

October 7, 2016

Via email at abrown@richmondpd.net

Chief Allwyn Brown
Richmond Police Department
1701 Regatta Boulevard
Richmond, CA 94804

Via e-mail at mpeterson@contracostada.org

District Attorney Mark A. Peterson
Contra Costa County District Attorney
900 Ward Street
Martinez, CA 94553

Re: Maan Singh Khalsa, Assault / Hate Crime, Case Number #16-12057

Dear Chief Brown and District Attorney Peterson:

The Sikh Coalition¹ writes on behalf of Mr. Maan Singh Khalsa, who resides in Richmond, California. Mr. Khalsa is of South Asian (Punjabi) ancestry and is visibly identifiable as a Sikh because of his turban and unshorn hair and beard, which are religiously-mandated articles of faith. On September 25, 2016, at approximately 9:00 P.M., Mr. Khalsa was driving home and stopped at a red light near Hilltop Mall Drive, when three men driving in a white Ford F-150 viciously assaulted him and cut off his religiously-mandated unshorn hair. Mr. Khalsa suffered a number of physical injuries as a result of the attack.

We represent Mr. Khalsa and believe that he was targeted because of his ethnic/racial (South Asian) and Sikh religious appearance (turban and unshorn hair/beard). We request that your respective offices investigate and prosecute the matter as a hate crime eligible for enhanced penalties under California Penal Code § 422.6 *et seq.*

I. Facts

Mr. Khalsa is of South Asian (Punjabi) ancestry and wears a turban and keeps his hair and beard unshorn in accordance with his Sikh faith. Mr. Khalsa, a 41-year-old U.S. Citizen and the father of an 8-year-old daughter, has lived in Contra Costa County for nearly 7 years. He lives in Richmond, CA and works as a full-time Informational Technology Specialist for the Social Security Administration and a part-time Health and Human Services Certified Caregiver for the elderly.

On September 25, 2016, at approximately 9:00 P.M., Mr. Khalsa was driving home after visiting an elder in his capacity as a caregiver when the attack occurred. Mr. Khalsa was stopped at a red light near Hilltop Mall Drive in Richmond, half a mile from his home, when a man in a white Ford F-150 threw a beer can at his car wholly unprovoked. Mr. Khalsa rolled down his window to question the man who threw the beer can. According to Mr. Khalsa, there were five to six white males in their late 20s to early 30s in the vehicle. The men began cursing at him, and one of them

¹ By way of background, the Sikh Coalition is a community-based organization that defends civil rights and civil liberties in the United States, educates the broader community about Sikhs and diversity, and fosters civic engagement amongst Sikh Americans. The Sikh Coalition owes its existence in large part to the effort to combat uninformed discrimination against Sikh-Americans after September 11, 2001, including hate crimes and other forms of bias-based discrimination.

exited the vehicle and started toward Mr. Khalsa. At this point, the light turned green, and Mr. Khalsa drove out of the intersection. Mr. Khalsa, frightened and fearful for his safety, called 911. He told the 911 operator that there were men in a vehicle driving next to him who were cursing at him and trying to attack him. Mr. Khalsa's window was still partially rolled down. At the next red light, the Ford F-150 stopped near him again, and this time, three men exited the vehicle and approached his car. They began attacking him through the open window, knocking off his Sikh turban and hitting his face repeatedly. His assailants shouted, "Cut his hair," pulled his head out of the window by his hair, and cut a fistful of his religiously-mandated unshorn hair with a knife. The shouts may be audible on the 911-call recording.

Mr. Khalsa only escaped his attackers by driving away when the light turned green. At this point, the 911 operator instructed him to wait for police at a nearby gas station. Police arrived at the gas station about 30 minutes later and interviewed Mr. Khalsa. Although Mr. Khalsa explained that he believed his attackers were motivated by bias, the officers appeared dubious.

After he spoke with the police, Mr. Khalsa was taken via ambulance to the emergency room, where he was treated for his injuries. As a result of this attack, Mr. Khalsa sustained cuts on his fingers and his hands that required stitches, a swollen black eye, and damage to his teeth, in addition to deep humiliation. Following the attack, one of his fingers became infected and may be amputated. Mr. Khalsa will also have to undergo root canals due to the damage to his teeth. The dental work alone will amount to \$2,200 in out-of-pocket medical expenses.

We understand that two suspects have been arrested, and we appreciate the department's quick response in securing these initial arrests. However, the suspects have not yet been charged with assault-based felonies eligible for a hate crime enhancement, and the third assailant and two remaining accomplices have yet to be apprehended.

II. Mr. Khalsa May Have Been Targeted Because of his Religion, Nationality, and Race/Ethnicity in Violation of California State Hate Crime Laws

We believe that Mr. Khalsa was targeted because of his Sikh religious identity (including the wearing of a turban and an unshorn beard), as well as his South Asian/Punjabi racial/ethnic appearance and national origin. California's hate crime law makes it a crime to "willfully injure, intimidate, interfere with, oppress, or threaten any other person in the free exercise or enjoyment" of any right or privilege "by force or threat of force," based on the victim's protected traits, which include nationality, race or ethnicity, and religion. Cal. Penal Code §§ 422.6, 422.55. Additionally, the law provides for sentencing enhancements where the crime committed "against the person of another either includes the present ability to commit a violent injury or causes actual physical injury" and is motivated by that person's protected traits. Cal. Penal Code § 422.7(a).

We believe that Mr. Khalsa was targeted and assaulted because of his actual or perceived race/ethnicity, religion and nationality, given that the attack was unprovoked and the assailants intentionally targeted his articles of faith when they knocked off his turban and deliberately cut his unshorn hair with a knife. Targeting a Sikh's turban and hair is analogous to targeting a Jew's yarmulke or a Muslim's hijab. **The attacker's oral statements**

and actions in targeting and cutting Mr. Khalsa's hair suggest knowledge that unshorn hair is a Sikh article of faith.

By way of background, Sikhs are religiously-mandated to maintain turbans and unshorn hair. Unshorn hair is of immense significance, as keeping hair in a natural state is regarded as living in harmony with the will of God. Similarly, a turban is of immense significance. It reminds a Sikh of his or her duty to maintain and uphold the core beliefs of the Sikh faith, which include working hard and honesty, sharing with the needy, and promoting the equality of all humankind. Hair must always be unshorn and covered with a turban. Unlike a hat, a turban must always cover a Sikh's head. When a Sikh ties a turban, the turban ceases to be just a piece of cloth and becomes one and the same with the Sikh's head. It is a religious commitment without which the believer ceases to be a Sikh.

Historically, **uncut hair and turbans have been the central feature of the Sikh identity.** For example, in the 18th century, Sikhs in South Asia were persecuted and forced to convert from their religion, the method of forcing conversions was to remove a Sikh's turban and cut off his hair. **Since then, forcibly removing or targeting a Sikh's turban or hair has symbolized denying that person the right to belong to the Sikh faith, and is perceived as the most humiliating and hurtful physical injury that can be inflicted upon a Sikh.**

Given the above, we urge the Richmond Police Department and Contra Costa County District Attorney's Office to respectively investigate and prosecute this incident as a hate crime subject to the enhanced penalties of Cal. Penal Code § 422.6 *et seq.*

III. Background – Hate Crimes Against Sikh Americans and Sikh Places of Worship

As you may be aware, Sikhs were the victims of hundreds of bias-motivated crimes in the aftermath of the tragic events of September 11, 2001, and often face a sharp uptick in hate crimes and violence following terrorist attacks. After September 11, 2001, Sikhs suffered verbal harassment, damage to property, beatings, and even murder. Hate crimes against Sikhs have unfortunately not abated.

Relative to other vulnerable minorities, Sikhs are disproportionately targeted for discrimination because they wear turbans and maintain unshorn hair (including facial hair) in accordance with their faith. (Punjabi Sikhs are also vulnerable because of their South Asian ancestry, i.e. racial appearance.) The discrimination is largely based upon a mistaken perception that Sikhs are affiliated with Al Qaeda, ISIS, or the Taliban. However, Sikhs are also targeted for being Sikhs, as in the case of the 2012 Oak Creek, Wisconsin gurdwara shooting, in which a neo-Nazi killed six Sikh worshippers and injured four others.²

Even in California, Sikhs continue to be disproportionately targeted for hate crimes and bias-based harassment. In 2010, one in ten surveyed Sikhs in the Bay Area reported being victims of

² See Steve Yaccino, Michael Schwirtz and Marc Santora, *Gunman Kills 6 at a Sikh Temple Near Milwaukee*, N.Y. TIMES (Aug. 5, 2012), http://www.nytimes.com/2012/08/06/us/shooting-reported-at-temple-in-wisconsin.html?_r=0.

hate crimes; 68% of these crimes were physical attacks.³ Despite the passage of more than a decade since the September 11th terrorist attacks, hate crimes and bias incidents continue to plague the Sikh American community.⁴ For example, in the past six years in California alone:

- On June 7, 2011, two men were sentenced in connection with a hate attack against Harbhajan Singh, a Sikh turban-wearing taxi driver near Sacramento, California. The two men had directed slurs at the driver, called him a Muslim, and punched him numerous times on November 28, 2010. The driver suffered multiple cuts, a fracture of the orbital bone in his face and spinal fractures as a result of the attack.⁵
- On March 4, 2011, two turban-wearing elderly Sikh men out for a walk were fatally gunned down in Elk Grove, California. The Sikh community remains convinced that the shooting was a hate crime, given the men's religious appearance and lack of any other apparent motive. Despite significant press coverage of the crime, political attention, the FBI's involvement, and a large reward offered, no arrests have been made.⁶
- In 2013, Piara Singh, an 82-year-old turbaned Sikh man in Fresno, California was beat mercilessly with a steel rod by an attacker on the street who shouted bias-based comments. The attacker was convicted of a hate crime.⁷
- On November 6, 2015, Balwinder Jit Singh, a turbaned Sikh bus operator for the Los Angeles County Metropolitan Transportation Authority, was violently attacked by a passenger who shouted "suicide bomber" and accused Mr. Singh of hijacking the bus.⁸ The police are currently investigating the incident as a hate crime.
- On December 5 or December 6, 2015, vandals spray-painted epithets, including "Fuck ISIS" and "Islahm," along with gang graffiti, on a Sikh house of worship, the Gurdwara Singh Sabha (and a truck in its parking lot) in Buena Park, California. The perpetrator confessed to the police and was charged with a hate crime.⁹
- On December 26, 2015, two men punched and ran over 68-year-old turbaned Sikh Amrik Singh Bal with their car as he waited for his ride to work in Fresno, California. Both men were charged with hate crimes.¹⁰

³ SIKH COALITION, BAY AREA CIVIL RIGHTS REPORT 4, 8, 20 (2010), available at http://www.sikhcoalition.org/documents/Bay_Area_Civil_Rights_Agenda.pdf.

⁴ See, e.g., LEADERSHIP CONFERENCE ON CIVIL RIGHTS EDUCATION FUND, CONFRONTING THE NEW FACES OF HATE: HATE CRIMES IN AMERICA 30 (June 2009), available at <http://www.civilrights.org/publications/hatecrimes/>.

⁵ See Cathy Locke, *Natomas Man Sentence to Prison in Attack on Sikh Tax Driver*, SACRAMENTO BEE (June 6, 2011) available at <http://blogs.sacbee.com/crime/archives/2011/06/natomas-man-sen.html>.

⁶ See Loretta Kalb, *Senate Leader Steinberg Urges Sikh Solidarity Day*, SACRAMENTO BEE, Mar. 14, 2011, at 1B; Stephan Magnanini, *Second Sikh Man Dies Six Weeks After Shooting*, SACRAMENTO BEE, Apr. 16, 2011, at 1B.

⁷ See Diana Marcum, *Sikh Man, 82, Beaten with Pipe in Fresno in Suspected Hate Crime*, L.A. TIMES (May 8, 2013), <http://articles.latimes.com/2013/may/08/local/la-me-ln-fresno-sikh-beaten-20130508>; Pablo Lopez, *Fresno Man Sentenced to 13 Years in Prison for 2013 Hate Crime*, FRESNO BEE (Sept. 15, 2015), <http://www.fresnobee.com/news/local/crime/article35384841.html>.

⁸ See Brittny Mejia, *Attack on L.A. Metro Driver Sparks Fear in the Sikh Community*, L.A. TIMES (Jan. 14, 2016), <http://www.latimes.com/local/lanow/la-me-ln-attack-on-metro-driver-sparks-fear-in-sikh-community-20160114-story.html>.

⁹ See Veronica Rocha, *Buena Park Man Admits to Vandalizing Sikh Temple, Police Say*, L.A. TIMES (Dec. 11, 2015), <http://www.latimes.com/local/lanow/la-me-ln-man-arrested-sikh-temple-vandalism-20151211-story.html>.

¹⁰ See Pablo Lopez, *Fresno Man to Stand Trial in Hate Crime-Attack on Sikh Man*, FRESNO BEE (May 24, 2016) available at <http://www.fresnobee.com/news/local/crime/article79677912.html>.

Because of this discrimination, political leaders across the country, including former President George W. Bush, President Barack Obama, and members of the United States Congress have called on law enforcement to be vigilant in protecting Sikhs from bias-motivated attacks and in charging perpetrators with bias crimes where appropriate. Shortly after the September 11th terrorist attacks, the United States Senate passed a resolution condemning hate crimes against Sikh-Americans.¹¹ The U.S. House of Representatives acknowledged the ongoing problem of hate crimes against Sikh-Americans as recently as 2009 in connection with the passage of an expanded federal hate crime law.¹² The California State legislature also passed a joint resolution condemning hate crimes against Sikh-Americans and other communities affected by the post-September 11th backlash.¹³ In 2011, a number of California state legislators participated in “Sikh Solidarity Day” condemning violence against Sikhs in the wake of the Elk Grove shooting.¹⁴ Both President Barack Obama and U.S. Attorney General Eric Holder condemned the violence in Oak Creek and First Lady Michelle Obama met with the victims and families. And on September 19, 2012, the U.S. Senate held a historic hearing on hate crimes and domestic terrorism in response to the Oak Creek tragedy. A Sikh who lost his mother in the shooting testified about hate violence against Sikhs.¹⁵

As you may know, the Richmond area is home to a large Sikh population. The gurdwara (Sikh house of worship) in nearby El Sobrante has a congregation of over 5,000 members. Given the brutal nature of the attack – in which Mr. Khalsa’s Sikh articles of faith were targeted – the local Sikh community is fearful that others may also be targeted because of their Sikh religious appearance. Mr. Khalsa’ trauma is shared by the Sikh community, which is keenly following the investigation and prosecution of his attackers with the hope that justice will ultimately be served.

Please do not hesitate to contact us with any questions or concerns.

Respectfully,

s/ Pawanpreet Kaur

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¹¹ S. Con. Res. 74, 107th Cong. (2001) (enacted).

¹² 155 CONG. REC. E1179-80 (2009).

¹³ Assem. J. Res. 64, 2003-04 Leg., Reg. Sess. (Cal. 2004).

¹⁴ See Loretta Kalb, *Senate Leader Steinberg Urges Sikh Solidarity Day*, SACRAMENTO BEE, Mar. 14, 2011, at 1B.

¹⁵ Specifically, the U.S. Senate Judiciary Subcommittee on the Constitution, Civil Rights, and Human Rights convened a historic hearing on hate crimes and domestic extremism in America on September 19, 2012. Harpreet Saini, the son of Paramjit Kaur, who was killed at the Sikh Gurdwara in Oak Creek, Wisconsin, was called to testify about hate crimes against Sikhs.