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Interim President & CEO
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**STATEMENT OF WADE HENDERSON
INTERIM PRESIDENT AND CEO
THE LEADERSHIP CONFERENCE ON CIVIL AND HUMAN RIGHTS**

“THE RISE OF DOMESTIC TERRORISM IN AMERICA”

HOUSE COMMITTEE ON THE JUDICIARY

February 24, 2021

Chairman Nadler, Ranking Member Jordan, and members of the Committee: Thank you for holding this timely and important hearing today on the federal response to domestic terrorism. My name is Wade Henderson, and I am the interim president and CEO of The Leadership Conference on Civil and Human Rights. The Leadership Conference is a coalition of more than 220 national organizations working to build an America as good as its ideals. Founded in 1950, The Leadership Conference has coordinated national advocacy efforts on behalf of every major civil rights law since 1957.

As the president of The Leadership Conference on Civil and Human Rights who led the organization for over 20 years, I always appreciate the opportunity to testify before this committee, but I'm particularly grateful today, as we wrestle with the aftermath of the violent January 6 attack on the Capitol and our country. I want to acknowledge and express the respect we have for this committee and its members, your staff, the maintenance personnel and cleaning staff, the food workers, and the law enforcement who work in the Capitol during this time. Your shared commitment to democracy and to service has never been more apparent than now.

Last month's violent insurrection, fueled by white supremacy and anti-Semitism, horrified us all. For those of us who are a part of and work alongside Black, Brown, Arab, Muslim, Jewish, Sikh, disabled, and LGBTQ communities, the white nationalist violence did not surprise us. Sadly, for the members of our coalition and the people we represent, this violence is not new. Whether this type of violence is manifested through housing, education, employment, voting, or criminal legal systems, it demands that we come together across different communities to combat it.

We are too familiar with the many different systems and institutions through which white supremacy has thrived in our country since its inception. We also know that for too long, the threat of white nationalist violence has been weaponized against Black and Brown communities – by white supremacists and laws and programs that target us rather than

protect us. That is why we adamantly oppose any legislation that would create an added charge for domestic terrorism or any enhanced or additional criminal penalties. Congress must help ensure that the federal government uses the many tools at its disposal, including over 50 terrorism-related crimes and over a dozen other criminal statutes and authorities, to prioritize and address white nationalist violence now. We continue to support the recently re-introduced Domestic Terrorism Prevention Act (DTPA), as well as efforts to address white supremacy in policing and to improve the federal government's response to hate crimes.

Federal Law Enforcement Has Criminal Statutes and Investigative Authorities to Combat Violence Fueled by White Supremacy. It Has Lacked the Will to Use Them.

The federal government has long had intelligence that demonstrated the threat of violent white nationalists. Indeed, the failure to act on this intelligence, and to instead misdirect federal law enforcement resources to unjustly target Black and Brown communities, has meant that innocent Black and Brown lives were lost while white nationalists were emboldened to commit more acts of hate violence. In September of last year, our coalition called on Congress to hold the Department of Homeland Security (DHS) accountable for their acting leadership's efforts to cover up intelligence detailing that white supremacists posed the greatest terror threat to our national security.¹ Independent academic institutions have also documented the rise in white supremacist threats to our country. Professor Brian Levin, the director of the Center for the Study of Hate and Extremism, testified before the House Committee on Homeland Security in September of 2019, and explained, "[w]hite supremacist/far right extremists are now, the most ascendant transnational terror threat facing the homeland, in a fluid and somewhat diversifying risk matrix."² The Federal Bureau of Investigation (FBI) elevated white supremacist activity to a "national threat priority," and FBI Director Christopher Wray testified before both the House and Senate on just how dangerous white supremacist organizations and the people who ascribe to their racist ideologies are to our national security.³

So why hasn't more been done to address this real and present danger to our country? The failure to confront and hold accountable white nationalist violence is not a question of not having appropriate tools to employ, but a failure to use those on hand. To date, the federal government has simply not prioritized white nationalist crimes. Congress should use its power to ensure that law enforcement appropriately

¹ The Leadership Conference on Civil and Human Rights, "Letter from Civil Rights Organizations Calling for Investigation and Hearings into DHS Coverup of White Supremacist Intelligence", (Sept. 24, 2020), <https://civilrights.org/resource/letter-from-civil-rights-organizations-calling-for-investigation-and-hearings-into-dhs-coverup-of-white-supremacist-intelligence/>; see also Betsy Woodruff Swan, "DHS draft document: White supremacists are greatest terror threat", Politico (Sept. 4, 2020). <https://www.politico.com/news/2020/09/04/white-supremacists-terror-threat-dhs-409236>.

² Center for the Study of Hate and Extremism, "Global Terrorism: Threats to the Homeland, Part I", (Sept. 10, 2019). https://www.csusb.edu/sites/default/files/GLOBAL%20TERRORISM-%20cong%20BL2%2091019_0.pdf.

³ Erin Donaghue, "Racially-motivated violent extremists elevated to 'national threat priority,' FBI director says", CBS News (Feb. 5, 2020), <https://www.cbsnews.com/news/racially-motivated-violent-extremism-isis-national-threat-priority-fbi-director-christopher-wray/>; see also Amy Sherman, *Fact-check: Did the FBI director warn about white supremacist violence?* Austin American Statesman (Oct. 9, 2020), <https://www.statesman.com/story/news/politics/elections/2020/10/09/fact-check-did-fbi-director-warn-about-white-supremacist-violence/114251512/>

focuses investigative and prosecutorial resources on white nationalist crimes. The Department of Justice (DOJ), including the FBI, has over 50 domestic terrorism-related statutes it can use to investigate and prosecute criminal conduct, including white supremacist violence, as well as dozens of other federal statutes relating to hate crimes, organized crime, conspiracy, and violent crimes.

These existing tools include a statute that criminalizes material support that aids in the commission of any one of 57 previously enacted terrorism-related offenses. As our colleagues at the Brennan Center for Justice have detailed, 51 of these statutes, or 89 percent, are applicable to both international and domestic terrorism. Each of these 51 laws can be independently used to prosecute cases of domestic terrorism, providing numerous options for prosecutors to address these threats.⁴

DOJ has dozens of federal criminal statutes to prosecute violent far-right extremists, including white nationalists. And while DOJ has not used these statutes as much as the threat would warrant, it has already used over a dozen of them in prosecuting multiple domestic terrorism cases, demonstrating that they are, indeed, applicable.⁵ With respect to organized groups of violent white nationalists, despite their effort to call themselves “militias,” they are, of course, nothing more than violent criminal gangs that can and should be prosecuted as corrupt criminal enterprises. These groups can be dismantled using statutes like the Racketeer Influenced and Corrupt Organizations (RICO) Act. Conspiracy statutes also provide prosecutors with the ability to charge individuals before they successfully complete a hate crime or domestic terrorist attack.⁶

Congress Must Not Create a New Charge that Would Harm the Same Communities Targeted by Violent White Nationalists

A new federal domestic terrorism charge or list would adversely impact civil rights. Support for such a charge not only fails to recognize the existing tools available to combat violent white nationalism, but it also ignores the experience of Black and Brown communities who have suffered as a result of similar charges, no matter how well intentioned. Our nation’s long and disturbing history of targeting Black activists, Muslims, Arabs, and movements for social and racial justice has demonstrated that this new authority could be used to expand racial profiling or be wielded to surveil and investigate communities of color and political opponents, all in the name of national security.

Members of Congress should not reinforce counterterrorism policies, programs, and frameworks that are rooted in bias, discrimination, and denial or diminution of fundamental rights like due process. Rather, as highlighted below, Congress should focus on oversight, appropriations, and limited legislation like the

⁴ Michael German and Sara Robinson, “Wrong Priorities on Fighting Terrorism”, Brennan Center for Justice. https://www.brennancenter.org/sites/default/files/2019-08/Report_Wrong_Priorities_Terrorism.pdf.

⁵ Michael German and Sara Robinson, “Wrong Priorities on Fighting Terrorism”, Brennan Center for Justice. https://www.brennancenter.org/sites/default/files/2019-08/Report_Wrong_Priorities_Terrorism.pdf.

⁶ Michael German and Sara Robinson, “Wrong Priorities on Fighting Terrorism”, Brennan Center for Justice. https://www.brennancenter.org/sites/default/files/2019-08/Report_Wrong_Priorities_Terrorism.pdf; *see also* Robert M. Chesney, “Beyond Conspiracy? Anticipatory Prosecution and the Challenge of Unaffiliated Terrorism”, 80 S. Cal. L. Rev. 425, 428, 448–49, 451 (2007).

DTPA that ensures the federal government redirect resources towards the ever-growing white nationalist violence plaguing our country and hold law enforcement accountable in doing so.

The systemic racism that infects the criminal legal system means that “domestic terrorism” approaches to addressing violence inevitably come back to harm communities of color. COINTELPRO, the FBI’s unlawful domestic surveillance operation that was used to try to discredit Dr. Martin Luther King, Jr., and other civil rights leaders in the 1960s, was also justified as a national security program. After 9/11, we saw a counterterrorism framework used to unjustly target and harm Arab Americans, American Muslims, and South Asian Americans. Rather than recognizing the critical role these communities have played in all aspects of making our country better, stronger, and more just, they were treated as suspects. The FBI and other agencies “mapped” Muslim communities, deployed informants throughout communities, and solicited intelligence through community engagement programs, each resulting in devastating discriminatory consequences.⁷ An increase in hate crimes against members of the same communities accompanied these programs.⁸

In addition, in 2017, when the federal government should have been redoubling its efforts to combat white nationalist violence after the Charlottesville tragedy, the FBI chose instead to target people demanding racial justice. The decision by the FBI’s Domestic Terrorism Unit to label African Americans as “Black Identity Extremists” diverted resources that could have been used to address the growing white nationalist threat.⁹ Instead, Black advocates who dared to speak out against injustice were targeted under yet another misdirected domestic terrorism tool.

Addressing White Nationalist Violence Means Dismantling White Supremacist Policies and Practices Across Institutions Inside and Outside the Criminal Legal System, including White Supremacy in Policing

We continue to demand accountability for the white supremacist insurrectionists who attacked our country on January 6, as well as for other violent white nationalists who have committed crimes that devastate our communities. But if we are to truly address white nationalist violence, we must reckon with systemic racism in areas like education, employment, the courts, housing and lending, health care, immigration, voting rights, and our criminal legal system. Our recommendations for legislative action to advance civil rights in each of these areas are therefore important steps in addressing white nationalist

⁷ Written Statement of Professor Shirin Sinnar, “Countering Domestic Terrorism: Examining the Evolving Threat”, Hearing before the Committee on Homeland Security and Governmental Affairs, United States Senate, One Hundred Sixteenth Congress, First Session (September 25, 2019), p. 149. <https://www.hsdl.org/?abstract&did=835354>.

⁸ Roy L. Austin, Jr. and Kristen Clarke, Creating a ‘domestic terrorism’ charge would actually hurt communities of color, *The Washington Post* (Aug. 26, 2019). https://www.washingtonpost.com/opinions/domestic-terrorism-doesnt-need-to-be-a-chargeable-offense-we-already-have-powerful-hate-crime-laws/2019/08/26/14c6f354-c4eb-11e9-b72f-b31dffa77212_story.html; see also Kuang Keng Kuek Ser, *Data: Hate crimes against Muslims increased after 9/11*, *The World* (Sept. 12, 2016). <https://www.pri.org/stories/2016-09-12/data-hate-crimes-against-muslims-increased-after-911>.

⁹ David Dennis, “‘Black Identity Extremists’ and the Dark Side of the FBI”, *The Marshall Project* (Oct. 17, 2017). <https://www.themarshallproject.org/2017/10/17/black-identity-extremists-and-the-dark-side-of-the-fbi>.

violence.¹⁰ Our national security and the future of our democracy demands that we root out white supremacy across all the institutions and systems that impact our lives. We cannot truly grapple with the ongoing impact of slavery, which was central to our founding as a nation, without truth telling and reparations for the debt that is owed.

White Supremacy in Policing

White supremacy infects so many of our institutions, but its impact on policing is particularly devastating. Police officers, charged with the mandate of protecting and serving our communities, are vested with the extraordinary power to inflict state sanctioned violence. And far too often, this violence is unlawfully targeted at people of color, and particularly at Black people. The murders of Rayshard Brooks, George Floyd, and Breonna Taylor at the hands of police officers put the issue of police brutality in the spotlight during the summer of 2020.¹¹ The nationwide outcry that continues today is not a reaction to one isolated incident or the misconduct of a few individual officers, but to the deadly impact of systemic racism.¹² Last summer, we saw Black-led peaceful protests for racial justice being met with a militarized police response. And on January 6, we saw a complete failure to prepare and respond effectively to white supremacist violence. This disparity in police responses is stunning. Whether it was violent white nationalists who targeted and killed people protesting for racial justice, or militants storming state capitols and then the nation’s Capitol on January 6, white supremacy has cost lives and harmed all of our communities.¹³ One data reporting project found that law enforcement was more than twice as likely to attempt to break up protests that were categorized as “left-leaning” (such as protests organized by the Black Lives Matter movement and the NAACP, or protests against former President Trump), – when compared to protests characterized as “right-leaning” (like pro-Trump protests, pro-police demonstrations, and events held by Q-Anon supporters and right-wing militias).¹⁴ They were also more

¹⁰ The Leadership Conference on Civil and Human Rights, “The Leadership Conference on Civil and Human Rights Transition Priorities”, (Nov. 24, 2020), p. 4, <http://civilrightsdocs.info/pdf/policy/task-force-priorities/Transition-ShortToplinePriorities-TheLeadershipConference-November2020-FINAL.pdf>.

¹¹ There were also the killings of Dreasjon “Sean” Reed and Tony McDade, who join the all too long list of Black people who have died at the hands of police, including Michael Brown, Freddie Gray, Eric Garner, Alton Sterling, Philando Castile, Sandra Bland, Laquan McDonald, Tamir Rice, and too many more.

¹² The pain and demands for justice that we saw over the summer and that motivated so many to go to the polls during the 2020 election also reflected incidents of heavy-handed enforcement of low-level offenses and “broken windows” policing, and decades of inadequate reform efforts that undermine trust in law enforcement, especially in communities of color. Policies like “zero tolerance” laws, stop-and-frisk tactics, the use of military-style equipment and techniques, and the fueling of a school-to-prison pipeline for thousands of children through the deployment of police in schools. Black and Hispanic people are overrepresented in other enforcement activities, including pedestrian and vehicle stops. And all of these stops increase the chances that people will be seriously injured or killed when engaging with police. All of these policies reflect white supremacist structures in policing.

¹³ For example, shortly before Kyle Rittenhouse, a white man with connections to far-right militants, shot three people, killing two of them, at a protest for racial justice in Kenosha, Wisconsin, he appeared at the protests as part of a self-styled militia there to support law enforcement. In video from the hours before he shot and killed the protestors, law enforcement officers passed by, handing out water to armed white militants who were targeting Black protestors stating “We appreciate you guys. We really do.” <https://www.npr.org/2020/08/27/906791713/oh-hell-no-why-the-police-doesnt-need-militias-help-at-riots>

¹⁴ Maggie Koerth, “The Police’s Tepid Response to the Capital Breach Wasn’t an Aberration”, FiveThirtyEight (Jan. 7, 2021), <https://fivethirtyeight.com/features/the-polices-tepid-response-to-the-capitol-breach-wasnt-an->

likely to use force, even when 93 percent of the protests associated with Black Lives Matter were peaceful.

We know that hundreds of thousands of police officers report for duty every day, with a mission to keep us safe and protect us from harm. And we are grateful to the majority of these officers who carry out their mission with dignity and honor — especially to those who give their lives to the cause. But we also know that there are police officers in departments across the country who have been identified as members of white supremacist groups. These officers can take and destroy lives. With scandals in over 100 different police departments across 40 different states where officers sent overtly racist emails, texts, or made comments on social media, it is no wonder that communities are demanding action to address white supremacy in policing.¹⁵ And while we know that this is an issue that is playing out in departments across the country, the participation of current and former law enforcement and military officials in the insurrection has raised alarms. Out of 212 insurrectionists with federal or D.C. charges, 31 served in the military or law enforcement.¹⁶

White supremacy in policing makes us all less safe, including police officers. As we begin to learn more horrific details about the January 6 attack on the Capitol, we are also learning more about years of racist abuse that confronted Black Capitol police officers.¹⁷ And the failure to act on widely available intelligence about white nationalists' plans for violence meant that all people in the Capitol, including law enforcement officers, were at greater risk for serious physical harm. The most recent reports indicated that at least 138 officers from the Capitol Police and the Metropolitan Police Department were injured.

Federal Failures with Respect to Hate Crimes Data and Resources for Communities

White nationalist violence terrorizes communities in the form of hate incidents and hate crimes that target people across the country on a daily basis. When someone is targeted for hate violence on the basis of race, color, national origin, sex (including sexual orientation and gender identity), religion, or disability, the impact goes beyond that person; it devastates an entire community. The Hate Crimes Statistics Act recognized the importance of the federal government capturing accurate data on hate crimes in jurisdictions across the country.¹⁸ Data-driven policy enables law enforcement to effectively target resources, and is critical to enabling communities targeted for hate to access the support and resources that they need. But federal hate crimes data as reported by the FBI through the Uniform Crime Reporting

[aberration/](#); Lois Beckett, “US police three times more likely to use force against leftwing protestors, data finds”, *The Guardian* (Jan. 14, 2020), <https://www.theguardian.com/us-news/2021/jan/13/us-police-use-of-force-protests-black-lives-matter-far-right>.

¹⁵ Vida B. Johnson, “KKK in the PD: White Supremacists Police and What to do About It”, *Lewis & Clark Law Review* (Apr. 1, 2019), Vol 23:1, p. 205-261, <https://law.lclark.edu/live/files/28080-lcb231article2johnsonpdf>.

¹⁶ NPR Staff, “The Capital Siege: The Arrested and Their Stories”, NPR (Feb. 12, 2021). <https://www.npr.org/2021/02/09/965472049/the-capitol-siege-the-arrested-and-their-stories#database>.

¹⁷ Joshua Kaplan and Joaquin Sapien, “‘No One Took Us Seriously’: Black Cops Warned About Racist Capitol Police Officers for Years”, *ProPublica* (Jan. 14, 2021). <https://www.propublica.org/article/no-one-took-us-seriously-black-cops-warned-about-racist-capitol-police-officers-for-years>.

¹⁸ FBI: Uniform Crime Reporting, *Hate Crime Statistics Act*, (2017). <https://ucr.fbi.gov/hate-crime/2017/resource-pages/hate-crime-statistics-act>.

(UCR) Program is so notoriously unreliable that it is actually undermining the work of law enforcement and community leaders trying to effectively combat hate.

For example, in 2019, the most recent year for which FBI hate crimes data is available, the FBI's UCR Program reported that 7,314 hate crime incidents occurred that year. The data available indicated that 2019 was the deadliest year for hate crimes since reporting began in 1991. And yet, we also know that this number grossly underestimates the actual number of hate crimes in the United States, as the FBI's report is based on voluntary local law enforcement reporting data to the FBI. In 2019, 86 percent of participating agencies did not report one single hate crime to the FBI, including at least 71 cities with populations over 100,000. Just 14 percent of the more than 15,000 participating agencies actively reported at least one hate crime. Meanwhile, the number of law enforcement agencies providing data declined for the second straight year.

Furthermore, in a 2017 Hate Crime Victimization Report published by the DOJ's Bureau of Justice Statistics (BJS), BJS statisticians reviewed data on hate crimes victimization from the DOJ's National Crimes Victimization Survey (NCVS). In that study, they estimated that U.S. residents actually experienced an average of 250,000 hate crime victimizations each year from 2004-2015.¹⁹ The same DOJ that reports around 7,000 hate crimes incidents each year also recognizes that the actual number is closer to 250,000. The Hate Crime Victimization Report estimated that 54 percent of hate crime victimizations were not reported to police.²⁰

When you know that hate crimes have targeted people in your community, and you learn that the police department, and in some cases an entire city or state, has reported to the federal government that no hate crime has occurred, it sends a very clear message about who is protected and who is respected. It can undermine hard-earned trust in communities. While we know that communities are continuing to see an increase in hate incidents and hate crimes, they are often turning to trusted non-governmental organizations to report hate crimes instead of law enforcement. For example, the racist targeting of Asian American and Pacific Islander (AAPI) communities as a result of white supremacist lies and rhetoric around COVID-19 has been documented in real time by organizations like Asian Americans Advancing Justice - AAJC and Stop AAPI Hate.²¹ We know communities fear reporting to law enforcement, and that even if law enforcement does respond to a hate crime, they may not identify a hate crime as a hate crime when investigating and prosecuting it.²²

¹⁹ Lynn Langton and Madeline Masucci, "Hate Crime Victimization, 2004-2005", Bureau of Justice Statistics, (June 29, 2017). <https://www.bjs.gov/index.cfm?ty=pbdetail&iid=5967>.

²⁰ Lynn Langton and Madeline Masucci, "Hate Crime Victimization, 2004-2005", Bureau of Justice Statistics, (June 29, 2017). <https://www.bjs.gov/index.cfm?ty=pbdetail&iid=5967>.

²¹ Asian Americans Advancing Justice, (2020-2021). <https://www.standagainsthatred.org/stories?offset=1595538420174>; see also Stop AAPI Hate. <https://stopaapihate.org/reportsreleases/>.

²² International Association of Chiefs of Police and Lawyers' Committee for Civil Rights Under Law, "Action Agenda for Community Organizations and Law Enforcement to Enhance the Response to Hate Crimes", (2019). <https://lawyerscommittee.org/wp-content/uploads/2019/04/IACP.pdf>.

Recommendations

Pass the Domestic Terrorism Prevention Act (DTPA) and use oversight and appropriations powers to demand that federal agencies make public how they have and are now using resources to fight white supremacist violence.

The DTPA will help ensure that federal law enforcement authorities use existing criminal legal tools to prioritize addressing white nationalist violence. The DTPA authorizes DOJ, DHS, and FBI offices that are responsible for monitoring threats to offer training and resources to assist state, local, and tribal law enforcement in understanding, investigating, prosecuting, and deterring acts of domestic terrorism. The legislation mandates that these agencies issue joint annual reports to the House and Senate Judiciary, Homeland Security, and Intelligence Committees in order to evaluate the domestic terrorism threat posed by white supremacists; examine domestic terrorism incidents that occurred in the previous year; and offer transparency through a public quantitative analysis of domestic terrorism-related assessments, investigations, incidents, arrests, indictments, prosecutions, convictions, and weapons recoveries. And through its inclusion of the Community Relations Service (CRS), the DTPA recognizes that communities targeted for hate must be at the center of policies and programs intended to address hate violence and to ensure that the people targeted have the resources and support that they identify and need.

Central to our support for the Domestic Terrorism Prevention Act is that it will not create a new domestic terrorism charge or sentence enhancement that would harm our communities. Instead, it implements common sense processes that will combat white supremacy while not falling into tropes of racial and religious groups who may become unintentional targets of proposed policy.

Combat White Supremacy in Policing: Hiring, Policies for Departments, and Accountability

Congress should identify ways to address white supremacy in law enforcement that has been documented by the FBI.²³ The Oversight Committee hearing last year highlighted this threat, which puts lives at risk and undermines the criminal legal system.²⁴ Congress must demand a full accounting for what is being done to address white supremacy in law enforcement, and to get data on the extent of the problem. The White Supremacy in Law Enforcement Information Act is a good first step to obtain some of this information. Congress must also identify ways to ensure that law enforcement officers who actively advocate for and incite violence against people on the basis of race, color, national origin, religion, sex (including sexual orientation and gender identity), and disability are not welcome in federal law enforcement. And federal law enforcement agencies must have clear policies to address and combat white supremacy in policing.

²³ FBI Counterterrorism Division, “White Supremacist Infiltration of Law Enforcement Intelligence Assessment”, (Oct. 17, 2006). https://oversight.house.gov/sites/democrats.oversight.house.gov/files/White_Supremacist_Infiltration_of_Law_Enforcement.pdf.

²⁴ Office of Rep. Jamie Raskin, “Experts Warn Oversight Subcommittee that White Supremacist Infiltration of Law Enforcement Poses a Threat to Cops, Communities”, Sep. 29, 2020). <https://raskin.house.gov/media/press-releases/experts-warn-oversight-subcommittee-white-supremacist-infiltration-law>

Pass Legislation and Budgets to Enhance the Response to Hate Crimes and Improve Hate Crimes Reporting

The Jabara Heyer NO HATE Act is an important first step in enhancing a community-centered response to hate incidents and hate crimes in the United States. The Jabara Heyer Act is named after Khalid Jabara and Heather Heyer, both young people who were murdered in violent hate crimes. The people who killed Heather Heyer and Khalid Jabara were convicted of hate crimes, but their murders were not reported as hate crimes in the FBI's UCR hate crimes data. The Jabara Heyer Act would provide important incentives to improve reporting. Importantly, it also would create the opportunity for community-centered restorative practices in some cases.

But more must be done. Hate crimes data should be mandated and made publicly available so federal leaders, as well as those at the state and local level, can address the threat in a manner best suited to their community. Congress must ensure that the promised transition to the National Incident Based Reporting System (NIBRS) by 2021 is actually implemented. NIBRS is a critical tool for effectively understanding and addressing the rising number of hate crimes in the United States. NIBRS is a more effective data collection system than the current Summary Reporting System (SRS) within the Uniform Crime Report, and studies have concluded that the SRS leads to the underreporting of crimes like hate crimes.²⁵

Congress must also ensure that the DOJ's Civil Rights Division and the Community Relations Service have the resources and the support to work with state and local law enforcement and the FBI to open investigations and bring hate crimes cases under the five hate crimes statutes that they have at their disposal.²⁶

Reparations and Truth, Racial Healing, and Transformation: Pass H.R. 40 and the Truth, Racial Healing, and Transformation Resolution

In the more than 400 years since the first enslaved Africans arrived at Jamestown, Virginia, African people, their descendants, and other marginalized groups have borne the brunt of structural inequality, racism, and discrimination. Subjugation of African Americans was integral to establishing the United States as a world economic power, yet African Americans were continuously denied the right to participate in the economic growth of this country even after the official end of slavery. Policies like American chattel slavery, Black Codes, convict leasing, Jim Crow segregation, redlining, and racial discrimination have all contributed to intergenerational harm to African Americans that continues to

²⁵ The Leadership Conference on Civil and Human Rights, "Comments on the DOJ, FBI, Criminal Justice Information Services (CJIS) Division, Information Collection Request to OMB on the National Incident Based Reporting System", (Nov. 6, 2020). <https://civilrights.org/resource/comments-on-the-doj-fbi-criminal-justice-information-services-cjis-division-information-collection-request-to-the-office-of-management-and-budget-on-the-national-incident-based-reporting-system/>.

²⁶ Michael German and Sara Robinson, "Wrong Priorities on Fighting Terrorism", (2019), Brennan Center for Justice. https://www.brennancenter.org/sites/default/files/2019-08/Report_Wrong_Priorities_Terrorism.pdf; The United States Department of Justice, Hate Crimes at <https://www.justice.gov/hatecrimes>.

persist today.²⁷ The same structural racism that permeates our justice system and sanctions police brutality has also robbed many Black communities of the resources they need and deserve. If we are to address white nationalist violence, we must confront this history. Black communities deserve real justice: structural change to eradicate white supremacy, freedom from unjust and targeted policing, and the space and resources to grieve and heal. We must confront how we have under-resourced and under-invested in Black and Brown communities, leading to gross inequity and overcriminalization.

At long last, Congress must pass H.R. 40 – the Commission to Study and Develop Reparation Proposals for African Americans Act – which was re-introduced by Congresswoman Sheila Jackson Lee this session, as well as the resolution Congresswoman Barbara Lee introduced last session calling for the establishment of the first United States Commission on Truth, Racial Healing, and Transformation. We cannot truly address the white nationalist violence we are here to discuss today without these truthful reckonings and accountings for what is owed with respect to the ongoing legacy of racism and white supremacy in our country. Reparations are owed. Transformation is required. Generations of denied opportunity through systems and a culture of racial hierarchy cannot be permanently disrupted without a nationally coordinated, and community-driven truth, healing, and transformation effort.

And a U.S. Commission for Truth, Racial Healing, and Transformation would enable us to ensure that the reparations that must be a part of this country’s transformation are part of a foundation for sustainable systemic change. Together, we must confront and reject the big lie — the hierarchy of human value — residing at the very core of our country’s founding beliefs, and that continues to drive white nationalist violence and white supremacist policies and practices. Now is the time to create a shared vision for a country as good as its ideals that centers human dignity. A country where all are valued equally regardless of their race, ethnicity, religion, sex, disability, or socioeconomic status. In order to do this, we must reckon with the white supremacy that was present at our founding and continues to infect all of our institutions, policies, and practices.

²⁷ “The Descendants: From slavery to Jim Crow, a call for 21st century abolition”, Harvard Law Today, (Mar. 19, 2018). <https://today.law.harvard.edu/dependants-slavery-jim-crow-call-21st-century-abolition/>.