

**Statement of Melissa Garlick**  
**Civil Rights National Counsel**  
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**For the**  
**United States Commission on Civil Rights**  
*In the Name of Hate: Examining the Federal Government's Role in Responding to Hate Crimes*  
**May 11, 2018**

**The US Commission on Civil Rights Addressing Hate Violence**

For more than thirty years, the US Commission on Civil Rights and its State Advisory Committees have done trailblazing work elevating the issue of hate crime and bias-motivated violence. The Commission's 1983 report, *Intimidation and Violence: Racial and Religious Bigotry in America*,<sup>1</sup> was groundbreaking in identifying that a national hate crime data collection effort would be essential for developing national and community responses to the issue. We appreciate the fact that the Commission has again turned its attention to this national problem and very much hope that the findings and recommendations that emerge from this briefing will address a broad range of issues, including the current climate on emboldened hate, anti-bias education and prevention initiatives, the need for training and much more comprehensive hate crime reporting by federal, state, and local law enforcement authorities, best practices for community responses, and the ways adoption of effective laws and policies and procedures can advance police-community relations.

**The Anti-Defamation League ("ADL")**

Since 1913, the mission of ADL has been to "stop the defamation of the Jewish people and to secure justice and fair treatment for all." Dedicated to combating anti-Semitism, prejudice, and bigotry of all kinds, as well as defending democratic ideals and promoting civil rights, ADL is proud of its leadership role in developing innovative materials, programs, and services that build bridges of communication, understanding, and respect among diverse racial, religious, and ethnic groups.

ADL is the nation's leader in the development of effective programs to confront anti-Semitism, violent bigotry, and prejudice. The League's strength is its ability to craft national programming and policy initiatives and then to refine and implement them through our network of 26 regional offices spread throughout the country. Our national headquarters in New York houses extensive research archives and staff members with professional expertise in legal affairs, extremism, international relations, and education.

Over the past three decades, ADL has been recognized as a leading resource on effective responses to violent bigotry, conducting an annual *Audit of Anti-Semitic Incidents*, and drafting model hate crime statutes for state legislatures. We were privileged to lead a broad coalition of civil rights, religious, educational, professional, law enforcement, and civic organizations working in support of the 2009 Matthew Shepard and James Byrd Jr. Hate Crimes Prevention Act (HCPA) for more than a decade.

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<sup>1</sup> <http://www.law.umaryland.edu/marshall/usccr/documents/cr11077.pdf>. This essential report was updated in 1990, before the enactment of the Hate Crime Statistics Act, (Public Law 101-275, 18 USC §534).  
<http://www.law.umaryland.edu/marshall/usccr/documents/cr11096.pdf>

## **The Impact and Disturbing Prevalence of Anti-Semitism and Hate Violence**

All Americans have a stake in effective response to violent bigotry. These crimes demand priority attention because of their special impact. Bias crimes are intended to intimidate the victim and members of the victim's community, leaving them feeling fearful, isolated, and vulnerable. Failure to address this unique type of crime often causes an isolated incident to explode into widespread community tension. The damage done by hate crimes, therefore, cannot be measured solely in terms of physical injury or dollars and cents. By making members of targeted communities fearful, angry, and suspicious of other groups – and of the power structure that is supposed to protect them – these incidents can damage the fabric of our society and fragment communities.

Data must drive policy. The first step in addressing the problem of anti-Semitism and hate crimes is to know its nature and magnitude.

### **ADL Audit of Anti-Semitic Incidents**

Since 1979, ADL has been compiling an annual *Audit of Anti-Semitic Incidents* (“the Audit”). We track anti-Semitic incidents not only because we are a Jewish community civil rights organization, but because anti-Semitism, the longest and most persistent form of prejudice, threatens security and democracy and is an indicator of the health of a society as a whole.

The Audit includes both criminal and non-criminal acts of harassment and intimidation, including distribution of hate propaganda, threats, and slurs. Compiled using information provided by victims, law enforcement, and community leaders, each recorded incident specifically was evaluated by a member of ADL’s professional staff who personally verified the information. In short, the Audit provides a fact-based snapshot of a nationwide problem while identifying possible trends or changes in the types of activity reported.

Through the Audit, ADL has modeled the role that communities can take in elevating the need for monitoring and reporting hate crimes. After the first three years tracking significant data increases, ADL drafted the first model state hate crime penalty-enhancement law and promoted its enactment across the country. Today, the federal government and 45 states and the District of Columbia have enacted hate crime laws, modeled on, or similar to, our original draft.<sup>2</sup>

Recent Audit data released recently shows that the number of anti-Semitic incidents remain significantly higher in 2017 compared to 2016 with an increase of 57 percent. Specifically, our report<sup>3</sup> documented there were 1,986 anti-Semitic incidents across the United States in 2017, including physical assaults, vandalism, and attacks on Jewish institutions. Compared to 2016, each of the first three quarters of 2017 had a higher number of incidents. These incidents peaked during the first quarter of 2017, and the pace slowed somewhat in the second and third quarters. Of all 1,986 anti-Semitic incidents in 2017, a majority (667) occurred in the first quarter of the year. An additional 632 anti-Semitic incidents were reported in the second and third quarters of the year, surpassing the 488 incidents reported during the same period in 2016.

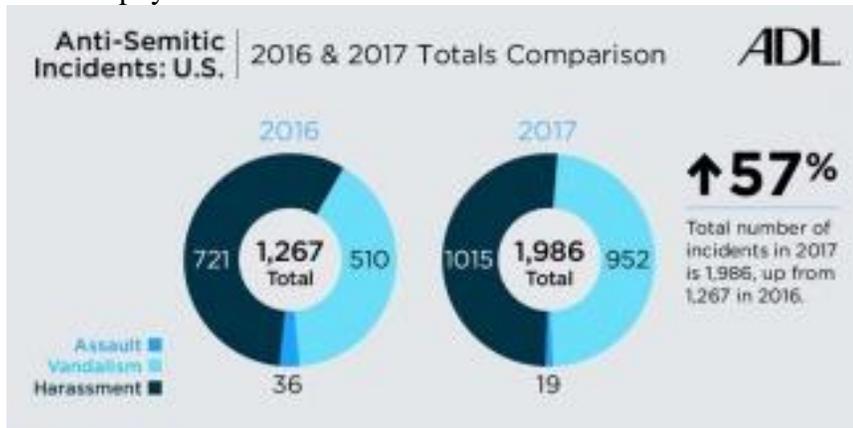
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<sup>2</sup> ADL’s chart of state hate crime statutes is available on our website: <https://www.adl.org/sites/default/files/documents/assets/pdf/combating-hate/ADL-updated-2016-Excel-State-Hate-Crime-Statutes.pdf>

<sup>3</sup> <https://www.adl.org/news/press-releases/adl-data-shows-anti-semitic-incidents-continue-surge-in-2017-compared-to-2016>

In 2017 there were:

- 1,015 incidents of harassment, including 163 bomb threats against Jewish institutions in three dozen states;
- 952 incidents of vandalism, including 52 against Jewish institutions;
- 19 physical assaults.



These incidents<sup>4</sup> took place across the country, but consistent with prior reports, the states with the highest number of incidents tend to be those with the largest Jewish populations. These include New York State (380 incidents); California (268); Massachusetts (177); Florida (98) and Pennsylvania (96).<sup>5</sup>

### **FBI Hate Crime Statistics Act**

The FBI has been tracking and documenting hate crimes reported from federal, state, and local law enforcement officials since 1991 under the Hate Crime Statistics Act of 1990 (HCSA). Though clearly incomplete (as discussed below), the Bureau’s annual HCSA reports provide the best single national snapshot of bias-motivated criminal activity in the United States. The Act has also proven to be a powerful mechanism to confront violent bigotry, increasing public awareness of the problem and sparking improvements in the local response of the criminal justice system to hate violence – since in order to effectively report hate crimes, police officials must be trained to identify and respond to them.

There is no doubt that the HCSA data collection and reporting program is necessary for the proper performance of core missions for the Justice Department and the FBI.

ADL has worked closely with a broad coalition of civil rights, religious, education, professional, and law enforcement organizations to promote comprehensive hate crime data collection efforts. The FBI has worked hard to make the information reported to the Bureau accessible to researchers, law enforcement officials, civic leaders, and community relations professionals. The publication of the annual jurisdiction-by-jurisdiction report, *Hate Crime Statistics*, has been especially useful in helping to gauge the seriousness with which communities and police departments are approaching the federal hate crime data collection effort.

The 2016 FBI HCSA report<sup>6</sup> documented a five percent overall increase over the 2015 report in hate crimes on the basis of race, religion, sexual orientation, gender, and gender identity. Specifically, the FBI documented

<sup>4</sup> <https://www.adl.org/news/domestic-anti-semitism-selected-incidents-across-the-country-in-2017>

<sup>5</sup> A state-by-state breakdown of the incidents in the *Audit* is here: <https://www.adl.org/news/adl-2017-audit-of-anti-semitic-incidents-a-breakdown-of-the-numbers-state-by-state>

<sup>6</sup> <https://ucr.fbi.gov/hate-crime/2016>

6,121 hate crimes reported by over 15,250 law enforcement agencies across the country - nearly one hate crime every ninety minutes of every day.<sup>7</sup> Of the 6,121 total incidents, 3,489 were motivated by racial/ethnic bias (57 percent) 1,076 by sexual orientation bias (17.7 percent); 70 were reported to have occurred against disabled individuals (1.2 percent), and, in just the fourth year of FBI data collection on crimes directed against individuals on the basis of their gender identity, the numbers increased from 114 in 2015 to 124 in 2016 – and now represent two percent of all hate crimes. **An ADL chart which compiles and details the findings from the annual FBI HCSA reports from 2016-2000 is included in our formal submission to the Commission.**<sup>8</sup>

Religion-based crimes increased slightly, from 1,244 in 2015 to 1,273 in 2016. Overall, 21.0 percent of all reported hate crimes were motivated by religious bias – the third highest proportion of total hate crimes in the 25-year history of the HCSA. Crimes directed against Jews increased three percent – from 664 in 2015 to 684 in 2016. As has happened every year since 1990, a disturbingly high and disproportionate percentage of the total number of reported religion-based crimes (54 percent) were directed against Jews and Jewish institutions. In fact, since 1990, anti-Jewish hate crimes have been between 50 and 85 percent of the religious-based hate crimes – an especially disturbing fact when you consider that Jews are less than three percent of Americans.

Also deeply disturbing is the fact that reported crimes against Muslims increased 19 percent, from 257 in 2015 to 307 in 2016 – after an increase of 67 percent from 2014 to 2015. The number of reported anti-Muslim hate crimes in 2016 was, in fact, the second most reported against Muslims ever – second only to the series of backlash crimes in 2001, after the September 11, 2001 terrorist attacks. Primarily because of mistrust of police, crimes against Muslim Americans are underreported.

Importantly, the FBI 2016 HCSA report was the second year in which police agencies were asked to report anti-Sikh, anti-Hindu, and anti-Arab hate crimes (anti-Mormon and anti-Eastern Orthodox and other religious denominations, too). Though the FBI HCSA program has collected and reported information about bias-motivated crimes directed at Muslims since it began in 1991, the program did not collect this separate data. Yet, since the September 11, 2001 terrorist attacks, there has been ongoing, specific evidence that Sikh, Arab, and Hindu individuals and institutions have been targeted for violence and vandalism because of their religious practices, appearance, and apparel – including distinctive beards, turbans, traditional forehead art, or head coverings. After the tragic murder of six Sikh worshippers in Oak Creek, Wisconsin in August, 2012, collecting this data became an even more urgent lobbying priority for Members of Congress, led by Rep. Joseph Crowley (D-NY),<sup>9</sup> and members of the hate crime coalition.<sup>10</sup> Responding to this concerted advocacy, in June, 2014, the FBI Advisory Policy Board recommended that the FBI separately collect and report hate crimes directed against Sikhs, Arabs, and Hindus (and several other religious denominations) as part of its HCSA annual national data collection program.<sup>11</sup>

This first two years of data is very preliminary. ADL is working closely with coalition allies to promote reporting by members of these communities to improve reliability of the data.

### **The Urgent Need to Address Incomplete HCSA Reporting**

<sup>7</sup> <https://ucr.fbi.gov/hate-crime/2015>

<sup>8</sup> This ADL HCSA comparison chart is also on our website:

<https://www.adl.org/sites/default/files/documents/FBI%20Hate%20Crime%20Statistics%20Comparison%202000-2015%20final.pdf>

<sup>9</sup> <http://crowley.house.gov/press-release/crowley-over-100-members-congress-urge-stronger-action-protect-sikh-hindu-arab>

<sup>10</sup> <https://www.adl.org/news/letters/coalition-urges-fbi-to-track-hate-crimes-against-sikhs-arabs-and-hindus>.

<sup>11</sup> <https://www.adl.org/blog/fbi-will-collect-and-report-hate-crimes-directed-against-sikhs-arabs-and-hindus>

Led by the International Association of Chiefs of Police (IACP) and the National Organization of Black Law Enforcement Executives (NOBLE), police have come to recognize the significant benefits of effectively tracking hate crime, as well as preventing and responding to them. The IACP has demonstrated tremendous leadership in promoting resources and training materials to address hate violence. IACP recently updated their excellent Model Policy and Concepts and Issues Paper on hate crime for agencies<sup>12</sup>, as well as their handbook, *A Police Officer's Guide to Investigation and Prevention*.<sup>13</sup> Effective policies and procedures and response can reduce crime while building public trust between police officials and the communities they serve and protect. By compiling statistics and charting their geographic distribution, officials may be in a position to discern specific patterns and anticipate an increase in intergroup tensions.

However, it is absolutely clear that the HCSA data we have now significantly understates the true number of hate crimes committed in our nation. On one hand, participation in the FBI's reporting program (which, like the rest of the UCR Program, is voluntary) has increased over the years. In 2016, 15,254 federal, state, and local law enforcement agencies voluntarily reported hate crime data to the FBI. Yet, only a very small number, just 1,776 of these participating agencies – 12 percent – reported even a single hate crime to the FBI. That means that 88 percent of all “participating” police agencies affirmatively reported zero (0) hate crimes to the FBI (including at least 70 cities with populations over 100,000). And approximately 1,500 law enforcement agencies did not report (DNR) any data at all to the FBI (including 22 cities with populations over 100,000). The state of Hawaii did not participate in the HCSA program at all.<sup>14</sup> **An ADL chart which lists these 92 DNR and zero reporting agencies over 100,000 in population is included in our formal submission to the Commission.**

There are very real consequences to this lack of comprehensive reporting. It is well documented that victims are far more likely to report a hate crime if they know a special reporting system is in place – if they believe the police are ready and able to respond effectively. Yet, studies by NOBLE and others have revealed that some of the *most* likely targets of hate violence are the *least* likely to report these crimes to the police. In addition to cultural and language barriers, many immigrant victims, for example, especially in our current climate, fear reprisals or deportation if incidents are reported. Many new to America come from countries in which residents would never call the police – *especially* if they were in trouble. LGBT victims, facing hostility, discrimination, and, possibly, family pressures, may also be reluctant to come forward to report these crimes.

### **The Role of Hate Rhetoric in 2016 Election Campaign and Federal Policies Today**

It is important to address the role of the long and very divisive 2016 election campaign, which brought out some of the worst elements of our society. Hate-filled language, memes, stereotyping and scapegoating were injected into the mainstream of America's debate through traditional and social media. Specifically, we saw a level of anti-Semitism and a normalization of bigotry that deeply concerned us. This included stereotyping of many groups, including women and immigrants, threats to ban Muslims from entering or living in the country, pronouncements that Islam “hates” America, mocking of disabled people, and political candidates attacking one another based on their physical appearance.

Moreover, the subsequent denial or dismissal of such rhetoric by the candidates and their supporters was unlike anything we have seen in recent history. And, unfortunately, that rhetoric has continued beyond the campaign trail, cemented into policies that marginalize communities already vulnerable to hate crimes and

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<sup>12</sup> <http://www.commandanswers.com/new-iACP-model-policies-available-iACP-net/>

<sup>13</sup> <http://www.iACP.org/ViewResult?SearchID=123>

<sup>14</sup> <https://ucr.fbi.gov/hate-crime/2016>

directly impact whether individuals report such crimes to local police. Policies proposed by our federal government, such as the Muslim Ban and the transgender military ban, discriminate against and target communities of color, further marginalize communities, and promote hate. The Administration's position defending such policies in court sends a governmental message that encourages hate and signals to vulnerable communities that the government may not defend them and may, instead, target them if they report incidents. Policies targeting so-called "sanctuary" cities, and reports of increased immigration enforcement raids, and immigration enforcement actions in previously safe spaces, such as courthouses and schools, have raised fears and concerns in schools and communities across the country, threatened to drive a dangerous wedge between law enforcement and immigrant communities and created an environment in which victims are afraid to report crimes or come forward as witnesses, including hate crimes.<sup>15</sup> ADL's education professionals have prepared resources for schools and the field to help families and teachers navigate difficult questions they were hearing from children.<sup>16</sup>

### **Extremists and Hate Groups Emboldened**

We also have seen a resurgence of white supremacist activity in the United States.<sup>17</sup> Extremists and anti-Semites are using technology in new ways to spread their hatred and to impact the Jewish community on college campuses,<sup>18</sup> and on and off line. During the 2016 election campaign, white supremacists harassed and intimidated Jewish journalists on social media with anti-Semitic tropes and horrific images of the Holocaust – and coined a new hate symbol, triple parentheses, to publicly "tag" Jews online.<sup>19</sup> Among the actions carried out by extremists in 2016 and the first quarter of 2017 were network printer hacks and the use of source-masking technology to make it easier to harass Jews anonymously.

And in August, ADL documented a "meta-event" rarely seen in America: the white supremacist "Unite the Right" rally<sup>20</sup> in Charlottesville, Virginia. We describe it as a meta-event because it attracted hundreds of bigots from around the country who travelled to Charlottesville specifically to attend the rally, making it the largest of its kind in more than a decade. And the marchers brazenly displayed shocking, violent expressions of anti-Semitism and racism, including the display of swastika flags, chants of "Jews will not replace us!" and other overt anti-Semitic acts.

The events in Charlottesville had an outsized impact on different facets of American society, including the Jewish population. For many younger Jews, hearing white supremacists chanting "Jews will not replace us" may have been their first encounter with public anti-Semitism.<sup>21</sup> For Jewish adults and seniors, watching Nazi salutes and hearing chants of "siege heil" and "blood and soil" (the latter is a translation of the Nazi slogan "Blut und Boden") evoked memories or family recollections of the most overwhelming trauma in modern Jewish history. The white supremacist groups which participated in the Charlottesville rally have a well-established record of anti-Semitism, and individual leaders of the movements present at the rally, including former Klansman David Duke, are prolific promoters of anti-Semitism in the U.S.

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<sup>15</sup> "If people intent on hurting others know that immigrants will not call the police for help, immigrants will become even more vulnerable." <https://www.adl.org/news/press-releases/executive-order-on-sanctuary-cities-will-make-all-of-us-less-safe-adl-says>

<sup>16</sup> <https://www.adl.org/education/resources/tools-and-strategies/election-2016-teaching-resources>

<sup>17</sup> *With Hate in their Hearts: The State of White Supremacy in the United States*

<https://www.adl.org/education/resources/reports/state-of-white-supremacy>

<sup>18</sup> *White Supremacists Making Unprecedented Effort on U.S. College Campuses to Spread Their Message, Recruit*

<https://www.adl.org/news/press-releases/adl-white-supremacists-making-unprecedented-effort-on-us-college-campuses-to>

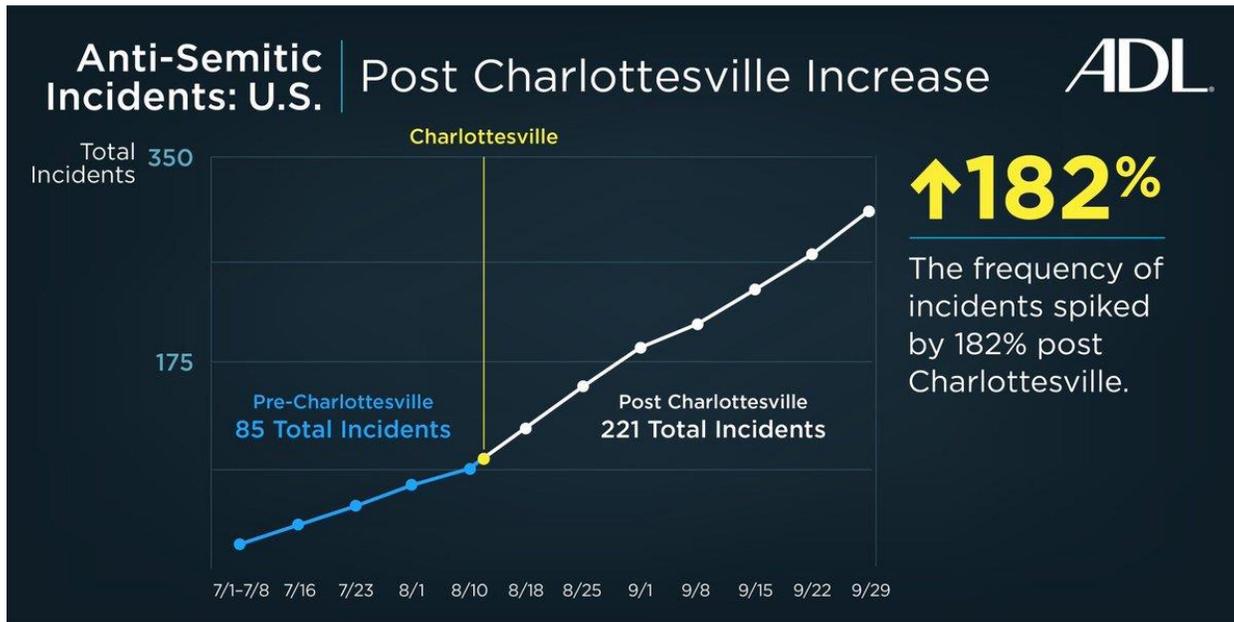
<sup>19</sup> <https://www.adl.org/news/press-releases/adl-to-add-echo-symbol-used-by-anti-semites-on-twitter-to-online-hate-symbols>

<sup>20</sup> <https://www.adl.org/blog/violence-and-hate-unite-the-right>

<sup>21</sup> <https://www.adl.org/blog/anti-semitism-on-full-display-in-charlottesville>

In the aftermath of the Charlottesville white supremacist-inspired violence and murder, on September 15, 2017, ADL led a coalition of more than 80 national civil rights, education, religious and professional organizations in sending a seven-page, single spaced letter to the Department of Justice promoting a full range of training, enforcement, and programmatic initiatives that DoJ, the FBI, and the administration should undertake to address hate violence now. **This letter is included in our formal submission to the Commission.** To date, we have not received an answer to our letter.

Anti-Semitic incidents spiked on the days of the Charlottesville march and rally and immediately following. Of the 306 incidents reported in the third quarter, 221 took place on or after the August 11 rally.



The Charlottesville rally was one of at least 33 public white supremacist events in the U.S. so far this year,<sup>22</sup> which were supplemented with 188 incidents where white supremacists used fliers to spread their message to new audiences, especially on college campuses.

**White Supremacists on Campus: Unprecedented Recruitment Efforts Underway**

ADL has documented that white supremacists are engaged in unprecedented outreach efforts on American college campuses – another sign that these hate groups feel emboldened by the current political climate. According to ADL’s Center on Extremism most recent information, 464 incidents of white supremacist propaganda – fliers, stickers, banners, and posters – have appeared on 281 college and university campuses in 47 states and the District of Columbia since September 2016. One hundred and sixty-six (166) of the incidents occurred during the 2016-2017 school year compared to 277 of the incidents recorded in the 2017-2018 school year.

Until late 2016, white supremacist activity on college campuses was infrequent. Starting with the fall 2016 school year, white supremacists began a much more open effort to spread their message and recruit new adherents at colleges and universities.<sup>23</sup> Literature distribution, usually in the form of fliers scattered around

<sup>22</sup> <https://www.adl.org/news/white-supremacist-events-and-outreach-adl-2017-audit-of-anti-semitic-incidents>

<sup>23</sup> <https://www.adl.org/news/press-releases/adl-finds-alarming-increase-in-white-supremacist-propaganda-on-college-campuses>

campuses, is one of their most frequent tactics. The most active white supremacist groups employing this tactic are Identity Evropa<sup>24</sup> and Patriot Front.<sup>25</sup>

White supremacists are mobilizing in hopes of translating their online activism to “real world” action, and campuses – and young people – are prime targets, in part because they are still figuring out who they are, and what they believe. Extremists also undoubtedly see value in recruiting a new generation that can carry the movement for years to come. **A listing of recent ADL Center on Extremism reports on hate groups, terrorism, and extremism is included in our formal submission to the Commission.**

While the vast majority of white supremacist campus actions involve propaganda, such as fliers and stickers, white supremacists have also sent anti-Semitic faxes and, in the case of white supremacist Richard Spencer, delivered speeches on campus. Many of these incidents are linked to larger coordinated promotional efforts by white supremacist groups, like Identity Evropa’s “Project Siege,” which includes actual campus recruitment visits, and American Vanguard’s “Northern Propaganda Campaign.”

Most often, these incidents would not meet the criteria to be categorized as a hate crime but this does not diminish from the pain that they can cause. For this reason, special attention needs to be paid to responding to, and preventing, these incidents in a multi-faceted way that meets the needs of an educational institution and a close-knit community.

### **Addressing Hate Crimes Online**

In recent years, the spread of hate online has surged and social media has become the new frontier in the battle against online hatred. Cyberhate poses additional challenges because everyone can be published on the Internet and hateful content can spread very quickly, often going unchallenged. Online hate speech is global by nature. A call to kill Jews can be uploaded in the Middle East and watched around the world at any time. Social media and the Internet enable racists, anti-Semites, and anti-government extremists to reach a much larger audience than ever before. It provides instant and anonymous access to propaganda that can inspire and guide criminal activity.

Of particular concern has been the growing epidemic of cyberharassment and stalking particularly on social media platforms, such as Twitter and Facebook. Civil and criminal laws most often used by victims to sue their harassers are limited. Criminal cyberstalking and harassment and threat laws tend to be under enforced because of resources but also because of lack of familiarity by law enforcement with the technology and the law. In addition, many state harassment and stalking laws only cover abuse sent directly to victims, and not on third party sites. Particularly over the past year, bias-motivated cyberharassment and stalking have become increasing concerns. ADL has been a leader in fighting hate online with a dedicated team tracking online hate speech and hate groups, reporting on trends and tools to fight online hate, sharing insights and data with law enforcement, and establishing best practices for addressing cyberhate that have been guiding the biggest Internet and social media companies for years.<sup>26</sup> After ADL’s *Task Force on Harassment and Journalism*

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<sup>24</sup> <https://www.adl.org/resources/profiles/identity-evropa>

<sup>25</sup> <https://www.adl.org/resources/backgrounders/patriot-front>

<sup>26</sup> In 2013, the League developed the *ADL Cyber-Safety Action Guide*, <https://www.adl.org/cyber-safety-action-guide> which allows visitors to access information on submitting complaints and reporting hate speech and harassment to the major online companies. In 2014, ADL convened an industry Working Group on Cyberhate and published “*Best Practices for Responding to Cyberhate*,” <https://www.adl.org/news/press-releases/adl-releases-best-practices-for-challenging-cyberhate>, and in February, 2016, following clear evidence that domestic extremists and foreign terrorist organizations were using social media as a primary tool to recruit followers and incite terrorism, ADL joined as one of the inaugural members of the *Twitter Trust & Safety Council*, <https://blog.twitter.com/2016/announcing-the-twitter-trust-safety-council>

documented tens of thousands of anti-Semitic tweets directed at Jewish journalists during the presidential campaign, it issued a series of detailed recommendations in a 52-page report entitled *Control-Alt-Delete*.<sup>27</sup>

In an effort to continue our leadership on this issue, ADL is working with data.world on a new, public, open data workspace<sup>28</sup> to help understand trends and combat the rise of hate crimes – and to help hold police agencies accountable for reporting hate crimes to the FBI. The workspace also features social capabilities to foster real-time collaboration with peers. In addition, ADL is now working with Omidyar Network to build a new Silicon Valley command center to employ the best technology and pioneer new strategies in tracking, analyzing, and mitigating hate speech and harassment across the Internet.<sup>29</sup> ADL also recently convened a “hackathon” hosted by SAS Analytics and Data Kind to utilize cutting-edge data science technology and techniques to improve hate crime data and response by identifying previously unknown data points, patterns, and trends.<sup>30</sup>

## **Legal, Legislative, and Programmatic Policy Recommendations**

The federal government has an essential leadership role to play in confronting hate crimes, extremism, and acts of violence motivated by prejudice. It cannot do so if it scapegoats Muslims, refugees, and other marginalized communities. The President’s executive action to ban immigrants from majority Muslim countries and other federal agency actions that discriminate against and target communities of color and other marginalized communities are counterproductive to fighting hate crimes and building community trust with law enforcement. The Administration’s policies and actions to target so-called “sanctuary” cities has sent shockwaves of fear throughout immigrant and marginalized communities in the country. At a time of increasing incidents of bias, harassment, and hate violence, this has a direct impact on whether individuals will trust police enough to report crimes, including hate crimes.

### **1) Establish a Federal Agency Coordinating Hate Crime Task Force**

The US Commission on Civil Rights should recommend that the Trump administration create a federal inter-agency Task Force on Fighting Hate, which includes the Department of Justice, FBI, the Department of Education, the Department of Homeland Security and others to meet regularly with stakeholders and community-based organizations and to promote cross-agency collaboration to address hate crime prevention and response.

### **2) Use the Bully Pulpit to Speak Out Against Hate**

As previously noted, the US Commission on Civil Rights and its State Advisory Committees have done leadership work on hate crime issues. Holding this briefing is another demonstration of how important Commissioners view this issue at this time. In addition, Members of Congress, the President and his Cabinet, and federal agencies should call out bigotry *at every opportunity*. Simply put, you cannot say it enough times that America is no place for hate. The President’s well-documented reluctance to address rising anti-Semitism, Islamophobia, and hate helped to create an environment in which extremists have felt emboldened.

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<sup>27</sup> <https://www.adl.org/sites/default/files/documents/assets/pdf/press-center/adl-journalism-task-force-recommendations.pdf>

<sup>28</sup> <https://data.world/adl/hate-crime-laws-and-statistics>

<sup>29</sup> <https://www.adl.org/news/press-releases/adl-to-build-silicon-valley-center-to-monitor-fight-cyberhate-omidyar-network-2>

<sup>30</sup> <https://www.adl.org/blog/adl-convenes-hackathon-for-a-deeper-dive-into-hate-crime-data>

Importantly, in September, 2017 – after the shocking, violent white supremacist march and rallies in Charlottesville, Congress enacted [Public Law 115-58](#),<sup>31</sup> which

(A) urged the President and his administration to speak out against hate groups that espouse racism, extremism, xenophobia, anti-Semitism, and White supremacy;

(B) urged the Attorney General to work other federal agencies to investigate thoroughly all acts of violence and intimidation by White supremacists, neo-Nazis, the Klan, and other groups to see “if any criminal laws have been violated and to prevent those groups from fomenting and facilitating additional violence”; and

(C) urged the Federal agencies to improve the reporting of hate crimes and to emphasize the importance of the collection and reporting to the FBI of Investigation, of state and local hate crime data.

### **3) Improve Federal Hate Crime Data Collection, Training, and Prevention Efforts**

- Justice Department officials – including US Attorneys, FBI officials, and Community Relations Service professionals – should promote comprehensive participation in the HCSA reporting program, using the FBI’s fine *Hate Crime Data Collection Guidelines and Training Manual*.<sup>32</sup> Special attention should be devoted to large underreporting law enforcement agencies that either have not participated in the HCSA program at all or have incorrectly reported zero hate crimes.
- The USCCR should recommend creating incentives for participation in the FBI’s HCSA data collection program, certain Department of Justice funds should only be made available to agencies that are demonstrating credible participation in the HCSA program. Whether a specific state or local law enforcement agency is participating in the HCSA program should be included in the rating and scoring criteria as applications for Justice Department funding are considered.
- The federal government must closely examine why victims of hate violence fail to report these crimes to the police. The USCCR should recommend that the administration and the Department of Justice take steps to ensure that it is efficient and safe for all victims of hate crimes to contact the police. If marginalized or targeted community members – including immigrants, people with disabilities, LGBT community members, Muslims, Arabs, Middle Easterners, South Asians and people with limited language proficiency – cannot report, or do not feel safe reporting, law enforcement cannot effectively address these crimes, thereby jeopardizing the safety of all.
- The Justice Department and the FBI should work cooperatively with police organizations and departments to promote and increase funding for the FBI’s National Incident-Based Reporting System (NIBRS) crime reporting program and increase real-time reporting and transparency through the very promising Police Data Initiative,<sup>33</sup> now led by the Police Foundation.
- Crimes against police damage the fabric of our society and have a deeply harmful community impact. But, because every state and the Federal government *already* enhance penalties for physical attacks

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<sup>31</sup> <https://www.congress.gov/115/plaws/publ58/PLAW-115publ58.pdf>

<sup>32</sup> <https://ucr.fbi.gov/hate-crime-data-collection-guidelines-and-training-manual.pdf>

<sup>33</sup> <https://www.policedatainitiative.org/>

against a police officer, the USCCR should urge rejection of legislation to add police, firefighters, emergency medical personnel, or other first responders to federal or state hate crime laws.

- The law is a blunt instrument to confront violent bigotry – it is much better to prevent these crimes in the first place. To complement effective responses to hate violence, the USCCR should recommend comprehensive federal and state anti-bias education, hate crime prevention, and properly crafted anti-bullying, cyberbullying, and harassment education and training initiatives.
- The USCCR should recommend that all federal and state law enforcement officials undertake implicit bias training.<sup>34</sup>

#### **4) Promote Effective State and Local Responses: The Mayor’s Compact**

The USCCR should promote awareness of best practices and effective models for state and local response to hate violence, including the Mayor’s Compact.<sup>35</sup> This initiative, launched by ADL and The United States Conference of Mayors after the violence in Charlottesville last August, is designed to fight extremism and bigotry and to promote the fundamental principles of justice and equality that define America. Among other things, the more than 325 municipal Mayor signatories to date have committed to:

- Denouncing acts of hate and supporting efforts to hold perpetrators accountable, which providing comfort and assistance to victims of hate crimes and discrimination;
- Safeguarding the constitutionally-protected right to protest, while enforcing effective time, place, and manner restrictions;
- Working to ensure that police departments have the financial resources to prevent, respond, and investigate hate crimes;
- Encouraging schools to implement anti-bias and anti-hate content in their curricula and/or through extra-curricular activities;
- Promoting efforts to engage and advance partnerships among community-based organizations, civil rights and religious groups to build trust and minimize intergroup tensions;
- Supporting the successful integration of immigrants and new residents into the community, to celebrate our diversity, and educate about the different cultures that make our cities great;

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<sup>34</sup> In June, 2016, the Department of Justice announced that it would undertake training for all of its law enforcement agents and prosecutors to recognize and address implicit bias as part of its regular training curricula. <https://www.justice.gov/opa/pr/department-justice-announces-new-department-wide-implicit-bias-training-personnel>. The promise of that announcement has not yet been fulfilled.

<sup>35</sup> <https://mayorscompact.org/>

- Promoting training for law enforcement officials on responding to hate crimes and encouraging comprehensive hate crime data collection and reporting to the FBI for their annual Hate Crime Statistics Act report; and
- Enacting and strengthening hate crime laws to make them as inclusive and thoughtful as possible, including alternative sentencing for juvenile and first-time offenders, where appropriate.

## **5) Aggregate Online Hate Crime Prevention and Response Resources**

In close cooperation with law enforcement organizations and civil rights and religious groups with interest and expertise in combatting hate violence, the USCCR should recommend that the federal government create a website – similar to the extraordinarily helpful [www.stopbullying.gov](https://www.stopbullying.gov)<sup>36</sup> – to serve as a one-stop portal for the general public, law enforcement officials, educators, public officials, media and other key stakeholders. The new website, should aggregate federal resources about effective hate crime laws, prevention programs, best police policies and procedures and community awareness-building practices, victim service resources, law enforcement training initiatives, and help in identifying agency contacts that can assist in ancillary issues arising from hate crimes (such as immigration issues and security for houses of worship).

All online materials should be fully accessible, following all regulations of Section 508 of the Rehabilitation Act. The establishment of the website should be accompanied by a well-publicized rollout and a follow-up public awareness campaign.

## **6) Address the Growing Challenge of Cyberhate in a Comprehensive Manner**

- The USCCR should recommend that Congress confer with specialists in online harassment and the First Amendment, law enforcement officials and privacy law experts to identify new, constitutionally-sound means for legal redress for victims of cyberbullying, cyberstalking, doxxing, and swatting.
- Law enforcement officials should receive more training on how to respond to these dangerous practices, which use online activity to harm victims in the physical world.

## **7) Research and Evaluation**

- In conjunction with academic institutions, the USCCR should recommend that the Department of Education and the Department of Justice fund research into the nature and magnitude of the hate crime problem in America.

## **Conclusion**

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<sup>36</sup> <https://www.stopbullying.gov/>

We cannot legislate, tabulate, regulate, or arrest our way to a healthier and more accepting society. The fundamental cause of bias-motivated violence in the United States is the persistence of racism, anti-Muslim bigotry, anti-LGBT bias, and anti-Semitism. Unfortunately, there are no quick, complete solutions to these problems. Complementing state hate crime laws and prevention initiatives, the federal government has an essential leadership role to play in confronting criminal activity motivated by prejudice and in promoting prejudice reduction initiatives for schools and the community. Effective responses to hate violence by public officials and law enforcement authorities can play an essential role in deterring and preventing these crimes.

Ultimately, hate crime statistics do not speak for themselves – because behind each statistic is a victim injured or intimidated for no other reason than how they worship, who they love, who they are. The impact of all bias crime initiatives will be measured one, by one, by one – in the response of the criminal justice system to each individual act of hate violence.

We look forward to working with the USCCR to accomplish as many of these recommendations as possible, and to improve the response to each and every hate crime in every community in America.