

September 15, 2017

John M. Gore
Acting Assistant Attorney General
Civil Rights Division
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Re: Hate Crimes Coalition Policy Recommendations

Dear Acting Assistant Attorney General Gore:

On behalf of the undersigned civil rights, religious, education, and professional organizations, we write to recommend concrete next steps that the Department can and should take in the wake of the white supremacist violence in Charlottesville and elsewhere, and to highlight the priorities of our broad coalition, which we hope will assist you and your colleagues in developing your plan of action following the Department's June 29 hate crime summit.

White supremacy is un-American and unacceptable. The right to free speech is a core value, but the promotion of hate should be vehemently rejected.

The racism, anti-Semitism, and violent bigotry on display in Charlottesville last month underlines an essential fact of the DoJ summit: that hate crimes are a national problem, deserving of priority attention. We believe the federal government has an essential leadership role to play in confronting acts of violence motivated by prejudice – and in promoting anti-bias initiatives for schools, communities, and law enforcement officials. We likewise welcome the Attorney General's commitment to investigate the very disturbing series of murders of transgender women of color and other transgender individuals across the country.

However, it is disingenuous for this administration to espouse its commitment to addressing hate crimes, while also implementing policies that discriminate against and target communities of color, further marginalizing communities and promoting hate. These policy decisions targeting or casting aspersions on vulnerable and marginalized communities have heightened concerns that the administration is increasingly legitimizing or mainstreaming hate. Further, the Department's litigation position defending such discriminatory policies 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. At a time of increasing incidents of bias, harassment, and hate violence, this has a direct impact on whether individuals will report these incidents to the police.

We appreciate that the Department has requested input and guidance from advocacy organizations on how the federal government can better address this disturbing climate and identify, report, and respond to all forms of hate violence. Our hope, however, is that the Administration will also exercise moral leadership and work to prevent and address hate crimes and bias motivated incidents by using its formidable "bully pulpit" to speak out against hate and implement policies that protect the civil and human rights of everyone in the United States.

We offer the following recommendations for addressing hate-based incidents and hate crimes across the United States:

Address Recent Actions that Undercut the Mission

As noted repeatedly during the summit, members of the coalition have serious concerns with the stated goals of the Justice Department's Task Force on Crime Reduction and Public Safety. We strongly believe that combating hate crimes requires an integrated approach – and that the Department's work in preventing, deterring, and responding to hate violence cannot be seen in isolation from its recent counterproductive and discriminatory actions.

Specifically, we recommend that the Department:

1) Establish a separate working group or task force to address hate violence and bias-motivated incidents in the United States, rather than embedding these issues into a subcommittee under the Task Force on Crime Reduction and Public Safety which seems designed to target immigrants and people of color.

2) Restore funding cuts to key civil rights office budgets.

3) Rescind policies that undermine faith, trust, and relationships with communities of color such as the reversal of policies to reform our justice system and the return to the failed policies of the war on drugs, limitations on consent decrees, demanding local law enforcement enforce immigration law, threatening funding for “sanctuary cities,” mass deportation and targeting of immigrants, proposed defunding of Planned Parenthood, support for a voter ID law ruled intentionally racially discriminatory, the formation of an “election integrity” task force that appears designed to promote voter suppression, the signing of an executive order that endorses discrimination under the guise of religious liberty, the withdrawal of guidance clarifying Title IX protections for transgender students, barring transgender individuals from serving in our Armed Forces, the filing of briefs seeking to limit the protections provided in federal and state law against anti-LGBT discrimination, and the appointment of unqualified or inexperienced officials who appear intent on retreating from statutory civil and human rights agency priorities.

4) Create a strategic plan to rebuild relationships and trust with communities that have been harmed by these actions, including providing clarity regarding the role of law enforcement in interactions with community members.

5) Send a consistent and clear message that a bias-motivated attack on any individual because of race, ethnicity, gender identity, sexual orientation, religion, gender, disability, nationality – or any bigotry – is unacceptable.

Department of Justice Leadership Initiatives

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. Effective responses to hate violence by public officials and law enforcement authorities can play an essential role in deterring and preventing these crimes. The hate crimes coalition does not view approaches that result in over-policing or that compound mass incarceration – including mandatory minimums – as effective responses to hate violence.

Specifically, we recommend the following:

1) DoJ should host periodic interagency hate crime meetings – which should include members of the hate crime coalition – to promote cross-agency collaboration and to address prevention of and response to hate violence. This initiative – involving lead agencies including Department of Education, Department of Homeland Security, the Federal Bureau of Investigation (FBI), and the Department of Health and Human Services (HHS) – would continue the coordinated interagency effort that had been hosted by the Obama White House Domestic Policy Council.

2) In close cooperation with law enforcement organizations and civil rights and religious groups with interest and expertise in combatting hate violence, the DoJ should create a website – similar to the extraordinarily helpful www.stopbullying.gov – 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.

3) DoJ and all public officials should use their bully pulpit to call out attacks on individuals because of who they are at every opportunity. The Department must send loud, clear, and consistent messages that violent bigotry is unacceptable – and ensure that the FBI and the Civil Rights Division will enforce federal law and vigorously investigate and prosecute hate crimes. The Attorney General and other leaders in the Administration must prioritize hate crimes investigations and prosecutions, and speak to communities that need support in the aftermath of hate crimes.

Improve Federal Hate Crime Data Collection

Data must drive policy. The first step in addressing hate violence in America is to know its nature and magnitude.

Though clearly incomplete (as discussed below), the FBI's annual Hate Crime Statistics Act (HCSA) reports now provide the most comprehensive 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 current HCSA data available, almost 15,000 law enforcement agencies participated in the HCSA data collection effort – more than ever before. The FBI report documented that hate crimes against African Americans, LGBT community members, Native Americans, Jews, and Muslims all increased in 2015. Indeed, hate crimes against Muslims surged by 67% in 2015. However, the FBI also documented 87 cities over 100,000 in population that either affirmatively reported zero (0) hate crimes – or did not participate in the program at all (DNR).¹ Accurate, reliable data is essential to build community trust and shape law enforcement tactics and deterrent policies.

In response to these challenges, we make the following specific recommendations:

1) DoJ should incentivize and encourage state and local law enforcement agencies to more comprehensively collect and report hate crimes data to the FBI, with special attention 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.

2) To create 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.

3) DoJ must consider why victims of hate violence fail to report these crimes to the police. As the Department seeks to address hate violence, it is essential to recognize that the administration and DoJ should 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.

Further, demands that local police enforce federal immigration laws have undermined community trust and created an environment in which individuals are increasingly unlikely to call on law enforcement for

¹<https://www.adl.org/sites/default/files/documents/FBI%20HCSA%202015%20Cities%20that%20DNR%20or%20Reported%20Zero%20ML.pdf>

assistance in any situation. To effectively address hate crimes and promote improved community policing, DoJ must provide clarity on the role of local law enforcement in responding to 911 calls and other police interactions and issue clear guidance stating that local law enforcement will not enforce federal immigration law. As the lead federal law enforcement agency, DoJ should ensure that DHS officials understand how inappropriate demands that local law enforcement authorities become involved in federal immigration enforcement make it harder for local officials to do their job. In addition, the Department should convene regular meetings in local communities, bringing together a number of community stakeholders, including local law enforcement and community organizations, to address community tensions and build relationships. In the past, US Attorneys have very effectively been the convening authority for such meetings. Of course, these meetings can only be effective if communities feel safe engaging with government.

4) DoJ should provide a grant to the International Association of Chiefs of Police to enable them to make its excellent Model Policy on Hate Crime publically available – beyond just IACP members.

5) DoJ should support congressional legislation to improve hate crime data collection and reporting.

6) DoJ should also collect data from every federal law enforcement agency. According to press reports, dozens of federal law enforcement agencies are not currently reporting hate crimes to the FBI at all.²

7) FBI Field Office and FBI Resident Agent offices should keep track of law enforcement agencies in their jurisdictions that are substantially underreporting hate crimes, communicate directly with them, and take more responsibility for their participation in the Bureau's HCSA program. The success of this outreach should be taken into account as part of a Field Office's evaluation, with recognition for improved reporting and ineffective cooperative communication with police departments on hate crime reporting factored in as part of the Special Agent in Charge's rating.

8) DoJ and 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 by integrating hate crime data collection information in the promising Police Data Initiative. NIBRS reporting will permit more granular information on specific populations that are being targeted and attacked.

9) To better understand police-community relations, which is critical for hate crimes prevention and enforcement, comprehensive data on police-community encounters must be provided. DoJ must ensure implementation and compliance with the Death in Custody Reporting Act. DoJ must also advance the FBI's National Use of Force database.

10) DoJ should undertake a comprehensive research study to understand gaps in hate crime reporting by law enforcement agencies, including why law enforcement agencies don't report, barriers to reporting by hate crime victims, and identification of best practices in hate crime training, data collection, and reporting. The FBI and DoJ should build the capacity of state and local law enforcement agencies to provide the required data to the FBI, and support efforts to implement NIBRS among local law enforcement agencies.

Legislative and Administrative Recommendations

Federal lawmakers can play an important role in combatting hate crimes. DoJ should support relevant executive action and legislation to address hate violence, including:

1) DoJ should support legislation that would provide funding for states to establish hotlines for reporting and addressing hate crimes, support training on hate crime data collection and reporting for law enforcement officers, and authorize effective rehabilitative services for those convicted of hate crimes.

² <https://www.propublica.org/article/more-100-federal-agencies-fail-report-hate-crimes-fbi-national-database>

2) According to the FBI's annual HCSA reports, about one-third of all hate crimes occur in or around residences. DoJ should aggressively enforce the Fair Housing Act's civil and criminal provisions to address these incidents.

3) DoJ should support budget authority:

- To fund, for the first time, grants authorized under Section 4704 of the HCPA, which are intended to promote federal coordination and support for bias-motivated criminal investigations and prosecutions by state, local, and tribal law enforcement officials.
- For the Justice Department's Community Relations Service to allow for the hiring of new professionals to help mediate, train, and facilitate in communities with intergroup tensions and in the aftermath of hate crimes.

4) 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 against a police officer, DoJ should oppose legislation to add police, firefighters, emergency medical personnel, or other first responders to federal hate crime laws.

5) To complement effective responses to hate violence, DoJ should promote anti-bias education, hate crime prevention, and properly crafted anti-bullying, cyberbullying, and harassment education and training initiatives. While some of these actions are protected free speech, understanding this context and creating effective responses is critical to hate crime prevention.

Improving Training, Outreach, Investigations, and Prosecutions

Effective hate crime policies, procedures, and responses can reduce crime while building public trust and collaborative relationships between law enforcement officials and the communities they serve and protect. In partnership with community-based organizations, civic leaders and law enforcement officials can advance police-community relations by demonstrating a commitment to effectively address hate crimes and the special needs of hate crime victims. Immediately following the enactment of the HCPA in 2009, the Department of Justice organized dozens of informational webinars and hate crime training seminars for several thousand law enforcement officers and members of the public to help them better identify and respond to hate crimes in their communities.

Reinvigorating the Department's training and outreach initiatives today is especially important in light of increasing hate crime reports, including the deeply-disturbing number of homicides and violent crimes directed against transgender and gender non-conforming people.

Specifically, we suggest the following:

1) The Department should plan additional regional training sessions – focused on jurisdictions that are underreporting hate crimes and where incidents appear to be on the rise – to enhance law enforcement's ability to recognize, investigate, and report accurate data on hate crimes, as well as to build community trust and help educate and engage the public in combatting hate crimes. The Department should highlight the availability of the FBI's hate crime training manual that included particularized attention to identifying and combatting hate crimes directed against marginalized, targeted communities, including LGBT people, Muslims, Arabs, Sikhs, and Hindus.³

2) DoJ should continue its enforcement of its civil rights statutes that protect the rights of religious communities to build places of worship and practice their religions safely.

³ See "Hate Crime Data Collection Guidelines and Training Manual." *Federal Bureau of Investigations*. Feb. 27, 2015. <https://ucr.fbi.gov/hate-crime-data-collection-guidelines-and-training-manual.pdf>.

3) DoJ should reaffirm its commitment to implicit bias training for all federal law enforcement officials⁴ and expand that training to include local law enforcement.

4) DoJ should develop and promote cultural competency trainings – such as the Community Relations Service roll call training video, *Law Enforcement and the Transgender Community*.⁵

5) DoJ should undertake a thorough review of all trainings and trainers; those that are found to be biased and bigoted must be revoked and all personnel who went through those trainings must be retrained. Each step of this process must use professional standards and always include engagement of the impacted communities in question.

Ultimately, eliminating prejudice in the United States will require that Americans develop respect for cultural differences and establish dialogue across racial, ethnic, cultural, and religious boundaries. Meanwhile, hate crime laws and other effective responses to hate violence by public officials and law enforcement authorities can play an essential role in deterring and preventing some of the most heinous crimes against individuals from marginalized communities.

We appreciate the opportunity to highlight these hate crime prevention and response priorities. We would welcome an early opportunity to discuss next steps following the summit with you.

African American Ministers In Action
Alliance for Justice
American-Arab Anti-Discrimination Committee (ADC)
American Association of People with Disabilities
American Association of University Women
American Civil Liberties Union
American Conference of Cantors
American Federation of Teachers, AFL-CIO
Anti-Defamation League
Arab American Institute
Asian Americans Advancing Justice | AAJC
Asian Pacific American Labor Alliance, AFL-CIO (APALA)
Autistic Self Advocacy Network
The Bazelon Center for Mental Health Law
Bend the Arc Jewish Action
Center for the Study of Hate & Extremism-California State University, San Bernardino
CenterLink: The Community of LGBT Centers
Central Conference of American Rabbis
Disability Rights Education & Defense Fund
Education Law Center-PA
Engage Foundation
Family Equality Council
GLMA: Health Professionals Advancing LGBT Equality
GLSEN
Hadassah, The Women's Zionist Organization of America, Inc.
Hindu American Foundation
Human Rights Campaign
Human Rights First
Interfaith Alliance
Islamic Networks Group (ING)
Islamic Society of North America

⁴ <https://www.justice.gov/opa/pr/department-justice-announces-new-department-wide-implicit-bias-training-personnel>

⁵ <https://www.justice.gov/crs/video/law-enforcement-and-transgender-community-crs-roll-call-training-video>

Japanese American Citizens League
Jewish Council for Public Affairs
Jewish Women International
Lambda Legal
Lawyers Committee for Civil Rights Under Law
The Leadership Conference on Civil and Human Rights
LULAC League of United Latin American Citizens
Matthew Shepard Foundation
Men of Reform Judaism
The Military Religious Freedom Foundation
Muslim Advocates
NAACP
National Bar Association
National Black Justice Coalition
National CAPACD
National Center for Lesbian Rights
National Center for Transgender Equality
The National Coalition on Black Civic Participation
National Council on Independent Living
National Council of Jewish Women
National Disability Rights Network
National Education Association
National Employment Law Project
National Fair Housing Alliance
NEAT - National Equality Action Team
National LGBTQ Task Force
National Organization for Women
National Partnership for Women & Families
National Religious Campaign Against Torture
National Urban League
North American Federation of Temple Youth
OCA - Asian Pacific American Advocates
One America
PFLAG National
People For the American Way
PolicyLink
Progressive Congress Action Fund
Sikh American Legal Defense and Education Fund
The Sikh Coalition
South Asian Americans Leading Together (SAALT)
Southern Poverty Law Center
SparkAction
Transformative Justice Coalition
T'ruah: The Rabbinic Call for Human Rights
UnidosUS (formerly NCLR)
Union for Reform Judaism
United Church of Christ, Justice and Witness Ministries
The United Methodist Church - General Board of Church and Society
Whitman-Walker Health
Women of Reform Judaism
YWCA USA