



**STATEMENT OF JASPREET AND HANSDEEP SINGH, CO-FOUNDERS OF THE
INTERNATIONAL CENTER FOR
ADVOCATES AGAINST DISCRIMINATION (ICAAD)
FOR THE HEARING ON
HATE CRIMES AND DOMESTIC TERRORISM
SENATE COMMITTEE ON THE JUDICIARY
SUBCOMMITTEE ON THE CONSTITUTION, CIVIL RIGHTS AND HUMAN RIGHTS
UNITED STATES SENATE
SEPTEMBER 19, 2012**

Chairman Durbin, Ranking Member Graham and members of the Subcommittee: We are honored to submit this testimony for the record on behalf of the International Center for Advocates Against Discrimination (ICAAD) regarding today's hearing on hate crimes and domestic terrorism.

ICAAD is a nonprofit organization founded for the charitable purpose of eradicating structural discrimination globally, and to promote human rights norms consistent with public international law. Structural discrimination precludes minority or vulnerable communities from fully participating and contributing to the social, cultural, political, and economic fabric of a State. ICAAD believes at the root of hate crimes, domestic and international terrorism, and mass atrocities are policies and practices that discriminate against communities based on gender, ethnicity, religion, sexual orientation, race, national origin, disability, or other identities; hence, it is imperative to combat structural discrimination to prevent the "othering" of these communities. ICAAD's co-founders have worked extensively on hate crimes issues in the United States and as Sikhs themselves, have faced verbal and physical violence as a result of their visible external identity.

We thank you for holding this critical and timely hearing on hate crimes and domestic terrorism. ICAAD is particularly concerned about the lack of resources dedicated to the monitoring of hate crimes and domestic terroristic threats, and as a result, the prevention of atrocities like the shootings in August at the Sikh “Gurdwara” (place of worship) in Wisconsin, and the numerous other hate related incidents in the past few months, including arson, vandalism, and direct physical assaults of people of various vulnerable communities.

Today, we are facing unprecedented levels of bias-based crimes against religious groups and the LGBT community. However, there is a convincing link between a rise in hate rhetoric against specific communities and actual hate crimes perpetrated. Although the documentation of hate crimes by the FBI is severely flawed, it nonetheless provides a consistent measurement to assess patterns over the last two decades. For example, hate crimes motivated by religious bias have steadily increased over the last five years of recorded data (2005-2010). In 2005, 15.8 percent of all bias-based crimes were religiously motivated and, that number has now reached 18.3 percent in the most recent report published in 2010. This represents the highest rate of religiously motivated hate crimes in the 18 years since the FBI started tracking hate crimes nationwide in 1992.

The flaws in the FBI’s tracking of hate crimes have been well established. The Bureau of Justice Statistic’s 2005 report on hate crimes indicated that statistics of hate crimes are 15 to 19 times greater than the FBI’s reporting indicates. According to the Leadership Conference on Civil Rights:

In 2007, 13,241 U.S. law enforcement agencies participated in the FBI's HCSA data collection effort — the largest number of police agencies in the seventeen-year history of the Act. Yet, only 2,025 of these participating agencies — 15.3 percent — reported even a single hate crime to the FBI. As in past years, the vast majority of the participating agencies (84.7 percent) reported zero hate crimes. This does not mean that they failed to report; rather, they affirmatively reported to the FBI that *no hate crimes occurred in their jurisdiction*. In addition, more than 4,000 U.S. police agencies did not participate in this HCSA data collection effort — including at least four agencies in cities with populations of over 250,000 and at least 21 agencies in cities with populations between 100,000 and 250,000. In contrast to the FBI's HCSA data, the U.S. Department of Justice Bureau of Justice Statistics in 2005 reported sharply higher numbers of hate crimes committed in the U.S.: “An annual average of 210,000 hate crime victimizations occurred from July 2000 through December 2003. During that period an average of 191,000 hate crime incidents involving one or more victims occurred annually. Victims also indicated that 92,000 of these hate crime victimizations were reported to police. These estimates were derived from victim reports to the National Crime Victimization Survey (NCVS) of the Bureau of Justice Statistics (BJS).”¹

¹ Leadership Conference on Civil Rights, *Hate Crimes in America: The Nature and Magnitude of the Problem*, available at <http://www.civilrights.org/publications/hatecrimes/nature-and-magnitude.html>.

Furthermore, hate crimes against Sikhs for example, are not even coded in the FBI hate crimes forms.² If a hate crime against a Sikh is documented, it is often coded as a hate crime against Muslims. By not properly assessing both the motivation (*mens rea*) of the perpetrator and identifying the actual victim, the FBI has effectively silenced an entire community that has faced an untold number of hate crimes post 9/11.³ Moreover, federal resources are not dedicated to training law enforcement about the need to protect and interface with the Sikh community because there is no clear data that shows that Sikhs are an especially vulnerable target of hate, nor are there adequate resources dedicated to training law enforcement departments around the country to investigate or report hate crimes.

In a public meeting at a Gurdwara in Lawrenceville, NJ, Michael Ward, Special Agent in Charge of the Newark division, admitted that if Wade Michael Page -- the perpetrator of the heinous attacks in Wisconsin and a member of the Hammerskin Nation, one of the most violent white supremacist groups in the country -- was Muslim, there would have been more scrutiny on him through questioning and monitoring by law enforcement that would potentially have prevented him from executing the deadly attack. This is because there are a disproportionate amount of resources dedicated to tracking potential terroristic plots by Muslim extremists, rather than tracking potential plots based on intelligence that does not stem from profiling.

Instead of taking the threat of right-wing extremism seriously, our government has chosen to ignore the threat. In 2009, Daryl Johnson, a senior analyst in the U.S. Department of Homeland Security authored a report, *Rightwing Extremism: Current Economic and Political Climate Fueling Resurgence in Radicalization and Recruitment*, warning of the dangers of violent right-wing extremism in the United States. Following the publication of the report and the political and media backlash that ensued, Mr. Johnson reported that “DHS

² FBI Hate Crimes Incident Reporting Form, available at <http://www.fbi.gov/about-us/cjis/ucr/reporting-forms/hate-crime-incident-report-pdf>.

³ “In the months following the attacks of 9/11, more than 300 incidences of hate crimes against Sikhs were reported, according to the Sikh Coalition.” *History of Hate: Crimes Against Sikhs Since 9/11*, Huffington Post, available at http://www.huffingtonpost.com/2012/08/07/history-of-hate-crimes-against-sikhs-since-911_n_1751841.html.

made the decision to cancel all of its domestic-terrorism-related reporting and training for law enforcement,”⁴ and that “the Department not only decided to stop all of our work, but they also disbanded the unit, reassigned us to other areas within the office, and then made life increasingly difficult for us.”⁵

As is clear from the atrocious attacks on embassies in various countries in the Middle East in reaction to the hateful anti-Islamic film that was produced in the United States this past week, there is a parallel reaction in our own national discourse between hate violence and intolerant or hateful rhetoric. For example, in 2010, there was a rise in anti-Muslim hate crimes that correlate to the national dialogue surrounding the building of “mega-mosques,” the Park 51 Muslim community center in Manhattan, and the Florida pastor who threatened to burn the Quran on the anniversary of 9/11. The positions taken in the national media by public figures and talk-show hosts and the vitriolic discourse that ensued, all contributed to an increase of anti-Muslim sentiment in America. This is further exacerbated when governmental policies are based on profiling instead of intelligence.

The correlation is not only present when discussing anti-Muslim hate violence. In another example, hate crimes targeting the LGBT community have risen 36 percent between 2005 and 2010.⁶ During the same time frame, there has been the continuation of extreme rhetoric, again by public figures and within the media, by those opposing the marriage equality movement. Hate violence must be observed within a broader context of domestic terrorism, discrimination, and profiling. By failing to focus on those individuals and groups engaged in hate mongering and espousing supremacist ideologies, the government is ignoring a critical source of the problem.

⁴ Daryl Johnson, *Daryl Johnson: I tried to warn them*, Salon, available at http://www.salon.com/2012/08/17/daryl_johnson_i_tried_to_warn_them/

⁵ Amy Goodman, *Former DHS Analyst Daryl Johnson on How He Was Silenced for Warning of Far-Right Militants in U.S.*, Democracy Now!, available at http://www.democracynow.org/2012/8/9/former_dhs_analyst_daryl_johnson_on.

⁶ When controlling for total number of hate crimes in 2005 and 2010.

Conclusion

ICAAD is heartened by the Subcommittee's leadership in holding this hearing, and we are grateful for the opportunity to present our position on hate crimes and domestic terrorism. We urge the Committee to move swiftly and take concrete actions to:

- Provide adequate resources to monitor the threat of domestic terrorism and hate crimes. To our knowledge, DHS currently only has one person assigned to work on domestic terrorism for right-wing extremist groups. This is simply inadequate.
- Bolster the FBI hate crimes monitoring program, not only to correctly code hate crimes against Sikhs, but more importantly to close the gap of disparity between their statistics and the Bureau of Justice Statistics. This would require widespread training of law enforcement agencies, and more stringent reporting requirements.
- Ensure robust and comprehensive implementation of the Mathew Shepherd and James Byrd, Jr. Hate Crimes Prevention Act (HCPA): Enacted in 2009, this law encourages partnerships between federal and state law enforcement officials to more effectively address hate violence and provides limited authority for federal investigations and prosecutions when local authorities are unwilling or unable to act. To ensure robust enforcement, DOJ should file appropriate cases under HCPA; vigorously defend the constitutionality of the Act; and ensure continued education, outreach, and training to federal, state, and local law enforcement officials on HCPA and its requirements.
- Establish formalized interagency efforts and positions at the highest levels of government, in partnership with community stakeholders, to address hate crimes. The White House should establish an interagency taskforce on hate crimes and domestic extremism, similar to what was established by President Clinton following the church arsons of the 1990s. DOJ should also formalize the Initiative to Combat Post-9/11 Discriminatory Backlash within the DOJ Civil Rights Division by designating a Special Counsel for Post-9/11 Discrimination and a Special Counsel for Religious Discrimination.
- Curb actions and discourse by government agencies and public officials that often promote a climate where hate crimes can occur: Congress should pass robust anti-profiling policies, such as the *End Racial Profiling Act* (S. 1670; H.R. 3618) which prohibits profiling based on race, religion, ethnicity, or national origin by federal, state and local law enforcement; establishes requirements for law enforcement to collect data, provide anti-profiling trainings, and develop a complaint mechanism for affected individuals; allow DOJ to withhold grants to entities that fail to comply with the law and provide funding to these seeking to eliminate the practice; and allow affected individuals to seek redress in court. DOJ should also amend its 2003 Guidance Regarding the Use of Race by Federal Law Enforcement Agencies to apply to profiling based on religion and national origin, remove national and border security loopholes, cover law enforcement surveillance activities, apply to state and local law enforcement agencies acting in partnership with federal agencies or receiving federal funds, and make the guidance enforceable. Public officials should refrain making statements based on racism, xenophobia, homophobia, sexism, or religious intolerance. Public officials should also take a pledge to not engage in such rhetoric as well as condemn such statements when they do occur in the public sphere.

Thank you again for this opportunity to express the views of ICAAD. We welcome the opportunity for further dialogue and discussion about these important issues.