

CONDEMNING BIGOTRY AND VIOLENCE AGAINST ARAB-AMERICANS, MUSLIM-AMERICANS, SOUTH ASIAN-AMERICANS, AND SIKH-AMERICANS

SEPTEMBER 3, 2003.—Referred to the House Calendar and ordered to be printed

Mr. SENSENBRENNER, from the Committee on the Judiciary, submitted the following

R E P O R T

[To accompany H. Res. 234]

The Committee on the Judiciary, to whom was referred the resolution (H. Res. 234) condemning bigotry and violence against Arab-Americans, Muslim-Americans, South Asian-Americans, and Sikh-Americans, having considered the same, reports favorably thereon without amendment and recommends that the resolution be agreed to.

CONTENTS

	Page
Purpose and Summary	1
Background and Need for the Legislation	2
Hearings	3
Committee Consideration	4
Vote of the Committee	4
Committee Oversight Findings	4
New Budget Authority and Tax Expenditures	4
Committee Cost Estimate	4
Performance Goals and Objectives	4
Constitutional Authority Statement	4
Section-by-Section Analysis and Discussion	4
Markup Transcript	5

PURPOSE AND SUMMARY

Introduced by Representative Darrell Issa on May 14, 2003, the purpose of H. Res. 234 is to condemn bigotry and violence against Arab-Americans, Muslim-Americans, South Asian-Americans, and Sikh-Americans. S. Res. 133, a virtually identical Senate resolution, was introduced by Senator Richard Durbin on May 6, 2003,

and was passed by the Senate by unanimous consent on May 22, 2003.¹

BACKGROUND AND NEED FOR THE LEGISLATION

H. Res. 234 condemns bigotry and violence against individuals of Arab-American, Muslim-American, South Asian-American, and Sikh-American descent. It was introduced in response to concerns about an increase in discriminatory backlash crimes following the commencement of military action in Iraq in March 2003. Specifically, H. Res. 234 recognizes the many contributions of Arab-Americans, Muslim-Americans, South Asian-Americans, and Sikh-Americans to the nation, calls upon law enforcement authorities to work vigorously to prevent discriminatory backlash crimes against such persons and to aggressively investigate and prosecute crimes that do occur, and reaffirms the House of Representatives's commitment to assuring that the civil rights of all Americans, including individuals of Arab-American, Muslim-American, South Asian-American, and Sikh-American descent, be protected.

THE PROSECUTION OF DISCRIMINATORY BACKLASH CRIMES IN THE WAKE OF THE SEPTEMBER 11, 2001, TERRORIST ATTACKS

The weeks and months following the terrorist attacks of September 11, 2001, saw a significant increase in the number of crimes committed against those perceived to be of Arab-American, Muslim-American, South Asian-American and Sikh-American descent.² According to hate crimes statistics compiled by the Federal Bureau of Investigation (the "FBI"), criminal acts "motivated by bias against ethnicity/national origin were the second most frequently reported bias in 2001, more than doubling the number of incidents, offenses, victims, and known offenders from 2000 data" and "the anti-other ethnicity/national origin category quadrupled in incidents, offenses, victims, and known offenders."³ Similarly, the number of anti-Islamic incidents grew 1600 percent between 2000 and 2001 taking such incidents from the second-least reported category of reported religious-bias incidents in 2000 to the second-highest reported category of religious-bias incidents in 2001.⁴

In response, shortly after the September 2001 terrorist attacks, then Assistant Attorney General for the Civil Rights Division of the U.S. Department of Justice ("DOJ"), Ralph Boyd, instructed the Division's National Origin Working Group to help combat violations of Federal civil rights laws involving individuals perceived to be of Arab-American, Muslim-American, South Asian-American, or Sikh-American descent. Specifically, the Working Group was directed to receive reports of violations based upon national origin, citizenship status, and religion in the context of housing, education, employ-

¹ 149 Cong. Rec. S7070 (2003).

² See U.S. Department of Justice, Federal Bureau of Investigation, *Hate Crimes Statistics 2001*.

³ *Id.* at Forward. The significance of this increase can be seen when compared to statistics compiled from previous years.

From the first year that national hate crime data were published in 1992 until 2000, incidents motivated by racial bias comprised the largest portion of reported hate crime incidents followed by incidents motivated by a religious bias and those motivated by bias against sexual orientation. The fewest number of hate crime incidents resulted from ethnicity or national-origin bias, until the addition of the disability bias in 1997, which then became the lowest portion of reported hate crime incidents. *Id.*

⁴ See *id.*

ment, access to government services, and law enforcement; conduct outreach to vulnerable communities; and work with other Civil Rights Division components and governmental agencies to ensure accurate referral, effective outreach, and the provision of services to victims of civil rights violations.⁵

In April 2003, Attorney General John Ashcroft announced that approximately 400 incidents of backlash discrimination have been investigated since September 2001 by the Civil Rights Division, the FBI, and the U.S. Attorneys' offices; that of these investigations, approximately seventy State and local criminal prosecutions were initiated and Federal charges were brought in ten cases; that DOJ has contributed to approximately 100 backlash prosecutions in federal, State, and local courts since September 2001; and that DOJ's Community Relations Service has held more than 250 town and community meetings and forums on backlash issues and developed best practices for law enforcement to prevent and respond to hate incidents against Arab-Americans, Muslim-Americans, South Asian-Americans, and Sikh-Americans.⁶ In addition, in the process of conducting interviews for its Iraq-related terrorism prevention efforts, the FBI asked those interviewed if they were aware of any backlash discrimination or hate crimes. As a result of the information it received, the Civil Rights Division opened 36 new investigations.⁷

ACTS OF DISCRIMINATORY BACKLASH VIOLENCE FOLLOWING THE COMMENCEMENT OF THE WAR IN IRAQ

Although the number of bias-motivated incidents fell substantially in 2002, certain alarming crimes in early 2003 have raised concerns that the commencement of military action in Iraq has led, and might continue to lead, to an increase in discriminatory backlash crimes here in America. In February and March 2003, apparently motivated by anti-Arab sentiment, a man shot and killed four people in New York City.⁸ At the University of California in Los Angeles, apparently motivated by anti-Muslim bias, pig's blood was poured on Muslim prayer rugs in an interdenominational chapel.⁹

Similar to H. Con. Res. 227, which was approved by the House just days after the terrorist attacks of September 2001, H. Res. 234 will again express this body's appreciation for the contribution of Arab-Americans, Muslim-Americans, South Asian-Americans, and Sikh-Americans to the nation and its condemnation of all actions of bigotry and violence directed towards such persons.¹⁰

HEARINGS

No hearings were held on H. Res. 234.

⁵ See *Civil Rights Division National Origin Working Group Initiative to Combat the Post-9/11 Discriminatory Backlash*, *Division News Release* (Jan. 16, 2002), available at <<http://www.usdoj.gov/crt/legalinfo/nordwg—mission.html>>.

⁶ Attorney General John Ashcroft and FBI Director Richard Mueller, U.S. Department of Justice News Conference, (Apr. 17, 2003) available at 2003 WL 6684451.

⁷ *Id.*

⁸ 149 Cong. Rec. S. 5789 (2003) (statement of Sen. Richard J. Durbin).

⁹ *Id.*

¹⁰ H. Con. Res., 227 107th Cong. (2001), introduced on September 14, 2001 by Rep. David Bonior, condemned any acts of violence or discrimination against Arab-Americans, Muslim-Americans, and South Asian-Americans and called for the protection of the civil rights and civil liberties of such persons as the nation sought to "bring to justice, and punish the perpetrators and sponsors" of the terrorist attacks of September 11, 2001.

COMMITTEE CONSIDERATION

On July 25, 2003, the Committee met in open session and ordered favorably reported the resolution H. Res. 234, without amendment by a voice vote, a quorum being present.

VOTE OF THE COMMITTEE

In compliance with clause 3(b) of Rule XIII of the Rules of the House of Representatives, the Committee notes that there were no recorded votes during the committee consideration of H. Res. 234.

COMMITTEE OVERSIGHT FINDINGS

In compliance with clause 3(c)(1) of Rule XIII of the Rules of the House of Representatives, the Committee reports that the findings and recommendations of the Committee, based on oversight activities under clause 2(b)(1) of Rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of this report.

NEW BUDGET AUTHORITY AND TAX EXPENDITURES

Clause 3(c)(2) of Rule XIII of the Rules of the House of Representatives is inapplicable because this legislation does not provide new budgetary authority or increased tax expenditures.

COMMITTEE COST ESTIMATE

In compliance with clause 3(d)(2) of Rule XIII of the Rules of the House of Representatives, the Committee notes that no Committee cost estimate is required because H. Res 234 is not a bill nor a joint resolution. In addition, the Committee notes that it did not receive a cost estimate from the Congressional Budget Office with respect to H. Res. 234.

PERFORMANCE GOALS AND OBJECTIVES

H. Res. 234 does not authorize funding. Therefore, clause 3(c)(4) of Rule XIII of the Rules of the House of Representatives is inapplicable.

CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause 3(d)(1) of Rule XIII of the Rules of the House of Representatives, the Committee finds the authority for this legislation in article I, section 8 of the Constitution.

SECTION-BY-SECTION ANALYSIS AND DISCUSSION

The first paragraph of the preamble states that the House of Representatives finds that all Americans are united in supporting American men and women who protect the nation abroad and at home.

The second paragraph of the preamble states that the House of Representatives finds that thousands of Arab-Americans, Muslim-Americans, South Asian-Americans, and Sikh-Americans serve in the military and in law enforcement, and thus work to protect all Americans.

The third paragraph of the preamble states that the House of Representatives finds that the Arab-American, Muslim-American, South Asian-American, and Sikh-American communities are vibrant, peaceful, and law-abiding, and have greatly contributed to American society.

The fourth paragraph of the preamble states that the House of Representatives finds that all Americans, including Arab-Americans, Muslim-Americans, South Asian-Americans, and Sikh-Americans, condemn acts of violence and prejudice.

Section (1) of the resolving clause states that the House of Representatives expresses its concern about the number of bias-motivated crimes against Arab-Americans, Muslim-Americans, South Asian-Americans, Sikh-Americans, and other Americans in recent months.

Section (2) of the resolving clause states that the House of Representatives declares that the civil rights and civil liberties of all Americans, including Arab-Americans, Muslim-Americans, South Asian-Americans, and Sikh-Americans, should be protected.

Section (3) of the resolving clause states that the House of Representatives condemns bigotry and acts of violence against any American, including Arab-Americans, Muslim-Americans, South Asian-Americans, and Sikh-Americans.

Section (4) of the resolving clause states that the House of Representatives calls upon local, State, and Federal law enforcement authorities to work to prevent bias-motivated crimes against all Americans, including Arab-Americans, Muslim-Americans, South Asian-Americans, and Sikh-Americans.

Section (5) of the resolving clause states that the House calls upon local, State, and Federal law enforcement authorities to investigate and prosecute vigorously all such crimes committed against Arab-Americans, Muslim-Americans, South Asian-Americans, and Sikh-Americans.

MARKUP TRANSCRIPT

BUSINESS MEETING

FRIDAY, JULY 25, 2003

HOUSE OF REPRESENTATIVES,
COMMITTEE ON THE JUDICIARY,
Washington, DC.

The Committee met, pursuant to notice, at 9:40 a.m., in Room 2141, Rayburn House Office Building, Hon. F. James Sensenbrenner, Jr., [Chairman of the Committee] presiding.

[Intervening business.]

Chairman SENSENBRENNER. Pursuant to notice I now call up House Resolution 234, condemning bigotry and violence against Arab-Americans, Muslim-Americans, South Asian-Americans and Sikh-Americans, for purposes of markup and move its favorable recommendation to the House. Without objection, the resolution will be considered as read and open for amendment at any point.

[The resolution, H. Res. 234, follows:]

108TH CONGRESS
1ST SESSION

H. RES. 234

Condemning bigotry and violence against Arab-Americans, Muslim-Americans,
South Asian-Americans, and Sikh-Americans.

IN THE HOUSE OF REPRESENTATIVES

MAY 14, 2003

Mr. ISSA (for himself, Ms. KAPTUR, Mr. LAHOOD, Mr. CONYERS, Mr. DINGELL, Mr. RAHALL, and Mr. HONDA) submitted the following resolution; which was referred to the Committee on the Judiciary

RESOLUTION

Condemning bigotry and violence against Arab-Americans, Muslim-Americans, South Asian-Americans, and Sikh-Americans.

Whereas all Americans are united in supporting American men and women who protect our Nation abroad and at home;

Whereas thousands of Arab-Americans, Muslim-Americans, South Asian-Americans, and Sikh-Americans serve in the military and in law enforcement, working to protect all Americans;

Whereas the Arab-American, Muslim-American, South Asian-American, and Sikh-American communities are vibrant, peaceful, and law-abiding, and have greatly contributed to American society; and

Whereas all Americans, including Arab-Americans, Muslim-Americans, South Asian-Americans, and Sikh-Americans, condemn acts of violence and prejudice: Now, therefore, be it

1 *Resolved*, That the House of Representatives—

2 (1) is concerned by the number of bias-moti-
3 vated crimes against Arab-Americans, Muslim-Amer-
4 icans, South Asian-Americans, and Sikh-Americans,
5 and other Americans in recent months;

6 (2) declares that the civil rights and civil lib-
7 erties of all Americans, including Arab-Americans,
8 Muslim-Americans, South Asian-Americans, and
9 Sikh-Americans, should be protected;

10 (3) condemns bigotry and acts of violence
11 against any American, including Arab-Americans,
12 Muslim-Americans, South Asian-Americans, and
13 Sikh-Americans;

14 (4) calls upon local, State, and Federal law en-
15 forcement authorities to work to prevent bias-moti-
16 vated crimes against all Americans, including Arab-
17 Americans, Muslim-Americans, South Asian-Ameri-
18 cans, and Sikh-Americans; and

19 (5) calls upon local, State, and Federal law en-
20 forcement authorities to investigate and prosecute
21 vigorously all such crimes committed against Arab-

8

3

- 1 Americans, Muslim-Americans, South Asian-Ameri-
- 2 cans, and Sikh-Americans.

○

Chairman SENSENBRENNER. And without objection, all Members' opening statements will be placed in the record at this point. [The prepared statement of Ms. Jackson Lee follows:]

PREPARED STATEMENT OF THE HONORABLE SHEILA JACKSON LEE, A REPRESENTATIVE
IN CONGRESS FROM THE STATE OF TEXAS

Thank you Chairman Sensenbrenner and Ranking Member Conyers for convening this Full Committee Markup opportunity concerning the condemnation of bigotry and violence against Arab, Muslim, South Asian, and Sikh-Americans. As a co-sponsor of this resolution, I won't hesitate to vocalize my support for it and echo its import.

RACIAL PROFILING AND TERRORISM

The events of September 11, 2001 have had a profound impact on racial profiling. Following the terrorist attacks, law enforcement agents have subjected individuals of Arab or South Asian descent, Muslims, and Sikhs to racial profiling. While national and local statistics are not yet available, anecdotal accounts of how Arabs, Muslims, and Sikhs have endured racial profiling abound the informational resources.

For example, in the months following September 11th, a new type of racial profiling has developed: "driving while Arab." Arabs, Muslim, and Sikhs across the country were subjected to traffic stops and searches based in whole or part on their ethnicity or religion. On October 4, 2001 in Gwinnett, Georgia an Arab motorist's car was stopped, he was approached by a police officer whose gun was drawn, and he was called a "bin Laden supporter" all for making an illegal U-turn. On October 8, 2001, two Alexandria, VA police officers stopped three Arab motorists. The officers questioned the motorists about a verse of the Koran hanging from the rear view mirror, and asked about documents in the back seat. The police officer confiscated the motorists' identification cards and drove off without explanation. He returned 10 minutes later, and claimed he had had to take another call. On December 5, 2001, a veiled Muslim woman in Burbank, Illinois was stopped by a police officer for driving with suspended plates. The officer asked the woman when Ramadan was over, asked her offensive question about her hair, and pushed her into his patrol car as he arrested her for driving with suspended plates. The woman was released from custody later that day.

A particularly egregious form of terrorism profiling occurs when Arab men and women are detained and deported without due process. Since September 11th, hundreds of Arab and Muslim individuals have been detained on suspicion of terrorist activity. Practically none of these individuals was involved with terrorism. However, many were detained for weeks and eventually charged with minor immigration violations. Based on these minor immigration violations some were deported. In one case, two Pakistani immigrants were arrested and detained 45 days for allegedly overstaying their visas. In another case an Israeli was detained for 66 days before being charged with entering the United States unlawfully. In a particularly shocking case, a French teacher from Yemen, who was married to an American citizen and therefore eligible to become a citizen himself, was reporting for duty as an army recruit at Fort Campbell, Kentucky on September 15, 2001. The man was apprehended by federal agents, separated from his wife and interrogated for 12 hours. The agents accused him of violating immigration laws, conspiring with Russian terrorists, spousal abuse, and threatened him with beatings. The man was given a lie detector test which proved he was telling the truth when he denied being associated with terrorists.

Expounding upon the above issue is a trend of ethnic profiling against South Asian-Americans relative to the SARS pandemic. People have been treated with indifference and hostility because of their racial background. This treatment is simply founded upon ignorance. Human rights and the principles of due process, freedom of expression, and freedom of association should not be compromised by ignorance.

THE CONSEQUENCES OF RACIAL PROFILING

The Consequences of Racial Profiling for minority groups in the United States, for Arab, Muslim, South Asian, and Sikh groups, and in the immigrations context are dire for individuals who are both innocent and guilty of criminal activity. In the case of the innocent, for every person in possession of drugs apprehended through profiling, many more law-abiding minorities are treated as if they are criminals. A 1999 Gallup Poll revealed that 42 percent of African Americans, and 72 percent of African American males between the ages of 18 and 34, believe they have been stopped by police because of their race. In fact, many minorities choose to drive cer-

tain cars, on certain routes, wearing certain clothes, to avoid drawing attention from police.

For those individuals who have been convicted of felonies, racial profiling contributes to the disparity in arrest and crime rates that leads to the minority-majority prison population. Blacks are just 12 percent of the U.S. population and 11 percent of drug users, but Blacks are 38 percent of those arrested for drug offenses and 59 percent of those convicted for drug offenses. Hispanics make up 13 percent of the population and 10 percent of illicit drug users, but they are 37 percent of the overall prison population. Racial profiling increases the stops and arrests of minority groups. Frequent stops and arrests of minorities generate more extensive criminal histories, and result in longer sentences. Nearly one in three Black males aged 20–29 on any given day is either in prison, on probation, or on parole. As of 1995, on in 14 adult Black males was in prison or jail on any give day. A Black male born in 1991 has a 33 percent chance of spending part of his life in prison. A Hispanic male has a one in six chance.

Racial profiling results in increased arrests and convictions of minorities. In many states, a felony conviction can impact a person's ability to exercise their basic social rights. In 46 states and the District of Columbia, convicted adults cannot vote. Thirty-two states disenfranchise felons on parole, while 29 states disenfranchise felons on probation. In part due to racial profiling, 1.4 million Black men, 13 percent of all adult Black males, are denied the right to vote. In two states, 31 percent of all adult Black males are permanently disenfranchised.

For the reasons stated above, Mr. Chairman and Ranking Member, I support the Resolution condemning bigotry and violence against Arab, Muslim, South Asian, and Sikh-Americans that I have co-sponsored. I would ask that my Colleagues join my fellow sponsors in fighting bigotry with H. Res. 234. Thank you for the opportunity to speak on this matter.

Chairman SENSENBRENNER. Are there amendments? If there are no amendments, a reporting quorum is not present. Without objection, the previous question is ordered on the motion to report the bill favorably.

[Intervening busines.]

Chairman SENSENBRENNER. The unfinished business is the motion to report favorably House Resolution 234, upon which the previous question to report favorably had been ordered. Those in favor of reporting the resolution favorably will say aye.

Opposed, no.

The ayes appear to have it. The ayes have it. The motion to report favorably is agreed to.

Without objection, the staff will be given authority to make technical and conforming changes.

And without objection, all Members will be given 2 days pursuant to the rules in which to submit additional, supplemental, minority or dissenting views.