



Department of Justice

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

**ENTITLED
"PROTECTING THE CIVIL RIGHTS OF MUSLIM AMERICANS"**

**PRESENTED
MARCH 29, 2011**

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

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

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

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

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

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

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

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

Hate Crimes

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

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

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

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

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

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

Employment Discrimination

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

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

After the Oregon legislature passed and the governor signed a repeal of the law in early 2010, the Division closed its investigation.

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

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

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

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

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

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

Education

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

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

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

RLUIPA

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

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

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

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

Engagement

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

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

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

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

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

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