

The Status of Muslim Civil Rights San Francisco Bay Area 2009



CAIR
CALIFORNIA

Council on American-Islamic Relations
San Francisco Bay Area

The Council on American-Islamic Relations (CAIR) is a non-profit grassroots organization dedicated to presenting an Islamic perspective on issues of importance to the American public. CAIR is the largest American Muslim civil rights and advocacy organization in the United States, serving the interests of more than seven million American Muslims with 35 chapters and offices nationwide and in Canada.

OUR VISION: To be a leading advocate for social justice and mutual understanding.

OUR MISSION: To enhance a general understanding of Islam, encourage dialogue, protect civil liberties, empower American Muslims and build coalitions that promote justice and mutual understanding.

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Glossary of Islamic Terms

Allah	The most commonly used linguistic term for 'God' in Arabic. Allah is the same monotheistic God of Abraham worshipped by Christians and Jews.
Beards	Many devout Muslim men grow beards in observance of the tradition of the Prophet Muhammad.
Eid	Islamic holiday which occurs twice a year. Eid al-Fitr is the holiday celebrating the end of Ramadan on the first day of the 10 th lunar month of the Islamic calendar. Eid al-Adha , the most important Islamic holiday, commemorates the end of Hajj in Mecca, Saudi Arabia every year.
Hajj	The fifth pillar of Islam. It is the annual pilgrimage to Mecca, Saudi Arabia and every able-bodied and financially capable Muslim must perform Hajj at least once in their lifetime.
Halal	Permissible by Islamic law.
Hijab	The modest clothing that many Muslim women choose to wear in public. Generally, it comprises of loose-fitting clothes and a head covering.
Imam	A prayer leader.
Kufi	A cap worn by some Muslim men.
Masjid	The Arabic word for 'mosque' - an Islamic house of worship.
Niqab	A face veil.
Prayer	The second pillar of Islam. Islam mandates structured prayers five times a day. Muslims are also required to attend a weekly congregational prayer every Friday. During the month of Ramadan, many devout Muslims also observe extended evening prayers.
Quran	The revealed text and holy book of Islam.
Ramadan	The Islamic holy month of fasting and the ninth lunar month of the Islamic calendar.

Executive Summary

The data presented in this report was collected in 2008 by the San Francisco Bay Area office of the Council on American-Islamic Relations (CAIR-SFBA).

In 2008, CAIR-SFBA processed a total of **230 incident reports**, compared to 261 in 2007. Out of the 230 cases, CAIR-SFBA found that 45 of these did not fall within a civil rights category. This analysis, therefore, reports on 185 cases received in 2008.

Bay Area Muslims reported incidents in which they were verbally or physically harassed, perceived to be discriminated against, singled out for questioning, or subject to lengthy delays in immigration and naturalization process due to their religious and/or ethnic identity. Reported events took place in various locations such as at airports, schools, places of employment, government agencies and other various places of public accommodations.

The issue most frequently reported to CAIR-SFBA in 2008 involved **Government Agencies**, which amounted to 53.0% of the reports. The next highest category of complaints was in the area of **Employment** (18.4%), followed by **School** (6.5%), and then **Hate Incident** (5.4%).

Complaints in the area of **Government Agencies** represented a significant increase of **24.05%** from the 79 cases in 2007 to 98 in 2008. These complaints included reports of workplace harassment due to race/religion, discrimination relating to the hijab or the beard, and denial of requests for prayer or other religious accommodation. The most significant decrease from 2007 to 2008 was seen in the reporting of Hate Incidents from 37 in 2007 to 10 in 2008 making it a **73.0%** decrease.

Several factors may have directly or indirectly contributed to the decrease in the number of reported incidents in 2008. Most notably a direct comparison is difficult due to stricter categorization procedures which were adopted in 2007 in an effort to harmonize record-keeping across all CAIR chapters. Accordingly, in 2008 more reported incidents were categorized as being outside the parameter of this analysis. Nevertheless, However, CAIR-SFBA also believes there remains a lingering atmosphere of fear in the post-9/11 era, and anti-Muslim rhetoric by some local and national opinion leaders has continued unabated.

Definitions & Categorization

A. Hate Crime

According to the Federal Bureau of Investigation (FBI) hate crime, also sometimes referred to as bias crime, is defined as, “a criminal offense committed against a person, property, or society that is motivated, in whole or in part, by the offender’s bias against a race, religion, disability, sexual orientation, or ethnicity/national origin.”¹

Examples of hate crimes can include vandalizing a mosque or place of worship, an office of a religious organization, or person’s property to desecrating a religious symbol or property with the intent to terrorize. Hate crimes can also include acts of violence against or verbal harassment towards a person due to their perceived race, ethnicity, religion or any other protected areas.

B. Hate Incident

A hate incident is any action that is motivated by bias but does not constitute a crime. The First Amendment usually guarantees and protects these actions, as long as they do not interfere with another person’s civil rights. A common example of a hate incident is the distribution of non-threatening racist flyers.

C. Employment Discrimination

Title VII of the Civil Rights Act of 1964 and the California Fair Employment and Housing Act prohibit discrimination by an employer against employees on the basis of religion, race, sex, or national origin, and also provides employees with reasonable religious accommodations at the workplace.² An example of an employment related incident may occur when a female is not hired for employment or is terminated due to wearing hijab.

1. **Reasonable religious accommodation:** Reasonable accommodations must be made for an employee’s religious beliefs and practices, unless the accommodation would create an undue hardship for the employer or the union.

Examples of reasonable religious accommodations that an employer may grant include permitting an employee to keep a beard for religious reasons despite a general “clean shaven” requirement, or allowing a worker to use a lunch break to attend the obligatory Friday prayer in congregation at a mosque.

2. **Hostile Environment:** A hostile work environment can be created through speech or conduct that is severe or pervasive enough to be considered abusive and negative.³ Such harassment is based on race, religion, sex, national origin, age, disability, veteran status, or in some jurisdictions, sexual orientation, political affiliation, citizenship status, marital status, or personal appearance.

¹ Federal Bureau of Investigation, “Hate Crime - Crime in the United States 2004” available at http://www.fbi.gov/ucr/cius_04/offenses_reported/hate_crime/index.html

² Title VII of the Civil Rights Act of 1964, 42 USC § 2000e-2(a) (1) & (2).

³ *Harris v. Forklift Systems, Inc.*, 510 U.S. 17, 21-22 (1993).

An employer must ensure that its employees are not subjected to anti-religious insults, harassment or any unwelcome and excessive proselytizing.

D. Government

1. **Interrogation:** Individuals that experience FBI or police visits and questioning are placed in this category. In some instances, individuals who are interrogated are then detained on related grounds or immigration related issues.
2. **Citizenship Delay:** Federal law states that the government must grant or deny a citizenship application within 120 days after the passing of the naturalization test. Many individuals that placed reports in this category have been waiting from one to three years for a decision regarding their completed naturalization application.

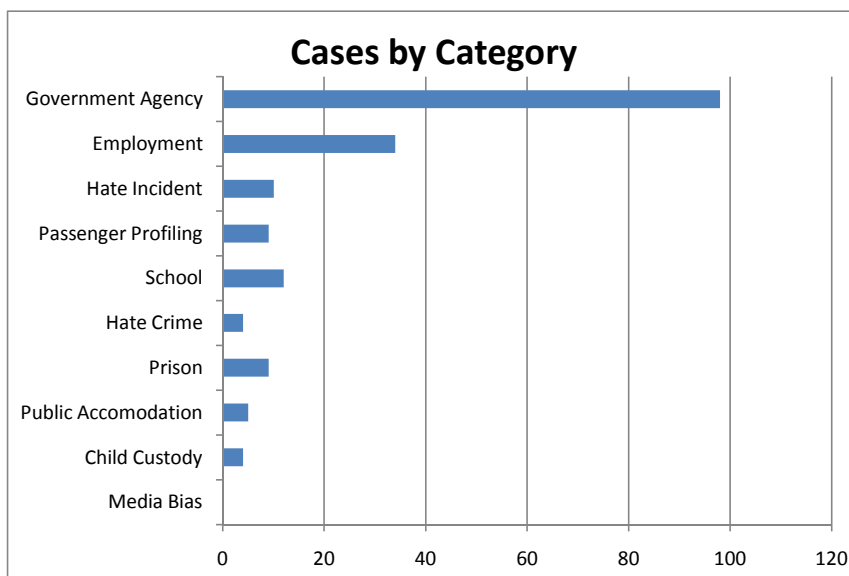
2008 CAIR-SFBA Civil Rights Findings

During the 2008 calendar year, CAIR-SFBA received a total of 230 reports alleging claims of civil rights violations, including discrimination and harassment. Of these, 45 cases fell outside the parameters of this report, as they were not specifically concerned with civil rights. Accordingly, **185 cases** are analyzed in this report.

Type of Civil Rights Complaint

Table 1. Category of complaint

Category	Number	Percentage
Government Agency	98	53.0%
Employment	34	18.4%
Hate Incident	10	5.4%
Passenger Profiling	9	4.9%
School	12	6.5%
Hate Crime	4	2.1%
Prison	9	4.9%
Public Accommodation	5	2.7%
Child Custody	4	2.1%
Media Bias	0	0.0%
Total	185	100%

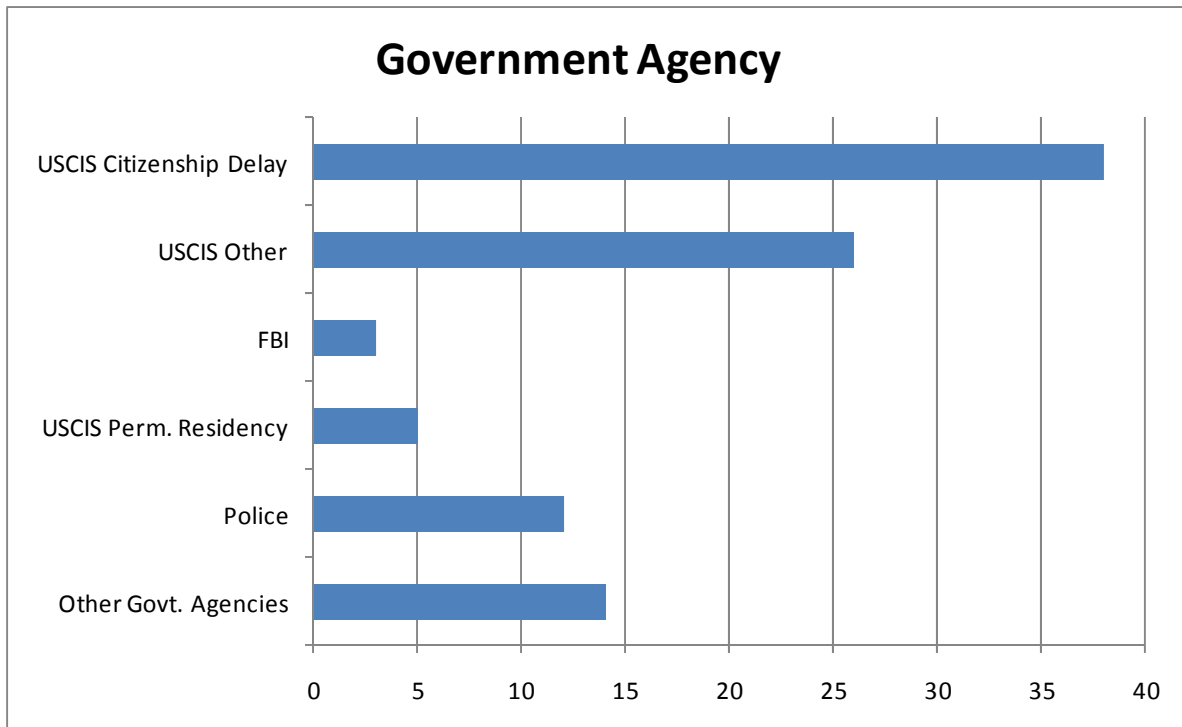


Government Agency

The most frequently reported type of complaint in 2008 involved government agencies, accounting for 53.0% of reported incidents.

Table 2. Government Agency

Government Agency	Number	Percentage
USCIS Citizenship Delay	38	38.8%
USCIS Other Complaints	26	26.5%
FBI	3	3.1%
USCIS Permanent Residency Complaints	5	5.1%
Police	12	12.2%
Other Government Agencies	14	14.3%
Total	98	100%

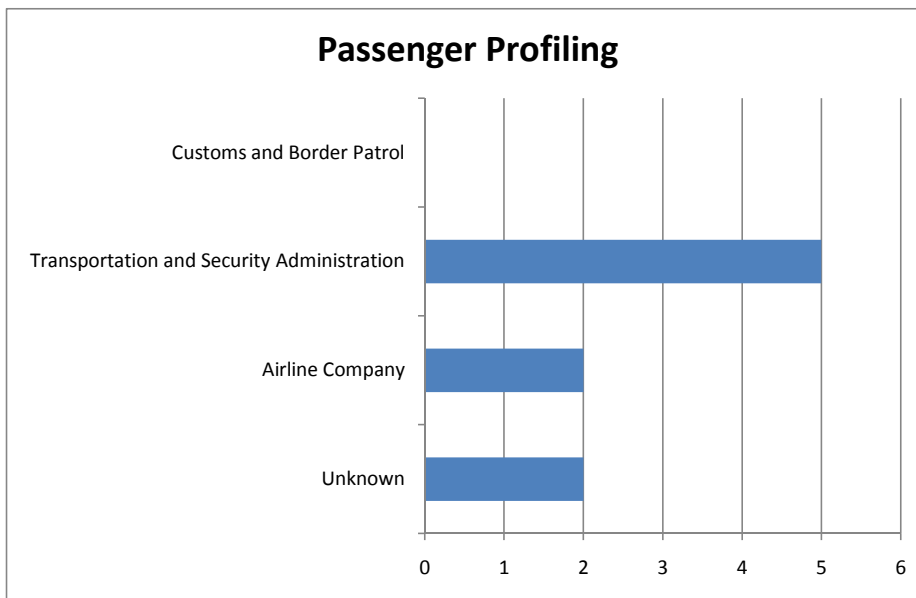


Passenger Profiling

Profiling at the border appeared to have decreased quite significantly between 2007 and 2008, from 22 recorded cases in 2007 to 9 in 2008. The cases recorded below were generally triggered by ethnicity and/or religion.

Table 3. Passenger Profiling

Passenger Profiling	Number	Percentage
Customs and Border Patrol	0	0.0%
Transportation Security Administration	5	55.6%
Airline company	2	22.2%
Unknown	2	22.2%
Total	9	100%

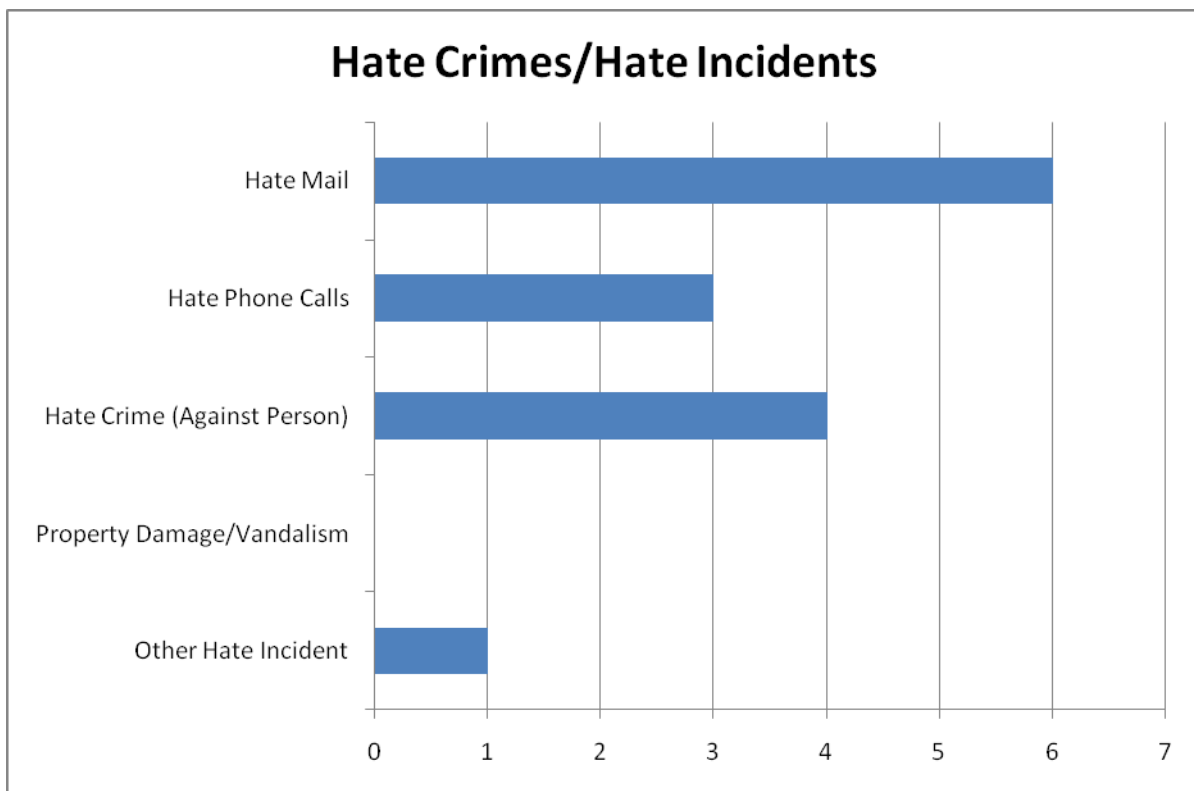


Hate Crime/Hate Incidents

Members of the community also reported experiencing actions motivated by hate. These incidents come in the form of e-mails, letters, phone calls, materials, harassment, verbal or even physical abuse amounting to criminal offenses. One idea to note is the fact that the number of reported hate incidents has drastically decreased from 2007 to 2008. There was a **73.0%** decrease in hate incidents reported.

Table 4: Hate Crime/ Hate Incidents

Type	Number	Percentage
Hate Mail	6	42.9%
Hate Phone Call	3	21.4%
Hate Crime (against person)	4	28.6%
Property Damage/Vandalism	0	0.0%
Other Hate Incident	1	7.1%
Total	9	100%

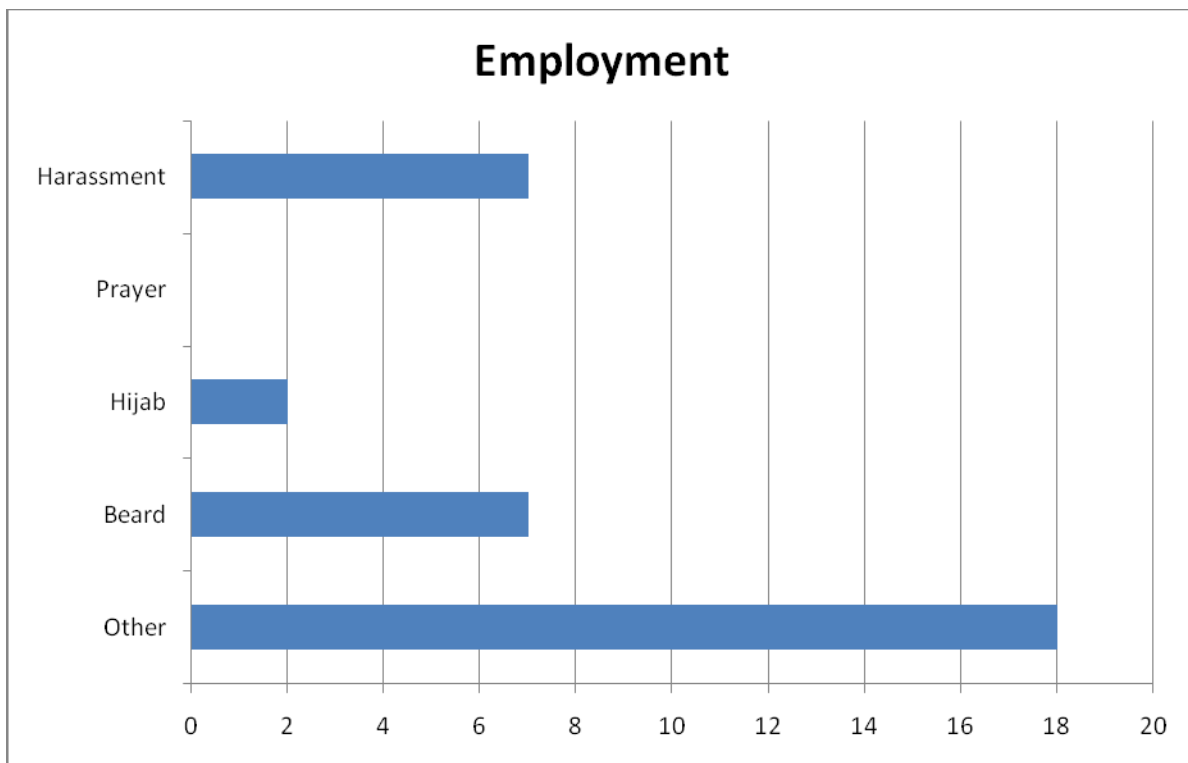


Employment

Complaints of civil rights violations in the workplace included reports of workplace harassment due to race/religion, discrimination relating to the hijab, the beard, denial of requests for prayer or other religious accommodation.

Table 5: Employment

Employment	Number	Percentage
Harassment	7	20.6%
Prayer	0	0.0%
Hijab	2	5.9%
Beard	7	20.6%
Other	18	52.9%
Total	34	100%



Case Studies and Projects

Hijab discrimination at bank in Oakland, California

On December 18, 2008, a Muslim female was denied service at a bank in Oakland, Calif. because she was wearing a head scarf inside the premises.

The bank had a policy that forbade the wearing of hats. Because of this policy, the female walked out without the service she had come in for. In response to this incident, CAIR wrote a letter to the bank explaining the situation and the requirements of Islam. When the bank responded, they said they would be happy to provide a formal apology to the victim and that the incident was a case of misjudgment by the bank employee.

CAIR released a media advisory soon after the reporting of the incident and the decision by the bank to provide a formal apology. CAIR issued a statement saying the “no hats” policy should be reconsidered by the banking industry.

Agnes Chong, the now former Programs and Outreach Director, was interviewed by Dan McMenamin and published on the CBS5 news website. Chong stated, "It's unfortunate that someone that's merely exercising her rights in the constitution is subject to a policy to prevent bank robberies." Chong also said that a very similar incident had happened in San Diego. She felt that these types of issues should be monitored closely.

Muslim Restaurant Workers File Bias Suit

In October of 2008, CAIR-SFBA was contacted by Muslim employees who faced discrimination from the restaurant in which they worked. Two Muslim employees, working for a South Indian restaurant named Vaigai in Sunnyvale, Calif., were continuously harassed by other personnel working at the restaurant.

Slurs were made against the two Muslim employees in the native Tamil language of the other personnel and the two Muslim employees were forced to participate in religious activities traditional to Hinduism. The personnel in the restaurant were also encouraged to address the two employees by names other than their actual Islamic names. Names like “Rajan” and “Nagraj” were encouraged in order to prevent customer dissatisfaction as the restaurant’s target audience was primarily South Indian Hindus.

CAIR-SFBA advised the individuals on the steps to be taken and referred the two men to the Equal Employment Opportunity Commission (EEOC) and the Department of Fair Employment and Housing (DFEH). They eventually hired an attorney Steve Tidrick of The Tidrick Law Firm and a former editor of the Harvard Law Review to represent them in their case. After receiving an approval from the EEOC to file a lawsuit, in March of 2009, the two employees filed a lawsuit against Vaigai.



Candlelight Vigil for Antioch Mosque

In the 2008 Civil Rights report, CAIR-SFBA reported that in the summer of 2007, the Islamic Center of the East Bay (ICEB) in Antioch was burnt down in an arson attack. The estimated damage was \$460,000.

CAIR-SFBA provided support and after the attack by coordinating media conference was soon organized and expressed deep concern over the advocacy efforts ensured that the outlets.



Mahrukh Hasan

In January of 2008, CAIR-SFBA took the burnt down mosque. Local news present for the media coverage. Government Relations Coordinator, public. The reconstruction of the mosque was completed in April of 2009.

assistance to the ICEB immediately and outreach efforts. A press Executive Director Safaa Ibrahim pattern of attacks. CAIR-SFBA's message was heard across major media

part in a candlelight vigil held at site of stations, KRON 4 and KTVU 2, were Mahrukh Hasan, the now former was present at the vigil and spoke to the mosque began in May of 2008 and the

Update 2009: The Antioch mosque celebrated its reopening recently in June of 2009. CAIR-SFBA Executive Committee Secretary, Safaa Ibrahim, was a speaker at the event. Other key speakers included Antioch Mayor James D. Davis, Senator Mark De Saulnier, and Chief of Police James Hyde.

Citizenship Delay Project

In 2006, CAIR-SFBA launched a Citizenship Delay Project after a nationwide increase in reports of naturalization delays.⁴

In February 2007, CAIR, in conjunction with ACLU-NC and Asian Law Caucus, filed a class-action lawsuit against the Federal Government for delaying the citizenship application process in violation of immigration laws. After launching its citizenship delay project in 2006, CAIR to date has collected and evaluated more than 135 cases of naturalization delays. FBI background checks had led to indefinite delays of months and even years, despite federal laws ensuring a decision on an application within 120 days of a citizenship interview. In accordance with its mission goal to protect civil rights, CAIR considers the lawsuit a necessary response to unjust rights violations. In July 2008, the court denied the lawsuit class-action status. CAIR, the ACLU and Asian Law Caucus are now evaluating appeals options against this decision.



In November of 2008, CAIR conducted a Naturalization Delay forum at the South Bay Islamic Association (SBIA) for those individuals who were experiencing delays in their naturalization processes. Cecilia Wang,

⁴ Other CAIR chapters have also launched similar projects, including CAIR-LA, CAIR-Chicago and CAIR-NY.

the guest speaker from the American Civil Liberties Union (ACLU) updated the attendees on the class-action filed jointly by CAIR-SFBA, ACLU, and Asian Law Caucus (ALC).

Registering Citizens to Vote in the 2008 Elections



CAIR-SFBA conducted 79 voter registration table drives prior to the historic 2008 election in which the nation elected its first African-American President. As a result of the efforts, CAIR-SFBA was able to register 400 citizens to vote in the election.

At the same time, CAIR-SFBA held a candidate forum at the Muslim Community Association (MCA). At this event, several of the Bay Area elected



officials including George Shirikawa, Paul Fong, Diane Ritchie, and Otto Lee were present. Attendees of this event were allowed to meet the candidates and ask questions as they pleased in order to learn about their rights and issues concerning not only their own neighborhoods, but the Bay Area community at large.

Youth Leadership Workshops 2008



Throughout the months of March, April, and May of 2008, CAIR-SFBA held a series of youth leadership workshops for the youth of the Bay Area community. The goals of these workshops were to create awareness of the rights that each human being has and to promote civic, political, and social energy amongst the youth. The workshops included attendance by local officials and professionals.

CAIR-SFBA along with the Muslim Community Association (MCA) scheduled four workshops in Government, Media, Civil Rights, and Diversity. The civil rights workshop was geared toward creating a better understanding of basic rights, the Constitution of the United States, the Civil Rights Act of 1964, the civil rights movement, and Muslims and civil rights post Sept. 11 amongst the youth.

Sample Cases

January: A Muslim male contacted CAIR-SFBA regarding his delayed citizenship. He had applied for citizenship prior to January 2007 while his wife had been granted naturalization in June of 2008. His fingerprints had been taken and he was awaiting a background check conducted by the FBI. CAIR advised him of his options by offering attorney references and suggesting he write to elected officials to aid with his case.

February: CAIR-SFBA was contacted by a Muslim man who had applied for asylum in the United States. The man was afraid his asylum might have been cancelled because of his trips to his home country for family reasons. He applied to return home twice because of family members being ill and passing away but he was allowed to return only the second time he applied. Although he was allowed into his home country, he had difficulty leaving due to his asylum status. CAIR referred him to attorneys that specialized in such cases of immigration.

March: A Muslim female teacher contacted CAIR asking what her rights are in terms of religious expression and freedom in her work environment. CAIR responded by providing the teacher with a link to an informative website and provided her with a brief summary of tips to keep in mind while teaching in public schools.

April: A Muslim female reported that her husband had been deported back to his home country. His case made it as far as the Ninth Circuit Court but while the case was still pending, the husband was deported. CAIR provided a letter of support on behalf of the wife. Later on, CAIR advised her to contact elected officials regarding the case. It was learned in 2009 that her husband had received approval to reapply for admission into the United States.

May: A 13 yr. old student in the Bay Area was verbally harassed by a crossing guard at school. The guard made remarks about the student's religious practices. The mother of the student complained to the school regarding the incident but the school was unable to take action as the guard was not employed by the school. CAIR advised the mother to go ahead and complain to the police department with whom the guard was employed. The police department apologized for the incident.

June: An employee who worked closely with a Bay Area airport called CAIR regarding a prayer area being removed at the airport. CAIR contacted the airport by phone and letter to get details of the removal and learned that there had been a misunderstanding between the airport and the complainant as to why the area was being removed. It was for safety reasons. After learning of the importance of daily prayers, the airport worked in good faith on plans to establish another prayer site at the airport.

July: A Muslim male contacted CAIR asking for a letter of support regarding his beard in the work place. CAIR provided a letter in support of the employee and the importance of the beard in Islam. CAIR also provided the employer with an informative pamphlet on religious practices.

August: A Muslim prisoner contacted CAIR regarding the abuses he was facing by his fellow inmates and employees working for the prison. He was subjected to physical abuses from a fellow cell mate and was denied any help from employees of the prison. CAIR wrote a detailed letter to the facility, where the inmate was being held prisoner, regarding the abuses with a full timeline of the incidents. CAIR demanded that a formal investigation be conducted and an apology be made to the inmate.

September: A teacher at a local Bay Area school made remarks about Muslims related to the attacks of Sept. 11. Being the only Muslim in the classroom, and feeling singled out by the remark, the student complained about the remarks that offended her. The mother of the student contacted CAIR to report the incident. CAIR then called the school and spoke with the principal. The principal agreed to investigate the incident and was cooperative with the investigation. CAIR offered cultural sensitivity training to the school and it was considered by the school.

October: A Muslim male contacted CAIR regarding the employment discrimination he was facing. He claimed he always had positive reviews until the new management stepped in. It was then he learned that management was trying to reduce the number of employees at the company. Other employees who were non-Muslims were promoted regardless of experience. CAIR advised the man to file a complaint with the Equal Employment Opportunity Commission (EEOC) and also gave him references to lawyers that specialize in employment discrimination cases.

November: A Muslim male contacted CAIR regarding his items and himself being searched at airport security screening location before boarding a flight. The officers told the man that he was being randomly searched and all of his information was written down. The man claims that he has been randomly searched twice and believes that it was a result of border profiling. CAIR advised the man to contact the Department of Homeland Security and write to the US Customs and Border Protection about the incident.

December: A Muslim male was stopped at a local airport prior to boarding a flight back to his homeland. He was held for two hours and at the end he was told that he was on a No Fly List. He was not aware of being on such a list. CAIR provided him with the contact information to the Department of Homeland Security. CAIR also provided him a link to the US Customs and Border Patrol website with which he could obtain records maintained about him in terms of being on a No Fly or Watch List.

Recommendations for 2009

CAIR National

1. Elected representatives, public officials, and candidates for elected office should clearly condemn anti-Islam bias. Elected officials should also ensure that their respective parties similarly condemn such bias. Political strategists should avoid exploiting Islamophobic fears to gain votes.
2. Muslims and their institutions should continue to respond to negative incidents with positive educational campaigns. Incidents of discrimination, profiling or bias should be reported to CAIR and the appropriate authorities.
3. Muslim groups should continue to maintain regular contact with law enforcement agencies at the national, state and local levels. Community policing, a relationship of community members and law enforcement as partners rather than mutually-suspicious adversaries, in controlling crime and security is recommended.
4. Legislation banning racial, religious or ethnic profiling should be passed. American Muslims and other people of conscience should advocate for legislation clearly prohibiting discriminatory practices like racial and religious profiling. If clear policies are created and fair treatment is institutionalized through legislation, the community would hopefully experience less discrimination due to the criminal implications of discriminatory practices.

CAIR-SFBA

1. Government agencies should initiate and support public anti-discrimination campaigns to raise awareness of the need to protect the rights of all people, including American Muslims.
2. In an effort to decrease the number of employment-related incidents, cultural sensitivity trainings are recommended for employers to recognize and act in accordance with the rights of employees under Title VII and its California state component, and the Fair Employment and Housing Act (FEHA).
3. Cultural sensitivity training is recommended in schools so that educators are aware of various religious obligations and practices that Muslim students exercise, such as the wearing of a *hijab* or *kufi*, adjusting student schedules to accommodate Friday prayers, and providing excused absences for religious holidays.
4. American Muslims should make increased outreach efforts to their fellow Americans to enhance understanding of Islam. Holding interfaith events, Open Houses at mosques, or inviting friends and neighbors to dinner are some examples of how American Muslims can create opportunities for interaction with ordinary Muslims. CAIR research reveals that prejudice decreases when people know more about Islam and when they personally interact with ordinary Muslims.

Appendix

Relevant California Civil Statutes

The Ralph Act - California Civil Code Sections 51.7 & 52

According to this law, a person has a civil right to be free of violence or a threat of violence, because of the person's race, color, religion, national origin, political affiliation, sex, age or disability. A violation of this law may allow the victim to bring an action for actual and punitive damages, injunctive and equitable relief and attorney's fees.

The Bane Act - California Civil Code Section 52.1

The Bane Act provides protection against any threats, intimidation, coercion or interference with a person's federal or constitutional rights. These constitutional rights include association, assembly, due process, education, employment, equal protection, expression, formation and enforcement of contracts, holding of public office, housing, privacy, speech, travel, use of public facilities, voting, worship and protection from bodily restraint or harm from personal insult, defamation, and injury to personal relations. A violation of this law may allow the victim to bring an action for actual and punitive damages, injunctive and equitable relief, and attorney's fees.

California Fair Employment and Housing Act

This law provides protection from harassment or discrimination in employment based on: Age (40 and over); Ancestry; Color; Religious Creed; Denial of Family and Medical Care Leave; Disability (mental and physical) including HIV and AIDS; Marital Status; Medical Condition (cancer and genetic characteristics); National Origin; Race; Religion; Gender and Sexual Orientation.

Relevant California Criminal Statutes

California Penal Code Section 422.6(a)

According to this law, it is unlawful to use force or the threat of force to willfully injure, intimidate, threaten or interfere with a person's state, federal statutory and constitutional rights because of the person's race, color, religion, national origin, gender or sexual orientation. The penalty for violating this law could be up to one year in jail, a \$5,000 fine, or both.

California Penal Code Section 422.7- Hate Crime Enhancement

According to this law, a misdemeanor crime can become a felony if it is based on the victim's race, color religion, national origin, gender or sexual orientation. The penalty for violating this law could be up to one year in jail, a \$10,000 fine, or both.

California Penal Code Section 11411

According to this law, it is a misdemeanor to display signs on the private property of another, for the purpose of terrorizing or in reckless disregard of terrorizing the owner or occupant. Also, it is a misdemeanor or a felony to place a racist symbol on that property on two or more occasions and it is a misdemeanor or a felony to burn or desecrate a cross or other religions symbol on private property, for the purpose of terrorizing or in reckless disregard of terrorizing the owner or occupant. Additionally, it is a misdemeanor or felony to burn or destroy a religious symbol on school grounds, for the purpose of terrorizing any person who attends, works, or is associated with the school.