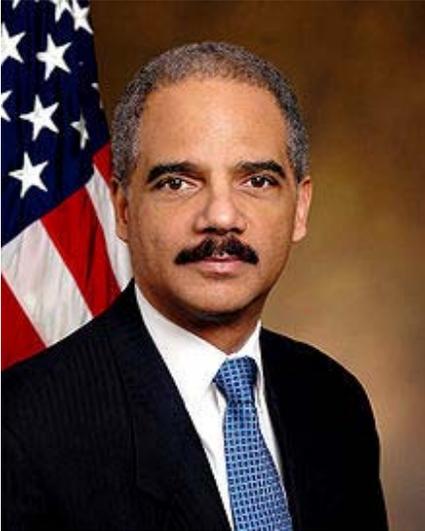




## **Confronting Discrimination in the Post-9/11 Era: Challenges and Opportunities Ten Years Later**

*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.

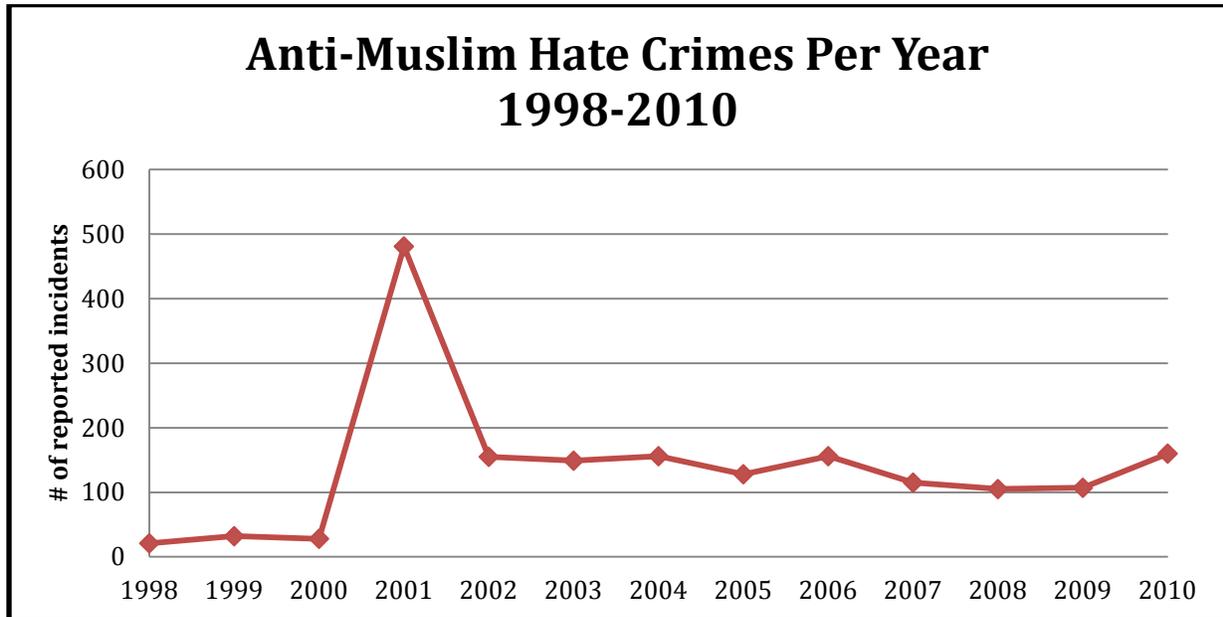
*“This kind of stereotyping and hate runs counter to the basic values of equality and religious liberty on which this Nation is founded. We must never allow our sorrow, our anger at the senseless attack of 9/11, to blind us to the great gift of our diversity in this Nation. All of us must reject any 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.

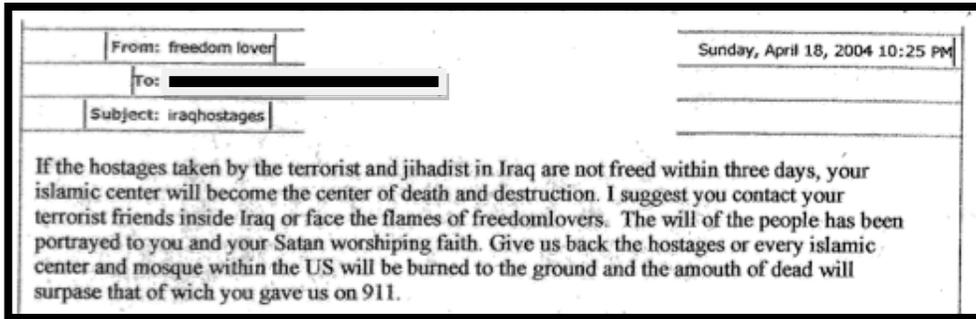


**This Florida mosque was damaged after Franklin crashed his truck into it.**

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.*

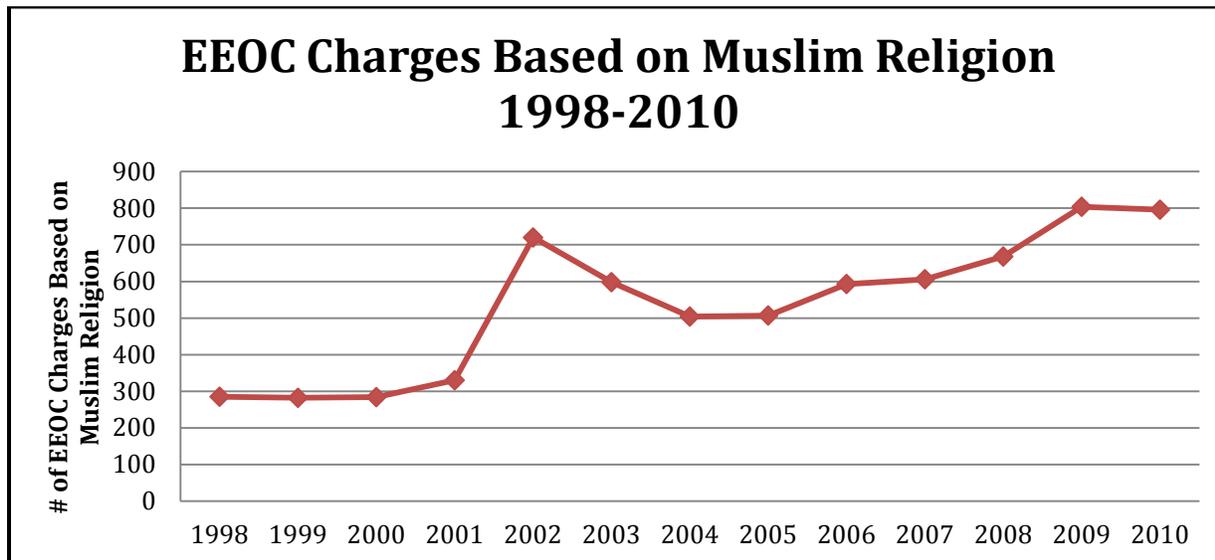
The Division can address bullying when it rises to the level of harassment. For example:

- **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:

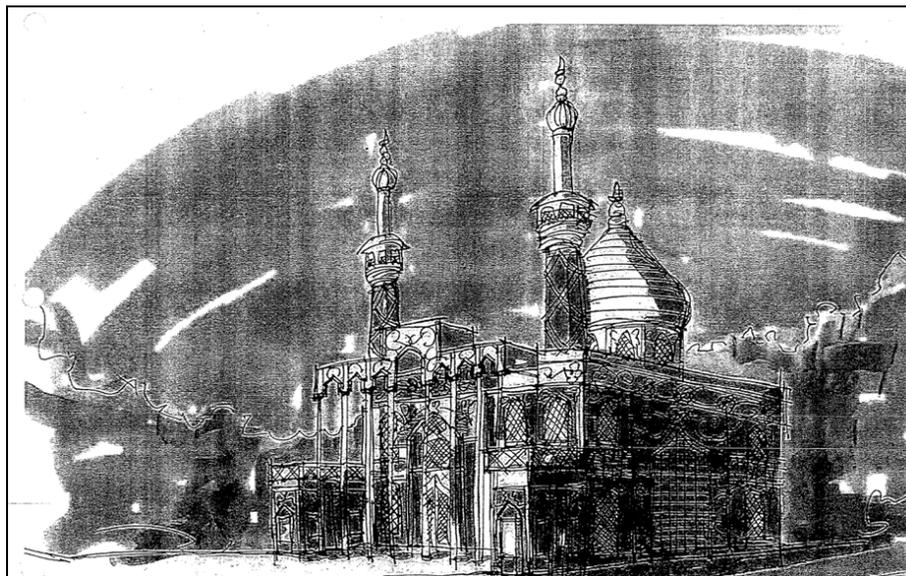
- **Denial of Unpaid Time-Off for Religious Pilgrimage.** A Muslim middle-school teacher in Illinois was denied an unpaid leave of absence to perform *hajj*, a religious

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:

**“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**

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

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.

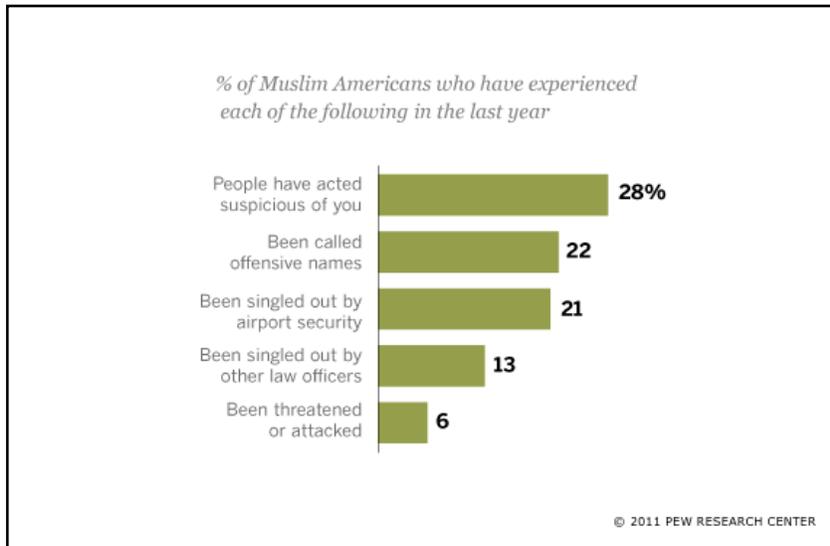


Dr. Scott Keeter (at the podium) of the Pew Research Center and Dr. Gregory A. Smith (far right) of the Pew Forum on Religion and Public Life discussed key findings of their survey on Muslim Americans. The panel was moderated by Eric Treene (center), Special Counsel for Religious Discrimination at the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



**“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**

### Muslim Americans Say Most Want to Assimilate ...

	U.S. Muslims		General public
	2007 %	2011 %	2011 %
<i>Most Muslims who come to the U.S. today want to*...</i>			
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
<i>How many of your close friends are Muslims?</i>			
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?*

Most people can get ahead if they're willing to work hard	71	74	62
Hard work and determination are no guarantee of success	26	26	34
Other/Don't know	3	1	3
	100	100	100

*Rating of personal financial situation:*

Excellent/Good shape	42	46	38
Only fair/Poor shape	52	53	61
Don't know	6	1	1
	100	100	100

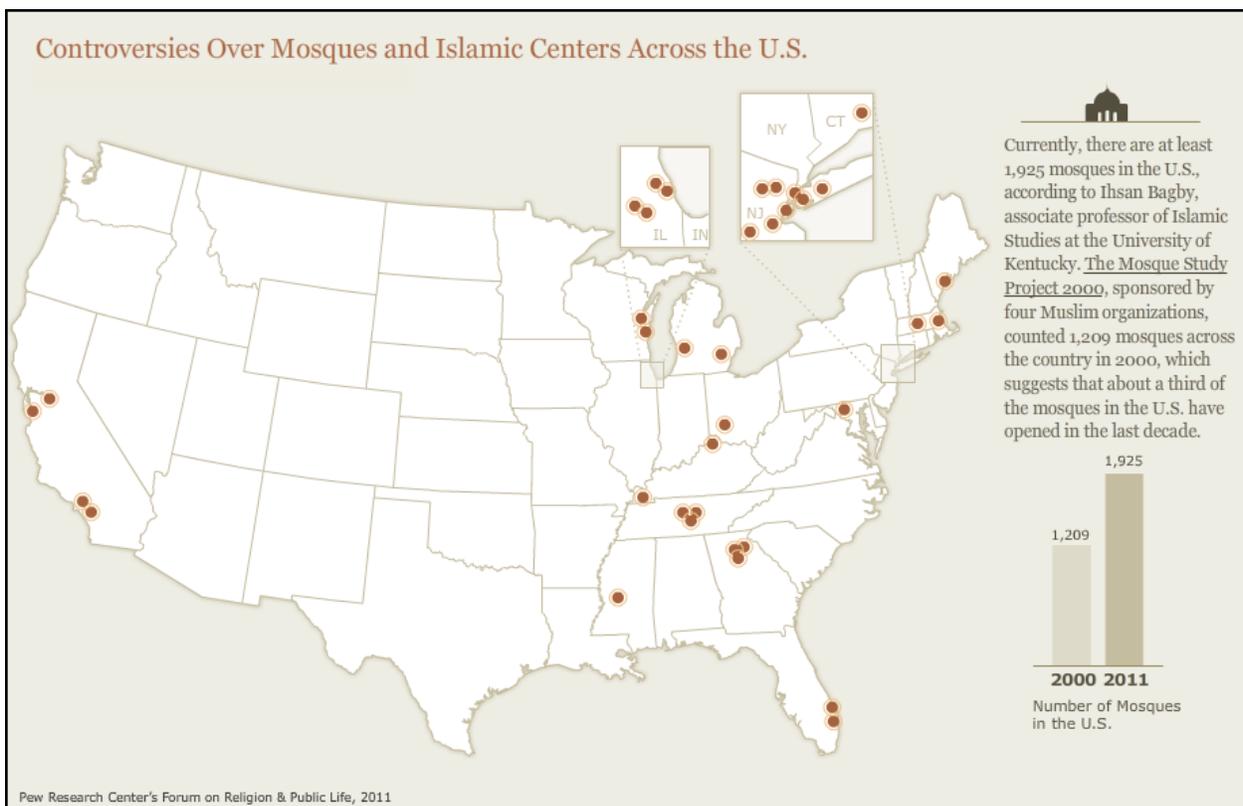
PEW RESEARCH CENTER 2011 Muslim American Survey. Q35, Q32, Q14b, Q202. Figures may not add to 100% because of rounding.  
\* General public asked about "most Muslims in our country today."



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>.<sup>1</sup>

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<sup>1</sup> 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.