

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

HAMID HASSAN RAZA; MASJID AL-ANSAR;
ASAD DANDIA; MUSLIMS GIVING BACK;
MASJID AT-TAQWA; MOHAMMAD
ELSHINAWY,

Plaintiffs,

v.

CITY OF NEW YORK; MICHAEL R.
BLOOMBERG, in his official capacity as Mayor
of the City of New York; RAYMOND W. KELLY,
in his official capacity as Police Commissioner for
the City of New York; DAVID COHEN, in his
official capacity as Deputy Commissioner of
Intelligence for the City of New York,

Defendants.

No. 13-cv-03448-PKC-JMA

Hon. Judge Joan Azrack

DECLARATION OF MARIKO HIROSE

I, Mariko Hirose, a member of the Bar of the State of New York and a member of the bar of this Court, declare under penalty of perjury as follows:

1. I am a staff attorney with the New York Civil Liberties Union, which is counsel for Plaintiffs in this matter. I submit this declaration in support of Plaintiffs' Supplemental Briefing Concerning Disputed Discovery Requests.
2. Attached hereto as **Exhibit A** is (i) a chart categorizing the disputed discovery requests served by Defendants; and (ii) the full text of those disputed requests. In footnotes to the text, Plaintiffs have set forth their understanding of Defendants' proposed revisions to their requests.

3. Attached hereto as **Exhibit B** is a true and correct copy of the Declaration of Imam Hamid Hassan Raza in support of Plaintiffs' Supplemental Briefing Concerning Disputed Discovery Requests (Mar. 29, 2014).

4. Attached hereto as **Exhibit C** is a true and correct copy of the Declaration of Asad Dandia in support of Plaintiffs' Supplemental Briefing Concerning Disputed Discovery Requests (Mar. 29, 2014).

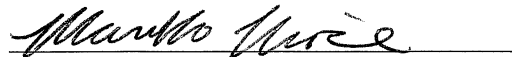
5. Attached hereto as **Exhibit D** is a true and correct copy of the Declaration of Osman A. Adam in support of Plaintiffs' Supplemental Briefing Concerning Disputed Discovery Requests (Mar. 30, 2014).

6. Attached hereto as **Exhibit E** is a true and correct copy of the Declaration of Mohammad Elshinawy in support of Plaintiffs' Supplemental Briefing Concerning Disputed Discovery Requests (Mar. 29, 2014).

7. Attached hereto as **Exhibit F** is a true and correct copy of a U.S. Department of Justice report titled "Confronting Discrimination in the Post-9/11 Era: Challenges and Opportunities Ten Years Later" and dated October 19, 2011, which was downloaded from <http://1.usa.gov/1h7jur6>.

* * *

I declare under penalty of perjury that the forgoing is true and correct to the best of my knowledge and belief.


Mariko Hirose

Dated: March 31, 2014
New York, New York

Exhibit A

DISPUTED DISCOVERY REQUESTS

<p>Disputed requests for Plaintiffs’ financial information.</p>	<p>Document Requests: Nos. 21, 22, 23, 24, 25, 28, 29, 44, 45, 47, & 64</p> <p>Interrogatory: No. 53</p>
<p>Disputed requests for Plaintiffs’ tax records.</p>	<p>Document Requests: Nos. 22 & 64</p>
<p>Disputed requests for associational information.</p>	<p>Document Requests: Nos. 43, 59, & 60</p> <p>Interrogatories: Nos. 5, 6, 8, 9, 10, 11, 12, 17, 18, 19, 20, 25, 27, 28, 34, 37, 38, 43, 44, 45, & 47</p>
<p>Disputed requests concerning Plaintiffs’ religious or political speech, discussion, or ideas.</p>	<p>Document Requests: Nos. 12, 14, 30, & 34</p>
<p>Disputed requests seeking information to retroactively justify NYPD conduct.</p>	<p>Document Requests: Nos. 5, 6, 11, 12, 13, 21, 22, 23, 24, 25, 28, 29, 30, 43, 44, 45, 47, & 52</p> <p>Interrogatories: Nos. 53, 55 & 56</p>

DISPUTED DOCUMENT REQUESTS AND INTERROGATORIES
SERVED BY DEFENDANTS

DOCUMENT REQUESTS

5. All documents and communications from, to, or concerning any of the following persons:
- a. Mohammad Babar;
 - b. Syed Hashmi;
 - c. Abdel Hameed Shehadeh;
 - d. Agron Hasbajrami;
 - e. Carlos Almonte;
 - f. Mohammed Alessa;
 - g. Hesham Elashry;
 - h. Ali Jawad;
 - i. Rany Kased;
 - j. Moazzam Begg;
 - k. Farooque Ahmed;
 - l. Clement Rodney Hampton-El;
 - m. Siddig Siddig Ali;
 - n. El Sayyid Nosair;
 - o. Marcus Dwayne Robertson;
 - p. Abdel Naser Zaben;
 - q. Wesam Elhanafi;
 - r. Sabirhan Hasanoff;
 - s. Najibullah Zazi;
 - t. Zarein Ahmedzay;
 - u. Adis Medunjanin;
 - v. Omar Abdel Rahman;
 - w. Muhammad Butt;
 - x. Justin Kaliebe;
 - y. Anwar Al-Awlaki;
 - z. Tarek Mehanna
6. All documents and communications between any Plaintiff and any person charged, convicted, or sentenced in connection with any terrorist-related offense.
11. All Documents and Communications concerning, implicitly or explicitly, the use of physical force, violence or unlawful acts as a way to (i) promote religious goals; (ii) harm non-Muslim people or groups; or (iii) effect political change in the United States or abroad.¹

¹ Defendants have proposed to modify the request as follows: “All Documents and Communications concerning, implicitly or explicitly, the use of physical force, violence or unlawful acts as a way to (i) promote ~~religious goals~~ **Islamic goals**; (ii) harm non-Muslim people or groups; or (iii) effect political change in the United States or abroad.”

12. All Documents and Communications by plaintiffs concerning: “terrorism”; “jihad”; “jihad training”; the concept of “jihad”; “Salafi jihad”; “Califate”; “revolution”; “mujahedeen”; the war in Afghanistan; current events; “khufar”; or “Inspire”.
13. All Documents and Communications to, from or concerning any Foreign Terrorist Organization or affiliate thereof.
14. All documents and communications concerning the alleged altering or curtailment of speech by any Plaintiff.
21. All documents and communications from Masjid Al-Ansar, Masjid At-Taqwa or Muslims Giving Back to donors or contributors concerning annual charitable contributions.²
22. All documents concerning plaintiffs’ Federal, State and local tax filings and tax status, for all related and unrelated business, including but not limited to: Tax returns; Pay stubs; Annual returns of income and expenses; Annual electronic notices; Form 990 and 990-T’s; W-2’s and 1099’s; Annual exempt organization returns; applications for recognition of tax exemption (both approved and unapproved); with all supporting documents including annual tax information returns; recognition of tax exemption; other returns and reports filed; annual electronic notices.
23. All documents concerning plaintiffs’ finances, as follows:
 - a. Accounting records, including but not limited to: general ledger; books of original entry; accounts receivable; cash flow statements; expense statements; balance sheets; profit and loss statements; accounts payable statements; annual gross receipts; bank statements for all fund accounts; and corporate books and records;
 - b. Income, Revenue or Gross Earnings, including but not limited to: speaking engagements; ministering; membership dues; donations; sales of lectures, speeches or sermons; sales of texts or books, and sales of religious items.
 - c. Expenses or Expenditures, including but not limited to: payroll statements; compensation for guest speakers; expenditures on security personnel.³
24. All documents concerning the sale of goods or services at Masjid At-Taqwa, Masjid Al-Ansar and Muslims Giving Back, including but not limited to lectures, sermons, speeches, religious or ritual items and objects, books teachings, workshops, classes, camps, or schools.

² Although Defendants represented to the Court that the parties had reached agreement about Document Request 21, *see* Disc. Conference Tr. at 52:20-21, Plaintiffs have not agreed to the request. Plaintiffs have offered a compilation of donation information. *See id.* at 53:16, 66:13.

³ Defendants have suggested that they would narrow this request but have not clearly indicated to Plaintiffs how they would propose to do so.

25. All documents and communications concerning the purchase, sale, lease, rental, use or ownership of real property by Masjid Al-Ansar, Masjid At-Taqwa or Muslims Giving Back.
28. All documents and communications concerning contributions, donations, funds, and grants, made to plaintiffs, including but not limited to: (i) donor lists; (ii) amounts contributed by donors; (iii) dates of donations; (iv) the events or activities at which the contribution was collected; (v) method of payment, i.e., cash, check, credit card, or PayPal; and (vi) method of collection, i.e. via collection plates, donation boxes, fundraising events or activities, online solicitations or requests, or advertisements.⁴
29. All documents and communications concerning all contributions, donations, and grants, made by plaintiffs, including but not limited to: (i) donee or recipient lists; (ii) amounts contributed; (iii) dates of donations; (iv) method of payment, i.e., cash, check, credit card, PayPal or wire transfer; (v) method of distribution, i.e. via collection plates, donation boxes, fundraising events or activities, online solicitations or requests, or advertisements.⁵
30. All documents and communications between Mohamed Elshinawy and his father Ali Elshinawy concerning (i) Omar Abdel Rahman (the Blind Sheikh); (ii) the Al Kifah Refugee Center in Brooklyn, New York; or the Islamic Group (aka Gamaa Islamiya).
34. All documents and communications concerning Elshinawy's alleged acts of altering the content of his lectures or otherwise fully communicating his religious beliefs, as alleged in ¶¶ 145, 146 of the complaint.⁶
43. All documents and communications concerning community events or extracurricular activities which Elshinawy organized or was otherwise involved, including but not limited to, whitewater rafting, camping, and paintball.⁷

⁴ Defendants have offered to strike subparts (iv) and (v).

⁵ Defendants have offered to strike subparts (iii) and (iv).

⁶ The parties have agreed to narrow the request to:

All documents and communications ~~concerning~~ **addressing** Elshinawy's alleged acts of altering the content of his lectures or otherwise fully communicating his religious beliefs.

The parties disagreed, however, about Plaintiffs' proposal to modify the request to seek documents addressing alterations in speech "**as the result of NYPD surveillance or investigation.**" The Court ruled that the request should not be limited to alterations resulting *only* from NYPD investigations, but it was unclear whether the Court would add "**as a result of law enforcement scrutiny**" to the request. *See* Conference Tr. 78:6-20.

⁷ The Court limited this request to: "All documents and communications concerning ~~community events or extracurricular activities~~ **whitewater rafting, camping, and paintball trips** which Elshinawy organized or **in which he** was otherwise involved, ~~including but not limited to, whitewater rafting, camping, and paintball.~~" *See* Conference Tr. 86:10.

44. All documents concerning the incorporation, registration, or establishment of the Zam Zam Shop or the Taqwa Bookstore.
45. Documents and communications concerning financial transactions between or among Masjid At-Taqwa, the Zam Zam Shop, and the Taqwa Bookstore.
47. All documents and communications regarding charitable contributions from Masjid At Taqwa to the Benevolence International Foundation, the al-Haramain Foundation, the Global Relief Foundation (USA), the Holy Land Foundation, the Bank of Taqwa, or Kind Hearts[.]
52. All documents and communications concerning the sale or use of firearms by Masjid At-Taqwa, the Zam Zam Shop, or At Taqwa Bookstore, including but not limited to security personnel or caretakers.
59. All documents and communications concerning the April 13, 2012 meeting referenced in ¶ 88 of the complaint, including but not limited to copies of invitations for the meeting.⁸
60. All documents and communications concerning the “Napoleon event,” referenced in ¶ ¶ 95 and 96 of the complaint.⁹
64. Complete and provide the annexed authorizations for release of all tax records requested herein.

INTERROGATORIES¹⁰

5. Identify the members of Masjid Al-Ansar believed to be surveilled or investigated by the NYPD, as alleged in ¶ 60 of the complaint.
6. Identify the congregants whom Imam Raza discouraged from discussing certain religious topics or concepts, as alleged in ¶ ¶ 62-64.
8. Identify all persons referenced in ¶ ¶ 73-74 of the complaint, including
 - a. Persons who have warned Imam Raza about newcomers or have shared suspicions that newcomers might be police Informants; or

⁸ Defendants proposed converting this request to an interrogatory that would seek the identities of the attendees of an FSNYC meeting. The Court was “not persuaded” by this request. Conference Tr. 96:14.

⁹ Defendants proposed converting this request to an interrogatory that would seek the identities of FSNYC members who told Mr. Dandia that they would cease their activities with the organization. *See* Conference Tr. 96:20–97:6.

¹⁰ For several of the interrogatories, where the identities of individual Plaintiffs and leaders of the organizational Plaintiffs were responsive, Plaintiffs have already disclosed those names.

- b. Newcomers who have reacted to this reception with “alarm” or who have told Imam Raza that “the environment at the mosque is hostile to them, that longstanding congregants view newcomers with suspicions, or that newcomers are excluded from many facets of social life at the mosque.”
9. Identify all persons who are “constantly worried whether they are safe from police spying” or are “suspicious of their fellow worshippers”, as alleged in ¶ 75 of the complaint.
10. Identify all persons referenced in ¶ 76 of the complaint, including persons (a) who grew even more suspicious of newcomers after the Associated Press began reporting on the NYPD’s surveillance; (b) whose fears have increased from the confirmation of NYPD surveillance; (c) who have declined to attend afternoon prayers on weekdays; or (d) who have declined to attend prayers at any time on any day; or (e) who declined to attend the mosque due to surveillance by the NYPD.
11. Identify all persons who were active members of Fesabeelilah (“FSNYC”), who donated to FSNYC, or who regularly attended FSNYC events, as alleged in ¶ 81 of the complaint[.]
12. Identify all persons who Dandia introduced to Shamiur Rahman in 2012, as alleged in ¶ 84 of the complaint.
17. Identify the persons present at the “Napoleon event” referred to in ¶ 95 of the complaint, including but not limited to, all speakers, invitees, and attendees.
18. Identify all members who told Dandia that they would cease their activities with FSNYC “largely because they were fearful of being spied upon by an NYPD Informant ” as alleged in ¶ 95 of the complaint.
19. Identify the members of Muslims Giving Back who were gathered together outside Masjid Omar in September 2012, and the “friend” who attempted to end the conversation with Rahman, as alleged in ¶¶ 101 and 102.
20. Identify all persons inside Masjid Omar whom Rahman attempted to engage in discussions concerning political developments in the Middle East in September 2012, including all persons who left, “saying that they were not comfortable having the discussion”, as alleged in ¶ 102 of the complaint.
25. Identify the members of Muslims Giving Back who were allegedly concerned with drawing attention from law enforcement after promulgation of Rahman’s identify, as alleged in ¶ 110 of the complaint.
27. Identify the congregants of Masjid At-Taqwa who were “intimated” or who suffered anxiety purportedly from the NYPD surveillance camera, as alleged in ¶¶ 116-117 of the complaint.

28. Identify all congregants who spoke with mosque leaders concerning feelings of intimidation, anxiety, or concern, or who “started staying away from the mosque” by reason of the NYPD surveillance camera, as alleged in ¶ 117 of the complaint.
34. Identify all congregants who expressed discomfort with the presence of third party witnesses to their counseling conversations, or who have been prevented from receiving complete religious guidance, as alleged in ¶ 126 of the complaint.
37. Identify all persons who suspected that Rahman was an informant, including but not limited to the congregant who complained to Imam Adam that Rahman “was questioning people in the mosque about the September 11, 2001 attacks”, and the congregants who were being questioned, as alleged in ¶ 131 of the complaint.
38. Identify all persons referenced in ¶ 132 of the complaint, including but not limited to, all congregants who purportedly behave like informants; all congregants who complained to Imam Adam about the congregants “who behaved like informants;” and the persons who were told to leave the mosque by Imam Adam.
43. Identify all persons or entities whose relationship with Elshinawy has purportedly been affected by NYPD surveillance, including but not limited to: persons in Elshinawy’s audiences; “longtime friends” who have stopped attending his sermons; “longtime friends” who have stopped associating with Elshinawy; and any other person who reduced their contact or association with Elshinawy by reason of his being the subject of surveillance or investigation by the NYPD, as alleged in ¶¶ 149-152.
44. Identify all Brooklyn Islamic Center (“BIC”) leaders who expressed fear or concern of being scrutinized by the NYPD as a result of surveillance or investigation of Elshinawy by the NYPD.
45. Identify all founding members of Masjid Al-Ansar who purportedly discouraged Elshinawy from holding a leadership position or serving on the mosque’s board due to concerns that Elshinawy was the subject of surveillance or investigation by the NYPD, as alleged in ¶ 155 of the complaint.
47. Identify all Brooklyn Islamic Center event organizers who purportedly wanted to avoid drawing a large attendance to the lecture of a “prominent Islamic scholar” for fear of prompting NYPD surveillance or who relayed that information to Elshinawy, or who forbade Elshinawy from helping to advertise events hosted by the Brooklyn Islamic Center due to concerns that Elshinawy was the subject of surveillance or investigation by the NYPD, as alleged in ¶ 159 of the complaint.
53. Identify all fundraising events and activities held or organized by plaintiffs and the amounts collected from each event.
55. Identify any and all employers of plaintiffs Raza, Dandia, and Elshinawy, both past and present, including the name, telephone number and address of each employer and the dates (month and year) of each employment.

56. Identify each occasion, if any, on which plaintiffs Raza, Dandia, and Elshinawy have been arrested, including the (i) date and location of the arrest, (ii) all charges for which the person was arrested, and (iii) the disposition of each charge (including expunged). This request includes all arrests in any jurisdiction.

Exhibit B

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

HAMID HASSAN RAZA; MASJID AL-ANSAR;
ASAD DANDIA; MUSLIMS GIVING BACK;
MASJID AT-TAQWA; MOHAMMAD ELSHINAWY,

Plaintiffs,

v.

No. 13-cv-03448-PKC-JMA

CITY OF NEW YORK; MICHAEL R. BLOOMBERG,
in his official capacity as Mayor of the City of New
York; RAYMOND W. KELLY, in his official capacity
as Police Commissioner for the City of New York;
DAVID COHEN, in his official capacity as Deputy
Commissioner of Intelligence for the City of New York,

Defendants.

DECLARATION OF IMAM HAMID HASSAN RAZA

I, Hamid Hassan Raza, hereby declare and state as follows pursuant to 28 U.S.C. § 1746:

1. I am a named plaintiff in this action and the imam of the named plaintiff Masjid Al-Ansar.
2. Masjid Al-Ansar is a Muslim house of worship. We hold daily prayer services, provide religious education and counseling to our congregants and community members, and seek to foster an inclusive religious community, especially for youth.
3. Masjid Al-Ansar and I joined this lawsuit as plaintiffs because of the negative impact that the unwarranted surveillance of the mosque by the New York City Police Department (“NYPD”) is having on the religious ministry and community at Masjid Al-Ansar. As described in the Complaint, the surveillance and fear of surveillance have bred mistrust in the community. My congregants have accused each other of being informants for the NYPD, and I

have myself altered my speech on religious topics and kept distance from my congregation because of fear that NYPD informants may take anything I say out of context and use it against me. As a result of the NYPD surveillance, there has been a decline in mosque attendance for daily prayers. These are all matters I would describe if deposed.

4. I have reviewed Defendants' First Set of Interrogatories and Requests for Production of Documents. I am concerned that responding to many of those requests will compound the negative impact that the NYPD surveillance has had already.

5. Many of the document requests and interrogatories call for information regarding our congregants, including information concerning the names of congregants who have expressed discomfort about the NYPD surveillance and as a result have distanced themselves from Masjid Al-Ansar. Disclosure of such information is a violation of the trust my congregants have in me, and it would be contrary to my responsibility as the imam to create a comfortable and trusting environment at the mosque. Congregants have told me over the years about their fear of being scrutinized by the NYPD and potentially subjected to unjustified criminal investigation simply because of our religion. If I disclose to NYPD the identities of our congregants who wish to remain anonymous, those people will certainly feel that they cannot trust me anymore. I am also afraid that disclosing names of congregants would subject those people to the very surveillance that we are challenging just because of their affiliation with Masjid Al-Ansar. I am therefore afraid that such disclosure will have a chilling effect on my congregants' religious practices, their religious affiliation with Masjid Al-Ansar and lead to a steeper decline in attendance at the mosque.

6. I am also afraid that disclosure of internal documents that detail Masjid Al-Ansar's work and speech activities, including financial documents that reveal identities of

individuals who have paid to take religious classes or who have made donations, will have a negative impact on our ability to raise funds and to create religious education opportunities. Our financial records also include expenditures on religious literature that we use for educational purposes. We filed this lawsuit precisely to stop the government from learning all of this information. If we disclose this information to the NYPD, the individuals who support us through donations or come to us for religious education and counseling will be far less likely to associate with us in any way knowing that we cannot keep confidential their personal information, and religious belief, speech, and activities.

7. In addition, some of the document requests ask for all communications and documents related to a broad set of topics, such as “current events,” “terrorism,” and “jihad.” These requests probe into a wide range of my religious speech and communications. For example, in the course of one sermon, I said that “Islam has no place for terrorism,” I condemned those who advocate for violent jihad, and I discussed obesity as the leading cause of death in the United States. All three statements are responsive to the City’s document requests. Disclosing all of my speech that contained any of those types of statements will mean disclosure to the NYPD of years of my religious speech. The prospect that everything that I have said and written about religion and current events will end up in the NYPD’s hands concerns me deeply. It will further chill my religious speech going forward if what I say will end up in the NYPD’s files. This is the type of scrutiny that I wanted to prevent in bringing this lawsuit.

8. I understand that there is now a Protective Order in place in the case. Even with the Protective Order in place, however, disclosure of information in response to the document requests and interrogatories would reveal to attorneys for New York City and the NYPD sensitive financial information and vast and detailed amounts of my religious speech. It would

also reveal the identities of members of our congregation who wish to remain anonymous, their religious beliefs, and the details of their religious speech, beliefs, and activities. In addition, my congregants are likely to feel extremely anxious if the City attorneys contacted them about this case. I am afraid that this would chill my congregants' religious activities even more and make them further distance themselves from Masjid Al-Ansar.

9. I have told my congregants that the right way to challenge government actions that we disagree with, like the unlawful surveillance of our mosque, is to challenge it in court. I am afraid that if we are required to disclose the requested documents and information, that would deter our congregants and others from challenging government actions through lawsuits or collaborating with other efforts to enforce their rights.

I declare under the penalty of perjury that the foregoing is true and correct.

DATE: March 29, 2014
New York, New York


HAMID HASSAN RAZA

Exhibit C

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

HAMID HASSAN RAZA; MASJID AL-ANSAR;
ASAD DANDIA; MUSLIMS GIVING BACK;
MASJID AT-TAQWA; MOHAMMAD ELSHINAWY,

Plaintiffs,

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CITY OF NEW YORK; MICHAEL R. BLOOMBERG,
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as Police Commissioner for the City of New York;
DAVID COHEN, in his official capacity as Deputy
Commissioner of Intelligence for the City of New York,

Defendants.

DECLARATION OF ASAD DANDIA

I, Asad Dandia, hereby declare and state as follows pursuant to 28 U.S.C. § 1746:

1. I am a named plaintiff in this action and a co-founder and former vice-president of the named plaintiff Muslims Giving Back. I am also a current member of Muslims Giving Back.

2. Muslims Giving Back is an organization that promotes and engages in charitable activities in furtherance of Islam's central tenet of charity and assistance to the needy. It collects donations from its members and community members, which it uses to provide food and other assistance to low-income individuals in New York City. It also conducts outreach and raises awareness about Islam.

3. Muslims Giving Back and I joined this lawsuit as plaintiffs because of the negative impact that the surveillance of the organization by the New York City Police Department ("NYPD") has had on our ability to collect donations and fulfill our organizational

mission. Because of NYPD surveillance and fear of surveillance, our organization suffered a loss in donations, and some members and other community partners distanced themselves from us. I personally lost friends after Shamiur Rahman revealed himself to be an NYPD informant who had infiltrated my organization and circle of friends. These are all matters I could describe if deposed.

4. I have reviewed Defendants' First Set of Interrogatories and Requests for Production of Documents. I am concerned that responding to many of those requests will compound the negative impact that NYPD surveillance has had already on me and Muslims Giving Back.

5. Specifically, many of the document requests and interrogatories ask for information regarding donors, members, and volunteers of Muslims Giving Back, including identities of individuals who were at specific meetings and events of Muslims Giving Back. Many of these individuals have expressed concern to me in the past about being subjected to NYPD scrutiny just because they are Muslim. They fear that if they even talk about NYPD surveillance, they would be subjected to further scrutiny. For example, after Shamiur Rahman revealed himself as an NYPD informant, some of my friends refused to attend a civil rights awareness workshop that discussed NYPD surveillance. They feared that even being at such an event would result in the NYPD singling them out for more unfair scrutiny. I am afraid that disclosing those names would subject those people to the very surveillance that we are challenging, solely because of their affiliation with Muslims Giving Back.

6. If Muslims Giving Back or I were to disclose information to the NYPD about our members, donors, and people who come to our events, it would be as if we ourselves were acting as NYPD informants. This would undermine the trust that donors, members and volunteers have

in Muslims Giving Back, chill their willingness to participate in the work of the organization, and lead to a loss of membership and donations for Muslims Giving Back. If we were required to provide sensitive information to the NYPD, it would also have a broader negative impact on Muslims Giving Back's standing in the communities in which we work. Those communities will be suspicious of Muslims Giving Back, and concerned that affiliation with or acceptance of donations from Muslims Giving Back would expose them to police scrutiny.

7. I am also afraid that disclosure of internal documents that detail the work of Muslims Giving Back, including financial documents that reveal the identities of organizations that we work with, individuals who donate to us, and those who benefit from our charity, will have a negative impact on our ability to effectively carry out our mission. Information about donors and the low-income individuals and families who we help is very sensitive. Muslims Giving Back takes seriously the obligation to safeguard such personal information. If Muslims Giving Back were to disclose that information to the NYPD, people would be less likely to donate in the future or to accept our help and donations knowing that the organization does not protect the confidentiality of the information. We filed this lawsuit precisely to stop the government from learning all of this information.

8. In addition, some of the document requests ask for all communications and documents about a broad set of topics, including current events and personal religious beliefs. I routinely engage in discussion of current events, communicating with friends about issues ranging from homelessness to the death of Nelson Mandela to the NYPD's stop and frisk policies. Often, my discussions of current events are intertwined with my religious beliefs. For example, for me, the need to combat poverty and promote peace abroad are religious obligations. The NYPD's requests for this kind of information frighten me. If I had to provide this kind of

information to the NYPD, I would feel deeply uncomfortable about engaging in discussions of current events and religion. I know that Muslims Giving Back's officers and members would feel the same way about providing the organization's communications about any such matters to the NYPD. This is the type of police scrutiny that I and Muslims Giving Back wanted to prevent in bringing this lawsuit.

9. I understand that there is now a Protective Order in this case. Even with the Protective Order in place, however, disclosure of information in response to many of the document requests and interrogatories would reveal to attorneys for New York City and the NYPD the identities of people who wish to remain anonymous, their religious beliefs, and their charitable activities. In addition, as most of those individuals do not have an understanding of litigation, I am afraid that they would feel extremely uncomfortable if the City attorneys contacted them about this case, as they would not know what it is about or whether they are in trouble because of their affiliation with Muslims Giving Back. I am afraid that this would have the chilling effect of leading people to distance themselves, or to further distance themselves, from Muslims Giving Back.

10. Muslims Giving Back and I are plaintiffs in this lawsuit in order to stand up for our rights and the rights of our community. We want to be a model for other youth. However, I am afraid that requiring us to disclose the requested documents and information would deter members of Muslims Giving Back and community members from challenging unlawful government actions through lawsuits or working with others to enforce our rights.

I declare under the penalty of perjury that the foregoing is true and correct.

DATE: March 29, 2014
New York, New York



ASAD DANDIA

Exhibit D

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

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ASAD DANDIA; MUSLIMS GIVING BACK;
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Defendants.

DECLARATION OF OSMAN A. ADAM

I, Osman A. Adam, hereby declare and state as follows pursuant to 28 U.S.C. 1746:

1. I am the assistant imam of the named plaintiff Masjid At-Taqwa.
2. Masjid At-Taqwa is a Muslim house of worship. We hold daily prayer services, provide religious education and counseling to the congregants and community members, and seek to foster an inclusive religious community.
3. Masjid At-Taqwa is a plaintiff in this lawsuit because the unwarranted surveillance of the mosque by the New York City Police Department (“NYPD”) is having a deeply negative impact on our religious ministry. The NYPD surveillance has made congregants anxious, and has impeded our congregation’s ability to practice our religion and express our faith. It has resulted in a decline in participation in our congregation and in our community events. These are matters that I and other leaders of Masjid At-Taqwa can testify to if we were

deposed.

4. I have reviewed Defendants' First Set of Interrogatories and Requests for Production of Documents. I am concerned that responding to many of those requests will compound the negative impact that NYPD surveillance has had already.

5. Many of the document requests and interrogatories call for information regarding our congregants and community members, including the names of all congregants who have expressed anxiety to me and other religious leaders about the NYPD surveillance, as well as those who have distanced themselves from Masjid At-Taqwa as a result of their discomfort with NYPD surveillance. These are the very people who were anxious that the NYPD was intruding upon their religious affiliation and practices, including people who feared that NYPD scrutiny would result in retaliation, such as adverse impact on their immigration status, solely because of their religious affiliation. The NYPD is also asking for the names of congregants who come to us for religious counseling. If the mosque leaders were to disclose any of these names to the NYPD, it would be a violation of our congregants' trust. There is an assumption of confidentiality over our conversations with congregants, and it is our obligation to protect our congregants' identities and keep confidential the matters that congregants bring to us as their religious and spiritual advisors. Such a violation of trust would chill our congregants' religious practice and affiliation with us and lead to a further decline in the membership of our congregation. I am also afraid that disclosing those names would subject those people to the very surveillance that we are challenging, solely as a result of their affiliation with Masjid At-Taqwa.

6. I am also afraid that disclosure of internal documents concerning Masjid At-Taqwa's community work, speech, and religious activities, including financial documents that

might reveal identities of individuals who have made donations or documents that might reveal identities of individuals who are taking classes with us, will have a negative impact on our ability to raise funds and fulfill our religious mission. Donor information is particularly sensitive because Islam requires donors to be discreet about their charitable activities and because many of our donors want to give anonymously. We filed this lawsuit precisely to stop the government from learning all of this information. If we disclose this information to the NYPD, the individuals and organizations that support us through donations or participate in religious activities will likely be chilled in their associations with us and will be less likely to associate with us knowing that we cannot keep confidential their personal information and speech activities. For these reasons, disclosure of the requested documents and information would impede our ability to fulfill our religious mission.

7. Financial documents also contain information about our charitable activities. Part of our mission is to help those in need in our congregation and community. Some of the documents regarding such charity will reveal names of people we are helping. We must keep this information confidential, to respect the dignity of the people who we help. Beneficiaries of our own charity efforts will be less likely to associate with the mosque if their identities are disclosed to the NYPD. For these reasons, disclosure of the requested documents and information would impede our ability to fulfill our charitable mission.

8. The distrust of the NYPD is high in our community because of the history of unfair profiling of Muslims. If any person knows that Masjid At-Taqwa is turning over sensitive information about congregants and community members to the NYPD, people would distance themselves from us. They would see us as equivalent to an informant.

9. In addition, some of the document requests ask for all communications and

documents related to a broad set of topics, including current events. These requests probe into a vast amount of speech activity of the Masjid. We speak about current events often, for example by asking our congregants to pray for victims of wars and natural disasters around the world. The prospect that every expression that can be attributed to the Masjid about current events will end up in the NYPD' hands is extremely concerning. This is the type of scrutiny that we wanted to prevent in joining this lawsuit.

10. I understand that there is now a Protective Order in place in this litigation. Even with the Protective Order in place, however, disclosure of information responsive to the document requests and interrogatories would reveal to attorneys for New York City and the NYPD contents of Masjid At-Taqwa's religious speech, as well as identities of members of our congregation who wish to remain anonymous, their religious beliefs, and the details of their religious and expressive activities. In addition, I am afraid that our congregants and community members would feel extremely uncomfortable if the City attorneys contacted them in relation to this case, as they would not know what it is about or whether they are in trouble because of their affiliation with Masjid At-Taqwa. This would chill the community members' and congregants' religious affiliation with us and make them further distance themselves from Masjid At-Taqwa.

I declare under the penalty of perjury that the foregoing is true and correct.

DATE: March __, 2014
New York, New York

03-30-2014



OSMAN A. ADAM

Exhibit E

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

HAMID HASSAN RAZA; MASJID AL-ANSAR;
ASAD DANDIA; MUSLIMS GIVING BACK;
MASJID AT-TAQWA; MOHAMMAD ELSHINAWY,

Plaintiffs,

v.

No. 13-cv-03448-PKC-JMA

CITY OF NEW YORK; MICHAEL R. BLOOMBERG,
in his official capacity as Mayor of the City of New
York; RAYMOND W. KELLY, in his official capacity
as Police Commissioner for the City of New York;
DAVID COHEN, in his official capacity as Deputy
Commissioner of Intelligence for the City of New York,

Defendants.

DECLARATION OF MOHAMMAD ELSHINAWY

I, Mohammad Elshinawy, hereby declare and state as follows pursuant to 28 U.S.C. § 1746:

1. I am an individual named plaintiff in this action.
2. I am a lecturer on Islam, and I have been giving sermons and teaching classes at various Muslim institutions in New York City for over eleven years.
3. I joined this lawsuit as a plaintiff because of the negative impact that the New York City Police Department's ("NYPD") surveillance of me has had on my personal and religious life and on my ability to serve my role as a mentor and advisor to the youth. Because of concerns about surveillance I have altered the content of my lectures and refrained from holding study circles in public locations. Friends and mosques have distanced themselves from me because they justifiably believe that I am someone who is likely to trigger surveillance. This belief stems from my and others' interactions with NYPD officers and agents; common

knowledge that the NYPD takes an interest in scholars whom it considers Salafi and influential; and reporting by the Associated Press. These are all matters I would describe if deposed.

4. I have reviewed Defendants' First Set of Interrogatories and Requests for Production of Documents. I am concerned that responding to many of those requests will compound the negative impact that NYPD surveillance has had already.

5. Many of the document requests and interrogatories call for the identities of audience members of my lectures, as well as the identities of other individuals, including religious leaders, who have expressed concerns about associating with me due to the NYPD surveillance. I believe these individuals wish to remain anonymous, as some have expressly told me that they fear being unfairly targeted for government scrutiny because of their association with me. I am afraid that those people will further distance themselves from me if I disclose their names to the NYPD. I am also afraid that disclosing those names would subject those people to the very surveillance that I am challenging in this lawsuit, merely because of their association with me. In addition, I fear that if I disclose the identity of people who attend my sermons or lectures, religious institutions and leaders will understandably further limit my ability to hold such events or leadership positions in the community, therefore chilling my ability to engage in religious speech and activities.

6. I am also afraid that producing documents that detail my speech and religious activities, including documents regarding study circles that I have held and rafting and camping trips that I organized, will have a chilling effect on the organizations and individuals that work with me and a negative impact on my ability to carry out my religious mentorship work. I am a Plaintiff in this lawsuit because I want to stop the government from targeting me and scrutinizing my activities solely because of my religion. If I am required to turn over this information to the

NYPD, the organizations and individuals that participate in these activities are likely to further distance themselves from me, knowing that I cannot keep their information confidential. In addition, because there is so much fear of NYPD informants in the communities to which I minister, if I provide sensitive information to the NYPD, I, too, will likely be seen as an informant. The communities within which I work and preach would no longer trust me and that would significantly harm my religious goals and activities.

7. In addition, some of the document requests ask for all communications and documents related to a broad set of topics, including my religious speech and communications related to current events. This would appear to include all my sermons and communications about what Muslim individuals and communities should do to achieve a just and peaceful world, and to prevent economic and social injustices, oppression of minorities, atrocities, and wars. They go so far as to seek communications that my father and I may have had about events that, to my knowledge, took place when I was less than 10 years old, or organizations that have not existed since I was around that age. I am gravely troubled that the NYPD is seeking to probe into everything I have said about religious matters or current events. If I am required to disclose this kind of information, I would be far less likely to speak on any of these matters even though they are part of my religious ministry. This is the type of scrutiny that I wanted to prevent in joining this lawsuit. Disclosure in response to these requests and many others will cause me to further alter and censor my speech and religious practice.

8. I understand that there is now a Protective Order in place in the case. Even with the Protective Order in place, however, disclosure of the information responsive to document requests and interrogatories would reveal to attorneys for New York City and the NYPD a wide range of my religious speech, beliefs, and practices. It would also reveal the identities of people

who have attended my lectures but wish to remain anonymous, their religious beliefs, and their religious and expressive activities. In addition, I am afraid that they would feel extremely uncomfortable if the City attorneys contacted them about this case, as they would not know what it is about or whether they are in trouble because of their affiliation with me. I am afraid that this would make them distance themselves from me even more than before, and that it would lead other religious leaders and lecture attendees to avoid me as well.

9. I joined this lawsuit as a plaintiff because I did not want the NYPD to learn about every detail of my religious speech, beliefs, and activity. If the NYPD now obtains wide-ranging discovery of my expressive activities, it would accomplish exactly what I had feared.

I declare under the penalty of perjury that the foregoing is true and correct.

DATE: March 29, 2014
New York, New York



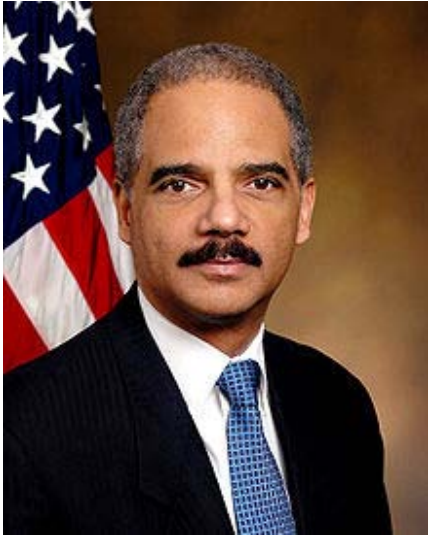
MOHAMMAD ELSHINAWY

Exhibit F



Confronting Discrimination in the Post-9/11 Era: Challenges and Opportunities Ten Years Later

*A Report on the Civil Rights Division's Post-9/11 Civil Rights Summit
Hosted by George Washington University Law School
October 19, 2011*



“The President’s pledge for a new beginning between the United States and the Muslim community takes root here in the Justice Department where we are committed to using criminal and civil rights laws to protect Muslim Americans. A top priority of this Justice Department is a return to robust civil rights enforcement and outreach in defending religious freedoms and other fundamental rights of all of our fellow citizens in the workplace, in the housing market, in our schools and in the voting booth.”

-Attorney General Eric Holder



“Today, we are simply using the long-standing tools in our arsenal to address an emerging challenge that threatens the freedom of individuals who want nothing more than for their families to be accepted in their communities, to live their lives and practice their faith in peace, and to realize the American Dream. We will continue to use every available tool in our law enforcement arsenal to transform this headwind of intolerance into a tailwind of inclusion and opportunity.”

-Assistant Attorney General for Civil Rights
Thomas E. Perez

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Introduction

Within hours after the United States was attacked by terrorists on September 11, 2001, the phones at the Arab American Institute in Washington, D.C., started ringing. Members of the Arab-American community from around the country were receiving threats and did not know what to do. Although the office had been ordered to evacuate due to its proximity to the White House, Dr. James Zogby, the organization's founder and president, and other staff stayed to accept the calls. By the next day, Dr. Zogby's own life had been threatened.



Dr. James Zogby, Arab American Institute

As calls flooded into the Arab American Institute the afternoon of September 11, Amardeep Singh, who would go on to cofound The Sikh Coalition to respond to the backlash discrimination and violence, started driving from Washington, D.C., where he had been living, to his family home in New Jersey. His mother and fiancée called and pled with him to remove his turban, a Sikh article of faith that is not to be removed, but he refused, responding, “No, no, this is my country. This is not gonna happen here.” When Singh stopped at a drive-thru to pick up food, his mother begged, “Please don’t stop. Please don’t stop. Please don’t stop.” When Singh finally arrived safely in New Jersey, he learned that a Sikh man in nearby Queens who had been praying for victims of the attacks had been severely beaten with a baseball bat as he left the Gurdwara (Sikh house of worship).

Meanwhile, Amber Khan, now the corporate secretary of Muslim Advocates, was scared and frightened for her brothers in rural Tennessee and for her recent immigrant relatives who “were barely verbal and comfortable articulating their rights as Americans, unable to fathom and comprehend the devastation and the tragedy that was taking place in their new home.”

On September 19, 2001, Khan, Zogby and other advocates gathered at the National Japanese-American Memorial in Washington, D.C., along with political and religious leaders and veterans, including Japanese-American veterans who had survived the internment. Their purpose was to stand up in solidarity against the violent backlash they were already witnessing, and to send a message that what happened to Japanese Americans after Japan's attack on Pearl Harbor during

“The organism was in shock. The whole body of America was in shock, and when a body is in shock, it reacts, and it reacts in different ways. One of the ways it reacts is to strike out at threats: real, imagined.”

“[T]he second day, I got the first death threat. It was, ‘Zogby you Arab dog. You’ll die. I’ll murder you and slit the throats of your children.’ It stung. It stung both because of the personal threat of what it represented, but also as I described it, we were in mourning collectively as a country and then someone decided to say to me, ‘you can’t be part of this,’ and pulled me away. I had to look over my shoulder; I couldn’t just be part of this process of grief that was engulfing the rest of the country.”

-Dr. James Zogby, Arab American Institute

World War II should never happen to those wrongly associated by virtue of their faith or ethnicity with the attacks on 9/11.

Ten years later, on October 19, 2011, these stories and others were recounted at a summit sponsored by the Department of Justice (DOJ) Civil Rights Division and hosted by George Washington University (GWU) School of Law. Members of the advocacy, faith, government, and academic communities gathered that day on two panels to share their experiences on and after 9/11 and to take a look back at the Division's response to the backlash, and also to look forward at remaining challenges and emerging opportunities in the Division's continued outreach and enforcement efforts. Researchers from the Pew Research Center also presented important findings from their recent survey of Muslim Americans.



Amber Khan of Muslim Advocates, Amardeep Singh of The Sikh Coalition, and Dr. James Zogby of the Arab American Institute participated at the summit at GWU on October 19, 2011

The terrorist attacks of 9/11 were an attack on all Americans. Like other Americans, many Arab, Muslim, Sikhs, and South Asian Americans lost friends and loved ones. Like all Americans, members of these communities experienced the anger and grief of seeing their country attacked and their families, neighbors, and country put at risk of future attack. But these communities suffered in an additional way from the terrorist attacks: they were the victims of a backlash of hate crimes and discrimination by those who somehow believed that an attack on innocents could be avenged by attacks on other innocents who shared the perceived ethnicity or religion of the terrorists.

As discussed at the summit and summarized in the “Looking Back: The Post-9/11 Backlash” section of this report, the Division responded quickly after 9/11 to address a wave of hate crimes and increased discrimination against Arab, Muslim, Sikh, and South Asian Americans. The Division created a template to deal with the backlash, which entailed three major elements: (1) a clear and plain statement to the American people that Arab, Muslim, Sikh, and South Asian Americans are Americans too, and that hate crimes and discrimination against them would not be tolerated; (2) outreach to the affected communities; and (3) coordination of civil rights enforcement across agencies at all levels of government.

In the first six years after 9/11, the Department investigated more than 800 incidents involving violence, threats, vandalism, and arson against persons perceived to be Muslim or of Arab, Middle Eastern, or South Asian origin. In the decade after 9/11, the Division prosecuted 50 defendants in 37 different cases, obtaining convictions of 45 defendants. In addition, the Division investigated and pursued a number of important civil cases to address unlawful discrimination on the basis of religion or national origin. In the education context, for example,

the Division addressed harassment of Arab, Muslim, Sikh, and South Asian American children in public schools. The Division also worked with the Equal Employment Opportunity Commission to protect these communities from discrimination in the workplace, and to ensure that individuals are not forced to choose between their jobs and their faith by, for example, having to remove a headscarf or turban at work. Finally, the Division ramped up efforts to enforce religious land use protections to respond to an increase in anti-Muslim bias in zoning. Since 9/11, the Division has opened more than 28 matters involving efforts to interfere with the construction of mosques and Islamic centers.

Notwithstanding these efforts and accomplishments, and as summarized in “The Pew Survey on Muslim Americans” section of this report,” Muslim Americans report that they continue to experience high levels of discrimination and that bigotry and intolerance by non-Muslims are among the biggest problems affecting their community.



George Washington University School of Law Dean Paul Schiff Berman (at the podium) set the tone for the summit and introduced Deputy Attorney General James Cole (seated)

Clearly, the Division’s post-9/11 backlash work is not finished. Advocates who participated in the summit offered specific recommendations for the Division going forward, which are summarized in the “Looking Forward: Remaining Challenges, Emerging Opportunities” section of this report. Their recommendations fall into three primary categories: (1) acknowledge the relationship between civil liberties and civil rights; (2) support certain policy changes to strengthen the law; and (3) bolster outreach and public education efforts.

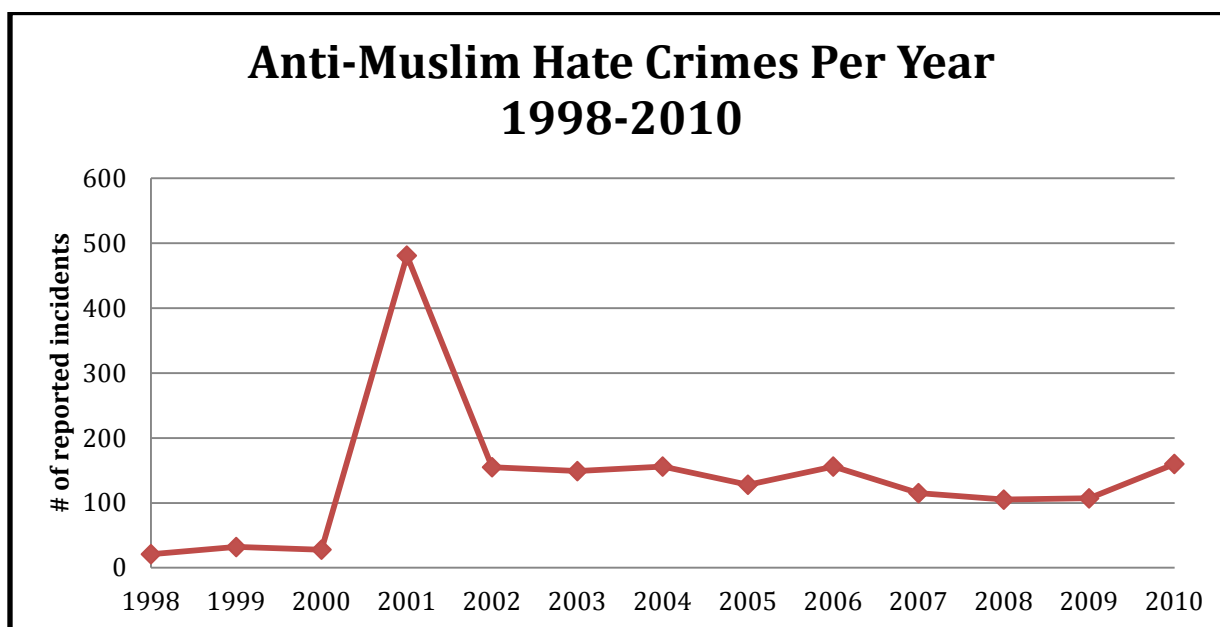
“This kind of stereotyping and hate runs counter to the basic values of equality and religious liberty on which this Nation is founded. We must never allow our sorrow, our anger at the senseless attack of 9/11, to blind us to the great gift of our diversity in this Nation. All of us must reject any suggestion that every Muslim is a terrorist or that every terrorist is a Muslim. As we have seen time and again – from the Oklahoma City bombing to the recent attacks in Oslo, Norway – no religion or ethnicity has a monopoly on terror.”

“The Justice Department is doing everything possible to protect the national security and to keep America safe from those who would do us harm. We will never waiver in that commitment, but we also, fully and completely, are committed to protecting the civil rights and the civil liberties of all of our people. Those two critical goals are not inconsistent. While to some it might seem easier to focus only on national security with little regard for civil rights or the Constitution, or conversely to protect civil rights and civil liberties at the cost of national security, we at the Department disagree. We can, we must, and we will do both.”

- Deputy Attorney General James Cole

Looking Back: The Post-9/11 Backlash

As Dr. Zogby recounted, the first threats of violence and acts of violence against people perceived to be Arab, Muslim, Sikh, and South Asian occurred within hours of the 9/11 attacks. The violence intensified for the next three weeks, eventually tapering off but never falling below the levels documented before 9/11. **The Federal Bureau of Investigations (FBI) reported a 1,600% increase in anti-Muslim hate crime incidents in 2001.**



This chart maps FBI data collected from 1998 to 2010, pursuant to the Hate Crimes Statistics Act, on crimes motivated by anti-Muslim bias.

Although the violence decreased after the first three weeks, it was soon replaced by other bias-related incidents, including discrimination in education, employment, and religious land use. At the same time, new law enforcement and immigration policies developed in response to the terrorist attacks appeared to target people from Arab and Muslim countries, such as the now-discontinued special registration program for certain immigrants from specified countries. Such policies were perceived by members of those communities as sending a mixed message regarding the government's commitment to protect them from hate crimes and discrimination.

Responding to the Backlash

The Civil Rights Division, which is charged with enforcing federal laws that criminalize acts of violence motivated by, and that prohibit discrimination based on, a person's race, religion, or national origin, among other characteristics, did not have a system in place before 9/11 to address the sudden and unexpected backlash against Arab, Muslim, Sikh, and South Asian Americans. Under the leadership of former Assistant Attorney General Ralph Boyd, and with the guidance and dedication of many hardworking career staff in the Division, including some who were members of communities targeted by the backlash, the Division quickly created a template for responding to the new wave of violence and discrimination.



Former Assistant Attorney General Ralph Boyd. Boyd led the Division from 2001 to 2003.

Boyd explained that the template had three elements. The first element required “a very clear and plain statement to the American people” from then-leaders in the Executive Branch, particularly DOJ. Statements were immediately issued by President George W. Bush, Attorney General John Ashcroft, and FBI Director Robert S. Mueller III, as well as by Boyd and others, with a threefold purpose: (1) to convey a message about American values and to encourage the American people “not to tolerate difference and diversity in people from affected and vulnerable communities, but rather to

“Those who feel like they can intimidate our fellow citizens to take out their anger don’t represent the best of America, they represent the worst of humankind, and they should be ashamed of that kind of behavior.”

-President George W. Bush



President George W. Bush addressed an Islamic Center in Washington, DC, on September 17, 2001.

embrace them as being us”; (2) to “remind Americans that Muslims and Arabs and Sikhs and South Asians . . . were also victims of the September 11th attacks and they were also first responders”; and (3) “to send a very clear warning to those people who were not committed to playing by the rules and living within the law . . . that [our] commitment was, ‘if you break the law, if you discriminate, if you threaten, if you commit acts of violence, we will find you and we will prosecute you — fairly, but certainly.’”

The second element of the Division’s template for responding to the backlash required “boots on the ground . . . [to] conduct outreach to vulnerable people in communities.” Boyd explained that there was “a lot of multilateral learning and communication that needed to go on to identify issues and concerns.” To protect victims from the backlash, the Division created “something of a risk assessment matrix” to prioritize issues by level of immediacy and severity, “starting with the most serious type of criminal concerns and then moving to lower . . . but certainly important, unlawful discrimination issues.” This required gathering information from potential victims about threats and other concerns. DOJ officials immediately reached out to leaders within the affected communities, including Dr. James Zogby of the Arab American Institute and Amardeep Singh of the newly formed Sikh American Coalition. But

“We must not descend to the level of those who perpetrated Tuesday’s violence by targeting individuals based on their race, their religion, or their national origin. Such reports of violence and threats are in direct opposition to the very principles and laws of the United States and will not be tolerated.”

**-Attorney General John Ashcroft,
September 12, 2001**

compared to other minority groups with longer histories in the United States, Arab, Muslim, Sikh, and South Asian Americans did not have strong community organizations in place at that time. As Amber Khan, the Corporate Secretary of Muslim Advocates explained, her organization did not exist on 9/11. Rather, it later emerged from a list-serve of Muslim lawyers to fill a gap. Similarly, religious leaders, who were used to presiding over marriages and funerals, suddenly found themselves serving as spokespeople on important civil rights issues. Notwithstanding these challenges, **DOJ leaders within the first few months after 9/11 attended more than 100 meetings and events with representatives from the Arab, Muslim, Sikh, and South Asian communities.**



James Zogby (speaking), Deputy Assistant Attorney General Roy Austin, and Former Assistant Attorney General Ralph Boyd

“I called [Assistant Attorney General] Ralph [Boyd] and asked him to host a meeting. I actually asked him to do it the following week, and [he] decided to do it two days later.”

-Dr. James Zogby,
Arab American Institute

The third and final element of the Division’s template required coordination among law enforcement and civil rights agencies across the federal government and at all levels of state and local government. Boyd explained that the Department “created a special backlash crime task force that was staffed with some of the most experienced federal prosecutors within the federal system, both from the Criminal Section within the Civil Rights Division as well as Assistant U.S. Attorneys within the various U.S. Attorney’s Offices across the country.” The task force was responsible for creating a clearinghouse for documenting complaints of threats of violence and actual violence, conducting investigations, referring cases to state and local prosecutors where appropriate, and, where the facts and the law warranted federal action, prosecuting those acts.

Similarly, to address violations of civil anti-discrimination laws, the Division also created a backlash discrimination team within the Division’s existing National Origin Working Group to document reports of discrimination, track complaints, and make referrals to the appropriate section within the Division or other government agency that might have jurisdiction to investigate and, if necessary, file a lawsuit. The team conducted outreach to affected communities and, in 2002, published brochures explaining civil rights protections in diverse languages, including Arabic, Farsi, and Punjabi. To help coordinate those efforts, the position of Special Counsel on Post-9/11 National Origin Discrimination was created. Currently, the Special Counsel for Religious Discrimination continues coordinating most of the Division’s backlash work.

Prosecuting Hate Crimes

In the first few months after 9/11, DOJ investigated more than 350 backlash-related criminal complaints, resulting in more than 70 state and local criminal prosecutions and 12 federal prosecutions. Ultimately, the federal cases included prosecutions of three different individuals who threatened Dr. James Zogby in the first five years after 9/11.

Examples of hate crimes the Division and United States Attorney's Offices prosecuted immediately after 9/11 include:

"The threats were nothing new. My life had been threatened before. My office had been fire-bombed in 1980. Never a prosecution ever. Since 9/11, three people who threatened my life had gone to jail. I'm not proud of it, but I'm pleased to know that there is somebody there to defend me."

**-Dr. James Zogby,
Arab American Institute**

- **Attack on a Seattle Mosque.** Two days after 9/11, Patrick Cunningham attempted to set fire to cars in the parking lot of a Seattle mosque and then fired a gun at worshippers. He pled guilty and was sentenced to 78 months in prison.
- **Fire-Bombing of a Pakistani Restaurant.** Two days after 9/11, James Herrick poured gasoline on and ignited the wall of a Pakistani-American restaurant in Salt Lake City, Utah. He pled guilty and was sentenced to 51 months in prison.
- **Mail Threats.** One month after 9/11, Wesley Fritts mailed fake anthrax and a threat to an Arab-American restaurant in Janesville, Wisconsin. He pled guilty and was sentenced to 21 months in prison.

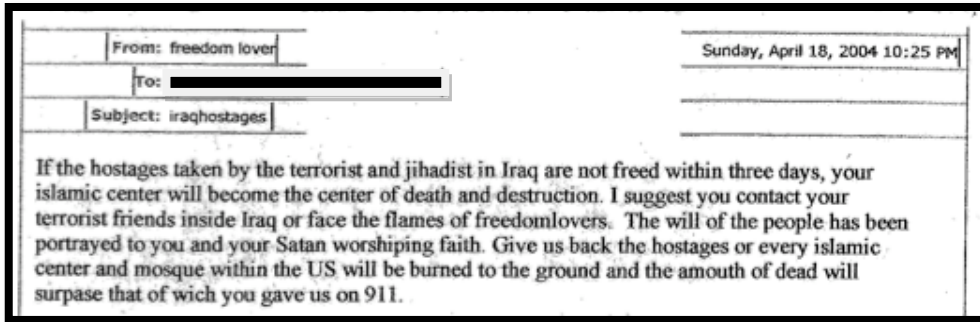


This Florida mosque was damaged after Franklin crashed his truck into it.

Although the number of hate crimes decreased in 2002, the Division continued to aggressively investigate and prosecute violent acts targeting members of affected communities. For example, the Division prosecuted Charles Franklin, who, on March 25, 2002, intentionally crashed his truck into a Florida mosque. Franklin was convicted of obstructing the free exercise of religion, in violation of the Church Arson Prevention Act. He was sentenced to 27 months in prison and ordered to pay \$63,669 in restitution.

Sikhs also were targeted at a high rate after 9/11, as reported by the media and Sikh community advocates, and confirmed by an internal Civil Rights Division study. For example, on May 28, 2003, Matthew John Burdick shot and wounded a Sikh postal carrier in Sacramento, California. The Division prosecuted Burdick, who pled guilty and was sentenced to 70 months in prison and ordered to pay \$25,395 in restitution.

In the first six years after 9/11, the Department investigated more than 800 incidents involving violence, threats, vandalism, and arson against persons perceived to be Muslim or Sikh, or of Arab, Middle Eastern, or South Asian origin. In the decade after 9/11, the Division prosecuted 50 defendants in 37 different cases, obtaining convictions of 45 defendants.



The Division prosecuted Jared Bjarnason for sending this email (above) to a mosque in Texas, threatening to burn it down and kill anyone inside if American hostages held in Iraq were not released. Bjarnason pled guilty and was sentenced to 18 months in prison.



The Division prosecuted Eric Kenneth Nix for blowing up this van (left) belonging to a Palestinian-American family. The van was parked in front of the family's home in Burbank, Illinois. Nix was sentenced to 15 months in prison, and his co-conspirator, Daniel Alba was sentenced to 6 months' home confinement.

The Division prosecuted three men who destroyed this Islamic center (right) in Tennessee. The men spray-painted swastikas and "white power" on it and then set it on fire. They received sentences of 15, 14 and 6 years in prison.



Protecting Students from Bullying and Religious Discrimination

Enforcing laws that prohibit harassment and discrimination in public schools is an important part of the Division's post-9/11 backlash work.



When a public middle school in Muskogee, Oklahoma, prohibited 12-year-old Nashala Hearn from wearing a headscarf required by her Muslim faith, the Division intervened to argue that the school was using its uniform policy in a discriminatory manner, in violation of Hearn's constitutional rights. The case was settled by a consent decree that ordered the school to change its dress code to accommodate religious clothing.

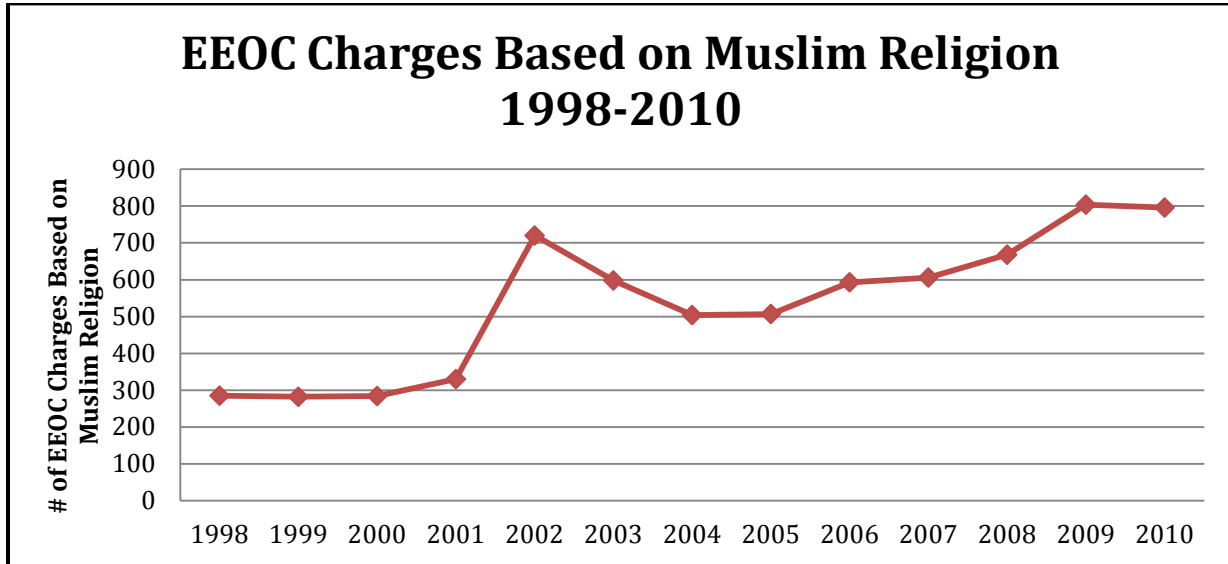
The Division can address bullying when it rises to the level of harassment. For example:

- **Harassment of Somali-American Students.** Somali-American students in Owatonna, MN, reported that they were severely harassed by their classmates and disproportionately disciplined by school officials. The Division and the Department of Education's Office for Civil Rights reached a settlement agreement with the school district that required, among other measures, adoption of an anti-harassment policy, training for faculty and staff, and establishment of a working group composed of district personnel, parents, and students.
- **Harassment of a Muslim Fourth Grader.** A teacher in Cape Henlopen, Delaware, reportedly ridiculed a fourth-grade student in front of her classmates because of the student's Muslim faith and because her mother wore a headscarf. Consequently, the student was also harassed by her peers, and she missed several weeks of school as a result of emotional distress. After conducting an investigation, the Division reached a settlement with the school district that required religious tolerance programs for students and teachers, as well as special training and monitoring for the teacher.

Addressing Discrimination in Employment

The Division shares responsibility with the Equal Employment Opportunity Commission (EEOC) for enforcing laws that prohibit discrimination in employment, including discrimination based on national origin or religion. EEOC statistics show a marked increase in claims alleging discrimination based on Muslim faith since 2001. Although the number of complaints filed decreased after 2002, complaints alleging anti-Muslim bias in the workplace are now the highest they have ever been. As illustrated in the chart below, the EEOC received 803 such complaints

alleging discrimination on the basis of Muslim religion from September 2008 to September 2009, a 20% increase from the previous year.



EEOC Commissioner Stuart J. Ishimaru explained that, immediately after 9/11, then-EEOC Chair Cari Dominguez joined DOJ and other government officials in issuing a strong statement condemning discrimination against Arab, Muslim, Sikh, and South Asian Americans. Dominguez made clear that employment discrimination was illegal and that victims could file a complaint with the EEOC. In addition, the agency worked with the Division and other partners to expand its outreach and to educate employers about their legal responsibilities to prevent unlawful discrimination. The agency also created a new tracking system to document backlash-related complaints.



EEOC Commissioner Stuart J. Ishimaru

“Within three months after the attacks, 166 charges – formal charges – were filed with the EEOC alleging backlash discrimination. A hundred of these raised the issue of discharge, and harassment was raised in some 60 cases.”

-EEOC Commissioner
Stuart J. Ishimaru

The Division has focused its efforts on ensuring that Muslims are not forced to choose between their faith and their jobs. Some examples of the Division’s religious accommodations cases include:

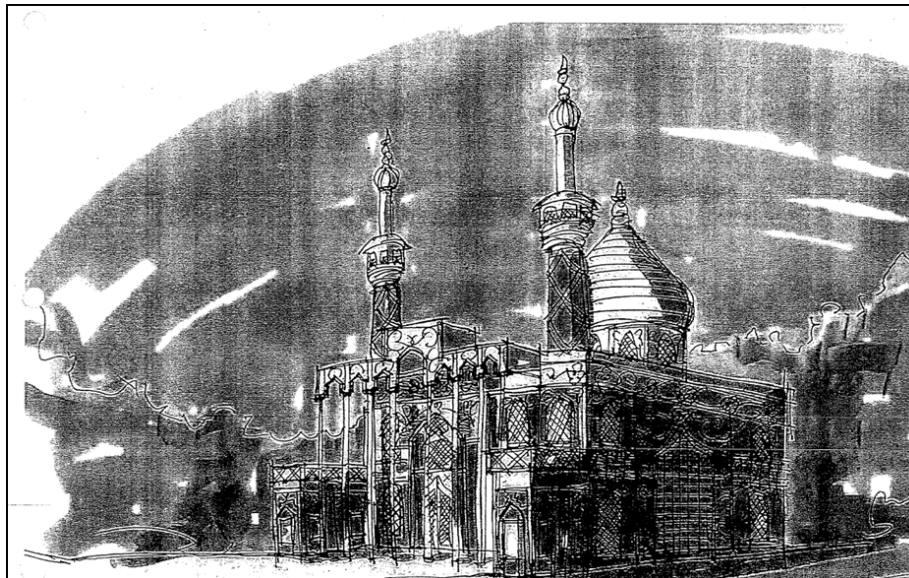
- **Denial of Unpaid Time-Off for Religious Pilgrimage.** A Muslim middle-school teacher in Illinois was denied an unpaid leave of absence to perform *hajj*, a religious

pilgrimage. The Division entered a settlement agreement requiring the school district to pay the teacher \$75,000 in back pay, damages, and attorney's fees, and to develop a leave policy that reasonably accommodates the religious beliefs and practices of all current and prospective employees, as required by law. The district also agreed to train its leadership and managers on the new policy.

- **Prohibition of Religious Head Covering.** A Muslim female corrections officer in Essex County, New Jersey, was prohibited from wearing a headscarf at work. The Division resolved the case by consent decree, requiring the county to adopt a policy for providing reasonable accommodation of employees' sincere religious beliefs, observances, and practices; training staff on the new policy; and providing back pay to the officer.
- **Refusal to Accommodate Work Schedule for Religious Observance.** A Muslim school bus driver in Plano, Texas, had, for many years, been provided a work schedule that allowed him to attend Friday prayers. His new supervisor refused to continue the accommodation. The Division reached an agreement with the school district that required it to continue accommodation of the driver's schedule.

Guaranteeing Religious Land Use

One year before 9/11, Congress passed the Religious Land Use and Institutionalized Persons Act (RLUIPA) to protect against government infringement of religious liberty in two areas: local land-use laws, such as zoning and landmarking ordinances, and the religious exercise of persons confined to institutions. While Muslims comprise approximately 1% of the American population, 14% of the Division's RLUIPA land-use investigations in the statute's first ten years involved mosques or Muslim schools. In Lilburn, Georgia, for example, the Division and the



This is a drawing of the proposed Islamic center in Lilburn, Georgia.

local U.S. Attorney's Office sued the city under RLUIPA when it rejected the Dar-E-Abbas Shia Islamic Center's requests for rezoning to construct a mosque. The complaint alleged that the city's rejection of the rezoning applications was based on the anti-Muslim bias of city officials and members of the public, and that the city treated Dar-E-Abbas differently than non-Muslim religious

groups that had been granted similar rezoning requests. The parties reached a consent decree that required the city to approve the zoning application; to not impose different zoning or

building requirements on Dar-E-Abbas or other religious groups; to publicize its nondiscrimination policies and practices; to train its leaders, managers, and certain other city employees on the requirements of RLUIPA; and to adopt new procedures that clarify its complaint process for zoning and permitting decisions regarding houses of worship.

Other notable cases include:

- **Eminent Domain Taking of Mosque's Land.** The Division investigated allegations that Wayne Township, New Jersey delayed a mosque's building application for more than three years and then tried to stop the building project by seizing the property under eminent domain. The Division argued that the township's use of eminent domain power to bypass zoning regulations could violate RLUIPA, and the court agreed. The parties ultimately settled the case, and the Division closed its investigation.
- **Opposition to Muslim School's Plans to Build a Mosque.** A Muslim school in Morton Grove, Illinois, encountered community opposition to its plans to build a mosque on its property, which may have been driven by anti-Muslim bias. The Division opened an investigation, and, after mediation by the Department of Justice's Community Relations Service, Morton Grove entered into an agreement with the Division that permitted the school to build the mosque subject to certain conditions.
- **Denial of Rezoning Request to Construct a Mosque.** When Henrico County, Virginia, denied a congregation's request to rezone a piece of property from commercial to residential so that it could build a mosque, the Division filed a complaint alleging that various churches had been granted such requests and pointed to derogatory comments about Muslims in the course of the zoning process. The case was resolved by a consent decree that permitted the mosque to be built and imposed training and record keeping requirements on the county.

Since 9/11, the Division has opened 28 matters involving construction of Muslim religious institutions. Of those, 18 have been opened since May 2010, suggesting that anti-Muslim bias in zoning is on the rise.

Recently, the Division filed a friend-of-the-court brief in a case where neighbors of a proposed mosque in Murfreesboro, TN, challenged the county's grant of a building permit on the ground that Islam was not a religion entitled to First Amendment protection, but rather a political ideology, committed to turning America into a *sharia* state:

in other words, the mosque's building application should not be considered as a church's application would be. The Division argued that Islam is clearly a religion; a mosque is plainly a place of worship; and the county acted

"A mosque is quite plainly a place of worship, and the county rightly recognized that it had an obligation to treat mosques the same as churches, synagogue, or any other religious assemblies. This is not only common sense; it is required by federal law. The Justice Department is committed to protecting rights of Americans of all faiths to build places of worship and to worship in peace."

**-Thomas E. Perez,
Assistant Attorney General for Civil Rights**

correctly in treating the application as it would treat an application from any other religious institution. The court agreed and dismissed the case in May 2011.

The Pew Survey on Muslim Americans

In August, the Pew Research Center for the People and the Press released a new survey on the Muslim American community. The survey, entitled “Muslim Americans: No Signs of Growth in Alienation or Support for Extremism,” includes important findings relevant to the Civil Rights Division’s post-9/11 backlash work.

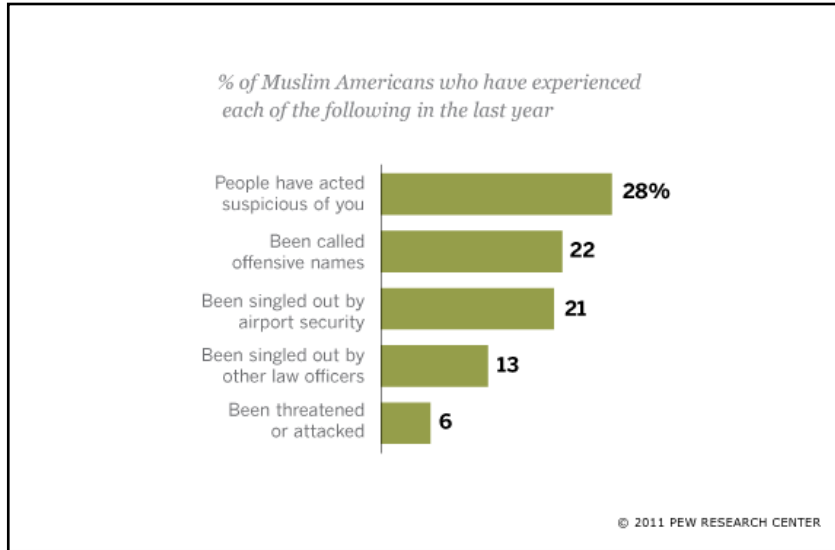


Dr. Scott Keeter (at the podium) of the Pew Research Center and Dr. Gregory A. Smith (far right) of the Pew Forum on Religion and Public Life discussed key findings of their survey on Muslim Americans. The panel was moderated by Eric Treene (center), Special Counsel for Religious Discrimination at the Department of Justice Civil Rights Division.

“One thing that we did find in our polling immediately in the aftermath of 9/11 is that there was a very clear sense in the data that President Bush’s statement to not blame all Muslims, to make distinctions and not lay upon the Muslim-American population a responsibility for what happened on 9/11, seemed to actually make a difference, because the groups that became more favorable to Muslim Americans in the aftermath of 9/11 were actually [those] who had had the most negative views beforehand. So, we made an inferential leap there that there certainly was evidence that part of the audiences that the President was speaking to at that time . . . took it to heart.”

-Dr. Scott Keeter,
Director of Survey Research, Pew Research Center

For example, and as illustrated below, the survey confirmed that the American public's perception of the Muslim-American community continues to differ in some ways from the community's own, and that bigotry and discrimination persist.



Muslim Americans Say Most Want to Assimilate ...

Most Muslims who come to the U.S. today want to*...	U.S. Muslims		General public
	2007 %	2011 %	2011 %
Adopt American customs and ways of life	--	56	33
Be distinct from the larger American society	--	20	51
Both (Vol.)	--	16	4
Don't know		8	12
		100	100

How many of your close friends are Muslims?

	U.S. Muslims	General public
All of them	12	7
Most of them	35	41
Some of them	40	36
Hardly any/None (Vol.)	11	15
Don't know	2	*
	100	100

And a Large Majority Says Hard Work Leads to Success

Which comes closer to your view?

	U.S. Muslims	General public
Most people can get ahead if they're willing to work hard	71	74
Hard work and determination are no guarantee of success	26	26
Other/Don't know	3	3
	100	100

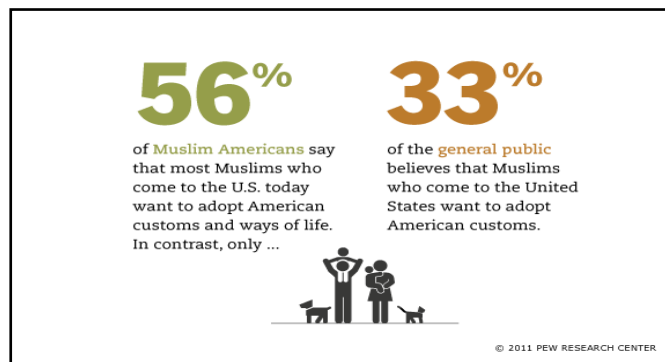
Rating of personal financial situation:

	U.S. Muslims	General public
Excellent/Good shape	42	46
Only fair/Poor shape	52	53
Don't know	6	1
	100	100

PEW RESEARCH CENTER 2011 Muslim American Survey. Q35, Q32, Q14b, Q202. Figures may not add to 100% because of rounding.
 * General public asked about "most Muslims in our country today."

“When we ask Muslim Americans to tell us in their own words about the most important problems facing the Muslim-American community, the theme that emerges is one of intolerance, discrimination, and ignorance. Nearly three in ten Muslim Americans tell us that negative views toward Muslims on the part of non-Muslims is one of the most serious problems facing the Muslim-American community. In a similar vein, 20% say discrimination, prejudice, and unfair treatment are major problems; 15% tell us that there is a lot of ignorance of Islam, and that this is very problematic; and then 7% cite religious and cultural problems between Muslims and non-Muslims.”

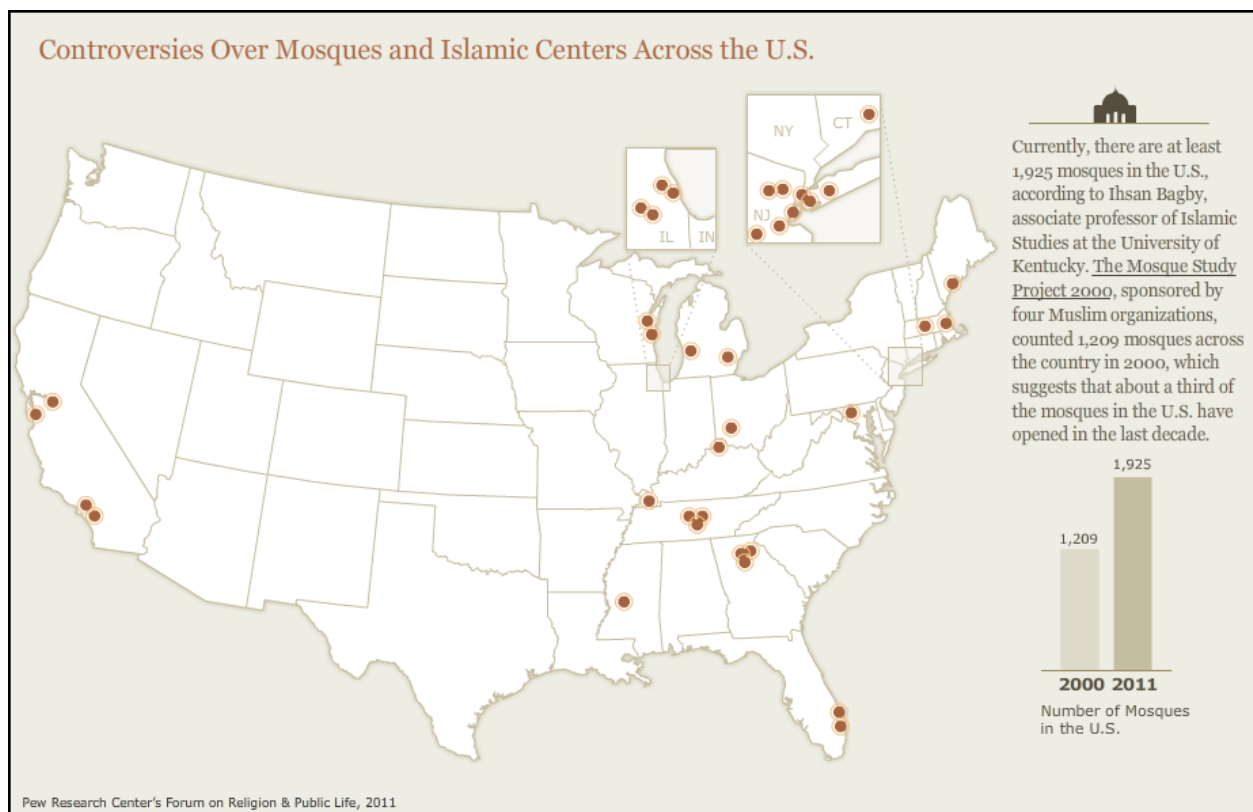
**-Dr. Gregory A. Smith,
Pew Forum on Religion and Public Life**



Some portions of the Muslim-American population have reported experiencing more hostile acts than others:

- More men (46%) than women (39%)
- More young people ages 18-29 (56%) than adults ages 30-54 (35-50%) and older adults over the age of 55
- More native-born (54%) than foreign-born (37%)
- More South Asians from other countries (51%) than South Asians from the Middle East (41%) or Pakistan (30%)
- More among those who identified as having high religious commitment (55%) than those with medium (39%) or low (37%) commitment

The survey also revealed that the Division’s enforcement of religious land use protections seems to be addressing a clear need: **25% of Muslim Americans surveyed said that mosques or Islamic centers in their communities had been the subjects of controversy or hostility; 15% reported that such a building was the target of vandalism or other hostile acts within the past year; and 14% said that there was opposition to building a mosque or Islamic center.**



Last updated on September 29, 2011

Finally, despite these findings, the survey revealed that 56% of Muslim Americans are satisfied with the way things are going in the United States, and 82% are satisfied with the way things are going in their own lives.

Looking Forward: Remaining Challenges, Emerging Opportunities

The Division's post-9/11 backlash work is not finished. Hate crimes and discrimination against Arab, Muslim, Sikh, and South Asian Americans are at levels higher than they were before 9/11. As the Division continues its vigorous civil rights enforcement on behalf of these communities, it should also consider addressing certain remaining challenges. Advocates who participated in the summit identified three primary challenges and opportunities for DOJ and the Division going forward.



From left to right: Mazen Basrawi, Counsel to the Assistant Attorney General for Civil Rights; Sahar F. Aziz, Associate Professor of Law, Texas Wesleyan School of Law; Dwight C. Holton, Former U.S. Attorney and current Senior Litigation Counsel, District of Oregon; Imam Mohamed Magid, President, Islamic Society of North America and Imam, ADAMS Center; and Rabbi David Saperstein, Director and Counsel, Religious Action Center for Reform Judaism, discussed remaining challenges and offered recommendations to the Civil Rights Division.

1. Acknowledge the Relationship between Civil Liberties and Civil Rights

Arab, Muslim, Sikh, and South Asian Americans continue to be very concerned about post-9/11 law enforcement and immigration policies, even though many of the programs adopted immediately after 9/11 are no longer in effect. According to the Pew Research Center's survey, 52% of Muslim Americans still believe that the government's antiterrorism policies single them out for extra scrutiny, and only one-third of Muslim Americans do not believe their community is singled out. This reality cannot be ignored, and advocates emphasized that they would like DOJ to do a better job of acknowledging that civil liberties violations by the government hamper the Division's ability to combat civil rights violations by private actors. Advocates offered the following specific recommendations:

- Produce More Tangible Reforms. When news reports surfaced last year that certain FBI training materials contained offensive stereotypes about Muslim Americans, DOJ officials publicly denounced the materials. At the same time, Deputy Attorney General James Cole ordered all DOJ components to reevaluate their training and training materials to ensure that they do not contain false statements and improper characterizations. Advocates said that they would like to see more swift action like this from the government when it comes to reviewing and correcting counterterrorism policies that may be flawed. They pointed out, for example, that they still do not know the full impact special registration requirements imposed on immigrants from certain Muslim countries immediately after 9/11 had on those communities.

On March 20, 2012, Deputy Attorney James Cole issued a memorandum to all DOJ component heads and United States Attorneys approving five overarching training guiding principles drafted by a working group chaired by the Civil Rights Division and constituted within the Attorney General's Arab-Muslim Engagement Advisory Group. The first principle requires that training "be consistent with the Constitution and Department values" and "must not disparage groups or individuals based on their race, religion, national origin, ethnicity, gender, disability, sexual orientation, gender identity, economic condition, political affiliation or other similar characteristics." The full memorandum is available on the DOJ website at <http://blogs.usdoj.gov/blog/archives/1944>.

- Minimize Racial Profiling. DOJ's 2003 guidelines on the use of race and ethnicity in law enforcement permit the consideration of race and ethnicity in national security investigations and do not prohibit any consideration of religion. Advocates recommended that the guidelines be revised to prohibit profiling regardless of the type of investigation and to add religious affiliation to the list of protected characteristics.
- Investigate State and Local Police Departments. Advocates expressed concern about reports that some major metropolitan police departments may be targeting Muslims in their law enforcement efforts and recommended that the Division investigate those agencies, which benefit from federal funding, for possible civil rights violations.

"We will continue to engage, we will continue to act, we will continue to reflect, and we will continue to recalibrate whenever necessary to ensure that the false choice that some would have between security and civil rights is indeed a false choice."

-Thomas E. Perez, Assistant Attorney General for Civil Rights

2. Support Certain Policy Changes to Strengthen the Law

Advocates offered the following policy suggestions:

- Bolster Protections in the Workplace. Under existing law, it is difficult to address "back of the bus" discrimination in the workplace – *i.e.*, treating employees equally when it comes to pay and promotions, but assigning Muslim and Sikh employees wearing religious garb, who might make customers feel uncomfortable, to positions where they do not have to interact with the public. Also, under existing law, there are some limitations on accommodations to practice one's religion in the workplace. Some of the advocates said that they would like to see changes in the law to address these issues.
- Expand Prohibitions of Religious Discrimination in Federally Funded Activities. Explicit prohibition of religious discrimination in federally funded activities, including law enforcement and public education, is limited under existing law. Some of the advocates stated that federal law should be amended to include more explicit protection, which

would strengthen the Division's authority to investigate religious-based bullying and anti-Muslim bias in policing.

- Track Hate Crimes against Sikhs. Although the FBI tracks hate crimes motivated by the victim's real or perceived religion, it currently does not track hate crimes committed specifically against Sikhs. Some of the advocates recommended that the FBI create a special tracking code for Sikhs to support the Division's outreach and criminal enforcement efforts.

3. Strengthen Outreach and Public Education Efforts

Advocates at the summit praised the Division for its outreach to vulnerable communities immediately after 9/11, and for much of the outreach it has continued during the subsequent decade. They offered several specific recommendations for bolstering those efforts.

- Be More Inclusive. Advocates recommended that the Division broaden its outreach to be more inclusive. The Division often meets with community groups and leaders that are well known, but may miss some groups with significant constituencies who should have a voice as well. Advocates stressed that the government should seek out community contacts with sufficient reach into communities to convey individuals' real concerns, and that outreach should include more women representatives to ensure that gender issues are also being addressed.
- Engage Both Muslim Communities and Neighboring Communities. Advocates expressed their preference for community engagement as a tool for fighting terrorism. Advocates also recommend that the Division, working with local U.S. Attorney's Offices around the country, do more to engage non-Muslims to help prevent bullying and to educate against Islamophobia, as former U.S. Attorney Dwight C. Holton has done in Oregon.
- Hold More Town Hall Meetings. Advocates spoke highly of the Division's use of town hall meetings and recommended that the Division hold even more town halls to collect information from affected communities regarding their experiences with hate crimes and backlash discrimination.

"I have often heard people mis-describe our engagement efforts as a need to go off and explain something, or a need to tell people something. That is completely backwards. The United States Attorneys' role in our engagement is to listen. And to learn how to do our job better and equip and empower people in the community to help us do our job on the civil rights side and on the national security side."

**Dwight C. Holton, U.S. Attorney's Office,
District of Oregon**

Conclusion

The Civil Rights Division has played a vital role in protecting Arab, Muslim, Sikh, and South Asian Americans from hate crimes and backlash discrimination in the decade since 9/11, but there is still a lot of work to be done. While the Division continues to vigorously enforce existing federal criminal civil rights laws to punish bias-related violence, as well as civil anti-discrimination laws to address prejudice and harassment in education, employment, and zoning, among other areas, it will be mindful of advocates' recommendations for addressing certain remaining challenges and emerging opportunities. As Assistant Attorney Thomas E. Perez said in his closing remarks, "the measure of the benefit of a conference is not simply the quality of the dialogue, but the quality of the follow-up."



Assistant Attorney General Thomas E. Perez thanked all of the summit panelists for their participation and for their feedback on the Division's post-9/11 backlash work.

While there is no single answer to what is a critically important civil rights concern, the Division recognizes the significance of the free flow of information and ideas that took place during this summit and will continue to seek opportunities to hear directly hear from the public.

For more information about the Division's work in this and other areas, please visit the website: <http://www.justice.gov/crt/index.php>. To view a video of the summit, please visit: <http://www.justice.gov/crt/pressroom/videos.php>.¹

¹ The Division is extremely grateful to George Washington University School of Law and Associate Professor Roger A. Fairfax for hosting the summit and to the panelists for their participation and thoughtful feedback and recommendations. The Division also acknowledges Sarah Steege, 2012 University of Michigan *juris doctor* candidate and Harvard Kennedy School masters in public policy candidate, for her assistance in drafting this report.