argue we should not be discussing our shortcomings in public while there are protesters around the world burning American flags. They claim that America might show weakness when it acknowledges its mistakes. I could not disagree more. America is strongest when we lead by example. We are a country that can look ourselves squarely in the mirror and admit that there is work still to be done to secure the promise of equal justice for all.

[The prepared statement of Chairman Dick Durbin appears as a submission for the record.]

Senators as they arrive will be recognized, but I want to turn to our first panel. Each witness is going to have 5 minutes for an opening statement, and their complete written statements will be included in the record. As is the custom of the Judiciary Committee, I ask that the witnesses stand to be sworn.

Please raise your right hand. Do you affirm 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?

Mr. MCALLISTER. I do.

Mr. AUSTIN. I do.

Mr. CLANCY. I do.

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

The first witness is Roy Austin, Jr., Deputy Assistant Attorney General in the Civil Rights Division of the Justice Department. Among other responsibilities, Mr. Austin supervises the Criminal Section, which enforces Federal hate crime law. Mr. Austin began his career as an honors trial attorney in the Criminal Section investigating and prosecuting hate crime cases. In addition to two stints in private practice, Mr. Austin previously worked in the U.S. Attorney's Office for the District of Columbia, where, among other positions, he was senior assistant U.S. Attorney and coordinator of the D.C. Human Trafficking Task Force. He is an adjunct professor at George Washington University Law School, and he received his B.A. from Yale University and his J.D. from the University of Chicago.

Mr. Austin, thanks for being here today, and please proceed with your testimony.

STATEMENT OF ROY L. AUSTIN, JR., DEPUTY ASSISTANT ATTORNEY GENERAL, CIVIL RIGHTS DIVISION, U.S. DEPARTMENT OF JUSTICE, WASHINGTON, DC

Mr. AUSTIN. Thank you and good afternoon, Chairman Durbin and Members of the Subcommittee. I am honored to come before you to represent the Civil Rights Division of the Department of Justice and discuss one of the Department's priorities: hate crimes prevention and enforcement.

The topic of this hearing is deeply important to me on a professional and personal level. As a Deputy Assistant Attorney General, I oversee the dedicated career professionals in the Division's Criminal Section who are charged with prosecuting hate crimes across

this country. But before I rejoined the Department, I served as a line prosecutor in the same section, working on bias-motivated assaults, cross burnings and church arsons, and I saw how the devastation caused by a single act of hate can reverberate through families, through communities and places of worship, and through this entire Nation.

I can also tell you that the Nation's hate crime statutes, passed with bipartisan congressional support, are powerful tools for combating hate and violence, so that all of our citizens can live free from fear of being targeted because of their race, the color of their skin, the religion they practice, or who they love.

I thank Senator Leahy, Senator Durbin, and all 63 Senators who supported our most recent hate crime statute, the Matthew Shepard and James Byrd Hate Crimes Prevention Act of 2009, which gave us for the first time a Federal law that criminalizes violence motivated by sexual orientation, gender identity, gender, and disability. State and local prosecutors continue to prosecute the vast majority of hate crimes with the Federal Government serving as a backstop. But the Civil Rights Division and U.S. Attorney's Offices have taken the lead in cases where such Federal involvement was in the public interest and necessary to secure substantial justice or where the State has requested that the Federal Government assume jurisdiction.

While we as a Nation have made significant progress addressing hate crimes, recent events, like the absolutely horrific mass shooting at the Sikh gurdwara in Oak Creek, Wisconsin, reminded us all too vividly that our work is not done. This incident has highlighted the question whether to re-examine the categories of religious groups that are listed on the FBI's hate crimes data collection form, a form that is used to capture the perpetrator's motivation and not the victim's background.

In the next few weeks, the Civil Rights Division and the Community Relations Service will bring together a broad spectrum of religious organizations, including groups representing Sikh Americans, to elicit their views on what information should be collected. Separately, the FBI's panel of outside subject matter experts will hear from stakeholders.

Today I am proud to share with you the Division's recent accomplishments in preventing, punishing, and deterring violent acts of bigotry and hate. We have aggressively responded to incidents where people use the hatred and fear spread by terrorists as an excuse to engage in their own acts of violence. All told, since 9/11, in cases targeting Arab, Middle Eastern, Muslim, Sikh, and South Asian individuals, the Department has brought 43 prosecutions against 55 defendants in cases with 47 convictions to date. Members of these groups are as much a part of the diverse fabric of America as anyone else.

We are prosecuting cases where people are targeted and attacked because of their sexual orientation. Just last month, a defendant in Detroit, Michigan, pled guilty in Federal court for assaulting a man at a convenience store because he thought the man was gay.

We are prosecuting violent acts of intolerance motivated by race, from the case of a young Native American with a developmental disability in New Mexico who was branded with a swastika by a

hot wire hanger, to the cross burnings that still persist as painful symbols of bigotry and hate.

We secured the conviction of defendants in Arkansas who chased a group of Latino men from a gas station with anti-Latino slurs, ramming their truck into the victim's car until it ran off the road, flipped over, and burst into flames. These victims did nothing to deserve the violence they faced.

We are also tackling the problem of hate crimes using the Internet. A New Jersey man who went by the name "Devilfish" pled guilty in Federal court to charges related to sending threats to employees of five Latino civil rights organizations.

Under the leadership of Attorney General Eric Holder and Assistant Attorney General Thomas Perez, in Fiscal Year 2011 the Division convicted 42 defendants on hate crimes charges, the largest number in more than a decade. And as of this month, the Division has charged 13 cases against 37 defendants under the Shepard-Byrd Act. Because this Act enhances the Division's ability to assist our law enforcement partners, starting in the five States without hate crime statutes, the Division has trained thousands of State and local authorities and community members on how to identify, investigate, and prosecute hate crimes in communities across this country.

Our work in the Department of Justice is about the families that worship at a mosque in Murfreesboro, Tennessee, who received a bomb threat from a man in Texas last September because they are Muslim.

Our work is about a gay man who was kidnapped and assaulted in Kentucky because he is gay.

Our work is about a black man in Mississippi who was killed by being run over by a truck because he is black.

Our work is about men and women in California who saw their church and their synagogue seriously damaged because they are Christian and because they are Jewish.

Our work is about making communities divided by hatred and ignorance whole.

It is sad that violent acts of hate continue to occur in 2012, but we will continue to vigorously enforce the law so that all individuals enjoy the civil rights guaranteed by our Constitution.

Thank you, and I look forward to your questions.

[The prepared statement of Roy L. Austin, Jr., appears as a submission for the record.]

Chairman DURBIN. Thanks, Mr. Austin.

Our next witness is Scott McAllister. He is the Deputy Under Secretary for Intelligence and Analysis, State and Local Program Office of the Department of Homeland Security. In that role, he manages DHS and interagency support to the national network of fusion centers. Previously, Mr. McAllister held a number of senior positions at the Florida Department of Law Enforcement, including assistant special agent in charge of the Fort Myers Regional Operations Center, assistant special agent in charge of domestic security and operational intelligence at the Headquarters Division, and deputy homeland security adviser. He has more than 36 years of State and local law enforcement experience. He is a graduate of the Executive Leaders Program at the Naval Postgraduate School, has

a master's of science degree in management from Rosemont College.

Mr. McAllister, please proceed.

STATEMENT OF HON. SCOTT MCALLISTER, DEPUTY UNDER SECRETARY, STATE AND LOCAL PROGRAM OFFICE, OFFICE OF INTELLIGENCE AND ANALYSIS, U.S. DEPARTMENT OF HOMELAND SECURITY, WASHINGTON, DC

Mr. MCALLISTER. Thank you, Chairman Durbin.

First of all, I would like to express condolences to the victims and their families of the folks that you mentioned earlier, as well as those others throughout the country that have suffered through acts of violent extremism.

I appreciate the opportunity to testify today on behalf of the Department of Homeland Security's efforts to keep our Nation safe from evolving threats. As Secretary Napolitano has said many times, homeland security begins with hometown security.

As part of our commitment to strengthening hometown security, we have worked with our Federal partners, specifically the FBI, to get the information, tools, and resources out of Washington, DC, and into the hands of the State and local officials across our country. Over recent years within the Department, we have worked aggressively to implement a distributed homeland security and counterterrorism architecture that enables us to improve support to secure our Nation's home towns. This architecture, comprised of several mutually reinforcing elements, to including improving production and dissemination of classified and unclassified information, while maturing State and local grassroots intelligence and analytical capabilities through the national network of State and local owned fusion centers; implementing the nationwide Suspicious Activity Reporting Initiative to establish standard processes to identify, report, analyze, and share suspicious activity reporting; and engaging the public through the nationwide expansion of "If You See Something, Say Something" campaign; also building our partnership to counter violent extremism.

Successfully integrating all these elements while protecting individuals' privacy, civil rights, and civil liberties requires close coordination and cooperation between the Federal Government and our State and local partners.

DHS' Office of Intelligence and Analysis has a unique analytical mission, enabling us to support and connect with front-line personnel to better protect their communities. We blend intelligence from DHS components, the intelligence community, State and local partners, and other stakeholders to produce homeland security-centric products. We then share those products through the national network of fusion centers. These products include actionable intelligence and analysis to ensure homeland security partners have the information they need to identify and disrupt threats.

DHS also partners with the FBI to prepare joint intelligence bulletins pertaining to emerging threats that are targeted to our State and local partners and designed to increase their awareness. DHS has transformed the way in which we train front-line personnel through the national Suspicious Activity Reporting Initiative. This initiative, in partnership with the Department of Justice, is a com-

prehensive effort to train State and local law enforcement and homeland security partners in recognizing behaviors and indicators potentially linked to terrorism and terrorism-related crime, standardize how those observations are documented and analyzed, and ensure sharing of those reports with the FBI-led Joint Terrorism Task Forces for further investigation.

Because an engaged and vigilant public is vital to protecting our communities, we have also continued to expand the “If You See Something, Say Something” public awareness campaign designed to raise public awareness of terrorism indicators and emphasize the importance of reporting suspicious activity to the proper law enforcement authorities.

In the same vein, we believe that local authorities and community members are best able to identify individuals or groups residing within their communities who exhibit suspicious behaviors and to intervene before they commit an act of violence. Incorporating this belief into our everyday practice, the Department’s efforts to counter violent extremism are threefold:

First, we are working to better understand violent extremism through conducting extensive analysis and research on the behaviors and indicators of violent extremism and sharing those with our State and local partners.

Second, we are strengthening partnerships within the State, local, and international partners, including the sharing of best practices and delivery of training courses.

And, third, we are expanding support for community policing efforts in coordination with our Federal partners, to include the FBI and Department of Justice.

In conclusion, we are confident that America is stronger and more prepared as a result of efforts to strengthen the homeland security enterprise, although threats from terrorists persist and continue to evolve. Recognizing this evolving landscape where threats may not emanate from any one individual, group, or place, we realize that it is essential for us to partner and engage with our State and local partners as well as the public, acknowledging that they may be best positioned to identify those threats. Proceeding with this shared responsibility, the Department is honored to be a partner in this effort to secure our great Nation.

Thank you for the opportunity to outline DHS’ efforts to prepare for and prevent terrorist attacks on the homeland, and I look forward to your questions.

[The prepared statement of Hon. Scott McAllister appears as a submission for the record.]

Chairman DURBIN. Thanks, Mr. McAllister.

Our next witness on this panel is Michael Clancy, Deputy Assistant Director for the Counterterrorism Division in the Federal Bureau of Investigation. Mr. Clancy has held numerous senior positions in the FBI, including special assistant to the National Security Branch Executive Assistant Director, section chief of the Domestic Terrorism Operations Section, assistant special agent in charge of the Richmond field office, and assistant section chief of the Strategic Information and Operations Center. He began his career with the FBI as a special agent in 1991. He served for a period of time as a trial lawyer. He has now rejoined the FBI.

The floor is yours.

**STATEMENT OF MICHAEL A. CLANCY, DEPUTY ASSISTANT
DIRECTOR, COUNTERTERRORISM DIVISION, FEDERAL
BUREAU OF INVESTIGATION, WASHINGTON, DC**

Mr. CLANCY. Good afternoon, Chairman Durbin and Members of this Committee. It is my honor to come before you to represent the Counterterrorism Division of the Federal Bureau of Investigation to discuss one of the highest priorities of the Bureau: the threat posed by domestic extremists. The turnout today is testament to the importance of this issue.

On September 10, 2012, the FBI disseminated its National Terrorism Assessment on Domestic Terrorism. In the formulation of this assessment, the overall threat ranking considers intent, capability, and posture in its determination of the threat domestic extremist movements pose in the United States. The FBI assesses that economic and political events—foremost among them the coming Presidential election—are likely to provoke domestic extremists into a more active state, although this is unlikely to drive an increase in large-scale violence. Smaller, localized acts of violence committed by domestic extremists, however, cannot be dismissed. The FBI further assesses that domestic extremist movements pose a medium-to-low terrorism threat. Specific political and economic events scheduled in 2012 create the potential for greater volatility within domestic extremism than existed in the previous year.

In recent months, the FBI has seen numerous examples of domestic terrorism and violence committed by lone offenders or small cells. For example, this year the FBI proactively dismantled an anarchist extremist cell comprised of five men who planned to blow up a bridge in Cleveland, Ohio. Four members of the cell have pleaded guilty, and the fifth member is going to trial. In November 2011, four members of a militia in Georgia were arrested for planning to acquire silencers and explosives to use against various U.S. Government targets in Atlanta, Georgia. To date, two of the subjects have been sentenced to 60 months' incarceration and 3 years of supervised release for conspiracy to possess an unregistered destructive device.

This summer, we have witnessed multiple, high-profile lone-offender shootings. The FBI investigated each of these incidents in partnership with Federal, State, local, and tribal law enforcement agencies as potential acts of domestic terrorism. Three of these shootings—at a movie theater in Aurora, Colorado; at a Sikh temple in Wisconsin; and at the Family Research Council headquarters in Washington, DC—resulted in the combined deaths of 18 individuals and the wounding of over 50.

Significant political events and scheduled international and economic meetings, combined with ongoing economic concerns, create the potential for greater volatility within domestic extremism in 2012 than existed in the previous year. While all domestic extremist movements pose a threat, the potential outcomes are especially relevant in the current environment:

We have election-related events which heighten the opportunity for anarchist extremism in 2012;

The 2012 election process may revitalize recruitment efforts for the white supremacist extremist movement;

Militia extremists are expected to continue targeting law enforcement and government officials in response to any recently enacted legislation that is perceived as infringing on their constitutional rights;

White-collar crime by those in the extremist “sovereign citizen” antigovernment movement who exploit the housing crisis could continue if the housing sector of the economy remains weak throughout the year;

Environmental extremists may engage in criminal activity—including the destruction of property—if they perceive that legislative efforts to protect and preserve the environment are ineffective or unsuccessful.

Over the next year, domestic extremists are likely to maintain the intent and capability to pose a persistent threat involving smaller-scale bombings, assaults, firearms and explosives violations, arson, white-collar crime, threats, and other violations of Federal law.

The FBI will continue to enhance its crucial partnerships with Federal, State, local, tribal, and foreign law enforcement agencies, other members of the U.S. intelligence community, and the private sector to combat the unrelenting threat of domestic terrorism.

In every domestic terrorism investigation—and indeed, in every investigation—we in the Bureau strive to balance the need to keep the American public safe with the need to protect constitutional rights, including the First Amendment rights to free speech and freedom of assembly. Intelligence and technology are key tools we use to stay ahead of those who would do us harm. Yet as we evolve and update our investigative techniques and our use of technology to keep pace with today’s complex threat environment, we must always act within the confines of the rule of law and the safeguards guaranteed by the Constitution. It is not enough to stop the terrorists; we must always do so while maintaining civil rights and civil liberties. Following the rule of law and upholding civil rights and civil liberties—these are not our burdens. These are what make all of us safer and stronger. In the end, we in the FBI will be judged not only by our ability to keep Americans safe from terrorism, but also by whether we safeguard the civil rights and civil liberties for which we are fighting and maintain the trust of the American people.

Thank you for the opportunity to address the Subcommittee on the FBI’s efforts to counter domestic terrorism.

[The prepared statement of Michael A. Clancy appears as a submission for the record.]

Chairman DURBIN. Thank you, Mr. Clancy.

Last night, as I was preparing for this hearing, I started to dig through my desk drawer to find a little book that I keep of information I pick up as I travel around, and I finally found it. It was a book that I was carrying with me 3 months after 9/11. And I had just landed at O’Hare Airport, and I got in the cab line, and the first cab to come up as a driver had a man wearing a turban. And I got inside and sat down and looked at his name. It was Richard Basra. He was from a suburb of Chicago. This was 3 months after

9/11. I said, "How is it going for you?" He said, "Okay." I said, "Are people giving you any grief, any problems because of the way you are dressed?" "Oh, sure," he said, "some people are. Some people are mean, but not many. Most people are just fine." And I said, "Well, I am glad it is going well for you."

He said, "Let me show you something." He reached over and he pulled down the visor on the passenger side, and there was a picture of a young American soldier. He said, "This is my son, Michael. He is in the Special Forces in the United States Army. He was in Kosovo, and now I am not sure where he is." But this was right after 9/11. "I think he may be in Afghanistan." He said, "His brother is coming out of high school and is going to enlist in the Marine Corps."

I have told that story a dozen times, I am sure, because it struck me as a definitive story about who we are as Americans, and the prejudice of some people ignores the reality of the fact that patriotic, peace-loving Americans come in every color, every religion, every background.

Mr. Austin, one of the things that puzzles me is this: A few months after that, Amardeep Singh, who is here today on behalf of the Sikh Coalition, came to see me, and he said, you know, right after 9/11, there was a Sikh American who was killed in Arizona. It was obviously a hate crime. It was in all of the stress and anger that came out of 9/11. He said, "Would you put in a resolution"—and we have had resolutions saying do not discriminate against Muslims and so forth. "Would you put one in on behalf of those of the Sikh religion?" And I did, and it passed overwhelmingly in a bipartisan way.

So it was clear that at least for the last 10 or 11 years, there has been ample evidence of prejudice against Sikh Americans, even violence against Sikh Americans.

Now, the Department of Justice collects information on hate crimes. There is a Hate Crime Incident Report, and it lists many religions, and even those with no religion. But it does not list the Sikh religion. I know for 2 years Sikh Americans have been asking that there be a special category on the Hate Crime Report so that we can keep track.

A little later on this afternoon, Harpreet Singh is going to testify here. He lost his mother at Oak Creek, and he is going to say, "I came here today to ask the Government to give my mother the dignity of being a statistic."

Why don't we have a special place here for identifying hate crimes against Sikh Americans?

Mr. AUSTIN. Senator, the Department of Justice has met regularly with Sikh Americans and other faiths, and we have heard this concern, and we are going to take action with respect to this concern. Today, DAG Jim Cole has announced that the Civil Rights Division and the Community Relations Service are going to bring together a broad array of religious groups to address exactly what kinds of statistics should be kept, and we plan to invite and have spoken to the Sikh community as well. And the FBI has a process that is gone through before determining how the form is changed. And the Department of Justice will play an active role with respect

to that process to ensure that the form properly reflects those who are perpetrators, those who are victimized by hate crimes.

Chairman DURBIN. Things move pretty slowly at the Federal level, and the request has been there for more than 2 years. Can you give me some kind of indication of when the decision might be made?

Mr. AUSTIN. There will be a meeting in October, mid-October, in which what the Department of Justice finds will be presented to an FBI committee. At that point, the decision of the Department of Justice will be known.

Chairman DURBIN. Thank you. I think in light of the terrible incident in Oak Creek, Wisconsin, that this would be a good thing for us to do as expeditiously as possible.

You mentioned your background when it came to church bombings. It was not that long ago, just a few years back, when we had the incidents of largely African American houses of worship and churches that were being fire-bombed in various parts of the country, some parts of the South.

As a result of that, we formed an interagency task force and tried to break through some of the usual paths of investigation and enforcement and expedite that effort. Can you tell me if you believe that that is appropriate here under the circumstances with the acts of violence that we have seen at the Sikh temples as well as mosques?

Mr. AUSTIN. Senator, I believe that under this Department of Justice, there has been an incredible amount of cooperation across agencies on all types and levels of crime. The fact that DHS and the FBI and a line attorney largely from the Department are sitting here together right now is a testament to that level of cooperation. I think that this administration is dealing with these crimes as aggressively as possible and working with every tool that we have in our arsenal to do so.

I do not know whether a new formal committee is necessary because I believe that the work is being done right now by those of us who are working on these issues.

Chairman DURBIN. Well, that type of task force under President Clinton had dramatic positive results, so I would commend it to you as a model that you would at least consider, if not explore, to see if we could address this pattern of discrimination against Muslims, Arabs, Sikhs, and South Asian Americans.

I would like to ask you, Mr. Clancy, the individual who was engaged in the terrible incident at Oak Creek, Wisconsin, was a man whose name was Wade Michael Page. He killed Harpreet Singh Saini's mother and five other individuals, and he was a well-known white supremacist. He was being tracked by the Southern Poverty Law Center and the Anti-Defamation League. He is dead, so I assume there is not an ongoing criminal investigation. I hope you will be able to answer this question. Was there a breakdown in intelligence here that we knew this man to be dangerous and that he was not ferreted out, tracked, or called in and investigated before this incident? Was he being tracked by our intelligence community? Were there any warnings issued to the Sikh community about potential threats? And was there any assistance provided to the community to protect them under the circumstances?

Mr. CLANCY. Senator, I will tread lightly here as it is an ongoing investigation, but I can tell you this: We did know of this individual. Certainly as the Southern Poverty Law Center pointed out, they knew of this individual as well. We did not have a case open on him. He was not what we would characterize as a predicated subject. His activities had not risen to the level that we would be able to, under our Attorney General guidelines, open an investigation on him.

But like many thousands of people, he was an attendee at what could be described as white supremacist conferences throughout the country and was heavily involved in the white supremacist music scene. So we were aware of him as a peripheral figure, but he never emerged as more than that. We never had any information on him pertaining to violent acts against anybody. He was certainly covered in tattoos which indicated his affiliation with different white supremacist groups. He dressed like that. None of those things are, of course, against the law. He engaged in a lot of hate speech, again, not against the law.

So while we were aware of him, we did not have an open investigation on him, nor did we ever have any information that he posed a threat to any group, particularly Sikhs.

Chairman DURBIN. Mr. McAllister, the Department of Homeland Security provided us with background on your work with the Jewish community. Unfortunately, there are many incidents of anti-Semitism which rise to crimes of violence, many incidents of property destruction in the name of anti-Semitism. With your extensive work with the Jewish community, you have tried to provide some information sharing to keep them safe and to warn them when something might be a danger.

DHS also participates with the Jewish community in the Secure Community Network, which share information on crisis situations and try to increase security awareness. You administer the nonprofit security grant program, providing money and assistance to nonprofit organizations to improve security of potentially vulnerable infrastructure, like houses of worship, schools, and community centers. This year, Jewish organizations received almost \$10 million in funding, and I commend the Department of Homeland Security for working very closely with the Jewish community under these circumstances.

Is this a model that we should be using to protect other vulnerable religious communities like Muslims and Sikhs?

Mr. McALLISTER. Thank you, Senator, for that question, and we appreciate you pointing the good work that the Department is doing in that arena.

The Secretary has what is known as a Homeland Security Advisory Council, and there is also a subcommittee to that that consists of faith-based organizations that cover a broad breadth of a variety of different faith-based communities and organizations. We meet with them regularly. They provided recommendations in order to better improve our ability to outreach and collaborate with the various faith organizations and communities throughout the United States.

On the heels of some of these tragic events that have occurred, we have also gone and contacted those folks in order to discuss a

variety of different topics. One is to provide them the information we had at the time of whatever the tragic event was at that moment, also work in dialogue in order to determine what we can do in order to spread the accurate information, in order to dispel any disinformation that could cause angst within the communities, as well as work on actual condemnation of acts of violent extremism.

So it is an open dialogue. It is actively being pursued. It is part of our countering violent extremism initiative. And we are also working with not only our faith-based communities but also examining those lessons learned and those indicators from these tragic events and communicating those out through the form of training to our State, local, and private sector folks. We provide our faith-based organizations information from our protective security advisers when it comes to what they can do in order to be cognizant of suspicious behaviors or packages and the like around their facilities, as well as the ability to report those things, in addition some protective measures in order to strengthen their ability to thwart such an event.

Chairman DURBIN. Mr. Clancy, according to Daryl Johnson, who will testify on the next panel, the FBI published a public annual report entitled "Terrorism in the United States from 1980 to 2005." Mr. Johnson believes that report was a valuable resource for law enforcement. Why did the FBI stop the issuance of this report? Do you agree with Mr. Johnson that the FBI should consider resuming it?

Mr. CLANCY. I think so. The reports are valuable for our law enforcement partners out there and for the public as well to see what we are looking at, what the trends are.

The bottom line is, when it comes to looking at groups, the FBI used to have a tactical approach to cases, but now we are more strategic focused and looking over the horizon and trying to predict behaviors and threats. And I think those types of reports are certainly valuable in that regard.

Chairman DURBIN. In your testimony, you referenced the FBI's National Terrorism Assessment on Domestic Terrorism, which you published last week. Is this an unclassified document? And if so, would it be available?

Mr. CLANCY. It is unclassified, but it is "Official Use Only," so it is limited distribution.

Chairman DURBIN. I hope we can get in your distribution chain. I would like to see it.

Mr. CLANCY. I would be happy to provide that to you, Senator.

Chairman DURBIN. Thank you very much.

Mr. McAllister, Daryl Johnson, as I mentioned earlier, who will also testify a little later, claims that the DHS has actually downsized the team of analysts working full-time on non-Islamic domestic terrorism. Mr. Johnson used to head up that team. He says the DHS has reduced the number of analysts from five to one. My staff requested information about this in advance of the hearing. We were told it was classified. However, a DHS official is quoted in The Washington Post story saying, "The number of analysts on a daily basis has decreased somewhat."

So how many DHS analysts focus on non-Islamic domestic terrorism?

Mr. MCALLISTER. Well, Senator, some of that information as far as the specific numbers of individuals would be considered sensitive. But the Department is fully equipped in order to look at violent extremist acts, whether it is stemming from international or domestic in nature. We provided an organizational chart earlier to staff before this hearing that kind of articulates how the breakdown is structurally within the Office of Intelligence and Analysis. But, again, it goes toward our ability in the Department's daily activity when it comes to countering violent extremism, where we work to strive toward providing the tools and information necessary for those indicators and behaviors of violent extremism, regardless of whether it is domestic or international, to not only our personnel but also our State and local partners and the community.

Chairman DURBIN. Thank you. I want to thank this panel. My colleagues may be sending in some written questions, which I hope you will respond to on a timely basis so the record can be complete. But your testimony today is much appreciated, and we will follow through with you on some of the questions that were asked. So I thank you and you are excused at this point.

I will also, with unanimous consent, enter a statement in the record from our Chairman, Senator Leahy, who cannot be with us this afternoon but has a strong interest in the human rights and civil rights issues, and it will be entered into the record.

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

Chairman DURBIN. Let me ask that the second panel be brought to the table.

If I could ask the witnesses to please stand for the customary oath. Would you raise your right hand? Do you solemnly swear that the testimony you are about to give will be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. SAINI. I do.

Mr. JOHNSON. I do.

Professor JACOBS. I do.

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

Senator Kohl is on his way, and I am going to hold off on the introduction of Mr. Saini until he arrives. I will do by way of general introduction our other two witnesses.

James Jacobs is the Warren Burger Professor of Law at the New York University School of Law, where he has been a faculty member since 1982. He specializes in criminal law, criminal procedure, and a broad range of criminal justice issues, including hate crime. In 1998, Oxford University Press published his book, "Hate Crimes: Criminal Law and Identity Politics." Professor Jacobs is a 2012-13 Guggenheim Fellow. He received his B.A. from Johns Hopkins University and law degree from the University of Chicago.

I want to thank Senator Graham and his staff for working cooperatively with us on this hearing and note that Senator Graham asked that we invite Professor Jacobs as a witness, and we are honored that you would join us today. Thank you very much.

I am going to introduce the other witnesses in the hopes that Senator Kohl can be in the room in just a moment.

Daryl Johnson, whom I mentioned in an earlier part of the Committee hearing, is an expert on domestic terrorism and is the chief executive officer of DT Analytics, a private consulting company. He also serves as a part-time instructor on domestic terrorism at the ATF National Academy. Previously, Mr. Johnson was the senior domestic terrorism analyst at the U.S. Department of Homeland Security's Office of Intelligence and Analysis where he led a team of analysts responsible for analyzing domestic extremist activity. Prior to his service at DHS, Mr. Johnson was the lead expert on violent antigovernment groups at the Bureau of Alcohol, Tobacco, Firearms, and Explosives. He began his Federal career as a counterterrorism analyst for the U.S. Army.

I am going to hold off, as I mentioned, until Senator Kohl arrives to introduce you formally, Mr. Saini. Thank you for being here.

Let me start then with Mr. Johnson, if you would like to testify, and then Mr. Jacobs and Mr. Saini.

**STATEMENT OF DARYL JOHNSON, FOUNDER
AND OWNER, DT ANALYTICS, LLC, WASHINGTON, DC**

Mr. JOHNSON. Good afternoon, Mr. Chairman and Members of the Committee. Thank you for giving me this opportunity to appear before you to discuss the significant issue of domestic terrorism, and in particular the threat from violent extremists.

The rising threat of domestic terrorism within the United States should not diminish our focus on deterring threats from al Qaeda and its affiliates; rather, our Nation's intelligence and law enforcement resources need to be flexible and resilient in their ability to combat terrorism from all sources of violent extremism, including domestic non-Islamic extremists.

The threat from domestic terrorism motivated by extremist ideologies is often dismissed and overlooked in the national media and within the U.S. Government. Yet we are currently seeing an upsurge in domestic non-Islamic extremist activity specifically from violent right-wing extremists. While violent left-wing attacks were more prevalent in the 1970s, today the bulk of violent domestic activity emanates from right-wing extremists. Recent acts of domestic terrorism have instilled fear within the U.S. populations as extremists attempt to force their social and political agendas through violence.

Since the 9/11 terrorist attacks, Muslim extremists within the United States, either aligned with al Qaeda's ideology or other perverse interpretation of violent jihad, have carried out five attacks on U.S. soil. These attacks resulted in 17 deaths, 13 of which were from a single violent act at Fort Hood. There have also been numerous arrests related to alleged Muslim extremist terrorists plotting in the U.S. since 9/11.

In contrast, there has also been a multitude of domestic non-Islamic extremist attacks, many of which have resulted in deaths and injuries over the past 4 years. In particular, domestic right-wing extremists trumped all other forms of ideologically motivated violence in the U.S. for number of deaths during this time period.

Some may argue that right-wing extremist attacks in the U.S. are more prevalent than homegrown Muslim extremists because they represent multiple movements, such as white supremacists,

militia extremists, sovereign citizens, and antiabortion extremists. This is simply not true. I would argue that homegrown Muslim extremists in the U.S. have an equally if not more diverse set of extremist causes and radical Islamic movements to choose from, including al Qaeda and its affiliates, Al-Shabaab, Hezbollah, Hamas, just to name a few.

Since the 2008 Presidential election, domestic non-Islamic extremists have attacked 27 law enforcement officers, killing 16. Over a dozen mosques have been attacked with firebombs, likely attributed to individuals embracing Islamophobic beliefs. In May 2009, an abortion doctor was murdered while attending church. Two other assassination plots against abortion providers were thwarted during 2011, and six women's health care clinics were attacked with explosive and incendiary devices within the past 2 years.

Since 2010, there have been multiple plots to kill ethnic minorities, police, and other government officials by militia extremists and white supremacists in our country. In January 2010, we had a tax resister deliberately crash his small plane, filled with a 50-gallon drum of gasoline, into an IRS processing center in Austin, Texas, injuring 13 people and killing a government employee.

The following year, three incendiary bombs were mailed to government officials in Annapolis, Maryland, and Washington, DC. Also, in January 2011, a backpack bomb was placed along a Martin Luther King parade route in Spokane, Washington, meant to kill and injure participants in a civil rights march.

In August 2012 alone, a white supremacist killed six worshipers at a Sikh temple in Oak Creek, Wisconsin; sovereign citizens have shot four sheriff deputies, killing two, in St. John's Parish, Louisiana; and four active-duty U.S. army soldiers who had formed an antigovernment militia group and were hoarding weapons and ammunition in an alleged plot to overthrow the Government, were charged in the deaths of two associates who they worried might tip law enforcement to their clandestine activities.

There was also what appears to have been an incident of left-wing domestic terrorism. A single-issue extremist reportedly shot a guard at the Family Research Council office here in Washington, DC. Unfortunately, these are only the latest manifestations of domestic non-Islamic extremist violence in the homeland.

It is also important to note that eight members of the Hutaree, an extremist militia in Michigan, that were acquitted this year of plotting to kill police officers and planting bombs at their funerals, had an arsenal of weapons at their disposal that was larger than all 230-plus Muslim plotters and attackers charged in the U.S. since 9/11 combined.

Mr. Chairman and Members of the Committee, the Federal Government must do more to combat domestic terrorism within the U.S. Our failure to act now will assuredly embolden the enemy and bring more attacks.

At the Federal level, there is a shortage of analysts assigned to monitor and assess domestic extremist activity in the U.S. Currently, the FBI is the only Federal agency that has devoted multiple full-time resources to research and analyze domestic terrorist tactics, tradecraft, and emerging trends. Today the DHS has few resources conducting strategic analysis on domestic terrorist

threats. More resources are needed. Other Federal agencies should also consider devoting analysts full-time to this subject rather than part-time or on an ad hoc basis.

While great strides have been made with respect to information sharing since the 9/11 terrorist attacks, jurisdictional infighting remains among departments and agencies as well as communication gaps between levels of government—local, State, and Federal. State and local fusion centers have filled this important role in the information-sharing gap, but more can be done.

Many law enforcement officers and analysts who looked at domestic terrorism issues during the 1990s have retired or have moved on to other assignments, which leaves a massive void in knowledge and experience. A whole generation of State and local officers has not been trained and has no clue what to look for.

Some civil rights and civil liberties organizations, particularly within the U.S. Government, fail to recognize the role extremist ideologies play in motivating extremists to carry out acts of violence. As a result, they have severely curtailed monitoring efforts within our Nation's law enforcement agencies. Monitoring a person's behavior becomes all the more clear when coupled with an understanding of extremist beliefs. As a result, there needs to be a balanced approach to intelligence analysis and threat assessment comprising both extremist ideology and suspicious behavior.

At DHS, the most prevalent hurdle to timely dissemination of domestic terrorism-related information is the Group of Six (G6) Review Process. The G6 Review Process as it currently stands negatively impacts I&A analysis because some of the changes in products seem to be made using standards that are in direct conflict with the intelligence community analytic standards. G6 Review can adversely affect an analyst's objectivity and political neutrality. The apparent purpose and intent of the G6 Review Process is to screen products for objectionable words, phrases, or topics that are politically sensitive or perceived as offensive to certain groups of people.

It is important that the U.S. Government take the lead in developing new strategies and tools for law enforcement and the courts to better deal with problems associated with domestic extremism.

To conclude, Mr. Chairman, I thank you again for allowing me to testify about this most important issue facing our Nation. For many years, we have focused on the threat from al Qaeda and homegrown Muslim extremists. It is now time to also strengthen our resolve to combat violent domestic non-Islamic extremism in all of its forms.

For the record, I have offered some of my insights concerning the domestic terrorist threat, our current limitations, and best practices in my written testimony. I hope that some of these points will resonate with Committee Members and inspire you to explore new ways to mitigate this threat and prevent future acts of violence, and I look forward to responding to any questions you may have.

[The prepared statement of Daryl Johnson appears as a submission for the record.]

Chairman DURBIN. Thanks, Mr. Johnson.

Our next witness is Harpreet Singh Saini, the son of Paramjit Kaur Saini, who was tragically shot and killed in Oak Creek, Wis-

consin, on August 5, 2012. I am pleased to recognize Senator Herbert Kohl, the senior Senator from the State of Wisconsin, a long-time Member of the Judiciary Committee, to introduce him formally. Senator Kohl.

Senator KOHL. Thank you for holding this important hearing, Chairman Durbin. While I am not a Member of the Subcommittee, I thank you for allowing me to speak here today.

I would like to introduce Harpreet Singh Saini. Harpreet lives in Oak Creek, Wisconsin, and is a freshman at Milwaukee Area Technical College majoring in law enforcement. Harpreet lost his mother in the tragic shooting at the Sikh temple in Wisconsin last month. Five other members of the Sikh community lost their lives on that tragic day, and several others were critically wounded, including a law enforcement officer who responded to the scene.

I know I speak for the Committee when I tell you, Harpreet, how sorry we are for the loss of your mother and friends. Though we can never know the pain that you have endured, be assured that we are outraged and deeply saddened by the violent assault on your peaceful community.

Harpreet's mother, Paramjit Kaur, was a dedicated wife, mother, friend, and neighbor, profoundly committed to her faith. Her sons, Harpreet and Kamaljit, who is also with us today, plan to pursue careers in law enforcement. I am sure your mother would be very proud. I also want to acknowledge Milwaukee County Executive Chris Abele, who is in the audience today, and ask that his testimony be submitted for the record.

[The prepared statement of Hon. Chris Abele appears as a submission for the record.]

Senator KOHL. August 5th was a tragic day not only for Sikh Americans but for all Americans, as is any day extremist hate groups target people of faith with harassment and violence. Unfortunately, although the Justice Department tracks crimes against other religious groups, it does not track crimes against Sikhs, so I am urging the Justice Department to start doing so. Not only would it allow law enforcement to better understand the scope of the problem, it will also encourage Sikhs to report when they are victims. These are steps that we must take to ensure that we never again endure a tragedy like the one in Oak Creek.

We thank you for being here today to share your story with us, and I thank you, Mr. Chairman.

Chairman DURBIN. Thank you, Senator Kohl.

Mr. Saini, please proceed. Excuse me. You need to turn on the microphone right in front of you there. Okay.

**STATEMENT OF HARPREET SINGH SAINI,
OAK CREEK, WISCONSIN**

Mr. SAINI. My name is Harpreet Singh Saini. I would like to thank Senator Durbin, Ranking Member Graham, and the entire Subcommittee for giving me the opportunity to be here today. I am here because my mother was murdered in an act of hate 45 days ago. I am here on behalf of all the children who lost parents or grandparents during the massacre in Oak Creek, Wisconsin.

A little over a month ago, I never imagined I would be here. I never imagined that anyone outside of Oak Creek would know my

name, or my mother's name, Paramjit Kaur; or my brother's name, Kamaljit Singh Saini. Kamal is here with me today.

As we all know, on Sunday, August 5, 2012, a white supremacist fueled by hatred walked into our local gurdwara with a loaded gun. He killed my mother while she prayed. He shot and killed five more—men. All of them were fathers, and all of them had a turban like me. And now people know all our names: Sita Singh. Ranjit Singh. Prakash Singh. Suveg Singh. Satwant Singh Kaleka.

This was not supposed to be our American story. This was not my mother's dream.

My parents brought Kamal and me to America in 2004. I was only 10 years old. Like many other immigrants, they wanted us to have a better life, a better education. In the land of the free. In the land of diversity.

It was a Tuesday, 2 days after our mother was killed, that my brother Kamal and I ate the leftovers of the last meal she had made for us. We ate her last rotis—which are a type of South Asian flatbread. She had made the rotis from scratch the night before she died. Along with the last bite of our food that Tuesday came the realization that this was the last meal made by my mother's hand that we will ever eat in our lifetime.

My mother was a brilliant woman. Everyone knew she was smart, but she never had the chance to get a formal education. She could not. As a hard-working immigrant, she had to work long hours to feed her family, to get her sons educated, to help us achieve our American dream. This was more important to her than anything else.

Senators, my mother was our biggest fan, our biggest supporter. She was always there for us. She always had a smile on her face.

But now she is gone. Because of a man who hated her because she was not his color? His religion?

I just had my first day of college. And my mother was not there to send me off. She will not be there on my graduation or my wedding day. She will not be able to meet her grandchildren.

I want to tell the gunman who took her from me: You may have been full of hate, but my mother was full of love.

She was an American. And this was not our American dream.

It was not the American dream of Prakash Singh, whose children found him lying in a pool of blood that morning. They shook his body and cried, "Papa! Get up!" But he was gone.

It was not the American dream of Suveg Singh Khattrra, a retired farmer who came here to be with his family. His family found him face down, a bullet in his head, his turban thrown to the side.

It was not the American dream of Satwant Singh Kaleka, president of the gurdwara, who was killed while bravely fighting the gunman.

It was not the American dream of Sita Singh and Ranjit Singh, two brothers who sang prayers for our community. After 16 years apart, their family came to America for the first time for their funerals.

And it was not the American dream of Santokh Singh or Punjab Singh who were injured in the massacre. Punjab Singh's sons are always by his side, but he may never fully recover from his multiple gunshot wounds.

We ache for our loved ones. We have lost so much. But I want people to know that our heads are held high.

My mother was a devout Sikh. Like all Sikhs, she was bound to live in Chardi Kala, a state of high spirits and optimism. Like her, my brother and I work every day to be in a state of high spirits and optimism.

We also know that we are not alone. Many people have sent us letters, attended vigils, and gave us their support: Oak Creek's mayor and police chief, Wisconsin's Governor, the President and the First Lady. It is their support that gives me the strength to come here today.

Senators, I came here today to ask the Government to give my mother the dignity of being a statistic. The FBI does not track hate crimes against Sikhs. My mother and those shot that day will not even count on a Federal form. We cannot solve a problem we refuse to recognize.

Senators, I also ask that the Government pursue domestic terrorists with the same vigor as attackers from abroad. The man who killed my mother was on the watchlists of public interest groups. I believe the Government could have tracked him long before he killed my mother.

Finally, Senators, I ask that you stand up for us. As lawmakers and leaders, you have the power to shape public opinions. Your words carry weight. When others scapegoat or demean people because of who they are, use your power to say that is wrong.

So many people have asked Sikhs to simply blame Muslims for attacks against our community or just say, "We are not Muslim." But we will not blame anyone else. An attack on one of us is an attack on all of us.

I also want to be a part of the solution. That is why I want to be a law enforcement officer like Lieutenant Brian Murphy, who saved so many lives that day. I want to protect other people from what happened to my mother. I want to combat hate—not just against Sikhs but against all people. Senators, I know what happened at Oak Creek was not an isolated incident. I fear it may happen again if we do not stand up and do something.

I do not want anyone to suffer what we have suffered. I want to build a world where all people can live, work, and worship in America in peace, because you see, despite everything, I still believe in the American dream. In my mother's memory, I ask that you stand up for that dream it with me, today and in the days to come.

Thank you for considering my testimony.

[The prepared statement of Harpreet Singh Saini appears as a submission for the record.]

Chairman DURBIN. Mr. Saini, that testimony was touching.

Mr. SAINI. Thank you.

Chairman DURBIN. It was such a tribute to your mother, to your family, to your religion, and to your community, and really to the values of this Nation. So many things that you said need to be heard, not just in this hearing room but across this country. And I hope that the spirit that you bring will teach all of us to be more tolerant and to fight forms of discrimination wherever we can,

whenever we can. Thank you for your courage and your testimony today.

Professor Jacobs from New York University, you are invited to testify.

STATEMENT OF JAMES B. JACOBS, CHIEF JUSTICE WARREN E. BURGER PROFESSOR OF CONSTITUTIONAL LAW AND THE COURTS, NEW YORK UNIVERSITY SCHOOL OF LAW, NEW YORK, NEW YORK

Professor JACOBS. Thank you, Senator. Thank you for inviting me and giving me the opportunity to share my views with the Subcommittee.

I, too, was touched and very moved by Mr. Saini's presentation.

I have been a critic of hate crime laws for the last 20 years and think the whole movement to recriminalize violent and other crime with hate crime laws was a wrong turn that will turn out to be more divisive than consensus-building.

I hasten to add that I deplore discrimination and bias and, of course, violent crime motivated by bias. However, all violent crime, no matter what the bias or motivation, is deplorable and, therefore, deservedly punished. I do not think it is desirable or useful to create a hierarchy of crimes and victims according to the racial, religious, gender, and sexual orientation identity of the perpetrator and victim. Ultimately, it is not desirable for this society to re-define crime in terms of which identity groups are doing the most offending and which are most offended against. Unlike other anti-discrimination laws, hate crime laws can be and are used to punish members of minority groups.

The subjectivity involved in labeling offenses as "hate crimes" or "bias crimes" generates unnecessary and divisive controversy. The early efforts by hate crime proponents to resist including gender-motivated violence as a hate crime was regarded by women as insensitive at best and blatantly discriminatory at worse. The subsequent effort by many to resist including anti-gay motivation as a bias crime trigger was similarly perceived as discriminatory, offensive, and intolerant. Today, we have heard, understandably, that the failure to explicitly recognize anti-Sikh bias as a hate crime category causes hurt and resentment. Hate crime laws themselves discriminate.

Determining what is a bias crime is fraught with difficulty, thus frustrating the aims of the Federal Hate Crime Statistics Act. Many friends of that Act now criticize it for failing to recognize the actual bias in the minds and hearts of criminals. Some offenders are not caught and, therefore, of course, we do not know their motivations in choice of victim, even if they had a clear motivation. It is usually difficult to determine an apprehended offender's motivations. Most offenders, especially of extreme violence, are very confused and disturbed. Is it useful or valuable to highlight their biases? Even if police and prosecutors believe that they can determine an offender's motivation, it is often very difficult to prove.

One need only recall the recent New Jersey controversy: whether Dharun Ravi's effort to photograph his roommate Tyler Clementi's homosexual encounter should have been charged as a bias crime. While all Americans could agree in condemning this invasion of a

roommate's privacy, there was great division and controversy over whether Ravi's punishment should be doubled or tripled because the roommate was gay. The whole fight was so unnecessary since invasion of privacy is punishable in New Jersey by a maximum punishment of 5 years in prison, surely more than adequate to satisfy the goals of the criminal law. Inadequately severe criminal sentences is not a problem for our society.

In the 1980s, when the term "hate crime" was first invented, its proponents said they meant for the laws to be used to punish murderous plots by members of neo-Nazi and similar hard-core hate groups bent on terrorizing and destroying whole groups and communities. The reality is that bias crime prosecutions are far more likely to be directed against the Archie Bunkers of the world rather than the white supremacist Tom Metzgers of the world. Indeed, most hate crime prosecutions involve young defendants, frequently mixed-up teenagers, who commit low-level offenses such as criminal mischief and simple assault, typically escalating from spontaneous altercations at a party, in a parking lot, or at a school event. Many cases that initially are called hate crimes, upon closer inspection, involve serious mental illness rather than ideological commitment or an organized campaign. It is worth pondering that the Federal hate crime statute, passed in 2009 to bring Federal law enforcement resources to bear on hard-core murderous hate crime groups, is this week being used to prosecute a breakaway Amish cleric in Ohio for religiously degrading (by hair and beard cutting) Amish men who did not adhere to his leadership.

As crime control policy, bias crime laws are unnecessary. We have the longest criminal sentence maxima in the free world. For murder, we have life imprisonment without parole or capital punishment. Ironically, some States, in the name of creating a more tolerant society, have made bias motivation an aggravating factor that makes a murderer eligible for capital punishment. Another irony is counting on greater use of prison to punish bias crimes in the name of tolerance. The prisons are the number one incubator of hate groups like the Aryan Brotherhood.

Hate crime laws are counterproductive. They politicize crime and spawn charges of hypocrisy and double standards. Those who are prosecuted call themselves victims of political correctness and martyrs to the First Amendment.

The hate crime laws conflict with their proponents' usual criticism of overuse of criminal law and especially overincarceration. Sending more people to prison for longer periods of time is not likely to contribute to a more tolerant society.

Thank you.

[The prepared statement of Prof. James B. Jacobs appears as a submission for the record.]

Chairman DURBIN. Thank you, Professor Jacobs.

Mr. Saini, I asked a question of the first panel based on your request that there be a category added to this report form so that Sikh Americans would have some collection of statistics and numbers, and I think the response was positive, and I promise you that I will follow up with them to make sure that it is considered on a timely basis.

Let me ask you what impact this terrible massacre has had at your gurdwara and on your Sikh community in Oak Creek.

Mr. SAINI. Just the people have been wonderful, and everybody has come together now as one, and just to be—just for that to happen, this was not a loss. This was a gain.

Chairman DURBIN. You mentioned the President, the First Lady, the Governor, and other leaders who have expressed their sympathy for this terrible event. Have you noted any other efforts by people of other religions and other backgrounds who had not been part of your Sikh community before and are now more closely associated?

Mr. SAINI. Yes, like there are a lot of people that come to us now, even Muslims, Christians, Hindus. Everybody has come to our gurdwara and, you know, just been there for us.

Chairman DURBIN. What about around the country? Have you heard any similar stories from other members of the Sikh community?

Mr. SAINI. Yes, same thing. People have come around the whole country, States, Washington, DC, they have come from New York, people have come from India, all over the world. They came just to be with us.

Chairman DURBIN. Well, I am sorry that you had to lose so much for this outpouring of support to occur, but I hope in your mother's memory that it will be a positive thing for you and your family and for your community in years to come. So thank you again for your great testimony.

Mr. SAINI. Thank you.

Chairman DURBIN. It had such an impact.

Professor JACOBS, now we are going to move to this constitutional debate or legal debate, however it might be. The Supreme Court considered your point of view and, surprisingly, it was Justice Rehnquist who wrote the majority opinion which basically rejected your point of view. And he said that we should draw a line between expression, statements, speech, and, as he said, "a physical assault is not by any stretch of the imagination expressive conduct protected by the First Amendment." That seems declarative and final in its nature. Do you disagree with that conclusion?

Professor JACOBS. Definitely not.

Chairman DURBIN. So distinguish this—I do not want to put words in your mouth. So your argument is not that those who would kill in the name of hate are expressing themselves under some constitutional protection.

Professor JACOBS. Of course not.

Chairman DURBIN. You need to turn on your microphone there. I am sorry.

Professor JACOBS. Yes. Of course not. I am not saying anything constitutional at all. My point here is that murder is already punished as severely as it can be punished. It cannot be punished any more than it is.

Chairman DURBIN. So let me take this the next step. You have sat right next to the testimony of this brave young man who has come to tell you the impact that this heinous act had on his family and on his life. And you have questioned before whether there is any special emotional or psychological impact in a hate crime. Do

you still hold that position that a hate crime victim is no sadder, no worse off than some other victim of a crime?

Professor JACOBS. I do, and I have seen many, many crime victims of different kinds of crimes, whether they are felony murders or killings in a park or killings of children, and none of it is pleasant, Senator, as you know, and the pain is excruciating. And is there any need for us to compare one person's pain in a heinous murder with another person's pain and put one on a higher pedestal than another person's? Is that going to help us as a society?

Chairman DURBIN. Well, it turns out that when we wrote our terrorism laws, we thought it did. The Federal terrorism statute provides enhanced penalties for certain crimes if they appear to be intended "to intimidate or coerce a civilian population or to influence the policy of a government by intimidation and coercion." So we have gone beyond the physical act and said what was the motivation behind it, and we have drawn the line when it comes to terrorism.

So do you oppose enhanced penalties for terrorism?

Professor JACOBS. No, I do not.

Chairman DURBIN. Well, how do you make the distinction?

Professor JACOBS. Well, I think the terrorist acts, when you have a crime and it threatens a large number of people, then it should be punished to the maximum. And I think those statutes are meant to give Federal jurisdiction over the crime, and we need Federal jurisdiction over those crimes.

Chairman DURBIN. I hate to quarrel with a law professor, but it seems to me that what we are talking about is intent here in both instances, and where the intent is terrorist inspired, we have said there will be a higher penalty. Now when it comes to a hate crime, you say when the intent is inspired by hate of a person because of a religion or race, gender, sexual orientation, an enhanced penalty, the two run in parallel—

Professor JACOBS. Well, I would not go down that road. I think all violent crime, all homicidal crime is filled with hate of one kind or another, and also a lot of it is filled with just plain confused and deranged thinking. Most of the people that we arrest for such crimes—I mean, the crimes look clearer in the abstract, but when you arrest them, like the apparent perpetrator in Aurora, they are very confused and disturbed individuals.

Chairman DURBIN. Well, I would just say that I would question whether or not you are consistent in allowing for enhanced penalties for terrorism but not for hate crimes. But that seems to be my note, and you disagree.

Mr. Johnson, you heard the testimony when I asked about Wade Michael Page who had been called out by at least two organizations as a dangerous individual. Apparently, that was not enough to warrant an investigation. There was nothing—I think the testimony from the FBI is there was nothing they could point to which would single him out for special investigation or attention.

So was this an intelligence failure in Wisconsin? Do you think there could have been things done to prevent this attack that were not done?

Mr. JOHNSON. Well, I think the FBI in their testimony kind of laid out where the problem lies with terrorist prevention. They are

really good at investigating after the fact, after an incident has happened. But we have this delicate balance between people's constitutional right to assemble and express their speech, however vile, but we also have to be a little forward-leaning in looking at those ideologies that have long histories of spawning violence. And I am not talking about a Government doing covert operations on people that have extremist beliefs, but I think it is prudent that we have an overt posture, overt monitoring of belief systems that are basically causing people to act out violently.

Was this an intelligence failure? I do not think it is. But one thing that I believe that the Department of Homeland Security and the FBI could have done was—where was the warning that these mosques were being burned, where was the warning that Sikhs and Muslims have been victims of shooting attacks? I think there could have been a threat assessment prepared on that very subject. It could have been sent out to the faith-based communities affected. And I believe that that might have provided a first line of defense by identifying the problem, but also providing some counter measures to encourage people to be increasingly vigilant toward the threat. And that may have played, you know, a possible role in maybe preventing some type of attack.

Chairman DURBIN. Well, I would readily agree with your premise that simply because people have tattoos or listen to certain music or even gather in certain places and say certain things is not evidence of criminal intent. And I think that was the point made by the FBI. But I think what you also said is worthy of note, and that is, when you hear this over and over, it raises the level of threat assessment. Whether it is anti-Semitism against a Jewish synagogue or burning of Christian churches in the South or attacks on Muslim mosques or Sikh temples, each of these, I think, warrants special effort.

The last question I will ask you, you noted that there seems to be a reduction in force of people at the Department of Homeland Security who are working on these issues, and the response from Mr. McAllister was not altogether clear on that subject. Would you like to say a word more on that?

Mr. JOHNSON. Well, you have already outlined in your testimony that when I was the team leader at the Department of Homeland Security, we had five analysts directly under my supervision, but we also had additional analysts that supplemented us. So we had as many as eight analysts looking at this issue. Today there is one, and that is a fact.

Chairman DURBIN. The last point I will make, and if you do not mind repeating, when you said that the militia that was investigated in Michigan had a larger arsenal of weapons than all of the terrorists who had been arrested since 9/11 in the United States. Was that your testimony?

Mr. JOHNSON. Yes. It is a daunting statistic, and I got this information off of Steve Emerson's Investigative Project website where he has all the court records of every single Muslim extremist that has been publicly arrested in the country since 9/11. That is where my sourcing came from.

Chairman DURBIN. All right. Senator Kohl, would you like to ask questions?

Senator KOHL. Thank you, Mr. Chairman.

Harpreet, many people in the general community did not understand who Sikhs were until the tragedy occurred. How did the Sikh community fit into Milwaukee/Oak Creek before the tragedy? And how would you describe the outpouring and the response that occurred?

Mr. SAINI. Well, I think people have been wonderful. Sikhs are a different religion, a different race, I mean, people just—they do not come up to you and ask you who you are. People just do not come up and ask who Sikhs are. Like, I would love to answer, you know, if, let us say, a person comes up to me and asks me who am I, “What is that on your head?” I would love to tell them what it is. And people do not do that, and they should start doing that, you know, to get the fact that that is a turban.

Senator KOHL. Okay. How have you all been moving forward since the tragedy with respect to your place of worship and your ability to come and worship without fear?

Mr. SAINI. How am I what?

Senator KOHL. The level of fear that occurred when the tragedy happened, has that abated? Are you—

Mr. SAINI. I mean, the fear is still around, but we are getting over it as much as we can now. And just trying to get over it with people that you love, that is the best thing.

Senator KOHL. Is the level of attendance for services equal to what it was before the tragedy, or are some people still worried about attending?

Mr. SAINI. No. It has actually gone up, like a lot more people have showed up this time, like after the incident, too. And the attendance has been enormous now. It has gone up.

Senator KOHL. That is terrific. Thank you very much, Harpreet.

Mr. SAINI. Thank you.

Senator KOHL. Thank you, Mr. Chairman.

Chairman DURBIN. Thank you, Senator Kohl, and thanks to this entire panel for its testimony. There is—oh, I am sorry. Senator Blumenthal, I yield to you.

Senator BLUMENTHAL. Thank you. Thank you, Mr. Chairman.

I want to join in thanking this panel and the prior panel, whose testimony I had been following, and I apologize for not having been here earlier. I had another Committee hearing. But I would like to, first of all, followup, Mr. Saini, my condolences for your loss, and even in a place as geographically distant as Connecticut, there has been an outpouring of feeling and sympathy for the victims and their families. And I have attended two of the ceremonies and services marking this horrendous incident in Oak Creek. And I would say that I join Senator Kohl in the expression of satisfaction that there is a strengthening of your community and of attendance and of involvement, which apparently is the case, is it not?

Mr. SAINI. Yes, it is.

Senator BLUMENTHAL. If I may turn to Mr. Johnson, you have had a long career in intelligence and enforcement efforts, and you referred earlier to the possibility that there might have been preventive action possible. Do you think that is a realistic assessment? If intelligence were better, do you think that prevention is really a realistic and practical likelihood?

Mr. JOHNSON. Well, by basically raising awareness and increasing vigilance and putting in counter measures, you are, in fact, you know, putting up barriers of defense that could serve as a prevention. I mean, is it an interdiction? Is it going to stop the incident from happening? Probably not. But if you are more vigilant and if you have your awareness up, then perhaps you could take counter measures to prevent the amount of loss.

Senator BLUMENTHAL. And is the issue one of resources? You mentioned the number of analysts diminishing from eight to one. Is that the principal barrier, or is it a matter of sharing information? What would you analyze as the issue?

Mr. JOHNSON. Well, in my written testimony that I submitted to the Committee, I outlined a number of limitations, one of which is resources. We are also lacking in strategic analysis. That is where we look at emerging national trends and patterns of criminal activity. We also—there were some other things that I mentioned in my written testimony that you could refer to, but it is a multilayered approach. Information sharing has gotten better, but we could still make improvements in that effort as well.

Senator BLUMENTHAL. So, really, it is a multifaceted challenge.

Mr. JOHNSON. Right, and I also had mentioned training as an issue. We have a whole new group of analysts and officers that are coming up through the ranks who need to be trained on these types of subjects and what the different extremists' tactics and tradecraft and activity levels are.

Senator BLUMENTHAL. Professor Jacobs, I know that you have raised in your written and also in your oral testimony reservations and qualms about the hate crime both definition and proof issues. Why are those issues any different than the normal criminal intent or mens rea elements of proof that have to be presented in a criminal trial?

Professor JACOBS. Well, if we just want to talk on the proof question, different than the one about defining, you know, which biases and so forth, on the question of proof I think it is harder to get into a person's motivations than simply whether it was intended or not intended as a fairly thin mental state. But when you start to get into what is their bias—and when you look at these various crimes that have been prosecuted, the one in New Jersey is a very good example. A very good example. You know, what was his motivation? He himself may not have known what his motivation was. He maybe had a lot of motivations. Maybe he did not have any clear motivation. What he did do was infringe upon the privacy of his roommate. That was clear and could easily be proved. But the prosecution was not able to prove that it was an antigay bias, and that is often the case in these prosecutions.

Senator BLUMENTHAL. And that may be true in a variety of criminal cases where the prosecution has the continuing burden of proof and has to present evidence to show beyond a reasonable doubt that a motivation existed. I do not understand why that burden does not place a sufficiently high threshold for the proof of a hate crime.

Professor JACOBS. Well, I also do not think it is necessary because we have criminal laws against assaults and against murder and against rape and kidnapping. And then in order to express

even more outrage, we have gone through the criminal code and kind of recriminalized these crimes, which already carry huge punishments, more than we have the resources to actually implement.

Senator BLUMENTHAL. Which is true of other crimes as well. They may be prosecutable under different laws. They may be—

Professor JACOBS. They are all prosecutable under different laws, Senator.

Senator BLUMENTHAL. Correct. So why not permit prosecution of hate crimes when they are, in fact, motivated by bigotry and bias and that kind of intent as an expression of community outrage, which our criminal law particularly does.

Professor JACOBS. Well, I mean, that is the route that we are going down, and I think if it is successful, we will see. And if it helps to lead toward a more tolerant society, that would be good. But it might also be very divisive and juries might begin to see criminal prosecutions as actually kind of political trials which—and the crime is about making a statement about the perpetrator's group as opposed to the victim's group, and we will start to see the crime problem as one that is divided along all of the fractures of American society. I would not welcome seeing the crime problem in that way, and I think it is unnecessary to do that.

Senator BLUMENTHAL. I think the reservation that you have expressed has been articulated, at least in my experience, in State legislatures when these issues arose, and those reservations or objections have been overcome, I think because people do feel that the expression of the community's intolerance for violence resulting from bigotry and bias and hatred is very much a proper and appropriate measure to take and hopefully also will have a deterrent effect, which is another proper purpose of the criminal laws. If it deters these kinds of crimes, perhaps it would serve a legitimate purpose of the criminal law as well.

So I understand and you have articulated well your concerns about it, but I think that the growing awareness of the severity and the frequency of these crimes will properly result, hopefully, in greater enforcement, tougher enforcement, more stringent penalties.

Thank you, Mr. Chairman.

Chairman DURBIN. Thanks a lot, Senator Blumenthal and Senator Kohl.

I might note that over 400 people are in attendance at this hearing, in the overflow room and in this main room, showing the level of interest in this important topic, many from the Sikh community from all across the United States, and we thank you very much and join all of us in expressing our sentiments of sorrow over the losses that have taken place in your community.

We are not alone in our feelings about this. We have had an enormous amount of interest from many groups, 80 written statements for today's hearing, from Congresswoman Judy Chu, the Chair of the Congressional Asian Pacific American Caucus, the American Civil Liberties Union, the Anti-Defamation League, the Chicago City Council, the Chicago Police Department, the Council on American Islamic Relations, Groundswell, the Hindu American Foundation, Human Rights Campaign, Human Rights First, Interfaith Alliance, the Islamic Society of North America, the Japanese

American Citizens League, Latino Justice, the Leadership Conference on Civil and Human Rights, Muslim Advocates, the NAACP, the National Gay and Lesbian Task Force, the Oak Creek, Wisconsin, Police Department, People for the American Way, Africa American Ministers Leadership Council, the Sikh American Legal Defense and Education Fund, the Sikh Coalition, South Asian Americans Leading Together, and the Southern Poverty Law Center, as well as the United Sikhs. Without objection, I would like to place these statements into the record. Hearing no objection, that will be the case.

[The information referred to appears as submissions for the record.]

Chairman DURBIN. The hearing record will be open for a week to accept additional statements, and if there are written questions of the witnesses, I hope that you will respond in a timely fashion so we can have a complete record.

If there are no further comments from our panel or colleagues, I thank the witnesses for attending and my colleagues for participating, and this hearing stands adjourned.

[Whereupon, at 4:23 p.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

“Hate Crimes and the Threat of Domestic Extremism”

Wednesday, September 19, 2012
Hart Senate Office Building, Room 216
2:30 p.m.

Panel I

Roy L. Austin, Jr.
Deputy Assistant Attorney General
Civil Rights Division
U.S. Department of Justice
Washington, DC

The Honorable Scott McAllister
Deputy Under Secretary
State & Local Program Office
Office of Intelligence & Analysis
U.S. Department of Homeland Security
Washington, DC

Michael A. Clancy
Deputy Assistant Director
Counterterrorism Division
Federal Bureau of Investigation
Washington, DC

Panel II

Daryl Johnson
Founder & Owner, DT Analytics, LLC
Washington, DC

Harpreet Singh Saini
Oak Creek, WI

James B. Jacobs
Chief Justice Warren E. Burger Professor of Constitutional Law and the Courts
New York University School of Law
New York, NY

PREPARED STATEMENT OF ROY L. AUSTIN, JR.



Department of Justice

STATEMENT OF

ROY L. AUSTIN, JR.
DEPUTY ASSISTANT ATTORNEY GENERAL
CIVIL RIGHTS DIVISION
UNITED STATES DEPARTMENT OF JUSTICE

BEFORE THE

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

ENTITLED

"HATE CRIMES AND THE THREAT OF DOMESTIC EXTREMISM"

PRESENTED

SEPTEMBER 19, 2012

**Statement of
Roy L. Austin, Jr.
Deputy Assistant Attorney General
Civil Rights Division
United States Department of Justice
Before the
Subcommittee on the Constitution, Civil Rights, and Human Rights
Committee on the Judiciary
United States Senate
Entitled
“Hate Crimes and the Threat of Domestic Extremism”**

Presented on Wednesday, September 19, 2012

Good afternoon, Chairman Durbin, Ranking Member Graham, and members of the Subcommittee. I am honored to come before you to represent the Civil Rights Division of the Department of Justice and discuss one of the Department’s priorities – hate-crimes prevention and enforcement.

The various hate-crimes statutes passed by Congress since the late 1960s exemplify this Nation’s proud, bipartisan tradition of ensuring that all our citizens can live free from fear of being targeted because of the color of their skin, the religion that they practice, or who they love. From the passage of the first hate-crimes statute in 1968 (18 U.S.C. § 245) to the enactments of the Hate Crimes Statistics Act in 1990 (28 U.S.C. § 534), the Hate Crime Sentencing Enhancement Act of 1994 (28 U.S.C. § 994), the Church Arson Prevention Act in 1996 (18 U.S.C. § 247) and, most recently, the Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act (HCPA or Act) in 2009 (18 U.S.C. § 249), a strong bipartisan consensus has emerged in Congress and in the Executive Branch that violent acts of intolerance have no place in our society. This is because hate crimes victimize not just individuals, but entire communities. Bias-motivated acts of violence divide our communities, intimidate our most vulnerable citizens, and damage our collective spirit. As President Obama said when he signed the HCPA into law,

“At root, this isn’t just about our laws; this is about who we are as a people. This is about whether we value one another — whether we embrace our differences, rather than allowing them to become a source of animus.”

When Attorney General Holder testified in support of the HCPA in 2009 before the Senate Judiciary Committee, he pledged that this critical legislation would help protect Americans from the most heinous bias-motivated violence. It undoubtedly has. Hate-crimes enforcement has been one of the long-standing responsibilities of the Civil Rights Division and the HCPA has strengthened our ability to prosecute bias-motivated violence. While we have made significant progress in addressing this critical issue, recent events, like the mass shooting at the Sikh Gurdwara in Oak Creek, Wisconsin, remind us all too vividly that there is significant work yet to be done. As Attorney General Holder observed at the memorial service for the victims of the Oak Creek shooting, that heinous crime “was not just an affront to the values of Sikhism. It was an attack on the values of America itself.” And it was an act of intolerance that undermines “who we are as a people.”

I can tell you firsthand that the devastation caused by a single act of hate can reverberate through families, through communities, and throughout the entire nation. I have personally visited with men and women victimized by hate crimes. Whenever a hate crime is committed, a whole community sleeps a little less easily at night, haunted by the fear that they too might be attacked simply because of the color of their skin, the place where they were born, the faith that sustains them, or who they love. That is why President Obama has said: “[H]ate crimes are crimes meant not only to break bones, but to break spirits — not only to inflict harm, but to instill fear.”

Cross burnings targeting racial minorities have been an unfortunate part of our history and, although it is surprising to some, these hate-fueled acts persist. Indeed, just last March, the Department prosecuted an Ohio man for burning a cross at a residence in Bennington Township, Ohio, that was home to an African-American family with three school-age children. A burning cross is a symbol of bigotry and hate and, the Civil Rights Division will continue to aggressively prosecute cross burnings conducted with the intent to intimidate.

Over the last four years, we have seen hate-crime violence manifest itself in many different forms. We have seen violent acts of intolerance that target Latino immigrants and, in some cases, such as the attack on Louis Ramirez in Shenandoah, Pennsylvania, the crimes have even led to the victim's death. We have seen places of worship continue to be victimized with arsons, bombings, and threats of violence, such as a bomb threat against the Murfreesboro (Tennessee) Mosque, which we are currently prosecuting. And we continue to prosecute cases where people are targeted and attacked because of their sexual orientation and gender identity. Just last month, a Detroit man pled guilty in federal court to a hate crime charge for assaulting a man because he believed the victim was gay, marking the second time the HCPA has been used to prosecute crimes motivated by the victims' sexual orientation. Finally, hate crimes on the Internet are an emerging problem. In 2010, an individual in Brick, New Jersey, who went by the internet pseudonym "Devilfish," pled guilty in federal court to multiple charges related to a series of threatening communications he sent to employees of five civil rights organizations that work to improve opportunities for, and challenge discrimination against, Latinos in the United States. These incidents have no place in our country, and they remind us of the civil rights challenges we still face today. We will continue to aggressively prosecute hate crimes of all kinds.

While we know that the numbers of hate crimes committed every year are far too many, we still do not know exactly how many hate crimes occur. I am glad to be joined on today's panel by my colleagues from the FBI and DHS, who partner with us to prevent and combat hate crimes. The FBI's Uniform Crime Reporting Program (or UCR) collects data from law enforcement agencies throughout the country on instances of hate crimes in their communities. In the most recent UCR Hate Crimes Statistics Report, from 2010, around 2,000 law enforcement agencies reported 6,628 hate-crime incidents. Of course, the FBI can track only those hate crimes that are reported to it. Approximately 13,000 law enforcement agencies reported that no hate crimes occurred in their jurisdictions in 2010 and another 3,000 that participate in the uniform crime report survey did not respond to the hate crime survey. The collection of accurate statistics is difficult because some local law enforcement agencies do not know to classify certain crimes as hate crimes or choose not to report to the FBI hate crimes of which they are aware.¹ In addition, for a variety of reasons, many victims of hate crimes do not report the crimes to their local law enforcement agency. The Bureau of Justice Statistics through the National Crime Victimization Survey (NCVS) estimates that there were approximately 195,000 hate crimes annually from 2003 through 2009, 54% of which were not reported to police.

¹ For example, the Anti-Defamation League's 2010 Hate Crimes Statistical Report establishes that the City of Honolulu, Hawaii did not respond to the Uniform Crime Report Survey between the years 2006 and 2010. However, the State of Hawaii's Annual Hate Crimes Report establishes that during that time period, 9 hate crimes reached final disposition in the City of Honolulu.

When we break down the more than 6,600 hate crime incidents reported to the FBI for the year 2010, we find some telling statistics. Almost half of these incidents, 47.3 percent, involved a defendant or defendants who were motivated by racial prejudice (*e.g.*, Asian). In 20 percent of the incidents, the perpetrators of the crime were motivated by religious bias (*e.g.*, Muslim). In 19.3 percent of the hate-crime incidents, the defendants were motivated by the actual or perceived sexual orientation of the victim. In 12.8 percent of the incidents, the defendant was motivated by an ethnicity or national-origin bias (*e.g.*, Arab or Middle Eastern). One thing is clear from these statistics: hate crime is not limited to just one group of victims or one type of motivation. We cannot rest until such crimes are prevented and until every perpetrator is brought to justice. The Department has been contacted by several Members of Congress and advocacy groups requesting that the FBI begin to collect data on hate crimes directed toward Sikh individuals. We have taken these requests seriously and are examining the issue carefully.

Since the beginning of Assistant Attorney General Tom Perez's tenure as the head of the Civil Rights Division, our Criminal Section, in partnership with United States Attorneys' offices across the country, has aggressively prosecuted all forms of civil rights violations. Thanks to the dedicated commitment of career prosecutors, we have seen a 15 percent increase in criminal civil-rights prosecutions in the past three fiscal years (FY 2009 - 2011), as compared to the previous three years (FY 2006 - FY 2008). This increase includes hate-crimes cases, law enforcement brutality cases, human trafficking prosecutions, and Freedom of Access to Clinic Entrances (FACE) Act violations. Turning specifically to the Department's hate-crime

prosecutions, the numbers are especially robust: In Fiscal Year 2011, the Department convicted more defendants on hate-crime charges than in any other year during the last decade.²

In my testimony today, I will share with you information about the Department's enforcement of the HCPA and other hate-crimes statutes, as well as our commitment to prosecuting "backlash" crimes against persons perceived to be Arab, Muslim, Middle Eastern, or South Asian descent.

A. Shepard-Byrd Hate Crimes Prevention Act (HCPA)

When Congress passed the HCPA, 18 U.S.C. § 249, in 2009 by a bipartisan vote of 281 to 146 in the House and 68 to 29 in the Senate, the Department's ability to prosecute hate crimes was greatly strengthened. Because the HCPA for the first time criminalizes violence motivated by sexual orientation, gender identity, gender, and disability, more hate-crime victims are now protected by federal law.

Moreover, in the past, the Department's hate-crime prosecution efforts were limited because preexisting federal hate-crime laws required that the government prove beyond a reasonable doubt not only that the defendant had a bias motivation, *but also* that the defendant intended to interfere with the victim's right to engage in some other federally protected activity. The HCPA contains no such requirement, removing a significant hurdle to federal prosecution. In short, under the new law, a defendant cannot escape responsibility for his crime simply by showing that he would have committed his crime regardless of whether or not the victim happened to be engaged in a federally protected activity identified in the statute at the time of the offense.

² This includes our prosecutions under the HCPA as well as under preexisting statutes—18 U.S.C. §§ 245 and 247 and 42 U.S.C. § 3631.

In addition, the HCPA enhances our ability to provide training for federal, state, and local law enforcement officials and to conduct outreach to communities affected by hate crimes. It has fostered cooperation between federal, state, and local authorities and the sharing of resources necessary to address these terrible crimes.

1. Constitutionality of the Shepard-Byrd Hate Crimes Prevention Act (HCPA)

When Attorney General Holder testified in support of the HCPA prior to its passage, members of the Senate Judiciary Committee asked whether this landmark legislation would be upheld by the courts. The Attorney General assured the Committee that the Department had examined the legislation and was confident that it fully comported with all constitutional requirements. I am pleased to report that the statute has been upheld by every court that has considered its constitutionality. The Eighth Circuit Court of Appeals, the first federal appellate court to opine upon the issue, upheld the law in *United States v. Maybee*,³ a case involving race, color, and national origin. And in *Glenn v. Holder*,⁴ the Sixth Circuit affirmed the dismissal of a claim that the statute interfered with the plaintiffs' right to preach against homosexuality; the Sixth Circuit determined that the group challenging the statute lacked standing to do so because the group had not made the requisite showing that its members intended to violate the statute or faced a credible threat of prosecution under it. The Sixth Circuit made it clear that the HCPA "prohibits violent acts; it does not prohibit constitutionally protected speech or conduct." In

³ 687 F.3d 1026 (8th Cir. 2012).

⁴ 2012 WL 3115683, No. 10-2273 (6th Cir. Aug. 2, 2012).

addition, four federal district courts across this country have likewise upheld the constitutionality of various provisions of the law.⁵

2. Federal Enforcement Actions

Since enactment of the HCPA, the Civil Rights Division has charged 13 cases against 37 defendants. While most of the prosecutions involved crimes motivated by racial or ethnic animus, these are by no means the only hate crimes investigated by the Department. In Cleveland, we are currently prosecuting defendants for hate crimes motivated by religious animus. And the Department recently obtained an indictment in a federal hate-crime case in Kentucky, in which a physical assault was motivated by the victim's sexual orientation.

Because the bare statistics do not paint the full picture of some of these heinous crimes, I have included summaries of some of the convictions that have been secured by the Department under the HCPA:

- *United States v. Avery*: Just last month, a defendant appeared in a federal court in Detroit and pled guilty to violating the HCPA by assaulting a victim inside a convenience store. The defendant's only motivation was that he believed the victim was gay. The defendant fractured the victim's eye socket and caused other facial injuries.
- *United States v. Maybee and Popejoy*: In the Western District of Arkansas, the defendants, who had stopped at a gas station, saw a group of five Latino men.

⁵ See *United States v. Mullet*, 2010 WL 2330905, No. 5:11 CR 594 (N.D. Ohio May 31, 2012); *United States v. Maybee*, 2011 WL 2784446, No. 11-30006 (W.D. Ark. July 15, 2011), *aff'd*, 687 F.3d 1026 (8th Cir. 2012), cert. denied; *United States v. Beebe*, 807 F. Supp. 2d 1045 (D.N.M. 2011) (appeal pending); *United States v. McLaughlin*, No. 4:12-cr-25 (S.D. Tex., Mar. 6, 2012) (unpublished) (denying a motion to dismiss which, among other things, argued that 18 U.S.C. § 249 was unconstitutional).

The defendants shouted taunts and anti-Latino slurs at the victims, who – instead of responding with hatred or violence – got into their car and drove away. The defendants pursued the victims in a truck. They caught up to the victims and used more threats and slurs. One of the defendants leaned out of a window brandishing a tire iron. The defendants then intentionally rammed their truck repeatedly into the victims' car, causing it to run off the road, flip over, and burst into flames, injuring all the victims, two of them seriously. The defendants were convicted after a jury trial, and the Eighth Circuit recently affirmed.

- *United States v. Beebe, Sandford, and Hatch*: In the District of New Mexico, the defendants admitted that they used a hot wire hanger to brand a young Native American man who has a developmental disability. The victim was taken to an apartment that belonged to one of the defendants and that contained racist paraphernalia, including a Nazi flag and a woven dream-catcher emblazoned with a swastika. After taking advantage of the victim's disability, one of the defendants heated a wire hanger on a stove and used it to brand a swastika into the victim's arm, while a towel was stuffed in his mouth. The defendants then defaced the victim's body with white supremacist symbols. They shaved the victim's head to create a swastika and wrote the words "KKK" and "White Power," in marker inside the swastika. The defendants mocked the victim's heritage by drawing an ejaculating penis and testicles on the victim's back, telling him that they were drawing his "native pride feathers," all the while recording the incident on a cell phone. The defendants pled guilty. The case is currently on

appeal before the U.S. Court of Appeals for the Tenth Circuit, involving a constitutional challenge to the statute, *i.e.*, whether Section 249 is a valid exercise of Congress's power under Section 2 of the Thirteenth Amendment.

- *United States v. Cannon, McLaughlin, and Kerstetter*: The defendants approached an African-American victim as he sat at a bus stop in downtown Houston. The defendants were all shirtless and sporting white supremacist tattoos. At least one of the defendants used a racial slur, while all of the defendants surrounded and attacked the victim by punching and kicking him in the face, head, and body. The defendants were convicted after trial in a federal court in Houston. A notice of appeal has been filed with the U.S. Court of Appeals for the Fifth Circuit, but the briefs have not yet been submitted.
- *United States v. Dedmon, Rice, and Butler*: Three defendants pled guilty in the Southern District of Mississippi to the fatal assault of James Craig Anderson, an African-American man. The defendants admitted that on numerous occasions leading up to the fatal assault, they, along with other co-conspirators still under investigation, assaulted African Americans with beer bottles, sling shots, and other weapons. In the early morning of June 26, 2011, after having spent the preceding evening talking about committing another assault, several of the co-conspirators drove around West Jackson throwing beer bottles at African-American pedestrians from the windows of moving vehicles. At approximately 5:00 a.m., some of these conspirators spotted the victim in a motel parking lot and

decided he would be a good target for an assault. One of the defendants punched the victim in the face, knocking him to the ground. Another defendant punched him multiple times while he was on the ground. After the assault, various conspirators yelled, “White Power!” as they got back into their vehicles. One of the defendants admitted that he deliberately used his truck to run over the victim, causing his death. Many of us who have seen the surveillance video that happened to capture this horrific act remain haunted by the images.

- *United States v. Jenkins*: Two women in Harlan County, Kentucky pled guilty to aiding and abetting two other defendants in the kidnapping and hate-crime assault of Kevin Pennington, a gay man, because of his sexual orientation. Two men were later indicted for their roles. According to the indictment, the defendants enlisted the two women to trick Pennington into getting into a truck with the defendants, so that the defendants could drive Pennington to a state park and assault him. The defendants then allegedly drove Pennington to a secluded area of the Kingdom Come State Park in Kentucky and assaulted him. The indictment marks the first case charged under the HCPA involving sexual orientation. The case is currently on appeal with the U.S. Court of Appeals for the Sixth Circuit, involving a challenge to the constitutionality of Section 249.

3. Training and Outreach

Enactment of the HCPA has done far more than to allow the Department to prosecute these heartbreaking acts of violence. With the passage of the HCPA, the Department has increased its outreach and training not only for federal law enforcement but also for our state and

local law enforcement partners. As this Committee knows, the HCPA itself clearly envisions that state and local governments will take the lead in prosecuting hate crimes unless they ask the federal government to take over or “a prosecution by the United States is in the public interest and necessary to secure substantial justice.”

To assist state and local organizations in such efforts, the Department has provided dozens of training sessions – along with other resources – to help these agencies identify, investigate, and prosecute hate crimes. We began our state and local government training on the HCPA in the five States without a hate-crimes law of any kind – Georgia, South Carolina, Wyoming, Indiana, and Arkansas. We then held training on hate crimes and on broader civil rights issues with a hate-crimes component in more than 20 States, including California, Connecticut, Delaware, Illinois, Minnesota, New York, Texas, and Wisconsin, as well as Puerto Rico and Guam.

This training is critical to our mission of reducing the incidence of hate crimes. It is particularly important to train those law enforcement officers who are “first responders” to an assault or other act of violence so that they know what questions to ask and what evidence to gather at the scene to allow prosecutors to make an informed assessment of whether a case should be prosecuted as a hate crime.

The FBI and other federal agencies continue to lend their investigative and scientific expertise to our state and local law enforcement partners in these crucial cases. In addition, the HCPA has expanded the mandate of the Community Relations Service (CRS), an agency that helps communities prevent and respond to violent hate crimes committed on the basis of gender, gender identity, sexual orientation, religion, and disability, in addition to CRS’s traditional role vis-à-vis hate crimes committed on the basis of race, color, and national origin. These

enhancements have improved CRS's crisis response across the country and have enabled it to better fulfill its mandate.

B. Enforcement of Other Federal Hate-Crimes Statutes

The Department's hate-crime enforcement efforts go far beyond its prosecutions under the HCPA. We continue to use preexisting hate crimes statutes such as 18 U.S.C. § 245, which criminalizes using force or threats to interfere with federally protected activities; 18 U.S.C. § 247, which criminalizes damaging religious real property and using force or threats to obstruct the free exercise of religious beliefs; and 42 U.S.C. § 3631, which criminalizes using force or threats to interfere with housing rights.

Recently, for example, the Third Circuit affirmed a conviction secured by Civil Rights Division attorneys in Shenandoah, Pennsylvania using one of these statutes. The defendants assaulted and killed a Latino man after having a verbal disagreement with him. One of the members of the defendant's group told the victim, "This is Shenandoah. This is America. Go back to Mexico." That verbal disagreement escalated to a physical altercation, which resulted in the beating of the victim by the defendants and their friends. The assault continued, even after the victim lay helpless on the ground. The victim died two days later as a result of the injuries.

C. Backlash Initiative

As we have all been recently, and tragically, reminded, there are some who use the hatred and fear spread by terrorists as an excuse to engage in their own acts of violence, assaulting victims because they are perceived to be Arab, Muslim, Middle Eastern, or South Asian. Attorney General Holder has made it a priority for the Department to enhance its efforts to engage with local Arab- and Muslim-American communities as well as other communities, such as Sikh men and women, who, in addition to bias that they may experience because of their faith,

have been targeted in this way. Recently, the Attorney General personally visited the Sikh Community of Oak Grove, Wisconsin in the wake of the terrible tragedy that occurred there.

United States Attorneys around the country also have actively increased 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. Since 2001, the Civil Rights Division has hosted quarterly meetings bringing together top officials from federal agencies with the leaders of the Arab, Muslim, Middle Eastern, Sikh, and South Asian communities to address a variety of issues of concern. CRS also 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 continues to reach out to communities to educate them on the FBI's role and to respond to questions and concerns.

Since September 11, 2001, the Civil Rights Division, along with our partners in the FBI and the United States' Attorneys offices, has investigated more than 800 incidents involving violent acts, threats, assaults, vandalisms and arsons targeting Arab, Muslim, Middle Eastern, Sikh, and South Asian individuals, and those perceived to be members of these groups. The incidents have consisted of telephone, internet, mail, and face-to-face threats; minor assaults, assaults with dangerous weapons and assaults resulting in serious injury and death; and vandalism, arson, and bombings directed at homes, businesses, and places of worship. For example, a Texas man was indicted this summer for telephoning a bomb threat to a mosque in Murfreesboro, Tennessee in September 2011. The defendant was charged with one count of intentionally obstructing by threat of force the free exercise of religious beliefs in violation of the Church Arson Prevention Act, and one count of using an instrument of interstate commerce to

communicate a threat to destroy a building by means of an explosive device. According to the indictment, which contains only allegations, on September 5, 2011, the defendant called on a cell phone from Corpus Christi, Texas, to the Islamic Center of Murfreesboro and left a threatening, expletive-ridden voice message saying, among other things, "On September 11, 2011, there's going to be a bomb in the building." Overall, since September 2001, federal charges have been brought in 43 such cases against 55 defendants, with 47 convictions to date. Additionally, the Department has coordinated with state and local prosecutors in numerous non-federal criminal prosecutions, providing substantial assistance where necessary.

D. Going Forward

The Civil Rights Division remains committed to doing all that is necessary to prevent, punish, and deter future acts of violence based upon bigotry and hatred. While we will protect the constitutional right of people to say hateful things, the Department will not hesitate to pursue federal prosecutions in those cases where words turn to violence and where prosecution at the federal level is necessary to secure justice. We are also committed to conducting training that is vital to increasing the number of successful prosecutions at both the state and federal level.

In addressing the future of the Division's enforcement efforts, I want to stress that the Division not only has dedicated criminal prosecutors who work to bring perpetrators of hate crimes to justice, but that it also has talented civil attorneys who work tirelessly to ensure that our schools, workplaces, lending agencies, and voting booths are free of unlawful discrimination. Of particular relevance to the subject of this testimony is the work of the Division to address discriminatory harassment and bullying in our public schools. For example, in March 2012, the Division, together with the U.S. Department of Education's Office for Civil Rights, announced a major settlement to protect children from harassment and bullying in the Anoka-Hennepin

School District, the largest school district in Minnesota. The consent decree, which was approved by a federal court, provides a comprehensive blueprint for sustainable reform of the policies and practices of the district that will ensure that students in the district are protected from sex-based harassment.

We must acknowledge the reality that across America we are sailing into a strong headwind of intolerance that takes many different shapes and forms. In fiscal year 2011, we convicted the most defendants on hate-crimes charges in more than a decade. And our docket of cases involving hate-fueled violence directed at Muslim, Arab, Sikh, and South Asian communities is on the rise. It is unacceptable that violent acts of hate continue to occur in 2012, and the Department will continue to use every available tool, including the HCPA, to identify and prosecute hate crimes whenever and wherever they occur.

Thank you for the opportunity to address this Subcommittee on the Department's hate-crime enforcement and prevention efforts. I am happy to address any questions you may have.

PREPARED STATEMENT OF MICHAEL A. CLANCY



Department of Justice

STATEMENT OF

**MICHAEL A. CLANCY
DEPUTY ASSISTANT DIRECTOR
COUNTERTERRORISM DIVISION
FEDERAL BUREAU OF INVESTIGATION**

BEFORE THE

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

AT A HEARING CONCERNING

THE DOMESTIC TERRORISM THREAT

PRESENTED

SEPTEMBER 19, 2012

**Statement of
Michael A. Clancy
Deputy Assistant Director
Counterterrorism Division
Federal Bureau of Investigation**

**Before the
Subcommittee on the Constitution, Civil Rights, and Human Rights
Committee on the Judiciary
United States Senate**

**At a Hearing Concerning
The Domestic Terrorism Threat**

**Presented
September 19, 2012**

Good Morning, Chairman Durbin, Ranking Member Graham, and members of the Subcommittee. It is my honor to come before you to represent the Counterterrorism Division of the Federal Bureau of Investigation ("FBI") to discuss one of the highest priorities of the Bureau: the threat posed by domestic extremists.

On September 10, 2012, the FBI disseminated its National Terrorism Assessment on Domestic Terrorism. In the formulation of this assessment, the overall threat ranking considers intent, capability, and posture in its determination of the threat domestic extremist movements pose in the United States. The FBI assesses that economic and political events – foremost among them the coming Presidential election – are likely to provoke domestic extremists into a more active state, although this is unlikely to drive an increase in large-scale violence. Smaller, localized acts of violence committed by domestic extremists, however, cannot be dismissed. The FBI further assesses that domestic extremist movements pose a medium-to-

low terrorism threat. Specific political and economic events scheduled in 2012 create the potential for greater volatility within domestic extremism than existed in the previous year.

In recent months, the FBI has seen numerous examples of domestic terrorism and violence committed by lone offenders or small cells. For example, this year the FBI proactively dismantled an Anarchist Extremist cell comprised of five men who planned to blow up a bridge in Cleveland, Ohio. Four members of the cell have pleaded guilty and the fifth member is going to trial. In November 2011, four members of a militia in Georgia were arrested for planning to acquire silencers and explosives to use against various U.S. Government targets in Atlanta, Georgia. To date, two of the subjects have been sentenced to 60 months incarceration and three years of supervised release for conspiracy to possess an unregistered destructive device. This summer, we have witnessed multiple, high-profile lone-offender shootings. The FBI investigated each of these incidents in partnership with Federal, State, local, and tribal law enforcement agencies, as potential acts of domestic terrorism. Three of these shootings – at a movie theater in Aurora, Colorado, at a Sikh Temple in Wisconsin, and at the Family Research Council headquarters in Washington, D.C. – resulted in the combined deaths of 18 individuals and the wounding of over 50.

Significant political events and scheduled international and economic meetings, combined with ongoing economic concerns, create the potential for greater volatility within domestic extremism in 2012 than existed in the previous year. While all domestic extremist

movements pose a threat, the following potential outcomes are especially relevant in the current environment:

- Election-related events heighten the opportunity for anarchist extremism in 2012.
- The 2012 election process may revitalize recruitment efforts for the white supremacist extremist movement.
- Militia extremists are expected to continue targeting law enforcement and government officials in response to any recently enacted legislation that is perceived as infringing on their constitutional rights.
- White-collar crime by those in the extremist “sovereign citizen” antigovernment movement who exploit the housing crisis could continue if the housing sector of the economy remains weak in 2012.
- Environmental extremists may engage in criminal activity – including the destruction of property – if they perceive that legislative efforts to protect and preserve the environment are ineffective or unsuccessful.

Over the next year, domestic extremists are likely to maintain the intent and capability to pose a persistent threat involving smaller scale bombings, assaults, firearms and explosives violations, arson, white-collar crime, threats, and other violations of Federal law. The FBI will continue to enhance its crucial partnerships with Federal, State, local, tribal, and foreign law enforcement agencies, other members of the U.S. Intelligence Community, and the private sector to combat the unrelenting threat of domestic terrorism.

In every domestic terrorism investigation – and indeed, in every investigation – we in the Bureau strive to balance the need to keep the American public safe with the need to protect

Constitutional rights, including the First Amendment rights to free speech and freedom of assembly. Intelligence and technology are key tools we use to stay ahead of those who would do us harm. Yet, as we evolve and update our investigative techniques and our use of technology to keep pace with today's complex threat environment, we must always act within the confines of the rule of law and the safeguards guaranteed by the Constitution. It is not enough to stop the terrorists; we must always do so while maintaining civil rights and civil liberties. Following the rule of law and upholding civil rights and civil liberties – these are not our burdens. These are what make all of us safer and stronger. In the end, we in the FBI will be judged not only by our ability to keep Americans safe from terrorism, but also by whether we safeguard the civil rights and civil liberties for which we are fighting and maintain the trust of the American people.

Thank you for the opportunity to address the Subcommittee on the FBI's efforts to counter domestic terrorism. I will gladly address any questions you may have.

PREPARED STATEMENT OF HON. SCOTT McALLISTER



**Statement for the Record
United States Department of Homeland Security**

**Deputy Under Secretary for the State and Local Program Office
Scott McAllister
Office of Intelligence and Analysis**

**Testimony on
"Hate Crimes and Domestic Extremism"**

**Before the
United States Senate
Committee on Judiciary
Subcommittee on the Constitution, Civil Rights, and Human Rights**

September 19, 2012

Thank you Chairman Durbin, Ranking Member Graham, and Members of the subcommittee. I appreciate the opportunity to testify today on the Department of Homeland Security's (DHS) efforts to keep our nation safe from evolving threats through information sharing activities with our state and local partners.

It is my pleasure to testify today with my colleagues from the Department of Justice (DOJ) and the Federal Bureau of Investigation (FBI). DHS collaborates very closely and effectively with the FBI, as well as other federal and state and local partners, and together we have forged an unprecedented partnership to meet the shared responsibility of protecting our nation and the American people from threats, be they foreign plots or acts of homegrown violence.

Eleven years after the terrorist attacks of September 11th, America is stronger and more secure thanks to the support of Congress, the work of the men and women of DHS, and our federal, state, local, tribal, and territorial (SLTT) partners across the homeland security enterprise. Created to protect the American people from terrorist and other threats, DHS and its many partners across the federal government, public and private sectors, and communities throughout the country have strengthened homeland security enterprise to better mitigate and defend against evolving threats, while protecting individuals' privacy, civil rights, and civil liberties.

As Secretary Napolitano has said many times, homeland security begins with hometown security. As part of our commitment to strengthening hometown security, we have worked to get information, tools, and resources out of Washington, D.C., and into the hands of SLTT officials and first responders. This has led to improvements in our capability to detect and prevent terrorist attacks against our citizens, our communities, and our critical infrastructure. We have increased our ability to analyze and distribute threat information at all levels. We have invested in training for local law enforcement and first responders of all types in order to increase expertise and capacity at the local level.

In my time today, I would like to provide an overview of the efforts of not just I&A, but the entire Department of Homeland Security, often in partnership with the DOJ and FBI, to keep our nation safe from evolving threats through information sharing activities with our state and local partners.

Current Threats

While the United States has made significant progress, threats from terrorists—including, but not limited to al-Qaeda and al-Qaeda affiliated groups—persist and continually evolve, and the demands on DHS continue to grow. Today's threats are not limited to any one individual, group or ideology and are not defined or contained by international borders. Terrorist tactics can be as simple as a homemade bomb and as sophisticated as a biological threat or a coordinated cyber attack.

DHS and our partners at all levels of government have successfully increased the safety and security of our Nation. However, the continued threat of terrorism in the United States demonstrates that we must remain vigilant and prepared at all times. We remain concerned with threats from domestic terrorists because they tend to operate as lone offenders or in small cells, which complicates law enforcement's detection and disruption.

To address these evolving threats, we work closely with federal and SLTT law enforcement partners on a wide range of critical homeland security issues in order to provide those on the frontlines with the information and tools they need to address threats in their communities and protect people and property.

Information Sharing Activities

DHS' Office of Intelligence and Analysis (I&A) is one of the federal government's key information intermediaries, as well as an intelligence advocate for state, local, tribal, and territorial governments. I&A's mission is to equip the Homeland Security Enterprise (HSE) with the intelligence and information it needs to keep the homeland safe, secure, and resilient. I&A has a unique role as a conduit for information sharing among the Intelligence Community; federal entities; state, local, tribal, and territorial organizations; and private sector partners. This includes promoting an understanding of threats to the homeland through intelligence analysis, collecting information and intelligence to support homeland security missions, managing intelligence activities for the Department, and sharing information, while protecting the privacy, civil rights, and civil liberties of all Americans.

I&A analyzes intelligence and information about homeland security threats and serves as a two-way interface between the Intelligence Community (IC) and SLTT, and private sector partners. This includes providing warnings, actionable intelligence, and analysis to ensure that DHS leadership, departmental operating components, law enforcement and intelligence partners, and frontline law enforcement have the information they need to confront and disrupt terrorist and other threats to the homeland. We share these products through the national network of 77 state and locally operated fusion centers.

We are also working to ensure that every fusion center maintains a set of core capabilities that includes the ability to assess local implications of national intelligence, share information with federal authorities so we can identify emerging national threats, and ensure the protection of civil rights, civil liberties and privacy.

Specifically, we are encouraging fusion centers to develop and strengthen their grassroots analytic capabilities so that national intelligence can be placed into local context, and the domestic threat picture can be enhanced based on an understanding of the threats in local communities. We are partnering with fusion centers to establish more rigorous analytic processes and analytic production plans, increasing opportunities for training and professional development for state and local analysts, and encouraging the development of joint products among fusion centers and federal partners.

Production and Dissemination of Threat Information

The Department has developed tailored product lines to meet the needs of our SLTT partners, and expanded our dissemination to include the diverse range of homeland security stakeholders (law enforcement, emergency management, public health, and private sector). Specifically, I&A produces a variety of timely, tailored, and actionable intelligence products for SLTT partners, to include: Daily Intelligence Highlights (DIH), Roll Call Releases (RCR), Homeland Security Notes (HSN), Homeland Security Reference Aids (HSRA), Homeland Security Assessments

(HSA), Homeland Security Monitors (HSM) Intelligence Notifications and Homeland Security State and Local Intelligence Community of Interest (HS-SLIC) messages, and Suspicious Activity Reports (SAR) trend analysis. Additionally, I&A coordinates the development of tearline reporting with the larger Intelligence Community (IC) during times of imminent threat to ensure that SLTT partners remain fully apprised of the evolving threat environment in the Homeland. I&A also works closely with the FBI on the development of Joint Information Bulletins (JIB), both classified and unclassified, that are disseminated to SLTT and law enforcement officials, which provide situational awareness and information on potential threats.

I&A uses feedback provided by state and local customers to adjust its analytic and current intelligence products to better meet their needs. As a result of feedback received over the last two years, I&A initiated new products including the Snapshot, which identifies tactics, techniques, and procedures of an emerging event which may have Homeland implications, and provides potential indicators and recommended preventive and protective actions. Analysis of survey data provided by SLTT partners on I&A products reveals that 98 percent of SLTT customers rated the relevance of I&A products they reviewed as Important to Critical.

Suspicious Activity Reporting and Raising Public Awareness

Over the past three years, we have transformed how we train our nation's frontline officers regarding suspicious activities, through the Nationwide Suspicious Activity Reporting Initiative (NSI). This initiative, which we conduct in partnership with the DOJ, is an Administration effort to train state and local law enforcement to recognize behaviors and indicators potentially related to terrorism and terrorism-related crime; standardize how those observations are documented and analyzed; and ensure the sharing of those reports with the FBI-led Joint Terrorism Task Forces (JTTFs) for further investigation.

More than 234,000 law enforcement officers have now received training under this initiative, and more are getting trained every week. The training was created in collaboration with numerous law enforcement agencies, and with privacy, civil rights and civil liberties officials. DHS also has expanded the Nationwide Suspicious Activity Reporting Initiative to include our nation's 18 critical infrastructure sectors. Infrastructure owners and operators from the 18 sectors are now contributing information, vetted by law enforcement through the same screening process otherwise used to provide information to the JTTFs. I&A also has conducted numerous domestic terrorism briefings and intelligence exchanges with state and local law enforcement and the private sector to share lessons learned and best practices.

Because an engaged and vigilant public is vital to our efforts to protect our communities, we have also continued our nationwide expansion of the "If You See Something, Say Something™" public awareness campaign. This campaign encourages Americans to contact law enforcement if they see something suspicious or potentially dangerous. To date, we have expanded the campaign to federal buildings, transportation systems, universities, professional and amateur sports leagues and teams, entertainment venues, some of our nation's largest retailers, as well as our SLTT to include local law enforcement. Most recently DHS has partnered with sports leagues such as the National Football League, Major League Soccer, Major League Baseball, the National Basketball Association, National Collegiate Athletic Association, National Hockey

League, U.S. Golf, and the U.S. Tennis Association, to promote public awareness of potential indicators of terrorism at sporting events.

Countering Violent Extremism

At DHS, we believe that local authorities and community members are often best able to identify individuals or groups residing within their communities exhibiting dangerous behaviors—and intervene—before they commit an act of violence. Countering violent extremism (CVE) is a shared responsibility, and DHS continues to work with a broad range of partners to gain a better understanding of the behaviors, tactics, and other indicators that could point to terrorist activity, and the best ways to mitigate or prevent that activity.

The Department's efforts to counter violent extremism are three-fold. We are working to better understand the phenomenon of violent extremism through extensive analysis and research on the behaviors and indicators of violent extremism. We are bolstering efforts to address the dynamics of violent extremism by strengthening partnerships with state, local, and international partners. And, we are expanding support for information-driven, community-oriented policing efforts through training and grants.

Over the past year, DHS has worked closely with state and local partners, including the State and Provincial Police Academy Directors (SPPADS), the International Association of Chiefs of Police (IACP), the Major City Chiefs Association (MCCA), the Major County Sheriff's Association (MCSA), as well as the National Counterterrorism Center (NCTC), DOJ, and the FBI to develop training for Federal, state and local, and Correctional Facility law enforcement officers, as well as a training block for State Police Academies.

The key goal of the training is to help law enforcement recognize the indicators of violent extremist activity and distinguish between those behaviors that are potentially related to crime and those that are constitutionally protected or part of a religious or cultural practice. The Department has hosted four workshops to receive feedback from front line officers on the training materials, including workshops in Columbus, OH, San Diego, CA, Washington, DC, and Minneapolis, MN. Workshops were also conducted for Correctional Facility law enforcement, including one in Sykesville, MD and one in Orange County, CA. Additionally, the Department held a separate session with the State and Provincial Policy Academy Directors and IACP to receive input on the training materials focused for State Academy Training facilities.

Based on feedback we received from SPPADS Directors and the IACP's CVE Advisory Group that it would be helpful to have CVE training available online so that law enforcement can access it more easily, the Department has created a new CVE Training Webportal, accessible to law enforcement via the Homeland Security Information Network (HSIN), which contains CVE training curricula, case studies, research, products, and cultural competence materials. This Webportal was launched on August 31, 2012 for a select group of SPPADS Directors and CVE Trainers, and will be available to law enforcement training practitioners nationwide by the end of September. Additionally, the Department is holding a Train-the-Trainer Workshop for CVE Trainers and Practitioners from each state on September 27-28, 2012 in San Diego, CA.

All of this is consistent with the Administration's CVE Strategy released in August 2011 and the CVE Strategic Implementation Plan (SIP) for Empowering Local Partners to Prevent Violent Extremism in the United States released in December 2011.

As part of our CVE approach, I&A has conducted extensive analysis and research to better understand the threat of violent extremism in order to support state and local law enforcement, fusion centers, and community partners with the knowledge needed to identify behaviors and indicators of violent extremism, and prevent violent crime. I&A's analysis and research focuses on assessing strategic level patterns and trends in the activities of domestic extremist movements to help inform SLTT partners so they can best prioritize their own resources and determine their own vulnerabilities. In furtherance of this effort, I&A prepares case studies on key domestic extremist groups and movements. These case studies – and other products – identify indicators of common violent extremist activities.

DHS has also supported State and Local CVE activities through grants. DHS publicly released the *CVE Training Guidance and Best Practices*, which was sent to all state and local partner grantees and grantees thereby tying CVE to grant guidance policy on October 7, 2011. DHS also incorporated language into FY 2012 grant guidance that prioritizes CVE and allows funds to be used in support of state and local CVE efforts.

Active Shooter Threats

There have been a series of international and domestic violent extremist incidents over the past several years that have involved active shooters, including the 2008 Mumbai attacks; shootings in 2009 at the U.S. Holocaust Memorial Museum, Fort Hood, and a military recruiting station in Little Rock, Arkansas; and the 2011 attacks in Utoya, Norway. The recent shooting at a Sikh temple in Oak Creek, Wisconsin was carried out by an individual with a history of involvement in the white supremacist extremist movement, although his motives remain unknown.

Preventing and responding to active shooter threats is a priority for state and local law enforcement authorities, regardless of whether the attacker or attackers are motivated by an extreme ideology or some other criminal intent. Regardless of the motivation, prevention is a priority, response efforts will be the same and the impact on the community is significant. This is an area in which the Department, in partnership with the FBI has been very active. DHS is working closely with our partners to better understand the behaviors and indicators that lead to these acts of violence, the tactics used, and the actions that can be taken to help prevent them in the future. A central goal of our efforts is to build capabilities within state and local law enforcement communities to respond to active shooter threats, regardless of the motives or origins.

As part of this effort, we have worked with the FBI to produce case studies regarding past active shooter events and have made them available to state and local law enforcement partners. These case studies include behaviors and indicators, so that front line personnel will be better able to recognize pre-incident indicators of an emerging active shooter threat. We have incorporated this information in the training materials pertaining to CVE.

Additionally, the DHS National Protection and Programs Directorate Office of Infrastructure Protection and the Federal Emergency Management Agency (FEMA) provide active shooter trainings for state and local law enforcement and private sector partners. DHS's Active Shooter Awareness Program provides resources to help public and private-sector security managers train their workforce and enhance their facilities' preparedness and response to an active shooter scenario. DHS also has developed an online Independent Study Course titled "Active Shooter: What You Can Do," as well as additional active shooter information.

FEMA, through Louisiana State University, a member of the National Domestic Preparedness consortium, also offers the Law Enforcement Active Shooter Emergency Response (LASER) course which addresses the technical aspects of planning and implementing a rapid law enforcement deployment to an active shooter incident.

In addition, the Federal Law Enforcement Training Center (FLETC) has been instrumental in preparing our Nation's state, local, and Federal law enforcement officers to respond effectively to an active shooter incident should one occur. FLETC has trained over 4,000 U.S. law enforcement officers in active shooter response and active shooter response instructor training. These newly trained instructors have gone on to train thousands more. FLETC also has reached out to its law enforcement partners that have experienced active shooter incidents to develop "lessons learned/lesson anticipated" that help to continually update and improve the tactics for active shooter response programs.

DHS also has developed an online Independent Study Course titled "Active Shooter: What You Can Do" through FEMA's Emergency Management Institute. This course provides guidance to individuals, including managers and employees, to prepare to respond to an active shooter situation. Nearly 134,000 government and private-sector participants have completed this training since it was released in March 2011.

In collaboration with the FBI and NCTC, DHS and FEMA have organized a two-day Joint Counterterrorism Awareness Workshop Series (JCTAWS) to review and improve operational capabilities, response resources, and information sharing among Federal, state, local, and private sector partners. This nationwide initiative is designed to increase the ability of local jurisdictions to prepare for, protect against, and respond to coordinated terrorist attacks against multiple targets. Since 2011, workshops have been conducted in Boston, Philadelphia, Honolulu, Indianapolis, Sacramento, Houston, Nashville, Denver, and Los Angeles. Modified workshops were also conducted in Tampa and Charlotte in support of the Republican and Democratic National Conventions. The next scheduled workshop is in Las Vegas this October.

Because faith-based communities have been the targets of violence, DHS continues to maintain regular contact with faith-based communities and helps coordinate rapid incident communications efforts. One recent example includes the DHS Office for Civil Rights and Civil Liberties' (CRCL) activation of the Incident Community Coordination Team (ICCT) on August 6, 2012, following the shooting in Oak Creek, Wisconsin.

During the call, leaders from Sikh, Hindu, Jewish, Muslim, and interfaith communities and organizations discussed the shooting with senior Government officials from the White House, DOJ, FBI, and DHS. More than 100 participants from across the country joined the ICCT call to

share information about response activities and resources available, and to address community concerns.

Through the Office of Infrastructure Protection, DHS also has made the Active Shooter Awareness Program available to faith-based communities, as well as provided resources to ensure that their facilities are safe and secure through site assessments, threat briefings, and trainings.

Conclusion

While America is stronger and more resilient as a result of these efforts to strengthen the Homeland Security Enterprise, threats from terrorists persist and continue to evolve. Today's threats do not come from any one individual or group. They may originate in distant lands or local neighborhoods.

The federal government realizes that SLTT law enforcement, as well as citizens, businesses, and communities are on the frontlines of detection and prevention. Protecting the nation is a shared responsibility and everyone can contribute by staying informed and aware of the threats the nation faces.

Thank you for this opportunity to outline DHS's efforts to prepare for and prevent terrorist attacks against the homeland. I look forward to your questions.

PREPARED STATEMENT OF HARPREET SINGH SAINI

Testimony of Harpreet Singh Saini

before the

UNITED STATES SENATE

Subcommittee on the Constitution, Civil Rights and Human Rights

Committee on the Judiciary

on

“Hate Crimes and the Threat of Domestic Extremism”

September 19, 2012

My name is Harpreet Singh Saini. I would like to thank Senator Durbin, Ranking Member Graham, and the entire subcommittee for giving me the opportunity to be here today. I am here because my mother was murdered in an act of hate 45 days ago. I am here on behalf of all the children who lost parents or grandparents during the massacre in Oak Creek, Wisconsin.

A little over a month ago, I never imagined I'd be here. I never imagined that anyone outside of Oak Creek would know my name. Or my mother's name. Paramjit Kaur Saini. Or my brother's name, Kamaljit Singh Saini. Kamal, my brother and best friend, is here with me today.

As we all know, on Sunday, August 5, 2012, a white supremacist fueled by hatred walked into our local *Gurdwara* with a loaded gun. He killed my mother, Paramjit Kaur, while she was sitting for morning prayers. He shot and killed five more men – all of them were fathers, all had turbans like me.

And now people know all our names: Sita Singh. Ranjit Singh. Prakash Singh. Suvegh Singh. Satwant Singh Kaleka.

This was not supposed to be our American story. This was not my mother's dream.

My mother and father brought Kamal and me to America in 2004. I was only 10 years-old. Like many other immigrants, they wanted us to have a better life, a better education. More options. In the land of the free. In the land of diversity.

It was a Tuesday, 2 days after our mother was killed, that my brother Kamal and I ate the leftovers of the last meal she had made for us. We ate her last rotis – which are a type of South Asian flatbread. She had made the rotis from scratch the night before she died. **Along with the last bite of our food that Tuesday...came the realization that this was the last meal, made by the hands of our mother, that we will ever eat in our lifetime.**

My mother was a brilliant woman, a reasonable woman. Everyone knew she was smart, but she never had the chance to get a formal education. She couldn't. As a hard-working immigrant, she had to work long hours to feed her family, to get her sons educated, and help us achieve our American dreams. This was more important to her than anything else.

Senators, my mother was our biggest fan, our biggest supporter. She was always there for us, she always had a smile on her face.

But now she's gone. Because of a man who hated her because she wasn't his color? His religion?

I just had my first day of college. And my mother wasn't there to send me off. She won't be there for my graduation. She won't be there on my wedding day. She won't be there to meet her grandchildren.

I want to tell the gunman who took her from me: You may have been full of hate, but my mother was full of love.

She was an American. And this was not our American dream.

It was not the American dream of Prakash Singh, who had only been reunited with his family for a few precious weeks after 6 years apart. When he heard gunshots that morning, he told his two children to hide in the basement. He saved their lives. When it was over, his children found him lying in a pool of blood. They shook his body and cried "Papa! Get up!" But he was gone.

It was not the American dream of Suvegh Singh Khattrra, a retired farmer who came here to be with his children and grandchildren. That morning, his family found him face down, a bullet in his head, his turban thrown to the side.

It was not the American dream of Satwant Singh Kaleka, president of the *gurdwara* who was killed while bravely fighting the gunman.

It was not the American dream of Sita Singh and Ranjit Singh, two brothers who sang prayers for our community and were separated from their families for 16 years. Their wives and children came to this country for the first time for their funerals.

It was not the American dream of Santokh Singh or Punjab Singh who were injured in the massacre. Punjab Singh's sons are by his side day and night, but he may never fully recover from his multiple gunshot wounds.

We ache for our loved ones. We have lost so much. But I want people to know that our heads are held high.

My mother was a devout Sikh. Like all Sikhs, she was bound to live in Chardi Kala – a state of high spirits and optimism. She was also taught as a Sikh to neither have fear of anyone nor strike fear in anyone.

So despite what happened, we will not live in a state of fear, nor will we make anyone fearful.

Like my Mother, my brother and I are working every day to be in a state of high spirits and optimism.

We also know that we are not alone. Tens of thousands of people sent us letters, attended vigils, and gave us their support – Oak Creek’s Mayor and Police Chief, Wisconsin’s Governor, the President and the First Lady. All their support also gave me the strength to come here today.

Senators, I came here today to ask the government to give my mother the dignity of being a statistic. The FBI does not track hate crimes against Sikhs. My mother and those shot that day will not even count on a federal form. We cannot solve a problem we refuse to recognize.

Senators, I also ask that the government pursue domestic terrorists with the same vigor as attackers from abroad. The man who killed my mother was on the watch lists of public interest groups. I believe the government could have tracked him long before he went on a shooting spree.

Finally, Senators, I ask that you stand up for us. As lawmakers and leaders, you have the power to shape public opinion. Your words carry weight. When others scapegoat or demean people because of who they are, use your power to say that is wrong.

So many have asked Sikhs to simply blame Muslims for attacks against our community or just say “We are not Muslim.” But we won’t blame anyone else. An attack on one of us is an attack on all of us.

I also want to be a part of the solution. That’s why I want to be a law enforcement officer like Lt. Brian Murphy, who saved so many lives on August 5, 2012. I want to protect other people from what happened to my mother. I want to combat hate – not just against Sikhs but against all people. Senators, I know what happened at Oak Creek was not an isolated incident. I fear it may happen again if we don’t stand up and do something.

I don’t want *anyone* to suffer what we have suffered. I want to build a world where all people can live, work, and worship in America in peace.

Because you see, despite everything, I still believe in the American dream. In my mother’s memory, I ask that you stand up for it with me. Today. And in the days to come.

Thank you for considering my testimony.

PREPARED STATEMENT OF JAMES B. JACOBS

Statement of:

Professor James B. Jacobs

Warren E. Burger professor of Law

NYU School of law

Thank you for the invitation to share my views with you at today's hearing.

I have been studying and writing about hate crime for twenty years. In 1998, Oxford University Press published my book, HATE CRIME: CRIMINAL: LAW AND IDENTITY POLITICS . The book is, in effect, an extended argument against the need for and the desirability of hate crime laws. I argue that there is no problem for which hate crime laws are the solution. Certainly, the maximum sentences for criminal offenses, are long enough to serve all the needs of criminal punishment. If anything, we are reaching a societal consensus that we have too much punishment, not too little.

I hasten to add that I deplore discrimination and bias and, of course, violent crime motivated by bias. All violent crime, no matter the motivation, is deplorable and therefore rightly carries significant maximum punishment. I do not think it is justifiable, desirable or useful to create a hierarchy of crimes and victims based on the racial, religious, gender, sexual orientation identity of the perpetrator and/or victim.

The labeling of offenses as hate crimes or bias crimes is hopelessly subjective and generates unnecessary and divisive controversy. The early efforts by hate crime proponents to resist including gender-motivated-violence as a hate crime was regarded as insensitive at best and indicative of blatant bias at worse. The subsequent effort by some to resist including anti-gay motivation as a bias crime trigger was similarly regarded as blatantly discriminatory and

intolerant. Even now, there continues to be debate about what biased motivations should warrant extra punishment.

Determining what is a bias crime is fraught with difficulty, thus frustrating the aim of the federal Hate Crime Statistics Act and many prosecutions. Sometime offenders are not caught. When they are caught, it is usually difficult to determine offenders' motivations. And, even if prosecutors believe that they can determine motivation, it is often very difficult to prove.

One need only recall the controversy over whether Dharun Ravi's effort to photograph his roommate, Tyler Clementi's, homosexual encounter ought to be charged as a bias crime. While all Americans could agree that invading a roommate's privacy is wrong, there was great division over whether the punishment should be doubled if the roommate is gay. The whole fight was so unnecessary since "simple" invasion of privacy was punishable in New Jersey by a five year maximum sentence. The politics of hate crime laws divide rather than unite us.

In the 1980s, when the term hate crime was invented, its proponents said they meant for the laws to be used to punish murderous plots by members of neo-Nazi and similar hard-core hate groups. The reality is that bias crime prosecutions are far more likely to be directed against the Archie Bunkers than the (white supremacist) Tom Metzgers. Indeed, most hate crime prosecutions involve young defendants, frequently mixed-up teenagers, who commit low-level offenses such as criminal mischief and simple assault, typically escalating from spontaneous altercations at a party, in a parking lot or at a school event. Many cases that initially are called hate crimes, upon closer inspection, involve serious mental illness rather than ideological commitment. It is worth pondering that the federal hate crime statute, passed in 2009 to bring federal law enforcement resources to bear on hard core murderous hate groups, is this week

being used to prosecute a breakaway Amish cleric in Ohio for religiously degrading Amish men who did not follow his lead by ordering their beards to be cut.

As crime control policy, bias crime laws are unnecessary. Failure to provide for maximum punishments adequate to satisfactorily punish criminal offenders is not an American problem. We probably have the longest sentence maxima in the free world. For the most serious crimes, we have life imprisonment without parole or capital punishment. No more can be added. Ironically, some states, in the name of creating a more tolerant society have made bias motivation an aggravating factor that makes a murder eligible for capital punishment. Another irony is the use of prison to punish bias crimes. Prisons, as we know, are the number one spawning grounds for hate groups.

Hate crime laws are counterproductive. They politicize crime and spawn charges of hypocrisy and double standards. Those who are prosecuted call themselves victims of political correctness and martyrs to the First Amendment.

The hate crime laws conflict with their proponent opposition to over-use of criminal law and especially to over-incarceration. Sending more people to prison for longer is hardly likely to contribute to a more tolerant society.

PREPARED STATEMENT OF DARYL JOHNSON

Statement of Daryl Johnson
CEO, DT Analytics

Before the United States Senate
Committee on the Judiciary
Subcommittee on the Constitution

Hate Crimes & the Threat of Domestic Extremism

September 19, 2012

Introduction

Good morning Mr. Chairman and members of the Committee. Thank you for giving me the opportunity to appear before you to discuss the significant issue of domestic terrorism and, in particular, the threat from violent extremists. I also thank you for holding this hearing today in an effort to increase public awareness of this issue.

For the record, I am a subject matter expert in the area of domestic extremism and Chief Executive Officer of DT Analytics—a private consulting company based in the Washington, D.C. area. DT Analytics offers specialized law enforcement training, classroom instruction, briefing presentations and other speaking engagements on domestic non-Islamic extremists, their radical ideology, activities, tactics and tradecraft. For two decades, I have also worked as an intelligence analyst for several federal agencies.

From 2004-2010, I was the senior domestic terrorism analyst at the U.S. Department of Homeland Security (DHS), Office of Intelligence & Analysis (I&A). During my tenure at DHS, I wrote numerous sensitive intelligence reports and briefed a wide range of organizations, including Congressional staff; federal, state and local law enforcement agencies; members of the intelligence community; colleges and universities, and other non-government organizations. I also led a team of analysts responsible for analyzing domestic extremist activity in the United States.

Prior to working at DHS, from 1999-2004, I was the subject matter expert on violent antigovernment groups (a designated intelligence program for monitoring the criminal activities and violent acts of rightwing extremists in the U.S.) at the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF). I provided analytical support during highly sensitive ATF investigations focused on the criminal activities of domestic extremists, including members of the Ku Klux Klan, militia extremists, Christian Identity adherents, neo-Nazis, and sovereign citizens. I continue to serve as a part-time instructor at the ATF National Academy in Glynco, Georgia. I have been providing this service for more than twelve years, educating and training newly hired special agents on the subject of domestic terrorism.

I began my federal career as a counterterrorism analyst for the U.S. Army. I served as a civilian in the Army for several years specializing in the continental United States force protection mission. This experience provided me with unique insights into white supremacist

and militia extremist targeting of military personnel for recruitment, as well as extremists' plotting to attack military installations in the U.S. during the 1990s.

Today's Domestic Terrorism Threat

The rising threat of domestic terrorism¹ within the United States should not diminish our focus on deterring threats from al-Qaeda and its affiliates. Rather, our nation's intelligence and law enforcement resources need to be flexible and resilient in their ability to combat terrorism from all sources of violent extremism, including domestic non-Islamic extremists.

The threat from domestic terrorism motivated by extremist ideologies is often dismissed and overlooked in the national media and within the U.S. government. Yet we are currently seeing an upsurge in domestic non-Islamic extremist activity, specifically from violent rightwing extremists². While violent leftwing attacks were more prevalent in the 1970's, today the bulk of violent domestic activity emanates from the rightwing. Recent acts of domestic terrorism have instilled fear within the U.S. population as extremists attempt to force their social and political agendas through violence.

Since the 9/11 terrorist attacks, Muslim extremists within the United States, either aligned with al-Qaeda's ideology or other perverse interpretations of violent jihad, have carried out five attacks on U.S. soil. These five attacks resulted in 17 deaths (thirteen of these deaths resulted from a single violent act by Nidal Malik Hasan at Ft. Hood in November 2009). There have also been numerous arrests related to alleged Muslim extremist terrorists plotting in the U.S. since 9/11.

In contrast, there has also been a multitude of domestic non-Islamic extremist attacks—many of which have resulted in deaths and injury over the past four years. In particular, domestic rightwing extremists trumped all other forms of ideologically-motivated violence in the U.S. for number of deaths during this time period.

Since the 2008 Presidential election, domestic non-Islamic extremists have shot 27 law enforcement officers, killing 16 of them.³ Over a dozen mosques have been attacked with firebombs—likely attributed to individuals embracing Islamophobic beliefs.⁴ In May 2009, an abortion doctor was murdered while attending church. Two other assassination plots against abortion providers were thwarted during 2011 and six women's health clinics were attacked with explosive and incendiary devices within the past two years.⁵

¹ The FBI defines domestic terrorism as "the unlawful use, or threatened use, of force or violence by a group or individual based and *operating entirely within the United States or its territories without foreign direction* [emphasis added] committed against persons or property to intimidate or coerce government, the civilian population, or any segment thereof, in furtherance of political or social objectives ("Terrorism in the United States – 1999," FBI, p. 11, 2000).

² The rightwing extremist movement in the United States primarily consists of white supremacists, militia extremists, sovereign citizens, anti-abortion extremists and tax resisters.

³ <http://www.dtanalytics.org/blog/category/chronology-extremist-attacks/>, viewed September 10, 2012.

⁴ <http://www.dtanalytics.org/blog/?s=mosque>, viewed September 10, 2012.

⁵ <http://www.dtanalytics.org/blog/category/chronology-extremist-attacks/>, viewed September 10, 2012.

Further, in January 2010, a tax resister deliberately crashed his small plane, which was filled with a 50-gallon drum of gasoline, into an IRS processing center in Austin, Texas, injuring 13 people and killing a government employee.⁶ In January 2011, three incendiary bombs were mailed to government officials in Annapolis, Md., and Washington, D.C.⁷ Also, in January 2011, a backpack bomb was placed along a Martin Luther King Day parade route in Spokane, Wash. meant to kill and injure participants in a civil rights march.⁸ Finally since 2010, there have been multiple plots to kill ethnic minorities, police and other government officials by militia extremists and white supremacists in our country.⁹

In August 2012 alone, a white supremacist killed six worshipers at a Sikh temple in Oak Creek, Wis.¹⁰ Sovereign citizens shot four sheriff's deputies, killing two, in St. Johns Parish, La.¹¹ And, four active-duty U.S. Army soldiers, who had formed an anti-government militia group and were hoarding weapons and ammunition in an alleged plot to overthrow the government, were charged in the deaths of two associates who, they worried, might tip law enforcement to their clandestine activities.¹² There was also what appears to have been an incident of leftwing domestic terrorism: a single-issue extremist shot a guard at the Family Research Council office in Washington, D.C.¹³ Unfortunately, these are only the latest manifestations of domestic non-Islamic extremist violence in the Homeland.

It is also important to note that eight members of the Hutaree, an extremist militia in Michigan, acquitted this year of plotting to kill police officers and planting bombs at their funerals, had an arsenal of weapons at their disposal that was larger than all 230+ Muslim plotters and attackers charged in the U.S. since the Sept. 11 attacks combined.¹⁴

Mr. Chairman and members of the Committee, the federal government must do more to combat domestic terrorism within the U.S. Our failure to act now will assuredly embolden the enemy and bring more attacks.

Extremist Landscape in America

Violent extremism is a growing threat in the United States. The threat emanates from extremist belief systems that represent a broad range of religious, political and social causes. In particular, several factors contribute to the recent rise in violent antigovernment extremism in the United States: the economic recession, divisive political and social issues, shifting demographics in America and some policy changes endorsed by the new Presidential administration.

⁶ "Joe Stack Plane Crash Austin Aftermath 13 Injured, Two Critically," CBS News, February 18, 2010.

⁷ "Package Addressed to Janet Napolitano Ignites at Washington D.C. Post Office," ABC News, January 8, 2011.

⁸ "MLK Bomber Gets 32 Years in Prison," Spokane Spokesman-Review, December 20, 2011.

⁹ <http://www.dtanalytics.org/blog/category/chronology-extremist-attacks/>, viewed September 10, 2012.

¹⁰ "Sikh Temple Shooting in Wisconsin," CNN, Special Report, August 2012.

¹¹ "Alleged Louisiana Cop Shooters Linked to 'Sovereign Citizens Movement,'" ABC News, August 19, 2012.

¹² "Case Uncovers Terror Plot By Soldiers to Kill Barack Obama," Associated Press, August 27, 2012.

¹³ "Security Guard Shot at Christian Lobbying Group," Washington Post, August 15, 2012.

¹⁴ Research and analysis of all court documents posted to Steve Emerson's Investigative Project website at <http://www.investigativeproject.org>, viewed August 2010.

Extremism is perpetuated through the words and actions of individuals, groups and movements—sometimes it transcends peaceful, law-abiding and constitutionally protected activity and includes threatening, criminal and violent actions. Some forms of extremism are successfully portrayed as acceptable, normal or even mainstream behavior, which can be deceptive and seductive. Adherents of extremism may also attempt to downplay and distance themselves from any negative stereotypes.

Of course, it is important to note that an individual holding extremist views, no matter how offensive, is protected by our Constitution unless and until he or she acts upon these beliefs by engaging in criminal conduct. Extremist belief systems represent a broad range of religious, political and social causes. On the far right of the political spectrum, right-wing extremists include white supremacists, sovereign citizens (i.e. "Freemen"), paramilitary and militia groups, and other types of anti-government extremists (i.e. Birthers, Truthers, Oath Keepers and Three Percenters). On the far left of the political spectrum, left-wing extremists today are primarily comprised of anarchists (i.e. Black Bloc, Crimethinc, Ruckus Society, etc.), Black nationalists (such as the New Black Panther Party and New Afrikan [sic.] Movement), and some fringe elements of the Occupy Wall Street movement. There are also single-issue extremists representing both extreme ends of the political spectrum. Single-issue extremists are distinct from the other extremist types because they are overwhelmingly focused on a single political or social cause. On the far right, single-issue extremists focus their attention on targets related to abortion, illegal immigration or federal income tax issues. On the far left, single-issue extremists direct their interests against targets dealing with the environment (i.e. earth rights), animal liberation or anti-war causes.

I often describe extremist ideology in my law enforcement training as "a poison" absorbed into a person's mind. Extremist ideology uses deception, half-truths, and blatantly false and often over simplistic explanations to solve complex national issues or personal problems. Extremist ideologies are quick to blame others for these problems—often providing justification for violence and criminal activity. Scapegoats are also given (people, organizations and institutions), providing a lengthy list of potential targets to avenge these grievances.

Many rightwing extremists, particularly militia members, also perceive any mention of gun control legislation as a threat to their right to bear arms and, in response, have increased weapons and ammunition stockpiling, as well as renewed participation in paramilitary training exercises. Such activity, combined with a heightened level of extremist paranoia, has the potential to facilitate criminal activity and violence.

Extremist Tactics & Tradecraft

Since the 1980s, domestic terrorism tactics and doctrine have changed as violent extremists have adapted in response to successful law enforcement operations and government infiltration. Many domestic terrorists (including environmental, militia and white supremacist extremists) have abandoned the traditional terrorist organizational model which is built upon a central command and cellular structure. Instead, they have embraced the tactics of lone

offenders (i.e. lone wolf), small, independent cells, and leaderless resistance.^{15,16} These terrorist-related tactics pose a significant challenge to law enforcement because they are difficult to detect, identify and disrupt. These tactics also enable potential terrorists to carry out highly destructive attacks, as well as potentially mass casualty producing events, without prior warning and virtually no pre-incident indicators.

Lone offenders and small cells adhering to the doctrine of leaderless resistance operate independently from one another and in secret.¹⁷ Leaderless resistance advocates either forming small, independent cells of two to six people or acting alone to commit acts of violence and terrorism.^{18,19} They often have “loose” affiliations with “aboveground” extremist groups—meaning cell members may occasionally attend group functions or may attempt to join a group.^{20,21} On the other hand, some purposely do not join groups out of fear of being negatively associated with the group or identified by law enforcement.²²

Domestic terrorists today use the tactics of leaderless resistance, small, independent cells, and lone offenders. Such tactics, however, often inhibits the lethal capabilities of most domestic terrorists because there is no formalized terrorist training and aspiring terrorists lack experience. The principle of leaderless resistance emphasizes neither organizational structure nor formalized leadership.²³ The leaderless resistance strategy encourages extremists to self-train, outline their own objectives, and conduct attacks of their own accord. Although difficult to detect and preempt, this attack strategy does not lend itself well to developing sophisticated terrorist tradecraft as a result of its emphasis on self-training. Unless they possess prior specialized knowledge in tactical and explosives techniques, potential domestic terrorists are generally hampered in their ability to cause mass-casualty producing attacks. Such limitation, however, should not cause law enforcement and security forces to dismiss the potential consequences of domestic terrorist acts or become complacent to such threats.

Those who ultimately evolve into domestic terrorists are often introduced to extremism through a mainstream group or cause. There, they meet others with more extreme views and are recruited into extremist groups and causes where they are indoctrinated. Through continued indoctrination, some extremists turn into dedicated, hardcore extremists. A violence-prone extremist may eventually become disenfranchised or frustrated with the tactics of the aboveground extremist group. They may feel passive tactics are not producing the desired results. Thus, violent extremists seek more radical courses of action, such as criminal activity

¹⁵ Beam, Louis. “Leaderless Resistance: An Essay.” 1983. Some would argue that international terrorism, as separate and distinct from domestic terrorism, may be following a similar path (See Marc Sageman, *Leaderless Jihad: Terrorist Networks in the 21st Century*, 2008).

¹⁶ “Igniting the Revolution: An Introduction to the Earth Liberation Front,” North American Earth Liberation Front Press Office, 2001.

¹⁷ “Advice for Lone Wolves,” Email, Maryland National Socialist Party, Yahoo! Group, September 2, 2006.

¹⁸ Beam, Louis. “Leaderless Resistance: An Essay.” 1983.

¹⁹ Hoskins, Richard Kelly. *Vigilantes of Christendom: The Story of the Phineas Priesthood*, 1990.

²⁰ Knob Creek (email message discussing topics at a militia meeting held in Knob Creek, Kentucky, in April 1998), Eagle Flight Militia List Server, April 29, 1998.

²¹ “Lone Wolf Commandments,” message posted to multiple white supremacist Yahoo! groups, July 18, 2008.

²² “The Lone Wolf Creed,” Email, White Aryan Resistance, Resist-Now List Server, April 26, 2007.

²³ “Laws of the Lone Wolf,” Email, White Aryan Resistance, Resist-Now List Server, April 29, 2007.

and violence on behalf of “the cause.” Violent extremists may feel compelled to form their own (more radical) splinter faction, create a secretive subgroup within the extremist organization or act alone. In some cases, the violent extremist may be “kicked out” of an extremist group for advocating or introducing violent action or criminal activity. Upon separating from the aboveground extremist group, violent extremists generally become more fanatical, fearful and paranoid. Their mental state continues to deteriorate and often leads to criminal activity, threats and violence.^{24,25}

Domestic terrorism attacks have been known to have deadly and costly consequences, such as the bombing of the Alfred P. Murrah Federal Building in Oklahoma City on April 19, 1995, or the \$50 million arson of an apartment complex under construction in San Diego, California, in 2003.²⁶ Further, domestic terror attacks, however small, can also have a deep psychological effect on American society and can negatively impact our way of life and instill fear within large cultural communities. These psychological effects were demonstrated by the 1996 bombing at the Centennial Olympic Park in Atlanta, Georgia, and the August 2012 attack at the Sikh temple in Oak Creek, Wisconsin.

Domestic terrorists tend to attack symbolic, opportunistic targets rather than random civilians. Some notable tactics used by domestic terrorists in the U.S. include:

Firearms: Firearms are the weapon of choice for many violent extremists in the U.S. Unlike a bomb, firearms are often purchased already assembled, at an affordable price and with relative ease.²⁷ Furthermore, a person can self-train in the use of firearms and become a proficient marksman within a relatively short period of time and with little prior knowledge, skill or experience. Extremists that embrace racist or militant antigovernment beliefs are more likely to carry out violent acts using firearms than other extremist types. White supremacist, militia members, sovereign citizens and other antigovernment extremists have been known to possess a wide range of firearms, both semi-automatic and fully automatic, and engage in stockpiling activity. They have also been known to equip firearms with large capacity magazines, silencers, night vision capability and high-powered magnifications devices. Of further concern, these extremists have been known to possess large-caliber firearms, such as .50 caliber machine guns as well as .50 caliber sniper rifles.²⁸ These types of firearms have an effective range of 2,000 meters or more and are capable of penetrating several inches of steel, concrete or other reinforced substances.²⁹ They are particularly effective against lightly armored vehicles, helicopters and other types of aircraft.³⁰ In the hands of a terrorist, this type of weapon could prove highly destructive and extremely lethal.³¹

²⁴ Conversations with a founder of the Sacramento County Sheriff’s Department Threat Management Unit [retired], 2007-2008.

²⁵ “Threat Assessment Insights,” former Detective, Missouri State Highway Patrol, November 5, 2004.

²⁶ “What is E.L.F.?” ABC News, January 20, 2006.

²⁷ Krouse, William. “Gun Control Legislation,” Congressional Research Service, August 27, 2010.

²⁸ “Weaponry: Availability of .50 Caliber Semiautomatic Rifles,” General Accounting Office, June 30, 1999.

²⁹ “Long-Range .50 Caliber Sniper Weapons,” U.S. House of Representatives, Committee on Government Reform-Minority Staff Report, May 3, 1999.

³⁰ *Ibid.*

³¹ *Ibid.*

Improvised Explosive Devices: Domestic terrorists have used improvised explosive devices (IED) during attacks in the Homeland. With few exceptions, these devices exhibit a low-level of sophistication and have primarily consisted of pipe bombs and package bombs. Overall, these devices are constructed of common, household materials, such as PVC pipe, galvanized steel pipe and other plastic and metal containers. Past bombings attributed to domestic terrorists have included a variety of targets, such as federal buildings, financial institutions and gathering places for social activities. Violent domestic extremists have also been known to use secondary devices to target first responders, including law enforcement officers and other emergency service personnel.³²

Incendiary Devices: White supremacists, antigovernment extremists and single-issue terrorists, such as the Army of God (AOG), the Animal Liberation Front (ALF) and Earth Liberation Front (ELF), have historically demonstrated an affinity for using incendiary devices and firebombs. Extremist adherents likely select this type of capability for a variety of reasons. First, incendiary devices are easily improvised and inexpensive to make. Second, incendiaries require very little training to construct and use. Overall, flammable materials are not as volatile as explosives making them easier to handle. Flammable materials are also readily available and are less likely to raise suspicion. Third, incendiary devices, if properly used and strategically placed, can cause extensive property damage over a widespread area—even greater damage than a similarly sized explosive device. Fourth, incendiary devices provide a great opportunity for loss of evidence through fire suppression efforts. Finally, arson incidents, like bombings, are guaranteed to draw media and law enforcement attention as well as generate publicity for an extremist's cause.

White supremacists and militia extremists possess the greatest capability for violent action, including shootings, bombings and murder. They are known to maintain large weapons caches, for attracting recruits who may be mentally ill and who have violent tendencies as well as attract former and current military servicemen who train others in various paramilitary skills.^{33,34,35}

Other extremists affiliated with the anarchist, animal rights, earth rights, anti-abortion and anti-tax movements also use violent tactics that include acts of sabotage, arson and property destruction, in addition to other criminal acts. They have also been known to issue death threats to perceived enemies and target animal researchers and abortion providers at home.

³² "Terrorism in the United States [multiple editions]," Federal Bureau of Investigation, Counterterrorism Division, 1988-2005.

³³ "SPLC Urges Congress to Investigate Extremism in the Military," SPLC, July 10, 2009.

³⁴ "U.S. Army Battling Racists Within Its Own Ranks," Reuters, August 21, 2012.

³⁵ "White Supremacist Recruitment of Military Personnel Since 9/11," FBI, Counterterrorism Division, July 7, 2008.

Current Limitations On Combating Domestic Terrorism

Domestic Terrorism Definition Confusion

The FBI defines domestic terrorism as “the unlawful use, or threatened use, of force or violence by a group or individual based and operating entirely within the United States or its territories without foreign direction committed against persons or property to intimidate or coerce government, the civilian population, or any segment thereof, in furtherance of political or social objectives.”³⁶

This definition excludes violent extremists within the U.S. who are motivated by, or receive direct or indirect support from, international terrorist groups, such as al-Qaeda. For example, Faisal Shazad, a Pakistani-born American who attempted to detonate an improvised explosive device in New York’s Times Square in May 2010, would not be considered a domestic terrorist given his alleged training by the Pakistani Taliban. Events similar to the Times Square attempted bombing are, therefore, beyond the scope of domestic terrorism.

Many scholars, media representatives and even high-ranking U.S. government officials misuse the term “domestic terrorism” to mean “any” terrorist attacks on U.S. soil (both transnational and homegrown terrorists). This is not an accurate use of the term “domestic terrorism.”

The U.S. government’s apparent misunderstanding of domestic terrorism was clearly illustrated as recently as 2010, when an anti-tax zealot chose to end his tax grievance with a suicide attack on an IRS processing center. In reference to this incident, DHS Secretary Janet Napolitano made public statements explaining that Stack “used a terrorist tactic... but he’s not necessarily a member of a terrorist group... this is an individual who had his own personal issues and personal motives... he used that [the attack] as a means of carrying out a personal agenda.”³⁷ The Federal Bureau of Investigation never publicly disclosed whether or not this incident was an act of terrorism. And, the 111th Congress passed House Resolution 1127 (H.R. 1127) declaring the attack on the IRS processing center to be “an act of domestic terrorism.”³⁸ Three different answers about the incident from different U.S. government institutions is confusing.

No Annual Report for Domestic Terrorism

While the National Counterterrorism Center and U.S. Department of State provide the law enforcement and intelligence communities with an annual summary of worldwide terrorism, there is no annual report summarizing domestic terrorism within the United States. Between 1980 to 2005, the FBI published an annual report entitled “Terrorism in the United States” which was released to the public. This annual report included reviews of domestic terrorism incidents, attempts and preventions. It was full of statistical information (tables, graphs and charts), policy information related to domestic terrorism, legislative actions, terrorism trends, FBI initiatives, among other valuable information. For reasons unknown, the FBI ceased publishing this report

³⁶ Terrorism in the United States – 1999,” FBI, Counter-Terrorism Division, p. ii, 2000.

³⁷ “Joe Stack, Janet Napolitano and the Definition of Terrorism,” Federal Times, March 11, 2010.

³⁸ H.R. 1127, 111th Congress (U.S. Congress), 2d Session, February 17, 2010.

in 2006. The last edition covered a three-year time period (2002-2005) and was somewhat outdated when released. This annual publication was an extremely valuable tool not only for law enforcement, but also for academia, media outlets and the general public. This publication should be revived.

Lack of National-Level Resources

At the federal level, there is a shortage of analysts assigned to monitor and assess domestic extremist activity within the U.S. Currently, the FBI is the only federal agency that has devoted multiple full-time resources to research and analyze domestic terrorist tactics, tradecraft, and emerging trends. I commend the FBI's efforts to investigate and prevent acts of domestic terrorism. Nevertheless, as a law enforcement agency, the FBI is limited to its law enforcement mission, which mandates establishing "probable cause" or "reasonable suspicion" of criminal activity prior to collecting, analyzing and retaining information pertaining to domestic extremist activity. Further, the FBI appears to limit its domestic terrorism analysis to FBI case information only. These limitations impact the U.S. government's ability to forecast and warn of domestic terrorist activity before it happens.

While employed at DHS, I oversaw the work of five analysts responsible for analyzing domestic extremist activity in the U.S. This team was recently disbanded—leaving a single analyst at I&A responsible for monitoring the entire spectrum of domestic non-Islamic extremism at a vulnerable time of heightened extremist activity throughout the country.

Other federal law enforcement agencies, such as the U.S. Secret Service, U.S. Capitol Police, U.S. Marshals, and ATF, have limited resources to monitor various aspects of domestic terrorism, such as threats against political figures, counterfeiting, judicial threats, firearms and explosives violations, etc. Most of these resources consist of a single analyst at each agency devoted part-time or on an "as needed" basis to this subject. Many federal law enforcement agencies have also adopted a universal approach to intelligence analysis—emphasizing expanded analytical portfolios in an effort to meet growing demands with limited resources. There is virtually no effort made to develop subject matter expertise (which takes extra effort and time). The "jack of all trades, master of none" approach to analysis negatively impacts the development of the necessary level of knowledge and expertise required to develop an in-depth understanding of the wide range and complexity of domestic extremist movements operating within the U.S. Further, federal law enforcement agency resources are more often tactically focused on active criminal investigations and providing case support (database checks, link diagrams, time lines, etc.), rather than conducting strategic intelligence analysis, such as reporting national trends, writing strategic threat assessments or analyzing extremist recruitment and radicalization. There should be a renewed focus on strategic analysis of domestic extremist activity.

Training Issues

Many law enforcement officers and analysts who looked at domestic terrorism issues during the 1990s have retired or have moved on to other assignments, which leaves a massive void in knowledge and experience. A whole generation of state and local officers has not been trained and has no clue for what to look for. The Justice Department's Bureau of Justice

Assistance (BJA) has done a remarkable job of training state and local law enforcement about the threat from the sovereign citizens' movement. This program, which began in 2010, should be expanded to include other violent forms of domestic extremism. Other agencies and organizations, such as DHS and its state and local fusion centers, should follow BJA's lead and develop similar training programs on domestic extremist activity. Perhaps, those who have worked these issues in the past and have since retired can be utilized to educate and train the new generation of law enforcement officers and analysts.

Training in Behavioral Threat Assessment is also essential to the identification of problem individuals—before another incident like the Sikh temple shooting occurs. The law enforcement community appears to have neglected this effective analytical tool choosing instead to emphasize suspicious activity reporting.³⁹ Using the threat management methodology as a law enforcement tool has proven effective time and again—so why isn't it being used?

First, it's labor and resource intensive. During the 1990's, few police agencies were engaging in this method because of time constraints and lack of understanding. Today, however, we have available manpower at state fusion centers, and we have available technology with pattern and anomaly-matching software. What is needed now is a better understanding of why this tool is important, and how it can help agencies to identify these individuals before they violently act out.

Second, along with training in identification and assessment methodologies, state and local agencies need training on how to manage these cases in the short and long term. The radicalization period for domestic terrorists can take days, up to several months or over many years.

Third, agencies need to liaison with their local mental health centers, district attorney, probation offices, and with the Judiciary in their local community to make this an effective program. Such personnel may come into contact with an extremist through their work and could have additional information and insights worth sharing with law enforcement.

Lastly, handling these cases effectively calls for a joint effort and everyone in the criminal justice system must be on board and actively involved. This requires regular contact and follow-up between agencies.

Over-Emphasis on Suspicious Activity Reporting

It has been argued that law enforcement will never get anywhere in trying to stop ideologically-motivated violence by looking at ideology alone, because there are literally tens of thousands of individuals who are anti-government extremists, sovereign citizens or racial supremacists (both white and black). Many others adhere to the extremist ideologies of the far left and single-issue causes. They might espouse violence, but not all act on it. In most cases, both the psychological factors and the extremist ideology must be present, along with some precipitating life event (which often serves as the catalyst to violence).

³⁹ <http://www.dhs.gov/if-you-see-something-say-something-campaign>, viewed September 16, 2012.

Conversely, those who are attempting to identify potential threats and prevent acts of violence should avoid looking exclusively at suspicious behaviors. It is too time consuming and yields an inordinate number of “false positives.” In fact, there are more innocent people being subjected to highly intrusive privacy and civil rights procedures under the ruse of “suspicious behavior” than if authorities focused on extremist belief systems that have a proven track record of inciting individuals toward violence.

Every day, at airports throughout the country, Americans are being subjected to invasive screening procedures that are intended to detect explosives, weapons, and possible would-be terrorists. Yet, not a single bomb has ever been smuggled aboard a domestic U.S. flight by a terrorist in recent memory. Many amateur photographers and young students working on their hobbies or school projects have been accosted by security personnel and had their photos removed. Few, if any, terrorists in the United States have been arrested in the act of conducting photography as part of their preoperational surveillance. These invasive screening procedures at U.S. airports and elsewhere should be scrutinized more and used more sparingly.

In other words, it seems pointless to be looking for “various types of suspicious behaviors”—they’re everywhere! Something “suspicious” to one person might be totally acceptable behavior to another. What appears to be “nervous” behavior more often than not has a legitimate explanation, such as a preexisting medical condition.

Some civil rights and civil liberties organizations, particularly within the U.S. government, fail to recognize the role extremist ideologies play in motivating extremists to carry out acts of violence. As a result, they have severely curtailed monitoring efforts within our nation’s law enforcement agencies. Monitoring a person’s behavior becomes all the more clear when coupled with an understanding of extremist ideology. As a result, there needs to be a balanced approach to intelligence analysis and threat assessment comprising both extremist ideology and suspicious behavior. A balanced approach is less likely to intrude on the everyday lives of ordinary citizens and gives law enforcement and counterterrorism resources the best opportunity to identify extremists on the cusp of violent action—improving terrorism prevention as well as mitigating potential terrorists.

Selective Vetting of Intelligence Reports

At DHS, the most prevalent hurdle to timely dissemination of domestic terrorism related information is the Group of Six (G6) review process. The G6 review process was implemented at DHS in the immediate aftermath of the DHS Rightwing Extremism report controversy. It mandated that intelligence reports from DHS/I&A be vetted through six offices at DHS headquarters, which included the Office of General Counsel at I&A, the Intelligence Oversight Officer, the DHS Privacy Office, the DHS Office of Civil Rights and Civil Liberties (CRCL), DHS Office of Policy, and the State and Local Program Office at I&A.

The G6 review process as it currently stands negatively impacts I&A analysis, because some of the changes in products seem to be made using standards that are in direct conflict with intelligence community analytic standards. G6 review can adversely affect an analyst’s objectivity and political neutrality. The apparent purpose and intent of the G6 review process is

to “screen” products for objectionable words, phrases or topics that are “politically sensitive” or perceived as “offensive” to certain groups of people. In other words, it has a “risk averse” approach to analysis. The major “choke point” within the G6 review process is CRCL.

The G6 review process impacts the timeliness and relevance of I&A products through a seemingly endless cycle of edits, revisions and comments that can last for several weeks or months. Some offices—particularly CRCL—have even sent conflicting opinions about certain topics or products, which further delays timely dissemination. Specific to products dealing with domestic extremists, CRCL seems to apply an additional level of scrutiny that results in multiple cycles of review and constant correcting. For these reasons, I&A stakeholders’ needs are neither being met nor adequately addressed.

It appears that CRCL reviewers unnecessarily scrutinize domestic terrorism related reports for more than what is within the scope of their responsibilities, such as questioning analytical judgments, source validation and source vetting. The G6 review process has called into question the reliability of credible sources of intelligence, such as various open source intelligence (OSINT) as well as information from reputable non-government organizations (e.g. the Southern Poverty Law Center and Anti-Defamation League) without providing adequate reasons for these objections. I&A analysts have assessed reporting from such organizations to be credible and reliable. Furthermore, experts from these organizations have testified in trials as expert witnesses at the local, state and federal level. Other federal agencies (including, but not limited to, the FBI) have also cited these same sources that CRCL reviewers question or dismiss. CRCL objections related to using open source information impacts the reliability of products by withholding information from I&A stakeholders based solely on a risk averse process.

Limiting Domestic Terrorism Analysis

Despite an attempt at developing a domestic terrorism production plan for 2010, DHS/I&A management chose to limit its analysis only to violent environmental extremists, violent anarchist extremists, and violent skinheads. As a result, I&A did not analyze threats from neo-Nazis, sovereign citizens and other violent antigovernment extremists. When questioned about the logic behind imposing these boundaries, analysts were told that violent environmental extremists, violent anarchist extremists and violent skinheads were the only domestic extremist movements to have attacked critical infrastructure in the past (identified as being clearly a DHS mission, implying that other domestic terrorist threats are not a Homeland Security concern unless linked directly to infrastructure threats). I&A management also explained that all three violent extremist movements were transnational in nature (which in their minds mitigated any intelligence oversight, privacy or civil rights and civil liberties concerns). They also rationalized that these movements had no history of infiltrating law enforcement (thus limiting the potential for future leaks). They went against the advice of domestic terrorism subject matter experts within I&A that this was not an effective way to analyze potential domestic extremist threats. I&A management’s response had nothing to do with the level of threat or violent capability of domestic extremist groups. When challenged, I&A leadership decided to add violent militia extremists to the list but further limited this topic to illegal weapons possession and weapons stockpiling activity only.

Further, many reports dealing with domestic non-Islamic extremism produced by DHS/I&A during 2010-2011 did not appear timely and were primarily historical in nature. Few reports, if any, warned of emerging terrorism trends and imminent threats.

Best Practices In Combating Domestic Terrorism

Information Sharing

While great strides have been made with respect to information sharing since the 9/11 terrorist attacks, jurisdictional infighting remains among departments and agencies as well as communication gaps between levels of government (local, state and federal). State and local fusion centers have filled an important role in the information sharing gap, but more can be done.

Some agencies still claim they are protecting information for operational security reasons and don't share valuable threat-related information with subject matter experts at other agencies. Some sensitive information may be shared between agencies among executive leadership, but not to officers and analysts who truly need the information to "connect the dots" or assess potential threats. Those states that have information-sharing restrictions should focus on sharing open records and public documents with other agencies which may mitigate some concerns.

The FBI's eGuardian and Law Enforcement Online (LEO) systems are success stories and their use should be emphasized and encouraged. These systems offer standardized reporting formats, special interest groups (SIG), and other mechanisms for information sharing. Perhaps the FBI could create a LEO SIG for officers and analysts focused on domestic extremist issues.

Similarly, DHS participates in a faith-based outreach program with the Jewish community called Secure Community Network (SCN). According to its website, "SCN has two main functions: (1) rapid information sharing in crisis situations and (2) enhancing security awareness at Jewish organizations and institutions to protect against terrorism and other threats." Through SCN, the Jewish community has established communication links with DHS, state and local fusion centers and the law enforcement community to facilitate the sharing of threat-related information, community wide notifications, crisis management and security measures. This program should be a model for other faith-based communities.

Law enforcement should also exploit non-traditional sources of information (such as correctional institutions, the courts, county clerks, county tax office, etc.) for possible data related to domestic extremist criminal activity.

The establishment of state and regional domestic terrorism working groups would be beneficial to information sharing. Few exist. These working groups could meet on a monthly or quarterly basis. Such meetings need to have a clear goal or objective. They should add value to the participants. One way to encourage information sharing is to present area reports that highlight extremist activity in various jurisdictions. Law enforcement agencies wishing to establish a domestic terrorism working group may want to utilize existing resources such as the

Assistant United States Attorney's Anti-Terrorism Advisory Council (ATAC) meetings for this purpose.

Law enforcement agencies may also consider forming interstate working groups (as needed) to address ongoing issues related to domestic extremist activity, specific violent groups or other issue with a set term or project.

Another way to improve information sharing is to fund and staff a national domestic terrorism conference. This has been done in the past. However, with the emphasis on the global war on terrorism, conferences focused exclusively on domestic terrorism no longer exist. The purpose of such a conference would be to share information, train newer personnel, identify national or emerging trends and provide networking opportunities. Conference organizers could also invite relevant subject matter experts from academia, civil rights organizations or private consulting companies. Conference attendees should be limited to personnel who are working this issue.

Finally, law enforcement agencies should continue nurturing relationships with college and university programs that specialize in open source research, trend analysis and Internet monitoring, such as Mercyhurst College (Erie, Penn.), North Dakota State University (Fargo, ND) and University of Maryland (College Park, Md.). These institutions provide a valuable service to law enforcement with regard to tracking domestic extremist activity.

Improve Strategic Analysis

Non-government organizations that monitor extremism, such as the Southern Poverty Law Center and Anti-Defamation League, have more analysts assigned to conducting strategic analysis on domestic non-Islamic extremism than the U.S. government. Strategic analysis involves trends analysis, criminal tactics and tradecraft, extremist recruitment and radicalization, threat assessment and alternative/future analysis. Today, the DHS has few resources conducting strategic analysis on domestic terrorist threats. More resources are needed. Other federal agencies should consider devoting analysts full-time to this subject rather than part-time or ad-hoc basis. This is needed to build subject matter expertise.

I cannot over-emphasize the importance of developing subject matter expertise among analysts and officers who work on the topic of domestic extremism. It takes time to know and understand how domestic extremists think, behave, recruit and radicalize. Agencies are encouraged to leverage and utilize existing and past resources to develop training programs that have depth and levels of expertise (basic, advanced, specialized).

Expand Training Programs

In 2009, there was a need for standardized analytical tradecraft training for officers and analysts at state and local fusion centers. DHS has since implemented this training and should be commended for this effort. In 2010, the Bureau of Justice Assistance (BJA) created a new training program focused on the threat from the sovereign citizens movement. This training has proved invaluable.

State and local fusion centers and their law enforcement counterparts should further develop training programs about the domestic terrorist threat for other state and local government agencies within their jurisdiction that may come into contact with extremists, including county clerks, secretary of state offices, probation and parole officers, public notaries, division of motor vehicles and many others. Training topics could include extremist tactics and tradecraft, extremist identifiers (visual and verbal) as well as background material on extremist movements, ideology and criminal activity.

Policy and Legislative Considerations

It is important that the U.S. government take the lead in developing new strategies and tools for law enforcement and the courts to better deal with problems associated with domestic extremism. There is a need for the creation of a domestic terrorism advisory board at the federal level—the most likely place would be the Department of Justice. This advisory board could explore developing and maintaining a domestic terrorist group list similar to the U.S. State Department’s list of foreign terrorist organizations. This may prove to be a difficult task given the ad-hoc nature of domestic terrorism (i.e. lone offender, small cell and leaderless resistance tactics), Constitutional protections and privacy issues. Nevertheless, there may be certain extremist groups or extremist movements that stand out as facilitators of criminality and violence. The advisory board could also develop a methodology for determining what ideologies, groups or movements constitute “extremism” and which deserve the label of “violent extremist”. If the U.S. government is unwilling to pursue the establishment of such an advisory board, then states should go to their own respective attorney general’s office for consultation on these matters, develop their own criteria and request a review of state statutes.

States should consider authorizing county clerks and secretary of state’s offices the ability to reject sovereign citizen filings, frivolous lawsuits and bogus liens. They should implement reporting procedures for referring such matters to law enforcement. And, after the first bogus filing, government officials should not be obligated to process additional filings or collect fees on such filings whether rejected or not.

Some states have already drafted terrorism statutes (for preventing and prosecuting both domestic and international terrorists) in case the U.S. government is unwilling to prosecute. Other states should look into these laws and consider drafting their own similar legislation.

Perhaps the U.S. government and state governments should look into the possibility of penalty enhancements (similar to hate crime legislation, FACE Act or the Animal Enterprise and Terrorism Act) for those who commit crime after claiming to have renounced their citizenship (i.e. sovereign citizens). Such crimes could be viewed as treasonous or similar to sedition.

Conclusion

Mr. Chairman and Members of the Committee, thank you again for allowing me to testify about this most important issue facing our nation. Law enforcement and intelligence efforts have identified and mitigated much violent and criminal activity that threatens the peace of our communities. For many years, we have focused on the threat from al-Qaeda and homegrown Muslim extremism. It's now time to also strengthen our resolve to combat violent domestic non-Islamic extremism in all its forms. I have offered some of my insights concerning the domestic terrorist threat, our current limitations and best practices. I hope that some of these points will resonate with Committee members and inspire you to explore new ways to mitigate this threat and prevent future acts of violence.

Our federal, state and local law enforcement agencies are proficient at investigating ideologically-motivated crime and acts of terrorism using proven investigative methods and tools. We have made some progress in recent months with increasing public awareness of this issue, but there is much more to do. I also believe that our greatest achievements are still to come. We should remain determined to succeed in our goal to reduce violent ideologically-motivated crime, prevent terrorism, and protect the public from extremist threats.

I look forward to responding to any questions you may have.

PREPARED STATEMENT OF CHAIRMAN PATRICK J. LEAHY

**Statement of Senator Patrick Leahy
Chairman, Senate Judiciary Committee
Hearing of the Subcommittee on the Constitution, Civil Rights and Human Rights Hearing
“Hate Crimes and the Threat of Domestic Extremism”
September 19, 2012**

Today’s hearing is a continuation of the Committee’s work to ensure that all Americans feel safe in their communities and that perpetrators of hate crimes are brought to justice. A few years ago, I offered the Matthew Shepard and James Byrd, Jr., Hate Crimes Prevention Act as an amendment to strengthen the civil rights of all Americans. I was heartened that the current President signed it into law.

Eric Holder had fought for passage of the law for years. As Attorney General he supported its enactment and has successfully implemented the law by leading the Justice Department’s effort to train local law enforcement and prosecute violent criminals under its expanded provisions. Last year the Justice Department’s Civil Rights Division secured hate crimes convictions against 41 defendants.

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 was heralded for expanding hate crimes protections for those who are targeted based on their disability, sex, sexual orientation and gender identity. The Shepard-Byrd Act responded to law enforcement concerns about the difficulty of bringing criminal prosecutions against those who target their victims based on religion, ethnicity, gender identity or race. For example, during a recent four-year period, FBI reports showed that hate crimes against Latinos had risen 40 percent. And in many circumstances, the previous Federal hate crimes statute could not be used to protect them.

I appreciate the Administration’s efforts to educate the Nation about the Shepard-Byrd Act. These comprehensive efforts have been led by the Attorney General’s Advisory Committee of U.S. Attorneys. The Advisory Committee represents the voice of the U.S. Attorneys across the country and provides advice and counsel to the Attorney General on policy, management and operational issues affecting the U.S. Attorneys in our states. Leading the effort against hate crimes for the Advisory Committee is Steven Dettelbach, the U.S. Attorney for Northern Ohio.

In May 2011, the Department of Justice secured the conviction of defendants in Arkansas who chased a group of Latino men in their car from a gas station and rammed their truck repeatedly into the men’s car, causing it to go off the road, crash into a tree and burst into flames. This case was the first prosecution to go to trial under the Shepard-Byrd Act. Last month, it became the first case in which a Federal appeals court upheld the constitutionality of the statute.

The Department of Justice has also engaged local communities and local law enforcement. The Civil Rights Division has held training on the Shepard-Byrd Act in five states, including Wyoming, where Matthew Shepard was murdered. The Division also held training on hate crimes and civil rights issues more broadly in more than 20 states, including Texas, where James Byrd, Jr. was murdered.

We were reminded of the need for these efforts last month when a white supremacist, murdered six and wounded four during worship services at a Sikh temple in Oak Creek, Wisconsin. Wade Page shot Brian Murphy, an Oak Creek police officer who was seeking to tend to victims, 15 times before fatally shooting himself. Fortunately, Lt. Murphy, survived and is recovering. This tragic shooting tore into one of our defining principles-- religious freedom. By targeting a house of worship during services, this extremist sought to terrorize all American Sikhs.

Last month, I joined Senator Feinstein in asking the Justice Department to add a new category for Sikh-Americans on the form used to gather data on hate crimes. The Hate Crimes Statistics Act of 1990, which I supported, requires the Department of Justice to maintain data on crimes based on -- among other things -- religion. The current hate crime incident report form used by law enforcement to collect such data allows officers to denote that a crime was motivated by bias against Jews, Catholics, Protestants, Muslims, and atheists, but not Sikhs. I was pleased to learn this morning that the Department of Justice has announced that they will ask the FBI's Advisory Policy Board -- the board responsible for making these decisions -- to review and consider including additional categories for religious hate crimes, including those against the Sikh community. I commend the Department of Justice for acting quickly.

As President Obama has said: "We must stand against crimes that are meant not only to break bones but to break spirits, not only to inflict harm but instill fear." We took a big step forward three years ago in expanding our Federal hate crimes laws. I thank the Chairman of the Constitution, Civil Rights and Human Rights Subcommittee, Senator Durbin, for holding this hearing. I thank the witnesses for being here today and look forward to their testimony.

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PREPARED STATEMENT OF CHAIRMAN DICK DURBIN

Opening Statement of Senator Dick Durbin
Chairman, Subcommittee on the Constitution, Civil Rights, and Human Rights
United States Senate Judiciary Committee
Hearing on "Hate Crimes and the Threat of Domestic Extremism"
September 19, 2012

Last month, in Oak Creek, Wisconsin, a white supremacist shot and killed six Sikh worshipers in the Oak Creek Gurdwara.

Satwant Singh Kaleka was the founder of the Gurdwara. Mr. Kaleka fought off the gunmen with a butter knife, which gave others in the temple time to seek cover. Mr. Kaleka leaves behind his wife, two sons, and three grandchildren. Mr. Kaleka's son, Amardeep, and nephew, Kanwardeep, are with us today. Our deepest condolences on your loss.

Paramjit Kaur was a deeply religious woman. On the day of the shooting, she was at the Gurdwara for her daily morning prayers. Mrs. Kaur was devoted to her two sons, Kamaljit Singh Saini and Harpreet Singh Saini, working long hours so they could pursue their education. Kamaljit and Harpreet are here today. We will hear from Harpreet later in the hearing. You and your family are in our thoughts and prayers.

Prakash Singh Rathore had been a priest at the temple for six years. He immigrated to the United States in 2006 and was finally able to bring his wife and two children to the United States just two months ago, after six years of separation.

Ranjit Singh immigrated to the United States in 1997. Mr. Singh was a priest who played the tabla, an Indian drum, during religious ceremonies and mentored young people at the temple. He is survived by his wife and three children.

Sita Singh, Ranjit Singh's younger brother, immigrated to the United States in 1993. He was a priest at the temple, where he led morning prayers every day at 5 a.m. Sita Singh is survived by his wife and four children.

Suveg Singh Kattrra, who was 82 years old, was a farmer from India who immigrated to the United States with his wife eight years ago to join his son and daughter-in-law. He leaves behind his wife, five children and seven grandchildren.

Oak Creek Police Department Lieutenant Brian Murphy responded to the Gurdwara shooting and was shot nine times at close range. When other officers arrived at the scene, Lieutenant Murphy urged them to help other shooting victims first. Thankfully, Lieutenant Murphy, a 21-year veteran of the Oak Creek force, is expected to recover from his injuries.

Sadly, the shooting in Oak Creek was not an isolated incident. More than 6,600 hate crimes were reported to the FBI in 2010, the most recent year for which statistics are available. And a 2005 study by the Bureau of Justice Statistics found that the actual number of hate crimes may be more than 20 times higher than the number reported to the FBI.

In the week following the Oak Creek shooting, there were numerous attacks on mosques, including a mosque being burned to the ground in Joplin, Missouri; a man shooting at a mosque in Morton Grove, Illinois, while 500 worshipers were praying inside; and an unidentified perpetrator throwing an improvised explosive at an Islamic school in Lombard, Illinois, during prayer services. According to the Justice Department, the increase in discrimination against mosques since 2010 “reflects a regrettable increase in anti-Muslim sentiment.”

At the same time, African-Americans continue to be the targets of the vast majority of racially-motivated hate crimes; Jewish Americans continue to be the victims of most religiously-motivated hate crimes; Latinos are the victims of most ethnically-motivated hate crimes; and hundreds of LGBT Americans are the victims of violent hate crimes every year.

Three years ago, I was honored to stand by President Obama’s side in the East Room of the White House as he signed into law the Matthew Shepard and James Byrd, Jr., Hate Crimes Prevention Act. Today we will hear about the Justice Department’s use of this authority to investigate and prosecute hate crimes.

But what is the government doing to prevent hate crimes from taking place in the first instance? Are sufficient resources being devoted to combating the threat of violent domestic extremists and to protecting vulnerable communities?

The numbers speak for themselves. According to a study by the New America Foundation and Syracuse University, 18 people have been murdered in 10 right-wing terrorist attacks since 9/11, while 17 have been killed in 4 attacks by violent Muslim extremists. And, since 9/11, 15 domestic extremists have acquired chemical or biological weapons that they intended to use in attacks. As one public FBI report warned, “right-wing terrorists pose a significant threat due to their propensity for violence.”

Since 9/11, Congress has held dozens of hearings on the threat posed by Al Qaeda and its affiliates. But this is the first hearing in recent years on the threat of violent domestic extremists. Of course, we need to continue our efforts to defeat Al Qaeda, but we cannot ignore the threat of homegrown non-Islamic terrorists.

In recent days, we have been reminded that many around the world do not appreciate America’s unique approach to hate speech and blasphemy. So let me be clear. Under our Constitution, we punish criminal acts, not free speech, no matter how offensive or hateful it might be.

But, our leaders have a responsibility to speak out against hate speech. That’s what President Obama has done in condemning the anti-Islamic movie that sparked the protests in the Muslim world.

And that’s what President George W. Bush did. Six days after 9/11 – and 11 years ago this week – President Bush visited an Islamic Center in Washington DC to make it clear that our fight was with Al Qaeda, not American Muslims. President Bush said, “The face of terror is not the true faith of Islam. That’s not what Islam is all about. Islam is peace.”

I had many differences with President Bush, but – as I have said on many occasions – I believe that he helped to stop the anti-Muslim backlash after 9/11 by speaking out so clearly.

I am sorry to say that many political leaders are failing to follow the example set by President Obama and President Bush. To take just one recent example, several members of the House of Representatives have questioned the loyalty of American Muslims serving in the Obama Administration.

This kind of rhetoric is inconsistent with our heritage as a nation of immigrants. Most Americans recognize that our diversity is our strength, and don't question the religious background of their fellow citizens. When Lieutenant Murphy rushed into a hail of bullets at the Oak Creek Gurdwara, he wasn't concerned about the religion of the victims. He just knew that they needed help.

In conclusion, I hope this hearing will help us to redouble our efforts to combat the threat of domestic terrorism and to take whatever steps are necessary to protect vulnerable communities.

Some would argue that we should not discuss our shortcomings while violent anti-American protests are raging in the Muslim world. They claim that America shows weakness when we acknowledge our mistakes. I disagree. America is strongest when we lead by example. We are a country that can look ourselves squarely in the mirror and admit there is work still to be done to secure the promise of equal justice for all.

QUESTIONS SUBMITTED TO ROY L. AUSTIN, JR., BY SENATOR COONS

[Note: At the time of printing, the Committee had not received responses from Roy L. Austin, Jr.]

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

On

“Hate Crimes and the Threat of Domestic Extremism”

Wednesday, September 19, 2012

Questions for the Record from Senator Coons:

Roy L. Austin, Jr., Deputy Assistant Attorney General, Civil Rights Division, DOJ:

While the Department of Justice does not track hate crimes committed against Sikh Americans, you stated in your testimony that DOJ’s hate crimes tracking methodology is under review.

- a) What is the timeline by which that review will be completed and a final decision will be announced?
- b) What criteria is DOJ using to evaluate possible changes to its hate crimes tracking methodology?

QUESTIONS SUBMITTED TO DARYL JOHNSON BY SENATOR COONS

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

On

“Hate Crimes and the Threat of Domestic Extremism”

Wednesday, September 19, 2012

Questions for the Record from Senator Coons:

Daryl Johnson, Founder & Owner, DT Analytics, LLC

In your testimony, you noted the critical role that fusion centers play in ensuring that federal, state and local agencies work together to protect public safety. Citing examples, if possible, please elaborate on how fusion centers contribute to coordinated efforts to combat hate crimes and domestic extremism.

RESPONSES OF DARYL JOHNSON TO QUESTIONS SUBMITTED
BY SENATOR COONS

Hearing before the
Senate Committee on the Judiciary,
Subcommittee on the Constitution, Civil Rights and Human Rights
“Hate Crimes and the Threat of Domestic Extremism”

Wednesday, September 19, 2012

Question for the Record from Senator Coons:

Daryl Johnson, Founder & Owner, DT Analytics, LLC

In your testimony, you noted the critical role that fusion centers play in ensuring that federal, state and local agencies work together to protect public safety. Citing examples, if possible, please elaborate on how fusion centers contribute to coordinated efforts to combat hate crimes and domestic extremism.

Answer for the Record from Daryl Johnson:

Since the terrorist attacks of September 11, 2001, all levels of government have been attempting to improve intelligence gathering and information sharing between federal, state and local agencies. To promote greater information sharing and collaboration between the U.S. intelligence and law enforcement communities, and state and local authorities, the U.S. Department of Homeland Security (DHS) established fusion centers throughout the country.

According to a DHS Office of Inspector General report, “In June 2006, the Secretary of Homeland Security signed an implementation plan to support state and local fusion centers and designated the Office of Intelligence and Analysis (I&A) as the executive agent for managing the department’s role in the nationwide Fusion Center Initiative.”¹

“Fusion centers are a collaborative effort of two or more agencies that provide resources, expertise, and information to the center with the goal of maximizing its ability to detect, prevent, investigate, and respond to criminal and terrorist activity” the report says. “The department’s fusion center program is intended to provide information, people, technology, and other resources to fusion centers to create a web of interconnected information nodes across the country.”

During my tenure at DHS/I&A, I observed and actively participated in many efforts between my domestic terrorism team and our fusion center counterparts in a coordinated effort to combat hate crimes and domestic extremism. The following list illustrates only a few examples:

- DHS/I&A domestic terrorism analysts received numerous invitations to provide training for, or to speak on, a variety of domestic extremism topics to federal, state, and local law enforcement and fusion center meetings, working groups, and conferences. In 2008

¹ “DHS’ Role in State and Local Fusion Centers Is Evolving.” U.S. Department of Homeland Security, Office of Inspector General, Report OIG-09-12, December 2008.

alone, my team presented briefings and conducted trainings at nearly thirty external events. This included several training events at the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) National Academy, the FBI Academy, multiple visits and training to fusion centers and various law enforcement–sponsored conferences.

- DHS/I&A domestic terrorism analysts collaborated with their counterparts at various fusion centers on law enforcement bulletins and other finished reports dealing with violent domestic extremist activity, threats and other topics related to hate crimes and domestic terrorism.
- Fusion centers provided many useful intelligence reports and law enforcement bulletins on domestic extremist criminal activity and hate crimes to analysts at DHS/I&A as well as federal, state, local and tribal law enforcement.
- Prior to 2009, DHS/I&A reports officers provided several useful raw reports concerning violent domestic extremist activity. This information was disseminated to relevant government agencies within the law enforcement and intelligence communities.
- On September 16-18, 2008, more than 150 representatives from DHS/I&A and most fusion centers took part in the 2008 HS SLIC National Analytic Conference in Newport, Rhode Island. The goal of this event was to discuss domestic terrorism and to identify potential threats and the facilitators that are likely to have a substantial impact on the size, capabilities and intent of the various U.S. domestic extremist groups.
- During August - September 2008, my team provided information to the Michigan Intelligence Operations Center (MIOC) concerning possible criminal activity and threats involving the Hutaree militia. In March 2010, the FBI arrested eight members of the Hutaree militia for plotting to kill police officers. The conspiracy charges were later dropped against the Hutaree Militia members, but two were ultimately convicted of weapons violations. Although we had nothing to do with the criminal investigation related to the Hutaree, I am confident that the information we provided the MIOC in August 2008 and later in September 2008 was instrumental in bringing law enforcement attention to a very dangerous and potentially violent militia group. Though the terrorist plotting aspect of the case was later dismissed, I am confident a threat was mitigated.
- On September 25, 2008, two tactical officers with the Illinois State Police were shot during a drug raid in Carbondale, Illinois. The suspect, William Patrich, who shot at officers, was killed as SWAT officers returned fire. DHS subject matter experts collaborated with fusion centers in Illinois and Missouri to identify extremist connections between the deceased suspect and a known sovereign citizen group as well as white supremacist groups. Our input reportedly expanded the joint law enforcement investigation into the shootings.
- During autumn 2008, I participated in a pilot working group looking at white supremacist, sovereign citizen, and militia extremist activity within Missouri and Illinois. The working group consisted of analysts from DHS, FBI, the Missouri fusion center,

Illinois fusion center, Chicago Police Department, Kansas City Terrorism Early Warning Group, and St. Louis Terrorism Early Warning Group. Our goal was to identify which types of domestic extremist groups were active in each state, their activities, and whether or not there were any linkages between extremist groups in the respective states.

- In November 2009, Daniel Wayne Moreschi, a neo-Nazi white supremacist, was arrested in Ashe County, North Carolina, and charged with three felony counts of breaking and entering and larceny. On December 1, 2009, I received information about Moreschi from the North Carolina Information Sharing and Analysis Center (NCISAC). I later forwarded this information to the Bureau of Alcohol, Firearms, Tobacco, and Explosives (ATF), Charlotte Field Division. Based on the information I provided, ATF agents decided to follow up and interview Moreschi. A week later, the ATF notified me that they had seized a sawed-off shotgun from Moreschi and were able to charge him with a felony firearms offense.

The DHS/I&A is responsible for providing comprehensive responses to the information and intelligence needs of its stakeholders, which includes the state and local fusion center network. In turn, fusion centers also provide comprehensive responses to the needs of DHS/I&A. These information sharing requirements are referred to Standing Information Needs (i.e. DHS/I&A information requests to the fusion centers) and Priority Information Needs (i.e. fusion centers information requests to DHS/I&A). These “information needs” provide an organized framework to facilitate information sharing on a variety of topics, including domestic and international terrorism as well as threats to the safety and security of faith-based communities, critical infrastructure, emergency responders (i.e. police, fire, ambulance), among other potential targets of violence.

It is important to note that the strength of the state and local fusion center program is its ability to facilitate information sharing between all levels of government and across both the intelligence and law enforcement communities. Fusion centers are not really intended to conduct criminal investigations or terrorism interdiction, although they have a supporting role in preventing violent crime and terrorism. Terrorism investigation, incident response and interdiction are the responsibility of federal, state and local law enforcement agencies, specifically the Federal Bureau of Investigation (FBI) and its Joint Terrorism Task Forces (JTTF), which are known for withholding terrorism-related information. In contrast, fusion centers are known for sharing information in an effort to better “connect the dots” to identify emerging violent extremist trends, criminal tradecraft, and potential threats.

In closing, the state and local fusion center program is still maturing. It continues to improve and evolve. Fusion centers have added value in the fight against hate crimes and domestic extremism. However, challenges remain with internal processes, coordination, mission alignment and priorities (between fusion centers and DHS/I&A) as well as funding obstacles related to sustaining the fusion center network and the deploying of computer systems and personnel to the fusion centers in a timely manner.

MISCELLANEOUS SUBMISSIONS FOR THE RECORD

Statement by Anti-Defamation League
Senate Judiciary Subcommittee on Constitution, Civil Rights and Human Rights
on
Hate Crimes and the Threat of Domestic Extremism
September 19, 2012

We are pleased to submit this statement in support of vigorous enforcement of the Matthew Shepard and James Byrd Jr. Hate Crimes Prevention Act (HCPA) and expanded, coordinated police – community efforts to track and respond to domestic terrorism and improve hate crime data collection efforts. The horrible bias-motivated murders of Sikhs in their house of worship in Oak Creek, Wisconsin last month demonstrate, once again, the tragic impact of hate crimes – and the critical importance of partnerships between government and community groups to effectively prevent and respond to domestic extremism and hate crimes.

The Anti-Defamation League

Since 1913, the mission of ADL has been to "stop the defamation of the Jewish people and to secure justice and fair treatment to all." Dedicated to combating anti-Semitism, prejudice, and bigotry of all kinds, defending democratic ideals and promoting civil rights, ADL is proud of its leadership role in the development of innovative materials, programs, and services that build bridges of communication, understanding, and respect among diverse racial, religious, and ethnic groups.

Over the past three decades, the League has been recognized as a leading resource on effective responses to violent bigotry, conducting an annual *Audit of Anti-Semitic Incidents*, and drafting model hate crime statutes for state legislatures. We were privileged to lead a broad coalition of civil rights, religious, educational, professional, law enforcement, and civic organizations working in support of the HCPA for more than a decade.

The Impact of Hate Violence

All Americans have a stake in effective response to violent bigotry. These crimes demand priority attention because of their special impact. Bias crimes are designed to intimidate the victim and members of the victim's community, leaving them feeling fearful, isolated, vulnerable, and unprotected by the law. Failure to address this unique type of crime often causes an isolated incident to explode into widespread community tension. The damage done by hate crimes, therefore, cannot be measured solely in terms of physical injury or dollars and cents. By making members of minority communities fearful, angry, and suspicious of other groups – and of the power structure that is supposed to protect them – these incidents can damage the fabric of our society and fragment communities.

Punishing Bias-Motivated Violence: The Framework for Hate Crime Laws

Criminal activity motivated by bias is distinct and different from other criminal conduct. These crimes occur because of the perpetrator's bias or animus against the victim on the basis of actual or perceived status – the victim's race, color, religion, national origin, sexual orientation, gender, gender identity, or disability is the *reason* for the crime. In the vast majority of these incidents, no crime would have occurred at all, were it not for the victim's personal characteristic.

Analogous to anti-discrimination civil rights laws. Hate crime laws are best viewed as a criminal law parallel to the thousands of federal, state, and local laws that prohibit invidious discrimination because of race or other identifying characteristic. In language, structure, and application, the majority of the nation's hate crime laws are directly analogous to anti-discrimination civil rights laws.

For example, Title VII of the Civil Rights Act of 1964, as amended, prohibits various discriminatory employment actions "because of" the employee's or prospective employee's race, color, religion, sex, or national origin. One relevant section of the Fair Housing Act, 42 U.S.C. §3604 (a), prohibits interference with housing choices "because of [the victim's] race, color, religion, sex, familial status, or national origin." Further, a number of current federal criminal laws punish intentional discrimination on the basis of race, religion, or other characteristic. For example, by enacting 18 U.S.C. §242, the Reconstruction Era Congress made it a crime to deprive a person of constitutional rights "by reason of his color, or race" 18 U.S.C. § 245 makes it a crime to intentionally injure, intimidate, or interfere with any person's enjoyment of a federal right or benefit (or attempt to do so) "because of his race, color, religion, or national origin" and because the person is engaged in an enumerated federally-protected activity. And the HCPA, 18 U.S.C. § 249 (a) (1) states:

Whoever, whether or not acting under color of law, willfully causes bodily injury to any person or, through the use of fire, a firearm, a dangerous weapon, or an explosive or incendiary device, attempts to cause bodily injury to any person, **because of** the actual or perceived race, color, religion, or national origin of any person.....

As with workplace and housing civil rights laws, the prohibited conduct under hate crime laws is the intentional selection of the victim for targeted, discriminatory behavior on the basis of the victim's actual or perceived personal characteristics.

Comparable to other status crimes. Many federal and state criminal laws provide different penalties for crimes depending on the victim's particular status. Virtually every criminal code provides enhanced penalties for crimes directed at the elderly, or the very young, or teachers on school grounds, or law enforcement officials. Legislators have legitimate and neutral justifications for selective protection of certain categories of victims – and enhanced criminal penalties – based on their judgment of the social harm these crimes cause.

Consistent with the First Amendment. The First Amendment does not protect violence – and it does not prevent the government from imposing criminal penalties for violent discriminatory conduct directed against victims on the basis of their personal characteristics. Hate crime laws do not punish speech. Americans are free to think, say, and believe whatever they want. It is only when an individual commits a crime because of those biased beliefs and intentionally targets another for violence or vandalism that a hate crime statute can be triggered. In *Wisconsin v. Mitchell*, 508 U.S. 476 (1993), the U.S. Supreme Court unanimously upheld the constitutionality of the Wisconsin penalty-enhancement statute – effectively removing any doubt that state legislatures may properly increase the penalties for criminal activity in which the victim is intentionally targeted because of his/her race, religion, sexual orientation, gender, or ethnicity.

Deterrent Impact. Law enforcement officials have come to recognize that strong enforcement of these laws can have a deterrent impact and can limit the potential for a hate crime incident to explode into a cycle of violence and widespread community disturbances. In partnership with human rights groups and civic leaders, law enforcement officials have found they can advance police-community relations by demonstrating a commitment to be both tough on hate crime perpetrators and sensitive to the special needs of hate crime victims.

Punishment to fit the crime. Laws shape attitudes. Bigotry cannot be outlawed, but hate crime laws demonstrate an important commitment to confront and deter criminal activity motivated by prejudice. Hate crime laws – like anti-discrimination laws in the workplace – are color-blind mechanisms which allow society to redress a unique type of wrongful conduct in a manner that reflects that conduct's seriousness. Since hate violence has a uniquely serious impact on the community, it is entirely appropriate for legislators to acknowledge that this form of criminal conduct merits more substantial punishment.

State Hate Crime Laws

At present, forty-five states and the District of Columbia have enacted hate crime penalty-enhancement laws, many based on an ADL model statute drafted in 1981. Currently, however, only thirty states and the District of Columbia include sexual orientation-based crimes in their hate crimes statutes; only twenty-six states and the District of Columbia include coverage of gender-based crimes; only thirteen states and the District of Columbia include coverage of gender-identity based crimes, and only thirty states and the District of Columbia include coverage for disability-based crimes. And five states – Arkansas, Georgia, Indiana, South Carolina, and Wyoming – have no hate crime statute at all. A chart of state hate crimes statutory provisions is included at **Appendix A**.

The Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act (HCPA) Public Law 111-84, Division E

The HCPA is the most important, comprehensive, and inclusive hate crime enforcement law enacted in the past 40 years. The Anti-Defamation League played a lead role in coordinating sustained advocacy efforts by a broad coalition of civil rights, religious, educational, professional, law enforcement, and civic organizations working in support of the HCPA for more than a dozen years until its enactment. Under the leadership of President Obama, Attorney General Holder, and a number of champions in Congress – led by the late Edward Kennedy (D-MA) – this legislation was signed into law on October 28, 2009. The HCPA closes gaps in current federal enforcement authority, encourages partnerships between state and federal law enforcement officials to more effectively address hate violence, and provides limited expanded authority for federal hate crime investigations and prosecutions when local authorities are unwilling or unable to act.

The HCPA complements existing federal criminal civil rights statutes, and is patterned after 18 U.S.C. §245 – one of the primary statutes used to combat racial and religious bias-motivated violence. Enacted in 1968, 18 U.S.C. §245 prohibits intentional interference, by force or threat of force, with the enjoyment of a federal right or benefit (such as voting, going to school, or working) on the basis of race, color, religion, or national origin.

Under 18 U.S.C. §245, the government must prove both that the crime occurred because of a person's membership in a protected group, such as race or religion, and because (not while) he/she was engaging in a federally-protected activity. This unwieldy, overly-burdensome dual requirement prevented the government from investigating and prosecuting a significant number of cases in the past. And prior to enactment of the HCPA, federal authorities were

unable to involve themselves in cases involving death or serious bodily injury resulting from crimes directed at individuals because of their sexual orientation, gender, gender identity, or disability.

The HCPA addressed both of these deficiencies. First, the HCPA eliminated the overly-restrictive obstacles to federal involvement by permitting prosecutions without having to prove that the victim was attacked because he/she was engaged in a federally-protected activity. Second, the new law provides new authority for federal officials to work in partnership with state and local law enforcement authorities to investigate and prosecute cases in which the bias violence occurs because of the victim's actual or perceived sexual orientation, gender, gender identity, or disability.

State and local authorities investigate and prosecute the overwhelming majority of hate crime cases – and will continue to do so even with the HCPA on the books. From 2000- 2010, for example, the FBI documented almost 84,000 hate crimes. During that period, however, the Justice Department brought fewer than 170 cases under 18 U.S.C. § 245. But many of those federal cases were incredibly important, including cases involving organized hate groups, cases with special community or national impact, and cases in which local authorities lacked the resources, or the will, to vindicate justice. The HCPA gives local law enforcement officials important new tools to combat violent, bias-motivated crimes in their jurisdictions. Federal support – through training or direct assistance grants – will help ensure that bias-motivated violence is effectively investigated and prosecuted. Since its enactment in October 2009, the Justice Department has investigated dozens of cases, and, to date, has brought HCPA charges in about a dozen cases.

Implementation of the HCPA

We applaud the Justice Department's initial outreach, training, education, and enforcement of the HCPA. Under the leadership of Attorney General Holder and Assistant Attorney General for Civil Rights Tom Perez, Justice lawyers have worked with FBI officials, US Attorneys, and professionals from the Community Relations Service to organize a series of dozens of training programs on the new tools the Act provides, enforcement strategies, and community engagement – including training programs in each of the five states with no hate crime laws. Several thousand state and local law enforcement officials have been trained at these sessions. In addition, the Justice Department, in coordination with several lead US Attorneys, has vigorously defended the HCPA in both facial and as applied constitutional challenges.

In addition, since HCPA enactment, ADL and lead members of the hate crime coalition have worked in close coordination with the FBI in developing and updating training and outreach materials to assist in the implementation of the HCPA's new Hate Crime Statistics Act (HCSA) mandate – collecting hate crime data on crimes directed against individuals because of their gender or gender identity, and hate crimes committed by or against juveniles.

The Disturbing Prevalence of Hate Violence: The Hate Crime Problem in America in 2012

The FBI has been tracking and documenting hate crimes reported from federal, state, and local law enforcement officials since 1991 under the Hate Crime Statistics Act of 1990 (HCSA). Though clearly incomplete, the Bureau's annual HCSA reports provide the best single national snapshot of bias-motivated criminal activity in the United States. The Act has also proven to be a powerful mechanism to confront violent bigotry, increasing public awareness of the problem and sparking improvements in the local response of the criminal justice system to hate violence – since in order to effectively report hate crimes, police officials must be trained to identify and respond to them.

In 2010, the most recent report available, the FBI documented 6,628 hate crimes reported by almost 15,000 law enforcement agencies across the country – nearly one hate crime every hour of every day. Of the 6,628 total incidents, 3,135 were motivated by racial bias (47.3 percent) 1,277 by sexual orientation bias (19.3 percent); 847 by ethnicity/national origin bias (12.8 percent); and 43 were reported to have occurred against disabled individuals (0.65 percent). In addition, 1,322 (19.9%) of all reported crimes were motivated by religious bias. Of special concern to the Anti-Defamation League is the fact that of the incidents motivated by religious bias in 2010, 887 (67%) were directed against Jews and Jewish institutions – accounting for 13.4% of the total number of reported hate crimes in 2010. Overall, reported hate crimes directed against individuals because of race, religion, sexual orientation, and national origin all increased slightly – with a significant increase in the number of reported anti-Islamic crimes. The FBI's 2010 HCSA report is available here: <http://www.fbi.gov/about-us/cjis/ucr/hate-crime/2010>. An ADL chart which compiles and details the findings from the annual FBI HCSA reports from 2000-2010 is included as **Appendix B**.

Very few states systematically collect statistics on these categories of hate crimes. There are real consequences to this failure. Studies have demonstrated that victims are more likely to report a hate crime if they know a special reporting system is in place. Yet, studies by the National Organization of Black Law Enforcement Executives (NOBLE) and others have revealed that some of the *most* likely targets of hate violence are the *least* likely to report these crimes to the police. In addition to cultural and language barriers, some immigrant victims, for example, fear reprisals or deportation if incidents are reported. Many new to America come from countries in which residents would never call the police –

especially if they were in trouble. Gay, lesbian, and transgender victims, facing hostility, discrimination, and, possibly, family pressures, may also be reluctant to come forward to report these crimes.

The HCSA data we have certainly understates the true number of hate crimes committed in our nation. On one hand, participation in the FBI's national reporting program (which, like the rest of the UCR Program, is voluntary) has increased over the years. As of 2010, 14,977 federal, state, and local law enforcement agencies voluntarily reported hate crime data to the FBI – the highest participation in the HCSA program since its inception. Yet, on the other hand, less than 2,000 of these participating agencies – 13 percent – reported even a single hate crime to the FBI, significantly fewer than in 2009 and the fewest number of agencies reporting one or more hate crimes since 2002. Moreover, as in past years, the vast majority of the *participating* agencies (87%) affirmatively reported 0 (zero) hate crimes to the FBI. In fact, in 2010, police departments in 80 cities over 100,000 in population either did not report hate crime data to the FBI at all or affirmatively reported zero hate crimes. An ADL chart which lists these 80 jurisdictions is included as **Appendix C**.

Notable, Disturbing Trends

In the immediate aftermath of the September 11 terrorist attacks, the nation witnessed a disturbing increase in attacks against American citizens and others who appeared to be of Muslim, Middle Eastern, and South Asian descent. Although the FBI HCSA program collects information about bias motivated crimes directed at Muslims, it does not collect separate data on hate crimes directed against Arabs, Sikhs, or Hindus. As evidenced by the recent tragic bias-motivated murders at the Sikh Gurdwara in Oak Creek, Wisconsin, there is substantial evidence that Sikhs have been targeted for violence because of their religious practices, appearance, and apparel, including the distinctive beards, turbans, and head coverings worn by many observant Sikhs. Just four days after the September 11 attacks, Balbir Singh Sodhi, a Sikh American, was murdered in Phoenix by an individual who irrationally acted against him in the mistaken belief that he was in some way connected with this terrorism. In March, 2011, two elderly Sikhs wearing traditional turbans were shot and killed on a street in Elk Grove California.

In addition, it is especially disturbing that reported crimes directed against Hispanics increased from 483 in 2009 to 534 in 2010. In fact, according to the FBI, in five of the last seven years, the number of violent assaults against Hispanics, legal, and undocumented immigrants – and those perceived to be immigrants – increased. ADL has identified a disturbing increase in the number of these hate crimes committed by white supremacists and other far-right extremists in our report, "Extremists Declare 'Open Season' on Immigrants: Hispanics Target of Incitement and Violence." That report is available here: http://www.adl.org/main_Extremism/immigration_extremists.htm

Clearly these hate crime numbers do not speak for themselves. Behind each and every one of these statistics is an individual or a community targeted for violence for no other reason than race, religion, sexual orientation, disability, or national origin.

Homegrown Haters: Domestic Extremist Threats in the United States in 2012

Next year, the Anti-Defamation League will be celebrating our 100th anniversary. For some 75 of those years, one of the most important ways ADL has pursued its mission has been to monitor extremist groups and movements of all types and to combat the problems that they cause, including problems related to criminal activity, violence, and terrorism.

ADL's Center on Extremism has experts on right-wing extremism, left-wing extremism, religious extremism, and other sources of extremism as well. Every year ADL trains more than 10,000 law enforcement officers on subjects ranging from white supremacy and anti-government extremism to domestic Muslim extremism to radical environmental and animal rights groups. ADL has no agenda or bias when it comes to extremist threats; we oppose any movement that threatens to undermine the democratic foundations that protect all our rights.

Domestic Extremist Threats in the United States

Because of its large population and complex culture and economy, the United States typically faces several simultaneous domestic extremist threats at any given time. Any given movement may see its fortunes rise or fall due to a number of circumstances, ranging from popular sentiment to effective law enforcement. However, there are always several extremist movements actively engaging in criminal activity, including crimes of violence.

During the course of the past decade, four extreme domestic movements have posed particular threats to the peace and safety of our nation. These movements are:

- 1) Domestic Muslim extremists;
- 2) Radical animal rights and environmental extremists;
- 3) White supremacists; and

4) Right-wing anti-government extremists

In addition to these major threats, other extreme movements have also produced violent acts in recent years, including radical anti-abortion extremists, radical anti-immigration extremists, and anarchists.

Of these threats, the newest on the scene are domestic Muslim extremists, emerging in the aftermath of the 9/11 terror attacks and the ensuing conflicts in Iraq and Afghanistan. Embracing radical interpretations of Islam, the adherents of this nascent movement have often sought to attack targets in the United States or to fight with or provide material support to terror organizations abroad.

Several hundred American citizens have been arrested during the past decade for engaging in such activities. Thanks to the Internet, many were influenced to attempt violent action at the urging of terrorist organizations and their ideologues abroad, including Americans such as Anwar al-Awlaki and Samir Khan. Though these two individuals are thought to have been killed in drone strikes in 2011, others have stepped forward to take their place.

Domestic Muslim extremists have plotted or attempted to destroy government buildings, infrastructure targets, military installations, Jewish institutions, and "soft" targets such as shopping malls. Fortunately, most such conspirators have proven to be of the "high intent, low capability" type, rendering them vulnerable to sting operations by law enforcement agencies purporting to offer extremists the missing resources they need to carry out their deadly intentions. Such preventive law enforcement actions have saved many lives. However, on those occasions when domestic Muslim extremists have eschewed grandiose plots or conspiracies and adopted simpler, more straightforward tactics, the results have been far deadlier, as the murderous shooting incidents in 2009 at Fort Hood, Texas, and Little Rock, Arkansas illustrated. There is no doubt that domestic Muslim extremists are a troubling threat worthy of the attention of the government and law enforcement.

Another threat that emerged in the early 2000s was the threat posed by two single-issue extremist movements. Single-issue extremism can come from the left, the right, or other sources. But what all single-issue extremist movements share is that they are a smaller extreme wing of a much larger mainstream movement. Millions of Americans oppose abortion, for example, but only a tiny minority of Americans are so extreme that they are willing to kill or to bomb to support such views.

The two single-issue extremist movements that surged early this century were the extreme ends of the environmental and animal rights movements, exemplified by loosely-organized groups such as the Earth Liberation Front and Animal Liberation Fronts (ELF/ALF). Under the banner of ELF/ALF, activists engaged in dozens of arsons and firebombings, attacking targets ranging from SUV dealerships to research facilities and laboratories to housing developments, causing many millions of dollars' worth of property damage. Though, for the most part, environmental and animal rights extremists avoided violence targeting people, a widespread campaign of intimidation and violence by animal rights extremists against university scientists and researchers was marked by numerous acts of harassment, vandalism, and a series of firebombings and attempted firebombings deliberately putting lives at risk.

The number and scope of such attacks, combined with the difficulties law enforcement initially faced in investigating such crimes, warranted the attention given to these single-issue movements by the Justice Department under the Bush administration. That attention ultimately allowed law enforcement to bring to justice many perpetrators of such attacks.

Right-Wing Extremism Resurgent

Though many extremist movements have posed threats to the United States in the past decade, perhaps the most troubling development in the past few years has been the strong resurgence of right-wing extremism that emerged towards the end of 2008 and the beginning of 2009. Today, three and a half years into this resurgence, it is clear that the threat of right-wing extremist violence, ranging from hate crimes to acts of terrorism, is higher than it has been in many years.

The extreme right in the United States is largely divided into two slightly overlapping spheres. In one sphere are the white supremacist movements—there are five major white supremacist movements in the United States today. In the other sphere are the three main anti-government extremist movements (often collectively known as the "Patriot" movement). These anti-government extremists are not anti-government in the sense that they want government reform or want less government or are opposed to a particular administration. Rather, they are anti-government in the sense that they believe that an evil conspiracy has infiltrated and subverted part or all of our government, and what Americans think of as the legitimate government is actually a tyrannical, illegitimate government. From these beliefs have sprung movements such as the militia movement and the "sovereign citizen" movement.

There are three main reasons for the resurgence of right-wing extremism in the United States over the past several

years. The first reason was the election of President Barack Obama in 2008. White supremacists, not surprisingly, became agitated at the election of an African-American president, while anti-government extremists incorporated Obama into their "New World Order" conspiracy theories. The second reason was the recession and related housing crisis that also began in late 2008. Anti-government extremists in particular were able to exploit the poor economic situation. The third reason was simply that it had been a decade since the last major resurgence of right-wing extremism (roughly 1994-1999) had died down. In other words, the country was "due" another cycle of right-wing violence.

The resurgence did not affect all extremists in the same way. The anti-government extremist movements became greatly agitated and angry, and also experienced a considerable growth in numbers. The number of militia groups tracked by ADL more than quintupled from 2008 to 2012, for example. The extreme "sovereign citizen" movement, whose adherents acknowledge virtually no governmental authority over them at all, grew at an even greater rate.

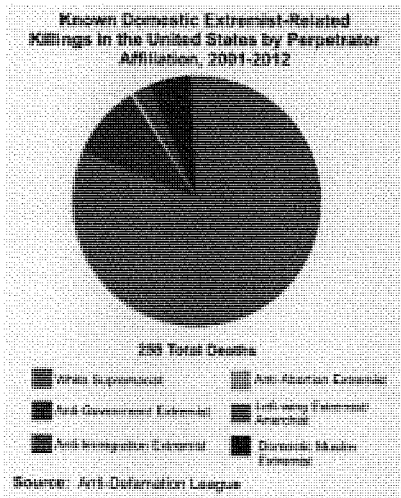
White supremacists experienced the same growth in agitation and anger levels that anti-government extremists did, but luckily did not experience the same growth in numbers. The numbers of white supremacists have remained more or less stable over the past several years. However, white supremacists have engaged in many shocking acts of violence during this timeframe.

Right-Wing Extremist Violence in the United States

Even before the resurgence that began in 2009, right-wing extremists were already responsible for much of the domestic extremist-related violence in the United States, whether in the form of hate crimes, domestic terrorist acts or plots, or other forms of violence. This is not very surprising, given the long historical presence of such movements in the country, as well as their relative sizes compared to other extremist movements.

However, the extent of right-wing violence in the United States is not often fully appreciated. Though high-profile incidents like the tragic shootings at the Sikh Gurdwara in Oak Creek in August 2012 garnered considerable media attention, many acts of right-wing violence receive only local or regional coverage by the media. Thus the average American tends to underestimate the threat from right-wing extremists.

Since the most extreme form of violence is to kill someone, one way to measure extremist-related violence is to look at extremist-related murders and killings. The Anti-Defamation League tracks known extremist-related deaths (from all domestic sources of extremism, dating back to 1970). The true number of such deaths can never be known, as the extremist connections to many murders often take years to come to light or may never emerge at all. However, for the period 2001-2012, ADL has identified at least 255 lethal incidents in which the perpetrator(s) are known or believed to have been domestic extremists of some affiliation.



When one examines the affiliations of the suspected perpetrators of these deaths (see chart), what becomes immediately obvious is that the vast majority of domestic extremist-related deaths this century have come at the hands of right-wing extremists. Indeed, almost 94% of these killings have been at the hands of adherents of one or more of the various right-wing extremist movements in the United States. By far the most lethal extremists have been adherents of the white supremacist movements, who are thought to be responsible for 81% of the 255 known deaths.

There are several reasons for the extreme level of lethality of white supremacists:

- 1) White supremacists frequently commit hate crimes and in the United States they find a target-rich environment.
- 2) White supremacists are almost as likely to attack law enforcement and government targets as are anti-government extremists.

- 3) A number of white supremacists target members of their own groups whom they suspect are potential informants or "weak links."
- 4) Many white supremacists are simply more likely to be violent. Not only do a number of white supremacists engage in lethal levels of violence while engaging in traditional (i.e., non-ideological) criminal activities, but quite a few have also committed lethal acts of domestic violence as well.

Some of the most shocking killings by white supremacists in the past few years include:

- Oak Creek, Wisconsin, August 2012: White supremacist Wade Michael Page opens fire at a Sikh temple, killing six and wounding four more before fatally shooting himself after being wounded by police. Page was a member of the Hammerskins, a racist skinhead group.
- Washington, Oregon, California, September-October 2011: White supremacists David Pedersen and Holly Grigsby allegedly embark upon a multi-state spree of violence, killing four people in three states before being apprehended. Prosecutors claim that, when apprehended, they were on their way to Sacramento to attack Jewish individuals or targets.
- Cooperstown, North Dakota, January 2011: White supremacist Daniel Wacht murders and decapitates a 54-year-old university researcher, burying the head in a crawl space in his basement. Wacht – who would be sentenced to life in prison without possibility of parole – was said by authorities to have wanted to kill someone or blow something up in order to start a white supremacist group.
- Phoenix, Arizona, October 2009: Travis Ricci and Aaron Schmidt, members of the Vinlanders Social Club, a violent racist skinhead group, open fire on an interracial couple walking down the street, fatally wounding the woman.
- Washington, D.C., June 2009: White supremacist James von Brunn opens fire with a rifle inside the United States Holocaust Memorial Museum, killing a security guard before being incapacitated by return fire from another guard. Von Brunn died before standing trial.
- Pittsburgh, Pennsylvania, April 2009: White supremacist Richard Poplawski murders three Pittsburgh police officers and engages in a shoot-out with police that wounds a fourth before he is apprehended. He is later convicted of three counts of first-degree murder and sentenced to death.
- Brockton, Massachusetts, January 2009: Keith Luke, an unaffiliated white supremacist, allegedly kills two Cape Verdean immigrants and rapes and shoots a third. After being apprehended by police, Luke allegedly admits that he had planned to kill as many Jews as possible at a local synagogue and then kill himself.

Right-wing extremists have been involved in countless other criminal incidents in recent years, ranging from assaults and attempted murders to bombings and fire-bombings to attacking government buildings (in one case, even flying a plane into an IRS building in Austin, Texas).

The last time the United States experienced a similar surge in right-wing extremism was in the mid-to-late 1990s. At that time, adherents of various right-wing extremist movements engaged in a variety of conspiracies and plots to commit major acts of violence. With a new wave of right-wing extremism sweeping the United States, this phenomenon has emerged again. The first such incident, heralding what was to come, occurred in October 2008. Two racist skinheads were arrested in Tennessee for engaging in preparatory actions for a plot that envisioned shooting 88 African-American high school students at a local school (the number 88 is symbolically important to white supremacists, as it is code for "Heil Hitler"), decapitating 14 more students (as the number 14 is code for a popular white supremacist slogan), and attempting to assassinate then-Presidential candidate Barack Obama.

More plots and conspiracies followed, including a militia plot in Alaska to kill judges and law enforcement officers, a militia plot in Georgia to attack government buildings (and to use the biological toxin ricin), and an alleged conspiracy by a racist skinhead group in Florida to engage in paramilitary training with the intention of committing civil disorder, among others. Most recently, prosecutors in Georgia have revealed an alleged plot by a militia cell within the U.S. military to engage in a variety of violent acts, including attacking a dam, poisoning crops, and assassinating President Barack Obama. Members of the group are also accused of having murdered two people in late 2011.

The Threat to Law Enforcement

The victims of this recent resurgence of right-wing extremism have included ethnic, racial, and religious minorities of all sorts; government officials and employees; physicians and personnel at clinics providing abortions; and many others, none deserving to be the victims of right-wing violence.

Among the victims targeted by right-wing extremists are law enforcement officers, the very people who serve and protect communities across America. In recent years, dozens of law enforcement officers have been slain or wounded by right-wing extremists.

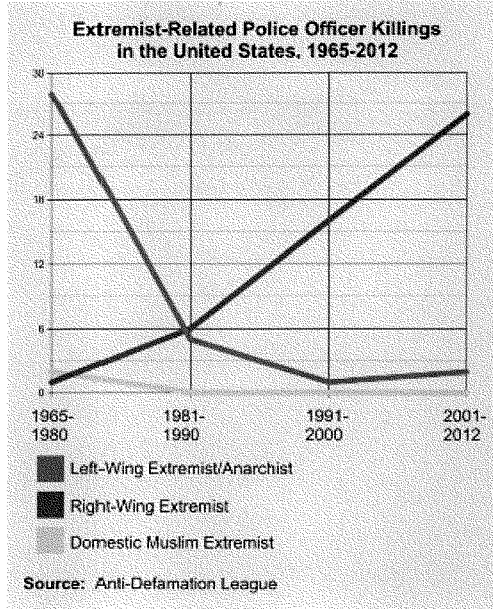
The example of Oak Creek Police Lieutenant Brian Murphy provides a striking example of the risks that our nation's law enforcement officers put themselves in at the hands of extremists. Lt. Murphy was one of the first officers to arrive at the scene of the Sikh Gurdwara in Oak Creek, Wisconsin, after white supremacist Wade Michael Page opened fire on worshippers there, killing and wounding many of them. Spotting the shooter, Lt. Murphy attempted to fire at Page but missed. At the same time, Page shot at Lt. Murphy, hitting him in the throat and dropping him to the ground. But Page did not stop there. He circled around to approach Lt. Murphy from behind, shooting him again. From close range, Page continued to fire at the downed officer, hitting him 15 times. Lt. Murphy's body armor stopped only three of the bullets and he was lucky to survive.

Other officers have unfortunately not been so lucky. Many officers have paid the ultimate price for protecting America's citizens from violent extremists. From the mid-1960s through the early 1980s, the majority of law enforcement officers killed by domestic extremists in the United States were killed by left-wing extremists (see chart). However, the long-term trend over the course of the past quarter century has been one of increasing violence against law enforcement at the hands of right-wing extremists.

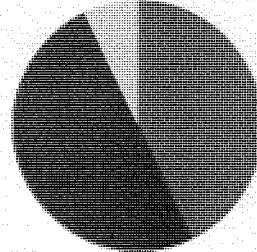
In the 21st century, right-wing extremists (both anti-government extremists and white supremacists) have committed the vast majority of the 28 extremist-related officer killings in the United States that ADL has been able to document (see chart).

In some cases extremists have ambushed law enforcement officers. In other cases, extremists (especially anti-government extremists) have responded with lethal violence to routine law enforcement activities such as residence visits or traffic stops for minor violations. In many cases, the slain officers had encountered extremists engaged in criminal activity or on the run from the law. Extremists can be particularly deadly to law enforcement in such encounters because they have all of the motivations to violence in such an incident that a traditional criminal might have, but may also have ideological reasons for being hostile or violent towards law enforcement.

The resurgence of right-wing extremism since 2009 has resulted in a similar surge of violent encounters between police and right-wing extremists. ADL has identified as many as 27 separate incidents since 2009 in which police were involved in shootouts with domestic extremists (of all types; see chart). Most of the incidents involved shootouts (i.e., exchanges of gunfire) with extremists, while a smaller number



Domestic Extremist-Related Police Officer Killings in the United States by Perpetrator Affiliation, 2001-2012



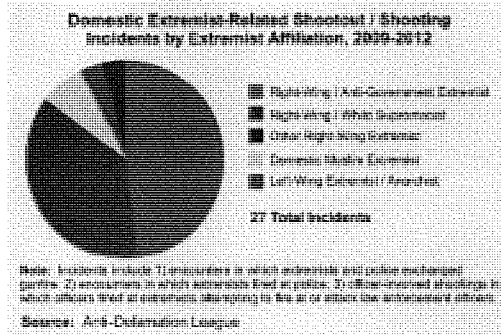
28 Total Deaths

- Right-Wing / Anti-Government Extremist
- Right-Wing / White Supremacist
- Left-Wing Extremist / Anarchist

Source: Anti-Defamation League

involved encounters in which extremists fired at police or encounters in which officers fired at extremists who had attempted to fire or draw a weapon or engage in other violent actions towards police.

Once more, right-wing extremist-related incidents constituted the vast majority of such encounters between 2009 and 2012, killing or seriously wounding many law enforcement officers. Law enforcement awareness of the dangerousness of such encounters has increased since the spring of 2010, when two anti-government "sovereign citizens" killed two police officers and wounded two more in two related shooting incidents in West Memphis, Tennessee. Although these shootouts received considerable media attention, there is still a significant lack of awareness among law enforcement of the risks that extremists pose to their safety and lives.



The Holistic Approach to Combating Violent Extremism

The United States has a population of over 310 million people; in a country this size, even the fringe of the fringe constitute a significant number of people. Moreover, lessons painfully learned from Oklahoma City in 1995 to Fort Hood in 2009 demonstrate that it does not take very many people motivated by extremist anger to cause a great deal of harm and misery. That is the nature of terrorism.

Because of the size and complexity of the United States, there will always be political, social, ethnic, religious, or nationalistic movements within the country that have adherents willing to commit violent acts to further their cause or to strike at their perceived enemies. It is true that, working together, Americans can significantly limit the harm such extremist movements may cause. When citizens speak with a united voice, when leaders from different parties come together to enact effective legislation, when governments – city, state, and federal – cooperate with each other, when law enforcement agencies share intelligence, it is remarkable what can be achieved.

When it comes to countering extremism and terrorism, however, experience has shown that one of the most counterproductive things our nation can do is to concentrate on countering one form of extremism and terrorism at the expense of others. The United States does not just have a "Muslim extremist problem." It does not just have a "right-wing extremist problem." It faces problems from many forms of domestic extremism – and ignoring or denying some in order to focus on others does the United States little service. Citizens and leaders of all backgrounds and persuasions must speak with a common voice to let all extremists know that the only way to change American policies, laws, or society is through peaceful, democratic processes. No form of ideological violence can be tolerated.

Conclusion

The fundamental cause of bias-motivated violence in the United States is the persistence of racism, bigotry, homophobia, and anti-Semitism. Unfortunately, there are no quick, complete solutions to these problems. Complementing state hate crime laws and prevention initiatives, the federal government has an essential leadership role to play in confronting criminal activity motivated by prejudice and in promoting prejudice reduction initiatives for schools and the community. And effective responses to hate violence by public officials and law enforcement authorities can play an essential role in deterring and preventing these crimes. Ultimately, the impact of all bias crime initiatives will be measured in the response of the criminal justice system to the individual act of hate violence.

An ADL Action Agenda to Confront Hate Violence and Domestic Extremism

Support Comprehensive Implementation of the Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act (HCPA)

- The Justice Department should file appropriate cases under the HCPA – and vigorously defend the constitutionality of the Act when challenged.
- The Justice Department, including the FBI and the Community Relations Service, should continue inclusive education and outreach to state and local law enforcement officials on the components of the HCPA and the new tools available under the Act to combat violent, bias-motivated crimes.
- The FBI should revise and update its Hate Crime Data Collection Guidelines and Training Manual to accompany the new FBI Hate Crime Statistics Act categories mandated by the HCPA – gender, gender identity, and crimes committed by and against juveniles. The Bureau should then provide training for federal and state law enforcement officials on the new Manual – and ensure that state and local law enforcement officials begin reporting on the new categories as of January 2013.

Improve Federal Hate Crime Data Collection Efforts

- Justice Department officials, including US Attorneys, FBI officials, and Community Relations Service professionals, should prioritize comprehensive participation in the HCSA – with special attention devoted to underreporting large agencies that either do not participate in the HCSA program at all or erroneously affirmatively report zero (0) hate crimes.
- The FBI should collect separate data on hate crimes directed against Sikhs as part of the HCSA. There is substantial evidence that Sikhs have been specifically targeted for discrimination and violence because of their religious practices, appearance, and apparel, including the distinctive beards, turbans, and head coverings worn by many observant Sikhs. The Equal Employment Opportunity Commission (EEOC) currently collects and publishes separate data on anti-Sikh religious discrimination complaints. A chart of EEOC religious discrimination complaints is included at **Appendix D**. A mandate that the FBI collect specific hate crime data on hate crimes directed against Sikhs, Arabs, and Hindus will increase public awareness of these crimes, encourage victims in these communities to report these crimes, and expand relationships between law enforcement authorities and the communities.
- In cooperation with the Department of Education, the FBI should work with colleges and universities to improve campus hate crime reporting. In 2008, Congress required the crime categories campuses are mandated to report to the Department of Education parallel those collected by the FBI's HCSA Program. Comprehensive campus reporting will benefit both parents and children by providing them with a more accurate sense of campus safety.
- The Department of Justice and the FBI should work with disability rights organizations to raise awareness and provide training on how people with disabilities can navigate the criminal justice system effectively in an effort to improve disability-based hate crime reporting by police agencies.

Expand Coordinated Federal Efforts to Track and Respond to Domestic Terrorism

- The Department of Homeland Security should expand its focus and research on domestic violent extremism. The 2009 DHS HVE report warning about the threat of increased right-wing extremist violence in the wake of President Obama's election and the recession has, unfortunately, proven tragically prescient. That report, which was withdrawn in the face of conservative criticism, demonstrates the kind of strategic analysis provided by the HVE branch that can help our nation's law enforcement community deal with the problems that violent domestic extremist movements are creating.
- The Department of Homeland Security should be required to prepare an annual report to Congress on the various sources of domestic terrorism and extremism-related violence in the United States. Complementing FBI analyses, DHS should be in a position to provide a steady stream of reports and bulletins to help protect our nation and our community from all domestic threats of terrorism and violence, including the threat of right-wing domestic terrorism.
- The League's research on the prevalence of violent domestic terrorism reveals that the great majority of

murders committed by domestic extremists since 2000 have been committed by non-Muslim extremists. Singling out the Muslim American community for special scrutiny or suspicion would be discriminatory, offensive, ineffective, and counterproductive.

- In cooperation with the FBI, DHS should convene a summit specifically focusing on online radicalization – across the ideological spectrum – and strategies to counter it.

Convene a White House Summit on Hate Crime.

- The first White House Conference on Hate Crime in 1997 proved to be a powerful and productive coordination and organizing event for the Administration, Congress, civil and human rights activists, and the law enforcement community. The Administration has clearly demonstrated the value of marshaling an “all hands on deck” approach to national concerns in its extraordinary efforts to raise awareness and prevent bullying in schools. In the aftermath of the tragic bias-motivated murders at the Sikh Gurdwara in Wisconsin, with 9/11 backlash crimes and crimes targeting immigrants and those who look like immigrants continuing at a disturbing pace, now is the time for the President to call stakeholders together to raise awareness, promote new initiatives, and identify programs and effective prevention strategies that work.

Provide Funding for Anti-Bias Programs and Research

- To be effective, hate crime laws must be complemented with prevention, education, and training initiatives designed to reduce prejudice. The Federal government has a central role to play in funding program development in this area and promoting awareness of inclusive anti-bias education initiatives that work.

Demonstrate International Leadership

- The United States should continue to play a leadership role in international organizations, especially the Organization for Security and Cooperation in Europe (OSCE) and its Office for Democratic Institutions and Human Rights (ODIHR). The United States should encourage international cooperation to confront racism, anti-Semitism, homophobia, and xenophobia.
- The United States should designate the Justice Department’s Civil Rights Division as the Hate Crime Point of Contact for the OSCE.

Selected Resources on Hate Crime Response and Counteraction

The Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act: Public Law 111-84, Division E

http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=111_cong_public_laws&docid=f:publ084.pdf

The most important new federal hate crime enforcement law in the past forty years. The HCPA strengthens existing federal hate crime laws by authorizing the Department of Justice to assist local authorities in investigating and prosecuting certain bias-motivated crimes. In addition, the law provides authority, for the first time, for the federal government to prosecute some violent bias-motivated crimes directed against individuals on the basis of their sexual orientation, gender, gender identity, or disability.

FBI

Hate Crime Statistics, 2010

<http://www.fbi.gov/about-us/cjis/ucr/hate-crime/2010>

The FBI's most recent annual hate crime report, with data collected from almost 15,000 state and local police departments

Hate Crime Data Collection Guidelines

<http://www.fbi.gov/about-us/cjis/ucr/hate-crime/hcguidelinesdc99.pdf>

The FBI's guidelines for law enforcement agencies regarding the classification and collection of hate crime data

Hate Crime Data Collection Training Guide

<http://www.fbi.gov/about-us/cjis/ucr/hate-crime/trainguidedc99.pdf>

The FBI's training manual for law enforcement agencies, with model reporting procedures and training examples

Department of Education

Preventing Youth Hate Crime,

<http://www.ed.gov/pubs/HateCrime/start.html>

A resource that describes effective school-based hate crime prevention programs

Department of Education/National Association of Attorneys General

Protecting Students from Harassment and Hate Crime,

<http://www.ed.gov/offices/OCR/archives/Harassment/harassment.pdf>

A detailed guide designed to help schools develop a comprehensive approach to protecting students from harassment and hate-motivated violence.

Department of Justice

Addressing Hate Crimes: Six Initiatives That Are Enhancing the Efforts of Criminal Justice Practitioner,

<http://www.ncjrs.gov/pdffiles1/bja/179559.pdf>

This Bureau of Justice Assistance report highlights six innovative law enforcement initiatives to respond to violent hate crime.

Hate Crime Training: Core Curriculum for Patrol Officers, Detectives, and Command Officers

<http://www.justice.gov/archive/crs/pubs/hct.pdf>

A comprehensive hate crime training curriculum prepared by the International Association of Directors of Law Enforcement Standards and Training, the National Association of Attorneys General, the Justice Department, and the Treasury Department

A Policymaker's Guide to Hate Crimes,

<http://www.ncjrs.gov/pdffiles1/bja/162304.pdf>

This resource highlights the use of hate crime laws and problems that impede reporting hate crime incidents.

The International Association of Chiefs of Police:

Responding to Hate Crimes: A Police Officer's Guide to Investigation and Prevention:

<http://www.theiacp.org/PublicationsGuides/LawEnforcementIssues/Hatecrimes/RespondingtoHateCrimesPoliceOfficersGuide/tabid/221/Default.aspx>

A comprehensive guide for officers on definitions and policies and procedures to respond to hate violence.

Hate Crime in America Summit Recommendations: <http://www.theiacp.org/tabid/299/Default.aspx?id=139&v=1>

Recommendations from the 1998 IACP Summit on Hate Crime in America

National District Attorneys Association

A Local Prosecutor's Guide for Responding to Hate Crimes

http://www.ndaa.org/pdf/hate_crimes.pdf

The single best resource designed to assist local prosecutors handling hate crime investigations and prosecutions.

Anti-Defamation League

Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act (HCPA): What You Need to Know

http://www.adl.org/combating_hate/What-you-need-to-know-about-HCPA.pdf

This document provides an outline of HCPA – why it was needed and how the law works to protect the rights of all.

An Introduction to Hate Crime Laws

http://www.adl.org/combating_hate/Introduction-to-Hate-Crime-Laws.pdf

A primer on the purpose and utility of federal and state hate crime laws

How to Combat Bias and Hate Crimes: an ADL Blueprint for Action

<http://www.adl.org/blueprint.pdf>

A compilation of the best ADL resources, programs, and education initiatives designed to combat bias and hate crimes

Hate Crime Laws

<http://www.adl.org/99hatecrime/intro.asp>

A comprehensive overview of the history of hate crime legislation, including the ADL Model Hate Crime Law and an interactive map of the nation's state hate crime laws

Hate Crime Laws: Punishment to Fit the Crime

<http://www.dissentmagazine.org/article/?article=3278>

A robust defense of hate crime laws by the League's Washington Counsel.

Leadership Conference on Civil and Human Rights

Confronting the New Faces of Hate: Hate Crimes in America 2009

http://www.protectcivilrights.org/pdf/reports/hatecrimes/lccref_hate_crimes_report.pdf

This trailblazing report provides the most recent national survey of the hate crime problem in America.

Organization of Chinese Americans

Responding to Hate Crimes: A Community Action Guide, 2nd Edition

<http://www.ocanational.org/images/stories/docscenter/ocahatecrime2006.pdf>

The best guidebook for community organizing and response to hate violence, with step-by step guidelines, checklists, internet resources, and best practices.

Selected ADL Resources on Extremism and Organized Hate Groups in America

ADL's Blog on Extremism & Terrorism

<http://blog.adl.org/extremism>

Al Qaeda in the Arabian Peninsula

http://www.adl.org/main_Terrorism/al_Qaeda_arabian_peninsula.htm

Al Shabaab's American Recruits

http://www.adl.org/main_Terrorism/al_shabaab_american_recruits.htm?Multi_page_sections=sHeading_3

American Muslim Extremists: A Growing Threat to Jews

http://www.adl.org/main_Terrorism/muslim_extremists_jews.htm

Animal Rights Extremists Target the University of California

http://www.adl.org/main_Extremism/university_of_california_animal_rights_extremism.htm

Anti-Abortion Violence: America's Forgotten Terrorism

http://www.adl.org/main_Extremism/anti_abortion_violence_terrorism.htm

The Aryan Circle: Crime in the Name of Hate

<http://www.adl.org/extremism/Aryan-Circle-Report.pdf>

Backgrounder: ACT! for America

http://www.adl.org/main_Interfaith/act_for_america_gabriel.htm

Backgrounder: Stop Islamization of America

http://www.adl.org/main_Extremism/pamela-geller-stop-islamization-of-america.htm

Bigots on Bikes: The Growing Links between White Supremacists and Biker Gangs

http://www.adl.org/extremism/ADL_CR_Bigots_on_Bikes_online.pdf

Criminal Proceedings: A Timeline of U.S. Terror Cases

http://www.adl.org/main_Terrorism/american_muslim_extremists_criminal_proceedings.htm?Multi_page_sections=sHeading_1

Ecoterrorism: Extremism in the Animal Rights and Environmentalist Movements

http://www.adl.org/learn/ext_us/Ecoterrorism.asp

Extremism in Florida: The Dark Side of the Sunshine State

<http://www.adl.org/learn/extremism/floridainside.pdf>

Homegrown Extremism after 9/11

http://www.adl.org/main_Extremism/911_homegrown_extremism.htm

The Lawless Ones: The Resurgence of the Sovereign Citizen Movement

http://www.adl.org/learn/sovereign_movement/sovereign_citizens_movement_report.pdf

Post-9/11 Islamic Extremism in the U.S.

http://www.adl.org/main_Terrorism/911_islamic_extremism.htm

Rage Grows in America: Anti-Government Conspiracies

http://www.adl.org/special_reports/rage-grows-in-America/default.asp

Responding to The Call: Al Qaeda's American Recruits

http://www.adl.org/main_Terrorism/al_qaeda_american_recruits.htm

Richard Poplawski: The Making of a Lone Wolf

http://www.adl.org/learn/extremism_in_the_news/White_Supremacy/poplawski%20report.htm

Selected White Supremacist Criminal Incidents, 2009-2012
http://www.adl.org/main_Extremism/White_Supremacist_Criminal_Incidents.htm

Updated September, 2012



U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

SEP 26 2012

The Honorable Richard Durbin
 Chairman
 Subcommittee on the Constitution,
 Civil Rights and Human Rights
 Committee on the Judiciary
 United States Senate
 Washington, D.C. 20510

Dear Mr. Chairman:

We write to expand upon an issue addressed in testimony presented by the Department of Justice at the September 19, 2012 hearing before the Subcommittee on the topic of Hate Crimes and the Threat of Domestic Extremism.

As you know, the FBI collects hate crimes data that is submitted voluntarily by state and local law enforcement agencies via a Hate Crimes Incident Report form. This data is eventually reported nationally as part of the FBI's Uniform Crime Reporting Program ("UCR"). Because the Hate Crimes Statistics Act authorizes the Department to acquire data ". . . about crimes that manifest evidence of prejudice," and provides that such data "may not contain any information that may reveal the identity of an individual victim of a crime," all reported hate crimes, including hate crimes based on religion, are recorded in the UCR based on the perpetrator's motivation rather than the victim's background. Pub. L. No. 101-275, 104 Stat. 140, as amended (codified at 28 U.S.C. § 534 (2009)). The current reporting form includes some specific categories of religious bias, such as "anti-Jewish" and "anti-Muslim," among others, and a category for "anti-other religion," but does not include a separate category for each form of religious bias that might potentially motivate a hate crime. For instance, reported hate crimes cannot currently be designated as having been motivated by bias against the Sikh faith.

The Department has received numerous requests to reexamine the categories of religious groups that are listed on the data collection form, specifically to include a designation for hate crimes against Sikhs. As noted during the September 19 testimony of Deputy Assistant Attorney General for the Civil Rights Division Roy Austin, Jr., the Department has asked the independent federal advisory committee that is authorized to propose changes to the UCR – the Advisory Policy Board (APB) – to examine whether the current hate crimes reporting data should be expanded to include additional categories of religious hate crimes, including hate crimes motivated by anti-Sikh bias.

The Honorable Richard Durbin
Page 2

During the hearing, you asked Mr. Austin for an indication as to when a decision might be made on whether the Hate Crimes Incident Report form would be amended to include hate crimes against Sikhs. In responding, Mr. Austin inadvertently suggested that a final decision about whether the form would be revised would be made at a meeting in October. We wish to clarify that the October meeting that Mr. Austin referred to is an October 18 meeting of the APB's subject matter experts, which is the first step in the formal APB process. A final decision will not be made at that time.

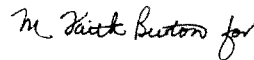
Following their October 18 meeting, these subject matter experts will then prepare a topic paper on this issue for review by a working group of the APB when the working group meets early next year. The APB's working group will vote on the matter. Following that vote, a subcommittee of the APB will review the issue and make a recommendation to the full APB. The APB will then consider the issue and make a recommendation to the Director of the FBI for final decision. This process, which we anticipate will be ongoing until at least mid-2013, will allow for input from a wide variety of stakeholders, including Sikhs and persons of other faiths.

In addition, next week, the Department's Civil Rights Division and Community Relations Service will meet with a broad spectrum of stakeholders to discuss data collection on religious hate crimes and how best to inform the APB process.

We believe that the APB's systematic, independent process, which incorporates the perspectives of the state and local law enforcement agencies who will be responsible for implementing any changes, as well as input from interested community members and other stakeholders, will permit a thoughtful evaluation of the UCR's religious hate crime categories.

We hope this information is helpful, and we request that this letter be included in the hearing record. The Department also would be pleased to provide a briefing for you or your staff to discuss this matter further.

Sincerely,



Judith C. Appelbaum
Acting Assistant Attorney General

cc: The Honorable Lindsey Graham
Ranking Minority Member



September 19, 2012

Senate Judiciary Subcommittee on the Constitution, Civil Rights and Human Rights
815 Hart Senate Office Building
Washington, DC 20510

Re: Hearing, September 19, 2012, Hate Crimes and the Threat of Domestic Extremism

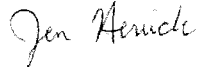
Dear Subcommittee Member:

People For the American Way Foundation, the African American Ministers Leadership Council, a ministry of civil engagement and social justice that embraces the “beloved community” envisioned by Dr. Martin Luther King, Jr., and Young People For, a long-term leadership development initiative that identifies, engages, and empowers the newest generation of progressive leaders, stood in solidarity with the Sikh community after the tragic Gurdwara shooting in Oak Creek, Wisconsin on August 5. What happened that day was tragic. The violence that continues to befall people from all walks of life due to their race, national origin, religious affiliation, sexual orientation, gender, gender identity, disability, or immigration status is tragic. We thank you for recognizing the urgent need to address hate crimes and the proliferation of hate groups in the United States.

Three years following the groundbreaking enactment of the Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act it is clear that there is still work to be done. The most recent FBI statistics revealed 6,624 hate crime incidents in 2010: 47.3% racially motivated, 20% religious, 19.3% sexual orientation, 12.8% ethnicity/national origin, and 0.6% disability. Four additional multi-bias incidents brought the total to 6,628. Under and nonreporting by both law enforcement agencies and victims means that the problem likely reaches even higher than that. In 2005, the Bureau of Justice Statistics suggested as much as 15 times higher. At the same time, hate groups have established a significant presence. The Southern Poverty Law Center has counted over a thousand, growing by almost 60% in the last decade.

Today's hearing is an important part of changing that story. We must address and prevent hate crimes and lend serious consideration to the motivation behind these violent acts while providing due deference to the First Amendment and civil liberties protections that we hold so dear.

Sincerely,



Jen Herrick
Senior Policy Analyst
People For the American Way Foundation



Minister Leslie Watson Malachi
Director, African American Religious Affairs
People For the American Way Foundation



Joy Lawson
Director
Young People For

Cc: Senate Judiciary Chairman Patrick Leahy
Senate Judiciary Ranking Member Chuck Grassley

Time to ensure full and effective enforcement on hate crimes laws

By Wade Henderson, president and CEO, The Leadership Conference on Civil and Human Rights - 09/19/12 10:46 AM ET
<http://thehill.com/blogs/congress-blog/civil-rights/250341-time-to-ensure-full-and-effective-enforcement-on-hate-crimes-laws>

Hate crimes have always been part of life in this country, and so, too, has a tragically slow march of progress toward recognizing, preventing, and stopping them. As a key Senate subcommittee revisits hate crimes today in the wake of a new spate of hate-motivated violence, it's time for us to check in on our progress and take note of where we can improve.

Congress passed the first federal statute to outlaw the original hate crime—lynching—in 1968 after 200 pieces of legislation languished in Congress over the fifty preceding years. Since that time, we've expanded and updated our laws to reflect law enforcement advancements and societal trends.

Our nation last took decisive action in 2009 to update these laws with the Matthew Shepard and James Byrd Jr. Hate Crimes Prevention Act. As a report my organization released at the time noted, the reforms this law contained were desperately needed. Prior to its passage, the only time a hate crime could be federally prosecuted as such was when a victim was engaged in a federally protected activity such as voting. In addition, the 2009 law was the first to recognize bias crimes that targeted people because of their gender identity, sexual orientation, gender, or disability status. It also gave the FBI and local governments more tools to track and prosecute hate crimes.

Three years after its passage, it is appropriate to ask how the law is working. Are we protecting diverse communities, ensuring the law's full and effective enforcement, and refining our techniques for preventing these crimes from occurring in the first place?

That's what a Senate panel is asking this week. And given the shifting nature of hate violence over the past three years, senators have a lot to consider.

The fatal shooting last month at a Sikh temple in Wisconsin is only the latest in a string of violent bias-motivated acts that threaten the ability of Americans to worship freely, express affection with a loved one, or simply lead their day-to-day lives.

Sikhs, Muslims, South Asians, and Arab Americans continue to be at high risk for violent crimes. State anti-immigrant laws have fomented a hostile environment for Hispanics across the country. Nearly 70 percent of racially-motivated hate crime offenses involved bias against African Americans. And attacks against transgendered individuals have become so prevalent in our nation's capital that the District of Columbia recently launched a public awareness campaign to quell the violence.

While passage of the hate crimes act was a historic advancement, there is certainly still room to improve.

Many local and state governments simply choose not to report hate crimes that occur in their jurisdictions to federal authorities, leaving both local prosecutors and the U.S. Justice Department unable to prosecute them.

As Sikhs, Arabs, and Hindus have become increasingly targeted, there still is no separate FBI data collection on bias crimes directed at them.

And of course the simplest solution is often the most effective. The Justice Department has done an exemplary job in adapting to and implementing the new law, but there is still more it can do. The department must aggressively use the hate crimes act to prosecute appropriate cases and educate local law enforcement on how they can use it to prevent violence in their communities.

Certainly, in a nation of more than 300 million people, there will always be a fearful few who can only find self-worth when they disparage and denigrate some individual or group of people they see as different from themselves. We can't legislate the heart and mind, but we can fully and effectively enforce our nation's laws so that this fear isn't translated into violence.

Henderson is the president and CEO of The Leadership Conference on Civil and Human Rights, a coalition of more than 200 national civil rights and human rights organizations.

Written Testimony of Wajahat Ali, Esq., Lead Author of “Fear Inc., The Roots of the Islamophobia Network in America” Submitted to U.S. Senate Committee on the Judiciary, Subcommittee on the Constitution, Civil Rights and Human Rights for the Hearing Record on “Hate Crimes and the Threat of Domestic Extremism”

September 19, 2011

My name is Wajahat Ali and I submit this written statement for the record of the U.S. Senate Committee on the Judiciary, Subcommittee on the Constitution, Civil Rights and Human Rights Hearing entitled, “Hate Crimes and the Threat of Domestic Extremism.”

In a study entitled “Fear Inc., The Roots of the Islamophobia Network in America,” produced by the Center for American Progress, my co-authors and I identified a lucrative cottage industry composed of an interconnected network of extreme right wing pseudo-scholars, policy experts, grassroots organizations, politicians and media pundits who have received nearly \$43 million from seven funders to create and disseminate fear and misinformation against Muslims.

Among many things, we have seen grassroots organizations protest the construction of mosques, constitutionally protected houses of worship, in Tennessee, California and Brooklyn. In February 2011, American Muslim families with young children attending a fundraising dinner in Yorba Linda, California were jeered by protesters who called them “Terrorists!” and told them “Take your sharia and go home, you terrorist lovers.” This was not the result of a spontaneous groundswell of public bullying, but rather a well-organized and highly effective effort orchestrated by principal grassroots organizations, such as Act! For America, Stop Islamization of America, and state Tea Party groups.

Blogger Pamela Geller is the co-founder of Stop Islamization of America along with blogger Robert Spencer. She is also the face of the manufactured “Ground Zero Mosque” controversy – which was neither a mosque nor at ground zero. She clearly revealed her bias against Muslims when she equated practicing Muslims with Nazis stating, “Devout Muslims should be prohibited from military service. Would Patton have recruited Nazis into his army?” Stop Islamization of America was labeled a hate group by the Southern Poverty Law Center, and the Anti Defamation League reviewed the group’s action and rhetoric and concluded the group “promotes a conspiratorial anti-Muslim agenda under the guise of fighting radical Islam.”

Brigitte Gabriel, founder of the anti-Muslim grassroots network Act! For America, believes a practicing Muslim “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.” Gabriel informed the Christians United for Israel convention audience in 2007 that Arabs and Muslims “have no soul. They are dead set on killing and destruction. And in the name of something they call ‘Allah’ which is very different from the God we believe.”

Furthermore, the exploitation of Sharia, or Islamic religious law, as being a fictional “threat to America” was used by nearly every major mainstream Republican candidate running for president, including Newt Gingrich, Herman Cain, Rick Santorum, Tim Pawlenty, and Michele Bachmann.

Key player, Frank Gaffney, is the founder of the think tank Center for Security Policy responsible for producing the document “Sharia: The Threat to America.” The Center for Security Policy’s attorney is Mr. David Yerushalmi, who also is a co-author of the report “Sharia: The Threat to America” and author of the model anti-Sharia bill entitled “American Law for American Courts.”

The Anti Defamation League reviewed Mr. Yerushalmi’s activities and concluded he has a “record of anti-Muslim, anti-immigrant and anti-black bigotry.”ⁱⁱ In a 2006 essay entitled, “On Race: A Tentative Discussion,” Mr. Yerushalmi described African Americans as a “relatively murderous race killing itself.”ⁱⁱⁱ Mr. Yerushalmi has also served as the attorney of Pamela Geller.

Frank Gaffney admits he is a “longtime friend” and consultant to Rep. Bachmann who feeds her anti-Muslim hate. Regarding the anti-Sharia report, Gaffney said, “...we’ve spent hours, over several days with Michelle Bachmann. I think she’s got the bulk of what we would tell her in one of the more formal presentations.” Among many of Mr. Gaffney’s bizarre and inflammatory accusations, he last year accused the Conservative Political Action Conference of being infiltrated by radical Islam due to the participation of respected, long term Republican advisor Suhail Khan, a practicing American Muslim. The anti-Muslim grassroots organization Act! for America has admitted, “[Frank] Gaffney is one of dozens of allies in this effort. We welcome his help with our projects.”

Instead of using their position of influence to build bridges of understanding, Bachmann and four GOP colleagues recently decided to engage in a witch hunt against fellow Americans. For example, without providing evidence, Bachmann accused Huma Abedin, longtime aide to Secretary of State Hillary Clinton, of having radical ties to the Muslim Brotherhood. As a result, Abedin was forced to hire security detail after receiving death threats. In addition, Newt Gingrich offered support for Bachmann’s fear mongering endeavors. To court his base, Newt has likened Muslims to Nazis and vowed during his failed presidential campaign to initiate loyalty oaths for American Muslims. He heroically labeled Bachmann and her four accomplices as the “National Security Five,” however, these elected officials are not uncovering villains; rather, they are preying on innocent citizens scapegoated for their religious affiliation and ethnicity.

Furthermore, Rep. Peter King, R-N.Y., who serves as the chairman of the House Homeland Security Committee, relies on key members of this fear mongering network for his inaccurate information on American Muslim communities, including the discredited claim that over 85 percent of American mosques and their religious leaders are radicalized. He said he received that information from Daniel Pipes and Steve Emerson, who are members of the anti-Muslim network we highlighted as key policy experts.

In the past, Rep. King has also claimed there are “too many mosques” in America. Rep. King also falsely claimed that 90 percent of terrorist crimes are carried out by Muslims. In the U.S., 56 percent of terrorist attacks and plots have been perpetrated by right-wing extremists, 30 percent by eco-terrorists and only 12 percent by Muslims.

In 2010, Act! For America gave its first “National Security Patriot” award to Rep. King, who publicly accepted the award. He also appeared as the first guest for Act!’s TV show hosted by Brigitte Gabriel. Gabriel furthermore admits she consults Peter King.

These individuals that are perpetuating stereotypes and spreading bigotry are elected officials and political players with a sizable constituency deliberately misinforming their base and fueling anti-Muslim hate. As we have seen time and time again, such hateful rhetoric often inspires or incites more violence. Beginning in August, a string of attacks on houses of worship have instilled fear in many minority religious groups including Sikhs and Muslims. For example, a committed anti-Muslim contingency in Murfreesboro, Tenn., continues to impede the progress of a mosque construction belonging to an American Muslim community that has peacefully lived there for over three decades.

Last month, Rep. Joe Walsh (R-Ill.) told a town hall in Chicago that Muslims in America are “trying to kill Americans every week.” A few days later, air rifle shots were fired at a mosque in north suburban Morton Grove, Illinois. Later, an individual hurled a 7-Up bottle filled with acid and other unspecified materials at an Islamic school during the nighttime Ramadan prayers.

These hate-filled acts do not exist in a vacuum. The Southern Poverty Law Center recently reported the highest number of hate groups ever recorded in U.S. history, with nearly 1,018 active groups. Furthermore, anti-Muslim hate groups have increased 300 percent in the last year, and the FBI reported a 50 percent increase in anti-Muslim hate crimes despite the fact that studies have shown American Muslims actually cooperate with law enforcement and are more likely to reject violence against civilians than any other U.S. religious community.

Anders Breivik, the anti-Muslim, Norwegian murderer who killed 77 people last year, left behind a 1,500-page manifesto frequently citing the writings and ideology of the American network fueling anti-Muslim hate. For example he cited Robert Spencer’s blog Jihad Watch 162 times. Upon reviewing Breivik’s manifesto, counter-terrorism expert Marc Sagemen said those “writings [were] the infrastructure from which Breivik emerged.” He added that this “rhetoric is not cost free.”

We have sadly witnessed the cost of such rhetoric just last week with violent protests in the Middle East that were prompted in response to an inflammatory, anti-Muslim film entitled the “Innocence of Muslims” directed by Nakoula Basseley Nakoula and produced by a non-profit organization entitled “Media for Christ.” The movie’s promoter and consultant is an individual named Steve Klein who admitted the movie’s intention to incite anger and division. With regards to the current protests, Klein said, “We went into this knowing this was probably going to

happen.” Klein has a long history of anti-Muslim activities conducting protests against mosques and creating groups, such as Concerned Citizens for the First Amendment, which preaches and publishes anti-Muslim propaganda. He is affiliated with two key members of the political network fueling anti-Muslim hate, Pam Geller and Robert Spencer.

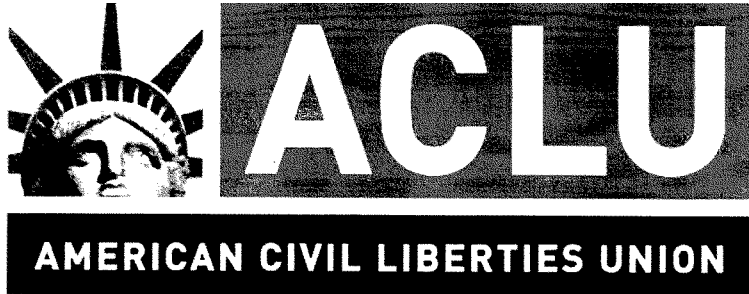
Klein has promoted the movie alongside Pastor Terry Jones who is notorious for burning copies of the Quran to protest the construction of the Park 51 community center in New York City. Gen. David Petraeus said the Taliban would exploit the Quran burning demonstration for propaganda purposes, stirring anger against U.S. troops, and hurting their mission to protect Afghan civilians. He said, "It could endanger troops and it could endanger the overall effort."

Later in 2011, Pastor Jones did in fact burn copies of the Quran. In retaliation, the Afghan Taliban stormed a United Nations compound in Afghanistan that left 11 civilians dead.

There is no better time than now for a proactive, united effort towards moderation by embracing American values that protect our religious freedoms, ensure a vibrant, diverse democracy and sustain America as beacon of inclusiveness.

ⁱ http://www.adl.org/main_Interfaith/david_yerushalmi.htm

ⁱⁱ http://www.adl.org/main_Interfaith/david_yerushalmi.htm



Written Statement of the American Civil Liberties Union

Submitted to the Senate Committee on the Judiciary
Subcommittee on the Constitution, Civil Rights and Human Rights
Hearing on “Hate Crimes and the Threat of Domestic Extremism”

September 19, 2012

The ACLU is a nationwide, non-partisan organization with more than a half million members, countless additional activists and supporters, and 53 affiliates nationwide dedicated to the principles of liberty and equality embodied in our Constitution and our laws. The ACLU has a long history of supporting civil rights legislation, including legislation responding to criminal civil rights violations. At the same time, no other organization in the country has a longer and more consistent record in protecting the freedoms embodied in the First Amendment to the Constitution. Thank you for the opportunity to submit a statement for the record for today’s hearing.

Equal Protection under the Law

Crimes committed against victims because of their race, color, religion, gender, national origin, sexual orientation, gender identity, or disability are particularly invidious. Violence (or the threat of violence) perpetrated against one member of a community impedes that person’s—as well as her entire community’s—full participation in society and ability to realize the promise of liberty. The impact is especially acute when people are targeted for exercising their constitutionally protected rights, such as practicing their faith. Religious freedom is one of our most treasured liberties, a fundamental and defining feature of our national character. Our nation has also long recognized that human rights standards, set forth in the International Convention on the Elimination of All

Forms of Racial Discrimination (ICERD) and the International Covenant on Civil and Political Rights (ICCPR),¹ also compel us to protect everyone's freedom of religion and belief.

Given our robust, longstanding commitment to the freedom of religion and belief, it is no surprise that the United States is among the most religious, and religiously diverse, nations in the world. Thus, the recent murders at the gurdwara in Oak Creek, the alleged arson at the mosque in Joplin and other recent attacks on Islamic institutions, and the fact that the Jewish community continues to experience hate crimes at a disturbing rate are particularly troubling for so many.

Engagement by law enforcement with religious communities targeted for bias-motivated crimes can be a valuable response to this invidious discrimination. When conducted properly, these programs are a crucial mechanism for establishing communication, mutual understanding, and trust between government agencies and the public they serve. Since 9/11, the FBI has engaged in extensive community outreach efforts within the Muslim, South Asian, and Arab American communities. As part of its outreach efforts to these communities, the FBI often highlights its civil rights enforcement role, and asks members of the community to report problems they may face. But, documents obtained by the ACLU of Northern California, the Asian Law Caucus and *The San Francisco Bay Guardian* through the Freedom of Information Act indicate that the FBI sometimes exploits outreach programs directed at Muslim, South Asian, or Arab American communities to gather intelligence,² including at mosques. This information, which included congregants' religious activities and the names and contact information of religious leaders, was classified as "secret," marked as "positive intelligence" and disseminated outside of the FBI, in a manner that appears to violate the federal Privacy Act.³ The FBI's goal of enhancing communication and trust is severely undermined when the agency exploits its outreach programs to gather intelligence against religious and community organizations and their members.

As worrisome as the misuse of community outreach is, the documents also reveal troubling cases in which Muslims did report possible hate crimes but the San Francisco FBI chose not to pursue investigations. In one instance, a mosque reported property damage from several gunshots and told responding FBI agents of prior threats and vandalism that had been reported to the police.⁴ The FBI declined to open an investigation of the shooting, declaring there was no evidence it was a hate crime. Tragically, eight months later, the mosque was severely damaged by arson, which remains unsolved.⁵ In another incident the FBI failed to pursue a civil rights case referred by the Department of Housing and Urban Development in which a Pakistani Muslim family living in

¹ International Convention on the Elimination of All Forms of Racial Discrimination art. 5, Dec. 21, 1965, 660 U.N.T.S. 195 (entered into force Jan. 4, 1969) (ratified by the U.S. in 1994); International Covenant on Civil and Political Rights, art. 18, 27, Dec. 16, 1966, S. Treaty Doc. No. 95-20, 6 I.L.M. 368 (1967), 999 U.N.T.S. 171 (ratified by the U.S. in 1992).

² ACLU, *Eye on the FBI: Community Outreach*, (Dec. 1, 2011), https://www.aclu.org/files/assets/aclu_eye_on_the_fbi_alert_-_community_outreach_as_intelligence_gathering_0.pdf.

³ ACLU, *Eye on the FBI: Mosque Outreach*, (Mar. 27, 2012), http://www.aclu.org/files/assets/aclu_eye_on_the_fbi_-_mosque_outreach_03272012_0_0.pdf.

⁴ Federal Bureau of Investigation, Criminal Investigative Report from San Francisco Office (Mar. 28, 2007), <http://www.aclu.org/files/fbimappingfoia/20111110/ACLURM011741.pdf>.

⁵ Henry K. Lee & Marisa Lagos, *Muslim leaders call Antioch mosque fire 'act of terror'*, S.F. Chron., Aug. 13, 2007, <http://www.sfgate.com/bayarea/article/Muslim-leaders-call-Antioch-mosque-fire-act-of-2510791.php>.

public housing was racially harassed by neighbors.⁶ Finally, the FBI failed to open an investigation regarding a racist threatening message left on a Muslim student activist's telephone after he organized an anti-war protest.⁷ The agent's memo declining to open an investigation referenced items in FBI files that documented the victim's political viewpoints, raising the likelihood that these views played a role in the decision not to investigate. The FBI may have been entirely justified in its decision not to pursue any or all of these cases, but coming as they did during a period of aggressive outreach to Muslim, South Asian, and Arab American communities, they appear to be missed opportunities for the FBI to demonstrate its willingness to protect members of these communities. Failure to investigate serious threats and actual violence based on bias, combined with a disingenuous community outreach programs, seriously impedes effective law enforcement and is an affront to religious liberty and equal protection of the law.

Bias-motivated crimes aren't, of course, committed only against religious, racial, and national origin minorities. They are committed against many groups for many reasons. Federal investigations and prosecutions of all hate crimes serve as a significant deterrent, as well as recognition of our national consensus that it is abhorrent for people to be targeted because of the way they look, how they worship, where they come from, or who they love. Yet, there is evidence that hate crimes are under-investigated when comparing victims' own reports with data collected by the FBI. From 2003–2009, the FBI reports an average of 7,433 hate crime incidents per year, which is compiled from data voluntarily submitted to the FBI by law enforcement agencies throughout the nation.⁸ The Department of Justice's Bureau of Justice Statistics, however, indicates that crime victims reported an average number of 179,300 hate crime incidents per year over the same time period.⁹ This number is *24 times higher* than the official statistics reported by the FBI.

Everyone who is a victim of a hate crime deserves the protections of our laws and when hate crimes are investigated and prosecuted, basic due process and First Amendment principles must be upheld. Laws that impose a penalty for committing a hate crime should only apply when a defendant selected a victim for violence, or a threat of violence, based on discrimination and when the underlying conduct itself would be *criminal*.¹⁰ A defendant's racist or other bigoted views or membership in an objectionable group should only be taken into consideration when that viewpoint or association is admissible as evidence related to the particular crime being investigated to prove, beyond a reasonable doubt, that the defendant selected the victim on the basis of invidiously discriminatory factors.¹¹ Hate crimes cannot be proved by claiming "guilt by association" because of the defendant's affiliation with groups whose bigoted views we may all find repugnant—but which may have had no role in committing the violent act. People's political persuasion, religious beliefs—or lack of beliefs, or membership in an objectionable group *alone* is simply not relevant.

⁶ Federal Bureau of Investigation, Criminal Investigative Report from San Francisco Office (Apr. 4, 2007), <http://www.aclu.org/files/fbimappingfoia/20111110/ACLURM011748.pdf>.

⁷ Federal Bureau of Investigation, Criminal Investigative Report from San Francisco Office (Feb 5, 2007), <http://www.aclu.org/files/fbimappingfoia/20111110/ACLURM011728.pdf>.

⁸ See U.S. Dep't of Justice, Federal Bureau of Investigation, Hate Crimes Statistics, 2003–2009.

⁹ U.S. Dep't of Justice, Office of Justice Programs, Bureau of Justice Statistics, Hate Crime, 2003–2009 (June 2011).

¹⁰ That is, they should be limited to cases involving harassment or injury (or threat thereof) to person or property.

¹¹ The ACLU did not support the Matthew Shepard and James Byrd, Jr., Hate Crimes Prevention Act, but did support an earlier version of the legislation that included an evidentiary provision that would have prohibited the use of evidence of a defendant's speech or association unless specifically related to the crime.

One person's advocacy group is another person's extremist group and evidence of association could just as easily focus on groups¹² representing the very persons that the hate crimes statutes are designed to protect.

History tells us that conflating the expression of unorthodox or even hostile beliefs with legitimate threats or violence only misdirects resources and risks violating the rights of the innocent. The basis for investigating and prosecuting crimes must be acts, not ideology. Ideological or religious beliefs, even extreme ones, are entitled to the full protection of the First Amendment to the U. S. Constitution. Instead of focusing on ideology or First Amendment protected activities, our government officials and law enforcement should be concentrating their efforts on the concrete steps that they can take to ensure that their actions are not contributing to existing bigotry and bias.

The Impact of Biased Policing and Political Rhetoric

Crimes motivated by religious, racial or other biases do not occur in a vacuum. They occur in the context of a broader public discourse in which members of minority communities are frequently vilified, stereotyped, and demeaned. Our elected officials and law enforcement authorities have the power to significantly shape that discourse and to send a strong message to the American public that fundamental principles such as equal protection and religious liberty must be defended. As we have observed, they also have the proven capacity to aggravate existing prejudices and reinforce intolerance.

When police engage in profiling on the basis of race, religion, or national origin it deepens divisions in American communities and sends the message that some U.S. citizens are less entitled to equal protection under the law. Communities that fear the police are less likely to report criminal activity taking place in their neighborhoods.¹³ Not only is law enforcement less effective, but it is also harder to combat biased violence when law enforcement is engaged in biased practices.

Racial, religious, and national origin profiling remains a troubling problem nationwide, persistent throughout the country and members of minority communities continue to be unfairly targeted. For more than a century, black men and women traveling through predominantly white neighborhoods

¹² For example, many of the principal First Amendment association decisions arose from challenges to governmental investigations of civil rights and civil liberties organizations. See, e.g., *Gibson v. Fla. Leg. Investigation Comm.*, 372 U.S. 539 (1962) (holding that the NAACP could refuse to disclose its membership list to a state legislature investigating alleged Communist infiltration of civil rights groups); *Bates v. Little Rock*, 361 U.S. 516 (1960) (reversing a conviction of NAACP officials who refused to comply with local ordinances requiring disclosure of membership lists); *NAACP v. Alabama*, 357 U.S. 449 (1958) (holding as unconstitutional a judgment of contempt and fine on the NAACP for failure to produce its membership lists); *N.J. Citizen Action v. Edison*, 797 F.2d 1250 (3rd Cir. 1986) (refusing to require the fingerprinting of door-to-door canvassers for a consumer rights group), *cert. denied sub nom. Piscataway v. N.J. Citizen Action*, 479 U.S. 1103 (1987); *Familias Unidas v. Briscoe*, 619 F.2d 391 (5th Cir. 1980) (refusing a request to compel the disclosure of the membership list of a public school reform group); *Comm. in Solidarity with the People of El Salvador v. Sessions*, 705 F. Supp. 25 (D.D.C. 1989) (denying a request for preliminary injunction against FBI's dissemination of information collected on foreign policy group); *Alliance to End Repression v. Chicago*, 627 F. Supp. 1044 (1985) (police infiltrated and photographed activities of a civil liberties group and an anti-war group).

¹³ Commission on Human Relations, Los Angeles County, Hate Crime Report, 2008, http://css.lacounty.gov/Data/Sites/1/documentlibrary/HRC/hatecrimereport2008_reduced.pdf (citing "[f]ear of insensitive treatment or prior negative experience with government agencies" as one of the top five reasons that victims underreport hate crimes).

have been questioned for no reason—simply because police officers felt they didn't belong there. Immigration and border enforcement practices continue to promote racial profiling of those who look or sound foreign. During the past decade, as international terrorism has become a subject of intense concern, those of Muslim and Arab and South Asian descent have been spied upon, stopped, questioned, and subjected to intensified police scrutiny based on racial characteristics or religious belief, not on any evidence of wrongdoing.

For example, according to a series of Associated Press articles that began in August 2011, the New York City Police Department (NYPD) has for years targeted Muslims, South Asians and Arab Americans in New York, Connecticut, and New Jersey for intrusive surveillance without suspicion of any criminal activity. The NYPD had been sending undercover officers to neighborhoods in which Muslims and those who appear to be Muslim are concentrated to monitor daily life in bookstores, cafes, and nightclubs, and infiltrating Muslim student organizations and mosques—again, without any evidence of wrongdoing. The NYPD also engaged in pretextual stops of Muslim residents.¹⁴

Such biased practices are not limited to state and local police. The ACLU has documented widespread FBI monitoring of ethnic and racial communities and use of biased and inaccurate training materials.

The FBI practice of “geo-mapping” allows FBI agents to collect and analyze racial and ethnic demographic information to identify particular neighborhoods and communities. They can even monitor and record the location of businesses and community centers and organizations, “if these locations will reasonably aid in the analysis of potential threats and vulnerabilities, and, overall, assist domain awareness for the purpose of performing intelligence analysis.”¹⁵ Based on information the ACLU has received through Freedom of Information Act requests, the FBI collects racial and ethnic demographic information, mapping communities where people might live who fit the profile that the Bureau associates with a particular criminal activity.¹⁶ Locating and mapping

¹⁴ For a listing of the Associated Press series on this issue, see Associated Press, *Highlights of AP's probe into NYPD intelligence operations*, <http://www.ap.org/media-center/nypd/investigation>. See also New York Civil Liberties Union, “NYCLU Urges City Council to Investigate NYPD Spying on Muslim New Yorkers,” Oct. 6, 2011, <http://www.nyclu.org/news/nyclu-urges-city-council-investigate-nypd-spying-muslim-new-yorkers>; New York Civil Liberties Union, “NYCLU and ACLU Call For Investigation into NYPD Profiling of Muslims and Ethnic Groups,” Feb. 22, 2012 <http://www.nyclu.org/news/nyclu-and-aclu-call-investigation-nypd-profiling-of-muslims-and-ethnic-groups>.

¹⁵ Federal Bureau of Investigation, *Domestic Investigations and Operations Guide* (Dec. 16, 2008), <http://graphics8.nytimes.com/packages/images/nytint/docs/the-new-operations-manual-from-the-f-b-i/original.pdf>.

¹⁶ See e.g., Memorandum from Detroit Domain Management Federal Bureau of Investigation (July 6, 2009), <http://www.aclu.org/files/fbimappingfoia/20111019/ACLURM011609.pdf>; Federal Bureau of Investigation, Intelligence Note from Domain Management: Intelligence Related to Mara Salvatrucha Threat (Jan. 21, 2009), <http://www.aclu.org/files/fbimappingfoia/20111019/ACLURM009170.pdf>; Federal Bureau of Investigation, Intelligence Note from Domain Management: Intelligence Related to MS-13Threat (Dec. 15, 2008), <http://www.aclu.org/files/fbimappingfoia/20111019/ACLURM011388.pdf>; Federal Bureau of Investigation, Intelligence Note from Domain Management: Intelligence Related to MS-13 Locations (Sept. 22, 2008), <http://www.aclu.org/files/fbimappingfoia/20111019/ACLURM008040.pdf>; Federal Bureau of Investigation, Intelligence Note from Domain Management: Intelligence Related to Mara Salvatrucha (MS-13) (Sept. 4, 2008), <http://www.aclu.org/files/fbimappingfoia/20111019/ACLURM007857.pdf>; Federal Bureau of Investigation, Intelligence Note from Domain Management: Intelligence Related to Mara Salvatrucha Threat (Jan. 21, 2009), <http://www.aclu.org/files/fbimappingfoia/20111019/ACLURM009170.pdf>.

such communities will undoubtedly lead to disparate treatment in FBI investigative activity and may have already done so.

The FBI has further contributed to racial and religious profiling across the country by providing religiously biased training to federal, state, and local law enforcement personnel. In 2012, the ACLU and news outlets uncovered shockingly inaccurate and highly biased materials that were being used by federal agencies in training federal, state and local law enforcement.¹⁷ The materials falsely and inappropriately portray Arab and Muslim communities as monolithic, alien, backward, violent, and supporters of terrorism. While many of these training materials have since been purged following a government-wide review, that they were used at all remains troubling, as officers who attended the trainings continue to serve in law enforcement, and biased training inevitably leads to biased policing. Despite repeated calls by the ACLU and other groups for remedial training, no such training appears to have been implemented.

In addition, the conduct and comments of certain members of Congress, unfortunately, have contributed to biases against American Muslim communities. For example, members have held hearings that target American Muslims communities as the source of terrorism threats, made unsubstantiated accusation against American Muslim government advisors, and asserted that law enforcement should continue to be trained with inaccurate and offensive materials. Such biased conduct by elected officials pollutes the public's perceptions of the targeted group. When elected officials perpetuate religious, racial, or ethnic stereotypes they become part of the problem when they should be part of the solution.

Congress has the authority to profoundly impact the way that Americans understand racial, ethnic, and religious differences and to advance values that embrace inclusion and equality. At a minimum, members can cease utilizing biased rhetoric and perpetuating harmful stereotypes in their discussion of security risks. Congress also has a responsibility to take affirmative action to end biased law enforcement tactics that deepens racial and religious divisions throughout the country. To this end, Congress should:

- Pass the End Racial Profiling Act (S. 1670 and H.R. 3618), which would ban the use of racial profiling and provide law enforcement officers with the tools they need to develop more effective practice;
- Urge the Administration to strengthen the Department of Justice Guidance Regarding the Use of Race by Federal Law Enforcement Agencies to address profiling by religion and national origin, close loopholes for the border and national security, and make the guidance enforceable;
- Demand the Attorney General modify the Domestic Investigations and Operations Guide (DIOG) to eliminate the FBI's authority to engage in suspicion-less "assessments," and prohibit racial and ethnic mapping; and

¹⁷ See e.g., Memorandum from San Francisco Division of the Federal Bureau of Investigation (Nov. 3, 2003), <http://www.aclu.org/files/fbimappingfoia/20111019/ACLURM013039.pdf>; Spencer Ackerman & Noah Shachtman, *FBI Memo: Agents Can 'Suspend the Law'*, *wired.com*, Mar. 28, 2012, <http://www.wired.com/dangerroom/2012/03/fbi-memo-bend-suspend-law/>; Spencer Ackerman, *FBI Teaches Agents: 'Mainstream' Muslims Are 'Violent, Radical,'* *wired.com*, Sept. 14, 2011, <http://www.wired.com/dangerroom/2011/09/fbi-muslims-radical/>.

- Compel the DOJ Inspector General to investigate the apparent Privacy Act violations within the FBI's San Francisco and Sacramento Divisions and initiate a broader audit of FBI practices nationwide to determine the scope of the problem.

Conclusion

We are pleased that the Committee is seriously examining the occurrence of bias-motivated crimes in American communities. We urge the Committee to use this hearing as an opportunity to advance concrete congressional action to ensure that everyone in the United States enjoys the protections of the law, including the right to be protected from acts of violence and the fundamental First Amendment rights of free speech and religious liberty.

Hate Crimes & the Threat of Domestic Extremism

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

**Wednesday, September 19, 2:30 p.m. Dirksen Senate Office
Building, Room 226**

**Written Testimony submitted by:
American Friends Service Committee
1501 Cherry Street
Philadelphia, PA19003**

As long as we are on earth, the love that unites us will bring us suffering by our very contact with one another, because this love is the resetting of broken bones. Even saints cannot live with saints upon this earth without some anguish, without some pain at the differences that come between them. Hatred recoils from the sacrifice and the sorrow that are the price of this resetting of broken bones. It refuses the pain of reunion.

-Thomas Merton, "A Body of Broken Bones," New seeds of Contemplation

**Written Testimony Submitted by American Friends Service Committee
Hate Crimes & the Threat of Domestic Extremism:
Hearing before the Senate Judiciary Subcommittee
on the Constitution, Civil Rights, and Human Rights
September 19, 2012**

AFSC is concerned that too often nations, institutions, communities and individuals respond to hate with hate, or respond to violence with even greater violence. Addressing hate crimes calls for a much deeper, more nuanced, and more thoughtful process.

The first hate crimes laws established race, national origin, and religion as protected categories. Today, LGBT people, women, and people with disabilities are also calling for attacks against them to be recognized and condemned as hate crimes. Partly in response to such calls, many civil rights, progressive, and faith-based organizations have come together with political leaders to work for passage of new federal and state hate crimes legislation, as well as expansion of existing laws.

In recent years, in the wake of a series of horrific hate-motivated slayings, these efforts have gained a special sense of urgency. Hate crimes include not only murder but many other forms of harassment, intimidation, and violence. In the United States, attacks are directed most often against people of color; lesbian, gay, bisexual, and transgender (LGBT) people; immigrants; people of Middle Eastern or Asian descent, Jews; women, the homeless, and people with disabilities. Such violence is widespread and demands a powerful public response.

When the possibility of peaceful and compassionate relationships among different groups in our society is shattered by hate violence, we are right to call for the healing presence of justice. **But what is justice in a time of broken bones?**

In 2001 AFSC published [In a Time of Broken Bones: A Call to Dialogue on Hate Violence And the Limitations of Hate Crimes Legislation](#), by Katherine Whitlock. This document is available [here](#).

Now, in 2012, in the face of repeated acts of disrespect of religious practices and symbols of religious belief, or hate-motivated violence in the US, along with ready transmission of hateful speech and images around the world, AFSC believes it is necessary to ask searching questions about appropriate responses. If our goal is to confront hate violence effectively, what forms of law and accountability can help us to do so? In a culture that values free speech and freedom of expression, would it ever be possible, desirable, or effective for limits to be placed on expressions that are clearly hateful or intended to provoke violence? What types of legal mechanisms can encourage us to work together, across our differences, to dramatically lessen the scope and impact of these violent expressions of racism, sexism, homophobia, anti-Arab, anti-Muslim, anti-Semitic attacks, and other forms of oppression? What approaches will ultimately work against hate-motivated violence?

[In a Time of Broken Bones](#) challenged people and institutions advocating hate crime legislation to consider the limitations and probable unintended harmful consequences of many hate crimes laws - consequences that compound rather than counteract the systemic violence of racism, misogyny, homophobia, poverty, and economic exploitation. This AFSC working paper examined key elements of

hate crimes laws, particularly the central role of penalty enhancements. It went far beyond a simple critique of hate crimes laws, however, lifting up a vision of "healing justice," rooted in an ethic of interdependence, nonviolence, radical generosity, and openheartedness. AFSC believes the principles it laid out are still relevant, and perhaps more relevant today. These same principles should also be applied to other responses to hate which seek to weaken civil rights and constitutional protections within the US and permit extrajudicial killings through drone strikes, and other mechanisms that by-pass due process.

We cannot uphold freedom and democracy by by-passing the very provisions that protect them. Alternatives are available but they are not easy. Victims and perpetrators of hate crimes both require healing through processes that provide transformative examples of the just, accountable and inclusive society we aspire to be.

AFSC draws on its long-term programmatic experience in such areas as criminal justice, Middle East peace work, economic justice, immigrant rights, youth action, indigenous peoples' struggles for sovereignty and human rights, and LGBT movements seeking rights and recognition. Our understanding is unfinished and evolving. Hate violence must be understood within a larger context of political, social, and economic systems that have supported discrimination and promoted fear of those whose race, gender, sexual orientation or religious beliefs are "different" from one's own.

Key features of this larger context include the shift of public spending away from investment in human needs and civic infrastructure to prisons, policing, and militarization; the increasing transfer of public resources into the hands of private interests with little or no accountability to the communities they serve; and the increasing institutionalization of social and economic inequality. We also see the impact of political groups' scapegoating and use of "wedge politics," to gain advantage, particularly against immigrants, gay, lesbian and transgendered people, the poor, the incarcerated -- and people following the teachings of Islam, to obscure a broader assault upon the entire legal framework of civil rights.

Similarly, attacks on due process rights and other constitutional protections target communities of color, both immigrant and U.S.-born, utilizing the coded, powerful imagery of "illegals," "criminals," or "terrorists." These larger trends threaten individuals, communities, cultures, and the very possibility of democracy. We urgently need an effective community-based response to counter the lethal efficacy of the politics of polarization and multi-faceted origins of hate crimes in all their forms. Communities that have been denied political, social and economic justice must be given access to the tools to build their future as part of an inclusive, respectful democracy.

To contribute to the discussion, AFSC here repeats three primary recommendations, drawn from the 2001 publication, [In a Time of Broken Bones: A Call to Dialogue on Hate Violence And the Limitations of Hate Crimes Legislation](#), by Katherine Whitlock, the full version of which is appended to this written testimony (available [here](#)):

1. **Most hate crimes laws are seriously flawed by their emphasis on penalty enhancements, which produce consequences antithetical to the good intentions of their proponents.** In every area of criminal justice policy, penalty enhancements, like mandatory minimum sentences, three-strike laws, and similar measures, are applied in an unjust and disproportionate way against people of color and poor people. As a result, over the past thirty years they have fueled a broad social process of mass incarceration, which falls most heavily on communities of color, particularly youth. Further, law-

enforcement authorities such as police or prison guards are themselves frequent perpetrators of hate crimes, a systemic reality that is neither acknowledged nor addressed by current hate crimes legislation. We believe that ignoring the deep-seated structural violence of the criminal justice system is a shortsighted and misguided strategy. We agree with proponents of hate crimes legislation that hate violence must be named and that perpetrators must be held accountable for their actions. Our work gives us a keen appreciation for the importance of law in holding both individuals and institutions accountable to baseline standards of humane, just, and democratic conduct.

We also affirm the role of the federal government in protecting civil and human rights where state governments are unwilling or unable to do so or are themselves violating those rights. Nonetheless, AFSC's engagement with the U.S. criminal justice system over the past fifty years leads us to the inescapable conclusion that this system is itself a key institutional perpetrator of violence and hatred and is responsible for massive abuses of civil and human rights. We believe that attempting to address hate violence in ways that reinforce the structural violence of this system will only fuel the cycle of violence, hatred, and polarization. Finally, we note that many, if not most, perpetrators of hate violence are young men under the age of thirty, a great many under the age of twenty-five. AFSC believes that our society's response to hate violence must be based on an attempt to reclaim youth and young adults, not "throw them away into a system permeated by violence and corruption. Long, harsh periods of incarceration, in which maintenance of meaningful family and community ties is rendered difficult or impossible, offer youthful perpetrators of hate violence little opportunity to rebuild their lives.

2. Justice must provide healing from the harms of a hate crime, as in the resetting of broken bones.

Any approach to justice must be judged by the integrity of its means and ends. Responses to hate violence must create an environment for healing from the harm caused by violence. We need justice practices that will redeem the lives of those affected by hate crimes and reduce the likelihood of recurrence. When the rights, dignity, and sacred worth of all parties we have a much better chance at creating a loving, just, and sustaining communities.

Recent violent responses to protest events perceived as desecrating a faith group or religious icon, illustrate the danger of fighting hate with hate. We now live in a society where social media, and easy access to technology, makes it possible to spread hate, intolerance, prejudice, throughout the globe in minutes. If images disseminated in these ways ignite fury, and instigate violent responses, we ourselves must not respond in kind. It is the role of the state to represent our better selves, and to act with a cooler head. A criminal justice system that relies on isolation, breaking of community ties, and violence becomes part of the problem, dehumanizing those who fall under its control, instead of preparing the incarcerated to return to society ready for mutual accountability and engaged relationship.

AFSC understands justice in the wake of hate violence as a call to do the sustained work over time necessary to foster, where possible, the creation of "right relationships" among the victims, the perpetrators, and the larger community. Such a vision of justice would require us to:

- Openly identify the harm and dissolve any atmosphere of threat that keeps it from being named and confronted. Similarly, to help dissolve any atmosphere of guilt, shame, or self-accusation felt by victims who mistakenly believe they brought on the attacks themselves.
- Protect victims from immediate danger and provide sustained emotional, physical, and economic support and assistance. Hold accountable the individuals, public and private institutions, and appointed and elected officials who may be implicated - whether because they directly caused the harm, contributed to a climate of hate, or failed to take appropriate steps to prevent acts of violence.

Written Testimony Submitted by American Friends Service Committee
Hate Crimes & the Threat of Domestic Extremism

Hearing before the Senate Judiciary Subcommittee on the Constitution, Civil Rights, and Human Rights September 19, 2012

- Create a community environment in which those sectors of the community that are most directly affected by hate violence can live in peace and dignity, without intimidation or the threat of violence or economic reprisals. AFSC believes that community recognition and affirmation of the civil and human rights of each person and all peoples is an essential part of creating such an environment.
- Support people who have committed acts of violence to understand the physical, emotional, cultural, spiritual, and economic consequences of the harm they have caused; to accept responsibility for their actions; and to rebuild their lives in ways that create strong and positive ties to the larger community, whether or not they are incarcerated.
- Support people who commit acts of violence to take steps to repair or atone for the harm they have caused, with such steps being determined in a way that includes the input of the victim, the offender, and the larger community. Such acts of repair should cause no further harm or destruction, psychologically or otherwise, to offenders or anyone else.
- Create opportunities for dialogue, direct or indirect, between victims and offenders and foster the establishment of right relationships between them in the wake of the harm. Strengthen the ability of the larger community to address underlying social, economic, and spiritual conditions that encourage acts of violence, including the complicity of the community in creating such conditions.
- Strengthen the capacity of the larger community to identify and rectify any unintended harmful consequences of its justice practices. This evolving vision of justice by no means discounts the power of law to serve as an instrument for the protection of human rights and dignity, but neither do we place all of our hopes in the law, or indeed on government institutions exclusively

We challenge communities to take greater responsibility for the creation of law and justice so that the dialogue between community and government is engaged, mutual, creative, and ongoing. The existing criminal justice system, based primarily on a vision of justice as punishment and retribution, is an essential part of a broader culture of domination that requires the perpetuation of inequality and violence. In the end, this constricted vision has nothing more to offer us than a world consumed by warfare and policing: a world in which the semblance of security rests on violence and exclusion. In such a world, while we do not even know our neighbors, we are deeply suspicious and resentful of them nonetheless. We will do anything, permit anything, in exchange for the promise of protection: for ourselves, our value systems, and our possessions. We will willingly sacrifice the human rights and even the lives of others, if we are led to believe that is what it takes.

A different understanding of the meaning of justice, based on a culture of love and inclusion, is urgently needed. To that end, we must take seriously a vision of restorative justice (also known as distributive justice, transformative justice, or under various other names). Such a vision, we believe, contains immense promise, and many of its basic concepts help point the way to healing justice. Too often, however, the initial positive vision is overtaken by "pragmatic" compromises that leave the violent and coercive foundation of the criminal justice system intact.

The proliferation of reform efforts that reduce restorative justice concepts to a mere embellishment of existing punitive systems has provoked deep-seated skepticism and mistrust among those who suffer the greatest violence and abuse at the hands of the criminal justice system. It is important to understand this contradiction which will require further exploration and dialogue before it can be resolved. We stand on trembling ground as we lift up our hopes and concerns for this transformed approach to justice. The contradictions are apparent. The system as it exists is corrupt and founded in violence. Healing justice

Written Testimony Submitted by American Friends Service Committee
Hate Crimes & the Threat of Domestic Extremism

Hearing before the Senate Judiciary Subcommittee on the Constitution, Civil Rights, and Human Rights September 19, 2012

practices have not yet come into being in a sustained way. AFSC cannot accept the premises of the current system of retributive justice, but neither can we refuse to engage with it.

3. The AFSC believes that redemptive and healing justice practices must be rooted in the communities in which we live. Hate violence calls the question on the ideal of inclusive community, because it sheds light on how the dominant or majority segment of a community acts toward less powerful groups. Hate crimes are committed by specific individuals, but they target those within a community who are seen as expendable or unworthy.

The US exacerbates those attitudes when it singles out certain categories of people for harsher treatment, less due process, and withholds traditional civil and political rights from them. It also contributes to the atmosphere when it is overly zealous in its patriotism, assuming that we are superior to all other countries and deserving of greater respect. Not only the individual who commits an act of violence but the entire community is implicated in hate violence - and so the community must also help to heal it. AFSC seeks to offer a more nuanced exploration of the dynamics of hate violence, including its role in the displacement of class, gender, and racial anxieties as well as religious intolerance.

Only by shouldering one another's burdens of injustice along with our own can we transform the curse of fear, hatred, and human brokenness that afflicts our society into the blessing of just, generous, and compassionate community. Organizing "anti-hate" rallies or creating programs promoting tolerance and appreciation for diversity is not enough, so long as power and privilege continue to be inequitably distributed and used to deny rights and recognition. We must speak to the transforming possibilities of love, generosity, and justice in a community context.

Possibilities arise when suffering is not ignored, but is met with spiritual as well as political solidarity and sustained community action. AFSC believes that God calls us not only to seek justice, but to be justice, and we understand justice to be the societal expression of love which knows no boundaries. We believe that love and justice must come to replace fear and insularity. We are called to work in partnership with many others to replace the corrosive politics of fear, greed, and resentment which seem so firmly in the ascendant - with compassionate and emancipatory practices rooted in the moral vision and ethical integrity of spiritually centered nonviolence. This is how we are called in our own day to follow the ancient practice, found in every major spiritual and ethical tradition, of transforming adversity into compassion, compassion into love, and love into justice.

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**Testimony of
Roy Speckhardt, Executive Director
American Humanist Association
Before the
Senate Judiciary Committee
Subcommittee on the Constitution, Civil Rights and Human Rights
Hearing on Hate Crimes & Domestic Extremism
September 19, 2012**

Mr. Chairman, Members of the Subcommittee, thank you for this opportunity to submit testimony on behalf of the American Humanist Association concerning hate crimes and domestic extremism. The United States is built on inclusion, plurality, and diversity; it is for this reason that hate crimes and actions of hate groups and domestic extremists affect all Americans. In short, I urge Congress and the appropriate federal government agencies to take increased measures to prevent, address, and combat hate crimes and domestic extremism in the U.S, as long as those measures do not infringe upon our civil liberties.

The American Humanist Association is an educational organization that strives to bring about a progressive society where being good without a god is an accepted way to live life. We are accomplishing this through our defense of civil liberties and secular governance, by our outreach to the growing number of people without traditional religious faith, and through a continued refinement and advancement of the humanist worldview. Humanism encompasses a variety of nontheistic views (atheism, agnosticism, rationalism, naturalism, and secularism) while adding the important element of a comprehensive worldview and defined set of ethical values--values that are grounded in the philosophy of the Enlightenment, informed by scientific knowledge, and driven by a desire to meet the needs of people in the here and now.

While it has been nearly three years since the Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act was signed in 2009, hate crimes and hate groups continue to be a serious threat facing this country. Hate crimes are a daily threat to society as a whole as law enforcement officers and government institutions are often in the direct line of fire when hate groups attack and are sometimes specifically targeted by hate groups or domestic extremists. According to FBI hate crimes statistics, over 6,600 hate crimes were reported in the U.S. in 2010. However, these crimes are often underreported, and the Bureau of Justice Statistics has suggested that the number of actual hate crimes may be up to 15 times higher than what is actually reported.

According to the Southern Poverty Law Center, the number of hate groups in our country (currently numbering over a thousand) has grown by almost 60% since 2000. A broad range of communities are targeted by hate crimes: in 2010, 47% of hate crimes were racially-motivated, 20% were motivated by the victim's religion, 19% were based on sexual orientation, and 13% were based on ethnicity or national origin. Hate crimes affect not only individuals, but also the targeted communities to which the individuals belong. When an individual is targeted for his race, religion or lack thereof, sexual orientation, ethnicity or national origin, it sends a message to his fellow members of that community that they are not wanted and do not belong in this country.

Atheists, humanists and other non-religious Americans are often the subject of discrimination, and occasionally are the victim of a hate crime. While the occurrence of hate crimes against non-religious Americans is less prevalent than hate crimes committed against those of a minority race, religion, or sexual orientation, non-religious Americans are still threatened in schools, at work, and in public because of their lack of belief. It is for this very reason that many instances of discrimination and cases of hate crimes are often not reported by non-religious Americans.

Government actions and political discourse greatly shape the public's perception of minority populations and can fuel actions motivated by hate. Law enforcement activities can perpetuate biased perceptions of community members through discriminatory policing (e.g. airport profiling, police surveillance of minority communities, profiling on the part of immigration authorities) and causes valuable resources to be diverted away from actual threats to public safety. These discriminatory actions also diminish the trust of law enforcement by targeted communities, including during times when assistance is needed when faced with hate crimes. Bigoted rhetoric in political discourse, such as statements made by elected and public officials premised on racism, homophobia, sexism, xenophobia, and hatred towards religious and nonreligious groups shape the public's perception of minority populations and can fuel individual actions motivated by hate. Therefore, elected and public officials have a greater responsibility to refrain from making such statements because of the visible positions that they hold and the broad range of audiences that they reach.

History has shown us the past efforts led by the highest levels of government have been pivotal in setting a framework to combat hate crimes and domestic extremism. Following the large number of attacks on African-American churches in the mid-1990s (arsons, bombings, and attempted arsons and bombings), President Clinton declared the issue a national priority and directed the Administration to investigate and prosecute the perpetrators. In addition, a taskforce was established to address this very issue. The effects of these efforts were invaluable, yielding a 53% drop in attacks against such places of worship between 1996 and 1999.

We are now at a similar moment in history and given the grave threat currently posed by hate crimes, hate groups, and domestic extremism to minority communities and all Americans, it is imperative that policymakers take strong measures to prevent, document, investigate, and combat them. Specifically, existing hate crimes legislation must be rigorously enforced; data collection, categorization, reporting, and disaggregation mechanisms must be improved; adequate funding must be provided to government agencies charged with developing initiatives addressing the issue; formalized interagency efforts and positions within government on the issue must be established.

Below are policy recommendations that Congress, the White House, and government agencies should undertake:

- I. Ensure robust and comprehensive implementation of the Matthew Shepherd and James Byrd, Jr. Hate Crimes Prevention Act (HCPA): Enacted in 2009, this law encourages partnerships between federal and state law enforcement officials to more effectively address hate violence and provides limited authority for federal investigations and prosecutions when local authorities are unwilling or unable to act. To ensure robust enforcement, DOJ should file appropriate cases under HCPA and ensure continued education, outreach, and training to federal, state, and local law enforcement officials on HCPA and its requirements.

- II. Improve federal hate crime data collection, disaggregation, categorization, and reporting efforts: DOJ should promote mandatory comprehensive participation in existing hate crimes reporting requirements and the FBI should improve hate crime incident reporting by developing new categories on hate crime incident report forms for various affected communities not yet covered.
- III. Allocate and prioritize federal funding for initiatives that prevent, investigate, and combat hate crimes, hate groups, and domestic extremism: Congress should establish or increase appropriations for: prevention, education, and training initiatives for law enforcement around existing hate crimes policies and their requirements; anti-bias education initiatives; existing government agencies specifically devoted to addressing and investigating hate crimes, hate groups, domestic extremism, and community tensions; and government resources, such as online portals and websites, geared specifically towards youth affected by bias and hatred. In addition, Congress should urge DHS to release its previously retracted 2009 publication on right-wing extremist groups.
- IV. Establish formalized interagency efforts and positions at the highest levels of government ,in partnership with community stakeholders, to address hate crimes: The White House should convene a Presidential summit on hate crimes affecting religious and non-religious minorities that engages community members, religious leaders, and federal government officials with the purpose of developing best practices for stakeholders addressing this issue, similar to what was instituted by President Clinton on race in the 1990s. The White House should also establish an interagency taskforce on hate crimes and domestic extremism, similar to what was established by President Clinton following the church arsons of the 1990s. DOJ should also formalize the Initiative to Combat Post-9/11 Discriminatory Backlash within the DOJ Civil Rights Division by designating a Special Counsel for Post-9/11 Discrimination and a Special Counsel for Religious Discrimination.
- V. Curb actions and discourse by government agencies and public officials that often promote a climate where hate crimes can occur: Congress should pass robust anti-profiling policies, such as the End Racial Profiling Act (S. 1670; H.R. 3618) which prohibits profiling based on race, religion, ethnicity, or national origin by federal, state and local law enforcement; establishes requirements for law enforcement to collect data, provide anti-profiling trainings, an develop a complaint mechanism for affected individuals; allow DOJ to withhold grants to entities that fail to comply with the law and provide funding to these seeking to eliminate the practice; and allow affected individuals to seek redress in court. DOJ should also amend its 2003 Guidance Regarding the Use of Race by Federal Law Enforcement Agencies to apply to profiling based on religion and national origin, remove national and border security loopholes, cover law enforcement surveillance activities, apply to state and local law enforcement agencies acting in partnership with federal agencies or receiving federal funds, and make the guidance enforceable.

Mr. Chairman, Members of the Subcommittee, the American Humanist Association believes strongly that the United States should do everything it can to combat hate crimes and domestic extremism without abridging our civil liberties. We have a moral obligation to uphold the dignity and safety of those affected

by hate crimes, and to prevent them from occurring in the future. I thank you for holding this hearing today.



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**Statement of
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Office of Government and International Affairs
AJC (American Jewish Committee)**

**Submitted on behalf of AJC to the
Senate Committee on the Judiciary
Subcommittee on the Constitution, Civil Rights and Human Rights**

**Hearing on
“Hate Crimes and the Threat of Domestic Extremism”**

September 19, 2012

Since its founding in 1906 by a small group of American Jews deeply concerned about pogroms aimed at Russian Jews, AJC (American Jewish Committee) has been advocating for policies that promote pluralistic and democratic societies where all minorities are protected.

At AJC, we cherish the openness and diversity that is at the heart of this great country. We applaud Chairman Durbin, Senator Graham, and the Senate Judiciary Subcommittee on the Constitution, Civil Rights and Human Rights, for convening this hearing, and we welcome the Justice Department's education and enforcement efforts in implementing the Matthew Shepard and James Byrd Jr. Hate Crimes Prevention Act (HCPA). We hope that this hearing, in addressing the threat posed by hate crimes and domestic extremist groups, will lead to concrete steps forward to prevent any more tragic bias-motivated murders, such as the recent murderous attack on Sikhs in their house of worship in Oak Creek, Wisconsin.

We also applaud the implicit message of this hearing: the connection between hate crime and acts of domestic terrorism. Too often they are seen as unrelated, when the common link between these crimes is clear—the perpetrator of a hate crime selects his or her victim based on the perception he or she is a member of a particular targeted class, even as the terrorist either has a larger target in mind or wants to express hateful ideas on a larger scale. As to the latter, for example, Timothy McVeigh was animated by right-wing, racist, ideologies; his target was not the unfortunate individuals whom he killed or maimed (they were largely seen as necessary "collateral damage"), but a government building and all that he perceived it stood for.

The HCPA is the most important, comprehensive, and inclusive hate crime enforcement law enacted in the past 40 years. In addition to expanding the scope of protected classes encompassed by federal criminal law, HCPA encourages partnerships between state and federal law enforcement officials and also provides limited authority for federal investigations and prosecutions when local authorities are unwilling or unable to act. AJC was proud to be a part of the advocacy efforts by a broad coalition of organizations that worked in support of HCPA for more than a decade. As AJC's Director of National and Legislative Affairs, I was honored to be present at the signing ceremony held at the White House on the day that HCPA was signed into law by President Obama.

We join with the many other organizations that, in connection with this hearing, are calling for expanded and coordinated efforts to track and respond to domestic terrorism and improve hate crime data collection efforts. In addition, AJC makes the following programmatic recommendations to help confront these domestic threats:

- 1) **The Department of Justice should solicit e-mail from people and groups to forward to victims of hate crimes and their communities.** By such a positive use of the internet, we make the statement that an attack on one is an attack on all.
- 2) **Anti-hatred curricula should be the responsibility of school systems, not outside groups.** We would never teach our children reading or math by having non-profit organizations run sporadic, voluntary programs. While educators may certainly want to draw on the expertise of non-profit partners, we need to ascribe the same importance to teaching our children how to function in an increasingly diverse society as we do to these educational fundamentals. No matter how good the program, when outside groups

are responsible for an anti-bias curriculum, the message is that such programs are unimportant.

- 3) **High school students should engage in service programs that promote respect for diversity.** Several weeks of the spring semester of the senior year of high school should be devoted to projects on behalf of, and with, people of different backgrounds than themselves. Following this, students should come back to their schools and share experiences. Such a program would be something students could look forward to as part of their senior year, as opposed to the lack of interest that often marks the last year of high school. Such programs would be especially important in parts of the country where students have little opportunity to interact with members of other ethnic and religious groups.
- 5) **Adoption of universally available national service will promote respect for diversity.** In 2007, AJC issued a report prepared by its Task Force on National Service, and endorsed by the National Urban League, NAACP, National Council of La Raza, Organization of Chinese Americans and Japanese American Citizens League, that urged the adoption of a national service initiative designed for young adults 18 to 25 that would be voluntary but universally available to members of that target age group; immersive in nature, requiring a commitment of at least one year; structured to engage at least one million participants per year; supportive enough to be a viable option for all; and a multi-sector endeavor. Along with engendering habits of civic engagement and linking a clear sense of responsibility to the rights and privileges of being an American, and meeting unmet societal needs (among other reasons for such a program), a broadly available national service program would, as the report stated, “strengthen our social fabric by broadening horizons and encouraging cross-cultural and ethnic relationships and understanding.”¹
- 4) **Government should quantify and announce annually the “cost of intolerance, bigotry and hatred.”** The idea behind the Hate Crimes Statistics Act is that you cannot attack a problem until you quantify it. People and businesses are much more impressed with problems counted in dollars lost than incidents recorded. An index could be created using a variety of factors including discrimination suits, medical bills, costs for repairing property damaged, lost productivity, etc.
- 5) **Encourage the growth of the academic study of hatred.** Some movement has been made toward the creation of a field of Hate Studies, which will help provide testable theories about how hatred works and how to combat it. But much more needs to be done.

AJC appreciates the opportunity to submit this statement and looks forward to continuing this important dialogue. We welcome your questions and comments.

¹ AJC Task Force on National Service, *Imagining America: Making National Service a National Priority* (AJC:2007), <http://www.ajc.org/atf/cf/%7B42d75369-d582-4380-8395-d25925b85eaf%7D/IMAGINING%20AMERICA.PDF>



Statement for the Record
On behalf of
The American-Arab Anti-Discrimination Committee (ADC)
Before
U.S. Senate Committee on the Judiciary
Subcommittee on the Constitution, Civil Rights and Human Rights

I. Introduction

The American-Arab Anti-Discrimination Committee (ADC) is a civil rights organization committed to defending the rights of people of Arab descent and promoting their rich cultural heritage. ADC, which is non-profit, non-sectarian and non-partisan, is the largest Arab-American grassroots civil rights organization in the U.S. It was founded in 1980 by former United States Senator James Abourezk and has members nationwide.

ADC commends the Senate Judiciary Committee for holding today's hearing on hate crimes and domestic extremism. Hate crimes and domestic extremism are antithetical to the core American values of freedom and tolerance. Our nation thrives on the contributions of all its citizens, and when the pluralism that fosters these contributions is threatened by hatred and violence against any group, our society as a whole suffers the repercussions.

ADC hopes that the Committee's leadership in bringing the matters of hate crimes and domestic extremism to the forefront for discussion will result in stronger measures to protect against these dangers.

II. Impact of Hate Crimes and Domestic Extremism on Arab American and Muslim American Communities and on American Society at Large

Arab Americans and Muslim Americans have been subject to bigotry and discrimination for decades. These communities experienced a swift escalation of hatred immediately after the September 11, 2001 terrorist attacks. As a grassroots civil rights organization offering pro bono legal services, ADC is among one of the first places to which victims of hate crimes come for assistance.

The experience of addressing these cases directly places ADC in the relatively unique position of engaging firsthand with developments on the ground. ADC has recorded many of the incidents in a series of hate crimes reports. The three main reports, *Hate Crimes Report 1998-2000*, *Hate Crimes Report 2001-2002*, and *Hate Crimes Report 2003-2007* can be found on the ADC website (www.adc.org). The *2010 ADC Legal Report* also contains hate crimes information. These reports offer general statistics and detailed facts of the many hate crimes complaints ADC has received over the years. ADC continues to receive hate crimes complaints from members of the Arab American and Muslim American communities.

Although ADC's work is focused on its constituent communities, and therefore the hate crimes directed at them, it is with disheartenment that we recognize the problem to be more widespread. No group is immune. Indeed, as with Arab Americans and Muslim Americans, some groups are consistently targeted, such as the Jewish American, Southeast Asian American, Chicano/Latino, and LGBT communities. ADC has in the past and continues to work in coalition with other communities to confront the problem of hate crimes.

The use of the term "communities" in this context is purposeful. When an act of violence is perpetrated against an individual because of some element of that individual's identity, it is not an isolated incident, but a blow that sends shockwaves throughout the person's community. Mixed feelings of shock, fear, and resentment ensue. Members of the community may feel exposed and vulnerable, and may curtail, for example, their exercise of free speech or religious freedom as a means of shielding themselves from harm. Hate crimes therefore threaten the very essence of American life.

III. Impact of Government Actions and Election Discourse

Hatred can come from many sources, such as training material used by law enforcement agencies, including the FBI and the Department of Defense. Over the course of the past few years the use of hate speech and bigoted political rhetoric has drastically increased amongst politicians, including political candidates. The use of such rhetoric by these individuals has been

American-Arab Anti-Discrimination Committee (ADC)

a driving force in perpetrating negative stereotypes of Arab and Muslim Americans. Below are illustrations of government sources that produce hate speech and hate crimes.

1. One source is how our society's leaders act and speak in relation to various communities.
2. Politicians and government officials have a solemn duty to uphold the principles of equality and freedom by being fair and honest in their discourse about communities.
3. Illustrated commitment to tackle hate crimes, such as the final passage of the Matthew Shepard and James Byrd Hate Crimes Prevention Act in 2009 and the Justice Department's unwavering efforts in collaborating with ADC and others in addressing hate crimes concerns speaks volumes. It tells targeted communities that their government stands firmly with them on the side of equality. And it tells those who would act criminally out of hatred for certain peoples that their misguided assaults on the fabric of American society will not be tolerated.
4. By contrast, actions or words by members in government that negatively, and often with no proper basis, single out communities have the opposite effect. They instill fear and a sense of uncertainty among those in the communities targeted, and invite others who are ignorant of these communities to harbor suspicion and resentment against them. Arab Americans and Muslim Americans have seen these effects pronounced as a result of the government's sanctioning of racial profiling and insidious law enforcement surveillance, themselves measure based on the false premise of collective guilt.
5. Furthermore, perhaps most striking is the impact of the shameful political rhetoric designed to garner more support for the speaker among decidedly racist, xenophobic, bigoted listeners by attacking what many are all too ready to believe are their common enemy. It is in the opinion of ADC that the coinciding of hateful language by politicians with deadly hate crimes this summer was no coincidence. The following illustrate examples of political candidates' negative statements regarding Arab and Muslim Americans:

American-Arab Anti-Discrimination Committee (ADC)

- a. Presidential candidate, Mitt Romney, stated “as you come here and see the GDP per capita for instance in Israel which is about \$21,000 and you compare that with the GDP per capita just across the areas managed by the Palestinian Authority which is more like \$10,000 per capita, you notice a dramatic, stark difference in economic vitality. If you could learn anything from the economic history of the world it’s this: culture makes all the difference...”
- b. Congresswoman Michele Bachmann, who failed in her bid to be the Republican presidential nominee, alleged that State Department Deputy Chief of Staff Huma Abedin has ties to the Muslim Brotherhood.
- c. Newt Gingrich, another Romney aide, during his failed bid for the Republican nomination, made a simplistic and strange assertion that the Palestinians are an “invented people.”
- d. Gabriela Saucedo Mercer, a Republican congressional candidate from Arizona, stated about “Middle Easterners” that “their only goal in life is to cast harm to the United States,” and continued to question the presence of “Middle Easterners” in the US by asking, “Why do we want them here, either legally or illegally.”
- e. U.S. Representative Joe Walsh, in response to a question from the audience, asserted that Muslims are “trying to kill Americans every week.” He continued “Its here,” referring to “radical Islam” in the suburbs of Chicago.

IV. Policy Recommendations

ADC has adopted the South Asian American Leading Together’s (SAALT) policy recommendations. ADC suggests the Senate Judiciary Committee take into consideration the following:

1. History has shown us the past efforts led by the highest levels of government have been pivotal setting a framework to combat hate crimes and domestic extremism.

American-Arab Anti-Discrimination Committee (ADC)

Following the large number of attacks on African American churches in the mid-1990s (arsons, bombings, and attempted arsons and bombings), President Clinton declared the issue a national priority and directed the Administration to investigate and prosecute perpetrators; help communities rebuild houses of worship; and offer assistance in preventing additional attacks. In addition, a taskforce was established to address this very issue. These effects of the efforts were invaluable, yielding a 53% drop in attacks against such places of worship between 1996 and 1999.

2. We are now at a similar moment in history and given the grave threat currently posed by hate crimes, hate groups, and domestic extremism to minority communities and all Americans, it is imperative that policymakers take strong measures to prevent, document, investigate, and combat them.
3. Specifically, existing hate crimes legislation must be rigorously enforced; data collection, categorization, reporting, and disaggregation mechanisms must be improved; adequate funding must be provided to government agencies charged with developing initiatives addressing the issue; formalized interagency efforts and positions within government on the issue must be established; and actions and rhetoric by government agencies and public officials that further an environment where bias can occur must be curbed.

Below are policy recommendations that Congress, the White House, and government agencies should undertake:

1. Ensure robust and comprehensive implementation of the Mathew Shepherd and James Byrd, Jr. Hate Crimes Prevention Act (HCPA): Enacted in 2009, this law encourages partnerships between federal and state law enforcement officials to more effectively address hate violence and provides limited authority for federal investigations and prosecutions when local authorities are unwilling or unable to act. To ensure robust enforcement, DOJ should file appropriate cases under HCPA; vigorously defend the constitutionality of the Act; and ensure continued education,

American-Arab Anti-Discrimination Committee (ADC)

outreach, and training to federal, state, and local law enforcement officials on HCPA and its requirements.

2. Improve federal hate crime data collection, disaggregation, categorization, and reporting efforts: DOJ should promote mandatory comprehensive participation in existing hate crimes reporting requirements and the FBI should improve hate crime incident reporting by developing new categories on hate crime incident report forms for various affected communities not yet covered (including anti-Arab, anti-Sikh, and anti-Hindu incidents).
3. Allocate and prioritize federal funding for initiatives that prevent, investigate, and combat hate crimes, hate groups, and domestic extremism: Congress should establish or increase appropriations for: prevention, education, and training initiatives for law enforcement around existing hate crimes policies and their requirements; anti-bias education initiatives; existing government agencies specifically devoted to addressing and investigating hate crimes, hate groups, domestic extremism, and community tensions; and government resources, such as online portals and websites, geared specifically towards youth affected by bias and hatred. In addition, Congress should urge DHS to release its previously retracted 2009 public on right-wing extremist groups.
4. Establish formalized interagency efforts and positions at the highest levels of government, in partnership with community stakeholders, to address hate crimes: The White House should convene a Presidential summit on hate crimes affecting religious minorities that engages community members, religious leaders, and federal government officials with the purpose of developing best practices for stakeholders addressing this issue, similar to what was instituted by President Clinton on race in the 1990s. The White House should also establish an interagency taskforce on hate crimes and domestic extremism, similar to what was established by President Clinton following the church arsons of the 1990s. DOJ should also formalize the Initiative to Combat Post-9/11 Discriminatory Backlash within the DOJ Civil Rights Division by designating a Special Counsel for Post-9/11 Discrimination and a Special Counsel for Religious Discrimination.

American-Arab Anti-Discrimination Committee (ADC)

5. Curb actions and discourse by government agencies and public officials that often promote a climate where hate crimes can occur: Congress should pass robust anti-profiling policies, such as the *End Racial Profiling Act* (S. 1670; H.R. 3618) which prohibits profiling based on race, religion, ethnicity, or national origin by federal, state and local law enforcement; establishes requirements for law enforcement to collect data, provide anti-profiling trainings, and develop a complaint mechanism for affected individuals; allow DOJ to withhold grants to entities that fail to comply with the law and provide funding to these seeking to eliminate the practice; and allow affected individuals to seek redress in court. DOJ should also amend its 2003 Guidance Regarding the Use of Race by Federal Law Enforcement Agencies to apply to profiling based on religion and national origin, remove national and border security loopholes, cover law enforcement surveillance activities, apply to state and local law enforcement agencies acting in partnership with federal agencies or receiving federal funds, and make the guidance enforceable. Public officials should refrain making statements based on racism, xenophobia, homophobia, sexism, or religious intolerance. Public officials should also take a pledge to not engage in such rhetoric as well as condemn such statements when they do occur in the public sphere.

ADC encourages the United States government to give this important issue affecting marginalized communities proper attention. The danger the Arab American, as well as other minority communities face, is a ever-present danger that has severely affected the lives of those in the United States. ADC is fully committed to supporting the marginalized communities in all aspects until just policies are implemented.

Date of Submission: September 18, 2012

Statement by Anti-Defamation League
Senate Judiciary Subcommittee on Constitution, Civil Rights and Human Rights
on
Hate Crimes and the Threat of Domestic Extremism
September 19, 2012

We are pleased to submit this statement in support of vigorous enforcement of the Matthew Shepard and James Byrd Jr. Hate Crimes Prevention Act (HCPA) and expanded, coordinated police – community efforts to track and respond to domestic terrorism and improve hate crime data collection efforts. The horrible bias-motivated murders of Sikhs in their house of worship in Oak Creek, Wisconsin last month demonstrate, once again, the tragic impact of hate crimes – and the critical importance of partnerships between government and community groups to effectively prevent and respond to domestic extremism and hate crimes.

The Anti-Defamation League

Since 1913, the mission of ADL has been to "stop the defamation of the Jewish people and to secure justice and fair treatment to all." Dedicated to combating anti-Semitism, prejudice, and bigotry of all kinds, defending democratic ideals and promoting civil rights, ADL is proud of its leadership role in the development of innovative materials, programs, and services that build bridges of communication, understanding, and respect among diverse racial, religious, and ethnic groups.

Over the past three decades, the League has been recognized as a leading resource on effective responses to violent bigotry, conducting an annual *Audit of Anti-Semitic Incidents*, and drafting model hate crime statutes for state legislatures. We were privileged to lead a broad coalition of civil rights, religious, educational, professional, law enforcement, and civic organizations working in support of the HCPA for more than a decade.

The Impact of Hate Violence

All Americans have a stake in effective response to violent bigotry. These crimes demand priority attention because of their special impact. Bias crimes are designed to intimidate the victim and members of the victim's community, leaving them feeling fearful, isolated, vulnerable, and unprotected by the law. Failure to address this unique type of crime often causes an isolated incident to explode into widespread community tension. The damage done by hate crimes, therefore, cannot be measured solely in terms of physical injury or dollars and cents. By making members of minority communities fearful, angry, and suspicious of other groups – and of the power structure that is supposed to protect them – these incidents can damage the fabric of our society and fragment communities.

Punishing Bias-Motivated Violence: The Framework for Hate Crime Laws

Criminal activity motivated by bias is distinct and different from other criminal conduct. These crimes occur because of the perpetrator's bias or animus against the victim on the basis of actual or perceived status – the victim's race, color, religion, national origin, sexual orientation, gender, gender identity, or disability is the *reason* for the crime. In the vast majority of these incidents, no crime would have occurred at all, were it not for the victim's personal characteristic.

Analogous to anti-discrimination civil rights laws. Hate crime laws are best viewed as a criminal law parallel to the thousands of federal, state, and local laws that prohibit invidious discrimination because of race or other identifying characteristic. In language, structure, and application, the majority of the nation's hate crime laws are directly analogous to anti-discrimination civil rights laws.

For example, Title VII of the Civil Rights Act of 1964, as amended, prohibits various discriminatory employment actions "because of" the employee's or prospective employee's race, color, religion, sex, or national origin. One relevant section of the Fair Housing Act, 42 U.S.C. §3604 (a), prohibits interference with housing choices "because of [the victim's] race, color, religion, sex, familial status, or national origin." Further, a number of current federal criminal laws punish intentional discrimination on the basis of race, religion, or other characteristic. For example, by enacting 18 U.S.C. §242, the Reconstruction Era Congress made it a crime to deprive a person of constitutional rights "by reason of his color, or race" 18 U.S.C. § 245 makes it a crime to intentionally injure, intimidate, or interfere with any person's enjoyment of a federal right or benefit (or attempt to do so) "because of his race, color, religion, or national origin" and because the person is engaged in an enumerated federally-protected activity. And the HCPA, 18 U.S.C. § 249 (a) (1) states:

Whoever, whether or not acting under color of law, willfully causes bodily injury to any person or, through the use of fire, a firearm, a dangerous weapon, or an explosive or incendiary device, attempts to cause bodily injury to any person, **because of** the actual or perceived race, color, religion, or national origin of any person.....

As with workplace and housing civil rights laws, the prohibited conduct under hate crime laws is the intentional selection of the victim for targeted, discriminatory behavior on the basis of the victim's actual or perceived personal characteristics.

Comparable to other status crimes. Many federal and state criminal laws provide different penalties for crimes depending on the victim's particular status. Virtually every criminal code provides enhanced penalties for crimes directed at the elderly, or the very young, or teachers on school grounds, or law enforcement officials. Legislators have legitimate and neutral justifications for selective protection of certain categories of victims – and enhanced criminal penalties – based on their judgment of the social harm these crimes cause.

Consistent with the First Amendment. The First Amendment does not protect violence – and it does not prevent the government from imposing criminal penalties for violent discriminatory conduct directed against victims on the basis of their personal characteristics. Hate crime laws do not punish speech. Americans are free to think, say, and believe whatever they want. It is only when an individual commits a crime because of those biased beliefs and intentionally targets another for violence or vandalism that a hate crime statute can be triggered. In *Wisconsin v. Mitchell*, 508 U.S. 476 (1993), the U.S. Supreme Court unanimously upheld the constitutionality of the Wisconsin penalty-enhancement statute – effectively removing any doubt that state legislatures may properly increase the penalties for criminal activity in which the victim is intentionally targeted because of his/her race, religion, sexual orientation, gender, or ethnicity.

Deterrent Impact. Law enforcement officials have come to recognize that strong enforcement of these laws can have a deterrent impact and can limit the potential for a hate crime incident to explode into a cycle of violence and widespread community disturbances. In partnership with human rights groups and civic leaders, law enforcement officials have found they can advance police-community relations by demonstrating a commitment to be both tough on hate crime perpetrators and sensitive to the special needs of hate crime victims.

Punishment to fit the crime. Laws shape attitudes. Bigotry cannot be outlawed, but hate crime laws demonstrate an important commitment to confront and deter criminal activity motivated by prejudice. Hate crime laws – like anti-discrimination laws in the workplace – are color-blind mechanisms which allow society to redress a unique type of wrongful conduct in a manner that reflects that conduct's seriousness. Since hate violence has a uniquely serious impact on the community, it is entirely appropriate for legislators to acknowledge that this form of criminal conduct merits more substantial punishment.

State Hate Crime Laws

At present, forty-five states and the District of Columbia have enacted hate crime penalty-enhancement laws, many based on an ADL model statute drafted in 1981. Currently, however, only thirty states and the District of Columbia include sexual orientation-based crimes in their hate crimes statutes; only twenty-six states and the District of Columbia include coverage of gender-based crimes; only thirteen states and the District of Columbia include coverage of gender-identity based crimes, and only thirty states and the District of Columbia include coverage for disability-based crimes. And five states – Arkansas, Georgia, Indiana, South Carolina, and Wyoming – have no hate crime statute at all. A chart of state hate crimes statutory provisions is included at **Appendix A**.

The Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act (HCPA) Public Law 111-84, Division E

The HCPA is the most important, comprehensive, and inclusive hate crime enforcement law enacted in the past 40 years. The Anti-Defamation League played a lead role in coordinating sustained advocacy efforts by a broad coalition of civil rights, religious, educational, professional, law enforcement, and civic organizations working in support of the HCPA for more than a dozen years until its enactment. Under the leadership of President Obama, Attorney General Holder, and a number of champions in Congress – led by the late Edward Kennedy (D-MA) – this legislation was signed into law on October 28, 2009. The HCPA closes gaps in current federal enforcement authority, encourages partnerships between state and federal law enforcement officials to more effectively address hate violence, and provides limited expanded authority for federal hate crime investigations and prosecutions when local authorities are unwilling or unable to act.

The HCPA complements existing federal criminal civil rights statutes, and is patterned after 18 U.S.C. §245 – one of the primary statutes used to combat racial and religious bias-motivated violence. Enacted in 1968, 18 U.S.C. §245 prohibits intentional interference, by force or threat of force, with the enjoyment of a federal right or benefit (such as voting, going to school, or working) on the basis of race, color, religion, or national origin.

Under 18 U.S.C. §245, the government must prove both that the crime occurred because of a person's membership in a protected group, such as race or religion, and because (not while) he/she was engaging in a federally-protected activity. This unwieldy, overly-burdensome dual requirement prevented the government from investigating and prosecuting a significant number of cases in the past. And prior to enactment of the HCPA, federal authorities were

unable to involve themselves in cases involving death or serious bodily injury resulting from crimes directed at individuals because of their sexual orientation, gender, gender identity, or disability.

The HCPA addressed both of these deficiencies. First, the HCPA eliminated the overly-restrictive obstacles to federal involvement by permitting prosecutions without having to prove that the victim was attacked because he/she was engaged in a federally-protected activity. Second, the new law provides new authority for federal officials to work in partnership with state and local law enforcement authorities to investigate and prosecute cases in which the bias violence occurs because of the victim's actual or perceived sexual orientation, gender, gender identity, or disability.

State and local authorities investigate and prosecute the overwhelming majority of hate crime cases – and will continue to do so even with the HCPA on the books. From 2000- 2010, for example, the FBI documented almost 84,000 hate crimes. During that period, however, the Justice Department brought fewer than 170 cases under 18 U.S.C. § 245. But many of those federal cases were incredibly important, including cases involving organized hate groups, cases with special community or national impact, and cases in which local authorities lacked the resources, or the will, to vindicate justice. The HCPA gives local law enforcement officials important new tools to combat violent, bias-motivated crimes in their jurisdictions. Federal support – through training or direct assistance grants – will help ensure that bias-motivated violence is effectively investigated and prosecuted. Since its enactment in October 2009, the Justice Department has investigated dozens of cases, and, to date, has brought HCPA charges in about a dozen cases.

Implementation of the HCPA

We applaud the Justice Department's initial outreach, training, education, and enforcement of the HCPA. Under the leadership of Attorney General Holder and Assistant Attorney General for Civil Rights Tom Perez, Justice lawyers have worked with FBI officials, US Attorneys, and professionals from the Community Relations Service to organize a series of dozens of training programs on the new tools the Act provides, enforcement strategies, and community engagement – including training programs in each of the five states with no hate crime laws. Several thousand state and local law enforcement officials have been trained at these sessions. In addition, the Justice Department, in coordination with several lead US Attorneys, has vigorously defended the HCPA in both facial and as applied constitutional challenges.

In addition, since HCPA enactment, ADL and lead members of the hate crime coalition have worked in close coordination with the FBI in developing and updating training and outreach materials to assist in the implementation of the HCPA's new Hate Crime Statistics Act (HCSA) mandate – collecting hate crime data on crimes directed against individuals because of their gender or gender identity, and hate crimes committed by or against juveniles.

The Disturbing Prevalence of Hate Violence: The Hate Crime Problem in America in 2012

The FBI has been tracking and documenting hate crimes reported from federal, state, and local law enforcement officials since 1991 under the Hate Crime Statistics Act of 1990 (HCSA). Though clearly incomplete, the Bureau's annual HCSA reports provide the best single national snapshot of bias-motivated criminal activity in the United States. The Act has also proven to be a powerful mechanism to confront violent bigotry, increasing public awareness of the problem and sparking improvements in the local response of the criminal justice system to hate violence – since in order to effectively report hate crimes, police officials must be trained to identify and respond to them.

In 2010, the most recent report available, the FBI documented 6,628 hate crimes reported by almost 15,000 law enforcement agencies across the country – nearly one hate crime every hour of every day. Of the 6,628 total incidents, 3,135 were motivated by racial bias (47.3 percent) 1,277 by sexual orientation bias (19.3 percent); 847 by ethnicity/national origin bias (12.8 percent); and 43 were reported to have occurred against disabled individuals (0.65 percent). In addition, 1,322 (19.9%) of all reported crimes were motivated by religious bias. Of special concern to the Anti-Defamation League is the fact that of the incidents motivated by religious bias in 2010, 887 (67%) were directed against Jews and Jewish institutions – accounting for 13.4% of the total number of reported hate crimes in 2010. Overall, reported hate crimes directed against individuals because of race, religion, sexual orientation, and national origin all increased slightly – with a significant increase in the number of reported anti-Islamic crimes. The FBI's 2010 HCSA report is available here: <http://www.fbi.gov/about-us/cjis/ucr/hate-crime/2010>. An ADL chart which compiles and details the findings from the annual FBI HCSA reports from 2000-2010 is included as **Appendix B**.

Very few states systematically collect statistics on these categories of hate crimes. There are real consequences to this failure. Studies have demonstrated that victims are more likely to report a hate crime if they know a special reporting system is in place. Yet, studies by the National Organization of Black Law Enforcement Executives (NOBLE) and others have revealed that some of the *most* likely targets of hate violence are the *least* likely to report these crimes to the police. In addition to cultural and language barriers, some immigrant victims, for example, fear reprisals or deportation if incidents are reported. Many new to America come from countries in which residents would never call the police –

especially if they were in trouble. Gay, lesbian, and transgender victims, facing hostility, discrimination, and, possibly, family pressures, may also be reluctant to come forward to report these crimes.

The HCSA data we have certainly understates the true number of hate crimes committed in our nation. On one hand, participation in the FBI's national reporting program (which, like the rest of the UCR Program, is voluntary) has increased over the years. As of 2010, 14,977 federal, state, and local law enforcement agencies voluntarily reported hate crime data to the FBI – the highest participation in the HCSA program since its inception. Yet, on the other hand, less than 2,000 of these participating agencies – 13 percent – reported even a single hate crime to the FBI, significantly fewer than in 2009 and the fewest number of agencies reporting one or more hate crimes since 2002. Moreover, as in past years, the vast majority of the *participating* agencies (87%) affirmatively reported 0 (zero) hate crimes to the FBI. In fact, in 2010, police departments in 80 cities over 100,000 in population either did not report hate crime data to the FBI at all or affirmatively reported zero hate crimes. An ADL chart which lists these 80 jurisdictions is included as **Appendix C**.

Notable, Disturbing Trends

In the immediate aftermath of the September 11 terrorist attacks, the nation witnessed a disturbing increase in attacks against American citizens and others who appeared to be of Muslim, Middle Eastern, and South Asian descent. Although the FBI HCSA program collects information about bias motivated crimes directed at Muslims, it does not collect separate data on hate crimes directed against Arabs, Sikhs, or Hindus. As evidenced by the recent tragic bias-motivated murders at the Sikh Gurdwara in Oak Creek, Wisconsin, there is substantial evidence that Sikhs have been targeted for violence because of their religious practices, appearance, and apparel, including the distinctive beards, turbans, and head coverings worn by many observant Sikhs. Just four days after the September 11 attacks, Balbir Singh Sodhi, a Sikh American, was murdered in Phoenix by an individual who irrationally acted against him in the mistaken belief that he was in some way connected with this terrorism. In March, 2011, two elderly Sikhs wearing traditional turbans were shot and killed on a street in Elk Grove California.

In addition, it is especially disturbing that reported crimes directed against Hispanics increased from 483 in 2009 to 534 in 2010. In fact, according to the FBI, in five of the last seven years, the number of violent assaults against Hispanics, legal, and undocumented immigrants – and those perceived to be immigrants – increased. ADL has identified a disturbing increase in the number of these hate crimes committed by white supremacists and other far-right extremists in our report, "Extremists Declare 'Open Season' on Immigrants: Hispanics Target of Incitement and Violence." That report is available here: http://www.adl.org/main_Extremism/immigration_extremists.htm

Clearly these hate crime numbers do not speak for themselves. Behind each and every one of these statistics is an individual or a community targeted for violence for no other reason than race, religion, sexual orientation, disability, or national origin.

Homegrown Haters: Domestic Extremist Threats in the United States in 2012

Next year, the Anti-Defamation League will be celebrating our 100th anniversary. For some 75 of those years, one of the most important ways ADL has pursued its mission has been to monitor extremist groups and movements of all types and to combat the problems that they cause, including problems related to criminal activity, violence, and terrorism.

ADL's Center on Extremism has experts on right-wing extremism, left-wing extremism, religious extremism, and other sources of extremism as well. Every year ADL trains more than 10,000 law enforcement officers on subjects ranging from white supremacy and anti-government extremism to domestic Muslim extremism to radical environmental and animal rights groups. ADL has no agenda or bias when it comes to extremist threats; we oppose any movement that threatens to undermine the democratic foundations that protect all our rights.

Domestic Extremist Threats in the United States

Because of its large population and complex culture and economy, the United States typically faces several simultaneous domestic extremist threats at any given time. Any given movement may see its fortunes rise or fall due to a number of circumstances, ranging from popular sentiment to effective law enforcement. However, there are always several extremist movements actively engaging in criminal activity, including crimes of violence.

During the course of the past decade, four extreme domestic movements have posed particular threats to the peace and safety of our nation. These movements are:

- 1) Domestic Muslim extremists;
- 2) Radical animal rights and environmental extremists;
- 3) White supremacists; and

4) Right-wing anti-government extremists

In addition to these major threats, other extreme movements have also produced violent acts in recent years, including radical anti-abortion extremists, radical anti-immigration extremists, and anarchists.

Of these threats, the newest on the scene are domestic Muslim extremists, emerging in the aftermath of the 9/11 terror attacks and the ensuing conflicts in Iraq and Afghanistan. Embracing radical interpretations of Islam, the adherents of this nascent movement have often sought to attack targets in the United States or to fight with or provide material support to terror organizations abroad.

Several hundred American citizens have been arrested during the past decade for engaging in such activities. Thanks to the Internet, many were influenced to attempt violent action at the urging of terrorist organizations and their ideologues abroad, including Americans such as Anwar al-Awlaki and Samir Khan. Though these two individuals are thought to have been killed in drone strikes in 2011, others have stepped forward to take their place.

Domestic Muslim extremists have plotted or attempted to destroy government buildings, infrastructure targets, military installations, Jewish institutions, and "soft" targets such as shopping malls. Fortunately, most such conspirators have proven to be of the "high intent, low capability" type, rendering them vulnerable to sting operations by law enforcement agencies purporting to offer extremists the missing resources they need to carry out their deadly intentions. Such preventive law enforcement actions have saved many lives. However, on those occasions when domestic Muslim extremists have eschewed grandiose plots or conspiracies and adopted simpler, more straightforward tactics, the results have been far deadlier, as the murderous shooting incidents in 2009 at Fort Hood, Texas, and Little Rock, Arkansas illustrated. There is no doubt that domestic Muslim extremists are a troubling threat worthy of the attention of the government and law enforcement.

Another threat that emerged in the early 2000s was the threat posed by two single-issue extremist movements. Single-issue extremism can come from the left, the right, or other sources. But what all single-issue extremist movements share is that they are a smaller extreme wing of a much larger mainstream movement. Millions of Americans oppose abortion, for example, but only a tiny minority of Americans are so extreme that they are willing to kill or to bomb to support such views.

The two single-issue extremist movements that surged early this century were the extreme ends of the environmental and animal rights movements, exemplified by loosely-organized groups such as the Earth Liberation Front and Animal Liberation Fronts (ELF/ALF). Under the banner of ELF/ALF, activists engaged in dozens of arsons and firebombings, attacking targets ranging from SUV dealerships to research facilities and laboratories to housing developments, causing many millions of dollars' worth of property damage. Though, for the most part, environmental and animal rights extremists avoided violence targeting people, a widespread campaign of intimidation and violence by animal rights extremists against university scientists and researchers was marked by numerous acts of harassment, vandalism, and a series of firebombings and attempted firebombings deliberately putting lives at risk.

The number and scope of such attacks, combined with the difficulties law enforcement initially faced in investigating such crimes, warranted the attention given to these single-issue movements by the Justice Department under the Bush administration. That attention ultimately allowed law enforcement to bring to justice many perpetrators of such attacks.

Right-Wing Extremism Resurgent

Though many extremist movements have posed threats to the United States in the past decade, perhaps the most troubling development in the past few years has been the strong resurgence of right-wing extremism that emerged towards the end of 2008 and the beginning of 2009. Today, three and a half years into this resurgence, it is clear that the threat of right-wing extremist violence, ranging from hate crimes to acts of terrorism, is higher than it has been in many years.

The extreme right in the United States is largely divided into two slightly overlapping spheres. In one sphere are the white supremacist movements—there are five major white supremacist movements in the United States today. In the other sphere are the three main anti-government extremist movements (often collectively known as the "Patriot" movement). These anti-government extremists are not anti-government in the sense that they want government reform or want less government or are opposed to a particular administration. Rather, they are anti-government in the sense that they believe that an evil conspiracy has infiltrated and subverted part or all of our government, and what Americans think of as the legitimate government is actually a tyrannical, illegitimate government. From these beliefs have sprung movements such as the militia movement and the "sovereign citizen" movement.

There are three main reasons for the resurgence of right-wing extremism in the United States over the past several

years. The first reason was the election of President Barack Obama in 2008. White supremacists, not surprisingly, became agitated at the election of an African-American president, while anti-government extremists incorporated Obama into their "New World Order" conspiracy theories. The second reason was the recession and related housing crisis that also began in late 2008. Anti-government extremists in particular were able to exploit the poor economic situation. The third reason was simply that it had been a decade since the last major resurgence of right-wing extremism (roughly 1994-1999) had died down. In other words, the country was "due" another cycle of right-wing violence.

The resurgence did not affect all extremists in the same way. The anti-government extremist movements became greatly agitated and angry, and also experienced a considerable growth in numbers. The number of militia groups tracked by ADL more than quintupled from 2008 to 2012, for example. The extreme "sovereign citizen" movement, whose adherents acknowledge virtually no governmental authority over them at all, grew at an even greater rate.

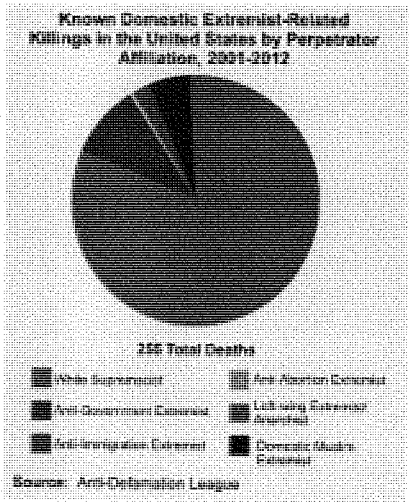
White supremacists experienced the same growth in agitation and anger levels that anti-government extremists did, but luckily did not experience the same growth in numbers. The numbers of white supremacists have remained more or less stable over the past several years. However, white supremacists have engaged in many shocking acts of violence during this timeframe.

Right-Wing Extremist Violence in the United States

Even before the resurgence that began in 2009, right-wing extremists were already responsible for much of the domestic extremist-related violence in the United States, whether in the form of hate crimes, domestic terrorist acts or plots, or other forms of violence. This is not very surprising, given the long historical presence of such movements in the country, as well as their relative sizes compared to other extremist movements.

However, the extent of right-wing violence in the United States is not often fully appreciated. Though high-profile incidents like the tragic shootings at the Sikh Gurdwara in Oak Creek in August 2012 garnered considerable media attention, many acts of right-wing violence receive only local or regional coverage by the media. Thus the average American tends to underestimate the threat from right-wing extremists.

Since the most extreme form of violence is to kill someone, one way to measure extremist-related violence is to look at extremist-related murders and killings. The Anti-Defamation League tracks known extremist-related deaths (from all domestic sources of extremism, dating back to 1970). The true number of such deaths can never be known, as the extremist connections to many murders often take years to come to light or may never emerge at all. However, for the period 2001-2012, ADL has identified at least 255 lethal incidents in which the perpetrator(s) are known or believed to have been domestic extremists of some affiliation.



When one examines the affiliations of the suspected perpetrators of these deaths (see chart), what becomes immediately obvious is that the vast majority of domestic extremist-related deaths this century have come at the hands of right-wing extremists. Indeed, almost 94% of these killings have been at the hands of adherents of one or more of the various right-wing extremist movements in the United States. By far the most lethal extremists have been adherents of the white supremacist movements, who are thought to be responsible for 81% of the 255 known deaths.

There are several reasons for the extreme level of lethality of white supremacists:

- 1) White supremacists frequently commit hate crimes and in the United States they find a target-rich environment.
- 2) White supremacists are almost as likely to attack law enforcement and government targets as are anti-government extremists.

- 3) A number of white supremacists target members of their own groups whom they suspect are potential informants or "weak links."
- 4) Many white supremacists are simply more likely to be violent. Not only do a number of white supremacists engage in lethal levels of violence while engaging in traditional (i.e., non-ideological) criminal activities, but quite a few have also committed lethal acts of domestic violence as well.

Some of the most shocking killings by white supremacists in the past few years include:

- Oak Creek, Wisconsin, August 2012: White supremacist Wade Michael Page opens fire at a Sikh temple, killing six and wounding four more before fatally shooting himself after being wounded by police. Page was a member of the Hammerskins, a racist skinhead group.
- Washington, Oregon, California, September-October 2011: White supremacists David Pedersen and Holly Grigsby allegedly embark upon a multi-state spree of violence, killing four people in three states before being apprehended. Prosecutors claim that, when apprehended, they were on their way to Sacramento to attack Jewish individuals or targets.
- Cooperstown, North Dakota, January 2011: White supremacist Daniel Wacht murders and decapitates a 54-year-old university researcher, burying the head in a crawl space in his basement. Wacht – who would be sentenced to life in prison without possibility of parole – was said by authorities to have wanted to kill someone or blow something up in order to start a white supremacist group.
- Phoenix, Arizona, October 2009: Travis Ricci and Aaron Schmidt, members of the Vinlanders Social Club, a violent racist skinhead group, open fire on an interracial couple walking down the street, fatally wounding the woman.
- Washington, D.C., June 2009: White supremacist James von Brunn opens fire with a rifle inside the United States Holocaust Memorial Museum, killing a security guard before being incapacitated by return fire from another guard. Von Brunn died before standing trial.
- Pittsburgh, Pennsylvania, April 2009: White supremacist Richard Poplawski murders three Pittsburgh police officers and engages in a shoot-out with police that wounds a fourth before he is apprehended. He is later convicted of three counts of first-degree murder and sentenced to death.
- Brockton, Massachusetts, January 2009: Keith Luke, an unaffiliated white supremacist, allegedly kills two Cape Verdean immigrants and rapes and shoots a third. After being apprehended by police, Luke allegedly admits that he had planned to kill as many Jews as possible at a local synagogue and then kill himself.

Right-wing extremists have been involved in countless other criminal incidents in recent years, ranging from assaults and attempted murders to bombings and fire-bombings to attacking government buildings (in one case, even flying a plane into an IRS building in Austin, Texas).

The last time the United States experienced a similar surge in right-wing extremism was in the mid-to-late 1990s. At that time, adherents of various right-wing extremist movements engaged in a variety of conspiracies and plots to commit major acts of violence. With a new wave of right-wing extremism sweeping the United States, this phenomenon has emerged again. The first such incident, heralding what was to come, occurred in October 2008. Two racist skinheads were arrested in Tennessee for engaging in preparatory actions for a plot that envisioned shooting 88 African-American high school students at a local school (the number 88 is symbolically important to white supremacists, as it is code for "Heil Hitler"), decapitating 14 more students (as the number 14 is code for a popular white supremacist slogan), and attempting to assassinate then-President Barack Obama.

More plots and conspiracies followed, including a militia plot in Alaska to kill judges and law enforcement officers, a militia plot in Georgia to attack government buildings (and to use the biological toxin ricin), and an alleged conspiracy by a racist skinhead group in Florida to engage in paramilitary training with the intention of committing civil disorder, among others. Most recently, prosecutors in Georgia have revealed an alleged plot by a militia cell within the U.S. military to engage in a variety of violent acts, including attacking a dam, poisoning crops, and assassinating President Barack Obama. Members of the group are also accused of having murdered two people in late 2011.

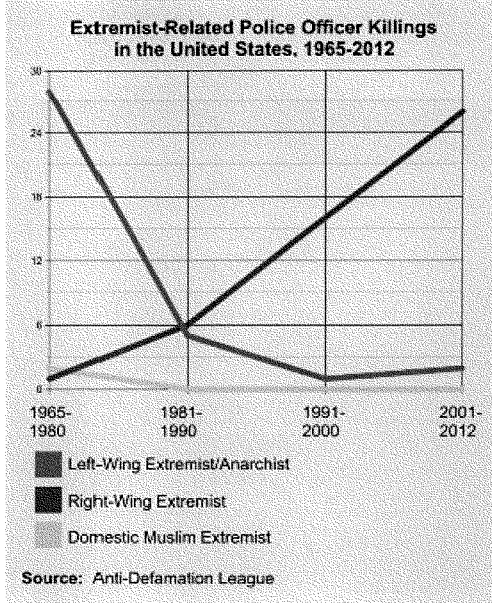
The Threat to Law Enforcement

The victims of this recent resurgence of right-wing extremism have included ethnic, racial, and religious minorities of all sorts; government officials and employees; physicians and personnel at clinics providing abortions; and many others, none deserving to be the victims of right-wing violence.

Among the victims targeted by right-wing extremists are law enforcement officers, the very people who serve and protect communities across America. In recent years, dozens of law enforcement officers have been slain or wounded by right-wing extremists.

The example of Oak Creek Police Lieutenant Brian Murphy provides a striking example of the risks that our nation's law enforcement officers put themselves in at the hands of extremists. Lt. Murphy was one of the first officers to arrive at the scene of the Sikh Gurdwara in Oak Creek, Wisconsin, after white supremacist Wade Michael Page opened fire on worshippers there, killing and wounding many of them. Spotting the shooter, Lt. Murphy attempted to fire at Page but missed. At the same time, Page shot at Lt. Murphy, hitting him in the throat and dropping him to the ground. But Page did not stop there. He circled around to approach Lt. Murphy from behind, shooting him again. From close range, Page continued to fire at the downed officer, hitting him 15 times. Lt. Murphy's body armor stopped only three of the bullets and he was lucky to survive.

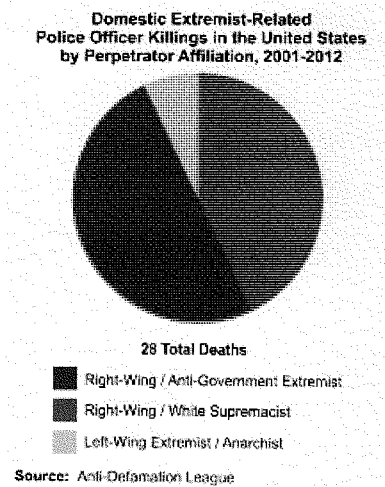
Other officers have unfortunately not been so lucky. Many officers have paid the ultimate price for protecting America's citizens from violent extremists. From the mid-1960s through the early 1980s, the majority of law enforcement officers killed by domestic extremists in the United States were killed by left-wing extremists (see chart). However, the long-term trend over the course of the past quarter century has been one of increasing violence against law enforcement at the hands of right-wing extremists.



In the 21st century, right-wing extremists (both anti-government extremists and white supremacists) have committed the vast majority of the 28 extremist-related officer killings in the United States that ADL has been able to document (see chart).

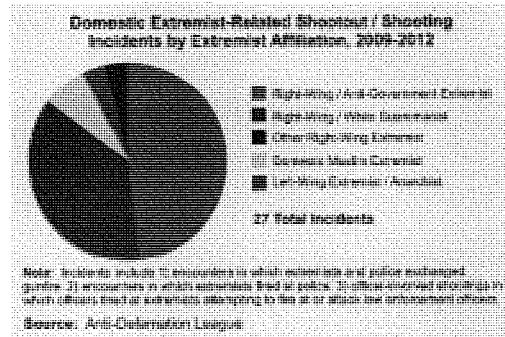
In some cases extremists have ambushed law enforcement officers. In other cases, extremists (especially anti-government extremists) have responded with lethal violence to routine law enforcement activities such as residence visits or traffic stops for minor violations. In many cases, the slain officers had encountered extremists engaged in criminal activity or on the run from the law. Extremists can be particularly deadly to law enforcement in such encounters because they have all of the motivations to violence in such an incident that a traditional criminal might have, but may also have ideological reasons for being hostile or violent towards law enforcement.

The resurgence of right-wing extremism since 2009 has resulted in a similar surge of violent encounters between police and right-wing extremists. ADL has identified as many as 27 separate incidents since 2009 in which police were involved in shootouts with domestic extremists (of all types; see chart). Most of the incidents involved shootouts (i.e., exchanges of gunfire) with extremists, while a smaller number



involved encounters in which extremists fired at police or encounters in which officers fired at extremists who had attempted to fire or draw a weapon or engage in other violent actions towards police.

Once more, right-wing extremist-related incidents constituted the vast majority of such encounters between 2009 and 2012, killing or seriously wounding many law enforcement officers. Law enforcement awareness of the dangerousness of such encounters has increased since the spring of 2010, when two anti-government "sovereign citizens" killed two police officers and wounded two more in two related shooting incidents in West Memphis, Tennessee. Although these shootouts received considerable media attention, there is still a significant lack of awareness among law enforcement of the risks that extremists pose to their safety and lives.



The Holistic Approach to Combating Violent Extremism

The United States has a population of over 310 million people; in a country this size, even the fringe of the fringe constitute a significant number of people. Moreover, lessons painfully learned from Oklahoma City in 1995 to Fort Hood in 2009 demonstrate that it does not take very many people motivated by extremist anger to cause a great deal of harm and misery. That is the nature of terrorism.

Because of the size and complexity of the United States, there will always be political, social, ethnic, religious, or nationalistic movements within the country that have adherents willing to commit violent acts to further their cause or to strike at their perceived enemies. It is true that, working together, Americans can significantly limit the harm such extremist movements may cause. When citizens speak with a united voice, when leaders from different parties come together to enact effective legislation, when governments – city, state, and federal – cooperate with each other, when law enforcement agencies share intelligence, it is remarkable what can be achieved.

When it comes to countering extremism and terrorism, however, experience has shown that one of the most counterproductive things our nation can do is to concentrate on countering one form of extremism and terrorism at the expense of others. The United States does not just have a "Muslim extremist problem." It does not just have a "right-wing extremist problem." It faces problems from many forms of domestic extremism – and ignoring or denying some in order to focus on others does the United States little service. Citizens and leaders of all backgrounds and persuasions must speak with a common voice to let all extremists know that the only way to change American policies, laws, or society is through peaceful, democratic processes. No form of ideological violence can be tolerated.

Conclusion

The fundamental cause of bias-motivated violence in the United States is the persistence of racism, bigotry, homophobia, and anti-Semitism. Unfortunately, there are no quick, complete solutions to these problems. Complementing state hate crime laws and prevention initiatives, the federal government has an essential leadership role to play in confronting criminal activity motivated by prejudice and in promoting prejudice reduction initiatives for schools and the community. And effective responses to hate violence by public officials and law enforcement authorities can play an essential role in deterring and preventing these crimes. Ultimately, the impact of all bias crime initiatives will be measured in the response of the criminal justice system to the individual act of hate violence.

An ADL Action Agenda to Confront Hate Violence and Domestic Extremism

Support Comprehensive Implementation of the Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act (HCPA)

- The Justice Department should file appropriate cases under the HCPA – and vigorously defend the constitutionality of the Act when challenged.
- The Justice Department, including the FBI and the Community Relations Service, should continue inclusive education and outreach to state and local law enforcement officials on the components of the HCPA and the new tools available under the Act to combat violent, bias-motivated crimes.
- The FBI should revise and update its Hate Crime Data Collection Guidelines and Training Manual to accompany the new FBI Hate Crime Statistics Act categories mandated by the HCPA – gender, gender identity, and crimes committed by and against juveniles. The Bureau should then provide training for federal and state law enforcement officials on the new Manual – and ensure that state and local law enforcement officials begin reporting on the new categories as of January 2013.

Improve Federal Hate Crime Data Collection Efforts

- Justice Department officials, including US Attorneys, FBI officials, and Community Relations Service professionals, should prioritize comprehensive participation in the HCPA – with special attention devoted to underreporting large agencies that either do not participate in the HCPA program at all or erroneously affirmatively report zero (0) hate crimes.
- The FBI should collect separate data on hate crimes directed against Sikhs as part of the HCPA. There is substantial evidence that Sikhs have been specifically targeted for discrimination and violence because of their religious practices, appearance, and apparel, including the distinctive beards, turbans, and head coverings worn by many observant Sikhs. The Equal Employment Opportunity Commission (EEOC) currently collects and publishes separate data on anti-Sikh religious discrimination complaints. A chart of EEOC religious discrimination complaints is included at **Appendix D**. A mandate that the FBI collect specific hate crime data on hate crimes directed against Sikhs, Arabs, and Hindus will increase public awareness of these crimes, encourage victims in these communities to report these crimes, and expand relationships between law enforcement authorities and the communities.
- In cooperation with the Department of Education, the FBI should work with colleges and universities to improve campus hate crime reporting. In 2008, Congress required the crime categories campuses are mandated to report to the Department of Education parallel those collected by the FBI's HCPA Program. Comprehensive campus reporting will benefit both parents and children by providing them with a more accurate sense of campus safety.
- The Department of Justice and the FBI should work with disability rights organizations to raise awareness and provide training on how people with disabilities can navigate the criminal justice system effectively in an effort to improve disability-based hate crime reporting by police agencies.

Expand Coordinated Federal Efforts to Track and Respond to Domestic Terrorism

- The Department of Homeland Security should expand its focus and research on domestic violent extremism. The 2009 DHS HVE report warning about the threat of increased right-wing extremist violence in the wake of President Obama's election and the recession has, unfortunately, proven tragically prescient. That report, which was withdrawn in the face of conservative criticism, demonstrates the kind of strategic analysis provided by the HVE branch that can help our nation's law enforcement community deal with the problems that violent domestic extremist movements are creating.
- The Department of Homeland Security should be required to prepare an annual report to Congress on the various sources of domestic terrorism and extremism-related violence in the United States. Complementing FBI analyses, DHS should be in a position to provide a steady stream of reports and bulletins to help protect our nation and our community from all domestic threats of terrorism and violence, including the threat of right-wing domestic terrorism.
- The League's research on the prevalence of violent domestic terrorism reveals that the great majority of

murders committed by domestic extremists since 2000 have been committed by non-Muslim extremists. Singling out the Muslim American community for special scrutiny or suspicion would be discriminatory, offensive, ineffective, and counterproductive.

- In cooperation with the FBI, DHS should convene a summit specifically focusing on online radicalization – across the ideological spectrum – and strategies to counter it.

Convene a White House Summit on Hate Crime.

- The first White House Conference on Hate Crime in 1997 proved to be a powerful and productive coordination and organizing event for the Administration, Congress, civil and human rights activists, and the law enforcement community. The Administration has clearly demonstrated the value of marshaling an “all hands on deck” approach to national concerns in its extraordinary efforts to raise awareness and prevent bullying in schools. In the aftermath of the tragic bias-motivated murders at the Sikh Gurdwara in Wisconsin, with 9/11 backlash crimes and crimes targeting immigrants and those who look like immigrants continuing at a disturbing pace, now is the time for the President to call stakeholders together to raise awareness, promote new initiatives, and identify programs and effective prevention strategies that work.

Provide Funding for Anti-Bias Programs and Research

- To be effective, hate crime laws must be complemented with prevention, education, and training initiatives designed to reduce prejudice. The Federal government has a central role to play in funding program development in this area and promoting awareness of inclusive anti-bias education initiatives that work.

Demonstrate International Leadership

- The United States should continue to play a leadership role in international organizations, especially the Organization for Security and Cooperation in Europe (OSCE) and its Office for Democratic Institutions and Human Rights (ODIHR). The United States should encourage international cooperation to confront racism, anti-Semitism, homophobia, and xenophobia.
- The United States should designate the Justice Department’s Civil Rights Division as the Hate Crime Point of Contact for the OSCE.

Selected Resources on Hate Crime Response and Counteraction

The Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act: Public Law 111-84, Division E
http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=111_cong_public_laws&docid=f:publ084.pdf

The most important new federal hate crime enforcement law in the past forty years. The HCPA strengthens existing federal hate crime laws by authorizing the Department of Justice to assist local authorities in investigating and prosecuting certain bias-motivated crimes. In addition, the law provides authority, for the first time, for the federal government to prosecute some violent bias-motivated crimes directed against individuals on the basis of their sexual orientation, gender, gender identity, or disability.

FBI

Hate Crime Statistics, 2010

<http://www.fbi.gov/about-us/cjis/ucr/hate-crime/2010>

The FBI's most recent annual hate crime report, with data collected from almost 15,000 state and local police departments

Hate Crime Data Collection Guidelines

<http://www.fbi.gov/about-us/cjis/ucr/hate-crime/hcguidelinesdc99.pdf>

The FBI's guidelines for law enforcement agencies regarding the classification and collection of hate crime data

Hate Crime Data Collection Training Guide

<http://www.fbi.gov/about-us/cjis/ucr/hate-crime/trainquidc99.pdf>

The FBI's training manual for law enforcement agencies, with model reporting procedures and training examples

Department of Education

Preventing Youth Hate Crime,

<http://www.ed.gov/pubs/HateCrime/start.html>

A resource that describes effective school-based hate crime prevention programs

Department of Education/National Association of Attorneys General

Protecting Students from Harassment and Hate Crime,

<http://www.ed.gov/offices/OCR/archives/Harassment/harassment.pdf>

A detailed guide designed to help schools develop a comprehensive approach to protecting students from harassment and hate-motivated violence.

Department of Justice

Addressing Hate Crimes: Six Initiatives That Are Enhancing the Efforts of Criminal Justice Practitioner,

<http://www.ncjrs.gov/pdffiles1/bja/179559.pdf>

This Bureau of Justice Assistance report highlights six innovative law enforcement initiatives to respond to violent hate crime.

Hate Crime Training: Core Curriculum for Patrol Officers, Detectives, and Command Officers

<http://www.justice.gov/archive/crs/bubs/hct.pdf>

A comprehensive hate crime training curriculum prepared by the International Association of Directors of Law Enforcement Standards and Training, the National Association of Attorneys General, the Justice Department, and the Treasury Department

A Policymaker's Guide to Hate Crimes,

<http://www.ncjrs.gov/pdffiles1/bja/162304.pdf>

This resource highlights the use of hate crime laws and problems that impede reporting hate crime incidents.

The International Association of Chiefs of Police:

Responding to Hate Crimes: A Police Officer's Guide to Investigation and Prevention:

<http://www.theiacp.org/PublicationsGuides/LawEnforcementIssues/Hatecrimes/RespondingtoHateCrimesPoliceOfficersGuide/tabid/221/Default.aspx>

A comprehensive guide for officers on definitions and policies and procedures to respond to hate violence.

Hate Crime in America Summit Recommendations: <http://www.theiacp.org/tabid/299/Default.aspx?id=139&v=1>

Recommendations from the 1998 IACP Summit on Hate Crime in America

National District Attorneys Association*A Local Prosecutor's Guide for Responding to Hate Crimes*http://www.ndaa.org/pdf/hate_crimes.pdf

The single best resource designed to assist local prosecutors handling hate crime investigations and prosecutions.

Anti-Defamation League*Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act (HCPA): What You Need to Know*http://www.adl.org/combating_hate/What-you-need-to-know-about-HCPA.pdf

This document provides an outline of HCPA – why it was needed and how the law works to protect the rights of all.

An Introduction to Hate Crime Lawshttp://www.adl.org/combating_hate/Introduction-to-Hate-Crime-Laws.pdf

A primer on the purpose and utility of federal and state hate crime laws

How to Combat Bias and Hate Crimes: an ADL Blueprint for Action<http://www.adl.org/blueprint.pdf>

A compilation of the best ADL resources, programs, and education initiatives designed to combat bias and hate crimes

Hate Crime Laws<http://www.adl.org/99hatecrime/intro.asp>

A comprehensive overview of the history of hate crime legislation, including the ADL Model Hate Crime Law and an interactive map of the nation's state hate crime laws

Hate Crime Laws: Punishment to Fit the Crime<http://www.dissentmagazine.org/article/?article=3278>

A robust defense of hate crime laws by the League's Washington Counsel.

Leadership Conference on Civil and Human Rights*Confronting the New Faces of Hate: Hate Crimes in America 2009*http://www.protectcivilrights.org/pdf/reports/hatecrimes/lccref_hate_crimes_report.pdf

This trailblazing report provides the most recent national survey of the hate crime problem in America.

Organization of Chinese Americans*Responding to Hate Crimes: A Community Action Guide, 2nd Edition*<http://www.ocanational.org/images/stories/docscenter/ocahatecrime2006.pdf>

The best guidebook for community organizing and response to hate violence, with step-by step guidelines, checklists, internet resources, and best practices.

Selected ADL Resources on Extremism and Organized Hate Groups in America

ADL's Blog on Extremism & Terrorism

<http://blog.adl.org/extremism>

Al Qaeda in the Arabian Peninsula

http://www.adl.org/main_Terrorism/al_Qaeda_arabian_peninsula.htm

Al Shabaab's American Recruits

http://www.adl.org/main_Terrorism/al_shabaab_american_recruits.htm?Multi_page_sections=sHeading_3

American Muslim Extremists: A Growing Threat to Jews

http://www.adl.org/main_Terrorism/muslim_extremists_jews.htm

Animal Rights Extremists Target the University of California

http://www.adl.org/main_Extremism/university_of_california_animal_rights_extremism.htm

Anti-Abortion Violence: America's Forgotten Terrorism

http://www.adl.org/main_Extremism/anti_abortion_violence_terrorism.htm

The Aryan Circle: Crime in the Name of Hate

<http://www.adl.org/extremism/Aryan-Circle-Report.pdf>

Backgrounder: ACT! for America

http://www.adl.org/main_Interfaith/act_for_america_gabriel.htm

Backgrounder: Stop Islamization of America

http://www.adl.org/main_Extremism/pamela-geller-stop-islamization-of-america.htm

Bigots on Bikes: The Growing Links between White Supremacists and Biker Gangs

http://www.adl.org/extremism/ADL_CR_Bigots_on_Bikes_online.pdf

Criminal Proceedings: A Timeline of U.S. Terror Cases

http://www.adl.org/main_Terrorism/american_muslim_extremists_criminal_proceedings.htm?Multi_page_sections=sHeading_1

Ecoterrorism: Extremism in the Animal Rights and Environmentalist Movements

http://www.adl.org/learn/ext_us/Ecoterrorism.asp

Extremism in Florida: The Dark Side of the Sunshine State

<http://www.adl.org/learn/extremism/floridainside.pdf>

Homegrown Extremism after 9/11

http://www.adl.org/main_Extremism/911_homegrown_extremism.htm

The Lawless Ones: The Resurgence of the Sovereign Citizen Movement

http://www.adl.org/learn/sovereign_movement/sovereign_citizens_movement_report.pdf

Post-9/11 Islamic Extremism in the U.S.

http://www.adl.org/main_Terrorism/911_islamic_extremism.htm

Rage Grows in America: Anti-Government Conspiracies

http://www.adl.org/special_reports/rage-grows-in-America/default.asp

Responding to The Call: Al Qaeda's American Recruits

http://www.adl.org/main_Terrorism/al_qaeda_american_recruits.htm

Richard Poplawski: The Making of a Lone Wolf

http://www.adl.org/learn/extremism_in_the_news/White_Supremacy/poplawski%20report.htm

Selected White Supremacist Criminal Incidents, 2009-2012
http://www.adl.org/main/Extremism/White_Supremacist_Criminal_Incidents.htm

Updated September, 2012



ANTI-DEFAMATION LEAGUE STATE HATE CRIME STATUTORY PROVISIONS

State	Penalty Enhancement *1	Penalty Enhancement for Crimes Motivated By:				Other	Date Collection *3	Police Statute *4	Institutional Violation	Cross Ruling
		Race	Religion	Sexual Orientation	Gender					
Alabama	AL ST 13A-5-13 (1995)	✓	✓	✓	✓			AL ST 13A-5-10 (1995)	AL ST 13A-5-3 (2001)	
Alaska	AS ST 11.15.020 (1996)	✓	✓	✓	✓			AS ST 11.15.021 (1996)		
Arizona	AZ ST 13-2001 (1995)	✓	✓	✓	✓			AZ ST 13-2002 (1995)	AZ ST 13-2003 (1995)	
Arkansas										
California	CAL PENAL 4.027 (1982)	✓	✓	✓	✓			CAL PENAL 4.028 (1982)	CAL PENAL 4.029 (1982)	
Colorado	CO ST 18-6-101 (1993)	✓	✓	✓	✓			CO ST 18-6-102 (1993)	CO ST 18-6-103 (1993)	
Connecticut	CT ST 53b-56b (1987)	✓	✓	✓	✓			CT ST 53b-56c (1987)	CT ST 53b-56d (1987)	
Delaware	DE ST 11.11.324 (1997)	✓	✓	✓	✓			DE ST 11.11.325 (1997)	DE ST 11.11.326 (1997)	
DC	DC CODE 22-2202 (1992)	✓	✓	✓	✓			DC CODE 22-2203 (1992)	DC CODE 22-2204 (1992)	
Florida	FL ST 77.091 (1992)	✓	✓	✓	✓			FL ST 77.092 (1992)	FL ST 77.093 (1992)	
Georgia	GA ST 16-8-2 (1992)	✓	✓	✓	✓			GA ST 16-8-3 (1992)	GA ST 16-8-4 (1992)	
Hawaii	HI ST 168-82 (1992)	✓	✓	✓	✓			HI ST 168-83 (1992)	HI ST 168-84 (1992)	
Idaho	ID ST 18-7001 (1985)	✓	✓	✓	✓			ID ST 18-7002 (1985)	ID ST 18-7003 (1985)	
Illinois	IL ST 20-1.5-12.1 (1989)	✓	✓	✓	✓			IL ST 20-1.5-12.2 (1989)	IL ST 20-1.5-12.3 (1989)	
Indiana	IN ST 17-2-1 (1992)	✓	✓	✓	✓			IN ST 17-2-2 (1992)	IN ST 17-2-3 (1992)	
Iowa	IA ST 724.1 (1992)	✓	✓	✓	✓			IA ST 724.2 (1992)	IA ST 724.3 (1992)	
Kansas	KS ST 21-4201 (1994)	✓	✓	✓	✓			KS ST 21-4202 (1994)	KS ST 21-4203 (1994)	
Kentucky	KY ST 100.0201 (1981)	✓	✓	✓	✓			KY ST 100.0202 (1981)	KY ST 100.0203 (1981)	
Louisiana	LA ST 14:102 (1992)	✓	✓	✓	✓			LA ST 14:103 (1992)	LA ST 14:104 (1992)	
Maine	ME ST 7-A-115 (1985)	✓	✓	✓	✓			ME ST 7-A-116 (1985)	ME ST 7-A-117 (1985)	
Maryland	MD ST 10-101 (1987)	✓	✓	✓	✓			MD ST 10-102 (1987)	MD ST 10-103 (1987)	
Massachusetts	MA ST 265A:13 (1987)	✓	✓	✓	✓			MA ST 265A:14 (1987)	MA ST 265A:15 (1987)	
Michigan	MI ST 750.2 (1987)	✓	✓	✓	✓			MI ST 750.3 (1987)	MI ST 750.4 (1987)	
Minnesota	MN ST 60A.02 (1983)	✓	✓	✓	✓			MN ST 60A.03 (1983)	MN ST 60A.04 (1983)	
Mississippi	MS ST 97-3-1 (1981)	✓	✓	✓	✓			MS ST 97-3-2 (1981)	MS ST 97-3-3 (1981)	

*1. The following table lists the states which have adopted hate crime provisions. *2. CA, DC, FL, MD, MA, MI, MN, MS, MO, NY, NC, OK, RI, SC, SD, TN, VA, WV. *3. Other includes political activists (CA, DC, IA, IA, WV), anti (CA, DC, FL, IA, IL, IN, MS, IA, ME, MN, NE, NY, VT). *4. States with data collection statutes which include sexual orientation are AZ, CA, CT, DC, FL, HI, IL, IA, MO, MN, NY, OR, TX and WA, those which include gender are AZ, CA, DC, FL, HI, IL, IA, MO, MN, NY, OR, TX and WA, those which include gender are AZ, CA, DC, FL, HI, IL, IA, MO, MN, NJ, RI, TX, and WA. *5. The following table provides the state codes to indicate if the statute contains racial or ethnic provisions.

Note: Information about ADL's responses to hate crimes can be found at the League's Web site: <http://www.adl.org>



ANTI-DEFAMATION LEAGUE STATE HATE CRIME STATUTORY PROVISIONS

State	Penalty Enhancement ¹	Religious Freedom ²	Penalty Enhancement for Crime Motivated By:	Child Action	Data Collection ³	Public Training ⁴	Individualized Victimhood	Cross-Burning
			Race, Ethnicity, National Origin	Sex	Disability	Sexual Orientation	Gender	Religion
Michigan	MI ST 15.103 (1996)	✓	✓	✓	✓	✓	✓	✓
Minnesota	MT ST 62A.022 (1982)	✓	✓	✓	✓	✓	✓	✓
Missouri	MO ST 216.111	✓	✓	✓	✓	✓	✓	✓
Nebraska	NE ST 28-111	✓	✓	✓	✓	✓	✓	✓
Nevada	NV ST 201.085 (1999)	✓	✓	✓	✓	✓	✓	✓
New Hampshire	NH ST 189:109 (1992)	✓	✓	✓	✓	✓	✓	✓
New Jersey	NJ ST 17:26 (1990)	✓	✓	✓	✓	✓	✓	✓
New Mexico	NM ST 31-1-183	✓	✓	✓	✓	✓	✓	✓
New York	NY ST 86.01 (1986)	✓	✓	✓	✓	✓	✓	✓
North Carolina	NC ST 14-1-103	✓	✓	✓	✓	✓	✓	✓
North Dakota	ND ST 14-01-14	✓	✓	✓	✓	✓	✓	✓
Ohio	OH ST 29.25 (1987)	✓	✓	✓	✓	✓	✓	✓
Oklahoma	OK ST 21-1-102 (1992)	✓	✓	✓	✓	✓	✓	✓
Oregon	OR ST 166.055 (1999)	✓	✓	✓	✓	✓	✓	✓
Pennsylvania	PA ST 38.02 (1992)	✓	✓	✓	✓	✓	✓	✓
Rhode Island	RI ST 15-1-1 (1998)	✓	✓	✓	✓	✓	✓	✓
South Carolina	SC ST 17-1-102 (1992)	✓	✓	✓	✓	✓	✓	✓
South Dakota	SD ST 17-1-102 (1992)	✓	✓	✓	✓	✓	✓	✓
Tennessee	TN ST 39-2-314 (1993)	✓	✓	✓	✓	✓	✓	✓
Texas	TX ST 37.02 (1993)	✓	✓	✓	✓	✓	✓	✓
Vermont	VT ST 17-1-1 (1993)	✓	✓	✓	✓	✓	✓	✓
Virginia	VA ST 18.2-382 (1993)	✓	✓	✓	✓	✓	✓	✓
Washington	WA ST 9A.02.020 (1993)	✓	✓	✓	✓	✓	✓	✓
West Virginia	WV ST 20-2-2 (1993)	✓	✓	✓	✓	✓	✓	✓
Wisconsin	WI ST 93.045 (1999)	✓	✓	✓	✓	✓	✓	✓
Wyoming	WY ST 6-2-102 (1993)	✓	✓	✓	✓	✓	✓	✓
TOTALS	46	46	51	27	14	31	20	43

1. The following states also have statutes criminalizing interferences with religious worship: AR, CA, DC, FL, ID, MD, MA, MI, MN, MS, MO, NY, NC, OK, RI, SC, SD, TN, VA, WV.
 2. The following states also have statutes criminalizing interferences with religious freedom: AR, CA, DC, FL, ID, MD, MA, MI, MN, MS, MO, NY, NC, OK, RI, SC, SD, TN, VA, WV.
 3. States with data collection statutes which include sexual orientation are AZ, CA, CT, DC, FL, HI, IL, IA, MO, MI, MN, NY, OH, OR, TX and WA; those which include gender are AZ, CA, DC, HI, IL, IA, MI, MN, NJ, RI, TX, and WA.
 4. Some other states have administrative regulations mandating such training.
 5. The Utah statute penalizes for hate crimes to violations of the victim's constitutional or civil rights.
 More information about ADL's resources on hate crimes can be found at the League's Web site: <http://www.adl.org/>



ANTI-DEFAMATION LEAGUE STATE HATE CRIME STATUTORY PROVISIONS

State	Penalty Enhancement *1	Penalty Enhancement for Crimes Motivated By:						Civil Action	Date Subjected *3	Police Statute *4	Institutional Mandates	Cross Training
		Race	Religion	Disability	Sexual Orientation	Gender	Genetics					



Comparison of FBI Hate Crime Statistics (2010-2000)

	2010	2008	2007	2006	2005	2004	2003	2002	2001	2000
Participating Agencies Reporting Hate Crime	14,977	13,880	13,241	12,520	12,417	12,711	11,909	12,073	11,987	11,690
Total Hate Crime Incidents Reported	1,949	2,145	2,025	2,105	2,337	2,046	1,967	1,868	2,106	1,892
Incidents Reported	6,628	7,793	7,624	7,122	7,163	7,649	7,489	7,462	8,730	8,053

Offenders' Reported Motivations (2010-2000)

	2010	2008	2007	2006	2005	2004	2003	2002	2001	2000
Racial Bias	3,135/47.3	3,116/46.5	3,312/50.8	4,020/57.9	3,319/44.7	4,462/57.9	3,644/31.3	3,542/48.8	4,387/44.9	4,375/53.8
Anti-Black	2,201/33.2	2,284/34.6	2,616/36.9	2,650/34.9	2,630/36.7	2,731/35.7	2,480/24.0	2,460/33.3	2,886/20.0	3,840/35.9
Anti-White	575/8.7	545/8.3	749/9.8	880/11.5	829/11.6	829/10.8	830/11.1	718/9.6	891/9.1	872/10.9
Anti-Arabs / Islamic	150/2.3	126/1.9	137/1.8	166/2.5	189/2.8	217/2.8	231/3.1	217/2.9	290/2.9	281/3.5
Religious Bias	1,322/19.9	1,303/19.7	1,400/18.4	1,462/19.9	1,227/17.1	1,374/18.0	1,243/17.9	1,426/19.1	1,238/18.8	1,472/16.3
Anti-Jewish	887/13.4	931/14.1	1,013/13.0	965/12.7	848/11.8	954/12.5	927/12.4	937/12.5	1,043/10.7	1,109/13.8
Anti-Christian	590/9.0	510/8.3	751/10.0	615/9.8	580/8.8	570/8.8	761/9.0	530/7.7	389/4.4	560/7.7
Anti-Protestant	410/6.6	380/6.6	590/7.6	570/8.8	570/8.8	380/5.5	490/7.7	550/7.7	350/4.4	580/7.7
Anti-Islamic	160/2.4	107/1.6	105/1.3	150/2.0	128/1.8	150/2.0	148/2.0	155/2.0	481/4.9	290/4.4
Anti-Other Religion	120/1.9	109/1.7	191/2.5	130/1.7	131/1.8	128/1.7	108/1.5	198/2.7	181/1.9	172/2.1
Anti-Multiple Religions, Group	480/7.7	570/9.0	650/9.8	630/9.8	390/5.5	350/5.5	240/3.3	310/4.4	450/5.5	440/5.5
Anti-Atheism / Atheist	50/1.1	100/2.2	140/2.2	140/2.2	40/1.1	60/1.1	90/1.1	30/0.4	30/0.4	40/0.5
Ethnicity / National Origin	847/12.8	777/11.5	1,037/13.2	964/12.7	944/13.2	972/12.7	1,026/13.7	1,102/14.8	2,082/21.6	911/11.3
Anti-Hispanic	534/8.1	487/7.3	561/7.2	576/7.5	522/7.3	475/6.2	426/5.7	480/6.4	637/6.1	557/6.9
Sexual Orientation	1,277/19.3	1,223/18.5	1,237/18.7	1,356/18.6	1,150/15.5	1,077/14.2	1,239/18.5	1,244/16.7	1,383/14.3	1,268/16.1
Disability	430/6.5	460/6.5	781/10.0	781/10.0	550/7.4	570/7.4	330/4.4	480/6.4	350/3.8	380/4.5

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Compiled by the Anti-Defamation League's Washington Office from information collected by the FBI. <http://www.fbi.gov/about-us/pressroom/2012/09/05/fbi-hate-crime-statistics>

More information about ADL's initiatives on response to hate violence can be found at the League's Website: www.adl.org

FBI HCSA Did Not Report (DNR) and Zero Reporting

Group 1 DNR-2010						
City	Population (2010)	2010 Incidents	2009 Incidents	2008 Incidents	2007 Incidents	2006 Incidents
1 Honolulu, HI	950,268	DNR	DNR	DNR	DNR	DNR
2 Louisville, KY	637,428	DNR	DNR	5	2	2
3 Toledo, OH	315,647	DNR	DNR	DNR	DNR	DNR
4 Lexington, KY	300,069	DNR	DNR	20	7	10

Group 2 DNR-2010						
City	Population (2010)	2010 Incidents	2009 Incidents	2008 Incidents	2007 Incidents	2006 Incidents
1 Birmingham, AL	231,009	DNR	DNR	DNR	DNR	DNR
2 Baton Rouge, LA	226,001	DNR	DNR	DNR	DNR	DNR
3 Columbus, GA	184,576	DNR	0	DNR	DNR	DNR
4 Overland Park, KS	178,669	DNR	DNR	DNR	DNR	DNR
5 Jackson, MS	174,153	DNR	DNR	DNR	DNR	DNR
6 Kansas City, KS	143,867	DNR	DNR	DNR	DNR	DNR
7 Olathe, KS	126,090	DNR	DNR	DNR	DNR	DNR
8 Topeka, KS	125,306	DNR	DNR	2	DNR	DNR
9 Evansville, IN	116,541	DNR	DNR	0	2	1
10 South Bend, IN	104,182	DNR	DNR	1	DNR	0
11 Lafayette, LA	115,378	DNR	DNR	DNR	DNR	DNR

Group 1- Reporting Zero 2010						
City	Population (2010)	2010 Incidents	2009 Incidents	2008 Incidents	2007 Incidents	2006 Incidents
1 Jacksonville, FL	822,414	0	2	3	1	3
2 Miami, FL	440,482	0	0	0	0	0
3 New Orleans, LA	356,317	0	0	0	4	DNR
4 Tampa, FL	347,830	0	5	2	13	18
5 Newark, NJ	280,379	0	2	3	1	1
6 Mobile, AL	255,178	0	1	0	0	DNR

Group 2- Reporting Zero-2010						
City	Population (2010)	2010 Incidents	2009 Incidents	2008 Incidents	2007 Incidents	2006 Incidents
1 St. Petersburg, FL	243,666	0	3	3	1	3
2 Chandler, AZ	241,826	0	2	0	4	7
3 Winston-Salem, NC	232,928	0	0	0	0	0
4 Laredo, TX	230,674	0	0	0	0	0
5 Lubbock, TX	227,867	0	0	0	0	0
6 Reno, NV	222,242	0	5	1	3	4
7 Hialeah, FL	217,995	0	0	2	0	2
8 Irvine, CA	217,193	0	3	9	2	5
9 Gilbert, AZ	215,215	0	0	5	7	3
10 Savannah-Chatham Metro, GA	210,744	0	0	DNR	DNR	DNR
11 Fayetteville, NC	208,263	0	2	2	DNR	0
12 Irving, TX	206,308	0	0	0	0	0
13 Montgomery, AL	203,966	0	DNR	0	DNR	DNR
14 Shreveport, LA	199,900	0	0	0	DNR	0

Compiled by the Anti-Defamation League's Washington Office from information collected by the FBI.

More information about ADL's resources on response to hate violence can be found at the League's Website:

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15	Little Rock, AR	192,922	0	0	0	1	0
16	Amarillo, TX	190,393	0	0	0	0	0
17	Knoxville, TN	185,554	0	4	9	10	9
18	Huntsville, AL	183,357	0	0	0	0	DNR
19	Brownsville, TX	180,040	0	0	0	0	0
20	Grand Prairie, TX	166,866	0	0	0	0	0
21	Joliet, IL	150,723	0	2	1	DNR	DNR
22	Pembroke Pines, FL	147,343	0	0	0	0	1
23	Pasadena, TX	145,713	0	2	0	0	0
24	Hayward, CA	144,509	0	0	0	0	0
25	Salinas, CA	144,242	0	3	2	2	0
26	Hollywood, FL	142,793	0	0	1	0	1
27	Elk Grove, CA	142,330	0	3	4	3	0
28	Cary, NC	141,461	0	1	0	1	2
29	Orange, CA	137,606	0	4	3	4	5
30	Syracuse, NY	136,284	0	0	1	DNR	DNR
31	McAllen, TX	134,623	0	0	0	0	0
32	Mesquite, TX	133,964	0	0	0	0	0
33	Fullerton, CA	133,139	0	7	1	2	4
34	Carrollton, TX	130,862	0	2	5	5	1
35	Cedar Rapids, IA	129,605	0	0	3	0	1
36	Waco, TX	127,039	0	0	0	2	0
37	Elizabeth, NJ	126,494	0	1	2	3	0
38	Stamford, CT	122,933	0	0	2	2	3
39	Killeen, TX	122,557	0	6	1	0	1
40	Victorville, CA	117,057	0	0	0	0	0
41	Frisco, TX	113,686	0	1	2	1	0
42	Santa Clara, CA	112,917	0	1	1	2	1
43	Athens-Clarke County, GA	112,851	0	DNR	DNR	DNR	DNR
44	Inglewood, CA	112,100	0	3	2	1	0
45	Midland, TX	109,791	0	2	6	3	DNR
46	Flint, MI	109,245	0	9	44	34	18
47	Waterbury, CT	108,489	0	0	0	0	0
48	Allentown, PA	108,473	0	0	0	0	0
49	Westminster, CO	108,383	0	1	0	0	1
50	Elgin, IL	107,731	0	2	1	1	DNR
51	Fairfield, CA	104,202	0	1	1	0	4
52	Erie, PA	104,077	0	0	1	0	1
53	Richardson, TX	104,051	0	0	1	0	1
54	Lowell, MA	103,065	0	2	0	3	1
55	Wilmington, NC	102,649	0	0	0	DNR	0
56	Gresham, OR	102,540	0	DNR	0	0	0
57	Daly City, CA	101,939	0	2	1	2	1
58	Odessa, TX	101,580	0	1	0	0	0
59	West Palm Beach, FL	101,267	0	0	0	0	0

Compiled by the Anti-Defamation League's Washington Office from information collected by the FBI.
 More information about ADL's resources on response to hate violence can be found at the League's Website:

www.adl.org

Religion-Based Charges Filed with EEOC, FY 1998-2011

	2011	2010	2009	2008	2007	2006	2005	2004	2003	2002	2001	2000	1999	1998
Fiscal Year Total	4,150	3,796	3,369	3,268	2,882	2,534	2,349	2,494	2,575	2,132	1,850	1,818	1,792	
Reasonable accommodation charges	482	686	296	481	373	363	302	307	290	361	286	269	253	219
% of charges reasonable accommodation	11.9%	18.1%	8.7%	14.7%	12.9%	14.3%	12.9%	12.3%	11.4%	14.0%	13.4%	13.8%	13.9%	12.2%
7th Day Adventist														
Fiscal Year Total	132	133	95	121	97	105	84	109	99	101	110	99	82	99
Reasonable accommodation charges	59	65	28	40	32	37	34	44	32	45	43	43	26	42
% of charges reasonable accommodation	44.7%	48.9%	29.5%	33.1%	33.0%	35.2%	40.5%	40.4%	32.3%	44.6%	39.1%	43.4%	31.7%	42.4%
% of all FY religious charges	3.2%	3.5%	2.8%	3.7%	3.4%	4.1%	3.6%	4.4%	3.9%	5.2%	5.2%	5.1%	4.5%	5.5%
Catholic														
Fiscal Year Total	183	221	182	206	177	118	122	135	145	118	143	134	101	118
Reasonable accommodation charges	16	38	17	24	18	11	18	16	14	15	23	10	11	10
% of charges reasonable accommodation	8.7%	17.2%	9.3%	11.7%	10.2%	9.3%	14.8%	11.9%	9.7%	12.7%	16.1%	7.5%	10.9%	8.5%
% of all FY religious charges	4.4%	5.8%	5.4%	6.3%	6.1%	4.7%	5.4%	5.7%	4.6%	6.7%	6.9%	5.5%	6.6%	6.6%
Jewish														
Fiscal Year Total	403	359	344	327	288	282	281	275	260	317	294	282	287	276
Reasonable accommodation charges	60	75	25	40	41	38	26	34	18	38	29	27	27	32
% of charges reasonable accommodation	14.9%	20.9%	7.3%	12.2%	14.2%	13.5%	9.3%	12.4%	6.9%	12.0%	9.9%	9.6%	9.4%	11.6%
% of all FY religious charges	9.7%	9.5%	10.2%	10.0%	10.0%	11.1%	12.0%	11.0%	10.3%	12.3%	13.8%	14.5%	15.8%	15.4%
Muslim														
Fiscal Year Total	880	798	806	665	607	594	507	504	598	720	330	284	282	285
Reasonable accommodation charges	92	98	70	87	90	67	61	27	48	62	47	35	33	28
% of charges reasonable accommodation	10.5%	12.3%	8.7%	13.1%	14.8%	11.3%	12.0%	5.4%	8.0%	8.6%	14.2%	12.3%	11.7%	9.1%
% of all FY religious charges	21.2%	21.0%	23.8%	20.3%	21.1%	23.4%	21.6%	20.2%	23.6%	28.0%	15.5%	14.6%	15.5%	15.9%
Protestant														
Fiscal Year Total	260	312	231	282	258	233	206	228	241	204	210	178	171	159
Reasonable accommodation charges	41	55	17	54	44	46	28	48	44	44	37	38	35	23
% of charges reasonable accommodation	15.8%	17.6%	7.4%	19.1%	17.1%	19.7%	13.6%	21.1%	18.3%	21.6%	17.6%	21.3%	20.5%	14.5%
% of all FY religious charges	6.3%	8.2%	6.8%	8.6%	9.0%	9.2%	8.8%	9.1%	9.5%	7.9%	9.8%	9.1%	9.4%	8.9%
Sikhs														
Fiscal Year Total	15	12	13	15	14	10	17	7	20	17				
Reasonable accommodation charges	1	3	1	1	2	4	6	1	1	3				
% of charges reasonable accommodation	6.7%	25.0%	7.7%	6.7%	14.3%	40.0%	35.3%	14.3%	5.0%	17.6%				
% of all FY religious charges	0.4%	0.3%	0.4%	0.5%	0.5%	0.4%	0.7%	0.3%	0.8%	0.7%				
Other														
Fiscal Year Total	2,277	1,961	1,730	1,652	1,462	1,203	1,140	1,250	1,174	1,100	1,048	979	899	860
Reasonable accommodation charges	223	352	138	295	147	160	129	137	133	154	107	117	121	88
% of charges reasonable accommodation	9.8%	18.0%	8.0%	14.2%	10.1%	13.3%	11.3%	11.0%	11.3%	14.0%	10.2%	12.0%	13.5%	10.2%
% of all FY religious charges	54.9%	51.7%	51.0%	50.6%	50.7%	47.5%	48.5%	50.1%	48.3%	42.7%	49.2%	50.2%	49.4%	48.0%

APPLIED RESEARCH CENTER STATEMENT OF SUPPORT
Senate Judiciary Committee Hearing on Hate Crimes & Domestic
Extremism
September 2012

The Applied Research Center (ARC) would like to commend the Senate Judiciary Committee for convening a hearing on hate crimes and domestic extremism.

The United States is built on inclusion, plurality, and diversity -- hate crimes and actions of hate groups/domestic extremists affect all Americans. It is critical that Congress and federal government agencies take increased measures to prevent, address, and combat hate crimes and domestic extremism in the U.S.

ARC research, media, and activism has included a strong focus on racialized, nativist ideologies that are contrary to the principles our country was founded on and hate crimes and extremist language and violence. Examples of our work on hate crimes and extremism include *The Accidental American*, a book published post-9/11 by ARC President and Colorlines Publisher Rinku Sen; a campaign called "Drop the I-Word" which calls for the end of the dehumanizing word "illegal" in our discourse on immigration (a word which has increased in recent years and correlates to an increase in hate crimes against Latinos); and Colorlines.com investigations, reporting, and analysis that examine the racially charged climate and animus against people of color that leads to profiling, hate speech, bullying and hate crimes in our communities.

Hate crimes and hate groups continue to be a serious threat facing this country. The national dialogue on race has been increasingly toxic, and there have been numerous shootings and attacks in recent years that have garnered national media attention. The FBI annual Hate Crime Statistics report showed a nearly 50% increase in hate crimes against Muslim people in 2010 and a dramatic spike in crimes against Latinos, with 66.6 percent of victims of ethnically motivated hate crimes in 2010 targeted because of anti-Latino bias. It is the highest percentage of victims targeted for their Latino heritage in almost a decade. There was an 11 percent spike from the previous year's report that showed Latinos accounting for nearly 45 percent of hate crimes based on ethnicity or national origin.

Hate crimes are a form--sometimes the only form--of racism, homophobia, xenophobia, or religious intolerance that most Americans will recognize. It has emotional impact that generates action because hate crime violence is indeed taking so many lives. Hate crimes affect not only the individuals they directly impact, but the communities to which they belong, and in fact threatens the safety of all Americans because the violence that is perpetrated often occurs in the public sphere.

We must set standards for both individual and collective behavior, educating everyone about those standards and ultimately creating some consequence for violating them. Government provides a critical path to such standards, and recourse, and is key to change.

Specific policy recommendations that have been proposed to the Senate Judiciary Committee, and that the Applied Research Center supports, are that actions be taken to:

- **Ensure robust and comprehensive implementation of the Mathew Shepherd and James Byrd, Jr. Hate Crimes Prevention Act (HCPA):** Enacted in 2009, this law encourages partnerships between federal and state law enforcement officials to more effectively address hate violence and provides limited authority for federal investigations and prosecutions when local authorities are unwilling or unable to act. To ensure robust enforcement, DOJ should file appropriate cases under HCPA; vigorously defend the constitutionality of the Act; and ensure continued education, outreach, and training to federal, state, and local law enforcement officials on HCPA and its requirements.
- **Improve federal hate crime data collection, disaggregation, categorization, and reporting efforts:** DOJ should promote mandatory comprehensive participation in existing hate crimes reporting requirements and the FBI should improve hate crime incident reporting by developing new categories on hate crime incident report forms for various affected communities not yet covered (including anti-Arab, anti-Sikh, and anti-Hindu incidents).
- **Allocate and prioritize federal funding for initiatives that prevent, investigate, and combat hate crimes, hate groups, and domestic extremism:** Congress should establish or increase appropriations for: prevention, education, and training initiatives for law enforcement around existing hate crimes policies and their requirements; anti-bias education initiatives; existing government agencies specifically devoted to addressing and investigating hate crimes, hate groups, domestic extremism, and community tensions; and government resources, such as online portals and websites, geared specifically towards youth affected by bias and hatred. In addition, Congress should urge DHS to release its previously retracted 2009 public on right-wing extremist groups.
- **Establish formalized interagency efforts and positions at the highest levels of government, in partnership with community stakeholders, to address hate crimes:** The White House should convene a Presidential summit on hate crimes affecting religious minorities that engages community members, religious leaders, and federal government officials with the purpose of developing best practices for stakeholders addressing

this issue, similar to what was instituted by President Clinton on race in the 1990s. The White House should also establish an interagency taskforce on hate crimes and domestic extremism, similar to what was established by President Clinton following the church arsons of the 1990s. DOJ should also formalize the Initiative to Combat Post-9/11 Discriminatory Backlash within the DOJ Civil Rights Division by designating a Special Counsel for Post-9/11 Discrimination and a Special Counsel for Religious Discrimination.

- **Curb actions and discourse by government agencies and public officials that often promote a climate where hate crimes can occur:** Congress should pass robust anti-profiling policies, such as the *End Racial Profiling Act* (S. 1670; H.R. 3618) which prohibits profiling based on race, religion, ethnicity, or national origin by federal, state and local law enforcement; establishes requirements for law enforcement to collect data, provide anti-profiling trainings, and develop a complaint mechanism for affected individuals; allow DOJ to withhold grants to entities that fail to comply with the law and provide funding to these seeking to eliminate the practice; and allow affected individuals to seek redress in court. DOJ should also amend its 2003 Guidance Regarding the Use of Race by Federal Law Enforcement Agencies to apply to profiling based on religion and national origin, remove national and border security loopholes, cover law enforcement surveillance activities, apply to state and local law enforcement agencies acting in partnership with federal agencies or receiving federal funds, and make the guidance enforceable. Public officials should refrain making statements based on racism, xenophobia, homophobia, sexism, or religious intolerance. Public officials should also take a pledge to not engage in such rhetoric as well as condemn such statements when they do occur in the public sphere.

The mission of the Applied Research Center is to build awareness, solutions and leadership for racial justice by generating transformative ideas, information and experiences. We envision a vibrant world in which people of all races create, share and enjoy resources and relationships equitably, unleashing individual potential, collective responsibility and global prosperity.

It is with this mission and vision that the Applied Research Center (ARC) submits this statement in support of the Senate Judiciary Committee hearing on hate crimes and domestic extremism.



Testimony of the
Arab American Institute
submitted to
U.S. Senate Judiciary Subcommittee on the Constitution, Civil Rights and Human
Rights
for the Hearing Record on
“Hate Crimes and the Threat of Domestic Extremism”

September 19, 2012

The Arab American Institute (AAI) is a non-profit, non-partisan organization created to encourage the direct participation of Arab Americans in political and civic life in the United States. AAI aims to represent the policy and community interests of the 3.5 million Arab Americans currently residing in the United States, and in recent years the safety and security of Arab Americans has become a primary issue of concern.

As a community that has faced steadily-increasing violence and hate, we are pleased that the Senate Judiciary Committee is convening this hearing at such a pivotal time, when the safety of Arab, Middle Eastern, North African, South Asian, and Muslim communities appears to be in greater danger than ever.

We hope that the hearing will result in increased efforts by the federal government to prevent hate crimes from occurring, and to better address instances of violence when they do occur.

Hate Crimes in the Community

The Sikh temple shooting that took place in Wisconsin on August 5 was a stark reminder of the continued danger our communities face at the hands of violent right-wing extremists. Though this attack was unparalleled in its destructiveness and savagery, its occurrence was simply the worst among many.

The following hate crimes* against Arab Americans and American Muslims occurred in a two-week period around the time of the temple shooting, during the Muslim holy month of Ramadan:¹

- **August 4th**: Four assailants continuously vandalized a mosque in Hayward, CA, throwing lemons, oranges, and eggs, and firing BB guns.
- **August 5th**: Masjid Al-Islam mosque in North Smithfield, RI was vandalized when a man repeatedly attacked the sign in front of the mosque.
- **August 6th**: An Islamic Center in Joplin, Missouri was completely destroyed an hour before local Muslims were scheduled to arrive for Ramadan prayers.
- **August 7th**: The Islamic Center of Murfreesboro in Tennessee was vandalized after it passed inspection for reopening.
- **August 10th**: David Conrad fired an air rifle at the Muslim Education Center in Morton Grove, IL while 500 people were inside for evening prayer.
- **August 11th**: The Mother of the Savior Church, which hosts a predominantly Arab American congregation, was vandalized.
- **August 12th**: The Grand Mosque in Oklahoma City was fired upon with paintball guns.
- **August 12th**: A bottle filled with acid and other unspecified material was thrown at the College Preparatory School of America in Lombard IL, during nighttime prayer.
- **August 16th**: A Muslim man in Evergreen Park, IL discovered that someone had written "Raghead Killer" on his father's tombstone.
- **August 19th**: Packages of raw bacon were found on a football field in New Drop Beach Park in Staten Island on Sunday morning, just before a ceremony marking Eid al-Fitr was to take place.

**It should also be noted that the Bureau of Justice Statistics has suggested that reported hate crimes may represent as little as 1/15th of actual hate crime occurrences.*

Combating Right-Wing Extremism

In 2009, the Department of Homeland Security issued a report entitled "Rightwing Extremism: Current Economic and Political Climate Fueling Resurgence in Radicalization and Recruitment."ⁱⁱ The report warned that "lone wolves and small terrorist cells embracing violent rightwing extremist ideology are the most dangerous domestic terrorism threat in the United States." It specifically identified "white supremacist lone wolves" as "the most significant domestic political threat because of their low profile and autonomy."ⁱⁱⁱ

The report, which presciently warned of the lone-wolf extremism responsible for the assassination attempt of Rep. Gabrielle Giffords, the Oak Creek shootings, and other recent attacks and crimes, faced stark opposition at its publication by members of Congress and prominent media figures. Many public figures wanted the agency to focus exclusively on "Islamist" terrorism, refusing to acknowledge the real risks of right-wing extremism.

Several individuals derided the report as "propaganda," and Rep. John Boehner accused the department of "using [the designation of 'terrorist'] to describe American citizens who disagree with the direction Washington Democrats are taking our nation."^{iv}

Many experts worry that the findings of the report were marginalized as a result of this political blowback. According to Brian Levin, a professor of criminal justice at California State University, "Not only was [the report] buried, the actual unit which created it was disemboweled."^v

As a result, Arab Americans and American Muslims have suffered a double indignity. As the targets of government profiling efforts and the victims of bigoted mischaracterizations by elected officials and intelligence agencies, they often feel disenfranchised by the government, and marginalized by the general public. Meanwhile, some policymakers appear unwilling to consider the reality of violence against Arabs, Muslims, and other ethnic and religious minorities.

Impact of Hate Crimes and Violent Extremism

The implications of this marginalization extend far beyond the individuals who are profiled by the police, or attacked in their places of worship. Hate crimes reverberate through the Arab and Muslim communities, spreading distrust and disenchantment. This often results in individuals withdrawing from community organizations, and such isolation is the first step leading to the “lone-wolf” scenario decried by the Department of Homeland Security in its 2009 report.

Compounding this effect is the increasing distrust of the Arab American and American Muslim communities toward law enforcement and intelligence agencies, resulting in less information-sharing, less cooperative work, and weakened channels of communication. This has dire implications for American society as a whole.^{vi}

Policy Recommendations

Violent extremism is not produced in a vacuum; it is often the product of adverse social and economic forces, many of which can be mitigated by careful government involvement. Efforts by previous administrations to crack down on racial violence have proven remarkably effective, and a similar effort must be undertaken by the current government to prevent, document, investigate, and prosecute instigators of hate crimes and violent extremism.

Laws are already in place to address hate violence, such as the Hate Crimes Prevention Act of 2009 (HCPA), but they must be utilized by the Department of Justice, defended by Congress, and explained to the public at-large.

- The Department of Justice and Department of Homeland Security should prioritize efforts to curb hate crimes and violent extremism, both through proactive community-based involvement and by purging departments of insensitive, bigoted material that fuels animosity against target groups.
 - The FBI should provide full public disclosure of all Arab/Muslim training materials, identify individuals responsible for the creation of bigoted training products, and retrain all agents who were exposed to them.^{vii}
 - DOJ should also institutionalize the initiative put forth by its own Civil Rights Division to “Combat Post-9/11 Discriminatory Backlash.”^{viii}
 - DHS should refocus on its own 2009 report on the danger of white extremist groups, and direct its efforts on containing this pervasive threat to American security.

- Congress should ensure that sufficient funding is appropriated to existing law enforcement initiatives to curb hate crimes and increase education and awareness, while establishing oversight mechanisms to ensure that law enforcement does not abrogate the rights of the people it is mandated to protect. It should also pass anti-profiling policies such as the End Racial Profiling Act, to ensure that offensive and counterproductive racial profiling practices no longer endanger the safety of ethnic communities and the nation as a whole.
- Congress should also be more mindful of the negative repercussions of the rhetoric of some of its own members who have made racist, xenophobic, homophobic, or other bigoted statements. Such sentiments should be publicly condemned when they encourage hatred or violence against other Americans.

ⁱ American-Arab Anti-Discrimination Committee: Hate Crimes Tracker: <http://www.adc.org/legal/hate-crimes-tracker/>

ⁱⁱ U.S. Department of Homeland Security, "Rightwing Extremism: Current Economic and Political Climate Fueling Resurgence in Radicalization and Recruitment." April 7, 2009, <http://www.fas.org/irp/eprint/rightwing.pdf>

ⁱⁱⁱ *Ibid.*, p. 7

^{iv} Mehta, Aaron. "The Missing Warning Signs." *The Daily Beast*. Jan 11, 2011, <http://www.thedailybeast.com/newsweek/2011/01/11/homeland-security-study-warned-of-right-wing-extremism.html>

^v *Ibid.*

^{vi} Huda, Qamar-ul, "The Diversity of Muslims in the United States: Views as Americans." *United States Institute of Peace*, <http://www.usip.org/publications/diversity-muslims-united-states-views-americans>

^{vii} Arab American Institute, "AAI Statement on the FBI's Guiding Principles," <http://www.aaiusa.org/reports/aai-statement-on-the-fbis-guiding-principles-on-training/>

^{viii} U.S. Department of Justice Civil Rights Division, "Initiative to Combat Post-9/11 Discriminatory Backlash," http://www.justice.gov/crt/legalinfo/nordwg_mission.php



Statement Submitted by the Asian & Pacific Islander American Health Forum

For The Hearing Entitled: "Hate Crimes and the Threat of Domestic Extremism"

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

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*National Advocates for
Asian Americans,
Native Hawaiians &
Pacific Islanders Health*

September 19, 2012

The Asian & Pacific Islander American Health Forum (APIAHF) submits this statement to the Senate Judiciary Committee, Subcommittee on the Constitution, Civil Rights and Human Rights. For over 26 years, APIAHF has dedicated itself to improving the health and well-being of Asian American, Native Hawaiian and Pacific Islander (AA and NHPI) communities by influencing policy, mobilizing communities, and strengthening programs and organizations.

The United States was founded on liberty and justice for all and is a nation built on inclusion, plurality and diversity. Recent attacks like the tragedy in Oak Creek, Wisconsin and other hate-, xenophobic- and race- based attacks are a violation of the civil rights, safety and security of all Americans. APIAHF opposes all forms of hatred, violence and intolerance. For these reasons, we strongly commend the Senate Judiciary Committee for convening a hearing on hate crimes and domestic extremism—actions that are a threat to the entire nation. In addition, we urge Congress and all federal agencies to take increased measures to prevent, address and combat all hate crimes and violent extremists in the U.S.

Despite efforts at the federal level to strengthen protections, hate crimes and hate groups continue to be a national problem. Hate crimes affect all communities, and particularly communities of color, immigrant and other minority populations. These crimes are dangerous to the health and well-being of the entire nation as they threaten to destroy the fabric this nation was founded on. It is important to place recent national tragedies, including the killings in Oak Creek, Wisconsin in this context.

In the decade since 9/11, Sikhs, Muslims, Arabs and South Asians have been targeted with violence, discrimination and profiling. In addition, the public sphere has repeatedly been tainted by racist and xenophobic rhetoric by national leaders. This overt violence and political discourse—regardless of the group targeted—creates a climate of ignorance, prejudice and discrimination; contributing to profiling and marginalization of communities. It is not surprising then, that the FBI reports that there were over 6,600 hate crimes reported in 2010 alone, a number that is likely higher given the fear that has been instilled in many of these targeted communities.

As the nation becomes increasingly diverse, activities and rhetoric targeting minority and other marginalized communities is becoming increasingly destructive and has the potential to hinder national unity and the success of national priorities.

APIAHF, together with leading civil rights organizations like South Asian Americans Leading Together (SAALT) recommends that Congress and the federal agencies act as key leaders to create a strong framework for combatting hate crimes and violent extremists. Specifically, APIAHF recommends that the White House, Congress and the federal agencies:

Improve federal hate crime data collection, disaggregation, categorization and reporting efforts. Consistent, accurate and disaggregated data is essential to understanding and combatting hate crimes and other hate-motivated activities. The Department of Justice (DOJ) should promote mandatory participation in existing hate crimes reporting requirements and the FBI should improve hate crime incident reporting by developing new categories on hate crime incident report forms for communities that are not covered (including anti-Arab, anti-Sikh and anti-Hindu incidents).

Enforce existing civil rights and hate crimes laws. DOJ should rigorously enforce existing civil rights and hate crimes laws, including the Mathew Shepherd and James Byrd, Jr. Hate Crimes Prevention Act (HCPA). In addition, DOJ should outreach to affected communities to ensure they understand their rights.

Adequately fund initiatives that prevent, investigate and combat hate crimes, hate groups and violent extremists. Congress should establish or increase appropriations for prevention, education and training initiatives for law enforcement around existing hate crime policies; anti-bias education programs; and government resources directed toward affected communities.

Establish formal interagency efforts, in partnership with community stakeholders, to address hate crimes. The White House should convene a presidential summit on hate crimes and religious intolerance with significant participation and consultation with community members, religious leaders and government officials to develop best practices for stakeholders addressing this issue. The White House should establish an interagency task force on hate crimes and violent extremists, similar to what was established after the church arsons of the 1990s.

Condemn and curb actions and discourse by government agencies and public officials that often promote a climate where hate crimes can occur. Congress should pass anti-profiling policies such as the End Racial Profiling Act (S.1670; H.R. 3618). DOJ should amend its 2003 Guidance Regarding the Use of Race by Federal Law Enforcement Agencies to adequately cover profiling based on religion and national origin, remove loopholes, promote more robust coverage of law enforcement activities and make the guidance enforceable. Lastly, all public officials should refrain from making statements based on racism, xenophobia, homophobia, sexism or religious intolerance and condemn all such statements when they occur in the public sphere.

In conclusion, APIAHF again thanks the Senate Judiciary Committee for convening this hearing and urges the Committee to continue to address hate crimes and

violent extremists. For more information or questions, please contact Paulo Pontemayor, Government Relations and External Affairs Advisor at ppontemayor@apiahf.org or (202) 706-6777.



STATEMENT OF
Mee Moua, President and Executive Director of Asian American Justice Center,
a member of the Asian American Center for Advancing Justice

Hearing on Hate Crimes and the Threat of Domestic Extremism

U.S. SENATE COMMITTEE ON THE JUDICIARY
SUBCOMMITTEE ON THE CONSTITUTION, CIVIL RIGHTS AND HUMAN RIGHTS

September 19, 2012

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

Thank you for the opportunity to submit this testimony for the record regarding today's hearing on hate crimes and the threat of domestic extremism. We commend your attention to this critical and timely issue.

The Asian American Justice Center ("AAJC"), a member of the Asian American Center for Advancing Justice, is a national non-profit, non-partisan organization working to advance the civil and human rights of Asian Americans, and build a promote a fair and equitable society for all. Founded in 1991 and based in Washington, D.C., AAJC is one of the nation's leading experts on issues of importance to the Asian American and Pacific Islander ("AAPI") communities including: anti-Asian violence prevention/race relations, affirmative action, census, immigrant rights, immigration, language access, broadband access, television diversity and voting rights. As members of the Asian American Center for Advancing Justice, AAJC works with the Asian American Institute in Chicago, the Asian Law Caucus in San Francisco and the Asian Pacific American Legal Center in Los Angeles to extend the reach of our programing and enhance the impact of our collective work. Together, we strive to build a more powerful and unified social justice voice for AAPIs.

AAJC has a longstanding history of work on anti-Asian violence, race relations and hate crimes. This work has included providing technical assistance to law enforcement and communities to ensure justice for victims of racially-motivated attacks, monitoring federal hate crimes legislation, publishing a resource handbook on responding to hate crimes, and in the past, publishing an annual compilation and analysis of anti-Asian violence in the United States.

At the federal level, AAJC monitors hate crimes legislation and pushes for tougher laws to ensure justice for these heinous acts. For example, following the 2008 presidential election,

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Member Affiliates: Asian American Institute in Chicago Asian Law Caucus in San Francisco and Asian Pacific American Legal Center in Los Angeles

there was a wave of hate crimes against Hispanics and other minorities. AAJC quickly joined civil rights leaders from the Anti-Defamation League, the National Council of La Raza, the Leadership Conference on Civil Rights, the National Urban League, the NAACP and the Mexican American Legal Defense and Educational Fund in a news conference to denounce hate crimes and call for Congress to pass comprehensive, meaningful federal hate crime legislation. More importantly, AAJC worked for more than a decade to ensure passage of a federal hate crimes bill. Finally, in October 2009, President Obama signed the Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act into law.

AAJC has also combated hate crimes at the state and local level. For example, following a tragic 2004 shooting incident in Wisconsin involving a Hmong American, AAJC was not only the first organization on the scene to respond to the incident, but remained active in assisting the community in dealing with the subsequent backlash of hate crimes against the Hmong community. AAJC worked with Minnesota and Wisconsin community-based organizations to provide ongoing technical assistance in the aftermath of the Hmong hunter tragedy, and researched outreach programs that law enforcement agencies had in place to better serve their Hmong-populated areas.

AAJC remains vigilant against anti-Asian violence and other hate crimes that impact individuals and communities across America.

Hate Crimes and the Asian American and Pacific Islander Communities

There is a long history of violence, both documented and undocumented, against AAPIs due to their race, dating back to when the first Chinese immigrants settled in the United States in the mid-1800s. That violence continues today. The FBI's 2010 hate crimes statistics show that of the 3,949 victims of racially-motivated hate crimes,ⁱ 5.1 percent were victims due to anti-Asian/Pacific Islander bias.ⁱⁱ

Violence motivated by race, ethnicity, national origin, or religion is especially harmful because it is not only a physical attack, but also an attack on one's identity. It has a severe psychological impact, not only on the victim, but on the entire community. When such violence targets AAPIs, it perpetuates the harmful perception that they are unassimilable and unwelcome as Americans. In 1982, Vincent Chin, a Chinese American from Detroit, was beaten to death while celebrating his upcoming wedding by two white autoworkers at the height of anti-Japanese car manufacturing sentiment. Thirty years since Chin's death, AAPIs continue to hear the message that they do not belong. For example, in 2004 in Madison, Wisconsin, two men were charged with a hate crime after allegedly brandishing a replica of a human skull at passersby while

shouting, “Speak English. The last couple that didn’t speak English, this is their head” at an Asian American couple.ⁱⁱⁱ In December of last year, a Sri Lankan University of Illinois professor was stabbed in the neck at a train station as the attacker allegedly yelled, “This is my country.”^{iv} Public schools have also become the ground for an increasing number of hate crimes against AAPIs.^v

Most profoundly, the aftermath of September 11 has brought about intense violence and bias against many members of the AAPI community who are of South Asian descent. The first victim of a post-September 11 hate crime was Balbir Singh Sodhi, a Sikh American husband and father of two, who was gunned down at his workplace.^{vi} In the first month alone after September 11, the Sikh Coalition documented more than 300 cases of violence and discrimination against Sikh Americans throughout the United States.

Rather than an isolated incident, the recent massacre at the gurdwara in Oak Creek, Wisconsin is a continuation of the violence targeting Sikh, Muslim, Arab and South Asian communities since September 11. Even within 11 days of the Oak Creek shooting, there were eight attacks on houses of worship throughout the country. Hate groups and violent extremists threaten the safety of not only South Asians and other communities of color, who are integral to the American fabric, but all Americans.

Impact of the Government’s Actions

At the same time that some groups, particularly South Asians, Sikhs, Muslims, and Arabs, have suffered a proliferation of hate crimes perpetrated against them, the U.S. government has implemented deliberate and misguided programs and policies that profile these same communities based on their perceived race, ethnicity, religion or national origin. This has been the case in many governmental arenas, including immigration enforcement, FBI investigations, and in measures advanced to address national security and counterterrorism.

AAJC’s affiliate in San Francisco, the Asian Law Caucus, has received more than 40 complaints since 2007 from individuals—mostly U.S. citizens and legal permanent residents who are Muslim or of South Asian or Middle Eastern descent—who have been subjected to lengthy detentions and invasive questioning and searches at U.S. land borders and international airports. A groundbreaking report released in 2009^{vii} reveals the disturbing extent to which U.S. Customs and Border Protection has interrogated these individuals about their political and religious beliefs, volunteer activities and associations without first establishing any basis for suspecting these individuals of violating the law. Professors, religious and community leaders, attorneys

and entrepreneurs have been among those whose laptop computers, digital cameras, cell phones, books and personal papers have been turned inside out for evidence of wrongdoing.

The sad and unjust irony is that while these communities face a “double targeting” of being subjected to both violent hate crimes and baseless government policies, organized hate groups—responsible for the bulk of domestic terrorism—have grown and have gone largely unchecked. According to the Southern Poverty Law Center (“SPLC”), an organization internationally known for tracking hate groups, the number of active hate groups in our country, which currently numbers over a thousand, has grown by almost 70 percent since 2000.^{viii} Indeed, news reports indicate that the Oak Creek shooter, Wade Michael Page, was a neo-Nazi and a member of two hate groups, and accordingly, had been tracked by SPLC since 2000.^{ix} Clearly, discriminatory targeting and overbroad questioning of individuals from certain minority communities diverts law enforcement from their charge to investigate and eliminate actual security threats. The practice of racial, ethnic, religious or national origin profiling truly fails to make America safer.

Conclusion

Intolerance and bias-motivated violence have no place in a country that is built on the principles of inclusion, equality and diversity. AAJC urges Congress, the White House and government agencies to work together to take increased and more aggressive measures to prevent, address and combat hate crimes and violent extremism in the United States:

- Rigorously enforce the Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act by filing appropriate cases under the Act, defending its constitutionality and ensuring continued education, outreach and training to law enforcement officials on the law and its requirements;
- Pass robust anti-racial profiling policies, such as the End Racial Profiling Act (S. 1670; H.R. 3618), which prohibits profiling based on race, religion, ethnicity or national origin by federal, state and local law enforcement, establishes requirements for law enforcement to collect data, provide anti-profiling trainings and develop a complaint mechanism for affected individuals, allows the Department of Justice to withhold grants to entities that fail to comply with the law and provide funding to these seeking to eliminate the practice, and allows affected individuals to seek redress in court;
- Amend the 2003 Department of Justice Guidance Regarding the Use of Race by Federal Law Enforcement Agencies to apply to profiling based on religion and national origin, remove national and border security loopholes, cover law enforcement surveillance

activities, apply to state and local law enforcement agencies acting in partnership with federal agencies or receiving federal funds, and make the guidance enforceable;

- Ensure sufficient funding for the Department of Homeland Security and other federal law enforcement agencies to monitor and prevent attacks from violent, domestic non-Islamic extremist organizations, such as white supremacist and neo-Nazi groups;^x
- Improve federal hate crime reporting and data collection mechanisms, including by reducing barriers for immigrants and limited-English speaking victims to report hate crimes and potential threats;
- Encourage federal agencies to work with non-governmental organizations that monitor violent, extremist organizations to increase the government's awareness about possible domestic terror threats;
- Strengthen community-based networks that prevent hate violence and respond to hate incidents by funding community programs that help educate and train individuals about their rights, provide services for victims of hate incidents and improve collaboration with local law enforcement agencies;
- Address the growing number of hate incidents in public schools by providing funding for diversity, anti-bias and tolerance training programs in schools and by urging schools to adopt and enforce anti-hate policies; and
- Fund and support successful models of intergroup relations programs for youth and adults that focus on skills-building to develop community leaders who can bridge differences and effectively communicate about race and culture.

We urge that in addition to these policy recommendations, political leaders present more vigorous and public denouncements of biased or hateful views and threats against AAPIs, particularly South Asians, Muslims and Sikhs. This is a critical time to reinforce our nation's commitment to fairness, inclusion and equality.

ⁱ *Hate Crime Statistics*, FBI.GOV, <http://www.fbi.gov/about-us/cjis/ucr/hate-crime/2010/narratives/hate-crime-2010-victims> (last visited Sept. 19, 2012).

ⁱⁱ *Id.*

ⁱⁱⁱ Megan Costello, *Two Men Charged with Weekend Hate Crimes*, THE BADGER HERALD (Sept. 27, 2004), http://badgerherald.com/news/2004/09/27/two_men_charged_with.php.

^{iv} *Man Charged with Stabbing U of I Faculty Member in Hate Crime*, CHICAGO.CBSLOCAL.COM, Dec. 8, 2011, <http://chicago.cbslocal.com/2011/12/08/man-charged-with-stabbing-u-of-i-faculty-member-in-hate-crime/>.

^v *Asian Youth Persistently Harassed by U.S. Peers*, ASSOCIATED PRESS, Nov. 13, 2005, available at http://www.usatoday.com/news/nation/2005-11-13-asian-teens-bullied_x.htm.

^{vi} Tamar Levin, *Sikh Owner of Gas Station Is Fatally Shot in Rampage*, N.Y. TIMES (Sept. 17, 2011), <http://www.nytimes.com/2001/09/17/us/sikh-owner-of-gas-station-is-fatally-shot-in-rampage.html>.

^{vii} ASIAN LAW CAUCUS & STANFORD LAW SCHOOL IMMIGRANT RIGHTS CLINIC, RETURNING HOME: HOW U.S. GOVERNMENT PRACTICES UNDERMINE CIVIL RIGHTS AT OUR NATION'S DOORSTEP (2009); available at <http://www.asianlawcaucus.org/publications/us-border-report-returning-home>.

^{viii} *Hate and Extremism*, SPLCENTER.ORG, <http://www.spicenter.org/what-we-do/hate-and-extremism> (last visited Sept. 19, 2012).

^{ix} Heidi Beirich & Mark Potok, *Alleged Sikh Temple Shooter Former Member of Skinhead Band*, SPLCENTER.ORG (Aug. 6, 2012), <http://www.spicenter.org/get-informed/news/alleged-sikh-temple-shooter-former-member-of-skinhead-band>.

^x See Spencer Ackerman, *DHS Crushed This Analyst for Warning About Far-Right Terror*, WIRED.COM (Aug. 7, 2012), <http://www.wired.com/dangerroom/2012/08/dhs/2/> (describing dearth of DHS resources toward "domestic non-Islamic extremism").



Asian Law Caucus

STATEMENT FOR THE RECORD

Sept. 19, 2012

Hearing on Hate Crimes and the Threat of Domestic Terrorism

To the Senate Judiciary Committee:

On behalf of the Asian Law Caucus, a member of the Asian American Center for Advancing Justice, we submit this testimony for the record for your consideration during your hearing on "Hate Crimes and the Threat of Domestic Terrorism."

Founded in 1972, the mission of the Asian Law Caucus is to promote, advance and represent the legal and civil rights of Asian and Pacific Islander (API) communities. The Asian Law Caucus is committed to the pursuit of equality and justice for all sectors of our society, with a specific focus directed toward addressing the needs of low-income, immigrant and underserved APIs.

We commend the Senate Judiciary Committee for convening a hearing on hate crimes and domestic extremism in response to the Oak Creek tragedy and the heightened violence against American Sikhs, South Asians, Arabs, and Muslims post-9/11. We are deeply concerned because in the past several months alone, numerous Islamic institutions have been vandalized, attacked, and the victim of arson.

Oak Creek was not only a tragedy impacting the Sikh community, but also all Americans. Our nation is built on inclusion and diversity; no one should have to live in fear for their safety, simply because of their faith, race, or ethnicity. Hate crimes against any community—regardless of ethnicity or religion—represent an attack on all Americans.

A hate crime such as the Oak Creek tragedy inflicts deep trauma both upon the victims and the targeted communities. Hate crimes send a message to the victim's community that anyone could be targeted if they have similar characteristics, such as race or religion. In order for relationships between individuals and communities to be reconciled and for our country to move forward in unity, we must proactively create opportunities for victims and communities to heal.

Hate crimes are motivated by the offender's bias based on actual or perceived characteristics of the victim. In 2010, according to the FBI, 47% of hate crimes were racially-motivated, 20% were motivated by the victim's religion, 19% were based on sexual orientation, and 13% were based on ethnicity or national origin.

A disproportionately high percentage of both victims and perpetrators of hate crimes are youth under 18 years old. Hate crimes in large, diverse urban areas are also increasingly minority on minority. For example, in Los Angeles, 69% of anti-black crimes involved Latino suspects, and 81% of anti-Latino crimes involved black suspects.

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The typical response to hate crimes is a call to prosecute and punish the alleged offender to the full extent of the law. However, our overreliance on the criminal justice system fails to take into account that this is a deeply flawed system which has been shown to be unsuccessful at reducing recidivism and repairing the harm caused to victims. Rather, we should give more serious consideration to alternatives that more effectively foster long-term understanding, healing, and peace in our communities.

The Asian Law Caucus advocates for restorative justice as an opportunity for hate crime victims and impacted communities to heal by empowering victims who otherwise feel helpless and uninvolved or lost in the criminal justice process. Under our traditional punitive system, crime is defined as a violation of laws, requiring the state to determine blame and impose punishment. In this process, the victim's and his/her community's voice is often not heard. In contrast, restorative justice views crime as a violation of relationships, focusing on the harm caused to victims and their communities with the goal of holding the offenders accountable to repair the harm caused.

Hate crimes such as the Oak Creek tragedy threaten to divide communities along lines of race, religion, and other categories. It is important to respond to hate crimes such as Oak Creek in restorative way that promotes reconciliation between groups and upholds the values of a unified America that defends all individuals' rights. Restorative justice creates the space to involve the community to ask what harm was done, how the harm can be repaired, and whose obligation it is to repair the harm. This response gives voice to the victims, allowing hurt to be expressed and to be publicly acknowledged. The offender also has the opportunity to witness the human impact of their crime and take responsibility.

Acknowledging that the offender cannot repair harm from a hate crime alone, we promote restorative justice as a vehicle to lead to larger conversations and efforts to create more inclusive communities. Restorative justice offers a starting point for not only the Oak Creek victims, but the larger community, to engage in dialogue that ensures a hate crime against America does not happen again.

The Asian Law Caucus also advocates for local law enforcement to adopt policies that reduce fear among immigrant victims and witnesses of crimes so that they can come forward to report those crimes. Specifically, any entanglement with immigration enforcement such as responding to ICE detainer requests or participating in ICE Access programs, such as CAP or "Secure" Communities, deters immigrant victims from trusting local police. In addition, local law enforcement should not assist the FBI in any indiscriminate spying and surveillance of community members based merely on their religion, ethnicity or race.

Thank you again for holding this critical and timely hearing and for the opportunity to express the views of the Asian Law Caucus. We welcome the opportunity for further dialogue and discussion about these important issues.

Sincerely,

Asian Law Caucus

**ASIAN PACIFIC AMERICAN
LEGAL CENTER**



MEMBER OF
ASIAN AMERICAN CENTER
FOR ADVANCING JUSTICE

**STATEMENT OF
Asian Pacific American Legal Center, a member of the
Asian American Center for Advancing Justice**

Hearing on Hate Crimes and the Threat of Domestic Extremism

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

United States Senate

September 17, 2012

Dear Chairman Durbin, Ranking Member Graham and members of the Subcommittee:

Thank you for the opportunity to submit this testimony for the record regarding today's hearing on hate crimes and the threat of domestic extremism.

APALC is the nation's largest Asian American legal and civil rights organization and assists more than 15,000 individuals and organizations every year. As a member of the Asian American Center for Advancing Justice, APALC works with the Asian American Justice Center (AAJC) in Washington, D.C., Asian American Institute (AAI) in Chicago, and Asian Law Caucus (ALC) in San Francisco to extend the reach of our programming and enhance the impact of our collective work. Together, we strive to build a more powerful and unified social justice voice for Asian Americans and Native Hawaiians and Pacific Islanders (NHPIs).

Since its founding nearly 30 years ago, APALC has had a history of countering hate crimes through preventative education, advocacy, and leadership development in intergroup relations. APALC has advocated for justice and supported the families of hate crime victims such as Vincent Chin, who was killed in 1982 by white auto workers in Detroit who mistook him for being Japanese, and Joseph Iletto, a Pilipino postal worker who was gunned down by a white supremacist outside Los Angeles in 1999. In the wake of community centers and places of worship in Los Angeles being vandalized by messages of hate in the 1980s, APALC also created the Leadership Development in Interethnic Relations (LDIR) program that provides individuals with the skills to address and improve intergroup relations.

APALC commends the Senate Judiciary Committee for convening a hearing on hate crimes and domestic extremism. The United States is built on inclusion, pluralism, and diversity; hate crimes and the actions of hate groups affect all Americans. We respectfully urge Congress and federal government agencies to take increased measures to prevent, address, and combat hate crimes and domestic extremism in the United States.

Hate Crimes and Asian Americans, Native Hawaiians and Pacific Islanders in Southern California

While it has been nearly three years since the Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act was signed in 2009, strengthening existing legal protections, hate crimes and hate groups continue to be a serious threat facing this country. Oak Creek and other recent incidents have brought attention to this serious issue, but it is important to remember that Oak Creek was not an isolated incident. In the past few weeks alone, numerous Islamic institutions have been vandalized, shot at with paintballs and a high velocity air rifle, attacked with an acid bomb, and suspiciously burned down.

Despite being one of the most racially and ethnically diverse regions of the country, Southern California has witnessed significant anti-Asian violence. Many of the victims have been young people, such as 24-year-old Thien Minh Ly and 17-year-old Kenneth Chiu, killed in separate hate crimes in 1996 and 2001, or the 60 AAPI students at the University of California, Irvine who received e-mailed death threats in 1996. Other victims have included the many South Asian, Sikh, and Muslim Americans singled out for violence after September 11th. In many of these cases, Ly, Chiu, and Iletto (see above), the perpetrators were white supremacists. In all cases, the victims were innocent targets of misplaced hatred — including Sundeep, an Indian American man viciously beaten by strangers shouting racial slurs and blaming him for September 11th.

Unfortunately, hate crimes continue to afflict and traumatize affected communities in Southern California. For example, on August 7, 2012, two women left three pig legs at entrances to a mosque in Ontario, California, a suburb of Los Angeles.

In examining the underlying and historical context for these hate crimes, it is important to note that the persistent stereotype of Asian Americans as “perpetual foreigners” has fueled discrimination, hostility, and even violence against Asian American and NHPi individuals. Political or economic tensions between the U.S. and Asian countries during rough economic times have also led to increased violence against Asian Americans and NHPis in the past. More recently, inflammatory rhetoric targeting immigrants has instigated an increase in hate-based violence against those perceived to be immigrants – including Asian Americans and NHPis. The escalation in the level of anti-immigrant vitriol on the public airwaves has created a toxic climate that encourages some individuals to violently target immigrants and those perceived to be immigrants.

Impact of the Government's Actions

At the same time that some groups, particularly South Asians, Sikhs, Muslims, and Arabs, have suffered a proliferation of hate crimes perpetrated against them, the U.S. government has implemented deliberate and misguided programs and policies that profile these same communities based on their perceived race, ethnicity, religion or national origin. This has been the case in many governmental arenas, including immigration enforcement, FBI investigations, and in measures advanced to address national security and counterterrorism.

APALC's affiliate in San Francisco, the Asian Law Caucus, has received more than 40 complaints since 2007 from individuals – mostly U.S. citizens and legal permanent residents who are Muslim or of South Asian or Middle Eastern descent – who have been subjected to lengthy detentions and invasive questioning and searches at U.S. land borders and international airports. A groundbreaking report released in 2009ⁱ reveals the disturbing extent to which U.S. Customs and Border Protection has interrogated these individuals about their political and religious beliefs, volunteer activities and associations without first establishing any basis for suspecting these individuals of violating the law. Professors, religious and community leaders, attorneys and entrepreneurs have been among those whose laptop computers, digital cameras, cell phones, books and personal papers have been turned inside out for evidence of wrongdoing.

The sad and unjust irony is that while these communities face a “double targeting” of being subjected to both violent hate crimes and baseless government policies, organized hate groups—responsible for the bulk of domestic terrorism—have grown and have gone largely unchecked. According to the Southern Poverty Law Center (“SPLC”), an organization internationally known for tracking hate groups, the number of active hate groups in our country, which currently numbers over a thousand, has grown by almost 70 percent since 2000.ⁱⁱ Indeed, news reports indicate that the Oak Creek shooter, Wade Michael Page, was a neo-Nazi and a member of two hate groups, and accordingly, had been tracked by SPLC since 2000.ⁱⁱⁱ Clearly, discriminatory targeting and overbroad questioning of individuals from certain minority communities diverts law enforcement from their charge to investigate and eliminate actual security threats. The practice of racial, ethnic, religious or national origin profiling truly fails to make America safer.

Conclusion

Intolerance and bias-motivated violence have no place in a country that is built on the principles of inclusion, equality and diversity. APALC urges Congress, the White House and government agencies to work together to take increased and more aggressive measures to prevent, address and combat hate crimes and violent extremism in the United States:

- Rigorously enforce the Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act by filing appropriate cases under the Act, defending its constitutionality, and ensuring continued education, outreach and training to law enforcement officials on the law and its requirements;
- Pass robust anti-racial profiling policies, such as the End Racial Profiling Act (S. 1670; H.R. 3618), which prohibits profiling based on race, religion, ethnicity or national origin by federal, state and local law enforcement, establishes requirements for law enforcement to collect data, provide anti-profiling trainings, and develop a complaint mechanism for affected individuals, allows the Department of Justice to withhold grants to entities that fail to comply with the law and provide funding to these seeking to eliminate the practice, and allows affected individuals to seek redress in court;
- Amend the 2003 Department of Justice Guidance Regarding the Use of Race by Federal Law Enforcement Agencies to apply to profiling based on religion and national origin, remove national and border security loopholes, cover law enforcement surveillance

activities, apply to state and local law enforcement agencies acting in partnership with federal agencies or receiving federal funds, and make the guidance enforceable;

- Ensure sufficient funding for the Department of Homeland Security and other federal law enforcement agencies to monitor and prevent attacks from violent, domestic non-Islamic extremist organizations, such as white supremacist and neo-Nazi groups;^{iv}
- Improve federal hate crime reporting and data collection, including by reducing barriers for immigrants and limited-English speaking victims to report hate crimes and potential threats;
- Encourage federal agencies to work with non-governmental organizations that monitor violent, extremist organizations to increase the government's awareness about possible domestic terror threats;
- Strengthen community-based networks that prevent hate violence and respond to hate incidents by funding community programs that help educate and train individuals about their rights, provide services for victims of hate incidents, and improve collaboration with local law enforcement agencies;
- Address the growing number of hate incidents in public schools by providing funding for diversity, anti-bias and tolerance training programs in schools and by urging schools to adopt and enforce anti-hate policies; and
- Fund and support successful models of intergroup relations programs for youth and adults that focus on skills-building to develop community leaders who can bridge differences and effectively communicate about race and culture.

We urge that, in addition to these policy recommendations, political leaders present more vigorous and public denunciations of biased or hateful views and threats against Asian Americans and NHPs, particularly South Asians, Muslims and Sikhs. This is a critical time to reinforce our nation's commitment to fairness, inclusion and equality.

ⁱ ASIAN LAW CAUCUS & STANFORD LAW SCHOOL IMMIGRANT RIGHTS CLINIC, RETURNING HOME: HOW U.S. GOVERNMENT PRACTICES UNDERMINE CIVIL RIGHTS AT OUR NATION'S DOORSTEP (2009); available at <http://www.asianlawcaucus.org/publications/us-border-report-returning-home>.
ⁱⁱ *Hate and Extremism*, SPLCENTER.ORG, <http://www.splcenter.org/what-we-do/hate-and-extremism> (last visited Sept. 19, 2012).

ⁱⁱⁱ Heidi Beirich & Mark Potok, *Alleged Sikh Temple Shooter Former Member of Skinhead Band*, SPLCENTER.ORG (Aug. 6, 2012), <http://www.splcenter.org/get-informed/news/alleged-sikh-temple-shooter-former-member-of-skinhead-band>.

^{iv} See Spencer Ackerman, *DHS Crushed This Analyst for Warning About Far-Right Terror*, WIRED.COM (Aug. 7, 2012), <http://www.wired.com/dangerroom/2012/08/dhs/2/> (describing dearth of DHS resources toward "domestic non-Islamic extremism").



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City Council Document Tracking Sheet

Meeting Date:	9/12/2012
Sponsor(s):	Pawar, Ameya (47) Moore, Joseph (49)
Type:	Resolution
Title:	Denouncement of hate crimes and bigotry and promotion of education and dialogue on diverse cultures and religions within communities
Committee(s) Assignment:	

RESOLUTION

WHEREAS, the City of Chicago, the Chicago City Council, and the Mayor of Chicago were deeply saddened by the events on August 5, 2012, when six Sikh Americans were killed and others were seriously injured at the Sikh Temple of Wisconsin; and

WHEREAS, first responders and public safety officials in Wisconsin should be commended for their quick response that saved lives and prevented even greater losses; and

WHEREAS, the Sikh American community should be supported in their efforts to heal their community; and

WHEREAS, the City of Chicago, the Chicago City Council, and the Mayor of Chicago express our profound sympathies to the families of those killed and injured and to the entire Oak Creek, Wisconsin, community and the Sikh American community; and

WHEREAS, the tragedy at the Sikh gurdwara and recent hate attacks and vandalism at mosques in Illinois and throughout our country, are occurring at a time when there has been an increase in rhetorical attacks, harassment, intimidation, bullying and violence against Sikhs, Muslims, South Asian Americans, Arab Americans, and other communities; and

WHEREAS, in the City of Chicago, we advance the principles of non-violence, tolerance, religious freedom, trust and safety, and recognize that these principles are vital to all communities in our City; and

WHEREAS, the City of Chicago's core values include justice, equality, understanding and respect for all people of all backgrounds and faiths, and we continually strive for a culture where tolerance and solidarity trump fear and cowardice; and

WHEREAS, the City of Chicago, the Chicago City Council, and Mayor believe that there is no place in our City and society for xenophobia, racism, anti-religious hate rhetoric, and violence; and

WHEREAS, as elected leaders we understand that our office carries a great duty to engage in thoughtful and informed discussions and ask all elected leaders to think before they speak; and

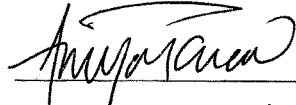
WHEREAS, the City of Chicago condemns acts of hatred and violence against all people regardless of ethnic, religious or racial identity – an attack on any one of us, is an attack on all of us; **NOW, THEREFORE**,

BE IT RESOLVED, that we, the Chicago City Council and the Mayor, assembled on this 12th Day of September 2012, do the following:

- Work with community groups to promote education and dialogue on diverse cultures and religions, grounded in the belief that this makes us strong as a city and nation;

- Celebrate diversity and continue to create a welcoming environment for all Chicagoans;
- Continue to denounce hate crimes and bigotry in public and political discourse;
- Continue to use the City of Chicago's Office of New Americans to make Chicago the most immigrant friendly city in the country.
- Continue to use the Chicago Commission on Human Relations to denounce hate crimes and bigotry in political discourse.
- Utilize the Mayor's Office of Public Engagement to continue connecting Chicagoans, new Chicagoans, and community groups to services and create forums for dialogue on diversity

BE IT FURTHER RESOLVED, that suitable copies of this resolution are provided to: the Sikh Temple of Wisconsin; the City of Oak Creek, Wisconsin; the Oak Creek, Wisconsin, Police Department; the Council on American-Islamic Relations (CAIR) – Chicago; Sikh Chicago; the Sikh American Legal Defense and Education Fund (SALDEF); South Asian Americans Leading Together (SAALT); and the South Asian American Policy and Research Institute (SAAPRI).



Ameya Pawar, Alderman, 47th Ward

Ald. Joe Moore - 49th ward

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**Senate Testimony of Tina Skahill
Chief of the Special Functions Division of the Chicago Police Department
Hearing on Hate Crimes & the Threat of Domestic Extremism
Senate Judiciary Committee
Subcommittee on the Constitution, Civil Rights, and Human Rights
September 19, 2012**

The City of Chicago is proud of its diverse population. Its residents mirror nearly every race, religion, nationality and culture in the world. Unfortunately, there are individuals and Hate Groups who disrespect this diversity by committing crimes or acts, targeting individuals or groups based on an actual or perceived hate, due to race, religion, nationality, sexual orientation, physical or mental disability and gender. These crimes or acts are known as hate crimes or hate incidents.

The Chicago Police Department knows the impact that hate and bias crimes can have on a community. From the hate-filled murder spree of Benjamin Smith in 1999 to the aftermath of bias attacks following 9/11 to the fear and outrage in the wake of the violence at the Sikh Temple in Oak Creek Wisconsin, the Chicago Police Department works with its partners and the community to combat the effects that these acts have on society. The Chicago Police Department realizes the significant impact that hate crimes can have and how such acts can impact an entire community. A hate crime against a person, for who they are, makes all feel vulnerable and afraid.

The key to an effective law enforcement response to hate crimes is building trust and partnerships between police and victimized communities. The Chicago Police Department is committed to this approach and realizes that Chicago residents must have the confidence that when they report a hate crime, the police will accept the report seriously and professionally - just as they would any other serious crime. The Chicago Police Department knows that positive police behavior builds community confidence, while negative perceptions of police behavior can erode community trust and affect the partnership needed to deal effectively with hate crimes.

It is with this in mind that the Chicago Police Department is proud to have a Civil Rights Hate Crimes Unit that works tirelessly to create and nurture longstanding relationships with the many communities that make Chicago diverse. In addition to working with the communities directly, the Civil Rights Unit has created partnerships with organizations and groups that serve these citizens. The Civil Rights Hate Crimes Unit works with the Chicago Commission on Human Relations to monitor community tension and help communities re-build following hate crimes. The Civil Rights Unit also works with partner agencies to conduct "town hall" meetings and community awareness seminars.

These ongoing efforts are in addition to the continuous training of CPD members. The Civil Rights Unit conducts all recruit training relative to hate and bias crimes and is proud of recently approved on-line hate crime training. This on-line hate crime training was created through a partnership with the Anti-Defamation League and Chicago is the first city in the nation to roll out this training. The Chicago Police Department's Civil Rights Unit will continue its efforts to tirelessly investigate crimes of hate, educate community and department members and will continue relationship building with partners and communities in an effort to eliminate hate and bias crimes.

Senate Judiciary Committee
Subcommittee on the Constitution, Civil Rights and Human Rights hearing on
“Hate Crimes and the Threat of Domestic Extremism”
September 19, 2012
2:45 P.M. Hart 216
Written Testimony submitted by Congresswoman Judy Chu

This year marks the 30th anniversary of the death of Vincent Chin. Vincent, a Chinese American, lived in Michigan when the U.S. auto-industry was in decline and anti-Japanese sentiments were high. On the night of his murder, two white autoworkers shouted at him, saying “It is you Japanese who are taking away our jobs.” They chased him down and bashed his head in with a baseball bat. Vincent’s murderers were only punished with a \$3,000 fine and got off without even spending a day in jail.

Thirty years later, another group of Asian Americans find themselves being targeted. On the morning of August 5th, 2012, a gunman opened fire at a Sikh gurdwara in Oak Creek, Wisconsin, killing six people and injuring a number of others. A morning that should have ended in calming prayers instead ended in gunshots and bloodshed.

As Chair of the Congressional Asian Pacific American Caucus, I am grateful that the Senate Judiciary Committee’s Subcommittee on the Constitutional, Civil Rights and Human Rights has organized this hearing on hate crimes. While these are only two examples of hate crimes which have been committed against the Asian American and Pacific Islander (AAPI) community, hate crimes continue to be a significant issue for AAPIs and minority communities as a whole. In 2010, over 6,600 hate crimes were reported to the Department of Justice with 47.3% of hate crimes being racially motivated, 20% religiously motivated, 19.3% sexual-orientation motivated and 12.8% motivated by ethnicity/national origin.

In the wake of 9/11, attacks against Arab, Sikhs, Muslims and South Asians skyrocketed. The Department of Justice has investigated over 800 hate crimes incidents against these communities since 9/11, and hate crimes against Muslim Americans spiked 50 percent in 2010. Unfortunately, as demonstrated by the recent attack at the Oak Creek gurdwara, hate crimes continue to be a significant threat.

As Members of Congress, we must be diligent in addressing the hate crimes that occur in this country. Congress should support full funding and implementation of laws aimed at addressing hate crimes, as well as promoting partnerships between federal and state law enforcement officials to effectively address this growing violence. This includes supporting the Justice Department’s Civil Rights Division and Community Relations Service to prevent and respond to alleged offenses based on race, religion, national origin, gender, sexual orientation, gender identity or disability. Additionally, I have joined over 90 Members of the House of Representatives in asking the Department of Justice (DOJ) to begin collecting data on anti-Sikh hate crimes, and I firmly believe that DOJ must expand its existing categories to collect more granular and meaningful data on the communities that are being targeted for hate crimes.

When I was in the California state legislature, I was Chair of the State Assembly's Select Committee on Hate Crimes, where we held hearings on hate crimes across all communities. After hearing these horrific stories and listening to their heart-broken families, I knew that we must fight for the civil rights of all Americans and never allow anyone in America to become a second class citizen. As a nation and as a people, we are better than this, and I look forward to working with all those involved to effectively prevent and combat hate crimes.



Written Statement of the
Council on American-Islamic Relations

On

Hate Crimes and the Threat of Domestic Extremism

Submitted to the

United States Senate Committee on the Judiciary
Subcommittee on the Constitution, Civil Rights and Human Rights

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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.

Chairman Durbin and Ranking Member Graham, the Council on American-Islamic Relations (CAIR), America's largest Muslim civil liberties and advocacy organization, believes the vision you show in holding a hearing to examine the full range of domestic extremist threats represents bipartisan leadership in its highest form.

The recent murders of Bhai Seeta Singh, Bhai Parkash Singh, Bhai Ranjit Singh, Satwant Singh Kaleka, Subegh Singh, and Parmjit Kaur Toor in Oak Creek, Wis. by a white supremacist are a national tragedy.

Given the broad spectrum represented by the 150 groups that wrote asking for this hearing, we will limit our testimony today to hate groups that target American Muslims, since this is a core focus of our work.¹

CAIR was founded in 1994. Among our services to our community and nation is dealing with bias incidents in which the target is selected due to their real or perceived connection with Islam. Between July 2010 and July 2012, CAIR lawyers and staff processed 5,589 civil rights complaints. CAIR has served more than 28,000 complainants since 1994.

A Snapshot of the Scope of Hate Targeting Muslims

In the days leading up to this hearing, a mosque in Virginia was defaced with hateful and obscene graffiti.

In 2010, the most recent year for which the Federal Bureau of Investigations (FBI) has released statistics, twenty percent of hate crimes committed in the United States were motivated by religious bias.² According to the FBI there were 107 anti-Muslim hate crimes in 2009 to 160 in 2010, the last year for which numbers are available.³

Ramadan 2012—which started on Friday, July 20 and ended at sun down on Saturday, August 18—saw one of the worst spikes of anti-Muslim incidents in over a decade. In the first seven months of 2012, there were 10 incidents in which Muslim places of worship were targeted. In thirteen days in August, the days immediately after the shocking murders of Sikh worshippers in Wisconsin, there were 8 incidents in which Muslim places of worship were targeted.

Incidents in Illinois included shots fired at a mosque in Morton Grove and an acid bomb thrown at an Islamic school in Lombard. In other states, a mosque was burned to the ground in Joplin, Mo., vandals sprayed an Oklahoma mosque with paintballs, pigs legs were thrown at a mosque-site in California, and a firebomb was thrown at a Muslim family's home in Panama City, Fla.

The bias against religion during this period was not limited to Sikh and Muslim targets. A security guard at the Family Research Council, a right-wing Christian organization, was shot in the arm as he barred a gunman from the group's office. The windows of an Arab Christian church in Detroit were broken by vandals.

¹ CAIR's March 10, 2011 testimony submitted to Rep. Peter King's hearing "The Extent of Radicalization in the American Muslim Community and that Community's Response" addresses our organizational and community effort to deal with extremism coming from extremists who claim Islam as a motivation.

It is available at: <http://www.cair.com/ActionCenter/PeterKingHearings.aspx>

CAIR's review of Rep. King's first four "radicalization" hearings demonstrates how the narrow scope of those proceedings coupled with Rep. King's false allegations against American Muslims and inflammatory rhetoric added nothing of substance to concerns over protecting Americans from extremists.

It is available at: <http://www.cair.com/Portals/0/pdf/King-Hearings-final.pdf>

Domestic Anti-Muslim Groups

Earlier this year, the Southern Poverty Law Center reported, "The number of anti-Muslim groups tripled in 2011, jumping from 10 groups in 2010 to 30 last year."ⁱⁱⁱ

Documenting anti-Muslim hate groups is a rather new exercise. Fairness and Accuracy in Reporting's 2008 study *Smearcasting* was the first report examining key players in the Islamophobia movement in the United States.

Four key reports examining the anti-Muslim movement were published in 2011,² after the Islamophobia movement's ability to insert its messaging into mainstream public discourse was glaringly on display during the 2010 controversy over a proposed Islamic community center in lower Manhattan.

While a detailed listing of active anti-Muslim groups and individuals in the United States is beyond the scope of this hearing, the following groups each appeared in four of the five key reports illuminating anti-Muslim hate groups in America.

Steven Emerson and the Investigative Project on Terrorism (PFAW, FAIR, CAIR, CAP)

Emerson is founder of the Investigative Project on Terrorism (IPT). IPT is little more than an anti-Muslim propaganda mouth-piece. The *New York Times* Book Review said Emerson's 1991 book *Terrorist* was "marred by factual errors...that betray an unfamiliarity with the Middle East and a pervasive anti-Arab and anti-Palestinian bias."^{iv} Emerson said of the 1995 Oklahoma City bombing, "This [the bombing] was done with the intent to inflict as many casualties as possible. That is a Middle Eastern trait."^v Timothy McVeigh, a Caucasian American, was later convicted for committing the terrorist act.

In 1996, after a plane exploded off the coast of New York, Emerson quickly asserted, "I have no doubt whatsoever, at this point, that it was a bomb that brought down TWA Flight 800 - not a missile, but a bomb..." The National Transportation Safety Board concluded that the cause of the tragedy was vapor in a fuel tank, a tragic accident rather than a deliberate bombing.

Emerson's credibility was further derailed in the late 1990s when *Florida Weekly Planet* newspaper Senior Editor John Sugg quoted two unnamed *Associated Press* reporters who said Emerson gave them a document on terrorism supposedly from FBI files:

"One reporter thought he'd seen the material before, and in checking found a paper Emerson had supplied earlier containing his own unsupported allegations. The two documents were almost identical, except that Emerson's authorship was deleted from the one purported to be from the FBI. 'It was really his work,' one reporter says. He sold it to us trying to make it look like a really interesting FBI document."^{vi}

² The reports and their acronyms used in this testimony are:

(CAIR) Council on American-Islamic Relations and the UC Berkeley Center on Race and Gender (CAIR), *Same Hate, New Target*, 2011.

(CAP) The Center for American Progress, *Fear, Inc.*, 2011.

(FAIR) Fairness and Accuracy in Reporting, *Smearcasting*, 2008.

(PFAW) People for the American Way, *the Right-Wing Playbook on Anti-Muslim Extremism*, 2011.

(SPIC) Southern Poverty Law Center, summer 2011 *Intelligence Report's* "Jihad Against Islam" and "The Anti-Muslim Inner Circle," 2011.

Brigitte Gabriel and ACT! For America (PFAW, SPLC, CAIR, CAP)

ACT! For America leader Brigitte Gabriel once told the *Australian Jewish News*: "Every practicing Muslim is a radical Muslim."^{vii} 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:

"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."^{viii}

Along with her stated desire to have Muslims barred from public office, Gabriel has also claimed that Arabs "have no soul"^{ix} 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."^x

Pamela Geller and Stop the Islamization of America (PFAW, SPLC, CAIR, CAP)

Pamela Geller has been described as a "caustic mouthpiece" for the Islamophobia movement. She is the editor of the blog Atlas Shrugs, the executive director of the American Freedom Defense Initiative, and co-founder of the organization, Stop Islamization of America.

In 2010, PayPal severed relations with Atlas Shrugs saying that according to the service's Acceptable Use Policy, "...PayPal may not be used to send or receive payments for items that promote hate, violence, racial intolerance."^{xi} 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."

In her book *Stop Islamization of America: A Practical Guide to the Resistance*, Geller warns against possible "secret halal meat" prepared in school lunches. Geller also uses the book to promote her campaign against the so-called "Ground Zero Mosque" and her proposed series of ads encouraging Muslims to leave Islam.^{xii}

David Horowitz and the David Horowitz Freedom Center (PFAW, FAIR, SPLC, CAP)

David Horowitz is the founder and CEO of the David Horowitz Freedom Center. In the *Right-Wing Playbook on Anti-Muslim Extremism*, People for the American Way notes, "One of the main purveyors of the charge that progressives are secretly supporting terrorism is David Horowitz, who claims that there 'are only a couple of degrees of separation between anybody on the left and the terrorists - and that includes people in the Democratic Party.' In *Unholy Alliance: Radical Islam and the Radical Left*, Horowitz said that both Muslims and progressives abhor America and American values."

In *Fear, Inc.*, the Center for American Progress lists Horowitz among the "leading lights of the Islamophobia network." The report's authors note, "Horowitz has gone even further than his conspiracy-minded colleagues by alleging that Islamic extremism has infiltrated our education system, beginning in

kindergarten. Both Robert Spencer's Jihad Watch and the conspiracy-laden FrontPage Magazine are projects of Horowitz's Freedom Center. In its reporting on Horowitz, the Southern Poverty Law Center says, "Horowitz sees no philosophical gradations; if you're not in total agreement with his view of Islam, you're in favor of Muslim hegemony."

Daniel Pipes and the Middle East Forum (PFAW, FAIR, CAIR, CAP)

Daniel Pipes is director of the Middle East Forum, a right-wing think tank. In 2004, Pipes said he supported the widely-repudiated internment of Japanese-Americans. He wrote: "Yes, I do support the internment of Japanese Americans in World War II."^{xiii}

President George W. Bush was forced to bypass a Republican-controlled Senate confirmation process to place Pipes temporarily on the board of the United States Institute of Peace (USIP). Pipes faced stiff opposition to his USIP nomination and would not have been confirmed if his nomination was subjected to a vote. At a July 23, 2004 Senate committee meeting, Sens. Edward Kennedy (D-MA), Christopher Dodd (D-CT) and Tom Harkin (D-IA) all opposed his appointment. Sen. Harkin, who was involved in the formation of the USIP, spoke at length about Pipes' statements warning of the "dangers" posed by the enfranchisement of American Muslims and his "dossiers" on academic critics of Israeli policies. Pipes only served an interim term.

Pipes has stated that the views of far-right French racist Jean-Marie Le Pen "represent an important outlook in the national debate over immigration and Islam" and said that he (Pipes) supports racial and religious profiling of Muslims and Arabs.

In 1990, he said: "Western European societies are unprepared for the massive immigration of brown-skinned peoples cooking strange foods and maintaining different standards of hygiene...All immigrants bring exotic customs and attitudes, but Muslim customs are more troublesome than most."^{xiv}

"This religion would seem to have nothing functional to offer," Pipes said of Islam in 1996.^{xv}

Robert Spencer and jihadwatch.org (FAIR, SPLC, CAIR, CAP)

Spencer operates the blog "Jihad Watch," which is notorious for its depiction of Islam as an inherently violent faith that is a threat to world peace.

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."^{xvi}

In *Smearcasting*, 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."^{xvii} 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.

Anti-Islam Legislative Efforts and the Threat to Constitutional Structures

While hate groups and the actions they can inspire are a cause for deep concern, efforts to target minorities through discriminatory legislation take us to new heights of concern for our republic. These efforts also provide legitimizing cover for anti-Islam rhetoric, which can result in anti-Islam violence.

In 2011 and 2012, 78 bills or amendments aimed at interfering with Islamic religious practices were considered in 31 states and the U.S. Congress. Sixty-two of these bills contained language that was extracted from Islamophobe David Yerushalmi's American Laws for American Courts (ALAC) model legislation.¹³¹

Party of bill's Original Sponsor(s)

- 73 bills were introduced by Republicans
- 1 bill was introduced by a Democrat (Alabama)
- 3 were bi-partisan (Kansas, South Carolina, South Dakota)
- 1 was introduced by Republicans along with an Independent who caucuses with the Republicans (South Dakota)

Bill Language that of Islamophobe David Yerushalmi?

- 62 were based on David Yerushalmi's American Law for American Courts
- 16 were not

Fate of Bill

- Bills were signed into law in Arizona, Kansas, South Dakota and Tennessee in 2011. These joined previously passed bills in Oklahoma and Louisiana.

The first observed impact of an enacted anti-sharia bill is it undermines the Constitution and draws a lawsuit from groups seeking to preserve the American principle of government not favoring one religion over another.

The 2010 amendment to Oklahoma's state constitution explicitly subjects Islam to government censure, violating the U.S. Constitution's First Amendment. It immediately faced a legal challenge. A federal judge put the law on hold after determining that the challenge has merit and will likely result in the law being ruled unconstitutional.

The second observed impact of an enacted anti-sharia bill is that, other than an apparently intended vilification of Islam during the process of passage, it has no real world effect. In Tennessee, Rep. Judd Matheny and Sen. Bill Ketron's original, identical bills were revised and passed with all references to religion removed. Similarly, the language of the final Arizona law has more symbolic than substantive impact.

It is reasonable to argue that the anti-Sharia movement is really a cover for Islamophobic sentiment.

Writing in *The Guardian*^{xviii}, journalist Sarah Posner identified the main themes running through the anti-Sharia movement:

¹³¹ A internet search of "David Yerushalmi" returns results demonstrating his call for a WAR AGAINST ISLAM and all the Muslim faithful, "as well as anti-women, anti-black and similarly biased comments on the first page. It is reasonable to be alarmed that a man so central to that anti-Islam hate movement in the United States is able to have real impact on legislators.

The conspiracy theory about sharia law is fivefold: that the goal of Islam is totalitarianism; that the mastermind of bringing this totalitarianism to the world is the Muslim Brotherhood, the grandfather of all Islamic groups from Hamas to the Islamic Society of North America; that these organizations within the US are traitors in league with the American left and are bent on acts of sedition against America; that the majority of mosques in the US are run by imams who promote such sedition; and that through this fifth column sharia law has already infiltrated the US and could result in a complete takeover if not stopped.

In Tennessee, the original bill's definition of "Sharia" was, in practical terms, the entire religious tradition of Islam.

"Sharia," read the bill as introduced, includes the "set of rules, precepts, instructions, or edicts" based upon sources from "the god of Allah or the prophet Mohammed."^{xxx} It stated that "Sharia" encompasses all content derived from "any of the authoritative schools of Islamic jurisprudence of Hanafi, Maliki, Shafi'i, Hanbali, Ja'afariya, or Salafi."^{xxx}

Chairman of the Alaska State Legislature's House Judiciary Committee Rep. Carl Gatto (R-Palmer) said his proposed version of ALAC was necessary because of the religious beliefs of recent immigrants. "As a kid, we had Italian neighborhoods, Irish neighborhoods . . . but they didn't impose their own laws," Gatto said. "When these neighborhoods are occupied by people from the Middle East, they do establish their own laws." Gatto later said, "I'm more concerned about cultures that are vastly different from European immigrants, who come here and prefer to maintain their specific laws from their previous countries, which are in violent conflict with American law. That's the issue that I am worried about."^{xxxi}

South Dakota anti-Sharia bill sponsor Phil Jensen (R-District 33) told an audience, "It is alarming how many of our sisters and daughters who attend American universities are now marrying Muslim men."^{xxxii}

In Pennsylvania, the bill itself included no mention of Islam. However, in a memo to all House members urging them to co-sponsor the bill, Rep. RoseMarie Swanger (R-District 102) falsely claimed that Sharia is "inherently hostile to our constitutional liberties."^{xxxiii} Later, Swanger claimed she "had no idea how [the memo] was going to be written" and that it was never circulated. Swanger also claimed that it was leaked by "someone who is not my friend."^{xxxiv} This claim is rather incredible, given that the memo, with Swanger's signature, is on the Pennsylvania state legislature's website.^{xxxv,xxxvi}

State Rep. Don Wells (R-Cabool) referred to Islamic principles, or Sharia, as a "disease" like polio during a meeting of the Missouri House Judiciary Committee, which was discussing a bill Wells has proposed to ban consideration of Sharia in that state's courts. When a Democratic lawmaker asked if Wells really believes Sharia law is like polio, he replied, "Absolutely."

Michigan State Representative Dave Agema (R-Grandville), who introduced a bill patterned on ALAC, has a history of making controversial comments relating to Muslims. In comments relating to legislation meant to apprehend undocumented workers, Agema stated, ""We have the largest concentration of Muslims in the state in the Dearborn area. I know we have (sleeper) cells there. That is what I really want to get at." Agema has also repeated the myth that President Obama is a secret Muslim. In holding a hearing and rally to support his bill in September, Agema highlighted the Federation of American Immigration Reform, an organizations whose "white supremacist" ties earned them a hate group label from the Southern Poverty Law Center.

Solving a non-Existent Problem

The *Star Assistant* in Alabama reported, "But no one—not even Sen. Gerald Allen, who sponsored the bill—can point to examples of Muslims trying to have Islamic law recognized in Alabama courts."^{xxxviii} Allen could not even define Sharia when asked saying, "I don't have my file in front of me." When pressed about why the Alabama bill's definition of sharia matched one found in Wikipedia, legislative staff "confirmed that the definition was in fact pulled from Wikipedia."^{xxxix}

Texas legislator Leo Berman said his bill was necessary because he had heard, but apparently had not actually tried to confirm, that one American town was allowing judges to use sharia. "I heard it on a radio station here on my way into the Capitol one day. I don't know Dearborn, Michigan but I heard it (Sharia law is accepted there) on the radio. Isn't that true?"^{xxxix}

North Carolina legislator Rep. George Cleveland also was forced to admit "I do not have any specific examples off the top of my head," when asked to show a need for his version of American Law for American Courts.^{xxxi}

The pattern continued in South Carolina, "None of the senators nor Kevin A. Hall, a Columbia attorney who testified in support of the bill, were aware of any examples in South Carolina where courts upheld sharia law over the U.S. Constitution."^{xxxii} Asked about Sharia in South Carolina, former state Attorney General Henry McMaster told an interviewer, "I haven't encountered anything except American law."^{xxxiii}

In Wyoming, Rep. Gerald Gay called his bill a "pre-emptive strike" since, according to the *Billings Gazetteer*, "...no Wyoming court rulings have been based on Islamic law..." Gay feared Wyoming judges might use sharia to interpret "honor killings" and arranged marriages.^{xxxiv}

Sen. Mike Fair of South Carolina sponsored a version of Yerushalmi's bill in that state's Senate but admitted, "he is not aware of any cases of foreign law being used in a South Carolina court."^{xxxv}

Similarly, Georgia's Rep. Mike Jacobs, vice chairman of Georgia's House Judiciary Committee and original sponsor of the American Laws for Georgia's Courts bill, "acknowledged that he was not aware of any instances in Georgia where a plaintiff or defendant asked the court to apply Sharia law but believes it has happened elsewhere."^{xxxvi}

The Kansas City Star's Jason Noble reported, "Missouri Reps. Paul Curtman and Don Wells agree there's no evidence that state courts are judging cases based on Islamic principles of foreign laws."^{xxxvii} Challenged again a month later, Curtman still could not provide an example.

Missouri Speaker of the House Stephen Tilley also "could not provide an example of foreign law trumping domestic law in Missouri courts," reported Politicalmo.com in early March. The article noted that Tilley's office later issued a statement outlining one case in New Jersey, but that poor ruling was overturned by a higher court.

Recommendations

Examine the Status and Implementation of the Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act of 2009

Hate crimes are carried out to harm and intimidate individual victims as well as entire American communities and therefore receive additional attention under state and federal laws. The Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act of 2009, 18 U.S.C. § 249, was enacted to expand the reach of federal law enforcement agencies to investigate and prosecute violent hate crimes against

Americans based on their actual or perceived race, religion, gender, national origin, disability, sexual orientation, or gender identity. While the law provides additional resources to state and local law enforcement agencies to investigate and prosecute violent hate crimes, it also provides federal agencies with the expanded authority to investigate incidents that state and local agencies decide not to pursue.

CAIR recommends that Congress examine the status of 18 U.S.C. § 249, to ensure that federal law enforcement agencies are taking full advantage of their expanded authorities under the law, that state law enforcement agencies are properly using federal grants provided under the law to investigate and prosecute hate crimes, and that the law is being implemented in comprehensive and robust manner.

Improve Federal Hate Crime Data Collection and Reporting: Add Sikhs as a Separate Class of Victims

CAIR recommends that the FBI should collect data on hate crimes against American Sikhs. At this time the FBI and U.S. Department of Justice combine collected data on hate crimes against Sikhs and Muslims under the rationale that most hate crimes against Sikhs are committed by individuals who mistakenly target and perceive them as Muslim. Because of this practice, it is hard to accurately report and track the number violent hate crimes that occur against American Sikhs and Muslims without precise data from the FBI. Without such reliable data, the federal government is unable to allocate proper law enforcement resources to prevent or pursue such hate crimes.

Support Robust Hate Crime Prevention Measures That Are Consistent With Civil Liberties

Following this hearing, CAIR recommends that Congress continue its significant work of investigating and proposing measures that abate the full range of threats posed by individual and organized perpetrators of violent hate crimes and criminal acts of domestic extremism. In doing so, Congress upholds its responsibility to develop clear and concise laws, policies and practices for law enforcement agencies to adhere to while balancing the need for security and the rights enshrined in the U.S. Constitution. Just as it is the civic duty of every American to work with law enforcement to protect our nation, it is the responsibility of our nation's law enforcement to protect the nation while respecting the rights of individuals.

Challenge the Culture of Politically Exploiting Hate Against Muslims, Reject Anti-Muslim Laws

Free speech is essential in an open society. People of conscience must be willing to defend speech that repulses their humanity. However, we at CAIR believe that bigoted speech should be relegated to where it belongs- the fringes of society and out of serious policy discussion.

For the past few years, some individuals in Congress and state governments that have sought public office have used their position as a platform to provide legitimacy to people whose anti-Muslim fear mongering would be shunned if it was directed at other minorities. CAIR believes that the public endorsement of anti-Muslim fear mongers has contributed to the recent rise in number of anti-Muslim hate groups and acts of violence against actual or perceived Muslims.

CAIR calls upon our nation's highest elected officials in Congress to push back against this hateful phenomenon and those who would profit financially and politically from legitimizing anti-Muslim rhetoric. Likewise, CAIR requests that Congress reject the introduction of anti-Muslim, anti-Sharia, and anti-foreign law legislation that seeks to marginalize American Muslims and keep them from having the same rights and access to the courts as Americans of other faiths.

American Muslims are a part of the fabric of this nation and our leaders have a responsibility to ensure that they are treated fairly under the law, kept safe from acts of violence, and included in the political process.

Remove anti-Muslim, Discriminatory Trainers and Materials in U.S. Military and Law Enforcement

CAIR recommends that Congress ensure that the military and federal law enforcement agencies have taken all the steps necessary to encourage or compel reform of counter terrorism training programs to remove anti-Muslim trainers and educational materials. CAIR believes that the use of such anti-Muslim trainers and materials publicly reinforces anti-Muslim stereotypes and prejudices and has contributed to the recent rise in number of anti-Muslim hate groups and violence against actual or perceived Muslims.

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. CAIR said an investigative report on post-9/11 government surveillance published in the Washington Post stated: "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."

The issue gained national attention in September 2011, when *Wired Magazine* revealed that a FBI instructor was teaching counterterrorism agents that "main stream" [sic] American Muslims are likely to be terrorist sympathizers; that the Prophet Mohammed was a "cult leader"; and that the Islamic practice of giving charity is no more than a "funding mechanism for combat." Moreover, in March 2012, *Wired Magazine* revealed that an instructor at the Joint Forces Staff College in Norfolk, VA was teaching fellow officers that only a "total war" on Islam would protect America that they should use "Hiroshima" tactics, target civilian populations, and abandon the Geneva Conventions.

While both anti-Muslim instructors at the FBI and the Joint Forces Staff College were removed from teaching any further courses, and both the FBI and Department of Defense committed to removing such anti-Muslim trainers and training materials, CAIR recommends that Congress use its oversight authorities to ensure the effective and complete removal of anti-Muslim, discriminatory trainers and materials from the military and federal law enforcement. Furthermore, Congress should ensure that federal grants to state law enforcement counterterrorism training programs do not fund anti-Muslim trainings or materials.

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."

Support of the End Racial Profiling Act and Reform of DOJ Racial Profiling Guidelines

CAIR respectfully requests that Congress enact the End Racial Profiling Act (S.1670/H.R. 3618) introduced by Senator Cardin and Representative Conyers, and revise the U.S. Department of Justice (DOJ) Civil Rights Division's Guidance Regarding the Use of Race by Federal Law Enforcement Agencies.

CAIR, like numerous other civil rights and advocacy organizations, recognizes the critical need for Congress to take action and put an end to racial and religious profiling by federal and state law enforcement agencies. The U.S. Constitution requires that federal and state law enforcement agencies respect the rights and freedoms of "all persons," regardless of race, religion, ethnicity, or national origin. American citizens respect their law enforcement agencies and look to them to enshrine the rights that the Constitution affords in their institutions, policies and practices. Should our nation's law enforcement agencies overlook or disregard the Constitution by engaging in acts of discriminatory profiling, our citizens would be sent a message that engaging in profiling based on race, nationality, religion, etc., is acceptable and worth emulating.

CAIR also believes that racial and religious profiling is not effective law enforcement and narrowly focuses the nation's law enforcement resources away from following actual leads and preventing illegal and violent acts. Profiling violates the basic constitutional protections of the First, Fourth and Fourteenth Amendments. Profiling also hinders counterterrorism efforts against antigovernment extremists. For example, Timothy McVeigh (Oklahoma City Bombing, 1995), James Von Brunn (Holocaust Museum Shooting, Washington, D.C. 2009) John Bedell (Pentagon Shooting, Washington, D.C. 2010), Joseph Stack (IRS Building Suicide Bombing, Austin, TX 2010) and Floyd Corking (Family Research Council Shooting, Washington D.C. 2012) would not have been identified by racial or religious profiling.

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The Council on American Islamic Relations- Chicago Office (CAIR-Chicago)

Statement for the Record

**Senate Judiciary Committee Hearing on Hate Crimes & Domestic Extremism
 September 19, 2012
 Washington D.C.**

The Chicago office of the Council on American Islamic Relations (“CAIR-Chicago”) commends the Senate Judiciary Committee for convening a hearing on hate crimes and domestic extremism and supports additional hearings and Congressional action on this issue. Our office works to defend civil rights, fight bigotry and promote tolerance on behalf of the Muslim American community in Illinois. We work with local enforcement and federal agencies in addressing hate crimes.

Our country is built upon the values of inclusion, plurality, and diversity. Hate crimes and actions of hate groups and domestic extremists affect all Americans. We urge Congress and both Federal and State governments to take increased measures to prevent, address, and combat hate crimes and domestic extremism in the U.S.

While it has been nearly three years since the Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act was signed in 2009, strengthening existing legal protections, hate crimes and hate groups continue to be a serious threat facing this country. The recent tragedy in Oak Creek, Wisconsin proves that we have a long way to go in combating hate groups in the United States. In Illinois, during the months of August and September 2012, our office received multiple reports of hate attacks against the Muslim American community. Several of these attacks occurred during the holy month of *Ramadan*, a time of fasting and reflection for Muslims, at mosques with young children in attendance. These attacks include:

- 1) an acid bomb outside of a Chicago suburban mosque during night prayer in *Ramadan*;
- 2) a man shooting at a Chicago suburban mosque during prayer services in *Ramadan*;
- 3) the grave of a prominent Arab American activist being desecrated with graffiti calling him a “Raghead Killer,” “F*** you Raghead Killer,” “pig,” and derogatory statements about Prophet Muhammad, which has happened EIGHT times in a suburban Chicago cemetery;
- 4) Most disturbing among these recent attacks, was when an entire mosque was burned down to the ground in Joplin, Missouri during *Ramadan* on August 6, 2012. This marked the SECOND time this mosque was attacked within a MONTH.

Typically, these attacks are dismissed by law enforcement and the government as being random or isolated. However, this is not the case. In most instances, law enforcement is aware these mosques or houses of worship are being targeted, and that there are certain individuals and groups who openly express their hate against the Muslim and immigrant community. But, little investigation and pursuit of these hate groups and individuals is done. Hate crimes are a daily threat to and threat to society as a whole; law enforcement officers and government institutions are in the direct line of fire when hate groups attack or sometimes specifically targeted by hate groups or domestic extremists. The effect of these attacks is not only individuals but also targeted communities: trauma that is incurred upon a survivors and community being targeted; sends the message that they do not belong in this country.

Hate crimes are often underreported and the Bureau of Justice Statistics has suggested that the number of actual hate crimes may be up to 15 times higher than what is reported. According to the Southern Poverty Law Center, the number of hate groups in our country (currently numbering over a thousand) has grown by almost 60% since 2000. A broad range of communities are targeted by hate crimes: In 2010, according to the FBI, 47% of hate crimes were racially-motivated, 20% were motivated by victim's religion, 19% were based on sexual orientation, and 13% were based on ethnicity or national origin.

Bigoted rhetoric in political discourse: Statements made by elected and public officials premised on racism/homophobia/sexism/xenophobia/hatred towards religious groups shape public's perception of minority populations and can fuel individual actions motivated by hate; elected and public officials have a greater responsibility to refrain from making such statements because of the visible positions that they hold and broad range of audiences that they reach. This hits home to Illinois, for example, when Congressman Joe Walsh made irresponsible statements that Muslims are "trying to kill Americans every week," and in whose district where the acid bomb attack at a mosque occurred.

Non-discriminatory actions by law enforcement and non-bigoted statements by public and elected officials are true to our country's ideals of fairness, inclusion, and equality.

We ask that hate crimes legislation must be rigorously enforced; data collection, categorization, reporting, and disaggregation mechanisms must be improved; adequate funding must be provided to government agencies charged with developing initiatives addressing the issue; formalized interagency efforts and positions within government on the issue must be established; and actions and rhetoric by government agencies and public officials that further an environment where bias can occur must be curbed

Below are policy recommendations that Congress, the White House, and government agencies should undertake:

a. Ensure robust and comprehensive implementation of the Mathew Shepherd and James Byrd, Jr. Hate Crimes Prevention Act (HCPA): Enacted in 2009, this law encourages partnerships between federal and state law enforcement officials to more effectively address hate violence and provides limited authority for federal investigations and prosecutions when local authorities are unwilling or unable to act. To ensure robust enforcement, DOJ should file appropriate cases under HCPA; vigorously defend the constitutionality of the Act; and ensure continued education, outreach, and training to federal, state, and local law enforcement officials on HCPA and its requirements.

b. Improve federal hate crime data collection, disaggregation, categorization, and reporting efforts: DOJ should promote mandatory comprehensive participation in existing hate crimes reporting requirements and the FBI should improve hate crime incident reporting by developing new categories on hate crime incident report forms for various affected communities not yet covered (including anti-Arab, anti-Sikh, and anti-Hindu incidents).

c. Allocate and prioritize federal funding for initiatives that prevent, investigate, and combat hate crimes, hate groups, and domestic extremism: Congress should establish or increase appropriations for: prevention, education, and training initiatives for law enforcement around existing hate crimes policies and their requirements; anti-bias education initiatives; existing government agencies specifically devoted to addressing and investigating hate crimes, hate groups, domestic extremism, and community tensions; and government resources, such as online portals and websites, geared specifically towards youth affected by bias and hatred. In addition, Congress should urge DHS to release its previously retracted 2009 public on right-wing extremist groups.

d. Establish formalized interagency efforts and positions at the highest levels of government, in partnership with community stakeholders, to address hate crimes: The White House should convene a Presidential summit on hate crimes affecting religious minorities that engages community members, religious leaders, and federal government officials with the purpose of developing best practices for stakeholders addressing this issue, similar to what was instituted by President Clinton on race in the 1990s. The White House should also establish an interagency taskforce on hate crimes and domestic extremism, similar to what was established by President Clinton following the church arsons of the 1990s. DOJ should also formalize the Initiative to Combat Post-9/11 Discriminatory Backlash within the DOJ Civil Rights Division by designating a Special Counsel for Post-9/11 Discrimination and a Special Counsel for Religious Discrimination.

e. Curb actions and discourse by government agencies and public officials that often promote a climate where hate crimes can occur: Congress should pass robust anti-profiling policies, such as the End Racial Profiling Act (S. 1670; H.R. 3618) which prohibits profiling based on race, religion, ethnicity, or national origin by federal, state and local law enforcement; establishes requirements for law enforcement to collect data, provide anti-profiling trainings, and develop a complaint mechanism for affected individuals; allow DOJ to withhold grants to entities that fail to comply with the law and provide funding to these seeking to eliminate the practice; and allow affected individuals to seek redress in court. DOJ should also amend its 2003 Guidance Regarding the Use of Race by Federal Law Enforcement Agencies to apply to profiling based on religion and national origin, remove national and border security loopholes, cover law enforcement surveillance activities, apply to state and local law enforcement agencies acting in partnership with federal agencies or receiving federal funds, and make the guidance enforceable. Public officials should refrain making statements based on racism, xenophobia, homophobia, sexism, or religious intolerance. Public officials should also take a pledge to not engage in such rhetoric as well as condemn such statements when they do occur in the public sphere.

Here is the article in Houston Chronicle today written by
Daya Founder Mrs. Lakshmy Parameswaran

On 9/11 anniversary, let's commit to oppose violence Monday, September 10, 2012
Eleven years ago today, terrorists flew airplanes through the twin towers of the World Trade Center in New York City, killing and injuring thousands of people, most of whom were working in their offices. Just this summer, gunmen on a shooting spree injured and killed several people in two busy locations - a theater in Aurora, Colo., where residents were enjoying a movie, and a Sikh gurdwara in Oak Creek, Wisc., where families had gathered for Sunday worship.

Most of us frequent our sites of employment, recreation and worship on a regular basis, but especially when we need an escape from our own homes. For some, these places can be sanctuaries. This is why the acts of violence committed on these premises seem to me as personal and heartbreaking as the domestic violence that occurs in thousands of American homes. For more than 17 years, I've been working with women and children whose lives are marred by physical and sexual violence in their personal spheres.

Domestic violence has an element of betrayal and irony in that it almost always happens within the four walls of a home, a space where one expects or is used to safety and comfort. Because violence happens in such a sanctuary, the victims of family violence (women mostly) and the witnesses (children mostly) endure much more than injuries. They lose hope, trust, self-esteem and the ability to feel secure. The home that is supposed to shield them from the woes of the world has become a death trap.

Those victimized by the Oak Creek, Aurora and 9/11 tragedies may recognize this irony, for they were also in locations that provided them with joy and comfort, through a scripture book, silver screen or just plain work. Getting sprayed by bullets or attacked by airplanes, I am sure, was the farthest thing from their minds.

The 9/11 massacre was the first time in a long time the people of this country felt the impact of large-scale violence against their fellow citizens. As a nation, we identified ourselves with the victims and vowed never to take our safety for granted. Despite our resolve, our cities and towns have suffered many gruesome attacks committed with sophisticated weapons by killers ranging from college boys to former military men, the latest one in the small town of Oak Creek more than a month ago. A white supremacist started shooting at the Sikh worshippers because he mistook them for Muslims - the religion of the 9/11 terrorists - a sweeping assumption based on physical appearance that has vilified both Sikhs and Muslims for 11 years. No doubt, we are still haunted by 9/11.

Yet we can also recapture the determination we felt in the days following 9/11 by recognizing that no act of violence occurs in isolation; rather, violence runs on a continuum with far-reaching consequences. Abuse in one family continues through the generations; violence inside homes eventually endangers a community. If we monitor the acts of harassment, bullying and abuse our women and children endure every day and voice our objections, we can hope to thwart violence in places where we live, work, play or pray.

The men and women - products of domestic violence - that I see tell me that violence sprouts at home. In the same breath, they also say that violence can be uprooted from our personal lives if only we tell each other repeatedly not to tolerate it from anyone, even from the people we love. I believe this is a fitting and doable proposition to commit to on this 11th anniversary of the fateful day the twin towers came crashing down.

Parameswaran is a licensed counselor specializing in family violence, sexual assault and women's issues. She is a founder and board member of Daya Inc., an organization serving South Asian survivors of domestic violence in Houston.

By Lakshmy Parameswaran

<http://www.chron.com/default/article/On-9-11-anniversary-let-s-commit-to-oppose-3854444.php>

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STATEMENT FOR THE RECORD

United States Senate
Judiciary Subcommittee on the Constitution, Civil Rights, and Human Rights
Hearing on Hate Crimes & the Threat of Domestic Extremism
September 19, 2012

Thank you for the opportunity to provide information regarding the impact of hate crimes on marginalized communities in the United States. The DC Trans Coalition (DCTC) is a grassroots, community organization of transgender, transsexual, and gender non-conforming people (hereinafter, trans) and their allies, dedicated to the protection and advancement of trans rights in the District of Columbia.

Assessment of Recent Anti-Trans Violence and Police Response

Hate crimes in DC based upon gender identity and expression bias average roughly 13 percent of all of DC's hate crimes for the last five years. Since July 2011, there have been over 60 attacks against trans people in DC, according to information published DC's Metropolitan Police Department (MPD). MPD reports that there were 11 hate crimes based upon gender identity/expression bias in 2011, up one from 2010.¹ So far, MPD has classified eight of the 2012 crimes against trans people as bias-motivated. However, it is important to note that none of the three murders against trans people that have happened since 2011 have been classified as hate-motivated.

According to the National Coalition of Anti-Violence Programs, trans people are 1.58 times more likely to experience violence than other lesbian, gay, and bisexual (LGB) people. However, police classification of anti-trans violence as hate-motivated was 45% less than in cases involving non-trans LGB people, and trans people were more likely to face violence from police officers. Trans people of color were at additional increased risk, including being nearly 2.5 times more likely to face violence from police officers. Overall, anti-trans violence made up 14% of all anti-LGBT violence in 2011, which is consistent with local trends.²

Trans people in DC are fortunate to have the protection of the nation's most inclusive human rights law, a local hate crimes statute covering gender identity and expression, as well as a police department policy on handling interactions with trans people – the last of which was the first of its kind in the nation when it was adopted in 2007, and is still the model policy for other police departments throughout the country. That being said, there is room to significantly improve police relations with DC's trans communities, and to ensure appropriate police response to trans victims of crime.

Thanks to the Matthew Shepard and James Byrd, Jr., Hate Crimes Prevention Act, last fall DCTC was able to engage the Community Relations Service (CRS) of the U.S. Department of Justice to pursue mediation with MPD, with a view towards reducing the level of anti-trans violence in this city,

¹ Metropolitan Police Department of the District of Columbia, "Bias-Related Crime in the District of Columbia," Appendix C in *MPD Annual Report 2011*, April 2012, pp. 44-49.

² National Coalition of Anti-Violence Programs, "Hate Violence Against Lesbian, Gay, Bisexual, Transgender, Queer, and HIV-affected Communities in the United States in 2011," May 2012, pp. 28, 30, 35.

which reached extreme levels in summer 2011; and improving relations between police and the communities we serve. Though MPD ultimately chose another third-party organization to review its hate crimes work and make recommendations, we appreciate the opportunity provided by the Hate Crimes Prevention Act to work with CRS under its expanded mandate, and our ongoing relationship with that agency.

DC's Trans Murders in 2011-2012

At approximately 4:26am on Wednesday, July 20, 2011, 23-year-old Lashai McLean was shot to death in the 6100 block of Dix Street NE. According to the Metropolitan Police Department, two men approached McLean and a friend and asked for money, then opened fire. The friend ran into Prince George's County for safety, and took several days to locate. Hundreds of people attended a vigil in her memory, and her funeral. To date, police have made no arrests in the case, and it has not been classified as a hate crime.

Around 5:30am on Saturday, September 10, 2011, a body was found in the 2600 block of 11th Street NW. Two days later, the victim was identified as Guarav/Gigi Gopalan, who had come out as Gigi in a letter to her friends a mere twelve days before her death. Over 200 people showed up at her vigil. The medical examiner determined that Gopalan died by blunt force trauma to the head. As yet, there has not been an arrest in this case, and it has also not received a hate crime classification.

At roughly 8:15pm on Thursday, February 2, 2012, Deoni Jones was fatally stabbed in the face at a bus stop at the intersection of East Capitol Street and Sycamore Street NE. The Jones murder was solved about a week later, and we welcome that development. Though this has also not been classified as a hate crime, this is the first anti-trans murder solved in DC in a decade. Seven trans murder cases since 2000 remain open.

Improving Police Response to Hate Crimes

As we mentioned earlier, DC leads the nation in laws and policies protecting trans people and addressing how law enforcement handles crimes against trans people. While we remain proud of what we have accomplished so far, we must continue to make tangible progress towards undoing the substantial anti-trans bias found in police departments across the country, including our own, if we are to truly claim a position of excellence. There are four main areas where we see room for continued progress. Contending with these issues is essential to creating a police department that can appropriately and consistently address hate crimes.

Addressing Biased Policing

National research and academic literature have noted that trans people can be uncomfortable engaging with police, even when they have been victimized, for fear of additional mistreatment from officers.³ According to the National Transgender Discrimination Survey, 46% of trans people are reluctant to call the police.⁴ In DC, this perception is reinforced by violent attacks we have seen committed by MPD officers in recent years, most notably the shooting involving off-duty Officer Kenneth Furr last August. Trans women of color face particular bias as they are frequently profiled

³ This history is chronicled well in Joey L. Mogul, Andrea J. Ritchie, and Kay Whitlock, *Queer (In)Justice: The Criminalization of LGBT People in the United States*, Boston: Beacon Press, 2011.

⁴ Jaime M. Grant, Lisa A. Mottet, Justin Tanis, Jack Harrison, Jody L. Herman and Mara Keisling, *Injustice at Every Turn: A Report of the National Transgender Discrimination Survey*, Washington: National Center for Transgender Equality and National Gay and Lesbian Task Force, 2011, p. 158.

as sex workers and subjected to harassment or unwarranted arrest.⁵ Reports of such bias range from refusing to take a report to demanding sexual favors in exchange for non-arrest. Yet in spite of this, the last study of biased policing within MPD was conducted in 2006, and only looked at racial bias in certain traffic and pedestrian stops.⁶

In our view, this form of bias mitigates the level of service a police department can provide when a trans person has been a victim of a crime. The basis for a trusting relationship simply is not there. To combat this, it is essential that police departments engage with marginalized communities to proactively address biased policing. In addition, independent police monitor agencies provide much-needed accountability for communities.

Expanded Training Efforts

Since mid-2010, MPD has engaged several local LGBT organizations in training officers for its community liaison units, and to date nearly 200 officers have been trained. This innovative program allows for day-long or three-day-long intensive LGBT training for officers covering how to appropriately interact with LGBT youth and trans people, as well as dealing with the particular impacts of domestic violence and hate violence on LGBT communities. However, it is imperative that training like this be spread throughout the police department, as part of roll calls, as well as annual in-service training. We look forward to the Federal Bureau of Investigation's forthcoming model LGBT training curricula for police departments, developed under the auspices of the Hate Crimes Prevention Act.

Improved Crime Tracking and Data Collection

MPD's Gay and Lesbian Liaison Unit is tasked with tracking all trans-related crime in DC. While there is much work yet to be done, such tracking has led to concrete insights as to where trans people are being victimized, and identifying potential problems before they escalate. This unit also meets monthly with LGBT advocates to review statistics and trends and brainstorm outreach and prevention strategies. This work is still in its early stages, but we remain optimistic about future outcomes.

Resolving Open Homicide Investigations

One of the frustrations we have had with MPD recently has been over strategies to address the seven open transgender homicides that have happened since 2000. We recognize that it is impossible to solve every murder, but our members believe strongly that additional efforts must be made to bring these cold cases to closure. Improving the clearance rate for trans homicides would be a significant step towards alleviating some of the mistrust between DC's trans communities and MPD.

Violence Prevention

Of course, broader socioeconomic change is required to prevent hate violence affecting trans people. We applaud DC Mayor Vincent Gray's efforts to reduce trans unemployment, and look forward to continued successes on that front. In June of this year, Mayor Gray signed wide-ranging anti-bullying legislation that over time will increase youth safety in the District's schools and agencies, once it goes into effect. And just last week, we were pleased to see DC's Office of Human Rights launch its Trans Respect advertising campaign – the first of its kind in the nation – aimed at increasing public awareness about discrimination against trans people, and which was developed in

⁵ See Elijah Adiv Edelman, "This Area Has Been Declared a Prostitution Free Zone': Discursive Formations of Space, the State and Trans 'Sex Worker' Bodies," *The Journal of Homosexuality*, 58:848-864, 2011. See also Alliance for a Safe and Diverse DC, *Move Along: Policing Sex Work in Washington, DC*, April 2008.

⁶ DC Office of Police Complaints, "Addressing Biased Policing in Washington, DC: Next Steps," 17 May 2007.

consultation with a number of local activists and organizations. These are terrific developments indicative of a brighter and safer future. DCTC is also currently engaged in the survey phase of our ongoing needs assessment project, targeting 500-1,000 respondents within DC's trans communities. The results of this survey will inform policy making on trans issues in DC for years to come, and we look forward to working with government partners in addressing the survey findings. We know already from our first phase of research that safety and risk are a tremendous concern.⁷

Finally, we would be remiss if we did not note that DC has over 35 police agencies working within its borders, many of them under the direct control of the federal government. Only DC's Metropolitan Police Department is subject to the District's policies related to proper interactions with trans people, as well as reporting hate crime statistics under DC's broadly inclusive bias crimes act. This leads to widely varying levels of police service, depending upon which agency one interacts with, along with sometimes poor coordination among agencies. Increased autonomy for the District of Columbia would allow for more effective efforts and preventing and responding to hate crimes, while improving accountability to local stakeholders.

Thank you once again for the opportunity to present information on the impacts of hate crimes on trans communities, and on our efforts to prevent violence in all its forms.

Should you require any further information, please contact:

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⁷ DC Trans Coalition, "DC Trans Needs Assessment: Summary Findings - Phase One," July 2011.



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STATEMENT OF

Susan Udry, Director

Defending Dissent Foundation

Hearing on "Hate Crimes and the Threat of Domestic Extremism"

SENATE COMMITTEE ON THE JUDICIARY

SUBCOMMITTEE ON THE CONSTITUTION, CIVIL RIGHTS AND

HUMAN RIGHTS

UNITED STATES SENATE

September 19, 2012

Chairman Durbin, Ranking Member Graham and members of the Subcommittee: I am honored to submit this testimony for the record on behalf of the Defending Dissent Foundation (DDF) regarding today's hearing on Hate Crimes and the Threat of Domestic Extremism. DDF was founded in 1960 as the National Committee to Abolish HUAC (the House Un-American Activities Committee), the organization is also a proud member of the Rights Working Group.

We thank you for holding this critical and timely hearing on rise in crimes aimed at minority communities, but we strongly object to any effort that would create or empower a congressional committee or task force to study and/or criminalize "domestic extremism." In fact, we object to the use of the term by congressional committees, as it smacks of McCarthyism – even if it is applied to both left and right wing "extremists." Congress must not take

on the role of thought police, no matter how disturbing, out of the mainstream and “un-American” those thoughts and beliefs may be.

The legislative branch has a history of using innuendo and guilt by association to ruin reputations and silence dissent, from the New York legislature’s Lusk Committee (which published a report in 1920 entitled *Revolutionary Radicalism*) to the House Un-American Activities Committee hearings of the 1940’s, 50’s and 60’s. More recently, the House Homeland Security Committee held a series of hearings last year, under the leadership of Representative Peter King investigating the “radicalization” of American Muslims.

We suggest that, rather than exploring the political beliefs of people in the United States, the committee should turn its attention to Islamophobia and racial, religious and political profiling by U.S. law enforcement. Law enforcement practices such as FBI infiltration of Mosques without any suspicion of criminal activity, or the New York Police Department’s egregious surveillance, mapping and infiltration of the Muslim community support intolerance and bigotry, and should be reined in by Congress.

Racial profiling occurs whenever law enforcement agents use race, religion, ethnicity, or national origin as a factor in deciding whom they should investigate, arrest or detain, except where these characteristics are part of a specific suspect description. We encourage the committee to examine the link between profiling and “Intelligence-Led” policing policies and procedures that specifically encourage investigations based on First Amendment-protected speech and/or legal but ‘suspicious’ activity, and which allow law enforcement to use race, religion, ethnicity or national origin as a factor in deciding whether to open an investigation. Law enforcement

officers should not be authorized to launch investigations, arrest or detain people without some predicated facts or allegations. In the absence of evidence or even a credible allegation of wrongdoing on which to base their activities, law enforcement agencies at every level have time and again turned to racial, ethnic, religious and national origin profiling, in direct violation of the civil and human rights of targeted individuals and communities.

DDF encourages the Subcommittee to pay particular attention to the Attorney General's Guidelines for Domestic FBI Operations and the Suspicious Activity Reporting Initiative.

Attorney General's Guidelines for Domestic FBI Operations

In the closing days of the Bush Administration in 2008, then Attorney General Michael Mukasey issued a new set of Guidelines, prompting concerns from Senator Richard Durbin (D-IL) even before their implementation:

These guidelines would permit FBI surveillance of innocent Americans with no suspicion and on the basis of their race, religion, or national origin. These guidelines will hinder the FBI's efforts to protect our national security and threaten the constitutional rights of American citizens.¹

The Bush Administration had already loosened the guidelines considerably, in 2002, 2003, and 2006, but the 2008 Mukasey Guidelines vastly expanded the investigatory authorities available to agents without any predicated facts or allegations, by expanding the Assessment tier of investigative activity. The changes authorize a number of intrusive investigative techniques during Assessments, including pretext interviews, interviewing members of the public, recruiting

and tasking informants, physical surveillance not requiring a court order, grand jury subpoenas for telephone or electronic mail subscriber information, and more.²

The Guidelines give FBI agents broad individual discretion to investigate Americans using these techniques without reasonable suspicion of wrongdoing, or supervisory approval or oversight. They also allow race to be used as a factor, among others, justifying scrutiny. Given the pressure on agents to identify unknown threats to national security before they emerge, such unchecked power invites abuse, including inappropriate profiling according to race, religion, ethnicity, national origin, or political speech.

At an oversight hearing before the Senate Judiciary Committee on July 28, 2010, FBI Director Mueller testified that religious groups are protected from profiling because *FBI agents cannot begin an investigation without reasonable suspicion of wrongdoing*. Unfortunately, that assertion is untrue (as Director Mueller admitted in a letter to the Committee shortly after the hearing). FBI agents are allowed to, and do investigate people and groups about whom there is no evidence, allegation or even suspicion of criminal activity. And, the guidelines allow agents to use race, religion, ethnicity or national origin as a factor in deciding to open an assessment (thus there is no protection against profiling at all).

FBI documents obtained by the ACLU under FOIA litigation have revealed that the FBI is engaged in unconstitutional racial profiling and racial “mapping,” and using community outreach programs to collect and store information about American’s First Amendment-protected activities. Most recently, in March 2012, the ACLU released documents showing that the San

Francisco FBI conducted a years-long *Mosque Outreach* program that collected and illegally stored intelligence about American Muslims' First Amendment-protected beliefs and religious practices, including documenting the content of sermons.³

The FBI has a long history of abusing its investigatory power, symbolized most aptly by the COINTELPRO scandal, which prompted the establishment of the Attorney General's Guidelines. However, since 1976, the Guidelines have shrunk to a shadow of their original protections. Rather than impose meaningful constraints on potentially politicized investigations and prosecutions, or intrusions by Bureau agents into constitutionally protected activity, today's guidelines invite—rather than constrain—these sorts of abuses.

Suspicious Activity Reporting

Launched in 2010, the National Suspicious Activity Reporting (SARS) initiative encourages law enforcement officers and even the public to report activity that is 'suspicious' on the assumption that it may indicate possible terrorist activity. Among the legal activities singled out as 'suspicious' are: taking videos or photographs⁴; paying in cash⁴; expressing 'extreme' religious or political views⁴; using an apartment as a house of worship⁴; traveling abroad⁴; speaking out against the government⁵; converting to Islam and growing facial hair⁶. The wide range of commonplace activities identified as 'suspicious' opens the door to racial, religious, ethnic and national origin profiling.

A 2010 investigation by Public Research Associates exposed how Suspicious Activity Reporting "enables and institutionalizes racial, ethnic and political profiling by legitimizing prejudicial assumptions about certain groups' alleged propensity for terrorism."⁷ The report documents

numerous incidents where law-abiding people of 'Middle Eastern appearance' received intimidating visits from police or FBI Joint Terrorism Task Force agents simply because they videotaped a tourist attraction, rented a boat without fishing gear, engaged in religious practice, or took a picture with a friend at an airport.

In 2011, a report⁸ by NPR and Center for Investigative Reporting detailed the SAR program at the Mall of America documenting that mall security stop 1,200 people each year for acting suspicious, and 65% of the subjects of SAR reports were non-white, far exceeding the proportion of non-whites in the population. In one incident, Saleem Qureshi, a 69 year old Pakistani-American left his cell phone at the mall food court. Mall security became suspicious when they noticed an unattended stroller nearby (which did not belong to Qureshi). Even after it became evident that neither the phone nor the stroller presented a threat, mall security officers continued questioning Qureshi, following him back to his place of work. Details of the report were forwarded to the FBI, who then visited the family at their home.

The public face of the SAR Initiative, which encourages the public to report 'suspicious' activity through the "If you see something, Say Something" campaign is also problematic. The Department of Homeland Security's webpage promoting the campaign to the public, suggests that "factors such as race, ethnicity, national origin, or religious affiliation alone are not suspicious,"⁹ leaving open the possibility that those attributes can legitimately be considered as one factor among others in determining whether any given activity is innocent, or suspicious.

Conclusion

We urge the Committee to move swiftly and take concrete actions to prohibit racial profiling at the federal, state and local level:

- Congress should pass the “End Racial Profiling Act (S.1670)” and institute a federal ban on profiling based on race, religion, ethnicity and national origin at the federal, state and local levels.
- The Subcommittee should urge the Department of Justice to amend its 2003 Guidance Regarding the Use of Race by Federal Law Enforcement Agencies to apply to profiling based on religion and national origin, remove national and border security loopholes, cover law enforcement surveillance activities, apply to state and local law enforcement agencies acting in partnership with federal agencies or receiving federal funds, and make the guidance enforceable
- Congress should consider a legislative fix to the problem of the steady loosening of the Attorney General's Guidelines by establishing a legislative charter for the FBI, limiting the FBI's investigative authorities by requiring a factual predicate sufficient to establish reasonable suspicion before intrusive investigative techniques may be authorized, and prohibiting investigations based in part on race, religion, ethnicity or national origin, or on the exercise of First Amendment Rights.
- Congress should hold hearings on the National SAR Initiative to evaluate the effectiveness of the program, as well as the legitimate privacy and civil liberties concerns the program raises.

Thank you again for this opportunity to express the views of the Defending Dissent Foundation.

We welcome the opportunity for further dialogue and discussion, please contact Sue Udry at

202-529-4225 or sue.udry@defendingdissent.org



**The Equal Rights Center
Statement for the Record of the
United States Senate Judiciary Committee,
Subcommittee on the Constitution, Civil Rights and Human Rights
Hearing on Hate Crimes and Domestic Extremism
September 19, 2012**

To: The Committee on the Judiciary, Subcommittee on the Constitution, Civil Rights and Human Rights of the United States Senate
The Honorable Dick Durbin, Subcommittee Chairman
The Honorable Lindsey Graham, Subcommittee Ranking Member

From: The Equal Rights Center
Donald L. Kahl, Executive Director

The Equal Rights Center commends the Senate Judiciary Committee, Subcommittee on Constitution, Civil Rights and Human Rights for convening this hearing to examine and address what has become an ever-increasing threat not only to the safety and well-being of a wide array of communities across this country, but to the peace and security of the United States itself.

The Equal Rights Center (the "ERC") is a national non-profit civil rights organization headquartered in Washington, D.C. Since its founding 30 years ago, the ERC has been dedicated to promoting equal opportunity in housing, employment, and access to public accommodations

and government services through education, research, testing, advocacy, and enforcement. Every year, the ERC responds to hundreds of intakes from individual victims of discrimination, and conducts more than 1,000 civil rights tests designed to document and expose systemic discrimination, enabling the organization to identify and confront the environments and mindsets that result in acts of hate-based violence.

As an organization that addresses systemic discrimination, the ERC knows first-hand how hate crimes, and a lack of meaningful response to these crimes, impacts society. Where hate is tolerated, so is discrimination – in housing, employment, and access to goods and services. Members of targeted communities, even if not personally the victim of a hate crime, are ultimately harmed in their day-to-day interactions and ability to provide for themselves and their families.

The Scope of the Problem—The murderous assault on the Sikh community in White Oak, Wisconsin, the attempted bombing of a Muslim school in Lombard, Illinois, and the complete destruction of a Muslim mosque by a “suspicious” fire in Joplin, Missouri, are only the latest incidents targeting minority groups for violence fueled by misguided hate, super-heated rhetoric, and ignorance. Numerous other racial, ethnic, religious, and other minority groups have likewise found themselves in the cross-hairs of similar intolerance-turned-violent.

The Southern Poverty Law Center, the preeminent civil rights organization tracking hate groups in the United States, now recognizes 1018 such groups across the country—an increase of nearly 70% since 2000.¹ The Southern Poverty Law Center considers an organization to be a hate

¹ Southern Poverty Law Center, *Hate Map*, available at: <http://www.splcenter.org/get-informed/hate-map> (last visited Sept. 14, 2012).

group only when the group has “beliefs or practices that attack or malign an entire class of people, typically for their immutable characteristics.”²

The growing mark of hate groups is apparent in the number of hate crimes committed across the United States. According to the FBI, in 2010, there were 8,199 victims of reported hate crimes.³ Where a single bias was identified, more than 47% of these reported crimes were racially motivated, 20% were motivated by the victim’s religion, 19% were based on the victim’s sexual orientation, and almost 13% were based on the victim’s ethnicity or national origin. Frighteningly, 62.7% of the reported hate crimes in 2010 involved violence against persons, as opposed to crimes against property. While there are no reliable estimates of the additional number of hate crimes that go unreported, the reported instances are likely the tip of the iceberg. Both violent crime⁴ and discriminatory behavior⁵ are generally underreported. Members of minority communities, particularly immigrants, may be unaware of their rights and/or distrustful of receiving a satisfactory resolution, making them both more vulnerable to attack and less likely to secure needed protection.

The destructive effects of hate crimes are multiple and varied. The immediate impact on the victims of these crimes includes both physical injury as well as the psychological harm of

² *Id.*

³ Federal Bureau of Investigation, Uniform Crime Report, *Hate Crime Statistics, 2010*, available at: <http://www.fbi.gov/about-us/cjis/ucr/hate-crime/2010/narratives/hate-crime-2010-incidents-and-offenses> .

⁴ According to the National Crime Victims Survey, from 2006 to 2010, 52% of all violent victimizations were not reported to the police. U.S. Bureau of Justice Statistics, *Special Report National Crime Victims Survey, Victimizations Not Reported to the Police, 2006-2010* (2012), available at: <http://bjs.ojp.usdoj.gov/content/pub/pdf/vnrp0610.pdf> (last visited Sept. 14, 2012).

⁵ For example, the United States Department of Housing and Urban Development estimates that only 17% of instances of housing discrimination are reported. U.S. Dep’t of Housing & Urban Dev., *How Much Do We Know*, (2002).

increased anxiety, depression, and post-traumatic stress disorder (PTSD).⁶ Moreover, by reducing a minority group's sense of inclusion in the larger community, particularly with respect to safety and security, entire communities are negatively impacted by these crimes as well.⁷

The Effect of Governmental Actions—The actions of federal, state and local governments and officials can significantly help, or hinder, the goal of reducing hate crimes and extremism. Recent events that hinder this goal include the passage of draconian state and local “anti-immigrant” legislation, racial and religious profiling at airports and in communities, and hostile rhetoric by officials and political candidates, all of which send clear messages that some forms of prejudice – whether it be racism, homophobia, or xenophobia – are not only accepted, but are to be embraced.

This Subcommittee hearing is a positive start to help send a strong message that hate crimes must stop and will not be tolerated by the federal government. When the federal government exercises its political will to combat hate crimes and extremism, it makes a difference. For example, in 1996, the Department of Justice established a task force to address the disturbing rise in arson attacks against African American churches; within three years, the number of attacks dropped 53%.⁸ Likewise, the passage of the broad protections in the Matthew

⁶ Gregory M. Herek, J. Roy Gillis, & Jeanine C. Cogan, *Psychological Sequelae of Hate Crime Victimization Among Lesbian, Gay, and Bisexual Adults*, 67 *J. CONSULTING & CLINICAL PSYCHOLOGY* 945-951 (1999), available at: <http://psychology.ucdavis.edu/rainbow/html/violence.PDF>; Jack McDevitt, Jennifer Balboni, Luis Garcia, & Joann Gu, *Consequences for Victims: A Comparison of Bias- and Non-Bias-Motivated Assaults*, 45 *AMER. BEHAVIORAL SCIENTIST* 697-713 (2001). See also American Psychological Association, *The Psychology of Hate Crimes* (2009), available at: <http://www.apa.org/about/gr/issues/violence/hate-crimes-faq.pdf>.

⁷ *Id.*

⁸ U.S. Dep't of Justice, Press Release, National Church Arson Task Force, Fourth Report: Number of Arsons at America's Houses of Worship Continues to Decline (Sept. 15, 2000), available at: <http://www.justice.gov/opa/pr/2000/September/542cr.htm> (last visited Sept. 14, 2012).

Shepard and James Byrd, Jr. Hate Crimes Prevention Act, by Congress in 2009, shows that a true difference can be made.

Our nation is at a similar, pivotal moment in history today. To address the stain of prejudice represented by hate crimes, the Equal Rights Center, respectfully requests that the Committee on the Judiciary undertake the following recommendations:

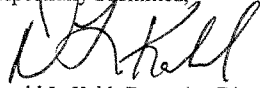
- **Improve federal hate crime data collection, disaggregation, categorization, and reporting efforts.** Congress should require state and local law enforcement to participate in the Department of Justice's hate crimes reporting requirements, as a condition of their federal funding, so that a fuller picture of the national trends in hate crimes can be discerned. Congress should also urge the FBI to improve its hate crime data collection by developing new categories to better represent the range of identities of potential victims, particularly by including Arab, Sikh, and Hindu demographics on hate crime incident report forms.
- **Allocate and prioritize federal funding for initiatives that prevent, investigate, and combat hate crimes and domestic extremism.** Congress should provide dedicated appropriations for: (a) state and local law enforcement education, training, and prevention initiatives on combatting hate crimes and other forms of illegal bias, (b) an interagency task force devoted to addressing and investigating hate crimes, domestic extremism, and community tensions, and (c) improved data collection and dissemination, including online portals and websites geared specifically towards youth affected by bias and hatred. In addition, Congress should urge the Department of Homeland Security to release its previously retracted 2009 report on right-wing extremist groups.

- **Establish formalized interagency efforts and positions at the highest levels of government, in partnership with community stakeholders, to address hate crimes.** Similar to the National Church Arson Task Force created in 1996, an interagency taskforce on hate crimes and domestic extremism should be created. The Department of Justice should also be encouraged to formalize the Initiative to Combat Post-9/11 Discriminatory Backlash by designating a Special Counsel for Post-9/11 Discrimination and a Special Counsel for Religious Discrimination.
- **Pass robust anti-profiling legislation, such as the End Racial Profiling Act (S. 1670; H.R. 3618) which prohibits profiling based on race, religion, ethnicity, or national origin by federal, state and local law enforcement.** Profiling serves no legitimate law enforcement purpose, while having the detrimental effect of exacerbating discrimination and alienating segments of the community from needed government protection. So long as law enforcement is permitted to profile individuals based on protected factors, these same individuals will remain at heightened risk for criminal victimization by others.
- **Ensure robust and comprehensive implementation of the Mathew Shepherd and James Byrd, Jr. Hate Crimes Prevention Act (the “HCPA”).** The passage of the HCPA is meaningless if the law is not fully implemented. Congress should monitor that extent to which the Department of Justice is filing appropriate cases under HCPA, defending the constitutionality of the Act, and providing education and resources to federal, state, and local law enforcement officials on HCPA and its requirements.

- **Actively discourage actions and discourse by government agencies and public officials that promote a climate where hate crimes can occur.** It is dangerous and irresponsible for public officials to use their political power to target an under-represented group. The impact of such rhetoric can be devastating to individuals and communities, both within and beyond the official's jurisdiction. Government leaders should call their colleagues to task when they fail to uphold their obligation to protect and uphold the constitutional rights of all individuals in the country.

The Equal Rights Center again thanks the Committee on the Judiciary, Subcommittee on the Constitution, Civil Rights and Human Rights, for its leadership in holding this important hearing, and taking a prominent role in crafting solutions to the bane of hate crimes and domestic extremism.

Respectfully Submitted,



Donald L. Kahl, Executive Director
The Equal Rights Center

**Evangelical Lutheran Church in America
Statement for the Record**

**United States Senate Judiciary Committee Constitution Subcommittee
Hearing on Hate Crimes and Domestic Extremism
September 19, 2012**

The Evangelical Lutheran Church in America, comprised of 4.2 million members in more than 10,000 congregations across the US, Puerto Rico, and the Virgin Islands, commends the Senate Judiciary Committee for convening this hearing on hate crimes and domestic extremism. As people of faith, and as Americans, we uphold the values of inclusion, plurality, and diversity and seek to live according to the commandment that summarized the law: “You shall love your neighbor as yourself.” (cf: Mark 12: 31; Lev. 19:18)

Increased measures must be taken to prevent and address hate crimes and domestic extremism. Despite the legal protections offered by the Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act, signed in 2009, we have witnessed an epidemic of hate crimes in this country, along with a proliferation of hate groups.¹ Individuals and communities have been targeted because of their race, national origin, religious affiliation, sexual orientation, gender, disability, and immigration status. While the deadly shootings at the Sikh Temple in Oak Creek, Wisconsin on August 5, 2012 captured national attention, this was not an isolated incident. Hate crimes occur daily, threatening to unravel the moral fabric of our shared society. Policies and practices of racial and religious profiling perpetuate bias and divert resources that should be used to protect those on the margins of society, who are most at risk. *The threat is not the “other,” it is those who hate the “other.”* It is morally imperative that policymakers and elected officials take strong measures to build a future where hate has no place.

We urge Congress, the White House, and appropriate government agencies to:

- Ensure robust and comprehensive implementation of the Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act (HCPA).
- Improve federal hate crime data collection, categorization, and reporting efforts, adding new categories for affected communities not yet covered (e.g. anti-Arab, anti-Sikh, and anti-Hindu).
- Allocate and prioritize federal funding for initiatives that prevent, investigate, and combat hate crimes, hate groups, and domestic extremism.
- Establish formalized interagency efforts, in partnership with community stakeholders (including religious communities), to address hate crimes.
- Contribute to a civil discourse, setting a moral standard that adheres to the ideals that our nation and many of our faith traditions hold in common: fairness, equality, dignity, and respect.

¹ According to the Southern Poverty Law Center, the number of hate groups in the US has grown by almost 60% since 2000, currently numbering over one thousand.



**FAMILY
EQUALITY
COUNCIL**

September 19, 2012

Senator Dick Durbin, Chairman
Subcommittee on the Constitution, Civil Rights and Human Rights
United States Senate Committee on the Judiciary
224 Dirksen Senate Office Building
Washington, DC 20510

Senator Durbin:

Family Equality Council is the national organization that connects, supports, and represents the one million parents who are lesbian, gay, bisexual, and transgender (LGBT) raising two million children across the country. We would like to thank the Senate Judiciary Committee, Subcommittee on the Constitution, Civil Rights and Human Rights for holding this crucial hearing on Hate Crimes and the Threat of Domestic Extremism. The recent violence against Sikh, Arab, and Muslim communities underscores the necessity for public dialogue and political action.

The passage of the Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act in 2009 expanded federal hate crimes laws to include crimes based on gender, sexual orientation, gender identity, and disability. As well as marking the first time that transgender people were explicitly mentioned in federal legislation, the 2009 law also required that hate crimes on the basis of sexual orientation be included in the data collected by the Federal Bureau of Investigations, along with data on crimes motivated by race, religion, disability, and ethnic origin. In 2010, more than 47% of hate crimes were racially motivated; 20% were motivated by the religion of the victim; 19% were based on sexual orientation and almost 13% of all hate crimes were based on ethnicity or national origin.

Hate crimes reporting is voluntary. In 2010, 6,628 crimes were reported across the country, but the Bureau of Justice Statistics estimates that more than 15 times this number may have gone unreported. Without accurate data on the true scope of bias-motivated crimes, local, state, and federal agencies, including the Federal Bureau of Investigation, cannot adequately respond to the problem.

Family Equality Council strongly recommends that that data collection of hate crimes statistics be made mandatory for all local and state law enforcement agencies. While this may minimally increase the administrative burden for states and localities that have thus far declined to make these reports, it is absolutely vital that we are able to determine the actual scope and breadth of hate crimes. All families deserve to feel safe in their communities, especially from crimes motivated simply by who they are, who they are perceived to be, what they look like, or who they love.

Thank you again for holding this crucial hearing. If we can answer any questions or provide additional information about LGBT families, please contact our Legislative Counsel, Heron Greenesmith at 202-496-1285 or by email at heron_greenesmith@familyequality.org.

Thank you,

Jennifer Chrisler
Executive Director
Family Equality Council

**FAMILY OF PRAKASH SINGH RATHORE, HATE CRIME
MURDER VICTIM FROM OAK CREEK, WI
STATEMENT FOR THE RECORD**

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

Committee Hearing: "Hate Crimes and the Threat of Domestic Extremism"

September 19, 2012

The family of Prakash Singh Rathore hereby submits the following statement for the record in support of the U.S. Senate hearing on hate crimes and the threat of domestic extremism. My name is Ravinder Kaur, and I am the wife of Prakash Singh. Prakash was killed on August 5, 2012 at the Sikh *gurdwara* (house of worship) in Oak Creek, WI by a man involved in neo-Nazi groups who chanted their mantra of hate. This man's heinous actions left me a widow. Prakash, a *granthi* or religious priest, died in the place he loved the most, the place where he had devoted much of his time and service. Prakash leaves behind his two small children. My son Prabhjot is 13 years-old, and my daughter Palmeet is 12 years-old. My children and I had only a few short weeks with Prakash after an absence of six long years before he was murdered.

Prakash was always so kind to everyone; he never fought with anyone and always thought the best of people. He lived to serve and help others. For that reason, Prakash has been a religious worker his entire adult life. Back in India, we lived in New Delhi and I would assist him in doing *seva*, or volunteer work, at local *gurdwaras*. Prakash moved to America about six years ago. We were not able to accompany him, because we did not yet have our immigration documents. However, Prakash came back to visit us as much as he could, especially during weddings. We enjoyed those visits. Less than two months before he was killed, Prakash had obtained lawful permanent residence, which extended to our children and me.

Happily, I moved to Oak Creek, WI with our children to be with my husband. I was shy at first around Prakash. I had not lived with him for many years and it took me some time to get accustomed to our new living situation. However, Prakash was the best husband any woman could have asked for. He immediately made me feel at home in a new country and always made me laugh. We prepared meals for the children together in the kitchen, joking as we did so – I really enjoyed these times.

The children quickly bonded again with their father. He always spent time with them and never scolded them. He showed them around Oak Creek and Milwaukee as much as he could in the less than two months we had together. The children would visit the *gurdwara* where Prakash worked and prayed and enjoying the outings with their father. He would ask our children what they wanted to be when they grew up. They always gave a typical response – they wanted to be doctor. Prakash would smile and tell his children he did not care what they did, as long as they were happy, educated and successful. He promised to work his entire life and put every penny toward their education. He said to them, “*Betas* (children), even if Mummy and Daddy aren’t educated, you will be. I promise you that.”

On the morning of the shooting, Prakash and I were making tea in the kitchen in the *gurdwara*. Our children were watching a TV show on their laptop next to us. When we heard gunshots, my husband instructed my children and me to hide in the basement. We didn’t know his last instruction would save our lives. We fled downstairs, and Prakash went out to inspect what was happening. As we huddled together in the basement, we heard more gunshots and prayed together. When it became quiet again, we went upstairs. My children saw their father lying in a pool of blood. His eye had been shot out. My children shook their father and cried, “Papa! Get up!” But it was too late. He was gone.

I believe *Waheguru* (God) put Prakash on this earth for a reason. The world needs good people and there is no one like Prakash. No one as sweet or funny or as loving as he was. I cannot forget about my husband for even a second. I cannot believe this happened. I almost wish he was injured in the shooting rather than killed – just as long as he had survived. Now we are alone in America, in this new

place. I do not have many other family members here to help me. I do not even know where anything is, how to get around, or how to navigate the system. The shock of losing the love of my life, coupled with the shock of living in a new country and raising my children without my husband – it is too much, but I am trying. I have my children to live for and I know Prakash would want me to do the best that I can and carry on his promises. Every day, my children cry and beg for their father to come back. It is hard to explain to them that he won't. My son wears Prakash's watch and cries every time he looks at it. This is a torturous time for our family that I would not wish on anyone. But we are trying to go on, and we are thankful for the support and the possibility that Prakash's death will make things better for all people in America. This Senate hearing is a sign of that.

Dear U.S. Senate, my husband's death matters. I respectfully request that lawmakers ask the FBI to document his death as an anti-Sikh hate crime. I request that my Sikh brothers and sisters no longer suffer discrimination and violence in this country as they have since 9/11, experiences I am just now learning about. We can start by making anti-Sikh hate crimes a statistic on the FBI's hate crime form.

I also request that lawmakers enforce hate crime laws in the U.S. No person, whether Black, Muslim, Latino, or Arab, or anyone should be attacked by someone because of their race or religion or national origin. No attacker should get away with hate crimes just because they are difficult to prove or because law enforcement lacks the training or encouragement to properly identify them. There should never be another Oak Creek tragedy in Wisconsin or anywhere. I thank the U.S. Senate for holding this historic hearing and am humbled to submit this written testimony. Thank you for considering our story, Prakash's story.

**FAMILY OF RANJIT SINGH, HATE CRIME MURDER VICTIM
FROM OAK CREEK, WI
STATEMENT FOR THE RECORD**

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

Committee Hearing: "Hate Crimes and the Threat of Domestic Extremism"

September 19, 2012

The family of Ranjit Singh hereby submits a statement for the record in support of the U.S. Senate hearing on hate crimes and the threat of domestic extremism. My name is Jaspreet Kaur, and I am the daughter of Ranjit Singh. My father was gunned down by Wade Michael Page, a man affiliated with neo-Nazi groups, at the Sikh *gurdwara* (house of worship) in Oak Creek, Wisconsin on April 5, 2012. He was one of six members of our community who were killed. Our family submits this written testimony to urge the U.S. Senate to take immediate action and prevent any family from suffering the trauma our family has endured in the past few weeks.

My mother Lokinder Kaur, my older sister Jasveer Kaur, and younger brother Gurvinder Singh have not seen our father for sixteen years. He moved from India to America to perform volunteer work as a *granthi*, a religious priest, and settled in Milwaukee, Wisconsin, when I was only four years-old. He planned to work hard and try to bring the rest of his family to the U.S. as quickly as he could. However, this process was much harder and took much longer than we all expected. My father worked tirelessly at a gas station and would send us money back home. He called us every day and spoke to all of us on the telephone for hours. We shared the daily details of our lives over the phone, praying and hoping for the day we could all be together again.

My father had a good nature; he was such a kind man. We miss him every day. When we heard he was killed, we could not register the shock and horror. My family and I flew to America for the first time to attend his funeral. We had never been to America before and we never imagined going there without him. Now we are trying to adjust to life in Oak Creek, Wisconsin without him, but his memory is everywhere with us. My sister and I are both pregnant. My younger brother started ninth grade at Oak Creek Community High School. We hope to carry on our father's legacy and love for this community.

However, it makes us very sad to know that our father will never know his grandchildren or see his youngest son grow up. This is unfair. It breaks our heart. We simply do not understand how a man could hate us enough to walk into our house of worship and kill my father, a devoted and religious man, who volunteered his whole life and was deeply respected by our community. We do not understand how he was not stopped before destroying our lives forever. We heard that organizations knew he was a dangerous man long before he walked into our *gurdwara* on August 5, 2012.

We humbly request that no child grow up without his father because he was a victim of hate violence that could have been prevented. We implore you to investigate hate groups and bring victims to justice by clamping down on domestic extremists in the United States who hurt others because of their race, ethnicity, or religion. We also ask that the government start tracking hate crimes against Sikhs. We were surprised, as new Americans, to learn that the government will not mark my father's death as a hate crime on its records – how can this be? Thank you in advance for taking these steps to honor my father's memory.

Thank you for considering our testimony.

FAMILY OF SATWANT SINGH KALEKA, HATE CRIME MURDER VICTIM
FROM OAK CREEK, WI
STATEMENT FOR THE RECORD
UNITED STATES SENATE
SUBCOMMITTEE ON THE CONSTITUTION, CIVIL RIGHTS
AND HUMAN RIGHTS COMMITTEE ON THE JUDICIARY

Committee Hearing: "Hate Crimes and the Threat of Domestic Extremism"
September 19, 2012

The family of the late Satwant Singh Kaleka from Greenfield, Wisconsin would like to submit the following statement for the record in support of the U.S. Senate hearing on hate crimes and the threat of domestic extremism.

My name is Amardeep Singh Kaleka and I'm thirty-four years old. I have one sibling - Pardeep, who also submitted a statement to this subcommittee and contributed heavily to this statement. My mother, Satpal, was naturalized as a citizen while I was still in high school. All four of us in our family - my father included - were and are US citizens. We were all naturalized and made a choice to enter this country. My mother and father each had nine siblings and most them and their families are also citizens of this country, including my cousin Kanwardeep - who also submitted a statement and contributed his words to this one. My father and mother also informally adopted a daughter - Ritu Sharma and she in turn married Darian Rodriguez Heyman - who also lent their words to this statement.

On the morning of August 5th, 2012, a coward drove his car to the temple grounds in Oak Creek. After waiting in the parking lot for many moments, he opened his car door and walked towards two musician priests who happened to be brothers (Ranjit Singh and Sita Singh). Interested in greeting the stranger, they turned and walked to him. Instead of extending his hand in friendship, he pulled out a nine millimeter gun and opened fire. Both brothers hit the ground and later bled out. Cars in the parking lot fled the scene and immediately started to call police and 9-1-1.

The coward then walked through the temple imprudently opening fire on women, children, elderly, and anybody else he came in contact with. My father was one of the six people he killed that day. My father attempted to wrestle and fight with the intruder and was shot five times in random spots all over his body. In the area where they fought, bullet holes riddled the ceiling and walls in sporadic lines of fire. Blood splattered all over the walls and ground for nearly 14 feet indicating quite a battle, one that, ultimately, left my father bleeding to death on the ground.

After this battle - the gunman left the temple and opened fire on responding police officers - critically injuring Lt. Murphy. Moments to follow, Officer Sam Lenda, arrived on the scene and put a rifle round into the gunman. Immediately stunned, the coward, who will go unnamed here, took his own life.

This account by all means sounds much like a kamikaze attack or a jihadi radical terrorist in an act of war. Instead, what the United States government mundanely calls it is a "hate crime". A hate crime is when somebody throws a brick through your window or pops your tire. This was many levels beyond that, much more akin to terrorism. We, as a society, must not become desensitized to this level of violence - it is a tragedy and a problem at the highest levels of civics in this country, which in this case, includes your subcommittee.

We use the term coward not just because he went into a place of worship and took the lives of six unarmed people and not simply because he took his own life rather than facing the consequences of his actions. He was a coward because he didn't have the courage and ability to live in these ever changing complex and diverse times. His xenophobia and simplified view of this planet were far too weak for him to gain success in this country. Instead, he aimed to gain infamy, and in turn gain success by making himself a martyr to a radical and extremist cause.

Since he took his own life, he will not stand trial for what he did and for the damage, carnage, and bloodshed he caused. We as a society must not shy away from the issues at hand because there is no trial to bring him to justice. **Thus, we as a family and community request that a hearing be held in the highest of courts and legislative bodies - not to gain justice for one person's crime, but because the disease and criminal intent that drove him to these actions still persists and finds homes inside the walls of this once so great union and nation.** The goals of this highest court would be to quickly and succinctly bring to light the causes, reasons, and solutions moving forward to rectify and provide justice - not just for my family, or the Sikh community at large, or for Wisconsin, but rather for every race, group, creed, or unique person who faces this type of bigotry.

We would like to think of this as an isolated incident and that the rest of the communities across this country can sleep with the peace of mind to know that they are safe. However, we are all aware of the current trend - from Virginia Tech to Oakland to Colorado to Wisconsin. This coward—the man who killed my father and others in my congregation—represents a larger, growing population that is ready to reek havoc on fellow Americans because of their heritage and ideology. According to expert opinions, domestic terrorism has been and is just as big of a threat (if not more) to our national security as international terrorists (including Islamic extremists). According to the FBI, between 1980 and 2000, 250 of the 335 total terrorist attacks (75%) were committed by U.S. citizens. And since 9/11 - 2001, there have been 10 deadly attacks in the United States by nonjihadist extremists compared to just four by jihadists. Additionally, the New America Foundation found that no jihadist terrorists have acquired or even attempted to acquire chemical and biological weapons since 9/11, while 11 anarchist, white supremacist or right-wing extremists have been indicted for possessing such materials, and another four were indicted for attempting to produce them. The data is overwhelming - yet the government's response is not.

In addition, we now know that these groups recruit and foster psychopathic relationships with military veterans who have been currently trained to dominate, open fire, and execute islamic terrorist threats. This makes perfect sense given the situation at hand. Uncle Sam and the taxpayers pay for these

soldiers to get trained, and then these extremist groups recruit them and foster dissent. This was exactly the case with the coward who opened fire in the temple.

Having this said, there are several items of interest to our family and community that we would love to have addressed:

1. Tracking Hate Crimes Against Sikhs.

Although hate crimes and murders against Sikhs have been taking place for decades, currently it's impossible to know the depth of this problem or to analyze trends because the FBI does not track the number of Sikhs attacked or killed based on xenophobia. This is the most mundane of suggestions - but would seem prudent given the implications.

2. Bring Up a Private Bill on Immigration.

In an effort to provide immediate support and peace for the families of the victims, visas were expedited after the shooting to enable family members to enter the country, mainly from India. We encourage Congress to consider approving a bill to grant green cards to all the visiting family members, enabling them to stay permanently if desired and provide ongoing support to their families and loved ones who have had to deal with a heavy loss.

In short, hate groups attempt to kill immigrants because they want them out of "their" country. As a deterrent to these groups - our Sikh community should be made an example. If you destroy a person's right to citizenship in this country - their family will be granted green card status if they so choose. Believe it or not, this would get to the crux of the issue in a very short time and help put down the threat. A simple restitution would save many innocent lives in the future. This would be especially important since most every American is an immigrant to this country.

3. Reallocate Funds and Attention to Domestic Terrorism.

We need to realize that tragedies like the Sikh Temple of Wisconsin shooting and the mosque burning the night following in Joplin, Missouri will continue to happen if we keep ignoring the fact that domestic terrorism is a significant and growing threat to our safety, and our freedom as Americans. According to the FBI, 75% of terrorist attacks in America are conducted by U.S. citizens (see <http://on.cfr.org/Qj4eio>) and between 2007 and 2009 alone, the number of armed militant groups in the country more than doubled. Yet it is appallingly, Congress has not only failed to increase its efforts to monitor this threat, but slashed them by 80%, leaving only one staffer behind in Homeland Security's domestic terrorism group.

America has documented 49 international terrorist organizations, yet not a single domestic terrorism group is on an official watch list in this category. We know there are at least 1,018 domestic hate groups, many of which promote and explicitly call for violence against those of a different skin color, religion, or ideology. How long can we keep our heads in the sand, and how long must we sit idly by as more innocent people are killed within our own borders? Please

refund Homeland Security's domestic terrorism group and do whatever it takes to prioritize this important area of investigation and attention.

4. **Reclassify Militant Hate Groups as Terrorist Groups.**

Based on the recent "Innocence of Muslims" video that spawned deadly attacks on high-level American diplomats in Libya and riots throughout the Middle East, it's clear that hateful language, especially present in media (songs, videos, radio, etc.) does not disappear into an empty vacuum. And while we must be ever mindful of our patriotic duties to fulfill the promise of free speech and assembly that this country is founded upon, we simply cannot tolerate those groups who cross the line from free speech to hate mongering and explicitly call for, promote, or incite violence. According to Homeland Security's former head of domestic terrorism, Daryl Johnson, there were over 180 such groups as of 2009 and they're quickly on the rise. The coward who murdered my father and five others, was an active member of such groups and even performed at music festivals, where he spewed hatred and promoted violence, followed by his own brutal killing of six people.

If a citizen were to stand up in a theater and yell "fire" they must be held accountable for inciting panic. Yet, when people pick up a microphone or publish hate speech and incite violence against others, they are not.

5. **Pass legislation to create a Sikh Heritage Day on the Vaisakhi Holiday**

Again - a very simple solution that goes a long way towards the civil rights and safety of the Sikh faith - the 5th largest religion in the world. This new Sikh Heritage Day would provide a broader cultural dialogue introducing many to one of the most unique and mystifying religions. This broadening of American minds would help protect many other small and diverse groups.

With this "hate crime" and domestic terrorism trend ever increasing in America many innocent lives are being lost because the United States Government chooses not to stand up. This is your time - this is your just action - this is your vocation that you have been chosen for. It is in this moment that we must come together and acknowledge that which is wrong in our union and rectify the situation so that we can define a better America. We - the citizenry and the life blood of this nation - implore you to commit to hearings in the highest of legislative halls and those in the highest of courts. We will stand with you in this case and present our testimonies in any situation.

Sincerely yours,



Amardeep Kaleka
Son of Satwant Singh Kaleka
Founding Member of the Sikh Temple of Wisconsin

**FAMILY OF SITA SINGH, HATE CRIME MURDER VICTIM
FROM OAK CREEK, WI
STATEMENT FOR THE RECORD**

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

Committee Hearing: "Hate Crimes and the Threat of Domestic Extremism"

September 19, 2012

The family of Sita Singh would like to submit the following statement for the record in support of the U.S. Senate hearing on hate crimes and the threat of domestic extremism. My name is Harmeet Singh, and I am 19 years old. I have three siblings. My sister Sarajeet is 20 years old, my sister Kamaljeet is 11 years old and my brother Jasbir Singh is 8 years old. My mother's name is Surinder Kaur. My siblings and I cling to each other as we deal with something none of us should ever have to face - the murder of our father for practicing his religion. Our father Sita Singh was killed on August 5, 2012 by a man who targeted him because of his Sikh identity. The hate-driven actions of this man have stolen our father away from my brother and sisters and me. We will never get him back. We will never talk to him again. We do not know what any of us did to deserve this.

My father moved to America in 1993. My mother and siblings and I came to America for the first time to attend my beloved father's funeral. My father was a hard-working and passionate man. He was dedicated to any task he put his mind to. He hoped to instill this dedication and willpower in his children. He was a man of many talents. He enjoyed gardening and used that time to be reflective - he was a religious priest, a *granthi*, and he prayed for his children to be well educated and succeed in this country. He would visit us often in India, and we spoke to him every day on the telephone. He said he could not bear being alone in America without us and worked hard to try to bring us there so that we could be with them. He was only 41 years old when he died. Our family misses him dearly.

Each day since the shooting, we try to remember the lessons of my father. He did everything he could to make his family happy and proud and wanted to take care of us more than anything in the world.

In my father's memory, I respectfully request our lawmakers use this important platform to provide him and other victims with justice. We hope that lawmakers in this country will do everything in their power to make my father's death count as a statistic on government forms. We hope that the government recognizes that the shooting was an act of hate. Anyone who belongs to such radical hate groups may be a danger to our society. We hope that lawmakers work to stop racial profiling. When law enforcement profiles our communities, it makes it seem like we are the bad guys. It makes it okay for others to target us too. It creates an environment where people, like the gunman who killed my father, are able to walk into a place of worship and forever shatter lives.

We thank you for holding this hearing. On behalf of Sita Singh's family, I hope that you can help build a safer future for my brother and sisters and mother, and all of our fellow Americans.

**FAMILY OF SUVEG SINGH, HATE CRIME MURDER VICTIM
FROM OAK CREEK, WI
STATEMENT FOR THE RECORD
UNITED STATES SENATE
SUBCOMMITTEE ON THE CONSTITUTION, CIVIL RIGHTS
AND HUMAN RIGHTS COMMITTEE ON THE JUDICIARY
Committee Hearing: "Hate Crimes and the Threat of Domestic Extremism"
September 19, 2012**

The family of Suveg Singh hereby submits a statement for record in support of the U.S. Senate hearing on the hate crimes and threat of domestic extremism. My name is Baljinder Singh Khattrra, and I am the son of Suveg Singh. My father was killed at the age of eighty-four by Wade Michael Page, a man affiliated with neo-Nazi groups at the Sikh gurdwara in Oak Creek, Wisconsin on April 5, 2012. He was one of six members of our community murdered by Page. I submit this written testimony to urge the U.S. Senate to take immediate action to prevent the suffering our family has endured in the past few weeks.

My father loved living in the United States. He immigrated here in 2004 in his old age to retire and spend time with his children and grandchildren. As a father of five, he spent his entire life working hard on our family farm in Punjab, India to ensure that his children received an education and good opportunities.

He enjoyed living in the U.S. and would often comment that everyone he met was so friendly.. Even though he did not know how to speak English very well, my father made friends wherever he went. He waved hello to all our neighbors and spent hours with them, despite the language barriers. He loved spending time with people. Each morning I dropped him off at the *gurdwara* (Sikh house of worship) and he stayed there for most of the day, meeting friends and helping out wherever needed. He never missed a day at the *gurdwara*.

On the day of the mass shooting, my father was shot in the back of the head. My wife found him face down on the ground, his turban thrown to the side. She cried out and reached out to touch him, but law enforcement escorted her swiftly out of the *gurdwara*. My father died a violent death. My daughter Sandeep laments that her grandfather deserved a peaceful death in his old age. He did not deserve to die at the hands of a gunman.

My family and I are not able to fathom how someone would want to hurt my father. We ask ourselves how something like this could have happened. Our community is hardworking and friendly. Why did this happen to us? We do not understand how Wade Michael Page was able to procure a gun, walk into our *gurdwara* and kill six people. Why did no one stop him before he committed this atrocious crime?

Our family hopes that no one has to experience the pain we have suffered. There should be laws to protect us. We request that you investigate hate groups and crack down on domestic terrorists who target faith communities and communities of color. We all have a right to live our lives in peace, without the fear of hate attacks. We would also like to see the government track hate crimes against Sikhs. The attack on my father was intentional and directed at the Sikh community and should be documented as such. We hope that you will stand with us to prevent a tragedy like this from happening again.

Thank you for accepting our testimony.



Franciscan Action Network

Transforming the World in the Spirit of St. Francis and St. Clare

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FRANCISCAN ACTION NETWORK STATEMENT FOR THE RECORD SENATE JUDICIARY COMMITTEE HEARING ON HATE CRIMES AND DOMESTIC EXTREMISM September, 2012

Franciscan Action Network (FAN) is a collective Franciscan voice seeking to transform United States public policy related to peacemaking, care for creation, poverty and human rights. Our members are Franciscan organizations and individuals, religious and lay, women and men, Catholic and others in the United States who are inspired by the life and values of St. Francis of Assisi, rooted in the teachings of Jesus Christ. Respect for the dignity of all persons, regardless of status, culture or religion is central to the gospel of Jesus and is a core Franciscan value. Love of neighbor, the Golden Rule, is a tenet of all major faith traditions. Exclusion, bigotry, and hatred have no place in faith traditions and are in contradiction to the basic ideals and values of our country.

Therefore, FAN commends the Senate Judiciary Committee for convening a hearing on hate crimes and domestic extremism. As people of faith, Franciscans, and U.S. Americans, we deplore all hate crimes and actions of domestic extremists. While we also deplore the anti-American actions of extremists in other countries, to respond in kind is a betrayal of our highest ideals as a country. We urge members of Congress and federal agencies to increase measures to prevent, address, and oppose hate crimes and domestic extremism. While the tragedy in Oak Creek, Wisconsin is the most recent example of a hate crime in the United States that has brought national attention, it is not an isolated incident. Especially since 9/11, numerous Islamic institutions have been vandalized; while there have been attacks on individuals of various races and faiths, including the Sikh community of Oak Creek, evidently mistaken for a Muslim group. Moreover, FBI crime statistics indicate that over 6,600 hate crimes were reported in the United States in 2010, while many go unreported. In addition, racial, ethnic and cultural profiling by local law enforcement across our country, fuels a climate of fear, bigotry and hate. Even some elected officials engage in bigoted, hateful rhetoric, setting a negative example for their constituents. In response to the latter, Franciscan Action Network developed a program for parishes, colleges and other groups titled "Civility in Discourse."

Given the seriousness of the situation, FAN urges Congress and federal government agencies to increase measures to prevent, address and take action against hate crimes and domestic extremism in our country. We support policy recommendations, including the following, that Congress, the White House, and government agencies should undertake:

- Ensure robust and comprehensive implementation of the Matthew Shepherd and James Byrd, Jr. Hate Crimes Prevention Act (HCPA) enacted in 2010.

- Improve federal hate crime data collection, disaggregation, categorization, and reporting efforts by both the Department of Justice and the FBI.
- Allocate and prioritize federal funding for initiatives that prevent, investigate, and combat hate crimes, hate groups, and domestic extremism: Congress should establish or increase appropriations for prevention, education, and training initiatives for law enforcement on existing hate crimes policies and their requirements; anti-bias education initiatives; government agencies devoted to addressing and investigating hate crimes, hate groups, domestic extremism, and community tensions; and government resources geared specifically toward young people affected by bias and hatred.
- Establish formalized inter-agency efforts and positions at the highest levels of government, in partnership with community stakeholders, to address hate crimes, including a convening by the White House of a Presidential summit on hate crimes affecting religious minorities, a summit which engages community members, religious leaders, and federal government officials with the purpose of developing best practices for stakeholders addressing this issue.
- Curb actions and discourse by government agencies and public officials that often promote a climate where hate crimes can occur: Congress is urged to pass robust anti-profiling policies, such as the End Racial Profiling Act (S. 1670, H.R. 3618). Public officials should refrain from making statements based on racism, xenophobia, homophobia, sexism or religious intolerance. They should also pledge not to engage in such rhetoric and also to condemn such statements when they do occur in the public sphere.

Submitted by:
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DC'S LGBT ANTI-VIOLENCE TASK FORCE

**Gays and Lesbians Opposing Violence's (GLOV)
STATEMENT FOR THE RECORD**

United States Senate

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

Committee Hearing: *"Hate Crimes & the Threat of Domestic Extremism"*

September 19, 2012

Gays and Lesbians Opposing Violence (GLOV) appreciates your focus on the problem of hate crimes in our country, and your work for the safety and security of all Americans. GLOV is a local Lesbian, Gay, Bisexual and Transgender (LGBT) community organization based in Washington, D.C., with a mission to reduce violence against LGBT individuals (and those perceived as LGBT) through community outreach and education. We monitor cases to ensure that the rights and dignity of LGBT victims are respected and protected. GLOV also seeks to assist victims of anti-LGBT violence by advocating on their behalf, encouraging the reporting of these crimes, and providing a community of support.

GLOV wants to take this opportunity to contextualize what is happening in the streets of our nation's capital. First, we'll recount a recent incident of violence in Washington, D.C., and then provide you with the increasing statistics of anti-LGBT violence in our city. Everyone should know these statistics. Every single number is a person. Every person is a brother, a sister, a son, a daughter.

This is just one of those experiences.

On a Monday evening in March in the Northwest quadrant of Washington, less than a ten minute drive from the White House, a 29 year-old gay man was brutally assaulted in two incidents within minutes of one another after getting out of a cab just steps from his home.

In the first attack, the victim was caught by surprise as a number of assailants grabbed him from behind and pulled him backward, hitting him repeatedly. The assailants

GLOV / 9-19-2012 / Page 2 of 3

dragged the victim down the sidewalk by his feet while he clawed at the ground trying to escape. Witnesses and the victim stated that the perpetrators used anti-gay slurs during the attack.

As the first attack ended, the victim called his partner, who was at home a block away, to seek help. While on the phone, the victim was assaulted again and robbed. He was jerked around by his bag, and the perpetrators wrapped the strap of his bag around his neck twice. They threw him to the ground. As his partner listened, the assailants robbed the victim of his belongings. One of the attackers then kicked the victim in the face at least twice. As the victim reported from the hospital, he felt sure, at the time, that death was imminent. Moments after being slammed to the ground, one of the assailants picked up his cell phone, turned it off, and carried it away.

The victim spent 4 days in the ICU at George Washington University Hospital. His jaw was shattered in two places. After two surgeries, he now has permanent titanium plates holding his lower jaw together. His jaw was wired shut for over a month.

Unfortunately, these attacks against Washington's LGBT community are all too common.

From a historical perspective, hate crimes in Washington have become worse. In 2009, 18.5 percent of hate crimes reported nationally were attributed to anti-LGBT violence.¹

In Washington, a full 85 percent of hate crimes were anti-LGBT violence.²

This is a horrifying statistic in our nation's capital. When we discuss this fact, a point often brought up is that D.C. has a high per capita LGBT population. But compared to other cities with prominent LGBT populations, such as San Francisco, the numbers are still staggering. Thirty-two percent of hate crimes committed in San Francisco were related to anti-LGBT violence, a statistic far lower than that of the nation's capital.³

Since 2009, anti-LGBT violence has only increased.

2011 saw the highest number of hate crimes since GLOV began tracking this statistic. Between 2005 and 2011, anti-LGBT violence increased by 86 percent.⁴ But it's not just LGBT crimes - the rate of hate crimes across all categories has nearly doubled between 2009 and 2011.⁵

¹ U.S. Department of Justice: Federal Bureau of Investigation. (2010, November). *Incidents and Offenses - Hate Crime Statistics, 2009*. Retrieved September 12, 2012, from <http://www2.fbi.gov/ucr/hc2009/incidents.html>

² U.S. Department of Justice: Federal Bureau of Investigation. (2010, November). *Table 13 - DISTRICT OF COLUMBIA - Hate Crime Incidents 2009*. Retrieved from http://www2.fbi.gov/ucr/hc2009/data/table_13dc.html

³ U.S. Department of Justice: Federal Bureau of Investigation. (2010, November). *Table 13 - CALIFORNIA - Hate Crime Statistics 2009*. Retrieved from http://www2.fbi.gov/ucr/hc2009/data/table_13ca.html

⁴ Metropolitan Police Department. (2012, September 12). *Bias-Related Crimes (Hate Crimes)*. Retrieved from The District of Columbia: <http://mpdc.dc.gov/page/bias-related-crimes-hate-crimes>

⁵ Ibid.

GLOV / 9-19-2012 / Page 3 of 3

So, that brings us to today. Compared to June of last year, anti-LGBT violence is up 67 percent.⁶ Washington remains the city with the highest rate of anti-LGBT violence in the nation, and the problem is only becoming worse.

It is also significant to note that the National Coalition of Anti-Violence Programs (NCAVP) reports that communities most disproportionately impacted by hate violence are gay people, people of color, immigrants, transgender people, youth, and young adults.⁷

Violent crimes committed in DC unfortunately often capture this observation. The transgender community in DC has become increasingly susceptible to murder. Based on numbers kept by the Transgender Day of Remembrance Project, more transgender residents of D.C. have been murdered than in any other city in the United States.⁸

In light of our concerns, GLOV stands in unity with the NCAVP and other LGBT community organizations across the country to urge policymakers to take crucial measures to end the root cause of anti-LGBT violence and discrimination. These include enacting non-discrimination legislation that provides protections for the LGBT community.⁹ Moreover, political leaders and public figures need to promote safety for the community by denouncing anti-LGBT statements, policies and programs.¹⁰ Lastly, it is crucial to provide access to community resources for each and every victim. GLOV urges policymakers to remove barriers to governmental assistance for underrepresented communities.¹¹ The increasing numbers of hate crimes against the LGBT community in our nation's capital can only be reduced with the strong partnership of the federal and local government, police department and community.

⁶ Ibid.

⁷ National Coalition of Anti-Violence Programs. (2012). *Hate Violence Against Lesbian, Gay, Bisexual, Transgender, Queer and HIV-affected Communities in the U.S. in 2011*. Retrieved from National Coalition of Anti-Violence Programs: http://www.avp.org/documents/NCAVPHVReport2011Final6_8.pdf. Page 19.

⁸ Terry, Jason. (2012, September 12). Anti-Violence Organizer. (H. Naveed, Interviewer)

⁹ National Coalition of Anti-Violence Programs. (2012). *Hate Violence Against Lesbian, Gay, Bisexual, Transgender, Queer and HIV-affected Communities in the U.S. in 2011*. Retrieved from National Coalition of Anti-Violence Programs: http://www.avp.org/documents/NCAVPHVReport2011Final6_8.pdf. Page 11.

¹⁰ Ibid 11.

¹¹ Ibid 11.

252

Written Statement of
Valarie Kaur
Director of Groundswell
Auburn Seminary

To the

Committee on Judiciary
Subcommittee on the Constitution, Civil Rights and Human Rights
U.S. Senate
Room 226
Dirksen Senate Office Building
September 19, 2012

Honorable members of the Judiciary Committee:

Thank you for holding a congressional hearing on the need to address hate crimes and the proliferation of hate groups in the United States. My name is Valarie Kaur, and I am the founding director of Groundswell, a national non-profit initiative based at Auburn Seminary in New York City that mobilizes faith communities in social action. We represent a base of 40,000 people who take collective action around shared moral imperatives, such as protecting religious pluralism, ending child sex trafficking, and standing for LGBTQ dignity. I'm here today to urge the Senate to work with us to combat the rise of hate in America.

It has been more than a month since the tragedy at Oak Creek, WI where a white supremacist massacred six worshippers and injured three others at a Sikh *gurdwara* [house of worship] on August 5, 2012. As people of many faiths and backgrounds – Christians, Jews, Muslims, Sikhs, Hindus, Buddhists and Humanists -- we at Groundswell believe that an attack on one of us is an attack on all of us. In a few days, we collected four thousand letters of support for the Sikh families of Oak Creek, WI. We believe that the tragedy in Oak Creek calls for a national conversation about how to address the rise of hate and hate groups in America. We are working with the White House, the Interfaith Youth Core, the

Sikh Coalition the Sikh American Legal Defense and Education Fund, and other organizations as a committed multifaith partner on education and advocacy efforts. We commend the Senate hearing as a critical moment for introspection and action, not only in the halls of power but in congregations and communities across the U.S.

I speak here as an independent filmmaker and civil rights advocate who has chronicled and combatted hate crimes against the Sikh American community for the last eleven years. I began this work in the immediate aftermath of 9/11, when I crossed the country to capture stories barely reported on national news, most notably the hate murder of turbaned Sikh American Balbir Singh Sodhi on September 15, 2001. As a third-generation Sikh American, I did not want the stories of hate and discrimination against my community to remain invisible. I was not alone. Together with a team of people from many faiths and backgrounds, we created the award-winning film *Divided We Fall* (2008), the first feature documentary about hate crimes against Sikh and Muslim Americans in the aftermath of 9/11. Produced with Sharat Raju, the film won a dozen international awards, earned national attention, screened in 200 U.S. cities, and continues to be used as a dialogue tool on U.S. high school and college campuses. In response to the massacre in Oak Creek, WI, my team and I spent weeks on the ground organizing, reporting, and filming to tell the stories of the tragedy to the broader American public.

Today, as a Sikh American and the director of a multifaith initiative, I commend this congressional hearing as a necessary response to the threat of hate crimes and proliferation of hate groups in America. The tragedy in Oak Creek is not only a Sikh American tragedy: it may be the largest racially-motivated mass shooting in recent U.S. history. It is important to put the tragedy in context in order to chart the way forward.

First, the tragedy in Oak Creek was not an isolated incident. It is the deadliest act in a history of violence against the Sikh American community which has roots in America dating back more than one hundred years and certainly since the terrorist attacks on September 11, 2001. When early Sikh immigrants arrived from Punjab, India to the Pacific Coast of the U.S. in the early 1900s, they were targets in race riots and faced discriminatory laws that did not permit them to become citizens, own land, or return to the U.S. if they left. Even after changes to the law permitted Sikhs and other Asian Americans to become citizens, many continued to be treated as perpetually foreign and automatically suspect rather than fellow Americans.

The Sikh faith is the fifth largest organized religion in the world and more than 500 years old. Sikhs believe in one God, equality between all people, and service to the community, values compatible with the American ethic. Many Sikhs wear articles of faith to express these values, most visibly, long uncut hair which men and some women wrap in a turban. Nearly every person in America who wears a turban is Sikh. However, Sikh turbans have marked the community as targets for discrimination and hate on U.S. soil for more than a century.

In recent decades, Sikh Americans became targets for scapegoating in the aftermath of the Iran Hostage Crisis, the first Gulf War, and even the Oklahoma City Bombing. In the aftermath of 9/11, hate and discrimination against Sikh Americans soared to new levels. Turbaned Sikh American named Balbir Singh Sodhi was the first of at least two dozen people murdered in post-9/11 hate crimes. The FBI reported that hate crimes against Muslims or in its estimation, those perceived to be Muslim, increased by 1600 percent in the year after the attacks. Community organizations such as the Sikh Coalition and South Asian Americans Leading Tomorrow (SAALT) estimate much higher numbers, including more than a thousand reported incidents in the weeks after the attacks.

In the years since 9/11, Sikh Americans alongside Muslim, Arab, and other South Asian Americans continued to face discrimination in all areas of public life, most notably bullying in schoolyards, discrimination in workplaces, and racial profiling in immigration and national security arenas. Hate crime levels remained relatively low – until 2010. The FBI reported a 50 percent jump in hate crimes against Muslims or those perceived to be Muslim in 2010 compared to 2009 levels, just when anti-Muslim and anti-immigrant rhetoric flooded airwaves in the last election season. Anti-Muslim hate crimes are now at their highest level since 2001. At the same time, hate groups in America have been on an alarming rise. The Department of Homeland Security released a report in 2009 that showed white supremacist groups, most notably antigovernment groups, increased significantly since President Barack Obama's election. According to the Southern Poverty Law Center, the number of hate groups in the U.S. has grown by almost 60 percent since 2000. Hate groups now number more than a thousand. While it has been nearly three years since the Matthew Shepherd and James Byrd, Jr. Hate Crime Prevention Act (HCPA) strengthened existing legal protections, hate crimes and hate groups continue to be a serious and growing threat facing this country.

The Sikh American community is one of many communities threatened by the rise of hate groups in America. The Jewish community continues to experience persistent bias, accounting for 65 percent of all religiously motivated hate crimes documented by the FBI in 2010. Hate crimes based on anti-Hispanic bias accounted for nearly 67 percent of ethnically-motivated crimes in 2010, and despite comprising only 12.4 percent of the U.S. population, African-Americans accounted for 70 percent of all racially motivated hate crimes. According to FBI hate crime statistics, over 6,600 hate crimes were reported in the U.S in 2010, with the actual number of incidents likely higher on account of hate crimes often going underreported. Earlier this year, over the span of 30 days which included the tragic Oak Creek shooting, approximately ten Islamic institutions and Muslim

communities in seven states experienced attacks including vandalism, a suspicious burning, shootings, and the desecration of religious sanctuaries.

The massacre in Oak Creek, WI and these recent acts of violence call upon us to renew our commitment as a nation to combat hate in America – not just against the Sikh community but against all communities. Hate crimes send the message that entire groups of people are not welcome in America. The U.S. government has the power to signal assurance that all people are welcome to live, work and worship as fellow Americans. We humbly request that the U.S. Senate consider the following proposals for ways to respond to the threat of hate crimes and domestic extremism:

1. **The Federal Bureau of Investigation (FBI) should specifically track hate crimes against Sikh Americans, as well as other groups such as Hindu and Arab Americans.** The FBI currently tracks hate crimes against these groups in a single anti-Muslim “catch-all” category. This categorization reflects the flawed logic that all hate crimes against Sikhs, Arabs and others are cases of “mistaken identity.” This assumption is not supported by the evidence and prevents us from marshaling the resources to combat hate crimes effectively. How can we respond to a problem we’re not accurately measuring? In a few short weeks, Groundswell and the Sikh Coalition collected nearly 4000 signatures of people of many faiths asking the FBI to change its policy. We ask that the U.S. government give the victims of Oak Creek at least the dignity of being counted as a statistic.
2. **The Department of Homeland Security should pursue domestic terrorists with the same vigor as attackers from abroad.** The gunman Wade Michael Page was on the watch lists of public interest organizations for many years. We respectfully believe that the government should have tracked him long before he went on the shooting spree. We request that the government invest resources in tracking *all* homegrown hate groups in

America rather than assuming that threats arise primarily within communities of color. Since 9/11, there have been twice as many attacks on U.S. soil by white supremacist groups than by Al-Qaeda inspired groups. We call upon the government to combat all forms of terrorism while continuing to respect free speech in America.

3. **The U.S. government should establish a constructive framework for combating hate crimes and domestic extremism**, much like President Clinton declared the large number of attacks on African American churches in the mid-1990's a national priority. There is no mistake about it: A signal from leadership changed the culture, added resources and resulted in a real and measurable difference. By the end of the 1990s, attacks on African American churches decreased. Similarly, we call upon the government to ensure robust and comprehensive implementation of the HCPA, and for improvement to federal hate crime data collection, disaggregation, categorization and reporting. We request the allocation and prioritization of federal funding for initiatives that prevent, investigate and combat hate crimes and domestic extremism. Finally, the government should establish formalized interagency efforts and positions at the highest levels of government, in partnership with community stakeholders, to address hate crimes.
4. **Elected officials and candidates should commit to speaking out against the use of hateful rhetoric for political gain**. Since 2010, we have seen political figures use anti-immigrant and anti-Muslim rhetoric in order to score political points – including calling for special investigations into Muslim American communities, supporting anti-sharia legislation, and denigrating Islam in public. The Center for American Progress reported that between 2001 and 2009, seven foundations poured \$42.6 million into think tanks that promote anti-Islam sentiment. We believe that actively fostering a divisive political climate of racism, homophobia, sexism, religious bigotry, and xenophobia has real consequences. As lawmakers and leaders, you have the power to shape public opinion. Your words

carry weight. We humbly request that you speak against scapegoating, discrimination, profiling, and hate crimes. We call on the government to curb actions and discourse by government agencies and public officials that promote a dangerous political climate. As Americans, we call upon our leaders to use rhetoric that unites rather than divides us.

We at Groundswell believe that our government must work in concert with community efforts to combat hate and build community in a critical moment in our nation's history. In a time when our economy is recovering, guns are easily accessible, hate groups are on the rise, and political rhetoric divisive, we cannot afford to wait. That's why we are joining our partners to generate storytelling, dialogue, and interfaith service projects in response to the tragedy in Oak Creek on campuses and in congregations across the U.S. These projects aim to deepen engagement with local Sikh communities and support bold new avenues to promote racial and religious dignity. We believe that education and interfaith outreach efforts, combined with robust changes in law and policy, can help prevent another tragedy like Oak Creek.

On a personal note, as a Sikh American whose grandfather sailed by steamship from Punjab, India and settled in California one hundred years ago, I believe that my community's struggle for civil rights and human dignity is vital to the success of the great American experiment. There are now more than half a million Sikhs in the U.S. Our struggle is bound up with the struggle of African Americans, Latino Americans, Jewish Americans, Native Americans, LGBTQ Americans, and all people who seek to live, work, and worship without fear of hate or discrimination. We can understand the health of the Sikh American community as a barometer for the health of diversity in the U.S. The day we can see a turbaned man on the street and think – not "foreigner" or "terrorist" but "American" – will be the day that all people, with all our diversity, are truly embraced in America. With your commitment, I believe that the U.S. government can help us realize this day. Thank you for considering my testimony.

Written Statement on behalf of Gurdwara Sahib Hidden Falls, Plymouth, MI

To the Committee on Judiciary
United States Senate

September 16, 2012

HATE CRIMES AND THE THREAT OF DOMESTIC EXTREMISM

Dear Chairman Durbin:

On behalf of Gurdwara Sahib Hidden Falls in Plymouth, Michigan, we write to thank you for holding the "Hate Crimes and the Threat of Domestic Extremism" hearing on Wednesday, September 19th.

The Sikh American community has withstood countless threats and attacks in the wake of the events of September 11, 2001. In the years since, Sikh Americans have worked tirelessly to educate others about our peace-loving faith and the principles of tolerance and equality on which it was founded. Whether this education has consisted of formal presentations at schools and police stations or friendly chats with neighbors, our community has witnessed progress against ignorance and intolerance.

In spite of this, our fight has not ended. Last month, our brothers and sisters in Oak Creek, Wisconsin became the victims of a criminal with ties to hate groups. But our community is not the only one. We continue to hear of acts and crimes motivated by ignorance and intolerance against racial, ethnic, religious and minority groups in the United States. Experience has taught us that education is one of the most effective ways to combat hate crime and domestic extremism.

In the spirit of the Sikh daily prayer of supplication, which closes with a blessing for all of humanity, we will continue to work together so that we may achieve lasting peace and tolerance for all Americans. We thank you for taking the time to explore these serious issues affecting our great nation.

Sincerely,

Members of the Gurdwara Sahib Hidden Falls

Plymouth, Michigan

**Hindu American Foundation (HAF)
Written Statement for the Record**



Suhag A. Shukla, Esq.
Executive Director/Legal Counsel

Samir Kalra, Esq.
Director/Senior Fellow for Human Rights

Submitted to the United States Senate Committee on the Judiciary,
Subcommittee on the Constitution, Civil Rights and Human Rights
September 17, 2012

"Hate Crimes and the Threat of Domestic Extremism"
226 Dirksen Senate Office Building
September 19, 2012

The Hindu American Foundation (HAF) is an advocacy group providing a voice for over two million Hindu Americans. The Foundation interacts with and educates leaders in public policy, academia, media, and the public at large about Hinduism and global issues concerning Hindus, such as religious liberty, the misportrayal of Hinduism, hate speech, hate crimes, and human rights. By promoting the

Hindu and American ideals of understanding, tolerance, and pluralism, HAF stands firmly against hate, discrimination, defamation and terror.

Since its inception, the Hindu American Foundation has made legal advocacy one of its main pillars. From issues of religious accommodation and religious discrimination to defending fundamental constitutional rights of free exercise and the separation of church and state, HAF has educated Americans at large about various aspects of Hindu belief and practice in the context of religious liberty, either as a party to the case or an amicus (friend of the court). HAF has also consistently spoken out against hate speech, bias, and hate crimes, regardless of the religious or racial identity of the victims. The Foundation firmly believes that bigotry and violence impact all communities and must be collectively confronted.

We are a nation whose strength and unity derives from its diversity. As our Great Seal proclaims: E Pluribus Unum ("out of many, one"). This is a concept that mirrors beautifully one of Hinduism's core teachings, the Truth is One, but is manifested in different ways. Like Hinduism itself, Hindu Americans constitute a growing and increasingly visible piece of America's religious mosaic.

HAF respectfully submits that while Hindu Americans on the whole enjoy religious liberty and freedom in the United States, hate speech as well as incidents of religious bigotry and hate crimes continue to concern the community. The following provides a brief overview of the specific issues affecting Hindu Americans.

I. Background

Hindu Americans represent diverse ethnic backgrounds, including individuals of Indian, Pakistani, Bangladeshi, Malaysian, Indonesian, Afghani, Nepali, Bhutanese, Sri Lankan, Fijian, Caribbean, and European descent. The majority of Hindus, however, are of Indian ethnic origin and are primarily an immigrant community. It was only after the lifting of the Asian Exclusion Act of 1924 in 1943 and the abolishment of quotas for immigrants based on national origin in 1965 that Hindus came to the United States in large numbers.

Similar to other minority and immigrant communities, Hindu Americans have experienced episodes of religiously motivated discrimination, intolerance, and violence. In particular, Hindus have been subjected to verbal abuse, slurs, and physical attacks on an individual level, while Hindu places of worship have been targeted for acts of vandalism, arson, and graffiti. Furthermore, the public sphere is replete with hate speech and pejorative and disparaging language denigrating Hinduism.

Unfortunately, incidents of bias and hate crimes against Hindu Americans have traditionally been difficult to track for a multitude of reasons. These include the conflation of religious and ethnic identity, underreporting by victims due to fear, and limitations in the FBI's data collection (no separate category for anti-Hindu crimes currently exists). As a result, accurate statistics on the number of hate crimes against Hindu Americans are unavailable. The lack of comprehensive statistics, however, by no means diminishes the very real threat that Hindu Americans face.

II. Hate Speech

Violence and bigotry are often fuelled by speech that can be construed as hateful and intolerant. While such speech does not rise to the level of criminal behavior and is protected under the 1st Amendment, if left unchallenged, it can perpetuate discrimination and in some cases, breed violence.

With the proliferation of internet websites, in particular, hate speech directed towards religious groups has become increasingly commonplace. As a result, organizations such as the Simon Wiesenthal Center (SWC), Anti-Defamation League (ADL), and Southern Poverty Law Center (SPLC), amongst others,

closely monitor extremist groups and individuals that sponsor digital hatred.¹

Like Americans of other faiths, Hindus have also routinely endured hate speech and the denigration of their religious beliefs. For example, a report published by the Hindu American Foundation, entitled *Hyperlink to Hinduphobia: Online Hatred, Extremism, and Bigotry Against Hinduism*, documented the growing phenomenon of anti-Hindu online hatred.²

The report provided an overview of the methods used to demean Hinduism and detailed dozens of organizations responsible for producing such content. Whether by maligning Hinduism as "devil-worship" to promote a fear of Hindus and their beliefs, demeaning Hindu scriptures and deities, or falsifying Hinduism's teachings and principles in order to claim the religious superiority of other traditions, these individuals and organizations seek to undermine tolerance and pluralism. In addition, they foster an environment where Hindus are branded as "the other," and violence thereby becomes acceptable and justified.³

Hate speech against Hindus has not been confined to online mediums, however, and has included derogatory statements by public figures as well. For instance, last November, Kentucky State Senate President David Williams made disparaging remarks about Hinduism and Hindu beliefs in the midst of a Kentucky gubernatorial election.⁴ When such comments come from those in positions of power, it sends a message that bigotry and religious exclusion are not only acceptable, but officially sanctioned.

Therefore, while the freedom of expression must be faithfully protected, speech that promotes hatred, intolerance, and has the potential of manifesting violently should be publicly condemned by all Americans.

III. Bias or Hate Crimes

The recent tragic shooting at the Sikh gurudwara in Wisconsin represented the worst fear for all religious communities across America. The attack, fueled by extremist views, also demonstrated the urgent need to address hate crimes at a systemic level. This horrific incident, however, was just one of many hate crimes that continue to plague American society.

According to FBI statistics, for instance, there were approximately 6,628 hate crimes reported to law enforcement in 2010 with 8,208 victims. And out of that total, 1,322 incidents were motivated by religious bias, resulting in 1,552 victims. Except for Judaism, Catholicism, Protestantism, and Islam, all other religiously motivated crimes were collectively classified as "Anti-Other religion," and included 123 incidents and 141 victims.⁵ The actual numbers are likely much higher, given that victims frequently do not report such crimes out of fear.

Although it is difficult to ascertain the number of attacks that have specifically targeted the Hindu community, there have been several incidents against Hindu individuals and temples in recent years. Moreover, racially motivated attacks against Indian Americans may also include an anti-Hindu component, as most ethnic Indians belong to the Hindu tradition.

In many instances, especially after 9/11, bias crimes against Hindus have been based on the perpetrator's mistaken belief that the victim is Muslim or Arab. For example, in November 2011, a Hindu man was attacked and called a "terrorist" in a Lucky shopping center parking lot in San Jose, California

¹ *Hyperlink to Hinduphobia: Online Hatred, Extremism, and Bigotry Against Hinduism (2007)*, Hindu American Foundation, http://www.hafsite.org/pdf/hate_report_2007.pdf.

² *Ibid.*

³ *Ibid.*

⁴ "Hindu Americans Shocked by Kentucky State President's Intolerant Remarks," (November 1, 2011), Hindu American Foundation Press Release, http://www.hafsite.org/HAF_Shocked_by_KY_Williams_Intolerant_Remarks.

⁵ U.S. Department of Justice Federal Bureau of Investigation Hate Crime Statistics 2010, <http://www.fbi.gov/about-us/cjis/ucr/hate-crime/2010/tables/table-1-incidents-offenses-victims-and-known-offenders-by-bias-motivation-2010.xls>.

after picking up groceries for a family Thanksgiving dinner.⁶ Similarly, in the summer of 2003, an Indian graduate student was beaten in Boston by perpetrators who shouted "go back to Iraq" and similar anti-Arab slurs.⁷

A 2005 report by Harvard University's Pluralism Project noted that the student was "...robbed, beaten, burned with cigarettes, stuffed in a trunk and stabbed twice before finally being dumped along a road. Police suspect that the attackers mistook the Hindu man for a Muslim."⁸

Even prior to 9/11, Hindus were subjected to harassment and violence. In the fall of 1987, a street gang in Jersey City, New Jersey calling itself the the "Dotbusters" assaulted a number of Indians, including Navroze Mody who was beaten into a coma with bricks while the gang chanted, "Hindu, Hindu!" The gang also committed acts of vandalism and harassed Hindu and Indian men and women.⁹

The name of the gang, "Dotbusters," clearly made reference to forehead markings worn by both Hindu women (bindi) and men (tilak).

The attack on Mody was preceded by a letter to a local newspaper from the "Dotbusters" openly advocating violence against Hindus and Indians. The letter stated in part, "We are an organization called dot busters. We have been around for 2 years. We will go to any extreme to get Indians to move out of Jersey City. If I'm walking down the street and I see a Hindu and the setting is right, I will hit him or her."¹⁰

Shortly after Mody's death, another Hindu man "was assaulted by three young men with baseball bats as he walked home late one night. One of the young people yelled, 'There's a dothead! Let's get him!' as they set out with their bats. [He] was beaten severely and left unconscious with a fractured skull. He was in a coma for a week, in the hospital for three weeks, and suffered permanent neurological damage."¹¹

Beyond attacks on individuals, Hindu places of worship and institutions have also been targeted. With over 700 temples across the United States, the Hindu American community has witnessed acts of vandalism, graffiti, and arson on their religious sites. Earlier this year, for example, a New York man threw a Molotov cocktail at a Hindu temple housed in a residential property. The attack was part of a series of firebombings in Queens, New York, that also targeted a mosque and Islamic cultural center. The 40-year old perpetrator allegedly told police of his "dislike of Muslims, Arabs and Hindus," and was indicted by federal and state grand juries with committing hate crimes in connection with the incidents.¹²

Furthermore, in April 2006, vandals destroyed a Hindu temple in Maple Grove, Minnesota, inflicting over \$300,000 in damage, toppling and dismembering sacred sculptures, and breaking windows and walls.¹³ And in November 2003, a teenager was convicted for defacing a Hindu temple in Ashland,

⁶ SJ Hate Crime Victim Talks About Attack," (January 28, 2012), ABC Local News, http://abclocal.go.com/kgo/story?section=news/local/south_bay&id=8522432.

⁷ "Know your Rights," A Guide Produced by the Hindu American Foundation, http://www.hafsite.org/sites/default/files/HAF_KnowYour%20Rights_Expanded.pdf.

⁸ "Post 9/11 Hate Crime Trends: Muslims, Sikhs, Hindus and Jews in the U.S." (2005), The Pluralism project, Harvard University, <http://pluralism.org/reports/view/104>.

⁹ "Know your Rights," A Guide Produced by the Hindu American Foundation, http://www.hafsite.org/sites/default/files/HAF_KnowYour%20Rights_Expanded.pdf.

¹⁰ "Dot Busters in New Jersey," The Pluralism Project at Harvard University, http://pluralism.org/ocg/CDROM_files/hinduism/dot_busters.php.

¹¹ *Ibid.*

¹² "American charged with hate crime for attacks on temple, mosque," (March 20, 2012), Indian Express, <http://www.indianexpress.com/news/american-charged-with-hate-crime-for-attacks-on-temple-mosque/925997/>; "Man Indicted in Firebombings," (March, 23, 2012), Times Ledger, http://www.timesledger.com/stories/2012/12/newyearsfirecharges_it_2012_03_22_q.html

¹³ "Know your Rights," A Guide Produced by the Hindu American Foundation, http://www.hafsite.org/sites/default/files/HAF_KnowYour%20Rights_Expanded.pdf.

Massachusetts by spray painting hateful messages.¹⁴

The above examples are only intended to demonstrate the type and nature of attacks endured by Hindu Americans over the past several years, and they do not reflect the full extent of the issues faced by the community. From religious bias and discrimination to hate speech and hate crimes, Hindu Americans continue to confront a number of challenges. Therefore, it is necessary to address the root causes of such intolerance and violence that not only impact Hindus, but affect the lives of all Americans.

¹⁴ "Post 9/11 Hate Crime Trends: Muslims, Sikhs, Hindus and Jews in the U.S." (2005), The Pluralism project, Harvard University, <http://pluralism.org/reports/view/104>.



Hindu American Seva Charities
Building Pluralistic Communities Together

September 16, 2012

To:
 Stephanie Trifone
stephanie_trifone@judiciary-dem.senate.gov
 Senate Judiciary Committee Hearing on Hate Crimes & Domestic Extremism

From:
 Anju Bhargava
anju@hinduamericanseva.org
 Founder, Hindu American Seva Charities

Dear Ms. Trifone

As you are aware, on September 19, the Senate Judiciary Committee is scheduled to convene a hearing on hate crimes and domestic extremism. While the hearing has been spurred, in part, by the recent tragedy in Oak Creek, Wisconsin, we understand it will seek to elevate the concerns surrounding hate crimes and domestic extremism that all communities and Americans face in this country. Hindu American Seva Charities (HASC) is pleased to submit brief statement for the record to express support for the hearing, underscore the impact of hate crimes and domestic extremism in our respective communities; and recommend core measures that policymakers can take to address this issue at a systemic level.

Hindu American Seva Charities (HASC) is a progressive American organization advancing seva (community service), interfaith collaboration, pluralism, social justice and sustainable civic engagement to ignite grassroots social change and build healthy communities. HASC is working to unite faith and secular communities in social equity projects and to strengthen the diaspora immigrant civic engagement of the New Americans, for the common good. Through these efforts HASC is pushing out boundaries for social justice and interfaith collaboration. We support dialogue, cooperation and pluralism with our unique, innovative, inculture faith based approach to development, [UtsavSeva](#).

Thousands of Dharmic* including Hindu temples and ashrams exist across the country. Almost all Hindu places of worship have faced vandalism due to hate crime, as have many Hindu people. And many youth face bullying. All of this has been underreported for fear of reprisal. HASC is working to reduce bullying and hate crimes in our nation and bring to the forefront the issues facing the temples. See [HASC's Newsletter: April 2012](#). *Dharmic is generally referred to as Buddhist, Hindu, Jain and Sikh.



Hindu American Seva Charities (a registered 501 (3) c not-for-profit organization).
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Hindu American Seva Charities

Building Pluralistic Communities Together

HASC commends Senate Judiciary Committee for convening a hearing on hate crimes and domestic extremism. U.S. is built on inclusion, plurality, and diversity; hate crimes and actions of hate groups/domestic extremists affect all Americans. HASC urges Congress and federal government agencies to take increased measures to prevent, address, and combat hate crimes and domestic extremism in the U.S.

Hate crimes are indeed a daily threat to and threat to society as a whole; law enforcement officers and government institutions are in the direct line of fire when hate groups attack or sometimes specifically targeted by hate groups or domestic extremists. HASC has found that almost all Hindu temples have been vandalized. However, they are under reported. The temple community is afraid that there may be community repercussions and has hesitated in reporting to the authorities. This has led to significant under reporting of hate crimes and vandalism in the Hindu community.

The above facts were also reported to the White House Office of Faith Based & Neighborhood Partnerships during the discussions of the Inaugural Advisory Council's tenure 2009 – 2010.

In the past legislative intervention has reduced crimes and now we request intervention for the new Dharmic (eastern tradition) including Buddhist, Hindu, Jain and Sikh traditions. We are relatively new to the country and require integration into the national platform. The country is at a stage similar to the 1930s and 1940s when the previous wave of immigrants had come and the country had worked to integrate them.

We request that Congress, the White House, and government agencies should consider and implement the following policy recommendations:

- a. Separately identify Hindu as a targeted group in the DOJ literature. Currently the categories are South Asian, Muslim and Sikh. Since there is no separate category, the Hindu issues are not clearly identified. There is no provision to report vandalism and hate crimes against Hindu places of worship. A separate identification will help the community voice and identify the issue and empower our community to take action.
- b. Fund religious literacy programs to enable our citizens have basic understanding of the new religions in our country. The separation of church and state warrants limitation however education about religion does not constitute practicing the religion. It is important for all Americans to know about the pluralistic and diverse religions prevalent in America. This is not only a civic requirement to bridge understanding and cultures, but is also a homeland security issue



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- c. Ensure robust and comprehensive implementation of the Mathew Shepherd and James Byrd, Jr. Hate Crimes Prevention Act (HCPA): Enacted in 2009, this law encourages partnerships between federal and state law enforcement officials to more effectively address hate violence and provides limited authority for federal investigations and prosecutions when local authorities are unwilling or unable to act. To ensure robust enforcement, DOJ should file appropriate cases under HCPA; vigorously defend the constitutionality of the Act; and ensure continued education, outreach, and training to federal, state, and local law enforcement officials on HCPA and its requirements.
- d. Improve federal hate crime data collection, disaggregation, categorization, and reporting efforts: DOJ should promote mandatory comprehensive participation in existing hate crimes reporting requirements and the FBI should improve hate crime incident reporting by developing new categories on hate crime incident report forms for various affected communities not yet covered (including anti-Arab, anti-Sikh, and anti-Hindu incidents). Hindus need to be identified separately as mentioned above.
- e. Allocate and prioritize federal funding for initiatives that prevent, investigate, and combat hate crimes, hate groups, and domestic extremism: Congress should establish or increase appropriations for: prevention, education, and training initiatives for law enforcement around existing hate crimes policies and their requirements; anti-bias education initiatives; existing government agencies specifically devoted to addressing and investigating hate crimes, hate groups, domestic extremism, and community tensions; and government resources, such as online portals and websites, geared specifically towards youth affected by bias and hatred. In addition, Congress should urge DHS to release its previously retracted 2009 public on right-wing extremist groups.
- f. Establish formalized interagency efforts and positions at the highest levels of government in partnership with community stakeholders, to address hate crimes: The White House should convene a Presidential summit on hate crimes affecting religious minorities that engages community members, religious leaders, and federal government officials with the purpose of developing best practices for stakeholders addressing this issue, similar to what was instituted by President Clinton on race in the 1990s. The White House should also establish an interagency taskforce on hate crimes and domestic extremism, similar to what was established by President Clinton following the church arsons of the 1990s. DOJ should also formalize the Initiative to Combat Post- 9/11 Discriminatory Backlash within the DOJ Civil Rights Division by designating a Special Counsel for Post-9/11 Discrimination and a Special Counsel for Religious Discrimination.



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Hindu American Seva Charities

Building Pluralistic Communities Together

- g. Curb actions and discourse by government agencies and public officials that often promote a climate where hate crimes can occur: Congress should pass robust anti-profiling policies, such as the *End Racial Profiling Act* (S. 1670; H.R. 3618) which prohibits profiling based on race, religion, ethnicity, or national origin by federal, state and local law enforcement; establishes requirements for law enforcement to collect data, provide anti-profiling trainings, and develop a complaint mechanism for affected individuals; allow DOJ to withhold grants to entities that fail to comply with the law and provide funding to these seeking to eliminate the practice; and allow affected individuals to seek redress in court. DOJ should also amend its 2003 Guidance Regarding the Use of Race by Federal Law Enforcement Agencies to apply to profiling based on religion and national origin, remove national and border security loopholes, cover law enforcement surveillance activities, apply to state and local law enforcement agencies acting in partnership with federal agencies or receiving federal funds, and make the guidance enforceable. Public officials should refrain making statements based on racism, xenophobia, homophobia, sexism, or religious intolerance. Public officials should also take a pledge to not engage in such rhetoric as well as condemn such statements when they do occur in the public sphere.

Hindu American Seva Charities urges the lawmakers to enact and strengthen hate crimes and domestic extremism. If you have any questions please contact us at seva@hinduamericanseva.org or 973-223-5261.

Respectfully

Anju Bhargava
Founder, Hindu American Seva Charities



Hindu American Seva Charities (a registered 501 (3) c not-for-profit organization).
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A Subsidiary of Hmong American Partnership

Hmong National Development, Inc.

A Subsidiary of Hmong American Partnership
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TO: Stephanie Trifone
 Senate Judiciary Committee

FROM: Bao Vang, President & CEO
 Hmong National Development, Inc.

RE: Hmong National Development, Inc.'s Written Statement for Senate Judiciary
 Committee Hearing on Hate Crimes and Domestic Extremism

DATE: September 17, 2012

Hmong National Development, Inc. (HND) commends the Senate Judiciary Committee for convening a hearing on hate crimes and domestic extremism. HND is a national, nonprofit organization whose mission is to empower the Hmong community to achieve prosperity and equality through education, research, policy advocacy and leadership development. Founded in 1993, HND is the leading national policy organization for the Hmong community. HND mobilizes the Hmong community around issues of concern, including when injustices have been perpetrated against its members.

The issue of hate crimes is of great importance to the Hmong community, as it unfortunately knows all too well the pain of being targeted and victimized due to race and ethnicity. The Hmong began resettling in the U.S. as refugees after the Vietnam War. The Hmong living in Laos had been recruited by the U.S. during the war to fight alongside American soldiers. The Hmong suffered tremendous casualties during the fighting. After the U.S. retreated, they suffered severe persecution at the hands of the Communist government in Laos due to their support of the U.S.

Through the refugee resettlement process, many Hmong were resettled to remote, rural areas throughout the U.S. Others that started out living in more urban areas ended up migrating to rural areas after their initial resettlement so that they could return to their agricultural roots and achieve the American Dream of economic self-sufficiency through farming. This has resulted in many Hmong families living in rural communities that lack diversity and are not accustomed to living with minorities and dealing with different cultures.

The Hmong community had hoped to be welcomed to America's shores after the deep sacrifices they had made on behalf of the U.S. But unfortunately, many Hmong have been greeted by hostility, mistrust, and xenophobia. Many Hmong have experienced the indignities of racial profiling, ethnic slurs, and other forms of racism on a day to day basis. However, more serious incidents of violence, including extremely severe beatings and even murder, have shaken the community for the past several years.

In 2007, Cha Vang was brutally murdered in the woods in Green Bay, Wisconsin. He had been shot once and stabbed six times in the neck. He was found buried under logs and debris with a branch forced down his throat. Vang was a recent Hmong immigrant with five children, who had resettled from a Thai refugee camp a couple of years prior to his murder. James Nichols, a 28-year old white man who had been previously convicted of

burglary, was charged with first-degree murder for Vang's death. During the trial, it was revealed that Nichols had told his boss that he had come upon a Hmong man alone in the woods on a prior occasion and that he would have killed him if he had had his rifle. When asked why, he had said "because I hate them [expletive]."¹ Nichols had also used red paint to scrawl a racial slur and the letters K.K.K. on a wall in the course of a previous burglary.² After confessing to the murder, Nichols stated to police that "Hmong people are bad." Despite this evidence, the prosecution chose not to charge him with a hate crime. The all-white jury was from Nichols' home town, and they convicted him of second-degree murder instead of first-degree murder.

Although Nichols received a lengthy prison sentence, the Hmong community was shocked and dismayed by the verdict. They could not fathom how such a brutal killing could be considered second-degree murder, particularly in light of the fact that Nichols was a convicted felon who had illegally possessed a firearm in committing the murder—a scenario that would in most instances result in increased penalties. The community was also outraged by the prosecution's failure to treat the case as a hate crime, despite all of the evidence of Nichols' white supremacist leanings and hatred of the Hmong. They did not feel like justice had been served, and the case resulted in increased tensions among the Hmong community and the majority white community in Wisconsin. Many wondered how something like this could have happened in America, a land which was supposed to be built on a foundation of equality and justice, and for which they had sacrificed so much.

More recently, an Oklahoma man by the name of Scott Osborn severely beat a Hmong man named Neng Yang on March 1, 2011. Yang had taken a wrong turn while driving down a country road. Several dogs were in the middle of the road, and while he swerved to avoid hitting the dogs, one was accidentally run over. The dog belonged to Osborn, who was nearby. Yang pulled over and got out of the car to apologize about the accident, at which point Osborn beat him so severely he lost consciousness. Yang was hospitalized with a chest wall contusion, broken ribs, a dislocated jaw and a shattered nose bone as a result of the attack.³ Although Yang is a mere 5'4" tall and 140 pounds, Osborn, who is over 6 feet tall and weighs 280 pounds, stated that he acted in self-defense. Rather than immediately arresting Osborn, law enforcement in the small town of Vinita initially charged Yang with reckless driving. It was later revealed that Osborn was friends with the law enforcement officers investigating the case, and that he himself had worked as a corrections officer. The community became increasingly frustrated as law enforcement seemed to drag its feet in the case, failing to give it the attention it deserved. The charge against Yang was later dropped, and Osborn was eventually charged with aggravated assault. In the community's eyes, the beating and its severity was clearly driven by Yang's race. Few doubted whether Osborn would have felt such license to inflict that type of brutality if the victim was not Hmong. Osborn's attitude throughout the trial showed a lack of remorse and a smug disdain for his victim, with Osborn even bragging about the crime to his peers. Despite the community's feeling that this was a hate crime, the prosecution failed to bring hate crime charges.

Over a year after the beating, Scott Osborn was eventually convicted of aggravated assault. However, the case has left a bitter taste in the mouths of many in the Hmong community. The treatment of the case was a stinging reminder of the many times where Asian Americans and other immigrants had been subjected to brutality, only to be pushed aside and dismissed. As a result of the beating, Mr. Yang had to undergo facial reconstructive

¹ "Hmong Killer Guilty of Lesser Charge Despite Damaging Evidence," *Hmong Today*, October 30, 2007. Available at: <http://www.tcdailyplanet.net/article/2007/10/30/hmong-killer-guilty-lesser-charge-despite-damaging-evidence.html>

² "Hmong, Shaken, Wonder if a Killing Was a Retaliation," *New York Times*, January 14, 2007. Available at: http://www.nytimes.com/2007/01/14/us/14hmong.html?_r=1

³ "Trial Begins for Vinita Man Charged in Beating Over Dog's Death," *Oklahoma's Own*, May 21, 2012. Available at: <http://www.newson6.com/story/18576265/trial-begins-for-man-charged-in-beating-over-dogs-death>

surgery and now has irreversible nerve damage to his eyes, which caused him to lose his job and medical insurance. He and his family continue to struggle with the aftermath, and the community again feels that justice was not really served.

These are only a couple of the incidents that have affected the Hmong community and other Asian American communities throughout the U.S. We are reminded of other incidents of brutality against Asian Americans where little was done and few bothered to pay attention. We remember the brutal murder of Vincent Chin in 1982 in Detroit, Michigan. More recently, we recall the death of Pvt. Danny Chen, who committed suicide in Afghanistan in October 2011 after enduring countless days of racially-motivated bullying and degradation from his superiors. Many hate crimes are never even brought to light, and the Bureau of Justice Statistics has suggested that the actual number of hate crimes may be up to 15 times higher than what is reported.

Even when a hate crime is reported, often times the prosecution will not pursue the case as a hate crime, as in the Vang and Yang cases discussed above. In cases that occur in small, rural towns such as those where many Hmong reside, the perpetrators, law enforcement, and juries are all often part of the same tight-knit, majority white community. In these types of situations, the perception of justice is hard to come by for those who have been wronged and are deemed outsiders. Even when prosecutors have evidence of a potential hate crime, often times the charge will not be raised because it is so difficult to prove motive beyond a reasonable doubt.

The impact of hate crimes extends beyond the direct victims and their families. The impact is felt throughout the communities that are being targeted. For communities such as the Hmong, who have been persecuted throughout their history and sought to finally find freedom and equality in the U.S., the wounds run particularly deep. Other Southeast Asian refugee groups experience similar racism and victimization and suffer similar feelings of betrayal. The U.S. has accepted these refugees in order to provide them with freedom from persecution. When faced with a reality that does not live up to these ideals, many refugees lose faith in American society and question their place in it.

We live in a society that on numerous occasions has tolerated violence against Asian Americans. Hate crimes legislation is too infrequently utilized, with entire communities facing the consequences. It is imperative that Congress work to protect public safety, that acts of violence are not dismissed, and that perpetrators do not walk away with a slap on the wrist.

Policy Recommendations:

Below are policy recommendations that Congress, the White House, and government agencies should undertake:

- Ensure robust and comprehensive implementation of the Mathew Shepherd and James Byrd, Jr. Hate Crimes Prevention Act (HCPA):
 - To ensure robust enforcement, DOJ should file appropriate cases under HCPA; vigorously defend the constitutionality of the Act; and ensure continued education, outreach, and training to federal, state, and local law enforcement officials on HCPA and its requirements.
- Improve federal hate crime data collection, disaggregation, categorization, and reporting efforts
 - DOJ should promote mandatory comprehensive participation in existing hate crimes reporting requirements and the FBI should improve hate crime incident reporting by developing new categories on hate crime incident report forms for various affected communities not yet covered (including anti-Arab, anti-Sikh, and anti-Hindu incidents).

- Allocate and prioritize federal funding for initiatives that prevent, investigate, and combat hate crimes, hate groups, and domestic extremism
 - The way that law enforcement chooses to investigate cases leads to wide disparities in hate crime charges. Congress should provide adequate appropriations for prevention, education, and training initiatives for law enforcement around existing hate crimes policies. Congress should also support anti-bias education initiatives.
- Establish formalized interagency efforts and positions at the highest levels of government, in partnership with community stakeholders, to address hate crimes
 - The White House should convene a Presidential summit on hate crimes that engages community members, religious leaders, and federal government officials with the purpose of developing best practices for stakeholders. The White House should also establish an interagency taskforce on hate crimes and domestic extremism. DOJ should also formalize the Initiative to Combat Post-9/11 Discriminatory Backlash within the DOJ Civil Rights Division by designating a Special Counsel for Post-9/11 Discrimination and a Special Counsel for Religious Discrimination.
- Curb actions and discourse by government agencies and public officials that often promote a climate where hate crimes can occur
 - Congress should pass robust anti-profiling policies, such as the *End Racial Profiling Act* (S. 1670; H.R. 3618) which prohibits profiling based on race, religion, ethnicity, or national origin by federal, state and local law enforcement. DOJ should also amend its 2003 Guidance Regarding the Use of Race by Federal Law Enforcement Agencies to apply to profiling based on religion and national origin, remove national and border security loopholes, cover law enforcement surveillance activities, apply to state and local law enforcement agencies acting in partnership with federal agencies or receiving federal funds, and make the guidance enforceable. Public officials should refrain making statements based on racism, xenophobia, homophobia, sexism, or religious intolerance. Public officials should also take a pledge to not engage in such rhetoric as well as condemn such statements when they do occur in the public sphere.

HND would welcome the opportunity to work with the Senate Judiciary Committee and other members of Congress in addressing the issue of hate crimes and domestic extremism. Please feel free to contact HND's Policy Advocate, Yunie Hong, at (202) 588-1661 or yunieh@hndinc.org with any comments or follow up.

**HOWARD
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School of Law
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HOWARD UNIVERSITY SCHOOL OF LAW -- CIVIL RIGHTS CLINIC

*STATEMENT TO THE UNITED STATES SENATE COMMITTEE ON THE JUDICIARY
CONCERNING THE HEARING BY THE SUBCOMMITTEE ON THE CONSTITUTION,
CIVIL RIGHTS AND HUMAN RIGHTS
ON HATE CRIMES AND THE THREAT OF DOMESTIC EXTREMISM*

For nearly 150 years, the Howard University School of Law's primary mission has been to advocate and defend civil and human rights for all. As part of this mission, the Howard University School of Law Civil Rights Clinic engages in trial and appellate impact litigation in the service of social justice, economic fairness and political equality. The Clinic litigates on behalf of indigent, prisoners, and *pro se* clients in federal and state courts on a range of civil rights matters, including but not limited to employment and housing discrimination, school desegregation, voting rights, police brutality, unconstitutional prison conditions, habeas corpus, and unfair procedural barriers to the courts.

The Clinic commends the Senate Judiciary Committee for convening a hearing on hate crimes and domestic extremism and now writes in support of the Sikh Coalition and the rest of the Sikh community's efforts seeking Congress to provide comprehensive implementation of the Federal Hate Crimes Prevention Act; improvement to the federal hate crime data collection efforts; and increased awareness of the Sikh faith.

As a nation we derive our strength from people of different races, creeds, and cultures uniting in commitment to the freedom of all. However, the mass shooting of Sikh worshippers in



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Oak Creek, Wisconsin, on August 5, 2012, is a grim reminder that Martin Luther King's dream of a country where people are not judged by their appearance has yet to become a true reality.

The mass shooting in Oak Creek is not unique because it involved Sikh worshippers. Instead, it is an example of how, far too often, hatred left unchecked can lead to devastating tragedies. Prior to the Civil Rights Act of 1964 and the Voting Rights Act of 1965 the federal government failed to acknowledge the socially entrenched racism that created a separate and unequal America where African Americans were prevented from exercising their freedoms through state law and acts of violence.

Increasingly these days in our nation, religion, ethnicity, and race fuel the suspicion that one is not American and does not belong in this country. Each year, there are hundreds of thousands of victims of violence based on nothing more than appearance or lifestyle. Numerous Sikh men wearing turbans and beards are beaten or killed for appearing "suspicious."

History should teach us that what may seem like isolated incidents of hate or domestic extremism can transform into greater injustice. Jim Crow laws and the internment of Japanese Americans serve as examples of what occurred in America when society permitted the targeting of individuals based on nothing more than appearance. Therefore, it is imperative that Congress take responsive steps to educate all Americans to act and react in celebration of all communities of color, instead of fear and suspicion against them. This country cannot afford to return to the pre-Civil Rights Act era.



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More recently, misguided hatred was embodied in the killings of Matthew Shepard and James Byrd, Jr. Their deaths led to the Federal Hate Crimes Prevention Act. However, more remains to be done. While religious hate crimes accounted for nearly one-fifth of hate crimes in 2010, the Federal Bureau of Investigation does not track religious hate crimes involving Sikhs. This must change. Effective data collection is necessary in order to respond and provide resources to prevent and deter future violence motivated by religious bigotry.

Howard University School of Law's Civil Rights Clinic urges Congress to take the necessary steps in preventing massacres like the one in Oak Creek from reoccurring. Enhancing the civil rights of one community is a step forward for every community. The Civil Rights Clinic supports the Sikh community because no one should have to live in fear for their safety, simply because of their faith.



Written Statement of
Allison Herwitt
Legislative Director
Human Rights Campaign
to the
Subcommittee on the Constitution, Civil Rights and Civil Liberties
Committee on the Judiciary
United States Senate
Hearing on "Hate Crimes and the Threat of Domestic Extremism"
September 19, 2012

Chairman Durbin and Members of the Subcommittee:

My name is Allison Herwitt, and I am the Legislative Director at the Human Rights Campaign (HRC), America's largest civil rights organization working to achieve lesbian, gay, bisexual and transgender (LGBT) equality. By inspiring and engaging all Americans, HRC strives to end discrimination against LGBT citizens and realize a nation that achieves fundamental fairness and equality for all. On behalf of our more than one million members and supporters nationwide, I thank you for holding this important hearing.

It is with great sadness that HRC submits this testimony. As everyone at this hearing knows, on August 5th, a horrendous act of violence was perpetrated within the walls of a Sikh temple in Oak Creek, Wisconsin. The gunman, a white supremacist, killed five Sikh men and one Sikh woman before turning his gun on himself. This crime had many direct victims, including a courageous responding police officer. This crime also had many indirect victims because it was a crime against the entire Sikh community. Our hearts go out to the family and friends of the victims of this tragedy. Our hearts go out to the entire Sikh community that now, more than ever, feels under attack.

The impact of a bias motivated crime extends far beyond its physical victims to society-at-large. A bias motivated crime, like an act of terrorism, sends a message that echoes loudly across our country. We feel less secure. We feel less free. An entire community feels vulnerable to the destructive power of hate and intolerance.

The attack on the temple in Oak Creek was motivated by one of the worst kinds of animus: a hatred of people because of nothing more than their identity. At HRC, we are all too familiar with violence against individuals whose only transgression is existing. We have seen such violence take many members of our community, including Matthew Shepard, Angie Zapata, Sean Kennedy and countless others. We must not be scared to be who we are. That's why HRC advocates for strong hate crime laws and effective implementation and enforcement of those laws.

In 2009, after more than a decade of advocacy by HRC and our coalition allies, Congress passed and President Obama signed the Matthew Shepard and James Byrd, Jr. Hate Crime Prevention Act, which expands the federal government's ability to investigate and prosecute hate crimes. This law – for the first time in our nation's history – explicitly protects LGBT people from violence based on their sexual orientation or gender identity. Notably, and equally important, it also protects individuals from violence based on their race, color, national origin, religion,

gender or disability.

In the short time since the law has taken effect, the Department of Justice through its Civil Rights Division, Community Relations Service and Federal Bureau of Investigations has coordinated efforts to ensure the Shepard-Byrd Act is being implemented and utilized appropriately. DOJ has entered communities with rising community tensions to prevent hate crimes from occurring. DOJ has conducted dozens of trainings on the new law for law enforcement and prosecutors across the country. DOJ has assisted local law enforcement with investigations of hate crime incidents. And, DOJ has utilized the new law to prosecute individuals who have committed hate crimes. DOJ must continue these efforts and renew its commitment to preventing hate crimes in the wake of what happened in Oak Creek last month.

DOJ has successfully sought justice in two hate crime incidents against gay victims. These efforts represent the first two cases brought by DOJ involving victims attacked because of their sexual orientation. In Michigan, a man pled guilty on August 29th to violating the Shepard-Byrd Act after brutally assaulting a fellow customer at a convenience store merely because he believed the man was gay. In Kentucky, two women pled guilty on April 13th to violating the Act after they assisted in kidnapping and assaulting a gay man because of his sexual orientation. These convictions project an important message: our federal government will not tolerate violent acts aimed at terrorizing an entire community.

The FBI has spent nearly two decades collecting national hate crime statistics, including statistics on hate crimes based on race, religion, ethnicity, sexual orientation and disability. The Shepard-Byrd Act requires the FBI to begin collecting statistics on hate crimes motivated by gender and gender identity, as well as hate crimes committed by and against juveniles. HRC and our coalition partners have helped the FBI prepare to begin collecting these statistics. The manuals for collecting hate crimes have been updated. The form for transmitting information on hate crimes to the FBI has been updated. The FBI must not wait any longer. It is time to begin collecting these statistics as soon as possible – and no later than January of 2013.

Statistics collected by the FBI are released in its annual Hate Crime Statistics report. According to the most recent hate crime statistics report, there were 6,624 bias motivated incidents in the U.S in 2010 and 19.3% of these hate crimes were the result of sexual orientation bias. While it is shocking to know that on average more than three hate crimes occur each day against the lesbian and gay community, it is disturbing to find out that this number represents only the tip of the iceberg. Because hate crime reporting is voluntary, thousands of law enforcement agencies nationwide do not report these crimes to the FBI. In 2010, at least three agencies in cities with populations of 250,000 or more and at least twelve agencies in cities with populations of 100,000 to 250,000 did not report hate crimes occurring within their jurisdictions. This must change. DOJ must work with non-reporting law enforcement agencies to encourage reporting. In addition, senators should ensure that law enforcement agencies within their state are reporting hate crimes to the FBI.

Recently, some have sought to challenge the constitutionality of the Shepard-Byrd Act. When this has happened, DOJ has stepped up to defend the Act against meritless constitutional challenges. Last month, the Sixth Circuit Court of Appeals released an opinion that found three Michigan pastors without sufficient standing to challenge the constitutionality of the Shepard-Byrd Act. The opinion dismissed the plaintiffs' challenge as "a political statement."

Simply put, the three plaintiffs believe that being gay is "forbidden by God" and that it is their

duty to “publicly denounce homosexuality, homosexual activism, and the homosexual agenda as being contrary to God’s law.” They filed the lawsuit because they were concerned that the Shepard-Byrd Act prohibits them from espousing their form of hate. According to the Court, they are wrong. The opinion states:

So why are Plaintiffs here? If the Hate Crimes Act prohibits only willfully causing bodily injury and Plaintiffs are not planning to willfully injure anybody, then what is their complaint? Plaintiffs answer that they fear wrongful prosecution and conviction under the Act. Not only is that fear misplaced, it’s inadequate to generate a case or controversy the federal courts can hear.

Therefore, until the plaintiffs decide it is also their moral duty to violently attack individuals because they are gay, they are free to morally condemn whomever they wish. The federal hate crime law does not inhibit free speech. This is not news seeing that the Supreme Court ruled in the early 1990s that hate crime laws do not violate constitutional free speech protections. In *R.A.V. v. City of St. Paul* and *Wisconsin v. Mitchell*, the Court concluded that evidentiary use of speech to prove motive or intent does not offend the First Amendment.

The Eighth Circuit Court of Appeals also rejected a challenge to the law last month. In this challenge, the plaintiff argued that Congress did not have the authority to criminalize hate crimes based on race that were not committed while a victim was engaged in a federally protected activity. The three-judge panel of the Court unanimously rejected this claim citing the power given to Congress under the Thirteenth Amendment to address the badges and incidents of slavery. These cases demonstrate the fact that opponents of hate crime laws will continue to challenge their existence. These cases also demonstrate the strength of the law under these challenges. While we know Attorney General Holder is committed to defending the constitutionality of the Shepard-Byrd Act, we must ensure that future Attorneys General exhibit the same commitment to the law.

It is unfortunate that it takes an event like the one at the Sikh temple last month to remind many in our nation of the devastating impact of hate motivated violence. At HRC, we do not believe that anyone should be subject to violence based on who they are or what they believe – whether the victim be a friend or opponent of HRC in the fight for equality. We have made great efforts to curb the scourge of hate crimes, but there is obviously more to be done. We look forward to working with Congress and the Administration to reach the day when all Americans can be who they are without fear of violence motivated by hate.

**Written Testimony of Paul LeGendre
Director, Fighting Discrimination Program
Human Rights First**

Hearing on
“Hate Crime and the Threat of Domestic Extremism”

before the
Senate Judiciary Committee,
Subcommittee on the Constitution, Civil Rights and Human Rights
September 19, 2012

To the Honorable Richard Durbin, Ranking Member Lindsey Graham, and Members of the Subcommittee:

Thank you for the opportunity to submit this statement on behalf of Human Rights First on the importance of U.S. leadership on the global problem of hate crime.

Human Rights First advocates for American global leadership in the struggle for human rights. Around the world, Human Rights First works with the U.S. Government and businesses to harness American influence to secure core freedoms. Since 2002, Human Rights First’s Fighting Discrimination program has sought to reverse the tide of racist, anti-Semitic, xenophobic, anti-Muslim, homophobic and other bias-motivated violence across the globe.

The U.S. government has a wide arsenal of tools to address the problem of hate crime and the threat of domestic extremism, which remain serious problems in the United States. The adoption and implementation of the 2009 Matthew Shepard and James Byrd, Jr. Hate Crime Prevention Act has been a key step toward a comprehensive response at home.

A strong response at home makes the U.S. credible when it advocates for responses from governments around the world to similar problems. The rising tide of violent hate crime across the globe necessitates continued U.S. global leadership on this issue. This statement provides concrete recommendations for the United States to strengthen its leadership in both bilateral and multilateral efforts to confront this global human rights challenge.

Hate Crimes Around the World

Hate crime violence – in which people are targeted just because of who they are – affects a variety of individuals and communities around the world: refugees and migrants, religious believers, ethnic minorities, lesbian, gay, bisexual, and transgender (LGBT) persons, and many others. ¹Human Rights First published a report in 2011 documenting some of the problems and

¹ http://www.humanrightsfirst.org/wp-content/uploads/pdf/UNHCR_Blueprint.pdf

follows ongoing trends: A brutal anti-immigrant mob attack in Athens, injuring dozens; a slaying of a gay man whose attackers carved swastikas into his body in Chile; a series of murders and attacks of Roma in Hungary; sub-Saharan African migrants targeted during the recent conflict in Libya; migrant workers from Central Asia assaulted in broad daylight on the busy Moscow subway; and the heinous attack on a Sikh temple in Wisconsin—these are just a few examples of hate crime attacks that have garnered domestic and international attention.

There are multiple biases that fuel hate crimes occurring across the globe, among them:

- **Racist and xenophobic violence** have been on the rise in many places, particularly in the face of the global economic downturn. Sometimes these crimes are triggered by racist sentiments; in others, religious differences or economic factors spark crimes of intolerance. The common thread is that the targets of xenophobic violence are usually marginalized communities that are often viewed as foreign, while the perpetrators of such violence often escape with relative impunity. Refugees, asylum seekers, and migrants are among the principal targets of racially and religiously motivated violence as they are often easily distinguished by their appearance, language, religion and customs.
- Attacks motivated by **religious hatred** continue, creating an atmosphere of fear and anxiety and obstructing individual rights to freedom of religion and belief. Religious communities can be subject to acts of vandalism and other serious property damage, such as at the Sikh Temple in Wisconsin. Individuals associated with religious groups have also been targeted for violence.
- **Roma and Sinti** face violent hate crimes and a myriad of other forms of public and private discrimination throughout Europe. A pattern of violence is directed at causing immediate harm to Roma and physically eradicating their presence in towns and communities in Europe. Racist violence against Roma remains gravely underreported. Roma routinely suffer racist assaults in city streets and other public places as they travel to and from homes, workplaces, and markets.
- Continuing violence based on **sexual orientation and gender identity** bias, though still largely unseen, is an intimidating day-to-day reality for LGBT individuals, as well as others who do not conform to stereotypes of gender identity or simply advocate for LGBT rights. Gay pride parades and events in a number of countries have resulted in hateful diatribes from political leaders, inadequate police protection, and acts of harassment and violence against the participants. LGBT individuals are particularly vulnerable in countries where same-sex relations are criminalized.

Violent hate crime is always harmful to society but is particularly destructive when there is either no response or an inadequate response by State institutions. Governments are obliged to protect individuals—citizens and noncitizens, regardless of their legal status—from discrimination by addressing xenophobic and other forms of bias-motivated violence. Too often, though, the reality is that there is relative impunity for these brutal crimes. An expectation of impunity can contribute to an escalation of such attacks.

One problem to address as we tackle the issue is the scant amount of systematic documentation on the responses of States. One of the few sources of information comes from the OSCE's Office for Democratic Institutions and Human Rights (OSCE/ODIHR). Since 2007, the ODIHR has produced an annual report on hate crimes in the OSCE region (including all of Europe, North

America, and the Former Soviet Union) collecting information from the participating States, U.N. agencies, NGOs and other actors on the extent of hate crime and the government responses. A review of ODIHR's reports – which Human Rights First has done on an annual basis together with the Anti-Defamation League – reveals that most governments have yet to develop monitoring systems that track hate crime attacks and the government responses. Without this baseline information, most governments are in a poor position to develop sound policy tools for improving protection from hate crime violence. Human Rights First has been part of efforts to strengthen data collection among OSCE states, and the recommendations below offer suggestions for how the U.S. can do more on this front.

The United States is a Global Leader in Combating Hate Violence

The United States has been a leader in recognizing and documenting the global problem of hate crime violence and placing it on the international human rights agenda. The United States leverages both bilateral and multilateral strategies to bolster the implementation of international commitments to combat hate crime. The ongoing work to improve the U.S. government's response to hate crime at home provides the basis for the United States to lead by example, and lend that expertise to international efforts.

Human Rights First commends the Chairman for convening this hearing. It signifies the importance the United States attaches to the fundamental rights that are violated when violent hate crimes occur and particularly when they are not met by a robust government response. Human Rights First's Ten Point Plan for combating hate crime offers a comprehensive approach to combating hate crime. Speaking out against the intolerance at the roots of these crimes is one of the key points in this plan. When political leaders from across party lines speak out against hate crime and related forms of intolerance, it sends an important signal to our communities. This is a practice that is sorely needed, but one that is lacking in many countries. The United States, with leadership from individual members of Congress, can set an important example on the effectiveness of this important tool to combat hatred.

Human Rights First recommends that Congress should work with other branches of the U.S. government toward three goals:

- 1) Advocate measures in the context of bilateral relations to combat hate crime;
- 2) Strengthen the international leadership of the U.S. in multilateral forums; and
- 3) Expand efforts to support civil society organizations throughout the world.

Bilateral Responses

In bilateral relations with other countries, the U.S., led by the Departments of State and Justice, should:

- 1) Raise incidents and patterns of hate crime violence with representatives of foreign governments and encourage vigorous responses. Share concrete recommendations, such as those articulated in Human Rights First's Ten-Point plan for combating hate crime, and offer support to implement them.

- 2) Create an Interagency Policy Coordination Committee (IPC) to facilitate systematic and regular information-sharing and collaboration among relevant bureaus at the Department of State, Department of Justice, and related agencies.
- 3) Maintain strong and inclusive Department of State monitoring and public reporting on anti-Semitic, racist and xenophobic, anti-Muslim, homophobic, anti-Roma, and other bias-motivated violence.
- 4) Offer appropriate technical assistance and other forms of cooperation, including training of police and prosecutors to investigate, record, report, and prosecute violent hate crimes, and organize international visitors programs to the U.S. for representatives of law enforcement, victim communities and legal advocates.
- 5) Expand international efforts of the Department of Justice's International Criminal Investigative Training Assistance Program (ICITAP) and Office of Overseas Prosecutorial Development, Assistance and Training (OPDAT) programming to include hate crime-tailored training initiatives for foreign law enforcement and criminal justice personnel.
- 6) Expand curricula of the State Department's International Law Enforcement Academies to include specific training courses on combating hate crime.
- 7) Support civil society groups working to combat bias-motivated violence, by facilitating access to existing U.S. funding programs and by directing Embassy and Department of State representatives to meet with such civil society groups and members of affected communities on a regular basis.

Multilateral Responses

In multilateral forums, Congress should support the U.S. Department of State to demonstrate international leadership by:

- 1) Providing political and financial support to the Office of the U.N. High Commissioner for Refugees (UNHCR), the International Organization on Migration (IOM), and the Organization for Security and Cooperation in Europe (OSCE) to increase practical work on xenophobic, racist, and other hate crime.
- 2) Support the Organization for Security and Cooperation in Europe (OSCE) and its Office for Democratic Institutions and Human Rights (ODIHR) to:
 - a. Press member states to comply with OSCE commitments on tolerance and non-discrimination, in particular with the 2009 Decision on Combating Hate Crime;
 - b. Maintain strong support for the organization's hate crime technical assistance programs;
 - c. Appoint the Justice Department's Civil Rights Division as the designated Hate Crime Point of Contact for the OSCE and support its active engagement in that forum.

- 3) Continue to incorporate into the U.N. Human Rights Council's Universal Periodic Review process (UPR), specific concerns about hate crimes and present recommendations for combating them in each country.
- 4) Continue to oppose the prohibition of defamation of religions at the U.N. and promote best practices on how to combat hatred without restricting speech.

Ten-Point Plan for Combating Hate Crimes

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 under recording 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.



6328 North California
Chicago, IL 60659
September 17, 2012

Statement for the Record for
Senate Judiciary Committee Hearing on Hate Crimes & Domestic Extremism

The Indo-American Heritage Museum (IAHM) celebrates diversity and in solidarity with other fair-minded Americans requests federal government action to curb criminal activity motivated by bigotry, discrimination, and hate. IAHM commends the Senate Judiciary Committee for convening a hearing on hate crimes and domestic extremism. Official action is vital to denounce and to curb hate-fueled sentiment and bigoted rhetoric in our public and political discourse.

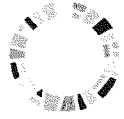
It was truly shocking and sad to watch the news unfold about the senseless killings at the Oak Creek Gurudwara. Our government leaders must remain vigilant and take action lest it be forgotten with the next news story. Federal funding for initiatives that prevent, investigate, and combat hate crimes, hate groups, and domestic extremism is essential to augment activities of grass-roots organizations like the Indo-American Heritage Museum, which seeks to foster understanding of the history, diversity and culture of Indian Americans and to showcase their contributions and achievements.

IAHM values the religious plurality and diversity that immigrants have brought to America and promotes tolerance and respect in numerous ways. Presentations by Indian American volunteers to university, college, and K-12 students and teachers as well as other visitors to the ethnic commercial area on Devon Avenue in Chicago augment a virtual museum where galleries highlight the history of immigration from India to America. Collaboration with other ethnic organizations through the Chicago Cultural Alliance and larger institutions like the Field Museum, the Chicago Children's Museum, the Chicago Department of Cultural Affairs, and the Chicago History Museum extends IAHM's outreach. Participation in City of Chicago annual Neighborhoods of the World enables IAHM to engage thousands of people during AMAZING INDIA. Partnership supported by the Chicago Community Trust with NATYA Dance Theatre to offer a series of performances to underserved audiences throughout Chicagoland is currently exposing audiences to the diversity of India's rich cultural heritage.

On-going incidents of discrimination and targeting of innocent Indian Americans both immediately after the attack on the World Trade Center and at Oak Creek Gurudwara in August 2012 indicate on-going problems of intolerance and hate which threaten the security of all Americans. Indian Americans: Sikh, Muslim, Hindu, Jain, Christian, Jewish, and non-religious are working in all kinds of professions and occupations in the US. They occupy political positions, serve in the American armed forces, and contribute to the civic welfare in multiple ways. Nonetheless, they are targets of racial profiling, school bullying, and hate crimes, most shockingly in instances like the Oak Creek massacre and the killing of Balbir Sodhi in 2011.

Government action to restrain actions motivated by unbridled hate and bigotry are vital for the security of all Americans. This hearing is an important step supported by the Indo-American Heritage Museum.

Yours very truly,
Shailja Khatri, President
Indo-American Heritage Museum



**INTERFAITH
ALLIANCE**
PROTECTING FAITH AND FREEDOM

**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 "Hate Crimes & the Threat of Domestic Extremism."
September 19, 2012**

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 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 "Hate Crimes & the Threat of Domestic Extremism."

With dramatic unanimity, the sacred scriptures of diverse religious traditions vehemently condemn hate; it is neither a religious nor an American value. These are among the reasons why Interfaith Alliance has been a staunch supporter of laws such as the Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act and of efforts to prevent such crimes from occurring in the first place.

At its most fundamental level, hate violence is an aggressive expression of prejudice against another person or group of people simply because of who they are, or who they are perceived to be. All crimes are not equal. We see this not only in how our legal framework metes out punishments based on the crimes committed, but in how we as individuals are affected by some crimes more or less than others. Any crime committed by one human being against another is a tragedy, but a crime that is motivated by hatred and prejudice tears apart the lives not only of the individuals who are targeted, but of the larger group they represent.

This hearing comes at a time in which it seems hatred of minority religious groups in the United States is pervasive—we see it manifested in acts of violence against individuals, in vandalism of houses of worship, and in the rhetoric of pundits and even elected officials on television. In recent months alone, six worshipers at a Sikh gurdwara in Wisconsin were brutally murdered, at least 10 Islamic institutions have faced attacks including vandalism, and attacks on the Jewish community continue to account for a majority of all religiously-motivated hate crimes, as documented by the Federal Bureau of Investigation. Of course, crimes of hate are committed against far too many groups for far too many reasons. Lesbian, gay, bisexual and transgender Americans, persons with disabilities, and racial minorities continue to be targets of hate crimes as well. My sorrow related to all of these tragedies is deepened by the reality of how much still must be done to eliminate violence spawned by hate, often religion-based.

Not only is it clear that we as a nation must do more to prevent hate crimes from occurring in the first place, it is also clear that our government and local law enforcement must step up statistics collection efforts. Too often, hate crimes go unreported not only because the

victim is afraid to report them – understandably – but also because reporting hate crimes is voluntary for law enforcement agencies. We must do more to find ways to motivate local law enforcement to actually report this data. Furthermore, I urge Congress (and the Administration) to support efforts to collect and break down additional data under the Hate Crimes Statistics Act, including crimes directed against Sikhs, Arabs and Hindus. This data is not currently collected or reported, but it is clear that members of these religious and ethnic groups are targets of hate crimes that are going under- or un-reported. Every story should be heard, every incident should be counted, and every victim deserves justice.



The Interfaith Center of New York

Testimony for Hate Crime Hearing

My name is the Rev. Chloe Breyer. I am a priest in the Episcopal Diocese of New York and the Executive Director of The Interfaith Center of New York. Founded fifteen years ago, the Interfaith Center of New York is a non-profit organization that works with hundreds of grass roots religious leaders from fifteen different faith traditions to address shared social concerns from domestic violence to child health. By including civic officials like judges, teachers, social workers in our programs, the Interfaith Center offers civics education to grassroots religious leaders, on the one hand, and religious diversity education to judges, court officials, teachers and social workers on the other. ICNY's institutional partners include the New York Unified Court System, The Mayor's Office of Immigrant Affairs, Catholic Charities, and UJA Federation. Our practical approach to interfaith work is recognized regularly by the State Department's International Visiting Leaders program and nationally as a model for faith-based peace-building.

We commend the Senate for scheduling hearings on the topic of hate crimes in the United States, to be presided over by Senator Dick Durbin, Chairperson of the Senate Subcommittee on the Constitution, Civil Rights and Human Rights. Acts of hatred based on the "otherness" of persons is a growing cancer that haunts the people of the United States, and, indeed, the global human family. According to the Southern Poverty Law Center, the number of hate groups in our country (currently numbering over a thousand) has grown by almost 60% since 2000. Too often we see violence directed at people because of their appearance, how they worship, where they are from, and what they believe. In 2010, more than 47% of hate crimes were racially motivated; 20% were motivated by the religion of the victim; 19% were based on sexual orientation and almost 13% of all hate crimes were based on ethnicity or national origin.

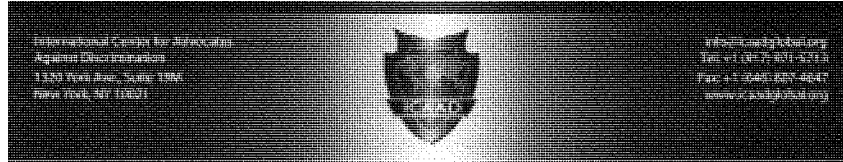
On August 8th, a few days after the shooting of six worshippers at the Gurdwara in Oakridge, WI The Interfaith Center of New York joined United Sikhs, the Sikh Coalition and other diverse faith partners to organize the "We are All Sikhs" vigil in Union Square, NYC to stand in solidarity and grief with the Sikh community around the world. At that time we joined others around the country seeking to tamp down the fires of discrimination, religious and otherwise, and noted Sikh faith's understanding of the oneness of humanity, belief in the equality of all people, embrace of non-violence, and commitments to service. We took the moment to educate our social media network on a common Sikh greeting, *Sat Sri Akal* which means "God is the Ultimate Truth."

Unfortunately, the Sikh community is not the only target of prejudice in the United States. Here in New York City, just days before the 11th anniversary of 9/11, ads on Metro North train platforms where commuters wait to travel into New York City, stated that there have been "19,250 deadly Islamic attacks since 9/11/01" and then, "It is not Islamophobia, it is Islamorealism." We anticipate that other ads sponsored by the group, The American Defense Freedom Initiative, will appear soon on New York City subway platforms. Ads by this group have also appeared in San Francisco, California

and elsewhere. With other faith leaders and in consultation with the New York City Human Rights Commission, we have appealed to the MTA Commissioner, the Governor of New York, and the Mayor to run disclaimers next to these hate ads and offer space for the Human Rights Commission to run its own ad campaign.

As an election season approaches, the Interfaith Center of New York joins our Prepare New York partners¹ and diverse religious leaders around New York in calling for political candidates and elected officials to resist stoking hatred and fear as a cynical means of attracting votes. Instead, we call on public officials both locally and nationally to adopt a zero-tolerance policy towards acts of religiously or ethnically motivated hatred. The integrity and responsibility required for holding public office in our diverse democracy demands nothing less. It is past time for the robust implementation of legislation aimed at preventing crimes of hate and prosecuting those who commit them. We look forward to the Subcommittee's next steps following this week's hearings.

¹ Supported by the Mayor's Office of Immigrant Affairs and the One Nation One New York Initiative, Prepare New York www.prepareny.com was a successful year-long partnership between the Interfaith Center of New York, The Tanenbaum Center For Interreligious Understanding, Intersections International, Auburn Seminary, Odyssey Networks, September 11 Families for Peaceful Tomorrows, and 9/11 Communities for Common Ground to help New York City become a more welcoming and respectful place for the 10th Anniversary of 9/11 than it had been the previous year.



**STATEMENT OF JASPREET AND HANSDEEP SINGH, CO-FOUNDERS OF THE
INTERNATIONAL CENTER FOR
ADVOCATES AGAINST DISCRIMINATION (ICAAD)
FOR THE HEARING ON
HATE CRIMES AND DOMESTIC TERRORISM
SENATE COMMITTEE ON THE JUDICIARY
SUBCOMMITTEE ON THE CONSTITUTION, CIVIL RIGHTS AND HUMAN RIGHTS
UNITED STATES SENATE
SEPTEMBER 19, 2012**

Chairman Durbin, Ranking Member Graham and members of the Subcommittee: We are honored to submit this testimony for the record on behalf of the International Center for Advocates Against Discrimination (ICAAD) regarding today's hearing on hate crimes and domestic terrorism.

ICAAD is a nonprofit organization founded for the charitable purpose of eradicating structural discrimination globally, and to promote human rights norms consistent with public international law. Structural discrimination precludes minority or vulnerable communities from fully participating and contributing to the social, cultural, political, and economic fabric of a State. ICAAD believes at the root of hate crimes, domestic and international terrorism, and mass atrocities are policies and practices that discriminate against communities based on gender, ethnicity, religion, sexual orientation, race, national origin, disability, or other identities; hence, it is imperative to combat structural discrimination to prevent the "othering" of these communities. ICAAD's co-founders have worked extensively on hate crimes issues in the United States and as Sikhs themselves, have faced verbal and physical violence as a result of their visible external identity.

We thank you for holding this critical and timely hearing on hate crimes and domestic terrorism. ICAAD is particularly concerned about the lack of resources dedicated to the monitoring of hate crimes and domestic terroristic threats, and as a result, the prevention of atrocities like the shootings in August at the Sikh “Gurdwara” (place of worship) in Wisconsin, and the numerous other hate related incidents in the past few months, including arson, vandalism, and direct physical assaults of people of various vulnerable communities.

Today, we are facing unprecedented levels of bias-based crimes against religious groups and the LGBT community. However, there is a convincing link between a rise in hate rhetoric against specific communities and actual hate crimes perpetrated. Although the documentation of hate crimes by the FBI is severely flawed, it nonetheless provides a consistent measurement to assess patterns over the last two decades. For example, hate crimes motivated by religious bias have steadily increased over the last five years of recorded data (2005-2010). In 2005, 15.8 percent of all bias-based crimes were religiously motivated and, that number has now reached 18.3 percent in the most recent report published in 2010. This represents the highest rate of religiously motivated hate crimes in the 18 years since the FBI started tracking hate crimes nationwide in 1992.

The flaws in the FBI’s tracking of hate crimes have been well established. The Bureau of Justice Statistics’s 2005 report on hate crimes indicated that statistics of hate crimes are 15 to 19 times greater than the FBI’s reporting indicates. According to the Leadership Conference on Civil Rights:

In 2007, 13,241 U.S. law enforcement agencies participated in the FBI’s HCSA data collection effort — the largest number of police agencies in the seventeen-year history of the Act. Yet, only 2,025 of these participating agencies — 15.3 percent — reported even a single hate crime to the FBI. As in past years, the vast majority of the participating agencies (84.7 percent) reported zero hate crimes. This does not mean that they failed to report; rather, they affirmatively reported to the FBI that *no hate crimes occurred in their jurisdiction*. In addition, more than 4,000 U.S. police agencies did not participate in this HCSA data collection effort — including at least four agencies in cities with populations of over 250,000 and at least 21 agencies in cities with populations between 100,000 and 250,000. In contrast to the FBI’s HCSA data, the U.S. Department of Justice Bureau of Justice Statistics in 2005 reported sharply higher numbers of hate crimes committed in the U.S.: “An annual average of 210,000 hate crime victimizations occurred from July 2000 through December 2003. During that period an average of 191,000 hate crime incidents involving one or more victims occurred annually. Victims also indicated that 92,000 of these hate crime victimizations were reported to police. These estimates were derived from victim reports to the National Crime Victimization Survey (NCVS) of the Bureau of Justice Statistics (BJS).”¹

¹ Leadership Conference on Civil Rights, *Hate Crimes in America: The Nature and Magnitude of the Problem*, available at <http://www.civilrights.org/publications/hatecrimes/nature-and-magnitude.html>.

Furthermore, hate crimes against Sikhs for example, are not even coded in the FBI hate crimes forms.² If a hate crime against a Sikh is documented, it is often coded as a hate crime against Muslims. By not properly assessing both the motivation (*mens rea*) of the perpetrator and identifying the actual victim, the FBI has effectively silenced an entire community that has faced an untold number of hate crimes post 9/11.³ Moreover, federal resources are not dedicated to training law enforcement about the need to protect and interface with the Sikh community because there is no clear data that shows that Sikhs are an especially vulnerable target of hate, nor are there adequate resources dedicated to training law enforcement departments around the country to investigate or report hate crimes.

In a public meeting at a Gurdwara in Lawrenceville, NJ, Michael Ward, Special Agent in Charge of the Newark division, admitted that if Wade Michael Page -- the perpetrator of the heinous attacks in Wisconsin and a member of the Hammerskin Nation, one of the most violent white supremacist groups in the country -- was Muslim, there would have been more scrutiny on him through questioning and monitoring by law enforcement that would potentially have prevented him from executing the deadly attack. This is because there are a disproportionate amount of resources dedicated to tracking potential terroristic plots by Muslim extremists, rather than tracking potential plots based on intelligence that does not stem from profiling.

Instead of taking the threat of right-wing extremism seriously, our government has chosen to ignore the threat. In 2009, Daryl Johnson, a senior analyst in the U.S. Department of Homeland Security authored a report, *Rightwing Extremism: Current Economic and Political Climate Fueling Resurgence in Radicalization and Recruitment*, warning of the dangers of violent right-wing extremism in the United States. Following the publication of the report and the political and media backlash that ensued, Mr. Johnson reported that "DHS

² FBI Hate Crimes Incident Reporting Form, available at <http://www.fbi.gov/about-us/cjis/ucr/reporting-forms/hate-crime-incident-report-pdf>.

³ "In the months following the attacks of 9/11, more than 300 incidences of hate crimes against Sikhs were reported, according to the Sikh Coalition." *History of Hate: Crimes Against Sikhs Since 9/11*, Huffington Post, available at http://www.huffingtonpost.com/2012/08/07/history-of-hate-crimes-against-sikhs-since-911_n_1751841.html.

made the decision to cancel all of its domestic-terrorism-related reporting and training for law enforcement.”⁴ and that “the Department not only decided to stop all of our work, but they also disbanded the unit, reassigned us to other areas within the office, and then made life increasingly difficult for us.”⁵

As is clear from the atrocious attacks on embassies in various countries in the Middle East in reaction to the hateful anti-Islamic film that was produced in the United States this past week, there is a parallel reaction in our own national discourse between hate violence and intolerant or hateful rhetoric. For example, in 2010, there was a rise in anti-Muslim hate crimes that correlate to the national dialogue surrounding the building of “mega-mosques,” the Park 51 Muslim community center in Manhattan, and the Florida pastor who threatened to burn the Quran on the anniversary of 9/11. The positions taken in the national media by public figures and talk-show hosts and the vitriolic discourse that ensued, all contributed to an increase of anti-Muslim sentiment in America. This is further exacerbated when governmental policies are based on profiling instead of intelligence.

The correlation is not only present when discussing anti-Muslim hate violence. In another example, hate crimes targeting the LGBT community have risen 36 percent between 2005 and 2010.⁶ During the same time frame, there has been the continuation of extreme rhetoric, again by public figures and within the media, by those opposing the marriage equality movement. Hate violence must be observed within a broader context of domestic terrorism, discrimination, and profiling. By failing to focus on those individuals and groups engaged in hate mongering and espousing supremacist ideologies, the government is ignoring a critical source of the problem.

⁴ Daryl Johnson, *Daryl Johnson: I tried to warn them*, Salon, available at http://www.salon.com/2012/08/17/daryl_johnson_i_tried_to_warn_them/

⁵ Amy Goodman, *Former DHS Analyst Daryl Johnson on How He Was Silenced for Warning of Far-Right Militants in U.S.*, Democracy Now!, available at http://www.democracynow.org/2012/8/9/former_dhs_analyst_daryl_johnson_on.

⁶ When controlling for total number of hate crimes in 2005 and 2010.

Conclusion

ICAAD is heartened by the Subcommittee's leadership in holding this hearing, and we are grateful for the opportunity to present our position on hate crimes and domestic terrorism. We urge the Committee to move swiftly and take concrete actions to:

- Provide adequate resources to monitor the threat of domestic terrorism and hate crimes. To our knowledge, DHS currently only has one person assigned to work on domestic terrorism for right-wing extremist groups. This is simply inadequate.
- Bolster the FBI hate crimes monitoring program, not only to correctly code hate crimes against Sikhs, but more importantly to close the gap of disparity between their statistics and the Bureau of Justice Statistics. This would require widespread training of law enforcement agencies, and more stringent reporting requirements.
- Ensure robust and comprehensive implementation of the Mathew Shepherd and James Byrd, Jr. Hate Crimes Prevention Act (HCPA): Enacted in 2009, this law encourages partnerships between federal and state law enforcement officials to more effectively address hate violence and provides limited authority for federal investigations and prosecutions when local authorities are unwilling or unable to act. To ensure robust enforcement, DOJ should file appropriate cases under HCPA; vigorously defend the constitutionality of the Act; and ensure continued education, outreach, and training to federal, state, and local law enforcement officials on HCPA and its requirements.
- Establish formalized interagency efforts and positions at the highest levels of government, in partnership with community stakeholders, to address hate crimes. The White House should establish an interagency taskforce on hate crimes and domestic extremism, similar to what was established by President Clinton following the church arsons of the 1990s. DOJ should also formalize the Initiative to Combat Post-9/11 Discriminatory Backlash within the DOJ Civil Rights Division by designating a Special Counsel for Post-9/11 Discrimination and a Special Counsel for Religious Discrimination.
- Curb actions and discourse by government agencies and public officials that often promote a climate where hate crimes can occur: Congress should pass robust anti-profiling policies, such as the *End Racial Profiling Act* (S. 1670; H.R. 3618) which prohibits profiling based on race, religion, ethnicity, or national origin by federal, state and local law enforcement; establishes requirements for law enforcement to collect data, provide anti-profiling trainings, and develop a complaint mechanism for affected individuals; allow DOJ to withhold grants to entities that fail to comply with the law and provide funding to these seeking to eliminate the practice; and allow affected individuals to seek redress in court. DOJ should also amend its 2003 Guidance Regarding the Use of Race by Federal Law Enforcement Agencies to apply to profiling based on religion and national origin, remove national and border security loopholes, cover law enforcement surveillance activities, apply to state and local law enforcement agencies acting in partnership with federal agencies or receiving federal funds, and make the guidance enforceable. Public officials should refrain making statements based on racism, xenophobia, homophobia, sexism, or religious intolerance. Public officials should also take a pledge to not engage in such rhetoric as well as condemn such statements when they do occur in the public sphere.

Thank you again for this opportunity to express the views of ICAAD. We welcome the opportunity for further dialogue and discussion about these important issues.

**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
“Hate Crimes and the Threat of Domestic Extremism.”
September 19, 2012**

Founded in 1963 in Plainfield, Indiana, the Islamic Society of North America (ISNA) is one of the largest and oldest Islamic umbrella associations in North America. Our mission is to provide Muslim organizations and individuals with a common platform for presenting Islam, supporting Muslim communities, developing educational, social and outreach programs and fostering good relations with other religious communities, and civic and service organizations.

ISNA commends the U.S. Senate Committee on the Judiciary for holding a hearing to address the critical issue of hate crimes and domestic extremism. We would also like to take the opportunity to thank the Committee for its hearing earlier this year on racial profiling, to address discriminatory activity specifically within law enforcement.

ISNA is deeply concerned about the recent upsurge in hate crimes against Muslim communities and other minority religious groups. As Americans, many of us are still haunted by the recent horrific shooting that took the lives of 6 Sikhs in Oak Creek, Wisconsin. America is a nation built upon the principles of freedom and diversity, where every citizen has the right to live and worship as they choose, without fear for his/her safety. We urge Congress and the Administration to take immediate measures to prevent and address further hate crimes in our nation.

Our great country guarantees all of its citizens the right to freedom of speech, and we are committed to helping ensure that this essential right is protected. When individuals within our society abuse this right in order to spread bigotry and hatred, we must all do our part to help counter these views and foster mutual respect and understanding. We ask our leaders in government to aid us in this task, by investing in appropriate new and existing tools to intervene when this hate speech involves violent threats.

We applaud Congress for its efforts in 2009 to pass the Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act, which reinforced existing legal protections. In spite of that important initiative, hate crimes continue to be a serious threat to our country. The Southern Poverty Law Center reports that the number of hate crimes in the United States has grown by 60% since the year 2000.

The tragedy last month in Oak Creek, WI was, unfortunately, only one of many incidents across the country. The night after that incident, a fire destroyed a mosque in Joplin, Missouri. While the cause is still unknown, a less damaging fire at the mosque just one month earlier was determined to be a result of arson. The FBI continues to investigate that incident, and has offered a \$15,000 reward for information leading to an arrest. Across the country, six other mosques were attacked or vandalized in the days surrounding the incidents in Oak Creek and

Joplin. According to the FBI, 160 hate crimes against Muslims were reported in 2010, an increase of almost 50% over the previous year. Individuals from other minority groups such as Sikhs, Hindus, Arabs, and South Asians also face an increasing number of attacks. The FBI reported a total of over 6,600 hate crimes in 2010, but the Bureau of Justice Statistics suggests that not all hate crimes are reported and the actual number may be up to 15 times higher.

While we are challenged by these difficult circumstances, history has shown us that it is possible to significantly combat hate crimes and domestic extremism if the appropriate steps are taken. In the 1990s, for example, when a large number of African American churches were attacked, then-President Bill Clinton immediately directed the Administration to investigate and prosecute perpetrators, help communities rebuild houses of worship, and offer assistance in preventing additional attacks. These efforts and the establishment of an interagency taskforce led to a 53% decline in attacks between 1996 and 1999. We urge the federal government to again allocate and prioritize federal funding for initiatives that prevent, investigate, and combat hate crimes, hate groups, and domestic extremism. This should include training for law enforcement around existing hate crimes policies and their requirements as well as online resources geared specifically towards youth affected by bias and hatred. As part of this effort, we also ask that Congress and the Administration also work to institute and promote anti-bias education activities across the country, to help foster mutual respect and understanding among community members.

We also urge Congress and the Administration to ensure proper implementation of the Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act (HCPA). Passed in 2009, the law seeks to encourage partnerships between federal and state law enforcement officials to more effectively address hate violence. It also provides federal law enforcement with limited authority for investigations and prosecutions when local authorities are unwilling or unable to act. To ensure robust enforcement, we urge the U.S. Department of Justice to file all relevant cases under this Act, to defend its constitutionality, and to continue education, outreach, and training to federal, state, and local law enforcement officials on HCPA and its requirements.

The Islamic Society of North America is united with other organizations representing people of all faiths and backgrounds to address this critical issue. As always, we remain committed to working with Congress and federal government agencies to put an end to hate-motivated violence. We thank the Committee for addressing this critical issue today and look forward to the outcome of this hearing.



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JAINA

Federation of Jain Associations in North America

Founded 1981

A Non-Profit Tax Exempt Religious Organization IRS Code Section 501(c)(3) EI# 54-1280028
NGO in Special Consultative Status with the Economic and Social Council of the United Nations

JAINA Headquarters: 43-11 Ithaca Street, Elmhurst, NY 11373 USA; Phone & Fax (718) 606-2885

September 23, 2012

To:
Stephanie Trifone
stephanie_trifone@judiciary-dem.senate.gov
Senate Judiciary Committee Hearing on Hate Crimes & Domestic Extremism

Dear Ms. Trifone

As you are aware, on September 19, the Senate Judiciary Committee is scheduled to convene a hearing on hate crimes and domestic extremism. While the hearing has been spurred, in part, by the recent tragedy in Oak Creek, Wisconsin, we understand it will seek to elevate the concerns surrounding hate crimes and domestic extremism that all communities and Americans face in this country. Federation of Jain Associations in North America (JAINA) is pleased to submit brief statement for the record to express support for the hearing.

Federation of Jain Associations in North America (JAINA) is a federation of 69 organizations representing over 125,000 Jains. It is an organization with a strong history of advancing seva (community service), interfaith collaboration, pluralism, social justice and sustainable civic engagement to ignite grassroots social change and build healthy communities. JAINA is working to unite faith and secular communities in social equity projects and to strengthen the diaspora immigrant civic engagement of the New Americans, for the common good. We support dialogue, cooperation and pluralism with our unique, innovative, in culture faith based approach to development.

JAINA commends Senate Judiciary Committee for convening a hearing on hate crimes and domestic extremism. U.S. is built on inclusion, plurality, and diversity; hate crimes and actions of hate groups/domestic extremists affect all Americans. JAINA urges Congress and federal government agencies to take increased measures to prevent, address, and combat hate crimes and domestic extremism in the U.S. Hate crimes are indeed a daily threat to and threat to society as a whole; law enforcement officers and government institutions are in the direct line of fire when hate groups attack or sometimes specifically targeted by hate groups or domestic extremists. JAINA & Partner organizations have found that many Hindu and Jain temples have been vandalized. However, they are under reported. The temple community is afraid that there may be community repercussions and has hesitated in reporting to the authorities. This has led to significant under reporting of hate crimes and vandalism in the Jain and Hindu community.



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The above facts were also reported to the White House Office of Faith Based & Neighborhood Partnerships during the discussions of the Inaugural Advisory Council's tenure 2009 – 2010.

In the past legislative intervention has reduced crimes and now we request intervention for the new Dharmic (eastern tradition) including Buddhist, Hindu, Jain and Sikh traditions. We are relatively new to the country and require integration into the national platform. The country is at a stage similar to the 1930s and 1940s when the previous wave of immigrants had come and the country had worked to integrate them.

We request that Congress, the White House, and government agencies should consider and implement the following policy recommendations:

- Separately identify Jains and Hindu as a targeted group in the Department of Justice (DOJ) literature. Currently the categories are South Asian, Muslim and Sikh. Since there is no separate category, the Hindu issues are not clearly identified. There is no provision to report vandalism and hate crimes against Hindu places of worship. A separate identification will help the community voice and identify the issue and empower our community to take action.
- Fund religious literacy programs to enable our citizens have basic understanding of the new religions in our country. The separation of church and state warrants limitation however education about religion does not constitute practicing the religion. It is important for all Americans to know about the pluralistic and diverse religions prevalent in America. This is not only a civic requirement to bridge understanding and cultures, but is also a homeland security issue
- Ensure robust and comprehensive implementation of the Mathew Shepherd and James Byrd, Jr. Hate Crimes Prevention Act (HCPA): Enacted in 2009, this law encourages partnerships between federal and state law enforcement officials to more effectively address hate violence and provides limited authority for federal investigations and prosecutions when local authorities are unwilling or unable to act. To ensure robust enforcement, DOJ should file appropriate cases under HCPA; vigorously defend the constitutionality of the Act; and ensure continued education, outreach, and training to federal, state, and local law enforcement officials on HCPA and its requirements.



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- d. Improve federal hate crime data collection, disaggregation, categorization, and reporting efforts: DOJ should promote mandatory comprehensive participation in existing hate crimes reporting requirements and the FBI should improve hate crime incident reporting by developing new categories on hate crime incident report forms for various affected communities not yet covered (including anti-Arab, anti-Sikh, and anti-Hindu, anti-Jain incidents). Hindus and Jains need to be identified separately as mentioned above.
- e. Allocate and prioritize federal funding for initiatives that prevent, investigate, and combat hate crimes, hate groups, and domestic extremism: Congress should establish or increase appropriations for: prevention, education, and training initiatives for law enforcement around existing hate crimes policies and their requirements; anti-bias education initiatives; existing government agencies specifically devoted to addressing and investigating hate crimes, hate groups, domestic extremism, and community tensions; and government resources, such as online portals and websites, geared specifically towards youth affected by bias and hatred. In addition, Congress should urge DHS to release its previously retracted 2009 public on right-wing extremist groups.
- f. Establish formalized interagency efforts and positions at the highest levels of government in partnership with community stakeholders, to address hate crimes: The White House should convene a Presidential summit on hate crimes affecting religious minorities that engages community members, religious leaders, and federal government officials with the purpose of developing best practices for stakeholders addressing this issue, similar to what was instituted by former President Clinton on race in the 1990s. The White House should also establish an interagency taskforce on hate crimes and domestic extremism, similar to what was established by President Clinton following the church arsons of the 1990s. DOJ should also formalize the Initiative to Combat Post- 9/11 Discriminatory Backlash within the DOJ Civil Rights Division by designating a Special Counsel for Post-9/11 Discrimination and a Special Counsel for Religious Discrimination.



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g. Curb actions and discourse by government agencies and public officials that often promote a climate where hate crimes can occur; Congress should pass robust anti-profiling policies, such as the End Racial Profiling Act (S. 1670; H.R. 3618) which prohibits profiling based on race, religion, ethnicity, or national origin by federal, state and local law enforcement; establishes requirements for law enforcement to collect data, provide anti-profiling trainings, and develop a complaint mechanism for affected individuals; allow DOJ to withhold grants to entities that fail to comply with the law and provide funding to these seeking to eliminate the practice; and allow affected individuals to seek redress in court. DOJ should also amend its 2003 Guidance Regarding the Use of Race by Federal Law Enforcement Agencies to apply to profiling based on religion and national origin, remove national and border security loopholes, cover law enforcement surveillance activities, apply to state and local law enforcement agencies acting in partnership with federal agencies or receiving federal funds, and make the guidance enforceable. Public officials should refrain making statements based on racism, xenophobia, homophobia, sexism, or religious intolerance. Public officials should also take a pledge to not engage in such rhetoric as well as condemn such statements when they do occur in the public sphere.

Federation of Jain Association in North America urges the lawmakers to enact and strengthen hate crimes and domestic extremism. If you have any questions please contact me at President@jaina.org or 240-277-3039.

Respectfully

Sushil Jain
Dr. Sushil K. Jain
President



JAPANESE AMERICAN CITIZENS LEAGUE/JACL

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TESTIMONY

JAPANESE AMERICAN CITIZENS LEAGUE

HATE CRIMES AND DOMESTIC EXTREMISM

Hearing Before

United States Senate

Judiciary Subcommittee

on

The Constitution, Civil Rights and Human Rights

Washington, D.C.

September 19, 2012

Introduction

The Japanese American Citizens League (JACL) is pleased to submit this testimony to the Senate Judiciary Subcommittee on the Constitution, Civil Rights, and Human Rights for a hearing on Hate Crimes and the Threat of Domestic Extremism.

The JACL was founded in 1929, in reaction to the virulent anti-Japanese sentiment in California and other western states. JACL's interest in presenting this testimony is rooted in its historic mission to protect the welfare of the Japanese American and Asian American communities.

The horror of the Oak Creek killings is a tragic reminder of the long history of anti-Asian sentiment and the destructive violence engendered by extreme racist attitudes. This testimony will present a brief recitation of the history of anti-Asian sentiment in the United States because it is a history that is little-known to many public officials and the public at large.

These historic acts of violence were born of racism and carried out by groups of persons as acts of intimidation to prevent Asian immigration. History has deemed these events as examples of racist mob violence; however, in current parlance, the perpetrators of these actions could be identified as domestic terrorists.

This testimony will also present examples of incidents where Asian Americans were victimized by domestic terrorists and members of supremacist groups. It will also chronicle examples of recent hate crimes to demonstrate that the problem of hate crime violence continues to plague our society today.

Finally, this testimony will explain some of the causes of anti-Asian sentiment and enumerate recommendations for combating hate crimes by the Department of Justice, local law enforcement, and media.

A History of Extreme Reaction to Asian Immigration

The first Asian immigrants to arrive in significant numbers in America were the Chinese in the mid-1800s. Nearly all of these immigrants were men wishing to make enough money in the mining industry in order to eventually return to their home country. At the time, both whites and Chinese were new to the western frontier; however, the Chinese were considered alien due to their appearance and customs, and were often mistreated because of it. This mistreatment grew worse as "get-rich-quick" dreams went unfulfilled for most people and competition for gold and employment increased.

Tensions and misunderstanding about the Chinese community played a role in the Chinese Massacre of 1871 in Los Angeles, which began when two Chinese men got into a gunfight. Hearing the shots, a white officer went to investigate and was shot. At this, a mob stormed Chinatown, looting, shooting, and lynching innocent Chinese residents. As many as twenty-eight Chinese were killed.

On September 4, 1885, in Rock Springs, Wyoming, a mob of disgruntled miners drove the Chinese residents out of town, burning their homes and killing up to twenty-four Chinese. Twenty-four days later, a meeting known as the "Anti-Chinese Congress" was held in Seattle with delegates from all

over the Washington territory. The "congress" decreed that all Chinese people had to leave the Washington area by November 1, 1885. What followed were a series of forced removals in Tacoma and Seattle similar to, but less violent than, the Rock Creek incident. The most violent incident was the Snake River Massacre, where up to thirty-four Chinese miners were robbed, killed, and mutilated by a group of white ranchers and schoolboys. The site is now called Chinese Massacre Cove. None were ever convicted in this mass murder.

Domestic Terrorists, Supremacists and Asian Americans

Asian Americans are not always singled out and named as targets by White supremacist groups to the extent that African Americans and Jews are targeted. However, among supremacist groups, Asian Americans clearly fall within a category of "others" or "people of color" who are also labeled by some supremacist groups as "mud people." It is also clear that Asian Americans fall within a vilified category of immigrants that supremacists have targeted for deportation. Following are several incidents where Asian Americans have been targeted by individuals proclaiming adherence to supremacist groups.

Won-Joon Yoon: Won-Joon Yoon was a 26-year-old Korean graduate student who was killed in July 1999, during a three-day multiple shooting spree that also claimed the life of Ricky Byrdsong, an African-American and former basketball coach at Northwestern University.

The shooter, Benjamin Nathaniel Smith, was a member of the World Church of the Creator (WCOTC), a white supremacist group. The spree began when Smith shot and wounded five Orthodox Jews as they were returning from Sabbath services on Chicago's northside. Smith then traveled to Skokie, Illinois where he killed Ricky Byrdsong before driving to Northbrook, Illinois where he shot at but did not injure an Asian American couple. The following day, Smith surfaced in Indianapolis where he killed Won-Joon Yoon. He then drove to the campus of the University of Illinois at Urbana-Champaign where he shot at a group of Asian American students, wounding a Taiwanese American male. Shortly thereafter, Smith died of a self-inflicted gunshot wound.

Smith subscribed to the views of the WCOTC and its leader, Mathew Hale. The WCOTC holds Jews responsible for subverting the world's economy and political system. They also believed Blacks and other racial minorities, described as the "mud races," should be deported en masse.

Joseph Iletto: Joseph Iletto was a Filipino American postal worker. He was killed by Buford O'Neal Furrow of the Aryan Nation in 1998. Furrow had gone on a shooting spree at a Jewish Community Center in suburban Los Angeles where he gunned down five people, including three children, before killing Iletto. "Prosecutors say Furrow told investigators that he considered Iletto

a good target of opportunity to kill because he was a nonwhite and worked for the federal government.”

In a report filed by prosecutors, Furrow admitted to shooting Iletto to instill fear in nonwhites living in the United States. Furrow told federal agents he was at war with the “Jewish-controlled” American government.

Asian Businesses in Philadelphia: In November 2005, a number of Asian business owners in Philadelphia received threatening letters in the mail. The letters contained racial slurs, threats of violence (including bombing of the businesses and raping of Asian women), swastikas, and disturbing images. The letters indicated they were written by the Aryan Nation, and that the business owners were targeted because the owners were not white.

Causes of Anti-Asian Sentiment

Population Growth: Asian Americans are one of the fastest growing populations in the United States. This growth causes greater visibility, which gives rise to tension from groups and individuals who may feel threatened by this increase in racial diversity. Moreover, Asian Americans are easily identifiable by their physical appearance, thus allowing them to be easily targeted.

Economic and International Relations: When the U.S. economy declines or when international incidents occur involving Asian nations, attention often shifts to the role those countries play in providing “unfair” competition. Unfortunately, many Americans do not make distinctions between the actions of Asian nations and individual Asian Americans. As a result, Asian Americans often bear the brunt of misplaced anger where they are often perceived to be “foreigners” who take jobs away from “real” Americans.

Media Portrayals and Public Perceptions: Asian Americans are portrayed in the media through a variety of contradictory stereotypes, ranging from the “model minority” at the head of their class in school, to the non-English-speaking welfare recipient who is a “drain on the system.” Asians are also characterized in film as unscrupulous businessmen and cruel mobsters, or as compliant, submissive and exotic. One-dimensional portrayals of Asian Americans, coupled with the absence of accurate images and positive role models, obstruct public understanding of the Asian American community and can contribute to an anti-Asian climate.

Stereotypes of the Asian Monolith: Despite their ethnic diversity, Asian Americans are often misperceived as a monolithic group. Thus, even though an act of anti-Asian sentiment might be perpetrated with a particular ethnic group in mind (e.g., Indian, Filipino, or Korean), a failure to make distinctions between Asian American ethnic groups causes members of all groups to become potential victims. Thus, in 1983, in the face of an economic recession coupled with the rise in Japanese auto sales, it did not matter that Vincent Chin was Chinese American when he was stalked and murdered by an autoworker and his nephew, who made the claim that “it’s because of you that we’re out of work.”

September 11th and Asian Americans

The first known bias-motivated murder following the September 11th attacks involved a Sikh from Mesa, Arizona. The victim was Balbir Singh Sodhi who was shot and killed outside of a gas station as he landscaped the grounds on September 15, 2001. Waqar Hasan, a Pakistani American storeowner in Dallas, Texas, was also killed within days of the attacks.

In the days following the September 11th attacks, dramatically higher levels of vandalism, assaults, threats and harassment were directed at Arab and Muslim American communities. Unfortunately, the statements of elected public officials contributed to this hostile climate. A member of the House of Representatives referred to Muslim Americans and Sikh Americans as "towel heads" who need to be racially profiled, stating, "If I see someone who comes in that's got a diaper on his head and a fan belt wrapped around the diaper on his head, that guy needs to be pulled over."

Recent Examples of Hate Crimes and Hate Incidents

October 2011, Boulder - A student attacked a fellow student who was APA after making derogatory remarks about APAs and Asian food.

November 2011, Seattle - An Indian taxi driver was punched in the head by a passenger. The passenger asked where the taxi driver was from, and began the assault after hearing the driver was from India. Hate crimes charges were postponed pending further investigation.

December 2011, Miami - An Asian American convenience store clerk was brutally beaten by a man with a swastika tattoo on his arm. The perpetrator was apprehended and charged with attempted first degree murder, armed occupied burglary with assault, armed robbery, and armed false imprisonment. The attack was not charged as a hate crime.

December 2011, Irvine - A Chik-Fil-A cashier was fired after mocking two APA students with derogatory ethnic names. The two students were identified as "Ching" and "Chong" on their receipts. The offending employee was fired.

May 2012, Cincinnati - An Asian American female student at the University of Cincinnati was struck in the face by a rock by a group of people who used ethnic slurs. The incident was investigated as a hate crime by police.

May 2012, Columbus - An Asian American student and a white student at Ohio State University who walking down the street were harassed by a group of men in a truck, who followed them and yelled racial and ethnic slurs. OSU also investigated two anti-Asian twitter feeds that were linked with the university.

Recommendations

- Law enforcement agencies and educational institutions must comply with hate crime reporting requirements under the Matthew Shepard and James Byrd, Jr. Hate Crimes

Prevention Act. Underreporting of hate crimes reduces the urgency and the need for resources to be directed to this critical law enforcement area.

- The Department of Justice must coordinate national efforts to promote understanding for Asian Americans about the Matthew Shepard and James Byrd Jr. Hate Crimes Prevention Act. A general lack of knowledge about hate crimes persists within Asian American communities, and this lack of knowledge is exacerbated by language barriers where immigrants constitute a large proportion of these communities. Efforts should include the distribution of language-accessible materials and informational outreach initiatives through Asian American community-based organizations.
- Improve police training so that officers can readily identify hate crimes and the characteristics of hate groups. A component of the training should include cultural sensitivity that recognizes the need for interpretive services due to a degree of limited English proficiency in the Asian American community. In addition, strategies must be developed that dispel distrust of authorities that may dissuade Asian American immigrants from cooperating with law enforcement.
- Colleges and universities must be encouraged to adopt policies that promote racial, religious and ethnic diversity. Since a large proportion of hate crime perpetrators are teenagers and young adults, educational institutions must have clear procedures for responding to hate crimes. Free speech is an important value in a university environment. Nevertheless, universities should consider codes that challenge speech that creates an intimidating, hostile, or offensive educational environment.
- Elected public officials and political leaders should refrain from activities and comments that cause or promote racial, religious or ethnic bias. Anti-Islamic comments and China-bashing are especially volatile areas for demagoguery in the current political climate. Moreover, elected public officials have an obligation to renounce the use of scapegoating of all vulnerable communities.
- The media, including the entertainment media, must play a greater role in creating public awareness about anti-Asian sentiment and hate crimes. It is not enough for the media to be responsive only when sensational hate crimes such as Oak Creek take place. Anti-Asian sentiment and hate crimes directed at vulnerable groups are a daily occurrence. The entertainment media must not pander to stereotypes in decisions on casting and content.
- The Department of Justice should disaggregate data on hate crime by ethnicity and religion. Additional categories will allow for better awareness of and vigilance for groups who are likely to be targeted (i.e. Sikh Americans who are targeted because they are perceived to be Muslim.)

Senate Judiciary Subcommittee on the Constitution,
Civil Rights and Human Rights Hearing on
“Hate Crimes and the Threat of Domestic Extremism”

My name is Kanwardeep Singh Kaleka and I am a citizen of the United States of America. My uncle was one of the victims of the Sikh Temple shooting on August 5th, 2012. I want to thank you for taking the time to read my testimony and to try to help resolve such an important issue for our fellow citizens of this country.

On the morning of August 5th, 2012, a coward came into our temple and killed my uncle, Satwant Singh Kaleka, and five other innocent people in cold blood. I use the term coward not just because he went into a place of worship and took the lives of six unarmed people and not simply because he took his own life rather than facing the consequences of his actions. He was a coward because he didn't have the courage to see the humanity of the people around him.

He—like all terrorists—killed people for the mere fact that they were not like him, because they were different. It's not that they didn't have their own children or a family they loved and supported. It's not that they didn't work hard and give back to their community—in fact, in this regard, they were some of the most dedicated people I knew. But rather it was because they dressed uniquely, didn't only speak English, or perhaps because they had a different complexion than himself.

I would like to think of this as an isolated incident and that the rest of the communities across this country can sleep with the peace of mind to know that they are safe. The unfortunate reality, however, is that Wade Michael Page—the man who killed my uncle and my friends within our congregation—represents a larger, growing population that is ready to reek havoc on fellow Americans because of their heritage and ideology. According to expert opinions, domestic terrorism has been and is just as big of a threat (if not more) to our national security as international terrorists (including Islamic extremists). According to the FBI, between 1980 and 2000, 250 of the 335 total terrorist attacks (75%) were committed by U.S. citizens. And since 9/11, There have been 10 deadly attacks in the United States by nonjihadist extremists compared to just four by jihadists. Additionally, the New America Foundation found that no jihadist terrorists have acquired or even attempted to acquire chemical and biological weapons since 9/11, while 11 anarchist, white supremacist or right-wing extremists have been indicted for possessing such materials, and another four were indicted for attempting to produce them. The scary part is the threat is growing.

The day after the shooting, another member of our congregation was threatened by an individual driving along side him. The assailant put his hands together as if he was shooting a gun at him and said “Get the f*ck out of my country! This is not over...” This is indeed not over. In fact, this may just be the beginning. Just in the two year span from 2007 to 2009, the number of militias in this country have more than doubled and that was just from what the domestic terrorism unit of Homeland security could monitor from internet activity, says the former head of that unit, Daryl Johnson. According to the

Southern Poverty Law Center, we currently have more than 1,018 documented hate groups in this country today, many of which promote and explicitly call for violence against those with different skin colors, religions and ideologies. They do so through a variety of tactics including internet forums and videos, rallies and a multi-million dollar music industry (just for “White Power music” alone). Though they are called to act as “lone wolves” rather than in mass, the effects on communities across this country are just as devastating.

It’s been more than a month since the lives of our loved ones had been taken away in such brutal violence, yet there is still a pervasive fear of our safety. The place we go to find peace in every sense of the word no longer seems sacred, at least from senseless violence and murder. Imagine living a life knowing that no matter where you go, your life is at risk—not because of who you are and what you do—but simply because of your appearance, your skin tone or your faith. This is the country in which we live. That day made me realize the “melding pot” of the United States of America is far from united and may be imploding. The worst part is that there is little being done about it.

We as a society must move forward through unification. As individuals, we need to seek the humanity in our neighbors and fellow Americans. We can’t give into the cowardice of prejudice. We need to take the time and effort to learn about the people and cultures around us, especially those who are most different than us. For it is through our collective experiences that we truly gain perspective of the world we live in, and we have the most to learn from those with the greatest differences. I’ve grown up with this philosophy, not

just because I grew up in this country born of immigrant parents from a significantly different culture but because of my faith. Sikhism was founded on the principle that we are all God's creation and that we are truly created equal but different. And to embrace our differences is to embrace that equality in which we are created. This concept is also one of the most important principles by which this country was founded.

The "immortal declaration" states that "All men are created equal." This phrase was first used by Thomas Jefferson in the Declaration of Independence:

We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty, and the Pursuit of Happiness. That to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed;

It is the responsibility of our elected leaders to protect our rights: our lives, our liberty and our pursuit of happiness. Despite the noted rise in domestic terrorism in this country, our government has not only chosen to ignore the warning signs as documented in multiple reports by its own Homeland security, they chose to respond by all but shutting down the entire domestic terrorism unit. Daryl Johnson, the former head of the unit, says that political pressure has reduced the unit to a single individual with very limited monitoring capabilities. Johnson, who now runs a private counterterrorism intelligence company, says that despite the relatively low risk of Islamic terrorism, nearly all our

government's counterterrorism resources are dedicated to that specifically. In fact, State Department's Bureau of Counterterrorism, the secretary of state had designated 49 foreign terrorist organizations as of January 2012 while the FBI and Department of Justice do not generate an official list of domestic terrorist organizations (<http://tinyurl.com/8nsew7l>). The lack of any such list, limited monitoring and resources would make it almost impossible to track these domestic terrorist groups, yet alone prevent attacks such as the one that occurred at our temple or at the mosque in Joplin.

It is for these reasons, we call on you, as our leaders, to help restore our safety and protect our freedom, not just abroad but right here at home. I suggest addressing these issues in a few different ways:

1. **Balancing Counterterrorism efforts** – Due to the abundance of evidence suggesting the equally strong threat of domestic terrorism, it is clear that the resources dedicated to counterterrorism be balanced between those dedicated to international threats as well as those here domestically. And to not simply focus on Islamic extremists but radicals of all ideologies, particularly ones that incite violence amongst their followers (through rhetoric and other means).
2. **Education Reform** – Stronger efforts need to be made in educating the American public about the diverse and evolving population that makes this country what it is today. These efforts need to start early and should be integrated at every level of education. Providing certain standards and incentives to schools to achieve

these standards, whether it be cultural competency tests or other measures, is one possibility.

3. **Political Cultural Reform** – Currently, we are a nation divided. The clearest divide is the ostracizing of Islamic Americans. The demonization of Muslims in this country, particularly after 9/11, through media and language used in the political arena has created a hostility in this country that has fueled the fire of domestic terrorism. The Islamophobic rhetoric that is used amongst our leaders has fueled both jihadists and white supremacists across the country and across the world. If you are to protect the liberties of your citizens of all backgrounds, you must hold your colleagues accountable for their actions and their speech that is contributing to this divide and compromising our rights to life, liberty and the pursuit of happiness.

In closing, I hope that we can all learn from uncle, who fought until his very last breath to protect the people who entrusted him as their leader. And we must fight to make that all he stood for is not lost. So, I entrust you as our leaders to fight to protect all of us and help unite us. For as the great Franklin Delano Roosevelt once said, “We are a nation of many nationalities, many races, many religions—bound together by a single unity, the unity of freedom and equality.” I ask you to lead us to that freedom and equality this country symbolizes. Thank you.

September 14, 2012

Honorable Members of the Senate Judiciary Hearing Commission,

On a beautiful Sunday morning, as I was en route to the Sikh Temple of Wisconsin with my children, my mother and father were going through a living hell. In the place where they once found the most sanctuary, my mother, Satpal Kaleka, was nearly gunned down and my father, Satwant Kaleka, was shot five times and killed. Both of my parents were model citizens and great friends and supporters to many, and my dad personally helped more than a dozen people legally enter the country, get on their feet, and contribute to our tax base.

This tragedy has taken my father, and it also took my mother's hope, life companion, and trust in the notion that in this beloved country, she was safe and her freedom was protected. I ask that you take the necessary actions to ensure that something of this magnitude is never allowed to occur again, and I'd like to take this opportunity to outline a few specific ideas I've heard that I believe would give the victims' families some piece, as well as address the underlying issues.

But first, a few words about my family.

We were a family of four, who migrated to the United States from Northern India in 1982 in order to pursue the opportunities embodied in the American Dream. As children growing up, my brother and I both assimilated into American culture. We wore similar clothes, listened to mainstream music, spoke the same language, and played the same sports as our American counterparts. We fell in love with American culture, because we thought that American culture fell in love with us. Sure we faced the obvious "soft" attacks, such as slurs, looks, whispers, and the "go back to your country" comments that every immigrant still has to suffer. But despite, that we identified ourselves as Americans. I vividly remember proudly singing the 80's Bruce Springsteen hit, "Born in the U.S.A."

My parents both worked—and worked hard—to try to make a living. My mother worked as a seamstress at Eagle Knitting, while my father became a successful entrepreneur. They both preached hard work, never taking days off, and never expecting handouts. As we grew up, my brother and I both attended public schools in the Milwaukee school system, and then received scholarships to Marquette University. We felt that through education, many doors were opened for us, and we both chose to become teachers in highly impoverished areas in Milwaukee as our way of giving back and helping to return the favor to our local community.

Now that this tragedy has taken place, I'm left asking myself not just what I don't want in this country or my community, but what I *do* want. After speaking with all of the victims' families, a variety of leading nonprofits focused on addressing hate crimes, and doing some research, I implore you to consider the following four legislative initiatives:

1. **Track Hate Crimes Against Sikhs.** Although hate crimes and murders against Sikhs have been taking place for decades, currently it's impossible to know the depth of this problem or to analyze trends. That is because the FBI, which tracks hate crimes through its Form 1-699 Hate Crime Incident Report, does not currently collect statistics on anti-Sikh activities. My father, the five other victims, and the two wounded at least deserve the dignity of being a statistic. As such, I urge Congress to pass the House resolution being spearheaded by Reps. Joseph Crowley; Bill Pascrell; Howard Berman; Judy Chu; Nita Lowey; Keith Ellison; and Pete Stark. As NY Rep. Joseph Crowley said, "Numerous reports have documented how those practicing the Sikh religion are often targeted for hate violence because of their religiously-mandated turbans – i.e., because of their Sikh identity, regardless of whether the attacker understands the victim to be Sikh or not." Quantifying the significance and seriousness of this problem is crucial to our ability to address it.

2. **Pass The Immigrant Bill.** In an effort to provide immediate support and peace for the families of the victims, visas were expedited after the shooting to enable family members to enter the country, mainly from India. Although my family enjoys a large, tightly knit family including my brother and I as two breadwinners, many of the other victims' families relied—and continue to rely—on these visitors for crucial emotional and financial support, and they are desperately needed moving forward. I encourage Congress to consider approving a bill to grant green cards to all the visiting family members, enabling them all to stay permanently if desired and provide ongoing support to their families.

3. **Reallocate Funds and Attention to Domestic Terrorism.** We need to realize that tragedies like the Sikh Temple of Wisconsin shooting and the mosque burning the night following in Joplin, Missouri will continue to happen if we keep ignoring the fact that domestic terrorism is a significant and growing threat to our safety, and our freedom as Americans. According to the FBI, 75% of terrorist attacks in America are conducted by U.S. citizens (see <http://on.cfr.org/Oj4eio>) and between 2007 and 2009 alone, the number of armed militant groups in the country more than doubled. Yet appallingly, Congress has not only failed to increase its efforts to monitor this threat, but slashed them by 80%, leaving only one staffer behind in Homeland Security's domestic terrorism group.

We have documented 49 international terrorist organizations, yet not a single domestic terrorism group is on an official watch list. We know there are at least 1,018 domestic hate groups, many of which promote and explicitly call for violence against those of a different skin color, religion, or ideology. How long can we keep our heads in the sand, and how long must we sit idly by as more innocent people are killed within our own borders?

Please refund Homeland Security's domestic terrorism group and do whatever it takes to reprioritize this important area of investigation and attention.

4. **Reclassify Militant Hate Groups as Terrorist Groups.** Based on the recent "Innocence of Muslims" video that spawned deadly attacks on high-level American diplomats in Libya and riots throughout the Middle East, it's clear that hateful language does not disappear into an empty vacuum. And while we must be ever mindful of our patriotic duties to fulfill the promise of free speech that this country is founded upon, we simply cannot tolerate those groups who cross the line from free speech to hate mongering and explicitly call for or promote violence. According to Homeland Security's former head of domestic terrorism, Daryl Johnson, there were over 180 such groups as of 2009 and they're quickly on the rise. Wade Michael Page, the man who murdered my father and five others, was an active member of such groups and even performed at music festivals, where he spewed hatred and promoted violence, followed by his own brutal killing of six people. Congress must act decisively and promptly to protect the freedom and safety that we Americans hold dear, in order to stop future such tragedies from taking place.

As the great President Franklin Delano Roosevelt once said, "We are a nation of many nationalities, many races, many religions—bound together by a single unity, the unity of freedom and equality." It is time we remember the foundation of this country by renewing our commitment to the immigrants that made America what it is today.

At one time, America was considered the envy of the world. The America that I knew was the cultural "melting pot", in which immigration was not only welcomed, but was considered the lifeblood of this country. Today immigrants are viewed as a burden to society and are ridiculed publicly by people and politicians. We have adopted inhumane deportation laws that devastate family structures, while Americans don't even question them. Hate speech flows out of the mouth of everyday people and politicians alike. Insensitivity has become commonplace, and the labeling of an entire religion as a threat has become the norm. This is not the America I recognize, and this is not the America my family has grown to love. However, just like anything that you truly love, I will not turn my back on it and I beg that you don't, either. The solutions are there, however they are difficult and will take intelligent bipartisan negotiation.

On behalf of not only my family and the other victims', but rather all Americans who still believe in the promise of the American Dream and the notion that we are truly one nation of people created equal, with liberty and justice for *all*, I implore you to fulfill the mandate of your Congressional appointments and protect our safety and freedom, and demonstrate the leadership inherent within your positions.

Respectfully,

Pardeep Singh Kaleka
Son of the Late Satwant Singh Kaleka, Founder & President, Sikh Temple of
Wisconsin

Written Testimony of Engy Abdelkader, Esq.

Vice President of

KARAMAH: Muslim Women Lawyers for Human Rights¹

Hearing on

“Hate Crimes and the Threat of Domestic Extremism”

Before the

Senate Judiciary Committee

Subcommittee on the Constitution, Civil Rights and Human Rights

September 19, 2012

To the Honorable Dick Durbin and Members of the Committee:

Thank you for convening this hearing to examine the rising incidence of bias crimes and growth of radicalized hate groups in the U.S. We are grateful, Mr. Chairman, for your advocacy of civil rights for all Americans as a core objective of national policy.

KARAMAH appreciates the opportunity to expound upon its views confronting constitutional and moral issues raised by religious, racial and ethnic bias. As we are sure you are aware, the American Muslim, Arab American and South Asian communities (the “Target Group”) are beleaguered by persistent acts of discrimination and violence. These acts gained momentum after the tragic events of September 11, 2001, the “war on terrorism,” and our continued military presence in Afghanistan and Iraq. They have also

¹KARAMAH is a U.S.-based non-profit organization that derives its name from the Arabic term “karamah”, which means “dignity.” KARAMAH’s vision and mission are informed by the view that a just society values the informed participation of its members through the pursuit of knowledge, access to opportunities, and equity among all “children of Adam”, regardless of gender or other differences. Through education, legal outreach, and advocacy, KARAMAH contributes to the understanding and promotion of human rights worldwide, particularly the rights of Muslim women under Islamic and civil law.

been compounded by difficult economic conditions.

The atmosphere of rising hostility towards the Target Group has provided a fertile ground for tragic events such as the massacre at the Sikh gurdwara in Wisconsin this past summer. Based upon our continued human rights advocacy on behalf of the Target Group, KARAMAH identifies three additional factors that contribute to this unfortunate situation. To be sure, these factors contribute significantly to the current fear of and hatred towards not only Muslims, but those wrongly perceived to be Muslim resulting in further social stigmatization, political marginalization and legal disenfranchisement of Americans. As such, they should be of particular concern to this Committee specifically, and to our federal government, more generally:

- 1) *Proliferation of bias law enforcement and military trainings regarding Muslims and Islam lends official credence to xenophobia and anti-Muslim hate.*

In the past decade, there has been an explosion of law enforcement trainings on counter-terrorism with little to no oversight as to content resulting in a proliferation of prejudiced/Islamophobic presentations and the utilization of pseudo-experts.²

Bias law enforcement trainings about Islam and Muslims run counter to the First Amendment's religious freedom guarantees provided by the Bill of Rights. To be sure, federal agency components --including the U.S. Departments of Homeland Security³, Justice⁴ and Defense⁵-- have all been infected by this phenomenon. As we know, bias law enforcement trainings result in prejudiced strategies and statements about its subjects which in turn infect the public psyche about their Muslim, Arab and South Asian neighbors, co-workers and classmates. This, in

² See, "Federal funds for counterterrorism trainings pay for anti-Muslim instructors," TPMuckraker, March 15, 2011, http://tpmmuckraker.talkingpointsmemo.com/2011/03/federal_funds_for_counter_terrorism_training_pay_for_anti-muslim_instructors.php.

³ See, e.g., "Controversial speaker paid \$5,000 for Rapid City appearance," The Rapid City Journal, May 21, 2011, http://rapidcityjournal.com/news/article_042f2a16-8368-11e0-b921-001cc4c03286.html, (DHS paid Islamophobe Walid Shoebat a \$5,000 honorarium for a presentation on Islam; Shoebat has described Islam as the devil and President Obama - a practicing Christian - as a Muslim).

⁴ See, e.g., "FBI 'Islam 101' guide depicts Muslims as 7th century simpletons," Wired.com, July 27, 2011, <http://www.wired.com/dangerroom/2011/07/fbi-islam-101-guide/>.

⁵ See, e.g., "U.S. Military Taught Officers: Use 'Hiroshima' Tactics for 'Total War' on Islam," Wired.com, May 10, 2012, <http://www.wired.com/dangerroom/2012/05/total-war-islam/>

turn, may provide adequate “justification” for perpetrators of bias-motivated speech and actions directed towards members of these groups.

2) *Religious, racial and ethnic profiling by state and federal law enforcement agencies stigmatize the TargetGroup.*

While African Americans and Latinos have long complained about racial and ethnic profiling policing tactics, religious profiling only became more visible after September 11, 2001.

Following the attacks, for example, thousands of Muslims were detained and interrogated but none were ever criminally charged with any ties to the events of 9/11/2001.⁶ Muslim educational institutions and homes of Muslim leaders were raided in 2002, resulting in great financial as well as emotional damage, but no one there was criminally charged either. More than a decade later, religious profiling by federal, state and local law enforcement persists during the routine course of international travel, for instance.

Regularly selected for secondary security screenings, American Muslims returning home to the U.S. are frequently interrogated about their constitutionally protected religious practices: "What is your religion?" "What mosque do you attend?" "What charities do you contribute to?"⁷ Further, average law-abiding American Muslims are also subjected to law enforcement surveillance without any credible evidence of criminal wrongdoing; their only crime appears to be their religious belief in Islam.

Such tactics not only constitute ineffective law enforcement that harms community relationships, but also serve to publically stigmatize Muslims, their educational institutions, houses of worship and charitable causes as inherently suspect. This in turn renders them more vulnerable to private acts of violence by confused patriots.

3) *Irresponsible, xenophobic political rhetoric by elected officials and aspiring candidates create fertile ground for hate violence.*

U.S. elected officials and candidates for political office also share a significant degree of responsibility for the prevailing climate of prejudice/xenophobia giving rise to incidence of anti-Muslim hate and violence. While KARAMAH shares the First Amendment values of free speech embodied in our Constitution, we are

⁶ See, “Strengthening America by Defending our Liberties,” Center for American Progress et. al. October 31, 2003,

<http://www.cnss.org/Defending%20our%20Liberties%20report.pdf>

⁷ “Unreasonable Intrusions: Investigating the Politics, Faith & Finances of Americans Returning Home,” Muslim Advocates, April 2009,

http://www.muslimadvocates.org/documents/Unreasonable_Intrusions_2009.pdf

alarmed by the level of fear-mongering in which members of the political establishment is engaged.

American Muslim children watch on television leaders “accusing” our president of being a Muslim. In a country which is proud of its First Amendment, such language is not only offensive to Muslims, and damaging to our children, but is constitutionally quite troubling. Presumably, a qualified Muslim candidate should have a fair and equal chance to the highest office of the land. But, as the general discourse stands now, mere suspicion of “being Muslim” is a disqualifier. This does not bode well for our democracy at home or our stature worldwide.

Even political leaders have joined the fray. Illustrative are U.S. Representative Joe Walsh (R-IL) unfortunate statements delivered during a town hall in August 2012:

“One thing I’m sure of is that there are people in this country – there is a radical strain of Islam in this country -- it’s not just over there -- trying to kill Americans every week. It is a real threat, and it is a threat that is much more at home now than it was after 9/11...It’s here. It’s in Elk Grove. It’s in Addison. It’s in Elgin. It’s here...”⁸

Mere days later, a spate of anti-Muslim violence erupted in his district: shots were fired at a Morton, Grove, Illinois mosque while about 500 people were inside; an acid bomb was thrown into a Muslim school in Lombard, Illinois while people were worshipping inside; a Muslim cemetery was vandalized with hate graffiti, including racial epithets and insults against Muhammad, the Prophet of Islam, in Evergreen Park, Illinois.

The violence was not exclusive to Illinois, however. Across our nation American Muslims were victimized by hate violence during the same month: a mosque’s welcome sign was destroyed in Rhode Island; a Missouri mosque was burned to the ground; pig parts were thrown onto the site of a proposed California mosque; a Florida mosque was firebombed. To be sure, these disturbing incidents merely reflect those reported to law enforcement entities and covered by media outlets. So many bias incidents go unreported for a myriad of reasons including the victim’s fear of compromising their immigration status, lack of English language and cultural proficiency, unfamiliarity with the criminal justice system and apathy towards recourse⁹.

⁸ “GOP Rep. Joe Walsh: Muslims Are ‘Trying To Kill Americans Every Week’”

Thinkprogress.org, August 13, 2012,

<http://thinkprogress.org/justice/2012/08/13/679561/gop-rep-joe-walsh-muslims-are-trying-to-kill-americans-every-week/>

⁹See, e.g., “Don’t Overstate Anti-Muslim Bias.Really?” The Huffington Post, May 19, 2011,

Nor, is Representative Walsh unique in the extreme and inaccurate views he has espoused. Prejudice against Muslims, renamed "Islamophobia," has unfortunately become part and parcel of our popular political regime today.

We focus on only these three factors because of their major importance not only to our constitutional rights, but also to the reputation of this country as a staunch defender of human rights worldwide. We view ourselves as a beacon to the world and as such cannot be seen as having second class citizens defined by their faith, nor can we be inflicting pain and violence on the Target group because of prejudice against Islam.

Recommendations:

Protect the constitutional, civil and human rights of the Target Group by:

1. Extending the reach of the Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act to include crimes motivated by religion and ethnic origin;
2. Ending religious, ethnic and racial profiling, as promised originally by President Bush;
3. Recommending effective penalties against law enforcement questioning that crosses constitutional lines;
4. Instituting effective monitoring processes to ensure that appropriations to law enforcement and military trainings are not used in activities, educational or otherwise, that violate the Target Group's constitutional, civil or human rights; and
5. Urging The Department of Justice to amend its 2003 memorandum to prohibit religious profiling, in addition to ethnic and racial profiling.

In conclusion, KARAMAH thanks the Senate Judiciary Committee for shining the light on the suffering of the Target Group and the violation of their constitutional and fundamental human rights. We are available to answer any questions you may have going forward and to update you on developments in this and related areas.

http://www.huffingtonpost.com/engy-abdelkader/dont-overstate-antimuslim-bias_b_863889.html



**LatinoJustice PRLDEF
STATEMENT FOR THE RECORD**

**U.S. Senate Subcommittee on the Constitution, Civil Rights and Human Rights
Subcommittee Hearing: "Hate Crimes and the Threat of Domestic Extremism"**

September 17, 2012

For the past 40 years, LatinoJustice PRLDEF has been litigating precedent-setting impact cases across the country and changing the way Latinos live their lives in the United States and the way our country has lived up to its ideals. Through litigation, advocacy and education, LatinoJustice PRLDEF works to protect opportunities for all Latinos to succeed in school and work, fulfill their dreams, and sustain their families and communities. As a civil rights organization, we write to express our concern over the increased incidence of hate crimes against Latinos.

The number of hate crimes perpetrated against Latinos has been rising disproportionately compared to other hate crimes over the last decade such that hate crimes based on anti-Latino bias have come to comprise the majority of ethnically motivated crimes in the United States, according to FBI statistics. Domestic terrorism experts have acknowledged that extremist movements, groups and individuals are often influenced by polemic national issues, and currently, nothing is fueling more hate than the anti-immigrant rhetoric surrounding the immigration debate.¹ As a result, Latinos are being targeted, attacked, brutalized and murdered because of their race, ethnicity and perceived immigration status.

According to the latest FBI hate crimes statistics, hate crimes based on anti-Hispanic bias accounted for nearly 67 percent of all ethnically motivated crimes in 2010. Preliminary findings of a congressionally-mandated study by the National Institute of Justice and studies conducted by the Southern Poverty Law Center and the Pew Research Center have further documented the surge of anti-Latino hate crimes alongside the rise of active hate groups.



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¹ See excerpt from Johnson, Daryl, *Right-Wing Resurgence: How a Domestic Terrorist Threat Is Being Ignored*, available at http://www.salon.com/2012/08/19/immigration_sparks_domestic_terrorism_threat/. Johnson is a former senior domestic terrorism analyst at the Department of Homeland Security, Office of Intelligence & Analysis.

² Harlow, C.W., *Hate Crime Reported by Victims and Police*, Special Report, Washington, DC: U.S. Department of Justice, Bureau of Justice Statistics, November 2005 (NCJ 209911): 1, available at <http://bjs.ojp.usdoj.gov/content/pub/pdf/hcrvp.pdf>.

³ See U.S. Dept. of Justice Fact Sheet, *Hate Crimes* (December 2011), available at http://www.ojp.usdoj.gov/newsroom/factsheets/ojpfh_hatecrimes.html.

⁴ Letter from Michael J. Goldberger, U.S. Attorney's Office and Jonathan M. Smith, U.S. Dept. of Justice et al, to Steve Levy, Suffolk County Executive, at p. 5 (Sept. 13, 2011).

⁵ *Id.* (citing Paragraph VI(7)(a)(1)-(3)).

The latest FBI statistics estimated an annual total of 6,628 hate crimes affecting 8,208 victims in 2010; which gravely understates the problem. A Department of Justice's Bureau of Justice Statistics study in 2005 calculated that the real annual average of hate crimes was closer to 191,000 incidents, affecting 210,000 victims—an incidence rate more than 28 times higher than FBI statistics suggest.²

The Department of Justice has also noted that at least 44 percent of hate crime victimizations are never reported to the police.³ That problem has been exacerbated in undocumented populations where many Latino victims do not come forward out of fear that authorities will ignore their complaints, retaliate against them or report them to the immigration authorities. Underreporting is also compounded by federal immigration law enforcement policies and political rhetoric that encourage racial profiling and cause hate crime victims to be apprehensive about contacting law enforcement authorities.

Statistics also cannot capture the devastation that victims and family members face. From coast to coast, the victims of hate crimes targeting Latinos are vast and varied; they include U.S. citizens, legal permanent residents and undocumented immigrants of all ages. They are Latino day laborers and migrant workers; children and other relatives residing with migrant workers; Latino human rights defenders and community organizers; Latino youth, including elementary and secondary school students and minor children of undocumented immigrants. Their assailants range from members of white supremacist groups and vigilante organizations to groups of teenagers emboldened by anti-immigrant rhetoric and legislation. The following two stories exemplify the tragic outcomes of unheeded hate.

In Phoenix, Arizona, Juan Varela, a U.S. Citizen of Mexican descent, was watering a tree in his front yard when he was shot to death by his neighbor, Gary Kelley, who told him in front of his family to "go back to Mexico" or he would die. His murder took place in the heels of intense protests against Arizona's S.B. 1070 in 2010. Kelley's attorney later admitted in court that his client was going to the Varela home on the day of the murder to discuss the family's attendance in a protest against S.B. 1070, according to news reports. Last year, Kelley was sentenced to 27.5 years in prison for second-degree murder and aggravated assault. There were no hate crime charges as the Phoenix Police Department refused to classify the incident as a hate crime.

In the same month that Mr. Varela was killed, seven teens were sentenced to prison for attacking and killing Ecuadorean immigrant Oswaldo Marcello Lucero by stabbing him to death, and for a series of other attacks against Latinos in Patchogue, New York. The only one of the perpetrators that went to trial, Jeffrey Conroy, was sentenced to 25 years for first-degree manslaughter as a hate crime but was acquitted on charges of second-degree murder as a hate crime. Five other defendants pled guilty to gang assault, conspiracy and attempted assault as a hate crime. Most of the assailants belonged to the self-titled "Caucasian Crew" and were also indicted for participating in an ongoing series of violent attacks against other Latinos that they referred to as "Beaner Stomping".

Since the incidents in Patchogue, the U.S. Department of Justice has acknowledged that aspects of the Suffolk County Police Department's policy "likely will result in underreporting and inadequate tracking of hate or bias incidents."⁴ Under current policy, police officers may "dispose of a call" without even preparing a field report when calls either involve "Youth Disturbances" or a complainant who reports anonymously, is reticent or unavailable for an interview.⁵

Hate incidents have heightened as immigration enforcement policies are intensified without sufficient oversight or concern for the consequences of sending a message to U.S. society that it is acceptable to discriminate against Latinos. Losing one's life or losing a loved one should never be the price anyone pays for coming from an ethnically diverse background or defending the constitutional and human rights to which all in this great country are entitled to irrespective of immigration status.

For all the reasons mentioned above, LatinoJustice PRLDEF has filed a petition with the Inter-American Commission on Human Rights ("IACHR"), arguing that through its actions and omissions, the United States has encouraged a climate that fosters violence against Latinos. The petition, which is still pending before the IACHR, seeks justice for victims like Mr. Varela and Mr. Lucero and their families and complements our traditional domestic impact civil rights work.

Michigan should watch and learn from Senate hearings on Sikh shootings

Michigan should pay close attention to the Senate committee hearings set for this week looking into hate crimes and domestic extremism, a response to last month's murder of six persons and wounding of four others at a Milwaukee-area Sikh temple.

While our state has benefitted from a rich range of immigration over the years, making for diverse metropolitan regions, far too many of our citizens were and are being raised in racial isolation in their own neighborhoods. It's not a real surprise that Michigan, with its recent history of segregation, particularly in Metro Detroit, ranks third in the nation in the number of hate groups in our state. It's well known that children who grow up without having meaningful experiences of other groups are likely to have trouble relating when they get older. Couple this isolation with poor parenting and uninformed rhetoric from some in the media and political circles, and you have a potent mix that can lead to violent outbreaks against racial or religious groups that are characterized as the "others" or "those people."

There is reason to be hopeful as schools, clergy groups and others are creating programs to bring people together across the boundaries of race and religion. For the past fifteen years, the Michigan Roundtable for Diversity and Inclusion has worked with Oakland County School Districts to bring seventh graders together to visit the Jewish, Muslim, Hindu, Sikh, Arab Christian and other places of worship. We also intervened with a local school district when a parent objected to a young Sikh student wearing a religious symbol, which was no more dangerous than crosses worn by Christian students, but was the symbol of the "other." A town hall at a local Catholic parish allowed citizens to learn about the Sikh religion, the particular symbol and most importantly, meet members of the Sikh community. Thanks to the research of our friends at the ACLU, case law was presented to encourage accommodation and this story ended well.

We know in recent years Muslims, Sikhs, Hindus and other minorities have worked tirelessly to make themselves known via open-houses, education programs and outreach. These efforts have helped, as was evidenced by the nearly 1,200 people who attended a late August memorial at the Hidden Falls Gurdwara in Plymouth, Michigan.

But this is not enough as the seeds of hate sewn long ago are nourished with daily messages of hate, making a federal review necessary to determine how to bring additional resources to increase safety for our sisters and brothers of different religions, for if they are not safe, none of us are safe. Understanding and an open mind is the key to ensuring that the freedom to worship in any way, even differently than what the "mainstream" may be familiar with, is ensured for all.

The Michigan Roundtable expects these Senate hearings, led by Illinois Sen. Durbin will help expose the real, ever present and growing threat of domestic extremist violence, and offer some solutions that may avoid future tragedies.

Since 1941 The Michigan Roundtable for Diversity and Inclusion has been a not-for-profit civil rights organization located in Detroit working to overcome discrimination and racism by crossing racial, religious, ethnic and cultural boundaries. We bring together community leaders from government, law enforcement, education, faith, grass roots organizations and business to understand different points of view and then take action to overcome structural impediments to inclusion and equity. Our programs are recognized by national organizations for bringing about sustainable change. We work to address inequity

throughout our region through a process of recognition, reconciliation/reorientation and renewal. We strive to build relationships that create social justice and build sustainable inclusive communities.



September 19, 2012

The Honorable Richard J. Durbin
Chairman, Subcommittee on the Constitution, Civil Rights & Human Rights
Committee on the Judiciary
United States Senate
711 Hart Senate Bldg.
Washington, D.C. 20510

Dear Mr. Chairman,

Muslim Advocates submits this written statement for the record of the U.S. Senate Committee on the Judiciary, Subcommittee on the Constitution, Civil Rights and Human Rights hearing entitled, "Hate Crimes and the Threat of Domestic Extremism."

Muslim Advocates (<http://www.muslimadvocates.org>) is a national legal advocacy and educational organization dedicated to promoting 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.

Muslim Advocates commends you and the Subcommittee for holding this hearing at this critical time. Religious bigotry has now reached a crisis point in America. We strongly believe that immediate congressional action is absolutely necessary to stem this rising tide of hate and violence. Today, in America, people are being judged by how they choose to pray. This time echoes other difficult periods in our nation's history that have only been resolved when national leaders have stepped in and taken action. We are hopeful that this hearing will begin a much-needed conversation about potential solutions to this deepening nationwide crisis.

As you know, on August 5, 2012, a white supremacist violated the sacred space of a house of worship and opened fire inside a Sikh gurdwara in Oak Creek, Wisconsin, killing six individuals, leaving three others critically injured, and many others wounded. This attack—the deadliest hate-motivated violence in our nation—was the first of several attacks on houses of worship throughout the country over the days that followed. On August 6, a mosque in Joplin, Missouri was burned to the ground in a suspected arson attack; on August 10, shots from a pellet rifle were fired at the wall of the Muslim Education Center in Morton Grove, Illinois, while nearly 500 people were praying inside; and on August 12, a bottle filled with acid was thrown at an Islamic school in Lombard, Illinois during evening prayers. And, on Friday, September 14th—just a few days ago—a group of protestors harassed and intimidated worshipers at a mosque in Little Rock, Arkansas. Unfortunately, these attacks are not isolated incidents, but rather a demonstration of the steady rise in religious bigotry and hate crimes against minority religious communities such as Sikhs and Muslims in America.

The Honorable Richard J. Durbin
 September 19, 2012
 Page 2 of 4

These hate crimes have taken place in the context of startling levels of anti-Muslim bigotry in America today. Recent studies show that anti-Muslim sentiment is increasing amongst the American public. A survey on American values 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.¹ 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 2005.² 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%).³ 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.⁴

The Southern Poverty Law Center (SPLC) reports that there has been a dramatic resurgence of hate groups in the U.S.⁵ For the first time ever, SPLC has designated Pamela Geller’s recently formed “Stop Islamization of America (“SIOA”) as an active anti-Muslim hate group.”⁶ 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.⁷ It describes anti-Muslim hate groups as typically holding “conspiratorial views regarding the inherent danger to America posed by its Muslim-American community.”⁸ 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.⁹

Suspicion and hostility towards American Muslims manifests themselves in many ways with serious consequences for our society and public safety. Discrimination, harassment,

¹ “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>

² “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

³ “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>

⁴ *Id.*

⁵ “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>

⁶ “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/>

⁷ “Active Anti-Muslim Groups,” Southern Poverty Law Center Intelligence Files, available at <http://www.splcenter.org/node/3502/activegroups>

⁸ *Id.*

⁹ *Id.*

The Honorable Richard J. Durbin
 September 19, 2012
 Page 3 of 4

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.

According to Federal Bureau of Investigation (FBI) hate crime statistics, over 6,600 hate crimes were reported in the United States in 2010. Of the reported crimes, 47% were racially-motivated and 20% were motivated by the victim's religion. In addition, FBI statistics indicate that hate crimes against Muslims increased by 50% in 2010, jumping from 107 hate crimes in 2009 to 160 in 2010. 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.¹⁰ The study also found that only 44% of hate crimes are reported to the police.¹¹ 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.¹² The real number of hate crimes may be *fifteen times higher* than the FBI's statistics, according to the Southern Poverty Law Center.¹³ In fact, even U.S. Attorney General Eric Holder has pointed out the gaps in relying solely on current FBI hate crime statistics.¹⁴

The rise of hate crimes and violent extremists not only affects individual citizens and minority religious groups, but also threatens the safety of all Americans. Given this serious threat, it is imperative that federal officials take strong actions to prevent, investigate, and end hate-motivated violence.

Muslim Advocates urges Congress to:

- 1) Amend the Hate Crimes Statistics Act to promote comprehensive and accurate reporting of hate crimes by:

¹⁰ 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>

¹¹ *Id.* at 4.

¹² 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>.

¹³ *Id.*

¹⁴ 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.

The Honorable Richard J. Durbin
 September 19, 2012
 Page 4 of 4

- a. Requiring state and local authorities to report the occurrence of hate crimes to the FBI;
 - b. Specifying 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; and
 - c. Developing additional categories in the Bias Motivation section under the “Religion” section for religious groups that are not covered by the Act in its present form, including “anti-Sikhs” and “anti-Hindu.”
- 2) Urge the administration, especially the U.S. Department of Education, 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.¹⁵
- 3) Request that the President convene a summit that would bring together a wide array of stakeholders to engage in dialogue about the issues and develop concrete solutions to promote religious tolerance, prevent hate-motivated violence, and fully investigate and prosecute hate crimes.

Again, we thank you for your leadership on these issues and hope that this is only the start of a concerted effort to end religious bigotry in America.

Sincerely,

Farhana Y. Khera
 President and Executive Director
 Muslim Advocates

¹⁵ 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.)



**MUSLIM PUBLIC AFFAIRS COUNCIL
STATEMENT FOR THE RECORD**

Hearing on Hate Crimes and the Threat of Domestic Extremism

**SENATE COMMITTEE ON THE JUDICIARY
SUBCOMMITTEE ON THE CONSTITUTION, CIVIL RIGHTS and HUMAN RIGHTS**

UNITED STATES SENATE

SEPTEMBER 19, 2012

Chairman Durbin, Ranking Member Graham and members of the Subcommittee: We are honored to submit this statement for the record on behalf of the Muslim Public Affairs Council (MPAC) regarding today's hearing on hate crimes and extremism. We commend the members of the Committee for holding today's hearing, "Hate Crimes and the Threat of Domestic Extremism."

MPAC is a faith based American institution working for the integration of Muslims into American pluralism. To that end, we actively strive to affect policy reforms that uphold core American values and preserve Constitutionally protected freedoms of all Americans. We have done extensive work on highlighting the rise of hate crimes and domestic extremism in America. Our position has always been and will continue to be that we are against any and all forms of division. The United States is built on inclusion, plurality and diversity; hate crimes and the actions of hate groups who seek to divide our nation affect all Americans. We urge Congress to follow your leadership and take increased measures to prevent, address and combat hate crimes domestic extremism in the U.S.

We thank you for holding this critical and timely hearing on hate crimes and domestic extremism. While it has been nearly three years since the Matthew Shepard and James Byrd, Jr.



Hate Crimes Prevention Act was signed in 2009, strengthening existing legal protections, hate crimes and hate groups continue to be a serious threat facing this country. Oak Creek, Aurora, and other recent incidents have brought attention to this serious issue. However, it is important to remember that these are not isolated incidents. In the past several weeks alone, numerous Islamic institutions, mosques and community centers have been vandalized, shot at with paintball and high velocity rifles, attacked with an acid bomb and suspiciously burned down.

Hate crimes are a daily threat to society as a whole. Law enforcement officers and government institutions are in the direct line of fire when hate groups attack or sometimes specifically target institutions. MPAC is particularly concerned about many statistics recorded in the 2010 FBI Hate Crimes report which states that hate crimes against American Muslims have increased by 50% since 2009. Hate crimes are often underreported and the Bureau of Justice statistics has suggested that the number of actual hate crimes may be up to 15 times higher than what is reported.

Statistics and cases regarding hate groups and domestic violent extremism show that according to the Southern Poverty Law Center, the number of hate groups in our nation has grown by over 60% since 2000. A broad range of communities are targeted by hate crimes: In 2010, according to the FBI, 47% of hate crimes were racially motivated, 20% were motivated by the victim's religion, 19% were based on sexual orientation and 13% were based on ethnicity or national origin. Hate crimes, hate groups and violent domestic extremism affect not only individuals but targeted communities as well. Targeting individuals and communities by hate groups sends the message that they do not belong in this country. Hate groups and violent domestic extremists



threaten the safety of all Americans because of the violence of that is perpetrated and often occurs in the public sphere.

Impact of Government Actions

Government actions and political discourse shape the public's perception of minority communities. These actions can ultimately fuel violence motivated by hate and can prevent government from pursuing actual threats posed by hate groups and domestic extremists.

Racial and religious profiling can be perpetuated by biased law enforcement actions based on perceptions of community members through discriminatory policing. When biased policing occurs, resources are diverted from investigating and policing actual threats, including hate and domestic extremist groups. Biased policing leads to diminishing trust of law enforcement work especially during times when assistance is needed when communities are faced with hate crimes.

More recently, bigoted rhetoric in the political discourse have come from statements made by elected officials premised on race/hatred toward certain religions and xenophobia. Elected and public officials have a responsibility to refrain from making such statements because of the visible positions that they hold and broad range of audiences that they reach.

Conclusion

History has shown us the past efforts led by the highest levels of government have been pivotal setting a framework to combat hate crimes and domestic extremism. We are at a moment in history when the grave threat currently posed by hate groups to minority communities and all



Americans, is imperative that policymakers take strong measures to prevent, document, investigate and combat hate crimes. Specifically, existing hate crimes legislation must be rigorously enforced. Hate crime data collection and reporting must be improved. We need to ensure robust and comprehensive implementation of the Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act. Further, Congress must allocate and prioritize federal funding for initiatives that prevent, investigate and combat hate crimes, hate groups and domestic extremism.

MPAC is heartened by the Subcommittee's leadership in holding this hearing and we are grateful for the opportunity to present our position on combatting hate crimes and domestic violent extremism.

Thank you again for this opportunity to express the views of the Muslim Public Affairs Council. We welcome the opportunity for further dialogue and discussion about these important issues.



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**TESTIMONY SUBMITTED BY
HILARY O. SHELTON
DIRECTOR, NAACP WASHINGTON BUREAU &
SENIOR VICE PRESIDENT
FOR ADVOCACY AND POLICY**

to the

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

on

**“HATE CRIMES AND THE THREAT OF
DOMESTIC EXTREMISM”**

September 19, 2012

Good morning Chairman Durbin, Ranking Member Graham, and esteemed Members of the Senate Judiciary Subcommittee on the Constitution, Civil and Human Rights. Thank you for holding this extremely necessary hearing to evaluate the current status of Hate Crimes and the work that the federal government has done in combating them. I am submitting this testimony on behalf of the National Association for the Advancement of Colored People, the NAACP.

As the Director of the NAACP Washington Bureau, the federal policy and national legislative arm of the NAACP, and the Senior Vice President for Advocacy and Policy, it has been my pleasure to work with the NAACP for almost 17 years, and I can honestly say that putting a stop to hate crimes is of the utmost importance to the NAACP.

Founded in 1909, the NAACP is our nation's oldest, largest and most widely known grassroots-based civil rights organization. We currently have more than 300,000 card carrying members in every state in the country and our more than 600,000 e-activists nation-wide.

The NAACP is no stranger to hate crimes: as the surviving friends and family of Harry T. and Henrietta Moore, Medgar Evers, Martin Luther King, Jr., Michael Henry Schwerner, Andrew Goodman, James Chaney, Emmett Till and too many others, we are all too familiar with the evil concept. We are also too familiar with the process of being ostracized and demonized because of who we are or what we look like.

Sadly, hate crimes remain a festering and horrifying problem in the United States. This form of domestic terrorism is designed to intimidate whole communities on the basis of personal and immutable characteristics – and can spark widespread neighborhood conflicts, even damaging the very fabric of our society.

Perhaps even more disturbing is the fact that the number of hate crimes, and those who espouse hatred, has increased in recent years. According to the Southern Poverty Law Center, the number of hate groups in our country, currently numbering over a thousand, has grown by almost 60% since 2000. Although African Americans made up only 12.4% of the U.S. population in 2010, we accounted for 70% of all racially motivated hate crimes that year. This number is an increase from just over 65% in 2000.

The 2009 "*Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act*" was created to expand existing hate crime prevention laws and allow the federal government to assist the local authorities in the investigation and prosecution of crimes motivated by hate, regardless of where or what the victim was doing at the time the crime occurred. It also was intended to expand the definition of a hate crime to include those motivated by the victim's disability, gender or sexual orientation and it would provide money to states to develop hate crime prevention programs.

With the recent upsurge of racially and ethnically charged incidents, such as Oak Creek and a number of other recent occurrences, we would recommend that the Congress, the White House, and government agencies evaluate the effectiveness of the current law. As well as, reviewing and updating the following policy recommendations:

1. Ensure robust and comprehensive implementation of the Mathew Shepherd and James Byrd, Jr. Hate Crimes Prevention Act (HCPA): To ensure robust enforcement, the U.S. Department of Justice (DOJ) should file appropriate cases

under HCPA; vigorously defend the constitutionality of the Act; and ensure continued education, outreach, and training to federal, state, and local law enforcement officials on HCPA and its requirements.

2. Improve federal hate crime data collection, disaggregation, categorization, and reporting efforts: DOJ should promote mandatory comprehensive participation in existing hate crimes reporting requirements and the FBI should improve hate crime incident reporting by developing new categories on hate crime incident report forms for various affected communities not yet covered (including anti-Arab, anti-Sikh, and anti-Hindu incidents).
3. Allocate and prioritize federal funding for initiatives that prevent, investigate, and combat hate crimes, hate groups, and domestic extremism: Congress should establish or increase appropriations for: prevention, education, and training initiatives for law enforcement around existing hate crimes policies and their requirements; anti-bias education initiatives; existing government agencies specifically devoted to addressing and investigating hate crimes, hate groups, domestic extremism, and community tensions; and government resources, such as online portals and websites, geared specifically towards youth affected by bias and hatred. In addition, Congress should urge the Department of Homeland Security (DHS) to release its previously retracted 2009 public on right-wing extremist groups.
4. Establish formalized interagency efforts and positions at the highest levels of government, in partnership with community stakeholders, to address hate crimes: The White House should convene a Presidential summit on hate crimes affecting religious minorities that engages community members, religious leaders, and federal government officials with the purpose of developing best practices for stakeholders addressing this issue, similar to what was instituted by President Clinton on race in the 1990s. The White House should also establish an interagency taskforce on hate crimes and domestic extremism, similar to what was established by President Clinton following the church arsons of the 1990s. DOJ should also formalize the Initiative to Combat Post-9/11 Discriminatory Backlash within the DOJ Civil Rights Division by designating a Special Counsel for Post-9/11 Discrimination and a Special Counsel for Religious Discrimination.
5. Curb actions and discourse by government agencies and public officials that often promote a climate where hate crimes can occur: Congress should pass robust anti-profiling policies, such as the *End Racial Profiling Act* (S. 1670; H.R. 3618) which prohibits profiling based on race, religion, ethnicity, or national origin

by federal, state and local law enforcement; establishes requirements for law enforcement to collect data, provide anti-profiling trainings, and develop a complaint mechanism for affected individuals; allow DOJ to withhold grants to entities that fail to comply with the law and provide funding to these seeking to eliminate the practice; and allow affected individuals to seek redress in court. DOJ should also amend its 2003 Guidance Regarding the Use of Race by Federal Law Enforcement Agencies to apply to profiling based on religion and national origin, remove national and border security loopholes, cover law enforcement surveillance activities, apply to state and local law enforcement agencies acting in partnership with federal agencies or receiving federal funds, and make the guidance enforceable. Public officials should refrain making statements based on racism, xenophobia, homophobia, sexism, or religious intolerance. Public officials should also take a pledge to not engage in such rhetoric as well as condemn such statements when they do occur in the public sphere.

Hate Crimes have a profoundly destructive impact not only on the victims, but on entire communities. In the United States of America, no one, regardless of their race, religion, ethnicity or sexual preference should be made to live in fear.

Thank you again, Chairman Durbin and Ranking member Graham, for holding this important hearing and for soliciting the thoughts of the NAACP and for your continued leadership in this area.



*National Action Network
Reverend Al Sharpton, President and Founder
Reverend Dr. W. Franklyn Richardson, Chairman
Tamika Mallory, National Executive Director*

Statement for the Record
Submitted by
National Action Network

Testimony on
“Hate Crimes and the Threat of Domestic Extremism”

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

Thank you Chairman Durbin, Ranking Member Graham, and members of the Subcommittee on the Constitution, Civil Rights and Human Rights for allowing us to submit testimony regarding hate crimes happening around the United States. The National Action Network (“NAN”), a leading civil rights organization that fights for one standard of justice, decency and equal opportunities for all people regardless of race, religion, national origin, and gender, supports the Hate Crimes and the Threat of Domestic Extremism hearing and looks forward to seeing what actions will come from this hearing.

While this hearing was convened mainly in response to the shooting which occurred at the Sikh Temple of Wisconsin in Oak Creek, NAN knows this is not an isolated incident and wants to ensure the committee and the public know that different versions of hate crimes still occur across the country today. Congress has defined the term hate crime to mean a criminal offense against a person or property motivated in whole or in part by an offender’s bias against a race, religion, disability, ethnic origin or sexual orientation. Since this nation’s founding, minorities have been subjected to racially motivated violence and other acts of hateful bias. For much of our nation’s history, minorities – including racial and religious minorities –

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have lived in fear that they could be lynched, shot, kidnapped, assaulted, or harassed, because of their minority status. Over the course of time the nature of hate crimes have evolved and still very much exist. Today, hate crimes are not limited to minorities; victims include homosexuals, people with different religious viewpoints, and the disabled.

With the nation becoming more and more polarized, with radical views of religion beginning to play a more prominent role in our society, the threat of domestic extremism and terrorism becomes increasingly acute. The movie theater shooting in Colorado and the Sikh shooting in Wisconsin reflects the growing concern for hate motivated acts of violence or domestic extremism. Unfortunately, the evolving demographics of this nation may ultimately provide cause to future acts of hate motivated attacks. To preserve the rights of individuals and groups to live in a free, diverse and democratic society, the nation must take strong action against hate crimes.

NAN denounces all crimes based on a person race, gender, nationality, and sexual orientation. Fighting hate crimes is one of our major initiatives and has been since we were founded in 1991. We have held marches and rallies demanding justice for those who have been victims of racially motivated crimes, held meetings with community stakeholders to ensure that these types of crimes are prevented, and pushed local governments and the federal government to pass stronger legislation against hate crimes. In November 2007, we held a march and rally in Washington D.C. against hate crimes outside the Department of Justice to put pressure on the federal government to enforce hate crime laws throughout the country. Outraged by the actions occurring in Jena, Louisiana, we marched to let the Department of Justice know that the hanging of nooses, the drawing of swastikas, or terrorizing any individual because they are different is intolerable. We believed then that the country no longer took hate crimes seriously and we needed to bring the issue to the forefront.

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Two years later, the Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act was passed by congress and signed by President Obama. The legislation was named after Matthew Shepard, who was tortured and murdered because he was homosexual, and James Byrd Jr., who NAN advocated on behalf of along with the Byrd family after Mr. Byrd's body was tied to a pick-up truck and dragged until his torso was ripped from the rest of his body. This legislation strengthened the 1969 Federal hate crime law which was only enforceable if the victim was engaged in a federally protected activity, like voting or going to school. Under the Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act the federal government has the authority to prosecute violent hate crimes committed because of the race, nationality, and religion of a person to the fullest extent of the law. The act also includes violence and attempted violence directed at the gay, lesbian, bisexual, and transgender community, and the disabled. Additionally, the act provides funding and technical assistance to state and local jurisdictions to help them effectively investigate, prosecute, and prevent hate crimes.

Once again in 2012, we need to remind everyone that hate crimes still occur. We need to enforce our current laws as well as propose new and tougher laws to combat hate crimes. Not only do we need to focus on the actions of individuals or hate groups, we need to look at the actions of certain states. Laws which enable the police to racially profile an individual, strengthens the notion this behavior is acceptable and the public can target individuals based on race, gender, nationality, and sexual orientation. Earlier this year NAN held a silent march in New York City against the "Stop and Frisk" policy enforced by the New York City Police Department. "Stop and Frisk" is an approach supported by the Mayor of New York City, Michael Bloomberg, where minorities are overwhelmingly targeted by law enforcement officers to "random" stops and are promptly frisked for illegal contraband. The majority of the time these individuals are found to be without contraband and are completely innocent of any crime. The justification behind this policy, to curb the violence in New York City, could be accomplished

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more effectively through other means. These actions against minorities can unconsciously, some would say overtly, send a message that minorities are inherently dangerous since even law enforcement officials feel the need to check minorities to see if they are carrying weapons. With policies like this in place, many minorities are unduly targeted by individuals as well as their local state government.

Another state sponsored form of racial profiling are the immigration laws passed by the Arizona State legislature. While the U.S. Supreme Court struck down most of the law's provisions earlier this year, we are still concerned with the provision which was upheld. The remaining provision requires state law enforcement to determine the immigration status of anyone that they "reasonably suspect" is an illegal immigrant when they are stopped or arrested. This law disparately impacts the Latino and to some extent some Asian communities and tramples on their civil rights. Having a law that gives law enforcement the unfettered power to ask a person who is Latino and/or looks like an immigrant, when stopped, to see their "papers" creates an opportunity for profiling and is a condemning practice that is unacceptable.

Some will say that racial profiling should not be considered a hate crime, because it does not lead to violence or a criminal act against the person, we argue that is not the case. There are countless instances where a person was racial profiled and ended up being the victim of violence. NAN has specifically advocated for several people who fall into that category: Amadou Diallo, who was killed by the New York City Police Street Crime Unit in a 40-shot barrage; Tyesha Miller, who was wrongfully gunned down by the LAPD; Sean Bell, who was killed on his wedding day in a 50-shot attack by the New York City Police Department; and Trayvon Martin, an innocent unarmed teenager walking in a gated Florida community who was shot and killed by a "neighborhood watch captain". The aforementioned cases began with racial profiling and ended with an act of violence. When notions of inequality based on race, gender, sexual



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Tamika Mallory, National Executive Director*

orientation or religion begin is an attitude toward people within certain groups, we have historically seen those attitudes become extreme obsessions for some who want to pursue what they believe is “vigilante justice.” These extremists see legislative policies and targeting by police as supporting their own attitudes and beliefs, furthering their commitment to hate and hate crimes. Furthermore, NAN believes that racial profiling should be considered a criminal act. Not only does it discriminate against the person being profiled, it negatively stereotypes an entire race or nationality.

Although we must remain vigilant against individuals and groups who resort to hate crimes within our country, we must be conscious of action done by certain states. New York, Arizona, and Alabama have sanctioned racial profiling which could negatively impact its citizens by giving them the idea that it is acceptable to discriminate against a person based on their race, gender, religion, nationality or sexual orientation. In an effort to counteract these actions, the United States government must continue to fully enforce the Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act, as well as looking into other supporting legislation and possible correlating factors associated with state’s profiling methods and individual hate crimes. Additionally, all civic leaders must express their outrage over any harmful actions that are motivated by a person’s race, gender, religion, nationality or sexual orientation. We must remember that everyone should be treated equally with no exceptions. We thank you for your consideration in this matter and look forward to working with the Senate Judiciary Committee on this issue.

National Asian Pacific American Bar Association



STATEMENT OF

**Tina Matsuoka, Executive Director
National Asian Pacific American Bar Association**

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

Committee Hearing on "Hate Crimes and the Threat of Domestic Extremism"

SEPTEMBER 19, 2012

Chairman Durbin, Ranking Member Graham, and members of the Subcommittee: I am honored to submit this testimony for the record on behalf of the National Asian Pacific American Bar Association (NAPABA), regarding today's hearing entitled "Hate Crimes and the Threat of Domestic Extremism." I would like to thank the Subcommittee for holding this critical and timely hearing on hate crimes and domestic extremism, and thank Chairman Durbin for his leadership on this issue.

NAPABA is the national association of Asian Pacific American attorneys, judges, law professors, and law students. NAPABA represents the interests of over 40,000 attorneys and more than 60 state and local Asian Pacific American bar associations, whose members work variously in solo practices, large firms, corporations, legal services organizations, non-profit organizations, law schools, and government agencies. Since its inception in 1988, NAPABA has served as the national voice for Asian Pacific Americans in the legal profession and has promoted justice, equity, and opportunity for Asian Pacific Americans.

As members of a pan-Asian organization, we were horrified to witness the tragedy at Oak Creek, Wisconsin. NAPABA has strongly opposed the racial profiling and targeting of South Asian, Muslim, Sikh, and Arab Americans over the past decade, and we continue to do so today. We believe that racial profiling fosters an atmosphere that leads to acts of domestic extremism and hate crimes against the communities who are racially profiled, and we therefore continue to press for the passage of the End Racial Profiling Act (ERPA).

My organization is particularly concerned about the growing number of hate crimes against the South Asian American community. Unfortunately, the attack at Oak Creek was not an isolated incident. Since that tragedy, numerous Islamic institutions have been vandalized and targeted, and there continue to be attacks on individuals of various races and faiths who "look foreign." And, over the course of the last decade, there have been many more hate crimes perpetrated against those of South Asian, Muslim, Sikh, and Arab American descent, or those perceived to share these identities. This is not the American that we believe in, and we would urge Congress and federal government agencies to take increased measures to prevent, address, and combat hate crimes and domestic extremism in the United States, beginning with robust and comprehensive implementation of the Mathew Shepherd and James Byrd, Jr. Hate Crimes Prevention Act (HCPA).

One major problem that our community faces in combatting this growing problem is the underreporting of hate crimes and the lack of disaggregated data. According to FBI hate crimes statistics, over 6,600 hate crimes were reported in the United States in 2010, but as we know hate crimes are often underreported. The Bureau of Justice Statistics has suggested that the number of actual hate crimes may be up to 15 times higher than what is reported. We must put more resources into both preventing hate crimes and ensuring that they are accurately reported. The federal government must improve federal hate crime data collection, disaggregation, categorization, and reporting efforts if we as a nation are to more effectively combat hate

crimes. The FBI should specifically include new categories on hate crime incident report forms for various affected communities that are not currently included to address the reality of attacks on different groups (including anti-Arab, anti-Sikh, and anti-Hindu incidents) within the South Asian American community.

I have noted the particular toll that hate crimes have taken on parts of the Asian Pacific American community, but we are by no means the only targets of such activities. According to the FBI, in 2010 47% of hate crimes were racially-motivated, 20% were motivated by the victim's religion, 19% were based on sexual orientation, and 13% were based on ethnicity or national origin. Unfortunately, far too many communities have suffered the impact of hate crimes, and continue to struggle with how to combat them and protect their community members. But it would be misleading and unfortunate if we were to draw the conclusion that when a person is victimized, it only affects his or her community. While it is, of course, a horrible truth that every act of domestic extremism traumatizes the victim and sends a clear message to the victim's community that it does not belong or is not wanted in this nation, the effect is much greater. Every time that hate groups and domestic extremists act, they threaten the safety of all Americans, whatever their creed or color, and betray the American Dream. NAPABA stands in solidarity with all communities that have been targeted by hate crimes and domestic terrorism because such actions negatively affect us all.

Thank you again for this opportunity to express the views of NAPABA. We welcome the opportunity for further dialogue and discussion about these important issues.



**Written Testimony of the National Asian Pacific American Women's Forum
to Senate Judiciary Subcommittee on the Constitution, Civil Rights, and Human Rights
Regarding the Hearing on Hate Crimes and the Threat of Domestic Extremism**

Submitted September 17, 2012

I. About the National Asian Pacific American Women's Forum

The National Asian Pacific American Women's Forum (NAPAWF) is the only national, multi-issue Asian and Pacific Islander (API) women's organization in the country. NAPAWF's mission is to build a movement to advance social justice and human rights for API women and girls. As an organization dedicated to the wellbeing of API women and girls and the communities they belong to, NAPAWF is deeply concerned about the prevalence of hate crimes in the United States. API women and girls are undoubtedly harmed by crimes based on anti-Muslim sentiment, xenophobia, homophobia, sexism, and gender stereotyping. Even when they are not themselves the target of these crimes, API women and girls are affected by the existence of such violence in and around their families and communities. As such, NAPAWF commends the Senate Judiciary Committee for convening a hearing on hate crimes and domestic extremism. The United States is a country built on inclusion, plurality, and diversity. Hate crimes and domestic extremism have no place in it. NAPAWF urge Congress and federal government agencies to take increased measures to prevent, address, and combat hate crimes and domestic extremism in the U.S.

II. Impact of Hate Crimes and Domestic Extremism

While it has been nearly three years since the Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act was signed in 2009, strengthening existing legal protections, hate crimes and hate groups continue to be a serious threat facing this country. The Oak Creek tragedy has brought attention to this serious issue, but it is important to remember that this is not an isolated incident. For example, in the past few weeks alone, numerous Islamic institutions have been vandalized, shot at with paintballs and a high velocity air rifle, attacked with an acid bomb, suspiciously burned down. Furthermore, there have been direct attacks on individuals of various races and faiths. Hate crimes are a daily threat to and threat to society as a whole. Law enforcement officers and government institutions are in the direct line of fire when hate groups

attack or sometimes specifically targeted by hate groups or domestic extremists. According to FBI hate crimes statistics, over 6,600 hate crimes were reported in the U.S. in 2010. Hate crimes are often underreported and the Bureau of Justice Statistics has suggested that the number of actual hate crimes may be up to 15 times higher than what is reported. According to the Southern Poverty Law Center, the number of hate groups in our country (currently numbering over a thousand) has grown by almost 60% since 2000. A broad range of communities are targeted by hate crimes: In 2010, according to the FBI, 47% of hate crimes were racially-motivated, 20% were motivated by victim's religion, 19% were based on sexual orientation, and 13% were based on ethnicity or national origin.

III. Impact of government actions

Government actions and political discourse shape the public's perception of minority populations. First, law enforcement actions can perpetuate biased perceptions of community members through discriminatory policing. By engaging in such policing, resources are diverted away from actual threats, including hate and domestic extremist groups. Moreover, trust of law enforcement is diminished in targeted communities. Second, statements by public officials premised on racism, homophobia, sexism, xenophobia, hatred towards religious groups shape public's perception of minority populations and can fuel individual actions motivated by hate. NAPAWF believes elected and public officials have a greater responsibility to refrain from making such statements because of the visible positions that they hold and broad range of audiences that they reach.

IV. Policy Recommendations

History has shown us the past efforts led by the highest levels of government have been pivotal setting a framework to combat hate crimes and domestic extremism. Following the large number of attacks on African American churches in the mid-1990s, President Clinton declared the issue a national priority and directed the Administration to investigate and prosecute perpetrators; help communities rebuild houses of worship; and offer assistance in preventing additional attacks. In addition, a taskforce was established to address this very issue. These effects of the efforts were invaluable, yielding a 53% drop in attacks against such places of worship between 1996 and 1999.

We are now at a similar moment in history and given the grave threat currently posed by hate crimes, hate groups, and domestic extremism to minority communities and all Americans, it is imperative that policymakers take strong measures to prevent, document, investigate, and combat them. Specifically, existing hate crimes legislation must be rigorously enforced; data collection, categorization, reporting, and disaggregation mechanisms must be improved; adequate funding must be provided to government agencies charged with developing initiatives addressing the issue; formalized interagency efforts and positions within government on the issue must be established; and actions and rhetoric by government agencies and public officials that further an environment where bias can occur must be curbed.

Below are policy recommendations that Congress, the White House, and government agencies should undertake:

- a. Ensure robust and comprehensive implementation of the Mathew Shepherd and James Byrd, Jr. Hate Crimes Prevention Act (HCPA): Enacted in 2009, this law encourages partnerships between federal and state law enforcement officials to more effectively address hate violence and provides limited authority for federal investigations and prosecutions when local authorities are unwilling or unable to act. To ensure robust enforcement, DOJ should file appropriate cases under HCPA; vigorously defend the constitutionality of the Act; and ensure continued education, outreach, and training to federal, state, and local law enforcement officials on HCPA and its requirements.
- b. Improve federal hate crime data collection, disaggregation, categorization, and reporting efforts: DOJ should promote mandatory comprehensive participation in existing hate crimes reporting requirements and the FBI should improve hate crime incident reporting by developing new categories on hate crime incident report forms for various affected communities not yet covered (including anti-Arab, anti-Sikh, and anti-Hindu incidents).
- c. Allocate and prioritize federal funding for initiatives that prevent, investigate, and combat hate crimes, hate groups, and domestic extremism: Congress should establish or increase appropriations for: prevention, education, and training initiatives for law enforcement around existing hate crimes policies and their requirements; anti-bias education initiatives; existing government agencies specifically devoted to addressing and investigating hate crimes, hate groups, domestic extremism, and community tensions; and government resources, such as online portals and websites, geared specifically towards youth affected by bias and hatred. In addition, Congress should urge DHS to release its previously retracted 2009 public on right-wing extremist groups.
- d. Establish formalized interagency efforts and positions at the highest levels of government, in partnership with community stakeholders, to address hate crimes: The White House should convene a Presidential summit on hate crimes affecting religious minorities that engages community members, religious leaders, and federal government officials with the purpose of developing best practices for stakeholders addressing this issue, similar to what was instituted by President Clinton on race in the 1990s. The White House should also establish an interagency taskforce on hate crimes and domestic extremism, similar to what was established by President Clinton following the church arsons of the 1990s. DOJ should also formalize the Initiative to Combat Post-9/11 Discriminatory Backlash within the DOJ Civil Rights Division by designating a Special Counsel for Post-9/11 Discrimination and a Special Counsel for Religious Discrimination.
- e. Curb actions and discourse by government agencies and public officials that often promote a climate where hate crimes can occur: Congress should pass robust anti-profiling policies, such as the End Racial Profiling Act (S. 1670; H.R. 3618) which prohibits profiling based on race, religion, ethnicity, or national origin by federal, state and local law enforcement; establishes requirements for law enforcement to collect data, provide anti-profiling trainings, and develop a

complaint mechanism for affected individuals; allow DOJ to withhold grants to entities that fail to comply with the law and provide funding to these seeking to eliminate the practice; and allow affected individuals to seek redress in court. DOJ should also amend its 2003 Guidance Regarding the Use of Race by Federal Law Enforcement Agencies to apply to profiling based on religion and national origin, remove national and border security loopholes, cover law enforcement surveillance activities, apply to state and local law enforcement agencies acting in partnership with federal agencies or receiving federal funds, and make the guidance enforceable. Public officials should refrain making statements based on racism, xenophobia, homophobia, sexism, or religious intolerance. Public officials should also take a pledge to not engage in such rhetoric as well as condemn such statements when they do occur in the public sphere.



National Association of Social Workers
Office of the Executive Director

...the power of social work

Elizabeth J. Clark, PhD, ACSW, MPH
Executive Director

Testimony of:

Elizabeth J. Clark, PhD, ACSW, MPH

Executive Director

National Association of Social Workers (NASW)

September 20, 2012

Hearing on

Hate Crimes and Domestic Extremism

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

US Senator Richard Durbin (D-IL), Chairman

Chairman Durbin, Ranking Member Graham and members of the Committee, the National Association of Social Workers (NASW) thanks you for the opportunity to submit testimony for the record regarding the problem of hate crimes in the United States.

NASW is a professional association that has a current membership of 145,000 social workers with 56 chapters that are in in all 50 states, a New York City chapter, a DC-Metropolitan chapter, and chapters in Puerto Rico, Guam, and the Virgin Islands. Established in 1955, NASW works in support of its membership and of the interest of the social work profession in general. NASW, its chapters and individual members are guided by a set of values that include advocating for social justice and human rights for all Americans, especially those who are socially, economically, medically, and emotionally vulnerable. Over our 57 years of existence, NASW has taken strong stances on many issues that have actual or potential negative impact on millions of Americans.

Therefore, NASW applauds the Committee for holding the hearings on *Hate Crimes and Domestic Extremism*. This is matter of vital importance to NASW's membership. While we are a nation that has made significant advances in trying to prevent hate crimes, such heinous acts still happen. NASW believes it is important that Congress and the federal government take increased measures to prevent and combat hate crimes and domestic extremism in this country.

While it has been three years since the Matthew Shepard and James Byrd, Jr. Hate Crimes Protection Act was signed in 2009 strengthening existing legal protections, hate crimes and hate groups continue to be a serious threat facing our citizens. For example, the mass murder in Oak

Creek, Wisconsin, when a gunman killed six people and critically wounded three at a Sikh temple during Sunday services was a horrendous incident that was clearly related to racial, religious, and ethnic intolerance.

The Oak Creek tragedy is only one of a growing number of incidents of violence and hate that American Sikhs, South Asians, Arabs, and Muslims have experienced in recent years. We contend that far too many Americans have misguided prejudices about the Sikh community – just as they do of the American Muslim community, whose law-abiding and loyal citizens often suffer these same hate crimes.

- According to the Southern Poverty Law Center, the number of hate groups in our country (currently numbering over a thousand) has grown by almost 60 percent since 2000.
- According to FBI hate crimes statistics, over 6,600 hate crimes were reported in the U.S. in 2010.
- In 2010, according to the FBI, 47 percent of hate crimes were racially-motivated, 20 percent were motivated by the victim's religion, 19 percent were based on sexual orientation, and 13 percent were based on ethnicity or national origin
- Hate crimes are often underreported, and the Bureau of Justice statistics suggest that the number of actual hate crimes may be up to 15 times higher than what is reported.
- Crimes, like the tragedy at Oak Creek, should be condemned, regardless of what ethnic or religious group is targeted. This shooting would be no less, or more, reprehensible if it was directed against Americans attending a church, synagogue, or mosque. This type of attack is not an attack on one community; it is an attack on us all.
- Oak Creek was not a Sikh tragedy, but an American one. The overwhelming response by Americans of all faiths reaffirms that our country has not forgotten the importance of pluralism and protecting the rights of all.

Hate crimes can be closely associated with racial and religious profiling. To some degree, law enforcement actions can perpetuate biased perceptions of community members through discriminatory policing (e.g., airport profiling, local law enforcement profiling/surveillance of minority communities, profiling on the part of immigration authorities). All of these can divert resources away from actual threats, including hate and domestic extremist groups. Additionally, when law enforcement focuses on race/religion-based profiles, it can diminish trust of law enforcement by targeted communities, including during times when assistance is needed when faced with hate crimes.

In conclusion, NASW joins elected leaders, and civic, faith-based, and educational institutions in taking steps to address xenophobia, racism, and anti-religious hate in our country today. We hope that these hearings are only the first step in bringing stakeholders together to identify concrete solutions.



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Testimony for the Record
Senate Judiciary Committee
September 19, 2012

Hearing on Hate Crime and Domestic Extremism

Submitted by:

The National Coalition for Asian Pacific American Community Development

The National Coalition for Asian Pacific Community Development (National CAPACD) is a national advocacy organization dedicated to addressing the community development needs of the diverse and rapidly growing Asian American and Pacific Islander (AAPI) communities throughout the country. As housing, community development, and civil rights practitioners and advocates, we commend the Senate Judiciary Committee for convening this hearing that addresses an unfortunate but serious problem facing many of our communities today. National CAPACD understands that intolerance only serve to undermine the ideals of diversity and opportunity that form our country's foundation and foster strong, inclusive communities.

While recent events have again brought these issues to the national forefront, we must remember that hate crimes are nothing new, and happen every day. In fact, 6,600 such crimes were reported to the FBI in 2010 alone. Furthermore, we recognize that tragedies like the recent shooting at the Sikh Temple of Wisconsin in Oak Creek are a part of a history of bias and violence that members of Sikh, Muslim, Arab, and South Asian communities have faced, particularly since September 11, 2001. National CAPACD stands in solidarity with our allies in Asian American and Pacific Islander communities in condemning these acts of violence, and will continue to work with our membership to improve neighborhood conditions, eliminate poverty, and build communities of hope and opportunity.



“Hate Crimes and the Threat of Domestic Extremism”

**Hearing before the Senate Committee on the Judiciary,
Subcommittee on the Constitution, Civil Rights and Human Rights
Wednesday, September 19, 2012**

The National Disability Rights Network (NDRN) would like to thank Senator Durbin, Senator Graham and the members of the Senate Subcommittee on the Constitution, Civil Rights, and Human Rights for holding a hearing on the topic of hate crimes, and implementation of the Matthew Shepard and James Byrd, Jr., Hate Crimes Prevention Act.

NDRN is the national membership organization for the Protection and Advocacy (P&A) System, the nationwide network of congressionally-mandated agencies that provide legally-based advocacy services to individuals with disabilities. A P&A agency exists in every state, the District of Columbia, Puerto Rico, and U.S. territories (Guam, U.S. Virgin Islands, America Samoa, and Northern Marianas Islands). P&A agencies have the authority to provide legal representation and other advocacy services, under federal statutes, to all people with disabilities. Collectively, the P&A System is the largest provider of legally-based advocacy services to persons with disabilities in the United States.

Through much of our country’s history and well into the twentieth century, people with disabilities were wrongly viewed as defective and a burden on society because of their impairments. This view led to U.S. society imposing “attitudinal and institutional barriers that subject individuals with disabilities to lives of unjust dependency, segregation, isolation and exclusion.”¹ The history of isolation and segregation has gradually shifted towards a view that persons with disabilities have the right to fully participate in all aspects of community life. The recognition of the civil and human rights of persons with disabilities can be seen when the U.S. government took the first comprehensive step to address discrimination based on disability in 1990 when the Americans with Disabilities Act (ADA) was signed into law.

Today, people with disabilities are included in all aspects of society including living and working in communities alongside family and friends, however they continue to experience pervasive discrimination on the basis of their disability. The presence of a impairment is often seen as being different from people without disabilities despite disability being a natural part of the human condition.

¹ Robert Silverstein, *Emerging Disability Policy Framework: A Guidepost For Analyzing Public Policy*, 85 IOWA L. REV. 1691, 1695 (2000).



These perceived differences can evoke a range of improper and unnecessary emotions in others, from misunderstanding and apprehension to feelings of superiority and hatred. Perhaps most unfortunately, the range of emotions can also manifest itself in the form of violence — and it is imperative that a clear message be sent to our country that acts of violence motivated by hate are not acceptable in society. A crime motivated by hate against an individual because of their perceived difference is a crime against an entire community of people, and deserves heightened penalties because the crime impacts the entire community of people with disabilities, not just the people who are direct victims.

Until the passage of Matthew Shepard and James Byrd, Jr., Hate Crimes Prevention Act, minimal protections existed for persons with disabilities who were victims of hate crimes. The protections included the federal government having very limited authority to investigate and prosecute disability bias federal crimes. In 1994, Congress enacted a penalty-enhancement law for federal crimes in which the defendant intentionally selects a victim because of the person's "actual or perceived race, color, religion, national origin, ethnicity, gender, disability, or sexual orientation of any person"² Also in 1994, Congress extended the Hate Crime Statistics Act of 1990, a law requiring the Federal Bureau of Investigation to collect hate crime statistics from state and local law enforcement authorities, to include disability-based hate crimes. Still, hate crimes against those with disabilities remain vastly under-reported.

The need for persons with disabilities to be covered under the Matthew Shepard and James Byrd, Jr., Hate Crimes Prevention Act was shown when the first indictment was issued. The P&A System each year sees numerous incidents involving the abuse, neglect and exploitation of persons with disabilities, and for these reasons NDRN worked to get disability included in the Matthew Shepard and James Byrd, Jr., Hate Crimes Prevention Act. Sadly, the first indictment documented what NDRN already knew. The first indictment involved a 22 year old Navajo man with an intellectual disability.³ More specifically, the indictment alleges that the defendants branded the victim by heating a wire hanger on a stove and burning the victim's flesh, causing a permanent swastika-shaped scar on his arm. The indictment also alleged that the defendants used the victim's developmental disability to induce him to make a cell phone video in which he purportedly consents to the branding. Two of the defendants were sentenced on January 25, 2012 for one count of violating the Act.⁴

According to the data collected by the Federal Bureau of Investigation pursuant to the Hate Crimes Statistics Act, the number of reported hate crimes against individuals with disabilities has steadily increased since 2000 with 1.5 percent of single bias incidents

² 28 U.S.C. 994 Note

³ http://www.justice.gov/usao/nm/pr/2010/beebe/beebe_indictment_101112_pr.pdf

⁴ http://www.justice.gov/usao/nm/pr/2012/2012-01-25_beebe_sanford_pr.pdf



being specifically related to the person's disability in 2009.⁵ However, as the first indictment demonstrates, although charged as a racially motivated hate crime because of the nature of the abuse, the man's significant intellectual disability was used to further harm the victim and give the appearance that a crime had not been committed because the individual had supposedly consented.

Hate crimes against individuals with disabilities must not be tolerated, and while the passage of the Matthew Shepard and James Byrd, Jr., Hate Crimes Prevention Act was an important first step forward, ultimately strong implementation of the Act is necessary. The National Disability Rights Network stands ready to assist the U.S. Department of Justice and the Senate Judiciary Committee in ensuring that the Matthew Shepard and James Byrd, Jr., Hate Crimes Prevention Act is fully and properly implemented.

⁵ <http://www2.fbi.gov/ucr/hc2009/incidents.html>

NATIONAL GAY AND LESBIAN TASK FORCE ACTION FUND

Testimony

Senate Judiciary Committee, Subcommittee on the Constitution, Civil Rights and Human Rights
Hearing on "Hate Crimes and the Threat of Domestic Extremism"

Rea Carey, Executive Director, National Gay and Lesbian Task Force Action Fund

September 19, 2012

Testimony of Rea Carey
Executive Director, National Gay and Lesbian Task Force Action Fund
Before the Senate Judiciary Committee
Subcommittee on the Constitution, Civil Rights, and Human Rights
September 19, 2012

Ending Hate Crimes in America

The National Gay and Lesbian Task Force, the nation's oldest national lesbian, gay, bisexual, and transgender advocacy organization, stood in solidarity with the Sikh community after the tragic Gurdwara shooting in Oak Creek, Wisconsin on August 5. What happened that day was tragic. The violence that continues to befall people from all walks of life due to their race, national origin, religious affiliation, sexual orientation, gender, gender identity, disability, or immigration status is unacceptable. We thank you for recognizing the urgent need to address hate crimes and the proliferation of hate groups in the United States.

Three years following the groundbreaking enactment of the Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act it is clear that there is still work to be done. The most recent FBI statistics revealed 6,624 hate crime incidents in 2010: 47.3% racially motivated, 20% religious, 19.3% sexual orientation, 12.8% ethnicity/national origin, and 0.6% disability. Four additional multi-bias incidents brought the total to 6,628. Under and non-reporting by both law enforcement agencies and survivors means that the problem is even worse. In 2005, the Bureau of Justice Statistics suggested rates were as much as 15 times higher. At the same time, hate groups have established a significant presence. The Southern Poverty Law Center has counted over a thousand, growing by almost 60% in the last decade.

We understand that statistics on hate crimes based on gender identity will begin being collected in 2013, which will be crucial as our research shows that transgender people across the country are frequently targeted for bias-related crimes. According to our 2011 study, *Injustice at Every Turn: A Report of the National Transgender Discrimination Survey*, 26% of transgender and gender non-conforming people have experienced physical assault because of their gender identity/expression. Furthermore, while this number is already unconscionably high, the evidence shows that transgender people of color are impacted much more because of the multiple biases held against them.

The National Gay and Lesbian Task Force Action Fund is encouraged by the Subcommittee's leadership in holding this hearing. We believe that the country must be working together to create a culture that values our differences and does not let those differences make us targets for discrimination. Government actions such as holding this hearing model the shift we want to see broadly across the nation. We further urge the Subcommittee to move quickly to take concrete actions that will help put an end to these counterproductive practices.

There are many legislative as well as administrative actions that can be taken to help address the persistent problems of hate crimes in our country. Here is a non-exhaustive list of our recommendations:

- Support curriculum and other measures in schools to teach diversity and inclusion, and fight bullying and harassment. Because the root of hate crimes is intolerant thinking, much of which takes root when people are young and in school, curricula and other measures that teach the values of tolerance, diversity,

and non-violence should be pursued with more vigor. The problems in school with bullying and harassment, that too often go unaddressed, ultimately bloom into violent hate crimes. To stop this evolution, measures such as the Safe Schools Improvement Act (S.506) should be passed by Congress.

- Ensure robust and comprehensive implementation of the Mathew Shepherd and James Byrd, Jr. Hate Crimes Prevention Act (HCPA): Enacted in 2009, this law encourages partnerships between federal and state law enforcement officials to more effectively address hate violence and provides limited authority for federal investigations and prosecutions when local authorities are unwilling or unable to act. To ensure robust enforcement, DOJ should file appropriate cases under HCPA; vigorously defend the constitutionality of the Act; and ensure continued education, outreach, and training to federal, state, and local law enforcement officials on HCPA and its requirements.
- Pass the “End Racial Profiling Act” (S. 1670) out of Subcommittee and work towards its passage by Congress to institute a federal ban on profiling based on race, religion, ethnicity, and national origin at the federal, state, and local levels;
- Urge the Department of Justice to amend the 2003 Guidance Regarding the Use of Race by Federal Law Enforcement Agencies to also include profiling based on religion and national origin, to remove national and border security loopholes, to cover law enforcement surveillance activities, to apply to state and local law enforcement agencies acting in partnership with federal agencies or receiving federal funds, and make the guidance enforceable.

- Fully fund the Department of Justice's Community Relations Service which mediates and assists communities that are experiencing hate crimes and other forms of inter-group conflict.
- Establish formalized interagency efforts and positions at the highest levels of government, in partnership with community stakeholders, to address hate crimes. The White House should convene a Presidential summit on hate crimes affecting religious minorities that engages community members, religious leaders, and federal government officials with the purpose of developing best practices for stakeholders addressing this issue, similar to what was instituted by President Clinton on race in the 1990s. The White House should also establish an interagency task force on hate crimes and domestic extremism, similar to what was established by President Clinton following the church arsons of the 1990s. DOJ should also formalize the Initiative to Combat Post-9/11 Discriminatory Backlash within the DOJ Civil Rights Division by designating a Special Counsel for Post-9/11 Discrimination and a Special Counsel for Religious Discrimination.

Again, thank you for this opportunity to express our views on hate crimes. The National Gay and Lesbian Task Force Action Fund welcomes this and future opportunities to further the dialogue and bring an end to hate crimes and domestic extremism in this country.

Sincerely,

Rea Carey
Executive Director
National Gay and Lesbian Task Force Action Fund

**STATEMENT OF****Nadia Tonova, Director, National Network for Arab American Communities**

Senate Judiciary Committee Hearing on Hate Crimes & Domestic Extremism

UNITED STATES SENATE**September 19th, 2012**

Chairman Durbin, Ranking Member Graham and members of the Subcommittee: I am honored to submit this testimony for the record on behalf of the National Network for Arab American Communities regarding today's hearing on hate crimes. NNAAC, which was established in 2004, currently has 22 members in 11 states. Our member organizations are grassroots nonprofits located in the most highly concentrated Arab American communities in the country. Hate crimes, actions of hate groups and domestic extremists should be a concern for all Americans. I commend you on your leadership once again for bringing these critical issues to the forefront of public discourse and amongst our government representatives. We at NNAAC believe in the values our nation was built on; inclusion, plurality, and diversity. Hate has no place in the United States of America.

I urge members of Congress and federal government agencies to take increased measures to prevent, address, and combat hate crimes and domestic extremism in the United States. Since the tragic events of 9/11, we have witnessed a fixation by some in government with radicalization and extremism of Muslim Americans. The recent temple shooting in August was a horrific reminder that there are real and imminent threats that have gone under the radar. The time is now to ensure that an incident like this never happens again. Our country deserves better. While it has been nearly three years since the Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act was signed in 2009, strengthening existing legal protections, hate crimes and hate groups continue to be a serious threat facing this country.

A shooting in Wisconsin, the burning down of a mosque in Missouri, desecration of a Muslim cemetery in Illinois are only a sample of recent acts of hate against Arab, Muslim and South Asian communities. According to FBI hate crimes statistics, over 6,600 hate crimes were reported in the U.S. in 2010 alone. Hate crimes are often underreported and the Bureau of Justice Statistics has suggested that the number of actual hate crimes may be up to 15 times higher than what is reported. A broad range of communities are targeted by hate crimes: In 2010, according to the FBI, 47% of hate crimes were racially-motivated, 20% were motivated by victim's religion, 19% were based on sexual orientation, and 13% were based on ethnicity or

national origin. Hate crimes and biased incidents not only affect individuals but also targeted communities. Trauma incurred upon a survivor and targeted community sends the misguided message that they do not belong in this country. Hate groups and domestic extremists also threaten the safety of all Americans because the violence that is perpetrated often occurs in the public sphere.

We know that government actions and political discourse shape the public's perception of minority populations. When bigoted and ill-willed, they can fuel actions motivated by hate, and can prevent government from pursuing actual threats posed by hate groups and domestic extremists. A recent issue plaguing Arab and Muslim communities across the country is racial and religious profiling by law enforcement. Actions by members of law enforcement can perpetuate biased perceptions of community members through discriminatory policing (e.g. airport profiling, local law enforcement profiling/surveillance of minority communities, profiling on the part of immigration authorities). The current fixation on extremism in one community diverts resources away from actual threats, including hate and domestic extremist groups when law enforcement focuses on race/religion-based profiles. Discriminatory police practices diminish trust of law enforcement by targeted communities, including during times when assistance is needed when faced with hate crimes.

I ask that members of Congress, and all public officials, be conscious of what impact their statements can have on the general public. Statements made by elected and public officials premised on racism/homophobia/sexism/xenophobia/hatred toward religious groups shape public's perception of minority populations and can fuel individual actions motivated by hate. I believe that elected and public officials have a greater responsibility to refrain from making such statements because of the visible positions that they hold and broad range of audiences that they reach. I believe that community based policing that is based on genuine partnerships between law enforcement and communities, not by bigoted statements by public and elected officials, are true to our country's ideals of fairness, inclusion, and equality.

The National Network for Arab American Communities puts forth the following policy recommendations:

- a. Ensure robust and comprehensive implementation of the Mathew Shepherd and James Byrd, Jr. Hate Crimes Prevention Act (HCPA): Enacted in 2009, this law encourages partnerships between federal and state law enforcement officials to more effectively address hate violence and provides limited authority for federal investigations and prosecutions when local authorities are unwilling or unable to act. To ensure robust enforcement, DOJ should file appropriate cases under HCPA; vigorously defend the constitutionality of the Act; and ensure continued education, outreach, and training to federal, state, and local law enforcement officials on HCPA and its requirements.

- b. Improve federal hate crime data collection, disaggregation, categorization, and reporting efforts: DOJ should promote mandatory comprehensive participation in existing hate crimes reporting requirements and the FBI should improve hate crime incident reporting by developing new categories on hate crime incident report forms for various affected communities not yet covered (including anti-Arab, anti-Sikh, and anti-Hindu incidents).

- c. Allocate and prioritize federal funding for initiatives that prevent, investigate, and combat hate crimes, hate groups, and domestic extremism: Congress should establish or increase appropriations for: prevention, education, and training initiatives for law enforcement around existing hate crimes policies and their requirements; anti-bias education initiatives; existing government agencies specifically devoted to addressing and investigating hate crimes, hate groups, domestic extremism, and community tensions; and government resources, such as online portals and websites, geared specifically towards youth affected by bias and hatred. In addition, Congress should urge DHS to release its previously retracted 2009 public on right-wing extremist groups.

- d. Establish formalized interagency efforts and positions at the highest levels of government, in partnership with community stakeholders, to address hate crimes: The White House should convene a Presidential summit on hate crimes affecting religious minorities that engages community members, religious leaders, and federal government officials with the purpose of developing best practices for stakeholders addressing this issue, similar to what was instituted by President Clinton on race in the 1990s. The White House should also establish an interagency taskforce on hate crimes and domestic extremism, similar to what was established by President Clinton following the church arsons of the 1990s. DOJ should also formalize the Initiative to Combat Post- 9/11 Discriminatory Backlash within the DOJ Civil Rights Division by designating a Special Counsel for Post-9/11 Discrimination and a Special Counsel for Religious Discrimination.

- e. Curb actions and discourse by government agencies and public officials that often promote a climate where hate crimes can occur: Congress should pass robust anti-profiling policies, such as the End Racial Profiling Act (S. 1670; H.R. 3618) which prohibits profiling based on race, religion, ethnicity, or national origin by federal, state and local law enforcement; establishes requirements for law enforcement to collect data, provide anti-profiling trainings, and develop a complaint mechanism for affected individuals; allow DOJ to withhold grants to entities that fail to comply with the law and provide funding to these seeking to eliminate the practice; and allow affected individuals to seek redress in court.

DOJ should also amend its 2003 Guidance Regarding the Use of Race by Federal Law Enforcement Agencies to apply to profiling based on religion and national origin, remove national and border security loopholes, cover law enforcement surveillance activities, apply to state and local law enforcement agencies acting in partnership with federal agencies or receiving federal funds, and make the guidance enforceable. Public officials should refrain making statements based on racism, xenophobia, homophobia, sexism, or religious intolerance. Public officials should also take a pledge to not engage in such rhetoric as well as condemn such statements when they do occur in the public sphere.

We at NNAAC look forward to working with the Senate Judiciary Committee to ensure that these recommendations are implemented. Thank you for bringing light to a very important issue.



September 19, 2012

Senate Judiciary Subcommittee on the Constitution, Civil Rights, and Human Rights
815 Hart Senate Office Building
Washington, DC 20510

Re: Hearing, September 19, 2012, Hate Crimes and the Threat of Domestic Extremism

Dear Subcommittee Members:

The National Queer Asian Pacific Islander Alliance (NQAPIA) applauds the Subcommittee on holding today's hearing on this very important topic. Events around the country and abroad have put these issues of intolerance and extremism at the top of the news, and we think it is important to call for reasoned voices and non-violence to address the issues of the day. As a federation of lesbian, gay, bisexual, transgender (LGBT) Asian American, South Asian, Southeast Asian, and Pacific Islander (AAPI) organizations, we know the impact of violence in our communities because we are subject to the intersections of racism, homophobia, transphobia, xenophobia, and anti-religious sentiment.

The unconscionable rise of violence in recent months that has devastated our communities has made these intersections and their impacts real for NQAPIA and the communities we serve. The South Asian LGBT organizations we work with tell us all too real stories about discrimination and bigotry they face, not only because of the color of their skin and their religious traditions, but also because of how they live their lives as LGBT people in their families and communities. Our work with faith partners such as the Queer Muslim Working Group reveals the impact that not only anti-Muslim sentiment from religious fundamentalists has on our communities, but the impact of homophobia and transphobia as well.

The National Queer Asian Pacific Islander Alliance is a federation of Asian American, South Asian, Southeast Asian, Pacific Islander lesbian/ gay/ bisexual/ transgender organizations and is a project of the Tides Center. For more information, e-mail nqapia@gmail.com or visit <http://www.nqapia.org>

NQAPIA * 1322 18th Street, NW Washington, DC 20036 * 202-422-4909 (phone)
nqapia@gmail.com (e-mail) * <http://www.nqapia.org> (Web)



NQAPIA drafted an LGBT sign-on letter that over 30 local and national organizations joined in solidarity with the victims of the August 5 shooting at the Sikh gurdwara in Oak Creek, WI and the August 6 fire at a mosque in Joplin, MO to specifically articulate the impact that such violence has on us as LGBT communities (that letter is included here as part of our statement of record). The debates around extremism and violence only became more fraught with urgency when a gunman shot at the Family Research Council a few short days later and we joined another statement from the LGBT community to oppose violence as a means of resolving differences.

Hate crimes continue to be a serious problem. Recent FBI statistics that document over 6,600 hate crimes may actually be undercounting the severity of the problem. A 2005 study by the Bureau of Justice Statistics suggests that the actual figures may be as high as 15 times what is being reported. The domestic extremism that opens up the political and cultural space to somehow rationalize violence and hate crimes has no place in our communities. We know that religious freedom and First Amendment protections are not mutually exclusive and that both can and must be held in balance to ensure our civil liberties.

Violent acts that target people for the characteristics that make them different defy the pluralism that makes America thrive. The intersections of hate violence and domestic extremism are complex and we commend you for taking this on. They encompass a range of issues related to homophobia, xenophobia, and anti-religious sentiment both locally, and in an international context. We urge the Committee to make findings on the causes of and solutions to this violence and to take action to prevent hate before it is too late to act. The times that we live in demand solutions that think big and refuse to oversimplify and we stand ready to work with you to create and implement those solutions.

Sincerely,

Ben de Guzman
Co-Director for Programs
National Queer Asian Pacific Islander Alliance

Attachment enclosed: Statement from LGBT Communities and Organizations on Violence in Oak Creek and Joplin

The National Queer Asian Pacific Islander Alliance is a federation of Asian American, South Asian, Southeast Asian, Pacific Islander lesbian/ gay/ bisexual/ transgender organizations and is a project of the Tides Center. For more information, e-mail nqapia@gmail.com or visit <http://www.nqapia.org>

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nqapia@gmail.com (e-mail) * <http://www.nqapia.org> (Web)

**Statement from LGBT Communities and Organizations on
Violence in Oak Creek, WI and Joplin, MO**

August 8, 2012

CONTACT:

Ben de Guzman, Co-Director for Programs
National Queer Asian Pacific Islander Alliance (NQAPIA)
Phone: 202-422-4909
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Twitter: @NQAPIA

As organizations serving lesbian, gay, bisexual, transgender, and queer (LGBTQ) communities, we are stunned and saddened by the recent spate of violence against communities across the country. The shooting at the Sikh gurdwara (temple) in Oak Creek, WI that left 6 people dead was certainly a blow to all of us on Sunday, August 5. To hear about the fire at the mosque in Joplin, MO not even 24 hours later compounded our sense of tragedy and shock. We send our deepest sympathies to the families affected.

Currently, details about both incidents are still emerging. Local law enforcement in Oak Creek have been joined by the FBI in an ongoing investigation of the incident as a potential act of domestic terrorism and a potential hate crime. The fire in Joplin was the second of its kind at the mosque, on the heels of another fire on July 4. Motives in both cases are still being determined (the first fire at the Joplin mosque was determined to be arson).

The LGBTQ communities we work with and serve are no strangers to violence in our midst. We know our communities are threatened on a daily basis by the many faces of hate and intolerance- not just because of our sexuality or gender identity, but because of our race, ethnicity, religion, national origin, ability, and too many other facets of our identities. We stand in solidarity against all forms of violence, as well as the hate and intolerance that all too often propagate it.

We roundly condemn the violence committed against our fellow community members in Oak Creek, WI and Joplin, MO. As flags fly at half-staff around the country, we call for a fuller dialogue among diverse communities, law enforcement, and policymakers to better address violence in our communities.

Signed,

Advocates for Youth
Affinity Community Services, Inc.
American Civil Liberties Union
Asian Pacific Islander Equality- Northern California
Asian Queers and Allies- North Carolina (AQUA-NC)
CenterLink: The Community of LGBT Centers
The Civil Rights Agenda
Audre Lorde Project
Family Equality Council
FIERCE
First Nations Two Spirit Collective
Gay, Lesbian & Straight Education Network
Immigration Equality | Action Fund
International Federation of Black Prides
National Asian Pacific American Women's Forum
National Black Justice Coalition
National Coalition of Anti-Violence Programs
National Center for Transgender Equality
National Gay and Lesbian Task Force
National Queer Asian Pacific Islander Alliance
The Network/ La Red
PFLAG National (Parents, Families and Friends of Lesbians and Gays)
Queers for Economic Justice
Queer Muslim Working Group
Queer Women of Color Media Arts Project (QWOCMAP)
Q-WAVE
South Asian Lesbian & Gay Association of New York City (SALGA-NYC)
Southerners on New Ground (SONG)
Sylvia Rivera Law Project
Transgender Law Center
Trikone



Emilie R. Ninan, President
president@nasaba.com
 (302) 252-4426

September 17, 2012

Senator Durbin, Chairman
 Senate Judiciary Committee
 Subcommittee on the Constitution, Civil Rights and Human Rights
 Washington, D.C.

**Re: Hearing on Hate Crimes and the Threat of Domestic Extremism on
 September 19, 2012**

Dear Senator Durbin:

On behalf of the North American South Asian Bar Association (“NASABA”), I write to express NASABA’s support of the hearing on Hate Crimes and the Threat of Domestic Extremism being held by the Subcommittee on the Constitution, Civil Rights and Human Rights this Wednesday.

NASABA, an umbrella organization for 26 regional South Asian Bar Associations throughout the United States and Canada, was formed 10 years ago, largely in response to the unique issues that faced South Asians in the aftermath of 9/11. The rapidly growing South Asian-American legal community in the United States, which includes over 6,000 attorneys, has made significant contributions in public service, private practice, and academia.

NASABA recognizes that the United States is built on inclusion, plurality and diversity and that hate crimes and actions of hate groups/domestic extremists affect all Americans. We urge Congress and federal government agencies to take increased measures to prevent, address, and combat hate crimes and domestic extremism in the United States.

While nearly three years have passed since the signing of the James Byrd Jr. Hate Crimes Prevention Act – which strengthened existing legal protections – hate crimes and hate groups continue to present a serious threat in this country. The shootings at Oak Creek and other recent incidents have brought attention to this troubling issue, but these are not isolated incidents. According to FBI hate crimes statistics, over 6,600 hate crimes were reported in the United States in 2010. Furthermore, hate crimes are often underreported, and the Bureau of Justice has suggested that the number of actual hate crimes may be up to 15 times higher than reported figures.

Hate crimes, hate groups and domestic extremism have an effect on the community and the country at large. First, a broad range of communities are targeted by hate crimes. In 2010, according to the FBI, 47% of hate crimes were racially-motivated, 20% were motivated by the


September 17, 2012
Page 2

victim's religion, 19% were based on sexual orientation, and 13% were based on ethnicity or national origin. Second, both the individual victim and the community targeted are sent a message that they do not belong in this country. Lastly, hate groups and domestic extremists threaten the safety of all Americans because the violence that is perpetrated often occurs in the public sphere.

Government actions can foster a climate where hate crimes can occur. Government actions and political discourse shape the public's perception of minority populations, can fuel actions motivated by hate and can prevent government from pursuing actual threats posed by hate groups and domestic extremists. For example, racial and religious profiling by law enforcement can perpetuate biased perceptions of community members through discriminatory policing. Resources are diverted away from actual threats, including hate and domestic extremist groups, when law enforcement focuses on race/religion-based profiles. Trust of law enforcement is diminished in targeted communities, including during times when assistance is needed because of hate crimes in those communities. Likewise, bigoted rhetoric in political discourse (statements made by elected and public officials premised on racism/sexism/hatred toward religious groups, etc.) shape public perception of minority populations and can fuel individual actions motivated by hate. Elected and public officials have a greater responsibility to refrain from making such statements because of the visible positions that they hold and broad range of audiences they reach. Non-discriminatory actions by law enforcement and statements by public and elected officials are true to our country's ideals of fairness, inclusion and equality.

History has shown us that past efforts led by the highest levels of government are pivotal to setting a framework to combat hate crimes and domestic extremism. It is imperative that policymakers take strong measures to prevent, document, investigate and combat them. Specifically, existing hate crimes legislation must be rigorously enforced; data collection categorization, reporting, and disaggregation mechanisms must be improved; adequate funding must be provided to government agencies charged with developing initiatives addressing the issues; formalized interagency efforts and positions within government on the issue must be established; and actions and rhetoric by government agencies and public official that further an environment where bias can occur must be curbed.

Sincerely,



Emilie R. Ninan, Esq.
President, North American South Asian Bar Association

DMEAST #15670746 v2



Oak Creek

Police Department

CHIEF OF POLICE
John O. Edwards
(414) 766-7640

OPERATIONS DIVISION
Capt. Bolender
(414) 766-7606

ADMIN. DIVISION
Capt. Anderson
(414) 766-7615
Disp. Mgr. Leigh
(414) 766-7687
Disp. Sup. Banknecht
(414) 766-7605

DETECTIVE BUREAU
Lt. Knitter
(414) 766-7631

FIRST SHIFT
Lt. Murphy
(414) 766-7607
Sgt. Antisdal
(414) 766-7639
Sgt. Pojda
(414) 766-7636

SECOND SHIFT
Lt. Ashenurst
(414) 766-7610
Sgt. Carter
(414) 766-7637
Sgt. Thorne
(414) 766-7646

THIRD SHIFT
Lt. Stecker
(414) 766-7612
Sgt. York
(414) 766-7641
Sgt. Looijens
(414) 766-7638

301 W. Ryan Road,
Oak Creek, WI 53154
Tel: (414) 762-8200
Fax: (414) 766-6692

September 19, 2012

Senator Dick Durbin
711 Hart Senate Bldg.
Washington, DC 20510

Dear Senator Durbin:

I would like to offer my opinion on what I think is a minor change, but would have a large impact on the tracking of violence against the Sikh community. After the tragedy at the Sikh Gurdwara in the City of Oak Creek Wisconsin, I learned a great deal about the Sikh culture. The one thing that struck me the most was how compassionate and caring the Sikh members were after such a horrible thing happened to them. We in Oak Creek consider the Sikh members a part of our community, just as anyone else that lives, works or worships in our city.

When putting together our monthly Unified Crime Report (UCR) for the FBI, I found that it was difficult to classify the crime which occurred at the Gurdwara. The hate crime incident report portion of the UCR has categories for race, religious, ethnicity/national origin among others.

The problem arises in the fact that in the **Race** column, the only choices are Anti-White, Anti-Black, Anti-American Indian/Alaskan Native, Anti-Multi-Racial Group. There is no column to classify the victims from the Sikh Gurdwara shooting. Under the **Religious** column, the choices are Anti-Jewish, Anti-Catholic, Anti-Protestant, Anti-Islamic (Muslim), Anti-Other Religion, Anti-Multi-Religious Group, Anti-Atheism/Agnosticism.

The Sikh victims have no area to be classified in the **Race** column. Under the **Religious** column, the Sikh victims would be classified under Anti-Other Religion.

If the goal is to truly track and be able to look at true statistics to determine if there is a problem, there is currently no way to do that now. By adding a box in the Race column and a box in the Religious column, true data could be recorded. Without the addition to the form anything done during the hearings are meaningless because law enforcement around the country will have no way of providing the accurate information to draw the data from. If there is a place to start, to me this makes sense. You then would have a data base to understand the problem nationwide. Thank you for your time in this matter and if I can be of any further assistance, please feel free to contact me directly.

Sincerely,

John O. Edwards
Chief of Police

HATE CRIME INCIDENT REPORT

Initial: Adjustment:

ORI:

Date of Incident: MM/DD/YY

Incident No. Page: of of Same Incident

UCR Offense:		Offense Code:	
UCR Code:	# of Victims:	UCR Code:	# of Victims:
#1 <input type="text"/>	<input type="text"/>	#4 <input type="text"/>	<input type="text"/>
#2 <input type="text"/>	<input type="text"/>	#5 <input type="text"/>	<input type="text"/>
#3 <input type="text"/>	<input type="text"/>	#6 <input type="text"/>	<input type="text"/>

01 Murder	07 Motor Vehicle Theft
02 Forcible Rape	08 Arson
03 Robbery	09 Simple Assault
04 Aggravated Assault	10 Intimidation
05 Burglary	11 Destruction/Damage/Vandalism
06 Larceny Theft	

Location (Check one for Offense #1)

<input type="checkbox"/> 01 Air/Bus/Train Terminal	<input type="checkbox"/> 10 Field/Woods	<input type="checkbox"/> 18 Parking Lot/Garage	Enter Location Code if Different from Offense #1: #2 <input type="text"/> #3 <input type="text"/> #4 <input type="text"/> #5 <input type="text"/> #6 <input type="text"/>
<input type="checkbox"/> 02 Bank/Savings and Loan	<input type="checkbox"/> 11 Government/Public Building	<input type="checkbox"/> 19 Rental Storage Facility	
<input type="checkbox"/> 03 Bar/Night Club	<input type="checkbox"/> 12 Grocery/Supermarket	<input type="checkbox"/> 20 Residence/Home	
<input type="checkbox"/> 04 Church/Synagogue/Temple	<input type="checkbox"/> 13 Highway/Road/Alley/Street	<input type="checkbox"/> 21 Restaurant	
<input type="checkbox"/> 05 Commercial/Office Building	<input type="checkbox"/> 14 Hotel/Motel/Etc.	<input type="checkbox"/> 22 School/College	
<input type="checkbox"/> 06 Construction Site	<input type="checkbox"/> 15 Jail/Prison	<input type="checkbox"/> 23 Service/Gas Station	
<input type="checkbox"/> 07 Convenience Store	<input type="checkbox"/> 16 Lake/Waterway	<input type="checkbox"/> 24 Specialty Store (TV, Fur, Etc.)	
<input type="checkbox"/> 08 Department Store/Discount Store	<input type="checkbox"/> 17 Liquor Store	<input type="checkbox"/> 25 Other/Unknown	
<input type="checkbox"/> 09 Drug Store/Dr's Office/Hospital			

Bias Motivation (Check one for Offense #1)

<input type="checkbox"/> 11 Anti-White	<input type="checkbox"/> 21 - Anti-Jewish	<input type="checkbox"/> 41 Anti - Male Homosexual	Enter Bias Motivation Code if Different from Offense #1: #2 <input type="text"/> #3 <input type="text"/> #4 <input type="text"/> #5 <input type="text"/> #6 <input type="text"/>
<input type="checkbox"/> 12 Anti-Black	<input type="checkbox"/> 22 - Anti - Catholic	<input type="checkbox"/> 42 Anti - Female Homosexual	
<input type="checkbox"/> 13 Anti - American Indian/Alaskan Native	<input type="checkbox"/> 23 - Anti - Protestant	<input type="checkbox"/> 43 Anti - Homosexual (Gay & Lesbian)	
<input type="checkbox"/> 14 Anti - Asian/Pacific Islander	<input type="checkbox"/> 24 - Anti - Islamic (Muslim)	<input type="checkbox"/> 44 Anti - Heterosexual	
<input type="checkbox"/> 15 Anti - Multi-Racial Group	<input type="checkbox"/> 25 - Anti - Other Religion	<input type="checkbox"/> 45 Anti - Bisexual	
<input type="checkbox"/> 32 Anti - Hispanic	<input type="checkbox"/> 26 - Anti - Multi-Religious Group	<input type="checkbox"/> 51 - Anti - Physical Disability	Disability #5 <input type="text"/> #6 <input type="text"/>
<input type="checkbox"/> 33 Anti - Other Ethnicity/National Origin Specify: _____	<input type="checkbox"/> 27 - Anti - Atheism/Agnosticism	<input type="checkbox"/> 52 - Anti - Mental Disability	
		<input type="checkbox"/> 53 Anti - Female	Gender #5 <input type="text"/> #6 <input type="text"/>
		<input type="checkbox"/> 54 - Anti - Male	

Victim Type: For each offense code listed above, check all applicable victim types.

	Offense Code #1	Offense Code #2	Offense Code #3	Offense Code #4	Offense Code #5	Offense Code #6	Offense Code #7	Offense Code #8	Offense Code #9	Offense Code #10
1 Individual*	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2 Business	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3 Financial Institution	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4 Government	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5 Religious Organization	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6 Society/Public	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
7 Other	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
8 Unknown	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

* Indicate the total number of individual victims involved in the incident.

Number of Offenders (Use "00" for Unknown Offender)

Offender Information

Age: (Years)	Gender	Race
<input type="text"/>	<input type="checkbox"/> Female <input type="checkbox"/> Male	<input type="checkbox"/> 1 - White <input type="checkbox"/> 2 - Black <input type="checkbox"/> 3 - American Indian/Alaskan Native <input type="checkbox"/> 4 - Asian/Pacific Islander <input type="checkbox"/> 5 - Multi-Racial Group <input type="checkbox"/> 6 - Unknown



OFFICE OF THE COUNTY EXECUTIVE

Milwaukee County

CHRIS ABELE • COUNTY EXECUTIVE

Testimony of County Executive Chris Abele, Milwaukee County

to

U.S. Senate Committee on the Judiciary

Subcommittee on the Constitution, Civil Rights and Human Rights

Dick Durbin, Chair

Lindsey Graham, Ranking Member

Wednesday, September 19, 2012

WASHINGTON DC



OFFICE OF THE COUNTY EXECUTIVE

Milwaukee County

CHRIS ABELE • COUNTY EXECUTIVE

Chairman Durbin, Ranking Member Graham, and members of the Subcommittee.

Thank you for including my testimony to you today. Chairman Durbin, I appreciate your convening this hearing on hate crimes and the threat of domestic extremism, especially in the wake of the deadly rampage at a Milwaukee-area Sikh temple last month.

I'm Chris Abele and I currently serve as the County Executive for Milwaukee County in Wisconsin. Milwaukee County is the largest county in the state with nearly a million residents and is very diverse: 65.9% of our residents are white, 27.0% are African American, 0.9% are Native American and 3.6% are of Asian descent.

As County Executive I am responsible for coordinating and directing all administrative and management functions of County government. I am also very passionate on Human Rights, an issue being discussed today. I currently sit on the advisory board of the Carr Center for Human Rights Policy, a research center located at the Kennedy School of Government at Harvard University, and I have spent decades fighting for human rights issues across the globe. In my current elected capacity, I recently re-activated the Milwaukee County Human Rights Commission, which has sat dormant for the past decade.

The deadly and senseless shooting at the Sikh Temple in Oak Creek, Wisconsin last month had a big impact on our community and the nation. It was not only an act of extreme violence; it was also an inexcusable act of evil. All these weeks later it is still difficult for me to put into words my sorrow.

In the wake of the shooting, Milwaukee County came together. During numerous services and vigils, the community showed that violence and hate cannot tear us apart, it will only strengthen our resolve and bring us together. The Sikh community has long tradition of standing up for and supporting others, and when they needed support, I'm proud to say the Milwaukee County community came to their aid.

Over the past decade, ignorance and hate has repeatedly contributed to the targeting of Sikh Americans. The Oak Creek temple shooting serves as a stark reminder that hate crimes and extremism are too often part of our daily lives and that we must remain vigilant and speak out when those around us spread hate and ignorance. We need to continue to foster dialogue on the contributing factors to this tragedy and explore the potential solutions needed to make another incident like Oak Creek unthinkable.

Again, thank you Chairman Durbin for creating this opportunity.

MILWAUKEE COUNTY COURTHOUSE, 901 NORTH 9TH STREET, ROOM 306, MILWAUKEE, WI 53233
TELEPHONE (414) 278-4211 FAX (414) 223-1375 COUNTY.MILWAUKEE.GOV/COUNTYEXECUTIVE



To: Stephanie Trifone, Senate Judiciary Committee

OneAmerica commends the United States Senate Judiciary Committee for convening a hearing on the critical topic of hate crimes and domestic terrorism. The United States of America is built on a foundation of inclusion and diversity, and actions like those taken by extremists against members of the Sikh community are an affront to all Americans and our founding principles as a nation. By bringing attention to this matter, which is not an isolated incident, we hope that our government and country can move forward in a manner consistent with our founding principles and increase and strengthen measures to prevent, address and combat crimes and domestic terrorism motivated by hate, ignorance and prejudice.

OneAmerica which is headquartered in Seattle, Washington advances the fundamental principles of democracy and justice at the local, state and national levels by building power within immigrant communities in collaboration with key allies. OneAmerica envisions a peaceful world where every person's human rights and dignity are respected, where communities appreciate differences and stand together for justice and equality, and where each person contributes to the common good.

We were founded in the wake of crimes committed against immigrants and minority communities in the wake of the 9/11 terrorist attacks in 2001, and the recent crimes committed in Oak Creek, Wisconsin are an important reminder of how our mission and vision are as relevant today as they were more than a decade ago. We must always remember that the actions of domestic extremists like those in Oak Creek are in service to the terrorists that attacked the United States on 9/11, who want to create a climate of fear in the United States and pit Americans against each other. America is stronger when we are united and celebrate our religious and ethnic diversity and commit ourselves to tolerance and learning.

The September 19 hearing on Hate Crimes and Domestic Terrorism is an important opportunity for our nation to reflect not only on the actions of individual extremists, but also on the policies of our government and the political discourse in America that can exacerbate prejudice and fear directed toward religious and ethnic minorities in the United States of America.

In addition to this cover letter, we submit to the record the attached article (http://seattletimes.com/html/opinion/2018917381_questhardeepsingh15xml.html) written by OneAmerica board member Hardeep Rekhi, an active leader in the Sikh community in Washington State. As Mr. Rekhi writes:

"Overcoming hate is not an impossible goal. We need more interaction as a community. We need to learn about each other, from each other. It means schools and parents teaching tolerance and creating awareness. It means calling out people who make hateful comments, whether they are our mothers, fathers, brothers, sisters, children, friends or strangers..."

Sikhs have been a part of America for more than 130 years. Some of the earliest Sikhs immigrated to this state, working in Bellingham's lumber mills. Sikhism is the world's fifth-largest religion. The faith first emerged in 1469 in the Punjab region, which is now part of India and Pakistan. Approximately 500,000 Americans practice Sikhism.

We couldn't stop the Wisconsin attacker from doing what he did. We owe it to the victims to confront hate, whenever we see it. If we don't, this sort of tragedy will happen again."

Sincerely,

Rich Stolz, Executive Director
OneAmerica

All should call out hate after Wisconsin Sikh shooting | Opinion | The Seattle Times

The Seattle Times

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Editorials / Opinion

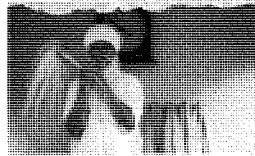
Originally published August 14, 2012 at 4:56 PM | Page modified August 15, 2012 at 7:31 AM

All should call out hate after Wisconsin Sikh shooting

We owe it to the Sikh victims of the Wisconsin temple shooting to confront hate, whenever we see it.

Hardeep Singh Rekhi

Special to The Times



Corrected version

TWO Sundays ago my brother-in-law called. "Turn to CNN." That is all he said. It reminded of the call I got on Sept. 11, 2001.

Both incidents were born out of hate. They occurred because we allowed the attackers to create an us/them mentality. They were both an attack on me personally: What happened on Sept. 11 was an attack on my America; what happened in Wisconsin was an attack on my Sikh faith.

A man walked into a Sikh temple in Wisconsin and opened fired, leaving six people dead. Calling the shooting senseless does our communities a disservice. It was purposeful. We should have seen this; we should plan against it. Since 2001, there have been 700 hate-crime incidents in the U.S. reported to the Sikh Coalition.

The coalition keeps statistics because federal authorities don't. They should. Thousands more go unreported.

Don't think Seattle is immune from such hatred. I have been spit on, I have been called names like "terrorist" and "Osama," I have been intimidated.

Sikh children face bullying because of their distinct Sikh identity in school, despite anti-bullying policies. Five years ago, a Sikh taxicab driver was brutally attacked by a customer in Seattle after the Apple Cup. Sukhvir Singh was hospitalized for six days. His family struggled for years afterward because he could not bring himself to work at night, the most lucrative time for a cabdriver.

At the time, some people attributed the attacker's actions to drunkenness; it was a way to dismiss a hate crime as a freak occurrence. But if we want to end the hatred, we have to start by calling it what it is.

Overcoming hate is not an impossible goal. We need more interaction as a community. We need to learn about each other, from each other. It means schools and parents teaching tolerance and creating awareness. It means calling out people who make hateful comments, whether they are our mothers, fathers, brothers, sisters, children, friends or strangers.

Whether we overhear a hateful statement in a bar, in a school or while walking by a stranger on the street, we all have a role to play in confronting hatred.

Sikhs have been a part of America for more than 130 years. Some of the earliest Sikhs immigrated to this state, working in Bellingham's lumber mills. Sikhism is the world's fifth-largest religion. The faith first emerged in 1469 in the Punjab region, which is now part of India and Pakistan. Approximately 500,000 Americans practice Sikhism.

Sikhs believe in one universal god. They hold that all people have a right to practice their own belief system. The religion states that people are equal, whether they are man or woman, old or young, rich or poor. Sikhs believe in giving back to the community. Men and women are mandated to keep their hair uncut. Men are mandated to wear turbans. Women may choose whether to wear a turban.

Being a Sikh alone does not define me. I was born and raised in Seattle. I endured the rainy days in exchange for a just a few sunny days.

I remember Seattle before there was traffic. I was here when Microsoft went public. I was here when grunge was born. I was here when Kurt Cobain ended his life. I was here when the Mariners were good and when the Seahawks got robbed.

I will be here for the foreseeable future. I am just like you, experiencing the same things as you do every day. Seattle is in my blood. So is Sikhism.

We couldn't stop the Wisconsin attacker from doing what he did. We owe it to the victims to confront hate, whenever we see it. If we don't this sort of tragedy will happen again.

Hardeep Singh Rekhi is a local civil rights and employment attorney. He is a board member for the nonprofit OneAmerica.



Testimony to the Senate Judiciary Committee

September 19, 2012

Submitted by Tom Hayashi, Executive Director, on behalf of OCA

OCA, a national organization dedicated to advancing the political, social, and economic well-being of all Asian Pacific Americans (APAs), since its founding in 1973, is deeply concerned with hate crimes against members of our communities across the United States. As a national membership driven organization, OCA's network of 80 chapters and affiliates continue to vigilantly monitor for and speak out against expressions of bias in all forms, especially hate motivated violence which threatens the safety and security of APAs and that of fellow Americans.

We would like to commend the Senate Judiciary Committee for holding this important hearing on hate crimes and domestic terrorism which demonstrates a bold and much needed commitment to ending horrific tragedies and violence in the homeland. While the country is built upon its vast diversity, hate crimes continue to occur against many populations, especially in communities of color and faith.

The tragic shooting at a Sikh temple in Oak Creek, Wisconsin on August 5, 2012, is a sober reminder that hate crimes continue to plague this country. In the days and years after the Sept. 11, 2001 attacks, Sikhs continue to be tragically profiled in this country as being affiliated with the Taliban or other terrorist organizations targeted for hate crimes that include but are not limited to: vandalism, verbal taunting, and physical assaults at home, work, and places of worship—in a number of incidents resulting in serious injury and death.

Moreover, hate crimes remain a problem even within our own military. Last October 2011, Private Danny Chen, a Chinese American soldier of the United States Army, was racially taunted and hazed until his death at the hands of his peers. Private Chen was called derogatory names such as "Gook", "Chink", "Dragon Lady", and was humiliated after being forced to shout orders in Chinese to his English speaking peers. He was ordered to excessive work detail and to crawl along gravel while his peers threw large rocks at his back. This horrific tragedy symbolizes a serious lapse in accountability as well as a lack of diversity and inclusion training. As the trials continue against the accused, incidents like Private Chen's will continue, as this has become an epidemic that reaches every branch of the military. It is essential that hate crimes are not tolerated within a civilian, as well as military, context. Without question, institutional and legislative reform will be crucial in driving the message of tolerance in transforming the toxic culture that has been cultivated.

The strong mandate for addressing these hate crimes is based on what has become an undeniable historical truth about these incidents: the motivation for these attacks are unsupported ignorance coupled with a few or fringe individuals or groups who personally feel their economic and political positions threatened by Americans who are simply but significantly perceived as different from them. Hate, therefore, when unchecked in this country has resulted in one or few threatened individual quickly multiplying into a mob responsible for whole sale attacks against a

Founded in 1973 as the Organization of Chinese Americans, OCA is a national organization dedicated to the social, political, and economic well-being of Asian Pacific Americans in the United States.

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targeted group including but not limited to lynching, burning of homes, businesses, as well as places of worship.

As many of our community members are painfully aware, the incident in Oak Creek is unfortunately not the first time that the Sikh brothers and sisters have been brutally and senselessly attacked. In fact, especially since September 11th, there has been an alarming surge in Islamophobic incidents that have resulted in injuries, death and damage to property. For many years, civil rights advocates as well as champions in law enforcement and government have held meetings and hearings similar to this to work together to address safety and promote tolerance of all cultures and traditions. What we hope that will be accomplished moving forward includes but not limited to:

1. Stepped up efforts in hate crimes surveillance and data collection and transparent reporting based on the Hate Crimes Statistics Act of 1990 and enhancements offered after the passage of this legislation on incidents being particularly sensitive to formative indications and trends to inform proactive measures for stemming violence, i.e. broader public education, timely referral for mental health services and addressing formation as well as activities of fringe hate groups,
2. Broad inclusion of diverse Sikh historical facts and analysis, particularly about the consequences of hate crimes in the K-12 educational curricula, i.e. Asians serving in the military since the War of 1812, highlighting the Sikh officers currently serving and in every war to date, contributions of Sikhs in the California farmlands, first Congressional Member from the APA Community being a Sikh leader from Sacramento in the 1950s, attacks against Sikhs post 9/11, as well as the history of all Asian Pacific Islanders,
3. Continuing to apply specific guidelines based on the Hate Crimes Prevention Acts, and **Violent Crime Control and Law Enforcement Act of 1994** for classifying incidents that are clearly hate motivated, prosecuting these cases aggressively.

Oppression and violence based on cultural ignorance (informed by historical ignorance) and bias continues to be a grave concern for the civil rights community. For many years, OCA has and will continue to heavily invest in educating the community advocates and organizations on hate crimes and urges continued vigilance through close monitoring and reporting by our members, chapters, and affiliates. It is time that our country clearly sees hate crimes as a serious national security problem that threatens our homeland and to take a proactive and aggressive approaches to curb hate crimes that limit the freedoms and equalities that all communities deserve. OCA looks forward to being a critical partner in this effort now and into the future.

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**Submitted Testimony Jody Huckaby, Executive Director
Senate Judiciary Subcommittee on the Constitution, Civil Rights and Human Rights
Hearing, 9/19/12, Hate Crimes and the Threat of Domestic Extremism**

Dear Subcommittee Members:

On behalf of PFLAG (Parents, Families, and Friends of Lesbians and Gays), thank you for recognizing that the need to focus on the challenge of hate crimes and domestic extremism in the United States is still critically needed.

PFLAG is a grassroots network of over 350 chapters in all 50 states crossing multiple generations of American families in major urban centers, small cities and rural areas. Our network of supporters is made up parents, families, friends, and straight allies uniting with lesbian, gay, bisexual and transgender (or LGBT) people to advance family acceptance, societal affirmation, and ultimately, fairness and equality for all. This year, we're celebrating our 40th anniversary. What makes our founding relevant to the discussion today is that Jeanne Manford, PFLAG's founder, was witness to a hate crime perpetrated against her gay son. What galvanized her into action was that the legal and societal environment not only accepted this crime but, in large part through the dismissal of the incident, condoned it.

Since 1972, much progress has been made for LGBT people in America. Similarly, while much good has come from the enactment of the *Matthew Shepard and James Byrd Jr. Hate Crimes Prevention Act* three years ago, there is still work to be done. Enforcement of the law, better data collection, and stronger relationships between law enforcement and our communities needs to continue. Recent FBI statistics revealed 6,624 incidents in 2010—and this only reflects the reported cases. Under- and non-reporting by both victims and law enforcement remains an issue. A stark reminder of this reality was evident for PFLAG when, at our convention last year during a session with more than 300 people in attendance, the audience was asked to stand if they or someone they knew had been the victim of a hate crime; not one person in the room was left sitting.

This reality is unacceptable for LGBT individuals and we are not alone in being the focus of hate and intolerance. Close to half of the hate crimes in our country are racially motivated with another third being because of an individual's religion, ethnic or national origin. Upon passage of the *Shepard-Byrd Hate Crimes Act*, President Obama stated that "No one in America should ever be afraid to walk down the street holding the hands of the person they love. No one in America should be forced to look over their shoulder because of who they are." We agree, and were again reminded of the common ties that bind all victims of hate crimes following the tragic Gurdwara shooting in Oak Creek, Wisconsin on August 5th.

The Sikh community responded with calls for inclusion, respect, and tolerance for all individuals, a simple reminder that despite our differences, we are all Americans who should be treated equally. Hate crimes and extremism that fosters an environment that leads to them are unacceptable. PFLAG continues to stand in solidarity with the Sikh community and all others who stand up for the values of diversity and inclusion and want to work together to reduce hate crimes and extremism in our country.

Cc: Senate Judiciary Chairman Patrick Leahy
Senate Judiciary Ranking Member Chuck Grassley



September 19, 2012

Senate Judiciary Subcommittee on the Constitution, Civil Rights and Human Rights
815 Hart Senate Office Building
Washington, DC 20510

Re: Hearing, September 19, 2012, Hate Crimes and the Threat of Domestic Extremism

Dear Subcommittee Member:

People For the American Way Foundation, the African American Ministers Leadership Council, a ministry of civil engagement and social justice that embraces the “beloved community” envisioned by Dr. Martin Luther King, Jr., and Young People For, a long-term leadership development initiative that identifies, engages, and empowers the newest generation of progressive leaders, stood in solidarity with the Sikh community after the tragic Gurdwara shooting in Oak Creek, Wisconsin on August 5. What happened that day was tragic. The violence that continues to befall people from all walks of life due to their race, national origin, religious affiliation, sexual orientation, gender, gender identity, disability, or immigration status is tragic. We thank you for recognizing the urgent need to address hate crimes and the proliferation of hate groups in the United States.

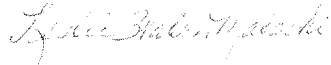
Three years following the groundbreaking enactment of the Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act it is clear that there is still work to be done. The most recent FBI statistics revealed 6,624 hate crime incidents in 2010: 47.3% racially motivated, 20% religious, 19.3% sexual orientation, 12.8% ethnicity/national origin, and 0.6% disability. Four additional multi-bias incidents brought the total to 6,628. Under and nonreporting by both law enforcement agencies and victims means that the problem likely reaches even higher than that. In 2005, the Bureau of Justice Statistics suggested as much as 15 times higher. At the same time, hate groups have established a significant presence. The Southern Poverty Law Center has counted over a thousand, growing by almost 60% in the last decade.

Today's hearing is an important part of changing that story. We must address and prevent hate crimes and lend serious consideration to the motivation behind these violent acts while providing due deference to the First Amendment and civil liberties protections that we hold so dear.

Sincerely,



Jen Herrick
Senior Policy Analyst
People For the American Way Foundation



Minister Leslie Watson Malachi
Director, African American Religious Affairs
People For the American Way Foundation



Joy Lawson
Director
Young People For

Cc: Senate Judiciary Chairman Patrick Leahy
Senate Judiciary Ranking Member Chuck Grassley

**FAMILY OF PUNJAB SINGH, HATE CRIME ATTEMPTED-
MURDER VICTIM FROM OAK CREEK, WI
STATEMENT FOR THE RECORD
UNITED STATES SENATE
SUBCOMMITTEE ON THE CONSTITUTION, CIVIL RIGHTS
AND HUMAN RIGHTS COMMITTEE ON THE JUDICIARY
Committee Hearing: "Hate Crimes and the Threat of Domestic Extremism"
September 19, 2012**

The family of Punjab Singh hereby submits a statement for record in support of the U.S. Senate hearing on the hate crimes and threat of domestic extremism. My name is Raghvinder Singh and I am the eldest son of Punjab Singh. My father was critically wounded by Wade Michael Page, a man affiliated with neo-Nazi groups at the Sikh *gurdwara* (house of worship) in Oak Creek, Wisconsin on April 5, 2012. He was one of eight members of our community who were shot by Page. Six were killed. My father, while surviving gunshot wounds, remains in critical condition. Our family submits this written testimony to urge the U.S. Senate to take immediate action to prevent the suffering our family has endured in the past few weeks.

My father knew that he would spend his life in service from a very young age. Inspired in his childhood by our family's history as religious teachers, my father spent his life serving the poor and underserved and teaching the values of the Sikh faith.

At the age of eighteen, my father joined the Army to serve his country. After retiring in 1981, he began his travels throughout India and North America to teach the values of our religion to rural Sikh communities. Along the way, he helped people in need achieve their dreams to educate their children. He even paid admission fees and bought school uniforms for children whose families could not afford to send them to school. We were all very proud of him. My father taught me how to serve my community.

For the last five years, I have asked my father to return home to Delhi so that my children could also learn from him and acquire the knowledge that so many throughout the world have had the privilege to receive. However, my father always felt that his role was in the world, and not just in the home.

Today, one and a half months after the massacre, my father remains in the hospita. My brother Jaspreet and I have stayed by his hospital bed around the clock since we arrived. Every day, my mother prays over him reciting God's Name, "Waheguru." My brother Jaspreet just had his first child, a baby girl, on September 15, 2012. Jaspreet could not be with his wife in India when she gave birth, but we have all seen her on video. I pray that my father will get back soon to meet his new grandchild. I pray that he will recover so that he can teach again. I have so much that I still need to learn from him.

I feel deep empathy for all of the victim families of the shootings. I pray for the families and for the health of my father. We hope that the U.S. government will help the families as they pick up the pieces of their lives. Many have lost not only their their loved ones but the main breadwinners in their families. They are going to require a lot of support, and we hope that they will be able to receive it.

We hope that no other family in this country has to ever suffer the costs of hate violence. We appeal to you to protect our communities from hate crimes by investigating domestic hate groups and bringing them to justice. The government must also track hate crimes against Sikhs. It is unconceivable that the attack on my father will not count on a federal form as an anti-Sikh hate crime. One persons' hate has taken away so much from the families of Oak Creek, WI. We hope you will take action to prevent another tragedy like this from happening again.

Thank you for accepting our testimony.



Rabbi David Saperstein
Director and Counsel

Jennifer Brodkey Kaufman, Chair
Commission on Social Action of Reform Judaism

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**Written Testimony Submitted for the
“Hate Crimes & the Threat of Domestic Extremism”
Hearing Before the Senate Judiciary Subcommittee on the Constitution, Civil Rights, and
Human Rights
September 19, 2012**

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

Thank you for the opportunity to address the Senate Judiciary Subcommittee on the Constitution, Civil Rights, and Human Rights. It is urgent that the Matthew Shepard and James Byrd Jr. Hate Crimes Prevention Act be fully enforced so that the law's promise of increased protections against violent, bias-motivated crimes is fulfilled. I am Rabbi David Saperstein, Director of the Religious Action Center of Reform Judaism. The Center is the social justice arm of the Union for Reform Judaism, whose nearly 900 congregations across North America encompass 1.5 million Reform Jews, and the Central Conference of American Rabbis, whose membership includes more than 1,800 Reform rabbis. The Reform Movement, along with its partners in the Jewish and faith communities, worked for more than a decade to see the Matthew Shepard and James Byrd Jr. Hate Crimes Prevention Act passed; I speak to you today to ensure its enforcement.

This hearing comes at an important time in the Jewish calendar. Yesterday was Rosh Hashanah, the start of the Jewish year. It is the beginning of a new chapter in the life of the individual and the community. In the 10 days between Rosh Hashanah and Yom Kippur, the Day of Atonement, Jews are called to introspection - to examine our words and actions of the last year, and to make commitments to improve upon ourselves and our communities in the future. We ask forgiveness for the wrongs we have done and for hardening our heart to the pain of others.

As the nation mourns the August attack on the Sikh temple in Oak Creek, Wisconsin and the burning of the mosque in Joplin, Missouri, these themes from Jewish High Holiday liturgy are instructive. What hatred do we, as individuals and as a nation, still hold in our hearts and what threat does that pose to our friends and neighbors? To whose pain have we hardened our hearts, and who among us suffers unnoticed? What commitments have we made and left unfulfilled? In this time of introspection, we look at promises like the Hate Crimes Prevention Act, evaluate our progress toward their fulfillment and ask what work is yet undone.

According to the FBI, 2010 saw over 6,600 incidents of bias-motivated crime. The number of attacks against people based on their sexual orientation continues to grow. Attacks against racial and ethnic minorities remain alarmingly frequent. And notably, attacks against Muslims or those perceived to be Muslim have increased more than five-fold since the year 2000. Reporting hate crimes, however, is not mandatory and many precincts refuse to submit data or simply report no instances of bias-motivated crime. Because of this pattern of underreporting the Southern Poverty Law Center and the Bureau of Justice Statistics estimate that the actual number of hate crimes could be 15 times greater than that which is reported. I ask you today to examine the way these crimes are reported and to do everything possible to help collect a more accurate picture of bias-motivated crime in the United States.



The Religious Action Center pursues social justice and religious liberty by mobilizing the Jewish community and serving as its advocate in Washington, D.C. The Center is led by the Commission on Social Action of the Central Conference of American Rabbis and the Union for Reform Judaism (and its affiliates) and is supported by the congregations of the Union.



Today's hearing draws special attention to the disturbing growth of organized domestic extremism. Statistics provided by the Southern Poverty Law Center suggest that there are nearly 60% more hate groups in the United States than existed in 2000. Violent domestic extremism not only threatens Jews, Muslims, and the LGBT community, but is a threat to our national security as a whole. Any efforts to curtail the troubling rise in bias-motivated crime must address the proliferation of these groups.

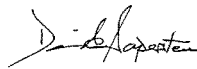
We had no illusions that the Hate Crimes Prevention Act would end hate crimes. Yet the law was and remains an essential tool to combat these crimes based on race, ethnicity, nationality, religion, disability, gender, sexual orientation and gender identity that degrade our nation. Those who commit these crimes do so fully intending to pull apart the too-often frayed threads of diversity that bind us together and make us strong. They seek to divide and conquer. They seek to tear us apart from within, pitting American against American, fomenting violence and civil discord. They are a betrayal of the promise of America and erode our national well-being.

Jews, who have endured persecution throughout history, know all too well the dangers that stem from a failure to speak forcefully and act effectively to bar discrimination and prevent the demonization of the "other." As the target of over 65 percent of religiously motivated hate crimes, the Jewish community has a vested interest in the diligent enforcement of this law. Yet, we also recognize the importance of seeking the same security for all. The Torah commands, "You shall not oppress a stranger; for you know the feelings of the stranger, having yourself been strangers in the land of Egypt" (Exodus 23:9). We are instructed to never "stand idly by when your neighbor's blood is being shed" (Leviticus 19:16).

There are those who fear that this law infringes upon their first amendment rights. As Jews we know firsthand that the freedoms of speech, of assembly and of religion are critical to the protection of minority rights. Let me be clear: as a rabbi and lawyer who has taught church/state law at the Georgetown University Law Center for over 30 years, I can say with conviction that the beliefs or words of any person, clergy or otherwise, cannot be prosecuted under this law, which is concerned with hate *crimes*. It deals with violent conduct and attempts at bodily injury, not the preaching or sermons of members of the clergy, and it must be enforced.

Jewish values teach that words alone are not enough, that we must also act to achieve the goals we pursue. I urge Congress to enhance the implementation and data collection provisions mandated by the Hate Crimes Prevention Act. Furthermore, innovative approaches – like the widely applauded National Church Arson Task Force of 1996 – must be employed if we are to address the pressing threat posed by hate crimes and domestic extremism. Let us fully enforce the Matthew Shepard and James Byrd Jr. Hate Crimes Prevention Act and make clear that violence rooted in bigotry and hate is unwelcome in American society.

Sincerely,



Rabbi David Saperstein

R⁴IGHTS working group

STATEMENT OF

**MARGARET HUANG, EXECUTIVE DIRECTOR
RIGHTS WORKING GROUP**

HEARING ON HATE CRIMES AND THREATS OF DOMESTIC EXTREMISM

**SENATE JUDICIARY SUBCOMMITTEE ON THE CONSTITUTION,
CIVIL RIGHTS AND HUMAN RIGHTS**

UNITED STATES SENATE

SEPTEMBER 19, 2012

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 Rights Working Group regarding today's hearing on "Hate Crimes and Threats of Domestic Extremism."

Formed in the aftermath of September 11th, the Rights Working Group (RWG) is a national coalition of more than 340 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. RWG applauds the Subcommittee for addressing the threat of domestic extremism and the recent incidents of hate crimes, many of which have been perpetrated against racial, ethnic and religious minorities in the United States. This hearing is of

RIGHTS working group

vital importance and we hope this is the beginning of a longer discussion about how best to protect the rights of everyone in America.

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 run counter to this founding ideal and have fostered hostility toward and fear of racial, ethnic and religious minorities in the United States. For example, House Homeland Security Committee Chair Peter King's hearings on Muslim radicalization seemed to many a congressional endorsement to treat the Muslim community in America as suspect simply because of their religion. Many national security and immigration enforcement policies have targeted immigrants and racial, ethnic and religious minorities in the United States, signaling that members of these communities are somehow inherently dangerous, suspicious, and disloyal. These policies include Department of Justice law enforcement guidance which fails to prohibit profiling on the basis of religion or national origin and allows for profiling in the name of border and national security.¹ One extremely troubling trend, post-9/11, is the use by federal government agencies of biased and false information in training materials about Muslims and Islam. For example, a 2006 Federal Bureau of Investigation (FBI) report stated that individuals who convert to Islam are on the path to becoming "homegrown Islamic extremists" if they wear traditional Muslim attire, grow facial hair, frequently attend a mosque or prayer group, travel to a Muslim country or

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>.

RIGHTS working group

increase their support of a pro-Muslim social group or political cause.”² Many recent news reports have highlighted the FBI’s use of biased experts and training materials,³ but this troubling practice extends beyond the FBI to the U.S. Attorney’s Anti-Terrorism Advisory Councils, the U.S. Department of Homeland Security and the U.S. Army.⁴ By tying expressions of religious faith to criminality, these agencies are essentially encouraging their agents to engage in discriminatory practices such as racial and religious profiling. In addition, the End Racial Profiling Act, which was first introduced in 2001 and prohibits racial, ethnic, religious, national origin and gender profiling by law enforcement, has yet to be passed by Congress.

Discriminatory domestic intelligence work, however, doesn’t stop with the work of federal entities—it extends to local law enforcement agencies. The NYPD has aggressively relied on identity-based intelligence gathering, using census data to infiltrate ethnic communities. As discovered by a months-long investigation by the Associated Press, “[t]he department has dispatched teams of undercover officers, known as ‘rakers,’ into minority neighborhoods as part of a human mapping program . . . They’ve monitored daily life in bookstores, bars, cafes and nightclubs.”⁵

² Spencer Ackerman, *New Evidence of Anti-Islam Bias Underscores Deep Challenges for FBI’s Reform Pledge*, WIRED MAGAZINE, Sept. 23, 2011, available at <http://www.wired.com/dangerroom/2011/09/fbi-islam-domination/all/1>.

³ Pete Yost, *FBI Pulls Flawed Training Aids Related to Muslims*, Associated Press, Mar. 30, 2010 available at <http://abcnews.go.com/US/wireStory/fbi-pulls-flawed-training-aids-related-muslims-16041086#.T4MwDpmCkTY>.

⁴ Community Letter to the Honorable John Brennan, Assistant to the President for Homeland Security and Counterterrorism and Deputy National Security Advisor, October 19, 2011, available at <http://www.muslimadvocates.org/Community%20letter%20to%20Brennan%20re%20FBI%20trainings%2C%2010-19-11%2C%20FINAL.pdf>.

⁵ Matt Apuzzo and Adam Goldman, *With CIA Help, NYPD Moves Covertly in Muslim Areas*, A.P., Aug. 24, 2011.

RIGHTS working group

These governmental policies and the failure to take affirmative legislative steps to end profiling have created a chilling effect upon the ability of religious minorities in the United States to freely exercise their faith. In addition, the lack of leadership from the federal government to protect the rights of everyone in America, coupled with outright expressions of racial and religious animosity by some of our elected officials, have created further divisions in our communities and sent very public messages that racial, ethnic and religious minorities are fair targets.

Last month, six worshipers at a Sikh Gurdwara in Oak Creek, Wisconsin were killed by an attacker with known ties to hate groups. In the past five years, anti-mosque incidents, including vandalism and suspected arson⁶, have occurred in 21 states.⁷ The Jewish community remains a target for bias-based attacks; 65% of all reported hate crimes motivated by religious bias in 2010 were anti-Jewish.⁸ Racial and ethnic minorities are also under attack. Statistics released by the Federal Bureau of Investigations (FBI) demonstrate that hate crimes based on anti-Hispanic bias made up nearly 66% of ethnically motivated crimes in 2010. And while African Americans made up only 12.4% of the U.S. population in 2010, they accounted for 70% of all racially motivated hate crimes that year.⁹ Thousands of other individuals in the United States continue to be targeted by hate violence due to their race, religion, national origin, sexual orientation, gender,

⁶ See Lucas L. Johnson II and Travis Loller, "Tennessee Mosque Cite Fire Was Arson, Police Say" Huffington Post, Aug. 30, 2012, available at http://www.huffingtonpost.com/2010/08/30/murfreesboro-mosque-fire-arson-accelerant_n_699696.html. See also Second Arson Attack this Summer Burns Joplin Mosque to the Ground, Associated Press, Aug. 6, 2012, available at <http://newsone.com/2029225/muslim-mosque-arson/>.

⁷ 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/>.

⁸ Criminal Justice Information Services Division, the Federal Bureau of Investigations, Hate Crimes Statistics 2010, available at <http://www.fbi.gov/about-us/cjis/ucr/hate-crime/2010/narratives/hate-crime-2010-incidents-and-offenses>.

⁹ Id.

R I G H T S working group

gender identity, disability, and perceived immigration status. This rise of hate crimes in the United States correlates with a rise in the number of hate groups. According to the Southern Poverty Law Center (SPLC), the number of hate groups in the United States topped 1,000 for the first time since SPLC began counting such groups in the 1980s.¹⁰

FBI statistics reveal that, in 2010, law enforcement agencies reported 6,628 hate crime incidents involving 6,008 offenders and 8,208 victims.¹¹ These numbers are an understatement because they do not account for underreporting by victims, do not distinguish and count Sikhs as an ethnic/religious category targeted by hate crimes, and by the fact that hate crime reporting by law enforcement agencies is voluntary. A 2005 Bureau of Justice Statistics report suggested that the actual number of hate crimes in the United States may be 9 to 31 times higher than that which is reported.¹²

Given the persistence of hate crimes and the proliferation of hate groups, this hearing is both timely and necessary. The rights of racial, ethnic and religious minorities in America to safety, freedom of religion, and free expression are threatened. A climate of hate has instilled significant fear of law enforcement and government in minority communities. Such fears result in a decline of reports by victims of crime, such as domestic violence victims; some crime

¹⁰ Southern Poverty Law Center, *SPLC Hate Group Count Tops 1,000 as Radical Right Expansion Continues*, February 23, 2011, available at <http://www.splcenter.org/blog/2011/02/23/new-report-splc-hate-group-count-tops-1000-as-radical-right-expansion-continues/>.

¹¹ *Supra* note 3.

¹² Southern Poverty Law Center Intelligence Report, Report: FBI Hate Crimes Statistics Vastly Understate Problem, Winter 2005, available at <http://www.splcenter.org/get-informed/intelligence-report/browse-all-issues/2005/winter/hate-crime>.

RIGHTS working group

victims from targeted communities even fail to seek necessary emergency medical attention.¹³ In this moment in history we must recommit to the core principles of our country – equality, non-discrimination and religious freedom.

Rights Working Group applauds the Subcommittee’s efforts to highlight hate crimes, study how the civil rights of many people in America are under siege today, and investigate how these rights can and should be protected. Rights Working Group offers the following recommendations:

- The Subcommittee should reaffirm a strong commitment to ensuring that all racial, ethnic and religious minorities in the United States can enjoy religious freedom, civil liberties, and the full spectrum of their other constitutional and human rights.
- Subcommittee members should make strong statements against any intolerance, discrimination or hate crimes directed at any community in America.
- Subcommittee members should urge the Department of Justice to revise its 2003 racial profiling guidance to eliminate loopholes that allow profiling in the name of border and national security and fail to prohibit religious and national origin profiling and speak out against policies that target minority communities.
- Congress should pass the “End Racial Profiling Act” instating a federal ban on profiling based on race, religion, ethnicity, national origin and gender at the federal, state and local levels.

¹³ 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.

R¹**I****G****H****T****S** working group

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.

**SANTOKH SINGH, HATE CRIME ATTEMPTED-MURDER
VICTIM FROM OAK CREEK, WI
STATEMENT FOR THE RECORD**

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

Committee Hearing: "Hate Crimes and the Threat of Domestic Extremism"

September 19, 2012

Santokh Singh and his family hereby submit a statement for the record in support of the U.S. Senate hearing on hate crimes and the threat of domestic extremism.

My name is Santokh Singh, and I was one of eight people shot by Wade Michael Page, a man affiliated with neo-Nazi groups, at the Sikh *gurdwara* (house of worship) in Oak Creek, Wisconsin on April 5, 2012. Our family submits this written testimony to urge the U.S. Senate to take immediate action and prevent the suffering our family has endured in the past few weeks.

I arrived in Oak Creek, WI in 2008 and lived and worked at the *gurdwara* since then. I knew all of the murder victims as friends and peers. A few days prior to the shootings, I had returned from a family visit to India and was pleased to be back at work in the Oak Creek community. On the morning of the shooting, we were preparing for Sunday service. At approximately 9:55am, we noticed a man had circled the *gurdwara* and returned to his vehicle. Assuming that he was a visitor, my colleague, Ranjit Singh and his brother Sita Singh approached him in the parking lot to speak to him and welcome him to the *gurdwara*. None of us realized that he had returned to his vehicle to pick up his gun. At that moment, Wade Michael Page opened fire and shot Ranjit Singh and Sita Singh dead.

At the time, I was in the living quarters of the *gurdwara* with Satwant Kaleka and Gurmail Singh. We heard gunshots and immediately realized that Ranjit and Sita had been shot, but we were not sure of

their condition or the gunman's whereabouts. Kaleka immediately called the police to request for help. Page entered our room shortly thereafter. I was standing on the bed so he noticed me first and lifted his gun to shoot me. He aimed for my chest, but I moved to my side and he shot me twice in the stomach. After the second shot, I noticed that Page paused to reload his gun. In that moment, I held my stomach where the bullets had entered and ran past him out of the room. I heard him shoot at me from behind, but no bullets hit me.

I ran out of the back door of the *gurdwara* and into the neighbor's yard. I explained to the neighbor that I worked at the *gurdwara* and needed medical help. He recognized me and called for help immediately. I sat in his yard, covering my bullet wounds with my hands, trying to stop the bleeding. It was an hour before the ambulance arrived. At that point, I was feeling dizzy, my breath started to slow, and I began to lose consciousness. I was loaded into the ambulance and taken to Froedtert Hospital where dozens of doctors awaited my arrival. They were notified of the shootings and did not know how many people to expect at the hospital. That is all I remember from that day. I became unconscious shortly after arriving at the hospital and did not gain consciousness again for three days.

When I woke up, I did not realize the severity of my injuries or how long I had been in a coma. I received fifty-five stitches. I was released from the hospital a few weeks later, but it will take at least five more months until my body has healed from its wounds.

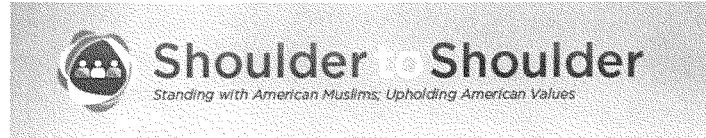
While my physical wounds may heal, I look to God to help heal my emotional wounds. I lost many friends that day. I am grateful that my life was spared. I realized that my work teaching the values of the Sikh faith to my community is not complete. I plan to continue offering my services and prayers to our community so that we heal quickly and move even closer to God.

While I am a firm believer that nothing happens without God's will, I also believe that the United States government must protect communities from hate violence. The United States is known throughout the world for commitment to freedom, liberty, and equality. I wish to see this country flourish by

practicing these values and maintaining our commitment to justice. The government must ensure protection for faith communities and communities of color. I appeal to you to investigate domestic hate groups and bring them to justice. The government must also track hate crimes against Sikhs. It is incomprehensible that the crimes committed that fateful day will not count on a federal form as anti-Sikh hate crimes.

We hope that you will take action to prevent another tragedy like this from happening to *any* community again.

Thank you for accepting our testimony.



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
 "Hate Crimes and the Threat of Domestic Extremism"
 September 19, 2012

Shoulder-to-Shoulder is a national campaign of interfaith, faith-based and religious organizations dedicated to ending anti-Muslim sentiment. Our membership includes 28 national organizations of this kind who represent the diversity of America's Abrahamic faith traditions. Together, we work to end anti-Muslim sentiment by resourcing and supporting local clergy and lay leaders to address this challenge in their own communities.

As religious leaders representing the country's largest denominations and traditions, we thank you for this important hearing. American Muslims, Arabs, Sikhs, South Asians and Hindus are woven into the American tapestry with *all* of our nation's diverse religious and ethnic communities. Individuals from these communities serve as teachers and factory workers, doctors and lawyers, social service volunteers and loving parents. They serve proudly and with distinction in the Federal Bureau of Investigation, on police forces and in fire departments, and in all branches of the U.S. armed services next to soldiers of all faiths, many having given their lives for our country. In these and other vocations, these individuals 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 where 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.

Even still, these communities continue to experience hate crimes, job discrimination, school bullying and racial and religious profiling. According to FBI hate crime statistics, there were over 6,600 hate crimes reported in the United States in 2010, 1,552 of which were religiously-motivated. While this is deeply troubling, a 2005 study by the Bureau of Justice Statistics suggested that the true number of hate crimes may be 15 times higher than reported.

These numbers reveal that while the shooting at Oak Creek was distinctly tragic, it was not an isolated incident. Sadly, individuals from American Muslim, Sikh, Hindu Jewish and other minority religious communities continue to report discrimination, and places of worship are routinely targeted. Within 11 days of the shooting at the Oak Creek Gurdwara, there were eight attacks on houses of worship

throughout the country. The level of hate and violence inflicted on innocent Americans because of their appearance or religious faith is now at a crisis point.

We are committed to working alongside our elected leaders to end xenophobia, racism, and hate in our country. We hope that this hearing is only the first step in bringing stakeholders together to identify concrete solutions. And we urge all individuals, regardless of faith or background, to speak out against hate-fueled violence and bigotry wherever it exists, be it at houses of worship, workplaces, schools, or family kitchen tables. We must stand shoulder-to-shoulder to protect our nation’s values of equality and freedom for all, and to fulfill the imperatives in our faith traditions which require us to love our neighbors.

Our leaders must take concrete and effective steps to end anti-Muslim and anti-religious hate in the United States. To do so, we suggest the following steps be taken:

- **Improve federal hate crime data collection, disaggregation, categorization, and reporting efforts.** The Department of Justice should encourage comprehensive participation in existing hate crimes reporting requirements and the Federal Bureau of Investigation should improve hate crime incident reporting by developing new categories on hate crime incident reports for various affected communities not yet covered, including anti-Arab, anti-Sikh, and anti-Hindu incidents.
- **Establish formalized interagency efforts and positions at the highest levels of government, in partnership with community stakeholders, to address hate crimes.** This should include a White House-convened Presidential summit on hate crimes affecting religious minorities that engages community members, religious leaders, and federal government officials, with the purpose of developing best practices for stakeholders addressing this issue.

Spiritual leaders have a moral responsibility and a sacred calling to categorically denounce hate, misinformation or outright bigotry directed against anyone, regardless of faith community or ethnicity. Silence is not an option. Only by taking a stand together can we fulfill the highest calling of our respective faiths, and thereby play a role in building a safer, more secure America.

* * * * *

Shoulder-to-Shoulder: Standing with American Muslims; Upholding American Values
Included: list of Shoulder-to-Shoulder member organizations as of September 17, 2012

For more information please contact Christina Warner, Campaign Director
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Shoulder-to-Shoulder Campaign Members*

American Baptist Churches USA
The Arab American Institute
Christian Church (Disciples of Christ)
Church of the Brethren
Cooperative Baptist Fellowship
The Episcopal Church
Evangelical Lutheran Church in America
Faith in Public Life**
Friends Committee on National Legislation
The Foundation for Ethnic Understanding**
General Board of Church and Society of the United Methodist Church
Interfaith Alliance
Islamic Society of North America**
Jewish Council for Public Affairs
Jewish Reconstructionist Movement
The Jewish Theological Seminary
National Council of Churches**
National Religious Campaign Against Torture**
The New Evangelical Partnership for the Common Good
Presbyterian Church (USA)
Progressive National Baptist Convention
Rabbis for Human Rights – North America
Religious Action Center of Reform Judaism**
Sojourners
Unitarian Universalist Association of Congregations
The United Church of Christ
United States Conference of Catholic Bishops**
Universal Muslim Association of America

*Reflects campaign membership as of September 17, 2012

**Indicates a member of campaign Executive Committee

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**STATEMENT OF LAW PROFESSOR DAWINDER S. SIDHU
FOR THE RECORD**

**Respectfully Submitted to the Senate Judiciary Subcommittee for its Hearing on
“Hate Crimes and the Threat of Domestic Extremism”**

I write to provide recommendations to the Senate Judiciary Subcommittee on how its members, and its colleagues in Congress, may address hate crimes and discrimination against Sikhs in the United States. In what follows, I describe my qualifications to offer such suggestions, and then list the recommendations themselves.

RELEVANT BACKGROUND

I am Assistant Professor of Law at the University of New Mexico School of Law, where I teach constitutional law, national security, and employment discrimination. I am also Sikh. My understanding is that I am one of only two Sikh tenure-track law professors in the country. I have written extensively on the rights and experiences of Sikhs in the aftermath of the terrorist attacks of September 11, 2001. For example, I co-authored a book, *CIVIL RIGHTS IN WARTIME: THE POST-9/11 SIKH EXPERIENCE* (Ashgate, 2009), that explains the various ways and contexts in which Sikhs have been discriminated against after 9/11. I have authored thirteen law review articles, several of which address the post-9/11 mistreatment of Muslims and those perceived to be Muslim, including Sikhs. My commentary on post-9/11 issues affecting Sikh-Americans has been published by the *Baltimore Sun*, SCOTUSblog, and the Center for Public Leadership at the Kennedy School of Government. I worked at the Pluralism Project at Harvard University, where I researched post-9/11 Sikh-American issues. With respect to pro bono litigation, I co-authored an amicus brief in *United States v. Hatch*, 10th Cir. No. 12-2040 (2012) that argues that

Congress possessed the authority, under the Thirteenth Amendment, to enact the Hate Crimes Prevention Act. I also authored an amicus brief on behalf of eight Muslim, Arab, South Asian, and Sikh organizations in *Ashcroft v. Iqbal*, S.Ct. No. 07-1015 (2008), arguing that the plaintiff's complaint was sufficient to survive a motion to dismiss under traditional pleading standards and that the Supreme Court should pay special attention to the claims of profiling in wartime America. I also have given numerous talks in academic settings and broader public forums on topics implicating the rights of Sikh-Americans.¹

RECOMMENDATIONS

In order to help quell incidents of hate violence and discrimination against Sikh-Americans, as well as the public ignorance that may give rise to such incidents, I suggest that the Committee and the Congress as a whole consider the following tangible proposals:

1. To require federal government agencies that are responsible for enforcing federal civil rights laws to track both complaints of discrimination by Sikh-Americans and incidents of actionable discrimination against Sikh-Americans. It is only through a proper accounting of such complaints and violations that the federal government may be able to properly respond to the discrimination faced by Sikh-Americans in employment, schools, and other facets of our society. As organizations and scholars have determined, Sikh-Americans have suffered the disproportionate brunt of hate violence after 9/11 – a fact that may be lost on the federal government because it subsumes Sikhs as part of larger categories.

2. To amend Title VI of the Civil Rights Act of 1964 to codify the position of the U.S. Department of Education's Office for Civil Rights that Sikh-Americans may seek protection under the statute.

¹ My CV is available at: <http://lawschool.unm.edu/faculty/sidhu/sidhu-cv.pdf>.

3. To amend Title VII of the Civil Rights Act of 1964 to make clear that a) the placement of employees with conspicuous articles of faith in areas outside of public view does not qualify as a “reasonable accommodation” within the meaning of the statute, b) an employer may not refuse to hire an applicant with a conspicuous article of faith because of actual or perceived concerns that customers or the public may not want to interact with that applicant, and c) the loss of business from actual or perceived customer reaction to an employee with a conspicuous article of faith may not qualify as an “undue burden” under the statute.

4. To create or incentivize programs designed to facilitate the civic engagement of Sikh-Americans and other minority communities. I firmly believe that the civic involvement of minority groups, including Sikh-Americans, may help diminish ignorance of the respective groups and may lead to greater social cohesion and harmony across the nation.

5. To create or incentivize a program that sends recent college graduates to areas within the United States to encourage and train minority and immigrant communities to be engaged civically. Such a program, modeled on AmeriCorps, would not only put more of our talented youth to work, but would increase the civic participation of underserved groups, would thereby enrich our civic institutions and public policy, and would ensure the health of our democracy.

I would be happy to discuss these recommendations with the Committee and its staff. I am available to be of any assistance to the Committee as needed. I commend the Committee for convening this important hearing and for its interest in ensuring that Sikhs may be free of hate violence and discrimination as they contribute to our society and go about their daily lives.

With gratitude,

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September 19, 2012

The Honorable Richard J. Durbin
 Chairman
 Subcommittee on the Constitution, Civil Rights
 and Human Rights
 U.S. Senate Committee on the Judiciary
 226 Dirksen Senate Office Building
 Washington, DC 20510

The Honorable Lindsey Graham
 Ranking Member
 Subcommittee on the Constitution, Civil Rights
 and Human Rights
 U.S. Senate Committee on the Judiciary
 226 Dirksen Senate Office Building
 Washington, DC 20510

Dear Chairman Durbin and Ranking Member Graham:

On behalf of the Sikh American Legal Defense and Education (SALDEF) and the Sikh American community, we want to thank you for holding today's hearing, "Hate Crimes and the Threat of Domestic Extremism." On August 5, 2012, the Sikh American community experienced domestic terrorism hate violence when an armed gunman opened fire in a *gurdwara* (Sikh place of worship) during religious services killing six innocent people and seriously injuring three others. This horrific crime was called an act of domestic terrorism by law enforcement authorities and is also under investigation as a hate crime. This hearing, therefore, is timely and necessary in ensuring such crimes do not occur again – to any group. The United States is a country built on the principles of inclusion, plurality, and diversity. A crime that threatens these ideals affects all Americans. We, therefore, urge Congress and the appropriate government agencies to take increased measures to prevent, address and combat hate crimes and domestic extremism in the United States.

The Sikh American Legal Defense and Education Fund (SALDEF), founded in 1996, is the oldest Sikh American civil rights and educational organization, empowering Sikh Americans through advocacy, education and media relations. Founded over 500 years ago in South Asia, there are more than 25 million Sikhs throughout the world and approximately 700,000 adherents in the United States. Observant Sikhs are distinguished by *dastaars* (Sikh Turbans, uncut hair and other conspicuous articles of faith. Arriving in North America in 1897, Sikhs 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* in the United States (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. Sikh values of equality and religious tolerance align with American values, and since their arrival, Sikh Americans have played a vital economic role in all facets of American life. Today, unfortunately, observant Sikhs face many challenges, including racial profiling, workplace discrimination, denial of public accommodations, school bullying and hate crimes.

While the Oak Creek, Sikh Temple shooting has brought attention to this serious issue, it is important to remember that this was not an isolated incident. In this year alone, SALDEF was contacted after a Gurdwara was vandalized in Sterling Heights, Michigan and after a Sterling, Virginia resident received a death threat letter – the third in a string of hate filled letters. In 2011, two elderly Sikh men walking in their Elk Grove, California neighborhood were shot down, and a Sikh man at an airport was stabbed in the chest in an unprovoked attack. Additionally, the first post 9/11 hate crime fatality occurred against a Sikh American from Mesa Arizona, Balbir Singh Sodhi, on September 15, 2001. While the number of hate crimes against Sikh Americans began to rise following 9/11, hate crimes against Sikh Americans can actually be traced back to the early 20th century. In 1907, in Bellingham, Washington a mob of 400-500 white men attacked the Sikh men in their community. Such mobs and riots were not uncommon for that time.

The occurrences of hate crimes and domestic extremism are not unique to the Sikh American community. Just in the weeks prior to and following the Oak Creek, Sikh Temple shooting, Islamic institutions around the county were targeted and vandalized. The climate of hate crimes for Sikhs, Muslims, Arabs and South Asians dramatically increased following 9/11. And well before 9/11, Jewish, African American, LGBTQ and other minority communities regularly experienced, and continue to experience, such crimes.

According to the Federal Bureau of Investigations (FBI), over 6,600 hate crimes were reported in the U.S. in 2010. Of the reported hate crimes, 47% of hate crimes were racially-motivated, 20% were motivated by victim's religion, 19% were based on sexual orientation, and 13% were based on ethnicity or national origin. Unfortunately, the number of hate crimes committed against Sikhs is unknown as the FBI does not have a distinct anti-Sikh hate crime category. Hate crimes, however, are often underreported and the Bureau of Justice Statistics has suggested that the number of actual hate crimes may be up to 15 times higher than what is reported.

Hate crimes do not only affect the individual victims, but terrorize the entire community the victim belongs to. Hate crimes are damaging the very fabric of this country – sending a message to entire communities that they do not belong. Furthermore, hate groups and domestic extremists, in perpetrating their hate crimes, threaten the safety of all Americans as their crimes are often committed in the public sphere. This is extremely troubling given the fact that, according to the Southern Poverty Law Center, the number of hate groups in the United States has grown by almost 60% since 2000.

Additionally, the government has a responsibility not to foster a climate in which hate crimes occur. Government actions and political discourse shape the public's perception of minority populations. They can fuel actions motivated by hate or can prevent government agencies from pursuing actual threats posed by hate groups and domestic extremists.

As a strong supporter of the End Racial Profiling Act (ERPA), SALDEF is well aware that law enforcement actions can perpetuate biased perceptions of community members through discriminatory policing such as profiling in airports, local law enforcement profiling and surveillance of minority communities, and profiling on the part of immigration authorities. Racial profiling is an ineffective law enforcement technique that diverts resources away from actual threats, including hate and domestic extremist groups. Furthermore, racial profiling is

detrimental to community policing and the relationship between minority communities and law enforcement diminishing the trust of law enforcement by targeted communities, including during times when assistance is needed – for example, following a hate crime.

Finally, like law enforcement, the elected officials in this country are impacting the relationship between the government and minority communities. Statements made by elected and public officials premised on racism, homophobia, sexism, xenophobia, and hatred towards religious groups shape the public's perception of minority populations and can fuel individual actions motivated by hate. Elected officials have a greater responsibility to refrain from making such statements because of the visible position they hold and the broad range of audiences they reach

The passage of the Matthew Shepard and James Byrd Jr. Hate Crime Prevention Act in 2009 strengthened existing legal protections for those victimized by hate crimes on the basis of their race, religion and sexual orientation. While this was a good start in curbing the number of hate crimes occurring in this country, and prosecuting the perpetrators, there is more the government can and should be doing.

History has shown us the past efforts led by the highest levels of government have been pivotal setting a framework to combat hate crimes and domestic extremism. Following the large number of attacks on African American churches in the mid-1990s (arsons, bombings, and attempted arsons and bombings), President Clinton declared the issue a national priority and directed the Administration to investigate and prosecute perpetrators, help communities rebuild houses of worship, and offer assistance in preventing additional attacks. In addition, a taskforce was established to address this very issue. The effects of the efforts were invaluable, yielding a 53% drop in attacks against such places of worship between 1996 and 1999.

We are now at a similar moment in history and given the grave threat currently posed by hate crimes, hate groups, and domestic extremism to minority communities and all Americans, it is imperative that policymakers take strong measures to prevent, document, investigate, and combat them. Specifically, existing hate crimes legislation must be rigorously enforced; data collection, categorization, reporting, and disaggregation mechanisms must be improved; adequate funding must be provided to government agencies charged with developing initiatives addressing the issue; formalized interagency efforts and positions within government on the issue must be established; and actions and rhetoric by government agencies and public officials that further an environment where bias can occur must be curbed.

Below are policy recommendations that Congress, the White House, and government agencies should undertake:

a. Ensure robust and comprehensive implementation of the Mathew Shepherd and James Byrd, Jr. Hate Crimes Prevention Act (HCPA): Enacted in 2009, this law encourages partnerships between federal and state law enforcement officials to more effectively address hate violence and provides limited authority for federal investigations and prosecutions when local authorities are unwilling or unable to act. To ensure robust enforcement, DOJ should file appropriate cases under HCPA; vigorously defend the constitutionality of the Act; and ensure

continued education, outreach, and training to federal, state, and local law enforcement officials on HCPA and its requirements.

b. Improve federal hate crime data collection, disaggregation, categorization, and reporting efforts: DOJ should promote mandatory comprehensive participation in existing hate crimes reporting requirements and the FBI should improve hate crime incident reporting by developing new categories on hate crime incident report forms for various affected communities not yet covered (including anti-Arab, anti-Sikh, and anti-Hindu incidents).

c. Allocate and prioritize federal funding for initiatives that prevent, investigate, and combat hate crimes, hate groups, and domestic extremism. Congress should establish or increase appropriations for: prevention, education, and training initiatives for law enforcement around existing hate crimes policies and their requirements; anti-bias education initiatives; existing government agencies specifically devoted to addressing and investigating hate crimes, hate groups, domestic extremism, and community tensions; and government resources, such as online portals and websites, geared specifically towards youth affected by bias and hatred. In addition, Congress should urge DHS to release its previously retracted 2009 public on right-wing extremist groups.

d. Establish formalized interagency efforts and positions at the highest levels of government in partnership with community stakeholders, to address hate crimes: The White House should convene a Presidential summit on hate crimes affecting religious minorities that engages community members, religious leaders, and federal government officials with the purpose of developing best practices for stakeholders addressing this issue, similar to what was instituted by President Clinton on race in the 1990s. The White House should also establish an interagency taskforce on hate crimes and domestic extremism, similar to what was established by President Clinton following the church arsons of the 1990s. DOJ should also formalize the Initiative to Combat Post-9/11 Discriminatory Backlash within the DOJ Civil Rights Division by designating a Special Counsel for Post-9/11 Discrimination and a Special Counsel for Religious Discrimination.

e. Curb actions and discourse by government agencies and public officials that often promote a climate where hate crimes can occur: Congress should pass robust anti-profiling policies, such as the End Racial Profiling Act (S. 1670; H.R. 3618) which prohibits profiling based on race, religion, ethnicity, or national origin by federal, state and local law enforcement; establishes requirements for law enforcement to collect data, provide anti-profiling trainings, and develop a complaint mechanism for affected individuals; allow DOJ to withhold grants to entities that fail to comply with the law and provide funding to these seeking to eliminate the practice; and allow affected individuals to seek redress in court. DOJ should also amend its 2003 Guidance Regarding the Use of Race by Federal Law Enforcement Agencies to apply to profiling based on religion and national origin, remove national and border security loopholes, cover law enforcement surveillance activities, apply to state and local law enforcement agencies acting in partnership with federal agencies or receiving federal funds, and make the guidance enforceable. Public officials should refrain making statements based on racism, xenophobia, homophobia, sexism, or religious intolerance. Public officials should also take a pledge to not engage in such rhetoric as well as condemn such statements when they do occur in the public sphere.

Sincerely,



Jasjit Singh
Executive Director



Statement for the Record from the Sikh Coalition

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

United States Senate

Hearing on Hate Crimes and the Threat of Domestic Extremism

September 19, 2012

The Sikh Coalition respectfully submits this statement for the record in connection with the above-referenced hearing before the Senate Judiciary Subcommittee on the Constitution, Civil Rights, and Human Rights. This hearing on hate crimes and the threat of domestic extremism is long overdue.

Background

By way of background, the Sikh Coalition is the largest Sikh American civil rights organization in the United States. We were constituted on the night of September 11, 2001 in response to a torrent of hate crimes against Sikhs throughout the United States. The Sikh religion was founded by Guru Nanak over five centuries ago in South Asia and is presently the fifth largest world religion, with more than 25 million adherents throughout the world and approximately 500,000 followers in the United States. The core teachings of the Sikh religion are that there is one God and that all human beings are created equal, regardless of distinctions such as their religion, race, sex, or caste. Devout Sikhs are distinguished by visible religious articles, including uncut hair, which Sikh males are required to cover with a turban and which Sikh women have the option of covering with a turban.

Although the Sikh turban signifies a commitment to upholding freedom, justice, and dignity for all people, the physical appearance of a Sikh is often ignorantly conflated with images of foreign terrorists, some of whom also wear turbans and many of whom have received copious publicity in our mainstream media in the post-9/11 environment. As far back as the early 20th century, Sikhs have been ridiculed and stereotyped because of their appearance, and are presently subjected to unusually high rates of employment discrimination, racial profiling, school bullying, and hate crimes.

Hate Crimes and Bias Attacks Against Sikhs

The August 5, 2012 hate-motivated murders of Sita Singh, Ranjit Singh, Prakash Singh, Paramjit Kaur, Suveg Singh, and Satwant Singh Kaleka at the Sikh Gurdwara (House of Worship) in Oak Creek, Wisconsin were the latest tragedies to befall the Sikh American community. During the first week after 9/11, American newspapers documented more than 40 hate crimes and backlash incidents targeting

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Sikhs.¹ This included the murder of Mr. Balbir Singh Sodhi—a Sikh entrepreneur in Mesa, Arizona. His assailant bragged about wanting to “kill the ragheads responsible for September 11.”² During the first three months after 9/11, the Sikh Coalition documented more than 300 hate crimes and backlash incidents targeting Sikhs, including the stabbing of Ms. Swaran Kaur Bhullar in California,³ and an assault on a Sikh grandfather, the late Attar Singh Bhatia, with a baseball bat in New York City.⁴

In the 11 years since 9/11, hate crimes against Sikhs have continued unabated. High profile incidents include the 2003 shooting of Avtar Singh in Arizona⁵; the 2004 beating of Rajinder Singh Khalsa in New York City⁶; the 2007 beating of Sukhvir Singh in Washington⁷; and the murders in 2011 of 65-year-old Surinder Singh and 78-year-old Gurmej Singh Atwal in California.⁸ A grassroots survey of Sikhs in New York City published by the Sikh Coalition in 2008 revealed that nine percent of respondents had experienced physical assaults on account of their religion.⁹ A similar survey of Sikhs in the San Francisco Bay Area published by the Sikh Coalition in 2010 revealed that ten percent of respondents had experienced bias-based assaults or property damage on account of their religion.¹⁰

Even Sikh children experience bias attacks. A Sikh Coalition community survey published in 2007 revealed that 62% of turban-wearing Sikh students in the Queens borough of New York City experienced bullying, and that 42% of them had been hit or involuntarily touched because of their turbans.¹¹ A similar survey published in 2010 found that 74% of turbaned Sikh boys in the San Francisco Bay Area suffer bias-based bullying and harassment.¹² In May 2007, a Sikh boy had his hair forcibly cut by a bully.¹³ In June 2008, a Sikh girl also had her hair forcibly cut by a bully.¹⁴ That same month, a Sikh student named

¹ South Asian Americans Leading Together, *American Backlash: Terrorists Bring War Home in More Ways Than One* (2001), available at <http://old.911digitalarchive.org/documents/BiasReport.pdf>.

² Human Rights Watch, *We are Not the Enemy: Hate Crimes Against Arabs, Muslims, and Those Perceived to be Perceived to be Arab or Muslim after September 11* 18 (2002) (quoting Sergeant Mike Goulet of the Mesa, Arizona police department), available at <http://www.hrw.org/legacy/reports/2002/usahate/usa1102.pdf>.

³ Swaran Kaur Bhullar, Los Angeles Times (Sept. 11, 2002), available at <http://articles.latimes.com/2002/sep/11/nation/na-911bhullar11>.

⁴ Sudhin Thanawala, *Hate Begets Hate: New Victims of 9-11*, Hartford Courant (Mar. 17, 2002), available at http://articles.courant.com/2002-03-17/news/0203171815_1_asian-americans-south-asians-asian-indians.

⁵ Elias Arnold, *2003 Shooting of Sikh Unsolved*, Arizona Republic (July 7, 2006), available at <http://www.azcentral.com/specials/special14/articles/0707coldcase0707.html>.

⁶ Thomas Lueck, *L.I. Man Charged in Bias Assault of Sikh Leader*, New York Times (July 13, 2004), available at <http://www.nytimes.com/2004/07/13/nyregion/li-man-charged-in-bias-assault-of-sikh-leader.html>.

⁷ Robert Jamieson, *Meet the Opposite of a Terrorist*, Seattle Post-Intelligencer (Apr. 21, 2008), available at <http://www.seattlepi.com/news/article/Meet-the-opposite-of-a-terrorist-1271017.php>.

⁸ Nick Carbone, *Timeline: A History of Violence Against Sikhs in the Wake of 9/11*, Time (Aug. 6, 2012), available at <http://newsfeed.time.com/2012/08/06/timeline-a-history-of-violence-against-sikhs-in-the-wake-of-911>.

⁹ Sikh Coalition, *Making Our Voices Heard: A Civil Rights Agenda for New York City's Sikhs* 6 (2008), available at <http://www.sikhcoalition.org/documents/pdf/RaisingOurVoicesReport.pdf>.

¹⁰ Sikh Coalition, *Sikh Coalition Bay Area Civil Rights Report 2012* 4 (2010), available at http://www.sikhcoalition.org/documents/pdf/Bay_Area_Civil_Rights_Agenda.pdf.

¹¹ Sikh Coalition, *Hatred in the Hallways: A Preliminary Report on Bias Against Sikh Students in New York City's Public Schools* (2007), available at http://www.sikhcoalition.org/documents/hatred_in_the_hallways.pdf.

¹² Sikh Coalition, *Bay Area Civil Rights Report* (2010), available at http://www.sikhcoalition.org/documents/Bay_Area_Civil_Rights_Agenda.pdf.

¹³ Sikh Coalition, *Sikh Boy's Hair Forcibly Cut in Hate Attack* (May 25, 2007), available at <http://www.sikhcoalition.org/advisories/SikhBoyHairHateAttack.htm>.

¹⁴ Sikh Coalition, *Sikh Girl's Hair Cut by Fellow Student in New York City School* (June 21, 2008), available at <http://www.sikhcoalition.org/advisories/GurpritHateAssault.htm>.

Jagmohan Singh Premi was punched and injured in the face with a set of keys by a student who was attempting to remove his turban.¹⁵ One Sikh student even had his turban set on fire by a fellow student.¹⁶

The FBI's Failure to Track Hate Crimes Against Sikhs

Although Sikhs continue to experience hate crimes on account of their distinct identity, the Federal Bureau of Investigation (FBI) does not track hate crimes against Sikhs. We believe the agency's failure to do so is bad policy, because it is impossible to address a problem unless it is being accurately measured. At the very least, Sikh Americans who experience hate crimes deserve the dignity of being a statistic. During the last two years, the Sikh Coalition and over 110 bipartisan members of the United States Senate¹⁷ and House of Representatives¹⁸ have called upon the Department of Justice and FBI to begin tracking hate crimes against Sikhs. It is imperative that the agencies begin doing so without further delay.

Addressing Hate Crimes and Violent Extremism in the United States

Hate crimes in the United States are severely underreported. According to the FBI's hate crime statistics, there were at least 6,628 hate crimes reported in the United States in 2010.¹⁹ On the other hand, a 2005 report by the Bureau of Justice Statistics suggested that the true number of hate crimes in the United States may be 15 times higher than that which is currently reported.²⁰

Hate crimes in the United States do not occur in a vacuum. According to the Southern Poverty Law Center, the number of hate groups in our country (currently numbering over a thousand) has grown by almost 70% since 2000.²¹ Wade Michael Page, the domestic terrorist who massacred Sikh worshippers last month in Oak Creek, Wisconsin, had ties to hate groups.²² Notwithstanding this, it appears that our government is failing to pursue domestic extremists with as much vigor as it pursues extremists from abroad. A report issued by the U.S. Department of Homeland Security in 2009, predicting an upsurge in domestic extremist activity,²³ was withdrawn under political pressure.²⁴ According to a May 2012 report by the Congressional Research Service:

¹⁵ Sikh Coalition, *Another Sikh Boy Suffers Hate Assault in New York City School* (June 5 2008), available at <http://www.sikhcoalition.org/advisories/JagmohanHateAssault.htm>.

¹⁶ Jeff Diamant, *Sikh student's turban set ablaze during school fire drill*, Star-Ledger (May 12, 2008), available at http://www.nj.com/news/index.ssf/2008/05/sikh_students_turban_set_on_fire.html.

¹⁷ Available at <http://goo.gl/pl7kk>.

¹⁸ Available at <http://goo.gl/lxArj>.

¹⁹ U.S. Department of Justice, Federal Bureau of Investigation, *Hate Crime Statistics 2010, Incidents and Offenses*, available at <http://www.fbi.gov/about-us/cjis/ucr/hate-crime/2010/narratives/hate-crime-2010-incidents-and-offenses>.

²⁰ Southern Poverty Law Center, *Report: FBI Hate Crime Statistics Vastly Understate Problem*, Intelligence Report, Winter 2005, available at <http://www.splcenter.org/get-informed/intelligence-report/browse-all-issues/2005/winter/hate-crime>.

²¹ Southern Poverty Law Center, *Hate and Extremism*, available at <http://www.splcenter.org/what-we-do/hate-and-extremism>.

²² Joe Heim, *Wade Michael Page was steeped in neo-Nazi 'hate music' movement*, Washington Post (Aug. 7, 2012), available at http://www.washingtonpost.com/lifestyle/style/wade-michael-page-was-steeped-in-neo-nazi-hate-music-movement/2012/08/07/b879451e-dfe8-11e1-a19c-fcfa365396c8_story.html.

²³ Department of Homeland Security, *Rightwing Extremism: Current Economic and Political Climate Fueling Resurgence in Radicalization and Recruitment* (2009), available at <http://www.fas.org/irp/eprint/rightwing.pdf>.

The emphasis of counterterrorism policy in the United States since Al Qaeda's attacks of September 11, 2001 (9/11) has been on jihadist terrorism. However, in the last decade, domestic terrorists—*people who commit crimes within the homeland and draw inspiration from U.S.-based extremist ideologies and movements*—have killed American citizens and damaged property across the country.²⁵

FBI statistics suggest that approximately 94% of terrorist incidents in the United States between 1980 and 2005 have been committed by non-Muslim extremists.²⁶ A separate analysis by the organization Think Progress suggests that 88% of terrorist incidents in the United States from 1995 through 2011 have been committed by non-Muslim extremists.²⁷

Given the persistent threats posed by domestic extremists, our government owes it to the American public—especially those who have lost loved ones to hate crimes and terrorism—to address these threats more seriously. It is clear that our policymakers are not doing enough to address the threat of domestic extremism. We hope that today's hearing will mark the start of a much-needed paradigm shift in the way our policymakers address extremist violence against Americans.

Policy Recommendations

The Sikh Coalition offers the following recommendations in connection with today's hearing:

1. Policymakers and candidates for office should pledge to refrain from engaging in rhetoric that incites bigotry²⁸ toward individuals or communities on the basis of race, national origin, religious affiliation, sexual orientation, gender, gender identity, disability, or immigration status. Political leaders occupy positions of privilege and power and should accordingly hold themselves to a high standard of civility.
2. Policymakers should ensure robust and comprehensive implementation of the Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act (HCPA). Enacted in 2009, this law encourages partnerships between federal and state law enforcement officials to more effectively address hate violence and provides authority for federal investigations and prosecutions when local authorities are unwilling or unable to act. To ensure robust enforcement, the Department of Justice should file appropriate cases under HCPA; vigorously defend the constitutionality of the Act; and ensure continued education, outreach, and training to federal, state, and local law enforcement officials on HCPA and its requirements.

²⁴ Erica Goode and Serge Kovalski, *Wisconsin Killer Fed and Was Fueled by Hate-Driven Music*, New York Times (Aug. 6, 2012), available at <http://www.nytimes.com/2012/08/07/us/army-veteran-identified-as-suspect-in-wisconsin-shooting.html?pagewanted=all>.

²⁵ Jerome P. Bjelopera, Congressional Research Service, *The Domestic Terrorist Threat: Background and Issues for Congress* (2012), available at <http://www.fas.org/sgp/crs/terror/R42536.pdf>.

²⁶ Federal Bureau of Investigation, *Terrorism 2002-2005, Chronological Summary of Terrorist Incidents in the United States 1980-2005*, available at http://www.fbi.gov/stats-services/publications/terrorism-2002-2005/terror02_05#terror_05sum.

²⁷ Ken Softer and Molly Bernstein, Chart: 17 Years After Oklahoma City Bombing, Right-Wing Extremism is a Significant Domestic Terror Threat, Think Progress (Apr. 19, 2012), available at <http://thinkprogress.org/security/2012/04/19/467384/chart-right-wing-extremism-terror-threat-oklahoma-city/?mobile=nc>.

²⁸ South Asian Americans Leading Together, *From Macacas to Turban Toppers: The Rise in Xenophobic and Racist Rhetoric in American Political Discourse* (2012), available at <http://saalt.org/attachments/1/From%20Macacas%20to%20Turban%20Toppers%20Report.small.pdf>.

3. Policymakers should improve federal hate crime data collection, disaggregation, categorization, and reporting efforts. Specifically, the current system of voluntary hate crime reporting from law enforcement agencies to FBI should be converted into a mandatory system. In addition, the FBI should improve hate crime incident reporting by developing new categories on hate crime incident report forms for various affected communities not yet covered (including Arab, Sikh, and Hindu Americans).

4. Policymakers should allocate and prioritize federal funding for hate crime prevention initiatives, especially anti-bias education for youth. Some initiatives, such as the StopBullying.gov website, already exist to combat and prevent school bullying, and these can be easily expanded and adapted to address hate motivated violence.

5. The White House should establish an interagency taskforce on hate crimes and domestic extremism, similar to what was established by President Clinton following the church arsons of the 1990s. The task force should make periodic reports to Congress and set benchmarks for hate crime reduction.

The Sikh Coalition is grateful for the opportunity to submit this statement for the hearing record and looks forward to working with its partners in government, civil society, and grassroots communities nationwide to eliminate bigotry, hate crimes, and violent extremism in the United States.

APPENDIX

MEMORANDUM

From: Rajdeep Singh, The Sikh Coalition
Date: September 4, 2012
Subject: Documenting Hate Crimes Against Sikhs in the United States

ISSUE

Pursuant to the Hate Crime Statistics Act of 1990, the Federal Bureau of Investigation (FBI) collects data on hate crimes in the United States. To this end, the agency has developed a Hate Crime Incident Report (Form I-699), which allows users to capture detailed information about hate crimes, including the bias motivations on the basis of which such crimes are committed. Although Sikhs continue to experience hate crimes in the United States because of their distinct religious identity, the FBI does not track hate crimes against Sikhs on Form I-699. As detailed in the enclosures, the FBI has indicated that such crimes are categorized as “anti-Muslim” and that the addition of a separate category for Sikhs would be “premature” because of the absence of (a) consensus within the law enforcement community about the definition of an “anti-Sikh” bias motivation, and (b) enabling legislation or executive guidance.

OBJECTIVE

Form I-699 should be amended so that hate crimes against Sikhs are documented. Given that Sikhs experience bias crimes and bigotry because of their distinct religious identity—including the turban, which only Sikhs are religiously required to wear—it is incorrect to assume that all such crimes are motivated by anti-Muslim bias. In addition, the Sikh Coalition is willing to work with the law enforcement community, including the FBI, on developing a consensus definition of “anti-Sikh” bias, thus obviating the need for legislation or external executive guidance.

DISCUSSION POINTS**A. Sikhs and Sikh religious articles are targets for bias crimes and bigotry**

1. **Historical Context.** The Sikh religion was founded over five centuries ago in South Asia and is currently the fifth largest religion, with an estimated 25 million adherents throughout the world. The Sikh religion is based on a belief in one God and preaches universal equality and fellowship, regardless of earthly distinctions such as race, religion, sex, and caste. The Sikh religion is distinct from Hinduism and Islam. Sikhs are distinguished by visible religious articles, including turbans and uncut hair.

2. **Sikh Americans.** According to a law review article written in 2002 by Prof. Bill Ong Hing, “[a]s they have been recently, turban-wearing Sikhs were victimized historically. When they

arrived in the 1800s, Sikh men continued to wear turbans, because not cutting their hair is a requirement of their religion. As a result, they endured being called 'ragheads.'"¹

3. Example of Anti-Sikh Hate Crime. On August 5, 2012, six Sikhs were murdered at a Gurdwara in Oak Creek, Wisconsin by an attacker with known ties to hate groups.²

4. School Violence. Sikh children experience bias-based bullying and harassment directed at their religious articles. A Sikh Coalition community survey published in 2007 revealed that 62% of turban-wearing Sikh students in the Queens borough of New York City experienced bullying, and that 42% of them had been hit or involuntarily touched because of their turbans.³ A similar survey published last year found that 74% of turbaned Sikh boys in the San Francisco Bay Area suffer bias-based bullying and harassment.⁴

- (a) In May 2007, a Sikh student in New York had his turban removed and hair (which Sikhs are religiously required to maintain uncut) forcibly cut by bullies.⁵
- (b) In May 2008, a Sikh student in New York had his turban set on fire by a bully.⁶
- (c) In June 2008, another Sikh student in New York had her hair forcibly cut by a bully.⁷
- (d) In June 2008, a Sikh student in New York was punched and injured in the face with a set of keys by a student who was attempting to remove his turban.⁸

5. Recent Incidents in Canada. While it is true that many Americans mistake Sikhs for Muslims, Sikhs continue to experience bias attacks and bigotry in countries where they are more commonly recognized as a distinct religious community. For example, in recent months, a YouTube video was released in Canada inciting hatred toward Sikhs, and a Sikh

¹ Bill Ong Hing, *Vigilante Racism: The De-Americanization of Immigrant America*, 7 Mich. J. Race & L. 441, 446 (2002).

² Simran Jeet Singh and Prabhjot Singh, *How Hate Gets Counted*, New York Times (Aug. 24, 2012), available at <http://www.nytimes.com/2012/08/24/opinion/do-american-sikhs-count.html>.

³ Sikh Coalition, *Hatred in the Hallways: A Preliminary Report on Bias Against Sikh Students in New York City's Public Schools* 5 (2007), available at http://www.sikhcoalition.org/documents/hatred_in_the_hallways.pdf.

⁴ Sikh Coalition, *Bay Area Civil Rights Report 3* (2010), available at http://www.sikhcoalition.org/documents/Bay_Area_Civil_Rights_Agenda.pdf.

⁵ Sikh Coalition, *Sikh Boy's Hair Forcibly Cut in Hate Attack* (2007), available at <http://www.sikhcoalition.org/advisories/SikhBoyHairHateAttack.htm>.

⁶ Sikh Coalition, *Sikh Boy's Turban Set on Fire* (2008), available at <http://www.sikhcoalition.org/advisories/2008/sikh-boys-turban-set-on-fire-at-nj-school>

⁷ Sikh Coalition, *Sikh Girl's Hair Cut by Fellow Student in New York City School* (2008), available at <http://www.sikhcoalition.org/advisories/GurpritiHateAssault.htm>.

⁸ Sikh Coalition, *Another Sikh Boy Suffers Hate Assault in New York City School* (2008), available at <http://www.sikhcoalition.org/advisories/JagmohanHateAssault.htm>.

elementary school outside Toronto was vandalized with swastikas.⁹ This underscores the fact that Sikhs are not always subjected to hate crimes because of anti-Muslim bias.

B. Definition of a Sikh

In the enclosed letter to the Chairman and Ranking Member of the House Judiciary Committee, the U.S. Department of Justice indicated that the addition of a separate bias motivation category for Sikhs on Form 1-699 would be “premature” because of the absence of consensus within the law enforcement community about the definition of an “anti-Sikh” bias motivation. The Sikh Coalition is willing to partner with the law enforcement community on developing an appropriate definition of “anti-Sikh” bias, based on the definition of a Sikh set forth by Sikh scholars and religious institutions in the Sikh Code of Conduct and Conventions.¹⁰

C. Form 1-699 takes a nuanced approach to tracking sexual orientation bias crimes, and this can inform development of a similar approach to tracking hate crimes against Sikhs

In the enclosed letter to the Chairman and Ranking Member of the House Judiciary Committee, the U.S. Department of Justice indicated last month that the addition of a separate bias motivation category for Sikhs on Form 1-699 would be “premature” until the term “anti-Sikh” is defined through legislation or executive guidance. On the contrary, the Sikh Coalition believes that the FBI’s own data collection practices on sexual orientation bias crimes provides insight into the agency’s ability to make the change requested by the Sikh Coalition.

1. Legislation Not Required. The Hate Crime Statistics Act of 1990, as originally enacted, required collection of data “about crimes that manifest evidence of prejudice” with respect to several categories, including religion and sexual orientation. Through authority delegated to it (by way of the U.S. Attorney General), the FBI on its own volition appears to have taken a nuanced approach to tracking hate crimes based on sexual orientation bias. There is accordingly no reason why the FBI cannot take a similarly nuanced approach to data collection with respect to hate crimes against Sikhs.

(a) An early version of Form 1-699, dating back to 1996, contained the following categories under the category for bias motivation:

- 41 Anti-Male Homosexual
- 42 Anti-Female Homosexual (Lesbian)
- 43 Anti-Homosexual (Gay & Lesbian)
- 44 Anti-Heterosexual
- 45 Anti-Bisexual

⁹ Laura Kane, *Brampton Sikh elementary school vandalized by racist graffiti*, Toronto Star (July 10, 2012), available at <http://www.thestar.com/news/gta/article/1224660--brampton-sikh-elementary-school-vandalized-by-racist-graffiti>.

¹⁰ See, Shiromani Gurdwara Parbhandak Committee (SGPC), SIKH REHAT MARYADA (CODE OF SIKH CONDUCT AND CONVENTIONS), available at <http://sgpc.net/sikhism/introduction.html>.

(b) The most recent version of Form I-699, finalized this year, contains the following categories under the category for bias motivation:

41 Anti-Gay
 42 Anti-Lesbian
 43 Anti-LGBT (mixed group)
 44 Anti-Heterosexual
 45 Anti-Bisexual

(c) Just as the FBI argues that hate crimes against Sikhs result from “anti-Muslim” bias and should be documented accordingly, it could be argued that hate crimes against bisexuals and transgendered people presumptively result from “anti-gay” bias and should be documented accordingly. Nevertheless, the FBI has created a distinct category for crimes motivated by bias toward bisexuals and rightfully erred on the side of redundancy and thoroughness to facilitate data collection about anti-LGBT hate crimes.

(d) The FBI’s thorough data collection on hate crimes against the LGBT community does not appear to have resulted from legislation. The Hate Crime Statistics Act of 1990 has been amended three times, and the substance of those amendments is summarized below:

H.R. 3355/Public Law 103-322
 Violent Crime Control and Law Enforcement Act of 1994
SEC. 320926. HATE CRIME STATISTICS ACT.
 Subsection (b)(1) of the first section of the Hate Crime Statistics Act (28 U.S.C. 534 note) is amended by inserting “disability,” after “religion”.

H.R. 3525/Public Law 104-155
 Church Arson Prevention Act of 1996
SEC. 7. REAUTHORIZATION OF HATE CRIMES STATISTICS ACT.
 The first section of the Hate Crimes Statistics Act (28 U.S.C.534 note) is amended—(1) in subsection (b), by striking “for the calendar year 1990 and each of the succeeding 4 calendar years” and inserting “for each calendar year”; and (2) in subsection (c), by striking “1994” and inserting “2002”.

H.R. 2647 / Public Law 111-84
 National Defense Authorization Act for Fiscal Year 2010
SEC. 4708. STATISTICS.
 (a) IN GENERAL.—Subsection (b)(1) of the first section of the Hate Crime Statistics Act (28 U.S.C. 534 note) is amended by inserting “gender and gender identity,” after “race.”
 (b) DATA.—Subsection (b)(5) of the first section of the Hate Crime Statistics Act (28 U.S.C. 534 note) is amended by inserting “, including data about crimes committed by, and crimes directed against, juveniles” after “data acquired under this section”.

2. Executive Guidance. The Sikh Coalition is unaware of any external executive guidance that required the FBI to take a nuanced approach to documenting hate crimes against the LGBT community. Thus, it is not obvious why such guidance is required for the FBI to make the change requested by the Sikh Coalition.



U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

The Honorable Lamar Smith
Chairman
Committee on the Judiciary
U.S. House of Representatives
Washington, D.C. 20515

JUN 05 2012

Dear Mr. Chairman:

Enclosed please find responses to questions for the record arising from the appearance of Attorney General Eric Holder before the Committee on December 8, 2011. We hope that this information is of assistance to the Committee.

Please do not hesitate to call upon us if we may be of additional assistance. The Office of Management and Budget has advised us that there is no objection to submission of this letter from the perspective of the Administration's program.

Sincerely,

A handwritten signature in black ink, appearing to read "Judith C. Appelbaum", with a long horizontal flourish extending to the right.

Judith C. Appelbaum
Acting Assistant Attorney General

Enclosure

cc: The Honorable John Conyers, Jr.
Ranking Member

QUESTIONS POSED BY REPRESENTATIVE CHU

17. **On August 24, 2011, the Associated Press published an investigative article describing intelligence gathering by the NYPD, through collaboration with the CIA, of the Muslim community. This surveillance included targeting mosques, student groups, restaurants and even motorists in both New York City and outside the NYPD's jurisdiction. Several members of Congress and a number of community and civil rights groups have requested that Department of Justice open an investigation into the NYPD because its unlawful profiling violates both the Constitution and federal law. What is the status of these requests? When will DOJ make a determination on whether or not to open an investigation into this matter?**

The Department takes its responsibility to enforce civil rights laws addressing constitutional violations by law enforcement officers and agencies very seriously, including patterns and practices of constitutional violations resulting from policing practices. The Department is reviewing the requests to investigate the allegations of unconstitutional surveillance by the NYPD.

18. **A. What is DOJ doing in order to ensure that states are in compliance with Section 203 of the Voting Rights Act? Four additional states will require Asian Pacific American Language translation of ballots in the upcoming elections. What is DOJ doing to ensure that newly covered jurisdictions are aware of legal responsibilities under the law? In addition are there any assurance that these jurisdictions will comply during the upcoming primaries and elections?**

The Department is committed to the vigorous enforcement of the language minority provisions of the Voting Rights Act (Act), including Sections 203, 4(e) and 4(f)(4). Toward that end, the Department has established an active enforcement program, which includes monitoring and outreach designed to ensure full compliance with those provisions.

On October 13, 2011, the Bureau of the Census issued its decennial determinations as to which political subdivisions met the statutory criteria established by the coverage formulae contained in Section 203. Those jurisdictions are thereby required to provide the minority language assistance prescribed by the Act. In this cycle, the Census Bureau determined that 248 counties and other political jurisdictions in 25 states are required to provide language assistance, in dozens of minority languages. A total of 35 jurisdictions now are covered by Section 203 for the first time. Another 19 jurisdictions that already were covered by Section 203 are now required to provide language assistance in additional languages. The minority languages qualifying for assistance in jurisdictions newly covered by the Act included Spanish; Asian Indian and Bangladeshi; Filipino; Chinese; Vietnamese; Alaskan Native languages such as Inupiat and Yupik; and American Indian languages such as Choctaw, Yuma, and Hopi.

exceptions for national security and border integrity; but neither applies to profiling based on religion and national origin; nor to state and law enforcement agencies. It also lacks a meaningful enforcement mechanism. This is problematic because a significant amount of racial profiling is religiously or nationality based. Additionally there needs to be some type of enforcement mechanism to discourage the act of racial profiling. I am aware that DOJ has been engaged in a review of its guidance for a few years. But thus far there has been no modifications or updates. I would like to know when will this review be completed and will it address these concerns with its current language? What is the probability that it will address some of the concerns I've laid out in this paragraph?

As the Attorney General has noted previously, he believes profiling is problematic, both because it is generally an ineffective law enforcement technique and because of its negative impact on the communities affected. At the Attorney General's request, the Department has created a working group to undertake a review of the June 2003 Guidance Regarding the Use of Race by Federal Law Enforcement Agencies. That review necessarily implicates a broad array of civil rights, law enforcement, and national security interests across the federal government and requires careful consideration of a multitude of concerns, including those that you have raised. Although it is not possible to say for certain when the review of the 2003 Guidance will be completed, the review is ongoing, and the Attorney General looks forward to receiving the working group's recommendations as soon as it completes its thorough evaluation.

- 21. A. Recent FBI hate crimes statistics issued last month from the FBI show that incidents against Muslims increased a staggering 50% between 2009 and 2010. In light of these statistics, what will DOJ do to address this stark uptick in anti-Muslim incidents?**

The Hate Crime Statistics Act requires the FBI to collect crime statistics voluntarily submitted by state and local law enforcement agencies. The FBI is aware of both the increase in anti-Muslim crimes and the increase in hate crimes generally. To provide perspective, in 2009 6,604 hate crimes were reported, of which 125 (1.9 per cent) were anti-Muslim crimes. In 2010 6,628 hate crimes were reported, of which 160 (2.4 per cent) were anti-Muslim crimes.

The FBI continues to explore ways to decrease hate crimes and hate incidents. The investigations and successful prosecution of hate-crime perpetrators are key elements in the government's effort to deter these crimes and protect their potential victims. In addition, each of the FBI's 56 field offices has a robust Community Outreach Program. As an extension of the FBI's counterterrorism efforts, the Community Outreach Coordinators build and maintain relationships in their Muslim communities, often placing the FBI in direct contact with Muslim community leaders. This maximizes the likelihood that anti-Muslim hate crimes will be reported, which improves both the accuracy of that reporting and the opportunity to successfully investigate these crimes and bring the perpetrators to justice.

- B. Several advocacy organizations submitted a letter to your office in January 2011 to voice their concerns about the rise of hate crimes against Sikh, Arab,**

and Hindu communities. The letter, to which there has yet to be a response, called for the FBI to begin documenting and tracking the number of hate crimes committed against the above mentioned communities. How does the FBI intend to respond to this request?

By letter dated January 13, 2011, the Sikh Coalition addressed concerns regarding hate crime reporting to Attorney General Holder. By letter dated February 25, 2011, Thomas E. Perez, Assistant Attorney General of the Department's Civil Rights Division, replied to the inquiry on Attorney General Holder's behalf. Those letters are attached.

The FBI's Uniform Crime Report (UCR) program collects hate crime data in accordance with the Hate Crime Statistics Act of 1990, as amended, and in compliance with the standards for race and ethnicity designations established by the Office of Management and Budget. The current Hate Crime Incident Report Form collects "Anti-Islamic (Muslim)" data under the category of "religious bias motivation." We recognize the possible value of establishing separate categories for "anti-Arab," "anti-Sikh," and "anti-Hindu," but there is no current consensus on how to define these terms (for example, should they be based on geography, culture, religion, or native language?). Absent a consensus on these definitions within the law enforcement community, or the establishment of definitions through legislation or executive guidance, it is premature to seek the requested revision of the reporting categories.



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January 13, 2011

The Honorable Eric H. Holder, Jr.
 Attorney General of the United States
 950 Pennsylvania Avenue, NW
 Washington, DC 20530-0001

Re: Including Sikhs in Hate Crime Incident Reporting

Dear Attorney General Holder:

I am writing on behalf of the Sikh Coalition, the largest Sikh civil rights organization in the United States. We met last September during a discussion with interfaith groups about the need to respond vigorously to post-9/11 bigotry, and we deeply appreciate your support in this regard. Consistent with the spirit of that meeting, I am writing today to request formal tracking of hate crimes suffered by Sikhs on the enclosed *Hate Crime Incident Form* (Form 1-699).

By its own terms, Form 1-699 is designed to "assist the [Federal Bureau of Investigation] in compiling timely, **comprehensive**, and **accurate** data regarding the incidence and prevalence of hate crime throughout the [n]ation." Although our organization has documented several hundred bias attacks against Sikhs since September 11, 2001, it is our understanding that most of these incidents are officially classified as anti-Islamic (Muslim) hate crimes. When a discrete community is acutely susceptible to hate violence in the United States, it is critically important for federal authorities to devise means of tracking hate violence against the affected community. On this ground, we believe that failing to record hate crimes against Sikhs necessarily undermines our collective interest in compiling data which are comprehensive and accurate.

As a practical matter, the inclusion of Sikhs on Form 1-699 will encourage law enforcement agencies nationwide to develop stronger relationships with the Sikh communities they serve. Because Sikhs remain largely unknown to law enforcement officials, members of our community are susceptible to ethno-religious profiling and routinely denied opportunities to serve as law enforcement officers. Along these lines, Form 1-699 treats Sikh Americans as if they do not exist. The inclusion of Sikhs on Form 1-699, on the other hand, will be a catalyst for dialogue between Sikhs and law enforcement agencies nationwide and motivate Sikhs in the United States to report hate crimes. In the fullness of time, we hope that stronger working relationships between Sikhs and law enforcement agencies will allow Sikhs to overcome the discriminatory barriers that are too often imposed on them by law enforcement agencies around the nation.

In light of the foregoing concerns, we would appreciate an opportunity to meet with you and your colleagues for further discussion. We applaud efforts by the Department of Justice to vindicate civil rights and vigorously prosecute hate crimes, and we look forward to continuing our partnership with your agency.

Respectfully yours,



Rajdeep Singh
Director of Law and Policy
(202) 747-4944 | rajdeep@sikhcoalition.org

Enclosure

cc: Mr. Eric Treene, Special Counsel for Religious Discrimination, Civil Rights Division
Ms. Emily M. Loeb, Counsel to the Assistant Attorney General, Civil Rights Division
Mr. Gregory E. Scarbro, Unit Chief, Crime Statistics Management Unit
Ms. Kristi Donahue, Hate Crime Coordinator, Crime Statistics Management Unit
Ms. Gloria Chan, Executive Director, Congressional Asian Pacific American Caucus



U. S. Department of Justice

Civil Rights Division

Office of the Assistant Attorney General

Washington, D.C. 20530

FEB 25 2011

Mr. Rajdeep Singh
Director of Law and Policy
The Sikh Coalition
40 Exchange Place, Suite 728
New York, NY 10005-2769

Dear Mr. Singh:

This responds to your letter to the Attorney General dated January 13, 2011, requesting a meeting to discuss formal tracking of hate crimes suffered by Sikhs using your enclosed *Hate Crime Incident Form* (Form 1-699).

The Criminal Section enforces the federal criminal civil rights statutes pertaining to incidents of official misconduct and violent bias-motivated crimes. As we discussed when we met with you at the February 9, 2011, meeting of various community groups, the Criminal Justice Information Systems Committees of the International Association of Chiefs of Police (IACP), the National Sheriffs' Association (NSA) and the National Crime Information Center Advisory Policy Board (APB) provide oversight of the Uniform Crime Reporting (UCR) Program. We recognize the concerns raised regarding form 1-699, however, the current version of the form reflects the items that were approved for data collection through the UCR Program oversight process.

We hope this information is helpful. Please do not hesitate to contact the Department if we may be of assistance with this, or any other matter.

Sincerely,

A handwritten signature in black ink that reads "Tom Perez" followed by a stylized flourish.

Thomas E. Perez
Assistant Attorney General

HATE CRIME INCIDENT REPORT

Initial Adjustment ORI Date of Incident / /
Month Day Year

Incident No. Page of of Same Incident

Offense Information

Enter an offense code and the number of victims for each bias motivated offense.

Offense #	Offense Code	Number of victims	Offense Description
Offense #1	<input type="text"/>	<input type="text"/>	01 Murder
Offense #2	<input type="text"/>	<input type="text"/>	02 Rape
Offense #3	<input type="text"/>	<input type="text"/>	03 Robbery
Offense #4	<input type="text"/>	<input type="text"/>	04 Aggravated Assault
Offense #5	<input type="text"/>	<input type="text"/>	05 Burglary
			06 Larceny-Theft
			07 Motor Vehicle Theft
			08 Arson
			09 Simple Assault
			10 Intimidation
			11 Destruction/Damage/Vandalism

Location Information

Check one location for Offense #1.

- | | |
|--|---|
| 01 <input type="checkbox"/> Air/Bus/Train Terminal | 24 <input type="checkbox"/> Specialty Store (TV, Fur, etc.) |
| 02 <input type="checkbox"/> Bank/Savings and Loan | 25 <input type="checkbox"/> Other/Unknown |
| 03 <input type="checkbox"/> Bar/Night Club | 37 <input type="checkbox"/> Abandoned/Condemned Structure |
| 04 <input type="checkbox"/> Church/Synagogue/Temple/Mosque | 38 <input type="checkbox"/> Amusement Park |
| 05 <input type="checkbox"/> Commercial/Office Building | 39 <input type="checkbox"/> Arena/Stadium/Fairgrounds/Coliseum |
| 06 <input type="checkbox"/> Construction Site | 40 <input type="checkbox"/> ATM Separate from Bank |
| 07 <input type="checkbox"/> Convenience Store | 41 <input type="checkbox"/> Auto Dealership New/Used |
| 08 <input type="checkbox"/> Department/Discount Store | 42 <input type="checkbox"/> Camp/Campground |
| 09 <input type="checkbox"/> Drug Store/Dr.'s Office/Hospital | 44 <input type="checkbox"/> Daycare Facility |
| 10 <input type="checkbox"/> Field/Woods | 45 <input type="checkbox"/> Dock/Wharf/Freight/Modal Terminal |
| 11 <input type="checkbox"/> Government/Public Building | 46 <input type="checkbox"/> Farm Facility |
| 12 <input type="checkbox"/> Grocery/Supermarket | 47 <input type="checkbox"/> Gambling Facility/Casino/Race Track |
| 13 <input type="checkbox"/> Highway/Road/Alley/Street | 48 <input type="checkbox"/> Industrial Site |
| 14 <input type="checkbox"/> Hotel/Motel/etc. | 49 <input type="checkbox"/> Military Installation |
| 15 <input type="checkbox"/> Jail/Prison | 50 <input type="checkbox"/> Park/Playground |
| 16 <input type="checkbox"/> Lake/Waterway | 51 <input type="checkbox"/> Rest Area |
| 17 <input type="checkbox"/> Liquor Store | 52 <input type="checkbox"/> School-College/University |
| 18 <input type="checkbox"/> Parking Lot/Garage | 53 <input type="checkbox"/> School-Elementary/Secondary |
| 19 <input type="checkbox"/> Rental Storage Facility | 54 <input type="checkbox"/> Shelter-Mission/Homeless |
| 20 <input type="checkbox"/> Residence/Home | 55 <input type="checkbox"/> Shopping Mall |
| 21 <input type="checkbox"/> Restaurant | 56 <input type="checkbox"/> Tribal Lands |
| 22 <input type="checkbox"/> Service/Gas Station | 57 <input type="checkbox"/> Community Center |

If more than one offense occurred, enter a location code for each additional offense having a different location than Offense #1.

Offense #	Location Code
Offense #2	<input type="text"/>
Offense #3	<input type="text"/>
Offense #4	<input type="text"/>
Offense #5	<input type="text"/>

Bias Motivation Information

Check up to five bias motivations for Offense #1.

Race

- 11 Anti-White
- 12 Anti-Black or African American
- 13 Anti-American Indian or Alaska Native
- 14 Anti-Asian
- 15 Anti-Multiple Races, Group
- 16 Anti-Native Hawaiian or Other Pacific Islander

Religion

- 21 Anti-Jewish
- 22 Anti-Catholic
- 23 Anti-Protestant
- 24 Anti-Islamic (Muslim)
- 25 Anti-Other Religion
- 26 Anti-Multiple Religions, Group
- 27 Anti-Atheism/Agnosticism

Ethnicity

- 32 Anti-Hispanic or Latino
- 33 Anti-Not Hispanic or Latino

Sexual Orientation

- 41 Anti-Gay (Male)
- 42 Anti-Lesbian
- 43 Anti-Lesbian, Gay, Bisexual, or Transgender (Mixed Group)
- 44 Anti-Heterosexual
- 45 Anti-Bisexual

Disability

- 51 Anti-Physical Disability
- 52 Anti-Mental Disability

Gender

- 61 Anti-Male
- 62 Anti-Female

Gender Identity

- 71 Anti-Transgender
- 72 Anti-Gender Non-Conforming

If more than one offense occurred, enter up to five bias motivations for each additional offense having a different bias motivation than Offense #1.

	Bias #1	Bias #2	Bias #3	Bias #4	Bias #5
Offense #2	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Offense #3	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Offense #4	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Offense #5	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Victim Information

Check all applicable victim types for each offense listed above.

	Offense #1	Offense #2	Offense #3	Offense #4	Offense #5
1 Individual*	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2 Business	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3 Financial Institution	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4 Government	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5 Religious Organization	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
7 Other	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
8 Unknown	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

*Indicate the number of Individuals (persons) who were victims in the incident.

Total number of victims.

Total number of victims 18 and over.

Total number of victims under 18.

Offender Information

Indicate the number of Individuals (persons) who were offenders in the incident.

Total number of offenders. If unknown, enter 00.

Total number of offenders 18 and over. If unknown, enter 00.

Total number of offenders under 18. If unknown, enter 00.

Race and Ethnicity of Offender or Offender Group

Check one race and one ethnicity.

Race

- 1 White
- 2 Black or African American
- 3 American Indian or Alaska Native
- 4 Asian
- 5 Group of Multiple Races
- 6 Unknown
- 7 Native Hawaiian or Other Pacific Islander

Ethnicity

- H Hispanic or Latino
- N Not Hispanic or Latino
- M Group of Multiple Ethnicities
- U Unknown

This report is authorized by Title 28, Section 534, U.S. Code, and the Hate Crime Statistics Act of 1990. Even though you are not required to respond, your cooperation in using this form to report hate crimes known to law enforcement during the quarter will assist the FBI in compiling timely, comprehensive, and accurate data regarding the incidence and prevalence of hate crime throughout the Nation. Please submit this report quarterly, by the 15th day after the close of the quarter, and any questions to the FBI, Criminal Justice Information Services Division, Attention: Uniform Crime Reports/Module E-3, 1000 Custer Hollow Road, Clarksburg, West Virginia 26306; telephone 304-625-4830, facsimile 304-625-3566. Under the Paperwork Reduction Act, you are not required to complete this form unless it contains a valid OMB control number. The form takes approximately 7 minutes to complete. Instructions for preparing the form appear below.

GENERAL

This report is separate from and in addition to the traditional Summary Reporting System submission. In hate crime reporting, there is no Hierarchy Rule. Offense data (not just arrest data) for Intimidation and Destruction/Damage/Vandalism of Property should be reported. On this form, all reportable bias motivated offenses should be included regardless of whether arrests have taken place. Please refer to the publication *Hate Crime Data Collection Guidelines and Training Manual* for additional information.

QUARTERLY HATE CRIME REPORT

At the end of each calendar quarter, each reporting agency should submit a single Quarterly Hate Crime Report, together with an individual Hate Crime Incident Report for each bias motivated incident identified during the quarter (if any). If no hate crimes occurred during the quarter, the agency should submit only the Quarterly Hate Crime Report.

The Quarterly Hate Crime Report should be used to identify your agency, to state the number of bias motivated incidents being reported for the calendar quarter, and to delete any incidents previously reported that have been determined during the reporting period not to have been motivated by bias.

HATE CRIME INCIDENT REPORT

The Incident Report should be used to report a bias motivated incident or to adjust information in a previously reported incident. Include additional information on separate paper if you feel it will add clarity to the report.

Instructions for preparing the Hate Crime Incident Report

Administrative Information

Report Type: (Required.) Indicate the type of report as Initial or Adjustment.

Initial-To report a hate crime incident.

Adjustment-To update a hate crime incident previously reported. (Note: This will delete the information already on file and insert the information provided in this report.)

ORI Number: (Required.) Enter the nine-character Originating Agency Identifier assigned to your agency.

Date of Incident: (Required for Initial or Adjustment Reports.) Provide the date of the hate crime incident in the format of MMDDYYYY.

Incident Number: (Required for Initial or Adjustment Reports.) Provide an identifying incident number, preferably your case or file number. The number can be up to 12 characters in length. Valid characters include: A through Z, 0 through 9, hyphens, and/or blanks.

Page of of same incident: If additional Incident Reports are used, make an appropriate entry into this portion.

Offense Information

Offense Code: Enter the two-digit offense code for each bias motivated offense. The offense codes that are specific to hate crime are: 01 Murder, 02 Rape, 03 Robbery, 04 Aggravated Assault, 05 Burglary, 06 Larceny-theft, 07 Motor Vehicle Theft, 08 Arson, 09 Simple Assault, 10 Intimidation, and 11 Destruction/Damage/Vandalism.

Number of Victims: Enter the number of victims for each bias motivated offense. The field allows for up to a three-digit number to be entered. Number of victims are inclusive of Individual, Business, Financial Institution, Government, Religious Organization, Other, and Unknown.

Location Information

Offense #1 Location: Check one location for Offense #1.

Additional Offense Locations: Enter a two-digit location code for each additional offense that has a different location than Offense #1.

Bias Motivation Information

Offense #1 Bias Motivation: Check up to five bias motivations for Offense #1.

Additional Offense Bias Motivations: Enter up to five two-digit bias motivation codes for each additional offense that has a different bias motivation than Offense #1.

Victim Information

Victim Type: Check all applicable victim types identified within the incident.

Number of Victims: When victim type is individual enter the total number of individuals (persons) who were victims in the incident. Enter the total number of individuals (persons) who were victims in the incident that are 18 and over. Enter the total number of individuals (persons) who were victims in the incident that are under the age of 18.

Offender Information

Number of Offenders: Enter the total number of individuals (persons) who were offenders in the incident. If unknown, enter 00 in the two-digit field. Enter the total number of individuals (persons) who were offenders in the incident that were 18 and over. If unknown, enter 00 in the two-digit field. Enter the total number of individuals (persons) who were offenders in the incident that were under the age of 18. If unknown, enter 00 in the two-digit field. Incidents involving multiple offenders must not be coded as Unknown Offender. Indicate an Unknown Offender when nothing is known about the offender including the offender's race. When the Race of Offender(s) has been identified, indicate at least one offender.

Race and Ethnicity of Offender or Offender Group

Race: Check one race for the offender. If there was more than one offender, provide the race of the group as a whole. If the number of offenders is entered as Unknown Offender, then the offender's race must also be indicated as Unknown.

Ethnicity: Check one ethnicity for the offender. If there was more than one offender, provide the ethnicity of the group as a whole. If the number of offenders is entered as Unknown Offender, then the offender's ethnicity must also be indicated as Unknown.



**SOUTH ASIAN AMERICAN POLICY AND RESEARCH INSTITUTE (SAAPRI)
STATEMENT FOR THE RECORD**

**United States Senate Judiciary Committee Hearing on
Hate Crimes and Domestic Extremism
September 19, 2012**

I. INTRODUCTION

South Asian American Policy & Research Institute (SAAPRI) commends the Senate Judiciary Committee for convening this hearing on hate crimes and domestic extremism, especially due to the rising impact of these problems in South Asian American and other communities. SAAPRI urges Congress and federal government agencies to take increased measures to prevent, address, and combat hate crimes and domestic extremism in the United States. The United States is built on inclusion, plurality, and diversity, and actions and words of hate affect all Americans.

SAAPRI is a non-profit, non-partisan organization established in 2001 to improve the lives of South Asian Americans in the Chicago area, by using research to formulate equitable and socially responsible public policy. SAAPRI's work has included research and policy initiatives on civic engagement, access to health care, economic development, and the experiences of immigrants. SAAPRI appreciates the opportunity to submit a brief statement today and can provide additional data and details upon request.

II. IMPACT OF HATE CRIMES AND DOMESTIC TERRORISM

Despite legal protections such as the Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act, 18 U.S.C. § 249, hate crimes and hate groups continue to be a serious threat facing this country. The aftermath of the tragic events of September 11, 2001, has caused Sikhs, Muslims, South Asian Americans, Arab Americans, and other communities in the Midwest and the country at large to live under an unfair burden of vulnerability. The recent tragic shooting at the Sikh Temple of Wisconsin has brought attention to this serious issue, but unfortunately this is not an isolated incident. In Illinois, there have been many direct attacks on individuals of various races and faiths, including numerous violent attacks on Muslim institutions in the past few weeks alone. Incidents directed at South Asian Americans may appear to be random and isolated, but when they are viewed collectively over a period of time, a troubling pattern emerges that justifies enhanced actions by government.

Hate crimes affect not only individuals but also communities: trauma is incurred by survivors and the community being targeted, who hear the message that they do not

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belong in this country. These messages of intolerance, xenophobia, and racism are a threat to our society as a whole. Hate crimes are also a threat to law enforcement officers and government institutions, who are sometimes in the direct line of fire when there are attacks by hate groups and domestic extremists.

Meanwhile, groups such as South Asian Americans are growing at a rapid rate. According to the United States Census, the South Asian American population in Illinois has grown by over 55% since 2000. Due to the increasing populations of other immigrants and minorities in many parts of the United States, it is crucial that government leaders take measures to protect our communities and promote tolerance of diverse cultures and religions.

III. RECOMMENDATIONS

Given the grave threat currently posed by hate crimes, hate groups, and domestic extremism to minority communities and all Americans, it is imperative that policymakers take strong measures to prevent, document, investigate, and combat them. History has shown us the past efforts led by the highest levels of government have been pivotal setting a framework to combat hate crimes and domestic extremism.

Existing hate crimes legislation must be rigorously enforced; data collection, categorization, reporting, and disaggregation mechanisms must be improved; adequate funding must be provided to government agencies charged with developing initiatives addressing the issue; formalized interagency efforts and positions within government on the issue must be established; and actions and rhetoric by government agencies and public officials must be responsible and not further an environment where bias can occur. The federal government should (1) work to improve federal hate crime data collection, disaggregation, categorization, and reporting efforts and (2) work to curb actions and discourse by government leaders that promotes a climate where hate crimes can occur.

SAAPRI requests government leaders to pay particular attention to the fact that, in the current climate, government actions and political discourse shape the public's perception of minority populations. Statements made by elected and public officials premised on intolerance and xenophobia can fuel individual actions motivated by hate, even if this result is unintentional. Elected and public officials have a greater responsibility to refrain from making such statements because of the visible positions that they hold and broad range of audiences that they reach. The City of Chicago recently acknowledged this heightened responsibility while adopting Resolution R2012-814, denouncing hateful actions and rhetoric and promoting education about diverse cultures and religions. Statements of tolerance and inclusion by government leaders are true to our country's ideals of fairness and equality, and they make us stronger as a nation.

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**WRITTEN STATEMENT OF
Deepa Iyer, Executive Director
South Asian Americans Leading Together (SAALT)**

**“Hate Crimes and the Threat of Domestic Extremism” Hearing
SENATE COMMITTEE ON THE JUDICIARY
SUBCOMMITTEE ON THE CONSTITUTION, CIVIL RIGHTS,
AND HUMAN RIGHTS**

**UNITED STATES SENATE
SEPTEMBER 19, 2012**

South Asian Americans Leading Together (SAALT) welcomes the opportunity to submit a statement for the record for the September 19, 2012 hearing on “Hate Crimes and the Threat of Domestic Extremism” before the Senate Committee on the Judiciary’s Subcommittee on the Constitution, Civil Rights, and Human Rights. Given the recent tragedy in Oak Creek, Wisconsin, at a Sikh gurdwara, it is important and timely for the Subcommittee to examine the impact of hate crimes and the threats posed by violent extremists to our nation. In this statement, SAALT provides a range of recommendations, including the creation of a national taskforce to address this issue with an area of emphasis on post-September 11th discrimination.

SAALT is a national, nonpartisan, non-profit organization that elevates the voices and perspectives of South Asian individuals and organizations to build a more just and inclusive society in the United States. SAALT works with a base of individual members and advocates and is the coordinating entity of the National Coalition of South Asian Organizations (NCSO), a network of 41 organizations across the country that provide direct services to, organize, and advocate on behalf of South Asians in the United States.

SAALT condemns all hate crimes, including those motivated in part or whole by bias against actual or perceived race, religion, gender, gender identity, sexual orientation, national origin, ethnicity, or disability. Sadly, since September 11th, South Asian, Sikh, Muslim, and Arab Americans have been the targets of numerous hate crimes, as well as employment discrimination, bullying, harassment, and profiling. In addition, places of worship have been vandalized and attacked. Most recently, the tragic shooting at the Sikh gurdwara in Oak Creek, Wisconsin took the lives of six people and was followed by a wave of apparent hate crimes and hate incidents around the country.

The United States was founded upon principles of inclusion, plurality, and diversity and, in the past, our government has taken active steps to protect these principles when they have been jeopardized on various occasions. Indeed, during the mid-1990s, when reports of arsons at

African American churches surfaced, then-President Clinton declared the investigation and prevention of such arsons a national priority. In short order, the National Church Arson Task Force was established to coordinate intergovernmental efforts and Congress identified funding to move these efforts forward. The leadership of our government at the highest levels was crucial to counter the crisis that emerged in the African American faith community. We are at a similar moment now and should look to past examples of intergovernmental and coordinated government responses to address hate crimes and threats posed by violent extremists.

IMPACT OF HATE CRIMES AND THE THREAT POSED BY VIOLENT EXTREMISTS

Though nearly three years have passed since the Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act was enacted, hate crimes continue to pose a serious threat to all Americans. On August 5, 2012, this threat manifested itself in the massacre of Sikh congregants at the Sikh gurdwara in Oak Creek, Wisconsin and resulted in the death of the temple president, Satwant Singh Kaleka, three priests, Ranjit Singh, Sita Singh and Prakash Singh, and two congregants, Suveg Sing Khattrra and Paramjit Kaur.¹ Since this tragedy, numerous potential hate crimes have occurred, many of which have targeted particular faith groups. Islamic institutions have been vandalized,² shot at with paintballs³ and a high velocity air rifle⁴, attacked with an acid bomb,⁵ and suspiciously burned down⁶. Additionally, there have been direct attacks on individuals of particular races or faiths, such as the firebombing of a South Asian Muslim family's home in Florida.⁷

However, none of these are isolated incidents; they are, in fact, a part of a pervasive pattern that has threatened the safety of all Americans for many years. According to the Southern Poverty Law Center, the number of hate groups in the United States has grown by almost 70% since 2000, rising to over 1000 hate groups currently.⁸ Hate crimes are similarly high, and yet, severely underreported. In 2010 alone, the Federal Bureau of Investigation (FBI) reported over 6,600 hate crimes in the United States⁹ – approximately 18 hate crimes per day. Of these 6,600 hate crimes, the majority were motivated by race (approximately 47%), followed by religion

¹ Dinesh Ramde, *Sikh Temple Shooting Victims: Crowd Gathers to Honor, Mourn Fallen Worshipers* (August 10, 2012) available at http://www.huffingtonpost.com/2012/08/10/sikh-temple-victims-thousands-expected-to-honor-mourn-fallen-worshippers_n_1764056.html.

² See e.g. Michael Wang, *Four Teens Arrested for Hate Crimes Against Mosque* (August 8, 2012) available at http://abclocal.go.com/34/story?section=news:local:east_bay&id=8767266; Michelle R. Smith, *RI Muslims Seek FBI, Police Help After Vandalism* (August 7, 2012) available at <http://www.sfgate.com/news/article/RI-Muslims-seek-FBI-police-help-after-vandalism-3768913.php>; Jason Kandal, *Pigs Feet Left at Plotted Site of Al-Nur Islamic Center in Ontario* (August 10, 2012) available at <http://www.pbclosangeles.com/news/local/Pigs-Feet-Al-Nur-Islamic-Center-Ontario-Mosque-Site-165742226.html>.

³ Matt Dinger, *Vandals Shoot Paintballs at OKC Mosque* (August 12, 2012) available at <http://news.sok.com/vandals-shoot-paintballs-at-okc-mosque/article/3200402>.

⁴ Chris Roberts, *Man Arrested for Shooting at Chicago-area Mosque* (August 12, 2012) available at http://articles.nydailynews.com/2012-08-12/news/33171054_1_chicago-area-mosque-chief-mark-erickson-ramadan.

⁵ Joseph Ruzich, *'MacGyver Bomb' Thrown at Islamic School in Lombard* (August 13, 2012) available at www.chicagotribune.com/news/local/suburbs/lombard/chi-macgyver-bomb-thrown-at-islamic-school-in-lombard-20120813,0,7826161.story.

⁶ Associated Press, *Missouri Mosque Destroyed by Second Fire in Weeks* (August 7, 2012) available at www.latimes.com/news/nationworld/nation/la-na-joplin-mosque-fire-20120807.0.423146.story.

⁷ *Firebomb Thrown at Local Home* (August 16, 2012) available at <http://www.wjhg.com/news/headlines/Fire-Bomb-Thrown-At-Local-Home-106351446.html>.

⁸ Southern Poverty Law Center, *Stand Strong Against Hate*, available at <http://www.splcenter.org/get-involved/stand-strong-against-hate> (last accessed September 17, 2012).

⁹ Uniform Crime Report, Hate Crime Statistics, U.S. Department of Justice, Federal Bureau of Investigation (2010) available at <http://www.fbi.gov/about-us/cjis/ucr/hate-crime/2010/narratives/hate-crime-2010-incidents-and-offenses.pdf>.

(approximately 20%), sexual orientation (approximately 19%), and ethnicity or national origin (approximately 13%).¹⁰

One particular area of alarm within the context of hate crimes is the post-September 11th backlash. Since September 11th, South Asian, Sikh, Muslim, and Arab Americans have endured an unprecedented backlash that has included an increase in hate crimes. In fact, within just one week of September 11th, SAALT identified 645 reported incidents of bias in these communities.¹¹ The difference in the number of all hate crimes from 2000 to 2001 was also significant, rising from 8,063 to 9,730.¹² The FBI also reported a 1600% increase in anti-Muslim crimes, from 28 in 2000 to 481 in 2001.¹³ While the numbers of reported hate crimes lessened in subsequent years, from 2009 to 2010, the FBI reported an increase of almost 50% in anti-Muslim hate crimes.¹⁴ It is also highly likely that hate crimes are being underreported in our communities.¹⁵ A range of reasons, from language barriers to concerns about being targeted for terrorism investigations to fear of approaching law enforcement to lack of immigration status, often prevents immigrants from reporting hate crimes.

As we all know, hate crimes affect not only the individuals they directly impact, but also the communities to which they belong. The trauma that individuals and communities suffer as a result of these attacks is long-lasting, and significant resources are expended to both address these crimes and deal with their consequences.

For example, in response to the Oak Creek tragedy, numerous organizations have come together to provide assistance to the Sikh community in the form of medical services for victims and families, psychological counseling for community members, and anti-bullying resources. Clearly, the Oak Creek tragedy will have long-term consequences for the Sikh community, but it also impacts other communities. Indeed, South Asians around the United States are coming to terms with the realization that Oak Creek could happen again in another place of worship or community center, particularly given the common perception that those belonging to our communities are un-American and worthy of suspicion and attack. Community members, even when not directly affected, become fearful of expressing their religious faiths, engaging in civic institutions, and speaking out against injustice – acts of democracy that are fundamental to living in America.

¹⁰ *Id.*

¹¹ South Asian Americans Leading Together, *American Backlash: Terrorists Bring War Home in More Ways Than One* (2001) available at http://www.saalt.org/attachments/1_American%20Backlash%20report.pdf.

¹² See, Uniform Crime Report, Hate Crime Statistics, U.S. Department of Justice, Federal Bureau of Investigation (2000) available at <http://www.fbi.gov/about-us/cjis/ucr/hate-crime/2000>; Uniform Crime Report, Hate Crime Statistics, U.S. Department of Justice, Federal Bureau of Investigation (2001) available at <http://www.fbi.gov/about-us/cjis/ucr/hate-crime/2001>.

¹³ Richard A. Serrano, *Hate Crimes Against Muslims Soar, Report Says* (November 26, 2002) available at <http://articles.latimes.com/2002/nov/26/nation/na-hate26>. See also, Uniform Crime Report, Hate Crime Statistics, U.S. Department of Justice, Federal Bureau of Investigation (2000), available at <http://www.fbi.gov/about-us/cjis/ucr/hate-crime/2000>; Uniform Crime Report, Hate Crime Statistics, U.S. Department of Justice, Federal Bureau of Investigation (2001) available at <http://www.fbi.gov/about-us/cjis/ucr/hate-crime/2001>.

¹⁴ See Uniform Crime Report, Hate Crime Statistics, U.S. Department of Justice, Federal Bureau of Investigation (2009), available at http://www2.fbi.gov/ucr/ucr2009/data/table_01.html; Uniform Crime Report, Hate Crime Statistics, U.S. Department of Justice, Federal Bureau of Investigation (2010) available at <http://www.fbi.gov/about-us/cjis/ucr/hate-crime/2010/tables/table-1-incidents-offenses-victims-and-known-offenders-by-bias-motivation-2010.xls>.

¹⁵ In a 2005 study, the Bureau of Statistics noted that the actual number of hate crimes might be 15 times higher than that which is reported. Southern Poverty Law Center, *Report: FBI Hate Crime Statistics Vastly Understate Problem*, Intelligence Report, Issue No. 120 (Winter 2005) available at <http://www.splcenter.org/get-informed/intelligence-report/browse-all-issues/2005/winter/hate-crime>.

IMPACT OF GOVERNMENT ACTIONS THAT FOSTERS A CLIMATE IN WHICH DISCRIMINATION AND HATE CRIMES ARE MORE LIKELY TO PERSIST

As government and politics are such powerful forces in our society, public perception is greatly influenced by the actions of government and statements of those in positions of power. Government policies such as profiling and surveillance of South Asian, Sikh, Muslim, and Arab American individuals and communities send the message to the public that individuals from these communities are a threat or danger to society.¹⁶ Communities affected by racial and religious profiling may also be more hesitant to report hate crimes to law enforcement if they perceive they are being branded as suspects by the very agencies that should be charged with protecting them. Additionally, significant resources are wasted on these ineffective methods of policing, rather than focusing on those who pose real threats to the safety of our society, such as hate groups and violent extremists.

Similarly, people in positions of influence and power have great impact on public perception. When elected and public officials make racist, xenophobic, sexist, or homophobic statements, such rhetoric can shape how individuals and society as a whole view particular communities.¹⁷ These statements can foster similar sentiments by society at large, perpetuating misconceptions and stereotypes. In turn, these actions can create an environment that allows for or even fuels actions motivated by hate. Furthermore, the inaction of elected and public officials in response to hate crimes or the threat posed by violent extremists can be detrimental in their own regard.

For decades, xenophobic and racist rhetoric has been targeted at African Americans and Latinos in the political sphere. More recently, South Asian, Muslim, Sikh, and Arab Americans have become the target of such rhetoric by elected and public officials, sometimes impacting actions in their local communities.

SAALT's 2010 report, *From Macacas to Turban Toppers: The Rise in Xenophobic and Racist Rhetoric in American Political Discourse*, documents the steady rise in this type of language regardless of political persuasion. For example, during the late summer of 2010, debate across the country focused on the proposed construction of the Park51 Muslim community center in Lower Manhattan.¹⁸ SAALT documented at least 23 remarks made by members of Congress, governors, local officials and candidates, objecting to its construction.¹⁹ Comments ranged from calling the construction insensitive²⁰ to characterizing it as an Islamic "training center"²¹. In the

¹⁶ For example, these perceptions are fostered by actions such as the Transportation Security Administration's profiling of these individuals in airports, the Department of Homeland Security's discriminatory practice towards these individuals, and the New York City Police Department's surveillance of local communities. See South Asian Americans Leading Together (SAALT), *In Our Own Words: Narratives of South Asian New Yorkers Affected by Racial and Religious Profiling* (March 2012) available at <http://www.saalt.org/filestore/Reports/In%20Our%20Own%20Words%20Web%20FINAL.pdf>.

¹⁷ See South Asian Americans Leading Together, *From Macacas to Turban Toppers: The Rise in Xenophobic and Racist Rhetoric in American Political Discourse* (October 2010) available at http://saalt.org/attachments/1/From%20Macacas%20to%20Turban%20Toppers%20Report_small.pdf.

¹⁸ See *id.* at Part I, p. 4-6.

¹⁹ *Id.* at Part I, p. 4-6.

²⁰ *Id.* at Part I, p. 6 citing Andrea Peyser, *Mosque Madness at Ground Zero* (May 13, 2010) available at http://www.nypost.com/p/news/national/mosque_madness_at_ground_zero_OG34FB0MW501XuAnCau5uL.

²¹ *Id.* at Part I, p. 5 citing Zelenik *Issues Statement on Proposed Islamic Center* (June 24, 2010) available at <http://www.murfreesboropost.com/zelenik-issues-statement-on-proposed-islamic-center-cms-23606>.

wake of this controversy, several hate crimes occurred, including the vicious assault of a Bangladeshi taxicab driver in New York (whose attacker was a passenger who asked if the driver was a Muslim)²² and an attack on a turbaned Sikh convenience store clerk in the state of Washington (who was punched after being called “al-Qaeda”)²³. Mosques in California, Connecticut, Illinois, Michigan and New York were vandalized²⁴ and Quran burnings were planned in Florida and elsewhere in the country²⁵. Sadly, this pattern of anti-Muslim discourse still exists today and at times, is in disturbingly close proximity to potential hate crimes.²⁶

The words and actions of government and elected and public officials can create a climate in which hate crimes and the threat posed by violent extremists are not only tolerated but also emboldened. It is the responsibility of government and its officials to protect the safety of our country and its people by engaging in actions that further the fundamental values of pluralism, diversity, and equality upon which our country was founded.

RECOMMENDATIONS

Clearly, hate crimes and the threat of violent extremists affect a large swath of individuals in our country. It is imperative at this moment that policymakers take strong measures to document, investigate, prosecute, and prevent hate crimes. Specifically, SAALT recommends that (1) a national taskforce to address hate crimes and the threats posed by violent extremists be established with an area of focus on post-September 11th discrimination; (2) existing hate crime

²² Tom Hays, *Michael Enright Charged with Hate Crime: Ahmed Sharif, Muslim Cab Driver, Attacked for Religion* (August 25, 2010) available at http://www.huffingtonpost.com/2010/08/25/michael-enright-stabbed-c_n_694285.html.

²³ *Man Charged with Hate Crime After Hitting 7-11 Clerk for Wearing a Turban* (September 1, 2010) available at <http://entertainment.wapecweb.com/vstf/man-charged-with-hate-crime-after-hitting-7-11-clerk-for-wearing-a-turban-25278.html>.

²⁴ South Asian Americans Leading Together, *From Macacas to Turban Toppers: The Rise in Xenophobic and Racist Rhetoric in American Political Discourse*, Part 1, p. 4 (October 2010) available at <http://saalt.org/attachments/1/From%20Macacas%20to%20Turban%20Toppers%20Report-small.pdf> citing Mike Magnoli, *Car Burned At Islamic Center* (September 21, 2010) available at <http://www.kate.com/news/car-burned-at-islamic-center>, and USA Today, *Arson Reported at Tennessee Mosque Construction Site* (August 29, 2010) available at http://www.usatoday.com/news/religion/2010-08-29-arson28_ST_N.htm. See also, American Civil Liberties Union, *Map – Nationwide Anti-Mosque Activity* available at <http://www.aclu.org/maps/map-nationwide-anti-mosque-activity>.

²⁵ South Asian Americans Leading Together, *From Macacas to Turban Toppers: The Rise in Xenophobic and Racist Rhetoric in American Political Discourse*, Part 1, p. 4 (October 2010) available at <http://saalt.org/attachments/1/From%20Macacas%20to%20Turban%20Toppers%20Report-small.pdf> citing Brent Begin, *Burnt Quran Found Outside Tenderloin Mosque* (September 18, 2010) available at <http://www.sfxaminer.com/local/Burnt-Quran-found-outside-Tenderloinmosque-103213924.html>, Chicago Tribune, *Burnt Copy of Quran Found Outside Muslim Community Center* (September 14, 2010) available at <http://www.chicagotribune.com/news/local-ci-metburnt-quran-0915-20100914.0.1b30281.story>, The Star-Ledger Continuous News Desk, *Bloomington Man Is Fired from NJ Transit Job for Burning Quran Near Ground Zero* (September 15, 2010) available at http://www.nj.com/news/index.ssf/2010/09/bloomington_man_fired_by_nj_1.html, Steve Pardo, *Quran Burned in East Lansing* (September 13, 2010) available at <http://www.detroitnews.com/article/20100913/MI-TRO/9130336/Quran-burned-in-East-Lansing#sz20/SJwIPd>.

²⁶ For example, Illinois Congressman Joe Walsh recently remarked that “radical” Muslims were “trying to kill Americans every week.” Bernie Tafoya, *Representative Walsh’s Comments Infuriate Muslims* (August 10, 2012) available at <http://chicago.cbslocal.com/2012/08/10/rep-walshs-comments-infuriate-muslims/>. Soon after these comments were made, a man shot a high velocity air rifle at a Muslim community center, an acid bomb was thrown at an Islamic school, and on two separate occasions, anti-Muslim hate graffiti was sprayed on gravestones at a cemetery hosting approximately 500 Muslim graves. Christine Roberts, *Man Arrested for Shooting at Chicago-area Mosque*, (August 12, 2012) available at http://articles.mtdailynews.com/2012-08-12/news/33171054_1_chicago-area-mosque-chief-mark-erickson-ramadan; Joseph Ruzich, *MacGyver Bomb’ Thrown at Islamic School in Lombard* (August 13, 2012) available at <http://www.chicagotribune.com/news/local/suburbs/lombard/ci-macgyver-bomb-thrown-at-islamic-school-in-lombard-20120813.0.7826161.story>; *Hate Graffiti Found on Muslim Grave in Illinois* (August 17, 2012) available at <http://www.nbctchicago.com/news/local/Hate-Graffiti-Muslim-Graves-Evergreen-Park-Illinois-166522676.html>; Dan Lambert, *Grave Defaced with Anti-Islamic Writing for Second Time This Month* (September 1, 2012) available at <http://evergreenpark.nah.com/articles/grave-defaced-with-anti-islamic-writing-for-second-time-this-month>.

legislation be rigorously enforced; (3) categorization, reporting, and disaggregation mechanisms be expanded and improved; (4) adequate funding be provided to government agencies addressing this problem; (5) policies ending profiling be put in place; and (6) elected and public officials pledge to refrain from divisive rhetoric and restore civility to political discourse.

1. Establish a National Taskforce to Coordinate Intergovernmental Responses Related to Investigations, Tracking, Outreach, and Healing with an Emphasis on Post-September 11th Backlash

As history has proven, the highest levels of government can be very effective in setting a framework to prevent hate crimes and the existence of violent extremists. For example, in the mid-1990s, there were numerous attacks on African American churches primarily in the South, including actual and attempted arsons and bombings.²⁷ President Clinton declared the issue a national priority and directed the Administration to investigate and prosecute perpetrators, assist communities in rebuilding houses of worship, and assist with preventative measures for the future.²⁸ The impact of these efforts was invaluable and within four years, the number of attacks on African American churches dropped by 53%.²⁹

Similarly, a comprehensive response from various government agencies at federal and local levels can make a meaningful difference in addressing hate crimes and the threat posed by violent extremists. This response should include a taskforce explicitly given the mission of coordinating agencies, building relationships and partnerships with community-based organizations, and tracking and reporting benchmarks. Such a national coordinated taskforce can greatly complement and further the implementation of anti-hate crime legislation at federal and state levels. This taskforce must receive adequate funding from Congress and the backing of the Administration at the highest levels and be required to provide annual reports to the President and Congress.

SAALT recommends that one of the primary focus areas of such a national taskforce be to address the ongoing post-September 11th backlash that is partially outlined in this statement. This can be accomplished through a series of steps, beginning with a White House Summit on faith-based hate crimes. A summit, which can serve as a launch pad in establishing the framework for the taskforce, could develop best practices for stakeholders addressing this issue by engaging community members, religious leaders, and government officials in a productive discourse on the impact of such hate crimes on individuals and communities.

Additionally, the existing Initiative to Combat Post-9/11 Discriminatory Backlash within the Civil Rights Division is a vehicle that could be strengthened and utilized more effectively. The Department of Justice should formalize the Initiative by designating a Special Counsel for Post-9/11 Discrimination and a Special Counsel for Religious Discrimination. The Initiative should be responsible for bringing federal agencies and community-based organizations together to proactively identify best practices that have been helpful over the past ten years and that other

²⁷ National Church Arson Task Force Issues Fourth Report, *Number of Arson's at America's Houses of Worship Continues to Decline* (September 15, 2000) available at <http://www.justice.gov/opa/pr/2000/September/542cr.htm>.

²⁸ *Id.*

²⁹ *Id.*

jurisdictions may want to integrate. A national effort to address hate crimes and the threat posed by violent extremists would not be truly comprehensive or reflect the realities facing our country if post-September 11th backlash were not meaningfully addressed.

Finally, Congress should urge the Department of Homeland Security to release its previously retracted 2009 report on right wing extremist groups so that this national taskforce may effectively and efficiently work towards creating a safer environment for all Americans.

2. Rigorously Enforce Hate Crime Legislation

Nearly three years ago, the Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act (HCPA) was enacted, strengthening existing legal protections for the safety of all Americans. The HCPA encouraged partnerships between federal and state law enforcement officials in order to more effectively address hate violence and allowed for federal investigations and prosecutions in limited situations, when local authorities may be unwilling or unable to act. This legislation must now be rigorously enforced through the following actions by the Department of Justice: (1) filing appropriate cases under the HCPA; and (2) ensuring continued education, outreach, and training to federal, state, and local law enforcement officials on the HCPA and its authority, including the importance of obtaining data regarding the victim's actual or perceived race, religion, gender, gender identity, sexual orientation, national origin, ethnicity, or disability. To this end, law enforcement must also receive cultural and religious competency and educational trainings so that they may better understand the challenges that certain communities face when reporting incidents to law enforcement and remain sensitive to the experiences of South Asian, Sikh, Muslim, and Arab Americans since September 11th when obtaining this information.

3. Expand and Improve Categorization, Reporting, and Disaggregation Mechanisms

The Department of Justice should promote mandatory, comprehensive participation in the existing hate crimes reporting guidelines. Currently, law enforcement is not required to report hate crimes to federal agencies because such reporting is voluntary under the law. This voluntary reporting leads to inaccurate statistics and also underestimates the existing problem of hate crimes and the threat posed by violent extremists. In order to effectively address these issues and protect the safety of all Americans against hate violence, there must be mandatory reporting to allow for a thorough assessment of the problem.

Additionally, the FBI should expand and improve reporting and the documentation of hate crimes against affected communities not yet covered by developing new categories on the hate crimes incidents report forms. Not only are these categories necessary to understanding the root of hate crimes and preventative measures, but they also serve to build relationships with specific communities and thereby encourage reporting.

By tracking and categorizing certain types of hate crimes by race and religion, the government sends an important message to potential victims and offenders. Currently, anti-religion hate crimes are independently assessed only if they occur against Jews, Muslims, Catholics and

Protestants, while other religions are grouped together with minimal distinction.³⁰ Given the recent tragedy in Oak Creek, Wisconsin, the importance of disaggregating hate crimes in the Sikh community cannot be underestimated in the current national climate. SAALT urges that anti-Sikh, anti-Hindu, and anti-Arab hate crimes be categorized and tracked as this disaggregation is important to protecting the safety of all Americans. In addition, we encourage the FBI to disaggregate the hate crimes reported under the Asian/Pacific Islander category by specific Asian ethnic groups, as such information would be extremely helpful given the tremendous diversity within the Asian American, Native Hawaiian, and Pacific Islander communities.

4. Allocate Adequate Funding to Government Agencies

In order to efficiently address the problem of hate crimes and the threat of violent extremists, adequate resources must be provided to government agencies charged with this mission. Congress should establish or increase appropriations for: (1) prevention, education, and training initiatives for law enforcement regarding existing hate crimes policies and their requirements; (2) anti-bias education initiatives; (3) government agencies specifically devoted to addressing and investigating hate crimes, hate groups, violent extremists, and healing community tensions (such as the Department of Justice's Community Relations Service); and, (4) government resources centered on youth affected by bias and hatred, such as online portals and websites.

5. Establish Policies that Prevent Profiling and Targeting of Individuals

The climate of discrimination facing South Asian, Sikh, Muslim, and Arab American communities since September 11, 2001 could be greatly improved if Congress enacts robust anti-profiling policies, such as the *End Racial Profiling Act* (S. 1670; H.R. 3618), which (1) prohibits profiling based on race, religion, ethnicity, or national origin by federal, state, and local law enforcement; (2) establishes requirements for law enforcement data collection; (3) provides anti-profiling trainings; (4) develops a complaint mechanism for affected individuals; (5) allows the Department of Justice to withhold grants to entities that fail to comply with the law and provides funding to those who seek to eliminate profiling; and, (6) allows affected individuals to seek redress in the court system.

Additionally, the Department of Justice should amend its 2003 Guidance Regarding the Use of Race by Federal Law Enforcement Agencies to (1) prohibit profiling based on religion and national origin; (2) remove national and border security loopholes; (3) include law enforcement surveillance activities; (4) apply to state and local law enforcement agencies working in partnership with federal agencies or receiving federal funds; and, (5) create provisions for enforceability.

6. Pledge to Engage in Civil Discourse and to Condemn Divisive Rhetoric

³⁰ See, Uniform Crime Report, Hate Crime Statistics, U.S. Department of Justice, Federal Bureau of Investigation (2010) available at <http://www.fbi.gov/about-us/cjis/ucr/hate-crime/2010/tables/table-1-incidents-offenses-victims-and-known-offenders-by-bias-motivation-2010.xls> (disaggregating Jews, Catholics, Protestants, and Muslims and grouping all others into "other religion," "multiple religions, group" and "atheism/agnosticism/etc.").

The actions and rhetoric of government agencies and elected public officials have a significant influence on how members of the general public view minority communities. In order to foster a climate of plurality and inclusion, elected and public officials must refrain from making statements rooted in racism, xenophobia, homophobia, sexism, or religious intolerance. Such officials should take a pledge to not engage in such rhetoric as well as to condemn such statements when they take place in the public sphere. A return to civility in our political discourse will lead to greater unity and respect in both the political sphere and our national climate as a whole.

CONCLUSION

SAALT is heartened by the Subcommittee's leadership in holding this hearing and we are grateful for the opportunity to present our concerns on the heightened danger faced by all Americans as a result of hate crimes and the threat posed by violent extremists. We urge the Subcommittee to incorporate the recommendations we have included here, specifically:

- Establishment of a National Taskforce to Coordinate Intergovernmental Responses with an Emphasis on post-September 11th Backlash
- Rigorous Enforcement of Existing Hate Crimes Legislation
- Expansion and Improvement of Categorization, Reporting, and Disaggregation Mechanisms Related to Hate Crimes
- Allocation of Adequate Funding to Government Agencies
- Establishment of Policies that End Profiling
- Pledge to Engage in Civil Discourse and to Condemn Divisive Rhetoric

Together, we can ensure that our country remains true to its fundamental principles of plurality, inclusion and respect. Thank you for the opportunity to submit this statement for the record.

For further information about the impact of hate crimes and threat of domestic terrorism as it relates to the South Asian community, please contact Manar Waheed, SAALT's Policy Director at manar@saalt.org or (301) 270-1855.



SOUTH ASIAN BAR ASSOCIATION OF NEW YORK

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September 17, 2012

**VIA EMAIL: STEPHANIE_TRIFONE@JUDICIARY-
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The Honorable Patrick Leahy
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The Honorable Chuck Grassley
Ranking Member, Committee on
the Judiciary

United States Senate
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Re: Statement of Record by South Asian Bar Association of New York ("SABANY") for the Senate Judiciary Committee's Constitution Subcommittee September 19, 2012 Hearing on Hate Crimes and the Threat of Domestic Extremism

Dear Chairman Leahy and Ranking Member Grassley,

We write on behalf of the South Asian Bar Association of New York ("SABANY") which is the largest South Asian bar chapter in the U.S. Founded in 1996, SABANY is dedicated to ensuring the civil liberties of the South Asian community in New York and also to working to fight against hate crimes and address their underlying causes.

We commend the Senate Judiciary Committee for convening a hearing on hate crimes and domestic extremism. We believe that inclusion, plurality and diversity are bedrock principles of our country. Hate crimes and the actions of hate groups and domestic extremists threaten these fundamental principles and therefore, affect all Americans. Consequently, SABANY urges Congress and federal government agencies to take increased measures to prevent, address the causes of and combat hate crimes and domestic extremism in the U.S.

While it has been nearly three years since the Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act was signed in 2009 which strengthened and expanded the scope of the existing federal hate crimes law, hate crimes and hate groups continue to be a serious threat facing this country. The August 5, 2012 massacre of Sikhs in Oak Creek, Wisconsin has brought attention to this



serious issue. However, it is important to remember that this was not an isolated incident. On August 6, a mosque in Joplin, Missouri was burned to the ground. On August 10, shots from a pellet rifle were fired at the wall of the Muslim Education Center in Morton Grove, Illinois while nearly 500 people were praying inside, and on August 12, a bottle filled with acid was thrown at an Islamic school in Lombard, Illinois during evening prayers. Furthermore, there have been other direct attacks on individuals of various races and faiths.

Thus, hate crimes are a daily threat to individuals and our country as a whole. Furthermore, hate crimes and domestic extremism are also a threat to law enforcement officers and government institutions who work to keep our communities safe and free of intolerance of bigotry.

According to the FBI, over 6,600 hate crimes were reported in the U.S. in 2010. These incidents without question underestimate the actual number of hate crimes because of under-reporting by victims and partly because hate crime reporting by law enforcement agencies is voluntary. Nevertheless, the Southern Poverty Law Center reports that the number of hate groups in our country (currently numbering over a thousand) has grown by almost 60% since 2000. In 2010, more than 47% of hate crimes were racially motivated; 20% were motivated by the religion of the victim; 19% were based on sexual orientation and almost 13% of all hate crimes were based on ethnicity or national origin. Specifically in 2010, African Americans accounted for 70 % of those victimized by racially motivated hate crimes. Jewish Americans accounted for 65 % of those victimized by religiously motivated hate crimes and anti-Hispanic bias accounted for nearly 67 % of ethnically motivated crimes in 2010.

These incidents affect not only the individual victims but also, their loved ones and the communities that they target who are all traumatized. Hate crimes send the message that the targeted community does not have equal rights and equal protection and that they do not belong in the country. We as a society and our federal, state and local governments have a moral obligation to fight against hate crimes and domestic extremism and unequivocally reject this hateful message.

Thus, it should be clear that government actions and our political discourse shape the public's perception of the diverse communities that comprise our country. In doing so, unless they are conscientious about diversity and tolerance in actions and words, government actions and political discourse can actually fuel actions motivated by hate and prevent pursuing threats by hate groups and domestic extremists.



One example of such government action and political discourse include racial and religious profiling. Law enforcement actions can perpetuate biased perceptions of community members through discriminatory policing and surveillance. In doing so, resources are diverted away from actual threats including those posed by hate groups and domestic extremists. Such profiling also diminishes trust of law enforcement by the targeted communities which jeopardizes safety and security.

A second example is the use of bigoted rhetoric in political discourse. Statements made by elected and public officials premised on racism, sexism, xenophobia, homophobia or hatred towards religious or other groups fuel individual actions motivated by hate. As a result, elected and public officials have a greater responsibility to refrain from such statements because of the visible positions they hold and the broad audiences they reach. Accordingly, non-discriminatory actions by law enforcement and non-bigoted statements by elected and public officials are true to our country's ideals of fairness, inclusion and equality.

Because governmental efforts are and have been pivotal in setting a framework to combat hate crimes and domestic extremism, SABANY strongly supports that Congress, the White House and government agencies adopt the following recommendations:

* Ensure robust and comprehensive implementation of the Mathew Shepherd and James Byrd, Jr. Hate Crimes Prevention Act (HCPA):

Enacted in 2009, this law encourages partnerships between federal and state law enforcement officials to more effectively address hate violence and provides limited authority for federal investigations and prosecutions when local authorities are unwilling or unable to act. To ensure robust enforcement, DOJ should file appropriate cases under HCPA; vigorously defend the constitutionality of the Act; and ensure continued education, outreach, and training to federal, state, and local law enforcement officials on HCPA and its requirements.

* Improve federal hate crime data collection, disaggregation, categorization, and reporting efforts:

DOJ should promote mandatory comprehensive participation in existing hate crimes reporting requirements and the FBI should improve hate crime incident reporting by developing new categories on hate crime incident report forms for various affected communities not yet covered (including anti-Arab, anti-Sikh,



and anti-Hindu incidents).

- * Allocate and prioritize federal funding for initiatives that prevent, investigate, and combat hate crimes, hate groups, and domestic extremism:

Congress should establish or increase appropriations for: prevention, education, and training initiatives for law enforcement around existing hate crimes policies and their requirements; anti-bias education initiatives; existing government agencies specifically devoted to addressing and investigating hate crimes, hate groups, domestic extremism, and community tensions; and government resources, such as online portals and websites, geared specifically towards youth affected by bias and hatred. In addition, Congress should urge DHS to release its previously retracted 2009 public on right-wing extremist groups.

- * Establish formalized interagency efforts and positions at the highest levels of government in partnership with community stakeholders, to address hate crimes:

The White House should convene a Presidential summit on hate crimes affecting religious minorities that engages community members, religious leaders, and federal government officials with the purpose of developing best practices for stakeholders addressing this issue, similar to what was instituted by President Clinton on race in the 1990s. The White House should also establish an interagency taskforce on hate crimes and domestic extremism, similar to what was established by President Clinton following the church arsons of the 1990s. DOJ should also formalize the Initiative to Combat Post-9/11 Discriminatory Backlash within the DOJ Civil Rights Division by designating a Special Counsel for Post-9/11 Discrimination and a Special Counsel for Religious Discrimination.

- * Curb actions and discourse by government agencies and public officials that often promote a climate where hate crimes can occur:

Congress should pass robust anti-profiling policies, such as the End Racial Profiling Act (S. 1670; H.R. 3618) which prohibits profiling based on race, religion, ethnicity, or national origin by federal, state and local law enforcement; establishes requirements for law enforcement to collect data, provide anti-profiling trainings, and develop a complaint mechanism for affected individuals; allow DOJ to withhold grants to entities that fail to comply with the law and provide funding to these seeking to eliminate the practice; and allow affected individuals to seek redress in court. DOJ should also amend its 2003 Guidance



Regarding the Use of Race by Federal Law Enforcement Agencies to apply to profiling based on religion and national origin, remove national and border security loopholes, cover law enforcement surveillance activities, apply to state and local law enforcement agencies acting in partnership with federal agencies or receiving federal funds, and make the guidance enforceable. Public officials should refrain making statements based on racism, xenophobia, homophobia, sexism, or religious intolerance. Public officials should also take a pledge to not engage in such rhetoric as well as condemn such statements when they do occur in the public sphere.

SABANY thanks the Senate Judiciary Committee for the opportunity to share its position on this very important issue affecting our country. We hope that Congress, the White House, and all government agencies will work to support our policy recommendations for which we are ready to work to build a better, more inclusive, just and perfect Union.

Sincerely,

/s/ Neha Dewan
Neha Dewan
President, SABANY
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September 16, 2012



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Stephanie Trifone
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RE: Senate Judiciary Subcommittee Hearing on Hate Crimes

Dear Ms. Trifone:

I. Introduction

Founded in 1993, the South Asian Bar Association of Northern California (SABA-NC) provides a voice to hundreds of South Asian lawyers and law students in the Bay Area. SABA-NC seeks to ensure that they are provided an avenue to develop professionally, network among peers, and volunteer within the South Asian community. SABA-NC also seeks to protect the rights of South Asians in the Bay Area and to educate the public on issues facing the South Asian community. For many years, SABA-NC has advocated for hate crime victims such as Atul Lall, Vishal Wadhwa, Satendar Singh, and others who have been subjected to senseless violence. SABA-NC maintains a hotline 1-888-99NO-HAT(E) to ensure that community members can report hate crimes and receive legal assistance and other resources.

SABA-NC commends the Senate Judiciary Committee for convening a hearing on hate crimes and domestic extremism this week. It is imperative that the general public is aware of the prevalence of hate crimes and how it impacts all communities, educational tools are available to combat hate crimes and domestic extremism, and that there are concerted efforts to proactively prevent it. The United States is built on inclusion, plurality, and diversity. There must be a zero tolerance policy for actions of hate groups and domestic extremists. SABA-NC along with many other organizations urge Congress and federal government agencies to take increased measures to prevent, address, and combat hate crimes and domestic extremism in the United States.

II. Impact of hate crimes and domestic extremism

While it has been nearly three years since the Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act (HCPA) was signed in 2009 which strengthened existing legal protections, hate crimes and hate groups continue to be a serious threat facing this country. The tragic shooting at the gurdwara in Oak Creek brought attention to this serious issue but it is important to remember:

(a) The Oak Creek shooting was not an isolated incident (e.g. in the past few weeks alone, numerous Islamic institutions have been vandalized, shot at with paintballs and a high velocity air rifle, attacked with an acid bomb, and suspiciously burned down, and there have been direct attacks on individuals of various races and faiths);

(b) Hate crimes are a daily threat to society as a whole; and

(c) Law enforcement officers and government institutions are in the direct line of fire when hate groups attack and sometimes are specifically targeted by hate groups or domestic extremists.

According to FBI hate crimes statistics, over 6,600 hate crimes were reported in the U.S. in 2010. Hate crimes are often underreported and the Bureau of Justice Statistics has suggested that the number of actual hate crimes may be up to 15 times higher than what is reported. According to the Southern Poverty Law Center, the number of hate groups in our country (currently numbering over a thousand) has grown by almost 60% since 2000. In 2010, according to the FBI, 47% of hate crimes were racially-motivated, 20% were motivated by victim's religion, 19% were based on sexual orientation, and 13% were based on ethnicity or national origin. Hate crimes affect not only individuals but also the targeted communities; the trauma that is experienced by survivors and the targeted community sends a message that they do not belong in this country. Hate groups and domestic extremists threaten the safety of all Americans because the violence that is perpetrated often occurs in the public sphere and the misrepresentations made about the targeted communities can have many harmful consequences.

III. Impact of government actions that foster climate where hate crimes can occur

Government actions and political discourse shape the public's perception of minority populations, can fuel actions motivated by hate, and can prevent government from pursuing actual threats posed by hate groups and domestic extremists. Law enforcement actions can perpetuate biased perceptions of community members through discriminatory policing (e.g. airport profiling, local law enforcement profiling/surveillance of minority communities, profiling by immigration authorities). Such profiling can divert resources from actual threats of violence, including those perpetrated by hate and domestic extremist groups. Profiling diminishes trust of law enforcement by targeted communities, including during time periods when assistance is needed with hate crimes.

Further, statements made by elected and public officials premised on racism, homophobia, sexism, xenophobia and/or hatred towards religious groups shape the public's perception of minority populations and can fuel actions motivated by hate. Elected and public officials have a greater responsibility to refrain from making such statements because of the visible positions that they hold and broad range of audiences that they reach and influence.

Non-discriminatory actions by law enforcement and non-bigoted statements by public and elected officials are true to our country's ideals of fairness, inclusion, and equality.

IV. Policy Recommendations

History has shown us that prior efforts led by the highest levels of government have been pivotal in setting a framework to combat hate crimes and domestic extremism. Following the large number of attacks on African American churches in the mid-1990s (arsons, bombings, and attempted arsons and bombings), President Clinton

declared the issue a national priority and directed the Administration to investigate and prosecute perpetrators, help communities rebuild houses of worship, and offer assistance in preventing additional attacks. In addition, a taskforce was established to address the problems. These effects of the efforts were invaluable, yielding a 53% drop in attacks against such places of worship between 1996 and 1999.

We are now at a similar moment in history and given the grave threat currently posed by hate crimes, hate groups, and domestic extremism to minority communities and all Americans, it is imperative that policymakers take strong measures to prevent, document, investigate, and combat them. Specifically, existing hate crimes legislation must be rigorously enforced; data collection, categorization, reporting, and disaggregation mechanisms must be improved; adequate funding must be provided to government agencies charged with developing initiatives addressing the issue; formalized interagency efforts and positions within government on the issue must be established; and actions and rhetoric by government agencies and public officials that further an environment where bias can occur must be curbed.

Below are policy recommendations that Congress, the White House, and government agencies should undertake:

(a) Ensure robust and comprehensive implementation of the HCPA. Enacted in 2009, this law encourages partnerships between federal and state law enforcement officials to more effectively address hate violence and provides limited authority for federal investigations and prosecutions when local authorities are unwilling or unable to act. To ensure robust enforcement, DOJ should file appropriate cases under HCPA; vigorously defend the constitutionality of the Act; and ensure continued education, outreach, and training to federal, state, and local law enforcement officials on HCPA and its requirements.

(b) Improve federal hate crime data collection, disaggregation, categorization, and reporting efforts. DOJ should promote mandatory comprehensive participation in existing hate crime reporting requirements. The FBI should improve hate crime incident reporting by developing new categories on hate crime incident report forms for various affected communities not yet covered (including anti-Arab, anti-Sikh, and anti-Hindu incidents).

(c) Allocate and prioritize federal funding for initiatives that prevent, investigate, and combat hate crimes, hate groups, and domestic extremism. Congress should establish or increase appropriations for: prevention, education, and training initiatives for law enforcement around existing hate crimes policies and their requirements; anti-bias education initiatives; existing government agencies specifically devoted to addressing and investigating hate crimes, hate groups, domestic extremism, and community tensions; and government resources, such as online portals and websites, geared specifically towards youth affected by bias and hatred. In addition, Congress should urge DHS to release its previously retracted 2009 public report of right-wing extremist groups.

(d) Establish formalized interagency efforts and positions at the highest levels of government in partnership with community stakeholders to address hate crimes. The White House should convene a Presidential summit on hate crimes affecting religious minorities that engages community members, religious leaders, and federal government officials with the purpose of developing best practices for stakeholders addressing this issue, similar to what was instituted by President Clinton on race in the 1990s. The White House should also establish an interagency taskforce on hate crimes and domestic extremism, similar to what was established by President Clinton following the church arsons of the 1990s. DOJ should also formalize the Initiative to Combat Post-9/11 Discriminatory Backlash within the DOJ Civil Rights Division by designating a

Special Counsel for Post-9/11 Discrimination and a Special Counsel for Religious Discrimination.

(e) Curb actions and discourse by government agencies and public officials that often promote a climate where hate crimes can occur. Congress should pass robust anti-profiling policies, such as the *End Racial Profiling Act* (S. 1670; H.R. 3618) which prohibits profiling based on race, religion, ethnicity, or national origin by federal, state and local law enforcement; establishes requirements for law enforcement to collect data, provide anti-profiling trainings, and develop a complaint mechanism for affected individuals; allow DOJ to withhold grants to entities that fail to comply with the law and provide funding to these seeking to eliminate the practice; and allow affected individuals to seek redress in court. DOJ should also amend its 2003 Guidance Regarding the Use of Race by Federal Law Enforcement Agencies to apply to profiling based on religion and national origin, remove national and border security loopholes, cover law enforcement surveillance activities, apply it to state and local law enforcement agencies acting in partnership with federal agencies or receiving federal funds, and make the guidance enforceable. Public officials should refrain from making statements based on racism, xenophobia, homophobia, sexism, or religious intolerance. Public officials should also take a pledge to not engage in such rhetoric as well as condemn such statements when they do occur in the public sphere.

Sincerely,

Shaamini Babu and Akshay Verma
Co-Presidents, SABA-NC



September 17, 2012

Honorable Senator Dick Durbin
Chairman
Senate Subcommittee
on the Constitution,
Civil Rights, and Human Rights

RE: “Hate Crimes & the Threat of Domestic Extremism” Hearing Before the Senate Judiciary Subcommittee on the Constitution, Civil Rights, and Human Rights

Dear Senator Durbin:

On behalf of the South Asian Network (SAN), I am writing to thank you for convening today’s hearing on hate crimes and the threat of domestic extremism.

The South Asian Network is a grassroots, community-based organization dedicated to advancing the health, empowerment and solidarity of persons of South Asian origin in Southern California. SAN, as the organization is known, serves the South Asian American community in the areas of violence prevention, health care and civil rights. One focus of our civil rights unit is addressing hate crimes, bullying and discrimination that take place against our community members and seeking avenues for prevention. Overall, through organizing and policy advocacy, SAN works to address social injustice and build alliances for long-term social change.

Much of SAN’s recent work in the area of civil rights involves civic engagement. In our workshops on government and civics, we teach community members that the U.S. is built on inclusion, plurality, and diversity. Hate crimes and actions of hate groups and domestic extremists are an affront to these fundamental values on which the United States was founded. For this reason, we urge Congress and federal government agencies to take increased measures to prevent, address, and combat hate crimes and domestic extremism in the U.S.

Oak Creek and other recent incidents have brought attention to this serious issue, but it is important to remember that what happened at the Sikh Temple of Wisconsin was not an isolated incident. In fact, in the past few weeks alone, numerous Islamic institutions have been vandalized, shot at with paintballs and a high velocity air rifle, attacked with an acid bomb, and suspiciously burned down, and there have been direct attacks on individuals of various races and faiths. They affect not only individuals, but also

targeted communities. Trauma is incurred upon a survivor and the community being targeted. Hate crimes send a message that the victims do not belong in this country.

It is also critical that we recognize that hate crimes are a threat to society as a whole. Law enforcement officers and government institutions are in the direct line of fire when hate groups attack or sometimes specifically targeted by hate groups or domestic extremists. Hate groups and domestic extremists threaten the safety of all Americans because of the violence that is perpetrated often occurs in the public sphere.

History has shown us the past efforts led by the highest levels of government have been pivotal in setting a framework to combat hate crimes and domestic extremism. Following a large number of attacks on African American churches in the mid-1990s (arsons, bombings, and attempted arsons and bombings), President Clinton declared the issue a national priority and directed the Administration to investigate and prosecute perpetrators, help communities rebuild houses of worship and offer assistance in preventing additional attacks. In addition, a taskforce was established to address this very issue. These effects of the efforts were invaluable, yielding a 53% drop in attacks against such places of worship between 1996 and 1999.

We are now at a similar moment in history and given the grave threat currently posed by hate crimes, hate groups, and domestic extremism to minority communities and all Americans, it is imperative that policymakers take strong measures to prevent, document, investigate, and combat them. Specifically, existing hate crimes legislation must be rigorously enforced; data collection, categorization, reporting, and disaggregation mechanisms must be improved; adequate funding must be provided to government agencies charged with developing initiatives addressing the issue; formalized interagency efforts and positions within government on the issue must be established; and actions and rhetoric by government agencies and public officials that further an environment where bias can occur must be curbed.

We specifically urge the White House, Congress and federal agencies to undertake the following actions:

1. **Ensure robust and comprehensive implementation of the Mathew Shepherd and James Byrd, Jr. Hate Crimes Prevention Act (HCPA):** Enacted in 2009, this law encourages partnerships between federal and state law enforcement officials to more effectively address hate violence and provides limited authority for federal investigations and prosecutions when local authorities are unwilling or unable to act. To ensure robust enforcement, DOJ should file appropriate cases under HCPA; vigorously defend the constitutionality of the Act; and ensure continued education, outreach, and training to federal, state, and local law enforcement officials on HCPA and its requirements.
2. **Improve federal hate crime data collection, disaggregation, categorization, and reporting efforts:** Improve federal hate crime data collection, disaggregation, categorization, and reporting efforts: DOJ should promote mandatory,

comprehensive participation in existing hate crimes reporting requirements and the FBI should improve hate crime incident reporting by developing new categories on hate crime incident report forms for various affected communities not yet covered (including anti-Arab, anti-Sikh, and anti-Hindu incidents).

3. **Allocate and prioritize federal funding for initiatives that prevent, investigate, and combat hate crimes, hate groups, and domestic extremism:** Congress should establish or increase appropriations for: prevention, education, and training initiatives for law enforcement around existing hate crimes policies and their requirements; anti-bias education initiatives; existing government agencies specifically devoted to addressing and investigating hate crimes, hate groups, domestic extremism, and community tensions; and government resources, such as online portals and websites, geared specifically towards youth affected by bias and hatred. In addition, Congress should urge DHS to release its previously retracted 2009 public on right-wing extremist groups.
4. **Establish formalized interagency efforts and positions at the highest levels of government, in partnership with community stakeholders, to address hate crimes:** The White House should convene a Presidential summit on hate crimes affecting religious minorities that engages community members, religious leaders, and federal government officials with the purpose of developing best practices for stakeholders addressing this issue, similar to what was instituted by President Clinton on race in the 1990s. The White House should also establish an interagency taskforce on hate crimes and domestic extremism, similar to what was established by President Clinton following the church arsons of the 1990s. DOJ should also formalize the Initiative to Combat Post-9/11 Discriminatory Backlash within the DOJ Civil Rights Division by designating a Special Counsel for Post-9/11 Discrimination and a Special Counsel for Religious Discrimination.
5. **Curb actions and discourse by government agencies and public officials that often promote a climate where hate crimes can occur:** Congress should pass robust anti-profiling policies, such as the *End Racial Profiling Act* (S. 1670; H.R. 3618) which prohibits profiling based on race, religion, ethnicity, or national origin by federal, state and local law enforcement; establishes requirements for law enforcement to collect data, provide anti-profiling trainings, and develop a complaint mechanism for affected individuals; allow DOJ to withhold grants to entities that fail to comply with the law and provide funding to these seeking to eliminate the practice; and allow affected individuals to seek redress in court. DOJ should also amend its 2003 Guidance Regarding the Use of Race by Federal Law Enforcement Agencies to apply to profiling based on religion and national origin, remove national and border security loopholes, cover law enforcement surveillance activities, apply to state and local law enforcement agencies acting in partnership with federal agencies or receiving federal funds, and make the guidance enforceable. Public officials should refrain making statements based on racism, xenophobia, homophobia, sexism, or religious intolerance. Public officials should also take a

pledge to not engage in such rhetoric as well as condemn such statements when they do occur in the public sphere.

We want to thank you again for convening this hearing and we look forward to learning about the positive next steps that result. Please do not hesitate to contact South Asian Network if you have any questions or comments or if we can be of help in addressing hate crimes that take place in the South Asian community and preventing future ones from occurring.

Yours,

Manjusha P. Kulkarni, Esq.
Executive Director
South Asian Network

Testimony of Dr. Heidi L. Beirich
Director, Southern Poverty Law Center's Intelligence Project
Submitted to the Subcommittee on the Constitution,
Civil Rights and Human Rights
Committee on the Judiciary
United States Senate
September 19, 2012

The Southern Poverty Law Center (SPLC) is a nonprofit civil rights organization founded in 1971 and located in Montgomery, Alabama. We are dedicated to fighting hate and bigotry, and to seeking justice for the most vulnerable members of our society. Using litigation, education and other forms of advocacy, we work toward the day when the ideals of equal justice and equal opportunity will be a reality.

The August mass shooting of six people worshipping at a Sikh temple in Oak Creek, Wis., by Wade Michael Page, who was known to the SPLC since 2000 as a racist, neo-Nazi skinhead, is a grim reminder of the wanton violence that can be waged by members of extremist groups. We commend the Subcommittee for dedicating its resources to investigating this crucial topic.

The SPLC's Intelligence Project, which I direct, monitors hate groups and other extremists throughout the United States and exposes their activities to law enforcement agencies, the media and the public. We publish our investigative findings online, on our Hatewatch blog, and in the *Intelligence Report*, our award-winning quarterly journal that is distributed to more than 55,000 law enforcement officers. The SPLC is also known for our civil lawsuits that hold hate groups accountable for murders and other violent acts committed by their members. These suits have financially crippled some of the country's most notorious hate groups, including Klan networks that terrorized the African-American community during and after the civil rights movement.

Our staff is recognized for its expertise on domestic extremism, and SPLC President J. Richard Cohen currently serves as an adviser to the Department of Homeland Security's Countering Violent Extremism Working Group. We train more than 6,000 law enforcement officers each year on the dangers of domestic terrorism and hate crimes from radical-right groups.

Each year, the SPLC releases a report – the “Year in Hate and Extremism” – that catalogs domestic hate groups and provides the public and law enforcement with an analysis on the state of extremism within the United States. In the most recent report, released this past February, the SPLC found that the radical right grew explosively in 2011, the third such dramatic expansion in as many years. The growth was fueled by fears generated by economic dislocation; a proliferation of demonizing conspiracy theories; the changing racial and ethnic demographics in America; and the prospect of four more years under an African-American president who many on the far right view as an enemy to their country.

The number of hate groups counted by the SPLC last year reached a total of 1,018, up slightly from the year before but continuing a trend of significant growth that is now more than a decade old. The SPLC determines hate groups by their ideology, as expressed in their founding documents or by their leadership. All hate groups have beliefs or practices that attack or malign an entire class of people, typically for their immutable characteristics.

The 2011 expansion was the latest in a string of annual increases that started in 2000, when the SPLC documented 602 hate groups. An important factor in the subsequent rise was that year's announcement by the Census Bureau that the white population, due to shifting demographics brought on by Latino immigration and a growing non-white population in the U.S., would no longer be a majority by around 2050. Hate groups that had traditionally targeted African-Americans and/or Jews began to successfully exploit the issue of non-white immigration. Starting in 2008, President Obama's election and the weak economy also began to play a key role.

The most explosive growth on the radical right has come in the antigovernment "Patriot" movement — composed of conspiracy-minded groups that see the federal government as their primary enemy. Many Patriot groups are militias, heavily armed organizations that are increasingly paranoid about, and angry at, the federal government. This movement first emerged in 1994 — a response to what was seen as violent government repression of dissident groups at Ruby Ridge, Idaho, in 1992 and near Waco, Texas, in 1993, along with anger at gun control efforts and the Democratic Clinton Administration in general. It peaked in 1996, a year after the Alfred P. Murrah Federal Building in Oklahoma City was bombed by antigovernment ideologue Timothy McVeigh. That year, the SPLC documented 858 groups. By the turn of the millennium, the Patriot movement was reduced to fewer than 150 relatively inactive groups.

The movement came roaring back beginning in late 2008, just as the economy began to falter with the subprime collapse and, more important, as President Obama became the Democratic presidential nominee and, ultimately, the president-elect. Even as most of the nation cheered the election of the first black president that November, an angry backlash developed that included at least two plots by racist extremists to murder Obama. Many Americans, infused with populist fury over bank and auto bailouts and a feeling that they had lost their country, joined Patriot groups.

The swelling of the Patriot movement since that time has been extraordinary. The SPLC has documented a 755% growth in the number of Patriot groups since 2008 — from 149 groups that year, to 512 in 2009, to 824 in 2010, and, finally, to 1,274 by the end of 2011. Last year's total was more than 400 groups higher than the previous all-time high in 1996.

At the same time, a third strand of the radical right — what the SPLC designates as "nativist extremist" groups, meaning organizations that go beyond normal political activism to harass individuals they suspect of being undocumented immigrants — shrank dramatically. After five years of sustained growth, these vigilante groups plummeted by

42% last year, from 319 in 2010 to 184 in 2011. The decrease appears to be partly a product of negative publicity and internecine quarrels. But perhaps most important is the co-optation of the immigration issue by state legislatures around the country that passed draconian nativist laws like Arizona's S.B. 1070 and Alabama's H.B. 56. In many ways, the nativist movement achieved its goals of increasing anti-immigrant sentiment, which propelled the passage of harsh anti-immigrant legislation at the state level.

It's clear that other kinds of radical activity, in particular domestic terrorist plots, are also on the rise. The shooting at the Sikh temple in Wisconsin in August was just the latest in a series of violent acts and criminal plots by extremists in recent months and years. Last November, the FBI arrested four members of a Georgia militia who were accused of various crimes in a wide-ranging plot to attack cities with the deadly ricin toxin and kill federal law enforcement and IRS officials. One of the plotters reportedly said, "The first ones that need to die are the ones in the federal buildings." Their concrete actions allegedly included attempting to purchase a briefcase-size bomb, casing two buildings for bombing, and trying to manufacture the deadly toxin.

In May, members of the American Front — a California-based militia-style white supremacist group — were arrested in Florida for planning acts of violence and preparing for "an inevitable race war." The leader of the group in Florida considers himself and other American Front members "as the protectors of the white race." He has stated that his intention "during the race war is to kill Jews, immigrants, and other minorities."

In other recent plots since January 2011: A neo-Nazi headed for the Arizona border with a dozen homemade grenades that he reportedly intended to use on undocumented migrants; a white supremacist attempted to bomb a Martin Luther King Jr. Day parade in Spokane, Wash., an attack that was averted when police dismantled a sophisticated anti-personnel weapon; and a man who officials said had a long history of antigovernment activities was arrested outside a packed mosque in Dearborn, Mich., and charged with possessing explosives with unlawful intent.

The antigovernment "sovereign citizens" movement, whose ideology first developed in white supremacist groups, also has been revitalized in the past few years. Since the murders in 2010 of two West Memphis, Ark., police officers by two members of this movement, law enforcement officers from across the country have contacted the SPLC to report what one detective in Kentucky described as a "dramatic increase" in sovereign activity. Like militias, sovereign citizens are part of the larger Patriot movement. They believe that the federal government has no right to tax or regulate them and, as a result, often come into conflict with police and tax authorities. Just this past August, two more police officers, this time in Louisiana, were gunned down by members of this movement.

The FBI agrees that the sovereign citizens movement is a major problem. In September 2011, it issued a bulletin to law enforcement officials entitled "Sovereign Citizens: A Growing Domestic Threat to Law Enforcement" that describes the movement as "domestic terrorist." The bulletin notes that sovereigns have killed six law enforcement officers since 2000 and that Terry Nichols, convicted in the Oklahoma City

bombing, was a sovereign. With the addition of the officers killed in Louisiana, the law enforcement toll now stands at eight since 2000.

The growth of radical-right groups is one explanation for the rash of non-Islamic domestic terrorism that most experts agree has plagued the country since the 2008 election of President Obama. Last December, the National Consortium for the Study of Terrorism and Responses to Terrorism, an academic center associated with the Department of Homeland Security, issued a study based on a sampling of the SPLC's annual lists of hate groups between 1990 and 2008. It found that 21 percent of the hate groups had members who committed at least one violent act, while 9 percent had members who had committed six or more violent crimes. The consortium also found that "far rightists" between 1990 and 2010 had been involved in more than 345 "homicide incidents" and had killed almost 50 law enforcement officials during the same two decades. The SPLC has documented more than 100 such domestic terrorist plots and racist rampages since the Oklahoma City bombing in 1995.

In the context of rising domestic extremism and a massive growth in radical-right groups, hate crimes are also of critical importance. The shootings in Oak Creek, Wis., were likely an act of domestic terrorism, but they were also probably driven by the racist beliefs of the shooter and thus could be characterized as hate crimes. Though the FBI has reported annually for some time that there are approximately 7,000 hate crimes in the United States each year, two reports by the Department of Justice's Bureau of Justice Statistics (BJS) using National Crime Victimization Survey data show that number is far lower than the actual level of hate crime. The DOJ's June 2011 study found an annual average of 195,000 hate crime victimizations between 2003 and 2009. A 2005 study by the BJS, using the same survey methodology but examining hate crimes during the 2000-2003 period, found an average of 210,000 hate crime victimizations per year.

Certain populations have suffered more than others, most recently American Muslims or those perceived to be Muslim. As the 10th anniversary of the 9/11 terrorist attacks neared last year, a second wave of anti-Muslim hatred swept the country. The SPLC investigated the phenomenon and found a small cadre of activists was exploiting Americans' fears of Islamic extremism, reaching a fever pitch in the protests against the so-called "Ground Zero Mosque." In the wake of this hysteria, anti-Muslim hate crimes were reported across the country. At the same time, protests were launched against mosques, and lawmakers in more than a dozen states introduced legislation, based on a completely unfounded fear, to ban the use of Islamic religious law, called Shariah, in the U.S. legal system. The overheated atmosphere generated by these events helped spur a 50% rise in the FBI's count of anti-Muslim hate crimes in 2010.

Though American Muslims have seen an increase in hate crimes against their community in the past few years, other populations have also been targeted after incendiary rhetoric has been used against them by radical-right groups. Hate crimes against Latinos skyrocketed in the mid-2000s as the Minuteman movement exploded across America's southwestern border. Heavily armed men and women intent on rounding up undocumented migrants, and rightly called "vigilantes" by President George

W. Bush, demonized immigrants and Latinos. That demonization could arguably be blamed for fueling higher levels of hate crimes against Latinos during that period. Much the same can be said of anti-LGBT rhetoric and anti-Semitic rhetoric in relation to hate crimes.

In May 2011, a scholarly study published in *Perspectives on Psychological Science* found that white Americans believe that progress in race relations since the 1950s has come at their expense and that bias against whites is more of a social problem in the last decade than bias against blacks. (This comes against the backdrop of the Census Bureau's prediction that non-Hispanic whites will lose their majority, falling to less than 50% of the population, by 2050.) These kinds of feelings will certainly continue to fuel the rise in radical-right extremism. And it seems certain that President Obama, if he is reelected, will continue to be a lightning rod for many on the radical right, a man who represents both the federal government and the fact that the racial make-up of the United States is changing. And that suggests that far-right extremism could get worse before it gets better. It is for this reason that domestic hate groups need to be watched vigilantly by federal law enforcement, and the issue of hate crimes needs to be a high priority.

We commend the committee for using its resources to investigate this very serious situation.



STATE OF MICHIGAN
DEPARTMENT OF CIVIL RIGHTS
EXECUTIVE

RICK SNYDER
GOVERNOR

DANIEL H. KRICHBAUM, PhD
DIRECTOR

Written Statement for the Record
Senate Judiciary Committee
Subcommittee on the Constitution, Civil Rights and Human Rights
Hearing on Hate Crimes and the Threat of Domestic Extremism
September 19, 2012

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

The Michigan Civil Rights Commission was created by the Michigan Constitution of 1963 to carry out the guarantees against discrimination articulated in Article I, Section 2. As further expounded in Article V, Section 29, the Michigan Constitution directs the Commission to investigate alleged discrimination and to "secure the equal protection of such civil rights without such discrimination." The Michigan Department of Civil Rights was established by Public Act 380 of 1965, Section 475 (MCL 16.575 et seq.) to provide a staff complement to the policy-making responsibilities of the Commission. Together the Commission and Department enforce Michigan's two primary antidiscrimination statutes, the Elliott-Larsen Civil Rights Act and the Persons with Disabilities Civil Rights Act (Mich. Comp. Laws §§ 37.2101 et seq. and 37.1101 et seq.) and seek more broadly to ensure that every Michigan resident and visitor receives equal protection under the law.

I write today first to commend the Subcommittee for holding this hearing and thereby raising both the public and political consciousness of the issues of hate crimes and domestic extremism. I also urge you to do more to combat this dual plague.

These comments are not in any way intended as either comprehensive or exhaustive. I write primarily to support the testimony and statements of groups like the Sikh Coalition and the 150 other organizations who jointly wrote calling for this hearing. The Michigan Department of Civil Rights stands shoulder to shoulder with these diverse organizations in calling for greater and better coordinated efforts to combat the growing danger presented by those who seek to end the American dream by dividing us. The one thing we share with hate groups and domestic terrorists is a deep understanding that as a pluralistic democracy that cherishes individual rights, it is an American truism that: "united we stand, divided we fail."

I do, however, also want to make a few comments specifically related to the title given to this hearing, "Hate Crimes and the Threat of Domestic Extremism."

My first observation pertains to the hearing title's use of the term "hate crimes." It is a term we all use, and for those of us in the fields of civil rights, government and law enforcement who confront it, it is also a term with a commonly understood meaning. Unfortunately the term is greatly misunderstood by the general public. This misunderstanding needs to be addressed because it is at the root of much of the reluctance to recognize hate crimes as a special evil that stands apart from crime in general.

What we commonly call hate crimes are more technically and descriptively termed "bias motivated crimes". Not all crime, not even all crimes where hate is present, is bias motivated crime. A crime is not a hate crime simply because it is committed against a victim the perpetrator "hates" -- the term is properly

applied only to a *crime* that is *motivated* by the perpetrator's *bias* against a group of people represented by the victim.

Bias motivated crime significantly differs from crime committed with other motivation in a number of ways. As pointed out by Frederick M. Lawrence in his book *Punishing Hate, Bias Crimes under American Law*,ⁱ violent crime may generally be divided into two broad categories. First, there are crimes committed without any specific animus for the victims, who are interchangeable. This would include such crimes as armed robbery, where a clerk is threatened only because he or she happens to be the clerk on duty. Also included are home invasions (where the perpetrator may never even know who the victim was), and random acts of violence (such as drive-by shootings). The second category consists of crimes that are specifically motivated by the identity of the particular victim. This encompasses crimes of passion, revenge, or the like, where no other person could be substituted for the intended victim.

Bias motivated crime fits into neither described category. The victim is neither random nor specific. Victims are not selected because something they are believed to have personally done or because of whom they are as individuals. Victims are selected because of what they are or what they are seen to represent. As such, the impact of bias motivated crime is different than that of other crime.

A crime motivated by bias is likely to have a greater negative effect on its victim than the same crime without the hate/bias motivation. When a member of a group is victimized for that reason alone, it will almost certainly trigger feelings not only related to the immediate incident, but also related to the entire history of prejudice and/or violence against that group. Bias motivated crime also has a greater detrimental effect on those who share the victim's identity, who will recognize that their group as a whole was the target of the crime. Like the specific victim, others in the group are likely to relive previous wrongs and to feel alienated from the community at large. If not addressed, it may 'balkanize' people in ways that will harm society as a whole. The harm to a community divided by fear and suspicion is not only to its common identity and social fabric, but economic as well.

Bias motivated crime victims often also suffer greater personal loss medically and/or financially. Because of the nature of the motivation, "Hate crimes tend to be excessively brutal and result in more serious injuries than common criminal attacks."ⁱⁱ The American Psychological Association, issued a position paper in support of hate crime laws in 1998, based in part on its finding that hate crime victims suffered more, and longer, from post-traumatic stress than did victims of similar but non-bias motivated crimes.ⁱⁱⁱ

Recognizing this misconception about what constitutes a hate (bias motivated) crime helps to explain why specific laws are needed. It also addresses one of the major unwarranted fears many have of such laws: Bias motivated crime laws do not endanger free speech. The laws simply increase criminal penalties for *conduct that is already criminal* based on the perpetrator's motive, something also done in other areas of criminal law. No less true today than when first stated by Blackstone, "...it is but reasonable that among crimes of different natures those should be most severely punished, which are the most destructive of the public safety and happiness."^{iv}

Because speech alone cannot constitute a crime, and because motive can only be considered after criminal conduct is established, hate crime laws do not punish anyone for holding and/or expressing unpopular views. Put another way, one need never fear being prosecuted for committing a bias motivated crime unless they are already committing a crime.

The second interesting element in the title for this hearing is its inclusion of both the terms "hate crimes" and "domestic extremism." The terms are appropriately used, but seeing them together in this context raises questions about public perceptions of acts that are often seen as being either hate crimes *or*

domestic terrorism. There are certainly reasonable distinctions that can and should be made by law enforcement and others who monitor such groups. Still, the common usage of the two terms and the public perception of what separates them are somewhat disturbing. It also illustrates the need for greater public education about the nature and harm of hate crimes.

The common understanding of how the two concepts differ does not appear to be based upon the scope of the crime or the extent of the harm caused. If an American-born convert to Islam were to randomly kill a shopper in a mall, he would almost certainly be identified in the media and elsewhere as a domestic terrorist. Yet the heavily armed killer of six worshipers at a Sikh *Gurdwara* in Oak Creek, Wisconsin was much more likely to be referred to as a hate crime.

It appears the common understanding is that the random shooting at a mall would be terrorism based on a perception that it is targeted at all of us, but that the shooting at the *Gurdwara* is a hate crime because it was targeted at a minority group. This distinction sounds sensible and it does have value to those investigating the crime or assessing the motivation for it, but upon closer examination it evidences a failure to grasp the real nature of bias motivated crimes. It also helps to understand how there can be an almost unanimous public outcry for stronger laws and more enforcement targeting acts seen as domestic terrorism (where the victims are seen as us), even as there is resistance to doing the same with regard to hate crimes (where the victims may be seen as them).

Bias motivated crime victims are targeted because they are seen as part of a particular group. But, all in the community are targets for the message being sent by the crime's perpetrator and all in the community become victims if they allow the message to go unanswered. The particular group within a community that is targeted by a bias motivated crime is being told that it doesn't belong. A person who commits a hate crime believes, or at least pretends, that (s)he is also speaking for others. When we fail to respond to this message by standing together with the victim, we appear to endorse it. While a particular bias is the motive of a hate crime, this division is its goal.

It is this most fundamental of American values, that all are created equal, that is under attack. If we define acts of terrorism as efforts to bring about the end of democratic government serving all people equally, then hate crimes are included in the definition. Just as with terrorism, we must come to recognize that even though a particular hate crime may be committed against others, it is targeted at all of us. A racially motivated hate crime is not committed only against one race; it is intended to divide us by race.

If we allow ourselves to think of terrorism as a crime against all of us, and hate crimes as crimes against "only" some, we have ceded to those who wish to divide us a first important victory.

If we fail to recognize that hate crimes, like terrorism, cannot be treated as simple assaults or property destruction crimes, we will allow their perpetrators to divide us. In the short term, our division and fear of others will affect the way our communities look, the way we interact, and how (even whether) we do business with each other. If we allow it to continue, it will eventually change who we are and what America is.

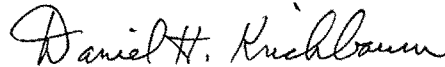
The need to respond to hate crimes and the threat of domestic extremism is about standing together against those who wish to divide us. It is not just about protecting individual victims – it is about protecting our communities, our businesses, and our way of life.

Hate crime laws do not protect Sikhs, or Muslims, or Christians, or Jews. They do not protect gays, or straights, or blacks, or whites. They protect communities from those who commit crimes intended to divide us. They protect us all.

This is why the Michigan Department of Civil Rights joins others in the call for robust and comprehensive implementation of the Matthew Shepherd and James Byrd, Jr. Hate Crimes Prevention Act of 2009 (HCPA). We also call for improvements in federal hate crime data collection, particularly the development of new categories for communities like Sikhs that are not currently covered.

While we do not wish in any way to diminish the importance of enforcement, we especially urge a greater emphasis be put on efforts to educate both law enforcement and the public on the nature and danger of hate crimes. Bias motivated crimes are committed with the intent to send a message of hate. Communities that fail to recognize and respond to this message appear to be agreeing with it. For this reason, greater effort must be made to help state and local governments recognize the need to prosecute "lesser" bias motivated crimes like property destruction, which cannot be pursued federally.

By holding this hearing so shortly after, and at least partly as a direct response to, the horrific event in Oak Creek, this subcommittee has made an important statement that the crime wasn't just an attack on Sikhs; it was an attack on America. We commend you for recognizing it as such, and we ask for your assistance in conveying this understanding to all.



Daniel H. Krichbaum, Director
Michigan Department of Civil Rights

ⁱ Harvard University Press, 1999, at page 9.

ⁱⁱ US Department of Justice, Bureau of Justice Assistance "A Policymaker's Guide to Hate Crimes" 1999 Monograph, p13.

ⁱⁱⁱ *Hate Crimes Today: An Age Old Foe In Modern Dress*

^{iv} *Wisconsin v Mitchell*, 508 US 476, 488 (1993), (quoting Blackstone, 4 W Blackstone, Commentaries 16).

Hate Crimes & the Threat of Domestic Extremism
Statement to the Senate Judiciary Subcommittee on the
Constitution, Civil Rights, and Human Rights

September 17, 2012

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

Dear Senators:

On behalf of the congregations of the Unitarian Universalist Association, I am writing to express our shock and dismay at the senseless and horrific killings of six Sikh worshippers and priests at a Gurdwara in Oak Creek, Wisconsin on August 5, 2012.

We commend you for calling and holding this hearing. It's not only important to pay attention to this specific tragic incident of violence which was spurred by hate, but to pay attention to the rising tide of hateful rhetoric that makes acts of violence against individuals and organizations seem justifiable in the eyes of some.

On Sunday, July 27, 2008 a man motivated by hate opened fire with a 12-gauge shotgun inside the Tennessee Valley Unitarian Universalist Church in West Knoxville during a children's play. Two adults were killed and seven others were wounded. A letter the shooter left in his car before the attack expressed hatred against gay people and the "liberal movement."

In response, the Unitarian Universalist Association took out a full page ad in the New York Times on Sunday, August 10, 2008 reaffirming our commitment to the liberal positions the shooter claimed to be attacking. The ad begins with this statement:

Our Doors And Our Hearts Will Remain Open

It ends with the following statement by the Rev. William Sinkford, Unitarian Universalist Association President at the time of the attack.

We will not give in to fear. We will meet hatred with love. We will continue to work for justice. Our hearts, and the doors of our more than 1,000 Unitarian Universalist congregations nationwide, remain open. Unitarian Universalists stand on the side of love. We invite you to stand with us. I have included the full ad as a separate document in our written submission to the Committee.

The Unitarian Universalist Association responded to the hate crime in Knoxville by beginning a national **Standing on the Side of Love Campaign**. Through the campaign we stand on the side of love with people, who, all too often, others say it's ok to hate.

Here's a partial list:

- Gay, lesbian, bisexual, transgender and queer people.
- Muslims
- Sikhs
- Undocumented immigrants
- Prisoners held indefinitely at Guantanamo Bay, Cuba
- Indigenous people of North America

In response to the tragic events in Oak Creek, Wisconsin the Standing on the Side of Love Campaign called on its supporters to submit messages of love and support for the

Hate Crimes & the Threat of Domestic Extremism

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

Sikh Community in Oak Creek, Wisconsin. More than 1,800 responded. Volunteers wrote each of those messages by hand onto Standing on the Side of Love Cards and then connected the 1,800 cards into a "love" chain. A coalition of Wisconsin Unitarian Universalists hand-delivered the love chain to the Sikh Temple of Wisconsin in the hope that it will be a powerful message of love and solidarity to the Sikh Community.

Unitarian Universalists also attended candlelight vigils in cities across the country. Many of them were wearing our Standing on the Side of Love t-shirts and displaying Standing on the Side of Love banners and signs.

At one vigil in San Diego, Julie Schauble was interviewed by the local news while wearing her Standing on the Side of Love t-shirt and offered this beautiful statement:

"He didn't even see the people he was shooting. He just saw an object for his hatred and fear and anger. And I wanted to say to the Sikh community that... we see you. We see who you are and we recognize you as our brothers and sisters."

Shortly after the violence perpetrated against the Sikh community there was a rash of anti-Muslim violence in an adjacent section of Illinois.

Three local Unitarian Universalist ministers asked 30,000 Standing on the Side of Love supporters to call on Congressman Walsh to stop using the kind of hateful rhetoric in his campaign that "normalizes and enables" violence against Muslims.

Below is the full text of their August 17, 2012 request to Stand on the Side of Love.

Tell Rep. Joe Walsh: End the Vitriolic Rhetoric

We lament the recent rash of violence across the nation and decry the kind of language that makes excuses for, encourages, and even incites such violence. The fear-promoting words of Rep. Joe Walsh are a recent example of the sort of accusatory, bigoted rhetoric that betrays the cherished ideals of religious freedom and tolerance.

At a recent town hall meeting, Congressman Joe Walsh of Illinois' 8th District made a number of insensitive and inflammatory comments about the American Muslim community. These kinds of comments are not helpful to our national conversation and perpetuate a culture of violence against American Muslims.

The following weekend, two different Muslim houses of worship were subject to violent, hateful attacks and a number of Muslim graves were vandalized in nearby Chicago suburbs. Violent rhetoric, like the language so often employed by Rep. Walsh, normalizes and enables this kind of violence.

Please join us in speaking out against this kind of hateful rhetoric and sign our petition to Rep. Joe Walsh today.

As Chicagoland Unitarian Universalist ministers, we choose to Stand on the Side of Love and ask all people to follow the path of peace, justice, and goodness called for by their own faiths. We ask that every leader, civic or religious, speak the language of common good and understanding rather than hostility and ignorance. We hope that Rep. Joe Walsh will step back from his angry and hateful remarks, apologize to the thousands of peace-loving, moral, and devoted Muslims, and, even more importantly, recognize that he has the power to help build bridges and defuse violence.

Let us reclaim a more peaceful society where religious freedom is protected and our beautiful diversity is celebrated. Leaders like Rep. Joe Walsh must change the language they use and participate in civil discourse rather than make accusations.

Hate Crimes & the Threat of Domestic Extremism

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

[Click here to sign our petition to Rep. Joe Walsh, and ask him to end his use of inflammatory, hateful language.](#)

We write this, not to condemn Rep. Walsh, but to ask everyone, particularly our leaders, to take stock of our language and to question whether our actions promote the ideals for which we, as a nation, stand. We can all speak and do better.

In faith,

Rev. Hilary Krivchenia Countryside Unitarian Universalist Church Palatine, Illinois
Rev. Connie Grant Unitarian Church of Evanston Evanston, Illinois
Rev. Emmy Lou Belcher DuPage Unitarian Universalist Church Naperville, Illinois

Unfortunately, there seems to be too much hateful speech directed at too many different faith communities. We ask everyone, particularly our political, religious, and community leaders to consider whether their speech promotes the ideals for which we, as a nation, stand.

We ask our elected and appointed representatives at federal, state, and local levels to resist the all too human tendency to deny that some acts of violence are spurred by hate.

We ask law enforcement agencies and officers to keep their minds open to the possibility that a crime might be most accurately identified as a hate crime.

We ask our prosecutors, judges and magistrates to vigorously and fairly apply laws regarding hate crimes.

We ask everyone, particularly our political, religious, and community leaders, to stand on the side of love, to fulfill the word of the Prophet Micah when he wrote that what God requires of us is "To do justice, to love mercy, and to walk humbly with your God."

Hate crimes will not be eliminated by legislation, law enforcement, and successful prosecution and punishment. All these steps, as necessary and important as they are, can but mitigate such crimes. The most important step we can take is to question and challenge hateful speech and actions in our families, in our neighborhoods, in our workplaces, and, sadly, even in our places of worship. It's vital that we not make the mistake of hating the hater, for that will just perpetuate the cycle. We must love, i.e. treat with respect and care, those who hate, difficult as that might be. We are called, by all that is holy, to love. In closing, we would ask you to consider again these words of the Rev. William Sinkford, President of the Unitarian Universalist Association (2001-2009).

We will not give in to fear. We will meet hatred with love. We will continue to work for justice. Our hearts, and the doors of our more than 1,000 Unitarian Universalist congregations nationwide, remain open. Unitarian Universalists stand on the side of love. We invite you to stand with us.

Standing on the Side of Love,

Reverend Craig C. Roshaven, Witness Ministries Director
Unitarian Universalist Association of Congregations
202-393-2255 x14
1100 G Street, NW
Washington, DC 20005

OUR DOORS AND OUR HEARTS WILL REMAIN OPEN



A TRAGIC ACT OF VIOLENCE IN KNOXVILLE

On Sunday July 27th, the peace of the morning worship service at the Tennessee Valley Unitarian Universalist Church was shattered by violence. A man beset by his personal demons opened fire with a shotgun just as the youth of the congregation were about to begin a performance. Two people were killed and six others were wounded



before brave members of the congregation wrestled the gunman to the ground.

We mourn the loss of Greg McKendry and Linda Kraeger, and our hearts and prayers go out to their families and friends. We are praying for the recovery of the wounded.

And we celebrate the bravery of the congregants who, with no thought for their own safety, rushed to disarm the shooter before he could kill others.

Our prayers are also with the shooter, that he may find peace and reconciliation.

The tragic events of that morning have much to tell us about the Unitarian Universalists of Knoxville and about the larger Unitarian Universalist faith community.

STANDING ON THE SIDE OF LOVE

In the aftermath of this horrible tragedy, it would be understandable if the Knoxville Unitarian Universalists responded with anger, with fear, or with despair. Instead, they have greeted hatred with love and have created meaning from a horribly destructive act. Their courage, their love, and their unbreakable spirit have been an inspiration to people everywhere.

Police reports suggest that the Tennessee Valley Church may have been targeted because of the congregation's justice

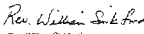
work in the community: opening its doors in welcome to gay, lesbian, bisexual, and transgender people; feeding and housing the homeless; and working for racial justice. Indeed, TVUUC faithfully embodies Unitarian Universalism's focus on deeds, not creeds.

Unitarian Universalists know that our congregations are places where our spirits can be nurtured and we will be lovingly supported on our spiritual journeys. But we are not content to leave our faith in our sanctuaries when Sunday worship has ended. We are called by our faith to help heal our world. And we thank people of all faiths who have reached out with support.



On August 3rd, just one week after the joy and innocence of their Sunday service was defiled by gunfire, the TVUUC congregation rededicated their sanctuary to peace. Inspired by the Unitarian Universalists of Knoxville, Unitarian Universalists everywhere have rededicated themselves to our religious mission: to welcome the stranger, to love our neighbor, to work for justice, to nurture the spirits of all who seek a liberal religious home, and to help heal this wounded world.

We will not give in to fear. We will meet hatred with love. We will continue to work for justice. Our hearts, and the doors of our more than 1,000 Unitarian Universalist congregations nationwide, remain open. Unitarian Universalists stand on the side of love. We invite you to stand with us.

In faith,

 Rev. William Sivford
 President
 Unitarian Universalist Association
 of Congregations

NURTURE YOUR SPIRIT. HELP HEAL OUR WORLD.



For more information about Unitarian Universalism, please visit UUA.org/welcome and watch our video, *Voices of a Liberal Faith*.

UNITARIAN UNIVERSALIST ASSOCIATION OF CONGREGATIONS, 25 BEACON ST., BOSTON, MA 02108

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**STATEMENT FOR THE RECORD
BEFORE SENATE JUDICIARY SUBCOMMITTEE ON THE CONSTITUTION,
CIVIL RIGHTS, AND HUMAN RIGHTS
ON
HEARING ON "HATE CRIMES & THE THREAT OF DOMESTIC EXTREMISM"
SEPTEMBER 19, 2012**

**Puneet Kaur
law-usa@unitedsikhs.org
UNITED SIKHS**

Senator Dick Durbin and the members of the Senate Judiciary Subcommittee on the Constitution, Civil Rights, and Human Rights, thank you for the opportunity to present testimony on behalf of United Sikhs, a UN-affiliated international nonprofit humanitarian relief and advocacy organization. UNITED SIKHS strongly supports this significant initiative which will surely help out the entire Sikh Community in America in their struggle for justice and against hate crimes.

Hate crimes have unfortunately become amplified for many minority communities, especially in the post-911 era. The first hate crime that occurred in the United States immediately after the September 11th attacks was with a Sikh. Every year since then, hate crimes against Sikhs have steadily taken place against the Sikh community and especially against turbaned Sikhs. Our physical identity targets us, but it is this same identity that is a manifestation of our inner and core values as

UNITED SIKHS is associated with the United Nations and is registered as a non-profit tax exempt organization pursuant to Section 501(c)(3) of the Internal Revenue Code in the USA

Sikhs. Our turbans are a part of our religion and a mark of identity that signifies the justice and equality that Sikhs have historically stood for. Our own personal history going back 500 years has been a history of persecution and injustice, that Sikhs decided not to stand for. We did not stand for injustice against ourselves or any other member of any other religion 500 years ago, and we do not stand for the unfortunate injustice that happens today. As proud Americans, we can't deceive ourselves. The most recent hate crime against Sikhs, the murder of six innocent victims in a peaceful Sikh temple, only goes to show that even 11 years after 9/11, hate and ignorance are still rooted in some people.

As per FBI hate crime statistics, out of 6,624 single-bias incidents reported in 2010, 47.3 percent were racially motivated and 20 percent were motivated by religious bias. According to SPLC, 247 hate crime incidents have been reported to media in the first six months of 2012 and the no.'s have been increasing since 2000. It is startling to see how America, the land of democracy and freedom is still exposed to hate crimes. What might we expect over the future decades? If people are considered equal, what should Americans do to stamp out hate crime, which is surely symptomatic of a flaw in society. It also emphasizes the need for a change in government policies and regulations around the issue of hate crime.

Sikhism is a peaceful religion and its primary principles include equality and justice for all, regardless of caste, creed, religion, race, or sex. The horrific attacks and murders that have occurred against our community thus far have been unfortunate and have unhinged the Sikh community, but the massacre at the Wisconsin Sikh temple is shocking, and must serve as a wakeup call. How do we best address this issue? How do we combat hate crimes and the odium of violence that the community has been facing since 9/11?

For one, we must make sure that the FBI and other law enforcement agencies track hate crimes against Sikhs as anti-Sikh hate crimes, and not anti-Muslim or anti-Islamic (<http://www.nytimes.com/2012/08/24/opinion/do-american-sikhs->

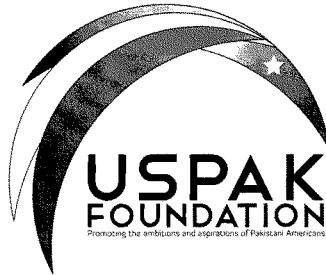
[count.html](#)). It is intricate to identify the accurate number of hate crimes against Sikh Americans for the rationale that many incidents go unreported and because Sikh-specific statistics are currently unavailable. The FBI believes that anti-Sikh hate crimes are motivated by anti-Muslim bias, which therefore explains why hate crimes against Sikhs are categorized as anti-Muslim (http://www.washingtonpost.com/blogs/guest-voices/post/sikhs-deserve-the-dignity-of-being-a-statistic/2012/08/16/1af99360-e7dc-11e1-8487-64e4b2a79ba8_blog.html). This however undermines the frequency with which the Sikh community is singled out and especially targeted due to our external religious identity. Regardless of whether the perpetrator distinguishes a community as Sikh or Muslim, it is our physical identity as Sikhs, our turbans and beards that motivates such crimes. Sikhs deserve the dignity of having Sikh-specific statistics tracked by our government.

Secondly, we must ensure that our own members of law enforcement do not perpetrate bias by providing appropriate and informative training in regards to the Sikh religion and the Sikh identity to their staff. And finally, we must recognize that the root of all ignorance, bias, and prejudice takes place at an early age, and is in large part due to lack of education or exposure. We must work with the government to ensure that young Americans are exposed to the diverse mosaic of religions, ethnicities, and communities in the United States, whose members are all Americans who respect their country and work hard to contribute to their country. We must work harder to make sure that anti-bullying policies are rigorously enforced, and that Sikhism is included in the curriculum of schools.

The Sikh community can move forward only if steps are taken in that direction. We want to guarantee that another devastating event such as one at the Oak Creek Gurdwara never happens again. We must work from the ground up, alongside our government officials, in ensuring the recognition and safety of Sikh-Americans.



USPAK Foundation
Promoting the ambitions and aspirations of Pakistani-Americans



**Statement of Record for the Senate Judiciary Committee Meeting
on Hate Crimes and Domestic Extremism**

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USPAK Foundation

Promoting the ambitions and aspirations of Pakistani Americans

The USPAK Foundation is a non-profit organization that aims to strengthen the Pakistani American community by training the next generation of Pakistani American leaders. We host career workshops, youth conferences and research key issues affecting the community. Our focus is on increasing the American public's understanding of the depth and scope of the Pakistani American contribution to American society and on bringing issues affecting Pakistani Americans into national, state, and local dialogues.

We are committed to advocating for social justice, civic participation, and fair treatment of all citizens, which is why we would like to commend the Senate Judiciary Committee for convening a hearing on hate crimes and domestic extremism. As proponents of equal opportunity for all citizens, we know that the US is built on inclusion, plurality, and diversity. Hate crimes and actions by hate groups affect all Americans by polarizing society and creating a poisonous environment in which resentment, mistrust and fear breed.

The ideologies of domestic extremists are a far cry from American values and we urge Congress and federal government agencies to take increased measures to prevent, address, and combat hate crimes and domestic extremism in the U.S.

Impact of hate crimes and domestic extremism

While it has been nearly three years since the Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act was signed in 2009, strengthening existing legal protections, hate crimes and hate groups continue to be a serious threat facing this country. The shooting in Oak Creek has sadly brought attention again to this serious issue but it is important to remember that this is not an isolated incident. In the past few weeks alone, numerous Islamic institutions have been vandalized, shot at with paintballs and a high velocity air rifle, attacked with an acid bomb, and suspiciously burned down. Also, there have been direct attacks on individuals of various races and faiths.

Hate crimes are a daily threat to individuals and a threat to society as a whole. According to FBI hate crimes statistics, over 6,600 hate crimes were reported in the U.S. in 2010. They are often underreported and the Bureau of Justice Statistics has suggested that the number of actual hate crimes may be up to 15 times higher than what is reported. According to the Southern Poverty Law Center, the number of hate groups in our country (currently numbering over a thousand) has grown by almost 60% since the year 2000.

A broad range of communities is targeted by hate crimes. In 2010, according to the FBI, 47% of hate crimes were racially motivated and 20% were motivated by ethnicity or national origin. They affect not only individuals but also the targeted communities. The trauma that the survivors and the targeted community incur is bad enough but they also feel that they were sent a message that they do not belong in this country. At the same time, hate groups and domestic extremists threaten the safety of all Americans because of the violence that is perpetrated often occurs in the public sphere. Law enforcement officers and government



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institutions are in the direct line of fire when hate groups attack or sometimes specifically targeted by hate groups or domestic extremists.

Certain government actions and political discourse can have the unintended impact of fostering a climate where hate crimes occur. Government actions shape the public's perception of minority populations and they can fuel actions motivated by hate. This can also prevent the government from pursuing actual threats posed by hate groups and domestic extremists.

Such actions most importantly include racial and religious profiling. Law enforcement actions can perpetuate biased perceptions of community members through discriminatory policing (e.g. airport profiling, local law enforcement profiling/surveillance of minority communities, profiling on the part of immigration authorities). In such instances, resources are diverted away from actual threats including hate and domestic extremist groups. When law enforcement is focused on race and religion-based profiles, the trust in these enforcement agencies is diminished. Thus, the targeted communities are left particularly vulnerable including during times when assistance is needed when faced with hate crimes.

Another important but often-ignored government action is the use of bigoted rhetoric in political discourse. Statements made by elected and public officials premised on racism and hatred towards religious groups set the stage for intolerance and in many ways incite and condone individual actions motivated by hate. Elected and public officials have a greater responsibility to refrain from making such statements because of the visible positions they hold and the broad range of audiences that they reach. Non-discriminatory actions by law enforcement and non-bigoted statements by public and elected officials are true to our country's ideals of fairness, inclusion and equality.

Policy Recommendations

History has shown us that past efforts led by the highest levels of government have been pivotal in setting a framework to combat hate crimes and domestic extremism. Following the large number of attacks on African American churches in the mid-1990s (arsons, bombings, and attempted arsons and bombings), President Clinton declared the issue a national priority and directed the Administration to investigate and prosecute the perpetrators, help communities rebuild houses of worship, and offer assistance in preventing additional attacks. In addition, a taskforce was established to address this very issue. These effects of the efforts were invaluable, yielding a 53% drop in attacks against such places of worship between 1996 and 1999.

We are now at a similar moment in history and given the grave threat currently posed by hate crimes, hate groups, and domestic extremism to minority communities and all Americans, it is imperative that policymakers take strong measures to prevent, document, investigate, and combat them.



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Specifically, existing hate crimes legislation must be rigorously enforced. In order to do this, data collection, categorization, reporting, and disaggregation mechanisms must be improved; adequate funding must be provided to government agencies charged with developing initiatives addressing the issue; formalized interagency efforts and positions within government on the issue must be established; and actions and rhetoric by government agencies and public officials that further an environment where bias can occur must be curbed.

Below are policy recommendations that Congress, the White House, and government agencies should undertake:

1. Ensure robust and comprehensive implementation of the Mathew Shepherd and James Byrd, Jr. Hate Crimes Prevention Act (HCPA): Enacted in 2009, this law encourages partnerships between federal and state law enforcement officials to more effectively address hate violence and provides limited authority for federal investigations and prosecutions when local authorities are unwilling or unable to act. To ensure robust enforcement, the DOJ should file appropriate cases under HCPA; vigorously defend the constitutionality of the Act; and ensure continued education, outreach, and training to federal, state, and local law enforcement officials on HCPA and its requirements.
2. Improve federal hate crime data collection, disaggregation, categorization, and reporting efforts. The DOJ should promote mandatory comprehensive participation in existing hate crimes reporting requirements and the FBI should improve hate crime incident reporting by developing new categories on hate crime incident report forms for various affected communities not yet covered (including anti-Arab, anti-Sikh, and anti-Hindu incidents).
3. Allocate and prioritize federal funding for initiatives that prevent, investigate, and combat hate crimes, hate groups, and domestic extremism. Congress should establish or increase appropriations for: prevention, education, and training initiatives for law enforcement around existing hate crimes policies and their requirements; anti-bias education initiatives; existing government agencies specifically devoted to addressing and investigating hate crimes, hate groups, domestic extremism, and community tensions; and government resources, such as online portals and websites, geared specifically towards youth affected by bias and hatred. In addition, Congress should urge DHS to release its previously retracted 2009 publication on right-wing extremist groups.
4. Establish formalized interagency efforts and positions at the highest levels of government, in partnership with community stakeholders, to address hate crimes. The White House should convene a Presidential summit on hate crimes affecting religious minorities that engages community members, religious leaders, and federal government officials with the purpose of developing best practices for stakeholders addressing this issue, similar to what was instituted by President Clinton on race in the 1990s. The White House should also establish an interagency taskforce on hate crimes and



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domestic extremism, similar to what was established by President Clinton following the church arsons of the 1990s. The DOJ should also formalize the Initiative to Combat Post-9/11 Discriminatory Backlash within the DOJ Civil Rights Division by designating a Special Counsel for Post-9/11 Discrimination and a Special Counsel for Religious Discrimination.

5. Curb actions and discourse by government agencies and public officials that often promote a climate where hate crimes can occur: Congress should pass robust anti-profiling policies, such as the *End Racial Profiling Act* (S. 1670; H.R. 3618) which prohibits profiling based on race, religion, ethnicity, or national origin by federal, state and local law enforcement; establishes requirements for law enforcement to collect data, provide anti-profiling trainings, and develop a complaint mechanism for affected individuals; allow DOJ to withhold grants to entities that fail to comply with the law and provide funding to those seeking to eliminate the practice; and allow affected individuals to seek redress in court. DOJ should also amend its 2003 Guidance Regarding the Use of Race by Federal Law Enforcement Agencies to apply to profiling based on religion and national origin, remove national and border security loopholes, cover law enforcement surveillance activities, apply to state and local law enforcement agencies acting in partnership with federal agencies or receiving federal funds, and make the guidance enforceable. Public officials should refrain from making statements based on racism, xenophobia, homophobia, sexism, or religious intolerance. Public officials should also take a pledge to not engage in such rhetoric as well as condemn such statements when they do occur in the public sphere.

Conclusion

The USPAK Foundation is deeply concerned about the tragic events of the last few months and also of the past few years. It is unfortunate that such a violent attack on our Sikh friends had to occur to bring to surface the discrimination many Americans face in their own country. As Americans we encourage the Senate Judiciary Committee to be fully committed to openly discussing the problems that our communities face and to addressing them with practical solutions and policy changes, with the aim of achieving a stronger and more unified America.



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