

**Testimony of Jonathan A. Greenblatt
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Before the
Senate Judiciary Committee
Hearings on
Responses to Increase in Religious Hate Crimes
May 2 2017**

Chairman Grassley and Ranking Member Feinstein, I am Jonathan Greenblatt, the CEO and National Director of the Anti-Defamation League. We very much appreciate the opportunity to participate in this timely hearing on Responses to the Increase in Religious Hate Crimes. Thank you for your leadership in recognizing the importance of addressing this issue at this time.

The Anti-Defamation League

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.

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.

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 violence is to know its nature and magnitude.

Addressing Anti-Semitism in the United States

Anti-Semitism is a form of hatred, mistrust, and contempt for Jews based on a variety of stereotypes and myths, and often invokes the belief that Jews have extraordinary influence with which they conspire to harm or control society. It can target Jews as individuals, as a group or as a people, or it can target the State of Israel as a Jewish entity. Criticism of Israel or Zionism is anti-Semitic when it uses anti-Jewish stereotypes, symbols and images, denies the Jewish right to self-determination, or holds Jews collectively responsible for actions of the State of Israel.

ADL Audit of Anti-Semitic Incidents

Since 1979, the Anti-Defamation League has been compiling an annual *Audit of Anti-Semitic Incidents* report, which includes both criminal and non-criminal incidents, acts of harassment and intimidation, including distribution of hate propaganda, threats, intimidation, and slurs. We track anti-Semitic incidents not only because we are a Jewish community 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.

Prepared using information provided by victims, law enforcement, and community leaders, and evaluated by professionals in the ADL's Offices, the *Audit* is a carefully developed, uniquely credible report because every incident has been confirmed and investigated. Thus it provides an annual snapshot of one specific aspect of the nationwide bias crime problem and sheds light on broader trends. The *Audit* assists ADL in developing and enhancing its education, training, and outreach programs to counter and prevent the spread of anti-Semitism and other forms of hate and bigotry.

Through the *Audit*, ADL has modeled the role that communities can take in elevating the need for monitoring and reporting hate crime. We have strongly promoted the notion that if the Jewish community wants law enforcement officials to take anti-Semitic acts seriously, we must do so – and report them to the police. After three years of 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.¹ **An ADL chart of state hate crime laws is included in the Appendix²**

The League's 2016 *Audit* was released on April 24.³ The report documented that anti-Semitic incidents in the U.S. -- assaults, vandalism, and harassment – increased by more than one-third in 2016, to a total of 1,266 acts targeting Jews and Jewish institutions, including:

- 720 harassment and threat incidents, an increase of 41 percent over 2015;
- 510 vandalism incidents, an increase of 35 percent;
- 36 physical assault incidents, a decrease of 35 percent.

Our *Audit* documented a doubling in the amount of anti-Semitic bullying and vandalism at non-denominational K-12 grade schools. Schools are a microcosm of the country. Children absorb messages from their parents and the media, and bring them into their schools and playgrounds. And yet, we believe education is the best antidote to hate. As a result, ADL's extensive anti-bias education resources are designed to help ensure that the next generation does not internalize messages of intolerance and bigotry.

Increasingly, the public does not confine itself to the physical world. Instead, we search, shop and socialize online, particularly through platforms like Google, Facebook, Instagram, Twitter, Snapchat and others. It should not surprise us that prejudice also has moved onto these platforms as bigots and extremists have exploited them to promote intolerance. For this reason, ADL has prioritized countering cyberhate.

And anti-Semitic abuse has soared on social media. The *Audit* does not include the millions of tweets that included hateful, anti-Semitic invective that were delivered across Twitter in 2016, including tens of thousands of anti-Semitic tweets directed at Jewish journalists on social media during the presidential campaign. These were documented in a separate report issued in October 2016 by the *ADL Task Force on Harassment and Journalism*.⁴

In 2016, we also actively responded to the months-long sustained and vicious campaign of anti-Semitic harassment aimed at the small Jewish community of Whitefish, Montana, where several members of the community were singled out for a campaign of harassment and intimidation that started on social media but quickly moved into the physical world.⁵ This hateful campaign by white supremacists and members of the so-called "alt right" prompted law enforcement investigations along with at least one lawsuit by one of the victims.

The Role of Hate Rhetoric in 2016 Election Campaigns

It is also important to address the role of the long and very divisive election campaign, which brought out some of the

¹ ADL leads an intergroup coalition of 40 national organizations, **50 States Against Hate**, designed to prevent hate crimes, and to improve the response to them when they occur <https://www.adl.org/50statesagainsthate>

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

³ 2016 ADL *Audit of Anti-Semitic Incidents*: <https://www.adl.org/news/press-releases/us-anti-semitic-incidents-spike-86-percent-so-far-in-2017>

⁴ *Anti-Semitic Targeting of Journalists During the 2016 Presidential Campaign* A report from ADL's Task Force on Harassment and Journalism, October 19, 2016: https://www.adl.org/sites/default/files/documents/assets/pdf/press-center/CR_4862_Journalism-Task-Force_v2.pdf

⁵ *White Supremacist Ratchets Up Campaign Against Montana Jews, Promises Armed March*, <https://www.adl.org/blog/white-supremacist-ratchets-up-campaign-against-montana-jews-promises-armed-march>

worst elements of our society. Nearly 30 percent of all incidents (369) occurred in November and December 2016, spiking immediately after the election. Our *Audit* includes 34 incidents linked directly to the election. For example, in Denver, graffiti posted in May 2016 said “Kill the Jews, Vote Trump.” In November, a St. Petersburg, Fla., man was accosted by someone who told him “Trump is going to finish what Hitler started.” Much of the vandalism and harassment used slogans sourced from the Trump campaign such as “Make America Great Again.”

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. The deeply divisive rhetoric prompted a very public conversation – and raised fears and concerns in schools and communities across the country. ADL’s education professionals prepared resources for schools and the field to help families and teachers navigate difficult questions they were hearing from children.⁶

Trends Continuing in 2017

Unfortunately, our research has documented that the trend is continuing, with an 86 percent increase in the first quarter of 2017 over 2016 incidents. In the first quarter of 2017, preliminary reports of the 541 anti-Semitic incidents included:

- 380 harassment incidents, including 161 bomb threats, an increase of 127 percent over the same quarter in 2016;
- 155 vandalism incidents, including three cemetery desecrations, an increase of 36 percent;
- Six physical assault incidents, a decrease of 40 percent.

The bomb threats against JCCs, schools, ADL offices, and other community institutions in dozens of states across the country attracted very considerable attention. These threats were hate crimes that sparked widespread fear in these intentionally-targeted Jewish community institutions – causing evacuations, significant service disruptions, program cancellations, and deep community anxiety.

A number of the calls to Jewish community institutions graphically threatened a “bloodbath” where “Jews” were going to have their heads blown off. Other threats to Jewish institutions included specific language that a large number of “Jew children” were going to have their heads blown off from the shrapnel. And others calls to Jewish institutions included specific threats that the caller was coming to the school to shoot and kill children.

ADL called for a fully-resourced Department of Justice investigation⁷ and welcomed the April 21 announcement that the Department of Justice (DoJ) had filed criminal charges against an Israeli-American teen for the bomb threats.⁸ The DoJ affidavits that accompanied the charges graphically documented the chilling texts of a number of the bomb threats.⁹

Some have questioned whether these truly should be counted as anti-Semitic incidents because of the identity of the suspect. ADL does so because of the impact such threats had on the Jewish community. We never know the faith or nationality of someone when they are wearing a white hood or hiding behind their computer. But regardless of the alleged culprit, systematically targeting institutions of only one faith and terrorizing the members of that community bears all the hallmarks of hate crime.

Extremists and Hate Groups Emboldened

The majority of anti-Semitic incidents and other hate crimes are not carried out by extremists or organized hate groups. But the extraordinarily polarizing and divisive election campaign – which featured harshly anti-Muslim rhetoric and anti-Semitic dog whistles – has coarsened the public discourse and fostered an atmosphere in which white supremacists and other anti-Semites and bigots feel emboldened¹⁰ and believe that their views are becoming more broadly acceptable.

⁶ <https://www.adl.org/education/resources/tools-and-strategies/election-2016-teaching-resources>

⁷ https://medium.com/@JONATHAN_G/president-trump-time-for-a-plan-of-action-to-fight-the-surge-of-anti-semitism-9b2981d1846d

⁸ <https://www.adl.org/news/press-releases/adl-welcomes-justice-department-filing-of-criminal-charges-in-bomb-threats>

⁹ <https://www.justice.gov/opa/pr/usisraeli-man-charged-connection-threats-jewish-community-centers-conveying-false-information>

¹⁰ https://www.washingtonpost.com/local/attendance-rises-at-annual-white-nationalist-conference-in-dc-after-trump-victory/2016/11/19/cbe66884-ae88-11e6-977a-1030f822fc35_story.html?utm_term=.f2b988a02a66

The campaign's repeated flirtation with these elements – retweeting their content and quoting their heroes – and the President's initial reluctance to address rising anti-Semitism, have helped to mainstream their ideas.

We also have seen a resurgence of white supremacist activity in the United States.¹¹ Extremists and anti-Semites are using technology in new ways to spread their hatred and to impact the Jewish community on college campuses,¹² and on and off line. During the 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.¹³ 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.

Despite these challenges, there are hopeful signs. A new ADL opinion poll,¹⁴ released in early April, found, for the first time, that a majority of Americans (52 percent) said that they are concerned about violence in the U.S. directed at Jews, and an even a higher percentage (76 percent) were concerned about violence directed at Muslims. More than eight in 10 Americans (84 percent) believe it is important for the government to play a role in combating anti-Semitism, up from 70 percent in 2014. These results follow additional polling conducted by Pew Research that indicates that many Americans deeply respect their fellow Jewish citizens.¹⁵

Tracking and Responding to Hate Crimes in the United States

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.

In 2015, the most recent report available, the FBI documented 5,850 hate crimes reported by almost 15,000 law enforcement agencies across the country – a seven percent increase over 2014 figures (5,479) and nearly one hate crime every ninety minutes of every day.¹⁶ Of the 5,580 total incidents, 2,754 were motivated by racial bias (47.1 percent) 1,053 by sexual orientation bias (18.0 percent); 74 were reported to have occurred against disabled individuals (1.3 percent), 556 by ethnicity/national origin bias (9.5 percent); and, in just the third year of FBI data collection on crimes directed against individuals on the basis of their gender identity, the numbers increased from 98 in 2014 to 114 in 2015 – now almost two percent of all hate crimes. **An ADL chart which compiles and details the findings from the annual FBI HCSA reports from 2015-2000 is included in the Appendix.**¹⁷

Directly relevant to our focus today is the fact that religion-based crimes increased twenty-three percent in 2015, from 1,014 in 2014 to 1,244. Overall, 21.3 percent of all reported hate crimes were motivated by religious bias – the highest proportion of total hate crimes in the 25-year history of the HCSA. Crimes directed against Jews increased nine percent – from 609 in 2014 to 664 in 2015. As has happened every year since 1990, a disturbingly high and disproportionate percentage of the total number of reported religion-based crimes (53

¹¹ *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>

¹² *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>

¹³ <https://www.adl.org/news/press-releases/adl-to-add-echo-symbol-used-by-anti-semites-on-twitter-to-online-hate-symbols>

¹⁴ <https://www.adl.org/news/press-releases/in-first-new-adl-poll-finds-majority-of-americans-concerned-about-violence>
The polls were based on 3,600 interviews conducted in the U.S. in January and February 2017, and another 1,500 interviews in October 2016.

¹⁵ <http://www.pewforum.org/2014/07/16/how-americans-feel-about-religious-groups/>

¹⁶ <https://ucr.fbi.gov/hate-crime/2015>

¹⁷ 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>

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 67 percent, from 154 in 2014 to 257 in 2015. The number of reported anti-Muslim hate crimes in 2015 was, in fact, the second most reported against Muslims ever – second only to the series of backlash crimes in 2001, after the 9/11 terrorist incidents. Primarily because of mistrust of police, crimes against Muslim Americans are underreported. Muslim Advocates has earned a reputation as an essential complement to FBI numbers, the most important non-governmental source of information on anti-Muslim hate crimes and vandalism directed against Mosques.¹⁸ The organization maps anti-Muslim hate crimes and maintains a portal for individuals to report incidents online.¹⁹

Importantly, the FBI 2015 HCSA report was the first 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),²⁰ and members of the hate crime coalition.²¹ 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.²²

This first year 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 2015 FBI Hate Crime Training Manual is an excellent resource to help agencies understand these crimes and the importance of reporting them.²³ The guide contains a special section on distinguishing between anti-Arab, anti-Hindu, anti-Muslim, and anti-Sikh hate crimes.

The Urgent Need to Address Incomplete HCSA Reporting

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 agencies²⁴, as well as their handbook, *A Police Officer's Guide to Investigation and Prevention*.²⁵ 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.

¹⁸ <https://www.muslimadvocates.org/anti-muslim-hate/>

¹⁹ <https://www.muslimadvocates.org/map-anti-muslim-hate-crimes/>. South Asian Americans Leading Together (SAALT) has also done leadership work in tracking and responding to hate crimes against South Asian communities, see: http://saalt.org/wp-content/uploads/2017/01/SAALT_Power_rpt_final3_lorez.pdf. And the ProPublica *Documenting Hate* project is also providing essential supplemental hate crime data and resources: <https://projects.propublica.org/graphics/hatecrimes>

²⁰ <http://crowley.house.gov/press-release/crowley-over-100-members-congress-urge-stronger-action-protect-sikh-hindu-arab>

²¹ <https://www.adl.org/news/letters/coalition-urges-fbi-to-track-hate-crimes-against-sikhs-arabs-and-hindus>.

²² <https://www.adl.org/blog/fbi-will-collect-and-report-hate-crimes-directed-against-sikhs-arabs-and-hindus>

²³ <https://ucr.fbi.gov/hate-crime-data-collection-guidelines-and-training-manual.pdf> The FBI training manual is now the single most important, most inclusive hate crime training resource available for law enforcement officials.

²⁴ <http://www.commandanswers.com/new-iacp-model-policies-available-iacp-net/>

²⁵ <http://www.iacp.org/ViewResult?SearchID=123>

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 2015, 14,977 federal, state, and local law enforcement agencies voluntarily reported hate crime data to the FBI – the third highest participation in the HCSA program since its inception. Yet, on the other hand, a very small number, just over 1,700 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 66 cities over 100,000). And approximately 3,400 law enforcement agencies did not report (DNR) any data at all to the FBI (including 21 cities over 100,000). **An ADL chart which lists these 87 DNR and zero reporting agencies over 100,000 in population is included in the Appendix.**

FBI Director James B. Comey has acknowledged this inadequate reporting and has been a strong ally in promoting more comprehensive data collection.²⁶ In recent testimony to the House Judiciary Committee,²⁷ the FBI Director stated:

“There are jurisdictions that fail to report hate crime statistics. Others claim there were no hate crimes in their community – a fact that would be welcome if true. We must continue to impress upon our state and local counterparts in every jurisdiction the need to track and report hate crime and to do so accurately. It is not something we can ignore or sweep under the rug.”

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, some immigrant victims, for example, 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. Gay, lesbian, and transgender victims, facing hostility, discrimination, and, possibly, family pressures, may also be reluctant to come forward to report these crimes.

Effective Law Enforcement Response to Hate Violence: Promoting the Necessary Climate of Trust

As a leading civil rights and advocacy organization, with extensive police partnerships and training expertise, ADL is uniquely positioned to address issues affecting the relationship and trust of law enforcement and the people and communities they serve. If police are perceived as treating any segment of the population unfairly, trust in law enforcement is eroded and the ability of the police to do its work is impaired, resulting in unwillingness to cooperate in investigations, to report crime, or to turn to police for protection. Mistrust is exacerbated when law enforcement agencies' primary interaction with the community is through arrests and anti-crime operations.

Anti-immigrant rhetoric in the national political debate, coupled with the executive orders on immigration, refugee policy, and sanctuary cities have, too frequently, set up a false choice in the public debate between fear of terrorism and crime and honoring America's heritage as a haven for those fleeing persecution and violence. ADL strongly objected when, in December 2015, then-candidate Trump called for a “total and complete shutdown of Muslims entering the United States.” The League called any plan that singles out Muslims and denies them entry to the United States based on their religion “offensive and contrary to our nation's deepest values.”²⁸

ADL has filed amicus briefs challenging the President's Executive Order on immigration and refugees. The briefs trace America's history as a nation dedicated to ideals of equality, liberty and justice, and warn against repeating the shameful times in our past when America has turned against those ideals.²⁹

²⁶ “We must also work together to educate folks—at the community level, in schools, in workplaces, and yes, in law enforcement—to help prevent hate crime.” <https://www.fbi.gov/news/speeches/the-fbi-and-the-adl-working-toward-a-world-without-hate>

²⁷ <https://www.fbi.gov/news/testimony/oversight-of-the-federal-bureau-of-investigation-7>

²⁸ <https://www.adl.org/news/press-releases/adl-trumps-plan-to-seal-borders-against-muslims-runs-contrary-to-our-nations>

²⁹ <https://www.adl.org/sites/default/files/documents/ab-2017-washington-v-trump-usca-9th-circ.pdf>. The ADL brief points to three specific examples: 1) The tragedy of the vessel *St. Louis*, filled with Jews fleeing the Nazis who were turned away from America's shores in 1939 and sent back to Europe, where many of the passengers perished in the Holocaust; 2) The “Chinese Exclusion,” when a series of laws led to the exclusion of thousands of Chinese laborers in the 1800s; and 3) The internment of Japanese during World War II, when approximately 120,000 Japanese Americans, including 70,000 citizens, were sent to internment camps in the United States in the wake of the bombing of Pearl Harbor.

And the League also filed amicus briefs challenging the President's January 25 executive order on "sanctuary jurisdictions."³⁰ One express goal of these "sanctuary" policies is to foster cooperation and communication between law enforcement and the public – to encourage community members, regardless of their immigration or citizenship status, to contact and cooperate with local police without fear of deportation or other immigration consequences.³¹ The Executive Order, we believe, has the opposite effect – threatening to drive a dangerous wedge between law enforcement and immigrant communities and create an environment in which victims will be afraid to report crimes or come forward as witnesses, including hate crimes.³²

Addressing Anti-Semitism and Hate Crimes Online

Anti-Semitism, Islamophobia, racism, and other hatreds have exploded online. 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.

ADL has been 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, assisting Jewish institutions with their security needs,³³ and establishing best practices for addressing cyberhate that have been guiding the biggest Internet and social media companies for years.³⁴ After the ADL *Task Force on Harassment and Journalism* 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*.³⁵

In an effort to continue our leadership on this issue, ADL is working with data.world on a new, public, open data workspace³⁶ 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.³⁷ This past weekend, ADL 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.³⁸

³⁰ <https://www.federalregister.gov/documents/2017/01/30/2017-02102/enhancing-public-safety-in-the-interior-of-the-united-states>

³¹ "Immigrants often fear approaching police officers when they are victims of and witnesses to crimes and when local police are entangled with federal immigration enforcement. At all levels of government, it is important that laws, policies, and practices not hinder the ability of local law enforcement to build the strong relationships necessary to public safety and community well-being. It is the view of this task force that whenever possible, state and local law enforcement should not be involved in immigration enforcement." Final Report of the President Task Force on 21st Century Policing, May 2015 https://cops.usdoj.gov/pdf/taskforce/taskforce_finalreport.pdf.

³² "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>

³³ ADL publishes a Security Manual, *Protecting Your Jewish Institution*, to assist Jewish institutions in creating welcoming environments while keeping them safe, conducts extensive security training programs for community institutions, and is a leading producer of training resources for law enforcement officials on extremism, terrorism, and hate violence. <https://www.adl.org/sites/default/files/documents/Protecting-Your-Jewish-Institution-2015-Edition-Final-docx.pdf>

³⁴ 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>

³⁵ <https://www.adl.org/sites/default/files/documents/assets/pdf/press-center/adl-journalism-task-force-recommendations.pdf>

³⁶ <https://data.world/adl/hate-crime-laws-and-statistics>

³⁷ <https://www.adl.org/news/press-releases/adl-to-build-silicon-valley-center-to-monitor-fight-cyberhate-omidyar-network-2>

³⁸ <https://www.adl.org/blog/adl-convenes-hackathon-for-a-deeper-dive-into-hate-crime-data>

Legal, Legislative, and Programmatic Policy Recommendations

Establish a Federal Agency Coordinating Hate Crime Task Force

- The Trump administration should designate a White House Coordinator for Fighting Hate and 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.

The creation of a Justice Department Hate Crime Subcommittee of the Attorney General's Task Force on Crime Reduction and Public Safety³⁹ is a welcome first step.

Use the Bully Pulpit to Speak Out Against Hate

- Members of Congress, the President and his cabinet should call out bigotry *at every opportunity*. Vice President Pence demonstrated this leadership when he participating in the clean-up of an historic Jewish cemetery in St. Louis.⁴⁰ And ADL welcomed President Trump's strong statement just last week at the Capitol Hill ceremony to honor the Holocaust and his commitment to confront anti-Semitism and pledge to stamp out prejudice and condemn hatred.⁴¹

ADL has been heartened by the congressional response to targeted bomb threats, cemetery desecrations and other hate crimes – especially the March 7 letter from all 100 Senators to DHS Secretary Kelly, Attorney General Sessions, and FBI Director Comey urging “swift action” to address the bomb threats and other threats against religious institutions.⁴² That letter importantly also called on the federal officials to “continue to inform state and local law enforcement organizations of their obligations under the Hate Crime Statistics Act and other federal laws.”

And we applaud the Senate's April 5 approval of S.Res.118,⁴³ which called on the Department of Justice to emphasize the importance of hate crime response and to improve hate crime reporting.

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*.
- The degree to which 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 federal funding are considered.
- FBI Field Office and Resident Agent offices should communicate directly with underreporting police agencies in their jurisdictions. Performance audits of FBI offices should include recognition for improved HCSA reporting.
- 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.⁴⁴

Aggregate Online Hate Crime Prevention and Response Resources

- In cooperation with law enforcement organizations and civil rights and religious groups, Congress should fund, and the Administration should create a website – similar to the extraordinarily helpful www.stopbullying.gov – to serve as a one-stop hate crime prevention and response portal for key stakeholders and the general public.

³⁹ <https://www.justice.gov/opa/press-release/file/955476/download>

⁴⁰ <http://wgntv.com/2017/02/23/mike-pence-missouri-governor-clean-up-vandalized-jewish-cemetery/>

⁴¹ <https://www.adl.org/news/press-releases/adl-welcomes-presidents-pledge-to-confront-anti-semitism-and-remember-those-who>

⁴² <https://www.reed.senate.gov/imo/media/doc/Final%20JCC%20Letter%203-7-17.pdf>

⁴³ <https://www.congress.gov/115/bills/sres/118/BILLS-115sres118ats.pdf>

⁴⁴ <https://www.policedatainitiative.org/>

Strengthen Federal Hate Crime Prevention and Enforcement Laws

1) Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act (HCPA)

The HCPA of 2009 is the most important, comprehensive, and inclusive hate crime enforcement law enacted in the past 40 years. In coordination with state and local officials, the Justice Department has used its HCPA authority judiciously and wisely, with some three dozen prosecutions to date.

- Congress should consider legislation to add “threats” to the HCPA and to clarify, in the aftermath of a 2014 unduly restrictive interpretation of the statute,⁴⁵ that enforcement of the HCPA does not require a “but-for” causation standard.
- The President and Congress should support budget authority to fund, for the first time, grants authorized under Sec. 4704 of the HCPA, to promote federal coordination and support for bias-motivated criminal investigations and prosecutions by State, Local, and Tribal law enforcement officials.

2) Criminalize Threats Under the Church Arson Prevention Act (18 USC §247)

Congress should enact legislation, like HR 1730, the Combating Anti-Semitism Act of 2017⁴⁶ to amend 18 USC §247, the Church Arson Prevention Act of 1996, to criminalize bomb threats and other violent threats against religiously-affiliated organizations, including Jewish Community Centers.⁴⁷

3) Enact the National Opposition to Hate, Assault, and Threats to Equality (NO HATE) Act of 2017⁴⁸ (S. 662/HR 1566). This legislation would improve the response to hate violence in a number of different ways:

- Establish a Federal Private Right of Action for Hate Crimes.**
- Improve Reporting of Hate Crimes.** The bill would provide incentives and support integrating police departments into the latest systems of FBI crime data collection.
- Promote state Hate Crime Hotlines:** As distinct from a national hotline, state hate crime hotlines are likely to be run with knowledge of state hate crime laws, victim service providers, and community-based organizations that can support victims and help them navigate the criminal justice system.
- Alternative Sentencing for Perpetrators of Hate Crimes.** The legislation would amend the HCPA to allow judges to require individuals convicted under the statute to perform community service.

4) Enact the Anti-Semitism Awareness Act (ASAA)

This legislation, which was approved by the Senate at the end of the last session of Congress, is designed to help the Department of Education and Department of Justice effectively determine whether an investigation of an incident of anti-Semitism is warranted under their statutory anti-discrimination enforcement authority. The bill uses a 2010 definition of anti-Semitism used by the State Department’s, and instructs the Department of Education to “take into consideration” the definition “as part of the Department’s assessment” of whether incidents constitute unlawful, discriminatory harassment based on individuals’ Jewish heritage or ethnicity.

Hate Crime and Implicit Bias Training for Federal State and Local Law Enforcement Agencies

- In conjunction with the Department of Homeland Security, the Justice Department should comprehensively implement the implicit bias training initiative announced in June for all federal law enforcement officials and federal prosecutors.⁴⁹ The training should include how to recognize, investigate, and respond to hate crimes.

⁴⁵ *US v. Miller*, <http://www.opn.ca6.uscourts.gov/opinions.pdf/14a0210p-06.pdf>

⁴⁶ <https://www.congress.gov/115/bills/hr1730/BILLS-115hr1730ih.pdf>

⁴⁷ The First Amendment’s guarantee of religious freedom means little to those not safe in their house of worship – or anxious, every day, about wearing a hijab, turban, or kippah – on the street. Structural and constitutional protections provide no certain protection from anti-Semitism, Islamophobia, and other forms of religious bigotry. Religious intolerance poses a danger of being attacked, but also sends a daily, dispiriting message – that minority religion adherents are outsiders, the other, not welcome here. <http://bjconline.org/ensuring-true-religious-freedom-the-first-amendment-is-not-enough/>

⁴⁸ <https://www.congress.gov/115/bills/s662/BILLS-115s662is.pdf>

⁴⁹ <https://www.justice.gov/opa/pr/department-justice-announces-new-department-wide-implicit-bias-training-personnel>

- The Administration and the Justice Department should highlight and support best practices by U.S. Attorneys, such as hate crime working groups composed of community-based organizations, civic leaders, and police officials.
- Congress should provide additional funding for DoJ's Community Relations Service to allow for the hiring of new professional to help mediate, train, and address tensions in the aftermath of hate crimes.

Address the Growing Challenge of Cyberhate in a Comprehensive Manner

- Congress should fund an update of the National Telecommunications and Information Administration's 1993 report⁵⁰ on the connection between online hate and hate violence, bullying, and harassment.
- Congress should 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, doxing, 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.

Expanded Anti-Bias Education and Bullying Prevention Programs

- Recognizing the limits of legal responses to hate violence, Congress and the Department of Education should increase federal funding for inclusive school anti-bias education and bullying prevention programs.

Research and Evaluation

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

Demonstrate International Leadership in Countering Religious and Other Hate Crimes

- The US should expand interagency consultation and closer engagement with civil society groups abroad – especially for trend analysis and training police and prosecutors.
- US government officials should use their bully pulpits to denounce all manifestation of hate crimes, including anti-Semitic and targeted LGBT and anti-Roma violence abroad.
- The State Department should maintain its inclusive annual reporting on anti-Semitic, racist and xenophobic, anti-Muslim, homophobic, transphobic, anti-Roma, disability-bias, gender-based, and other bias-motivated violence abroad.

Conclusion

We cannot legislate, tabulate, regulate, or arrest our way to a healthier and more accepting society. The fundamental cause of religious and other bias-motivated violence in the United States is the persistence of racism, anti-Muslim bigotry, homophobia, 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 members of the Committee to accomplish as many of these recommendations as possible, and to improve the response to each and every hate crime.

⁵⁰ <https://www.ntia.doc.gov/legacy/reports/1993/TelecomHateCrimes1993.pdf>