

U.S. COMMISSION ON CIVIL RIGHTS

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PUBLIC BRIEFING MEETING **FINAL**

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IN THE NAME OF HATE: EXAMINING THE FEDERAL
GOVERNMENT'S ROLE IN RESPONDING TO HATE CRIMES

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FRIDAY, MAY 11, 2018

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The Commission convened in Suite 1150
at 1331 Pennsylvania Avenue, Northwest, Washington,
D.C. at 9:00 a.m., Catherine Lhamon, Chair,
presiding.

PRESENT:

CATHERINE E. LHAMON, Chair

PATRICIA TIMMONS-GOODSON, Vice Chair

DEBO P. ADEGBILE, Commissioner

GAIL HERIOT, Commissioner

PETER N. KIRSANOW, Commissioner

DAVID KLADNEY, Commissioner

KAREN K. NARASAKI, Commissioner

MICHAEL YAKI, Commissioner

MAURO MORALES, Staff Director

MAUREEN RUDOLPH, General Counsel

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* *Present via telephone*

PANELISTS PRESENT:

ROY AUSTIN, Harris, Wiltshire & Grannis, LLP

SUSAN BRO, Heather Heyer Foundation

SHELBY CHESTNUT, Transgender Law Center

KRISTEN CLARKE, Lawyers' Committee for Civil Rights

Under Law

SGT. DETECTIVE CARMEN CURRY, Boston, MA Police

Department

CYNTHIA DEITLE, Matthew Shepard Foundation

MICAH DAVID-COLE FLETCHER, Survivor of Portland MAX

train stabbing

MELISSA GARLICK, Anti-Defamation League

ASSISTANT CHIEF MARC GARTH GREEN, Seattle, WA

Police

Department

CHIEF TERRENCE CUNNINGHAM, Deputy Executive

Director, International Association of

Chiefs of Police (IACP)

NICOLE JORWIC, The Arc

LYNN LANGTON, Bureau of Justice Statistics, U.S.

Department of Justice

LENA MASRI, Council on American-Islamic Relations

ROBERT MOOSSY, Deputy Assistant Attorney General,

Criminal Section, U.S. Department of Justice

OLABISI OKUBADEJO, Ballard Spahr

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DEBBIE OSGOOD, Hogan Marren Babbo & Rose

KATHARINE PRESCOTT, LGBTQ Parent, Board Member
GLSEN

SUMAN RAGHUNATHAN, South Asian Americans Leading
Together

ANDREA SENTENO, Mexican American Legal Defense &
Educational Fund

ROBBY SOAVE, Reason Magazine

AVIVA VOGELSTEIN, Brandeis Center

STAFF PRESENT:

TERESA ADAMS

ROBERT AMARTEY

LASHONDRA BRENSON

KATHERINE CULLITON-GONZALEZ

BARBARA DE LA VIEZ

PAMELA DUNSTON, Chief, ASCD

LATRICE FOSHEE

ALFREDA GREENE

WARREN ORR

JOHN RADCLIFFE

SARALE SEWELL

JUANA SMITH

MICHELE RAMEY

BRIAN WALCH

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MARIK XAVIER-BRIER

COMMISSIONER ASSISTANTS PRESENT :

SHERYL COZART

JASON LAGRIA

CARISSA MULDER

AMY ROYCE

RUKKU SINGLA

ALISON SOMIN

IRENA VIDULOVIC

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1 P R O C E E D I N G S

2 9:00 a.m.

3 CHAIR LHAMON: Good morning, this
4 briefing of the U.S. Commission on Civil Rights
5 comes to order at 9:00 a.m. on May 11, 2018, and
6 takes place at the Commission Headquarters, 1331
7 Pennsylvania Avenue Northwest, Suite 1150,
8 Washington, D.C. 20425.

9 I'm Chair Catherine Lhamon. The
10 Commissioners present at this briefing in addition
11 to me are Vice Chair Patricia Timmons-Goodson,
12 Commissioner Adegbile, Commissioner Heriot,
13 Commissioner Kirsanow, Commissioner Kladney,
14 Commissioner Narasaki, and Commissioner Yaki.

15 A quorum of the Commissioners is
16 present. I see that the court reporter is present
17 and that the Staff Director is present.

18 STAFF DIRECTOR MORALES: Yes.

19 CHAIR LHAMON: Thank you.

20 **INTRODUCTORY REMARKS: CHAIR CATHERINE E. LHAMON**

21 CHAIR LHAMON: I welcome everyone to our
22 briefing titled In the Name of Hate: Examining the
23 Federal Government's Role in Responding to Hate
24 Crimes.

25 In today's briefing, the Commission

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1 examines best practices for local law enforcement
2 on collecting and reporting data and the role of
3 the Justice and Education Departments in
4 prosecution and prevention of these heinous acts.

5 We will hear from local law enforcement
6 and federal government officials, experts,
7 advocates, and survivors of hate. Testimony from
8 this briefing will form an integral basis for the
9 Commission's eventual report to the President, the
10 Congress, and the American people regarding the
11 state of hate in America.

12 The Commission, which voted together
13 across partisan lines, with seven of our eight
14 members voting to take up today's briefing, returns
15 to a topic that the Commission has addressed
16 multiple times in our 60 year history.

17 To my dismay, despite important
18 progress the country has made in addressing hate
19 over time, we nonetheless now confront some of the
20 same unconscionable woes we have confronted in
21 years past.

22 In 1983, the Commission recognized that
23 creating a national database of hate crimes would
24 be important for addressing and preventing such
25 crimes. But today, even after Congress has

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1 required such a database, we live substantial
2 deficits in the data collection, about which I know
3 we will hear more today.

4 In 1983, this Commission warned against
5 taking any federal actions that would give
6 perceived permission to act out hate. Certainly,
7 that warning rings true still today.

8 I look forward to hearing today's
9 testimony to help guide effective recommendations
10 in our current reality about how we as a nation can
11 fulfill our ideals of a pluralistic, equitable
12 democracy, respectful of all persons who live and
13 work among us.

14 Avoiding giving any perception of
15 permission to act out hate necessarily includes
16 prevention work, separate and apart from
17 prosecution. That work, when it is effective, can
18 avoid loss of life or violent harm and can secure
19 productive civic and community engagement that
20 benefits all.

21 I look forward to hearing from today's
22 presenters about effective preventive efforts. And
23 when that prevention fails, hate crimes prosecution
24 can also send important corrective messages to
25 communities.

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1 Just a few days ago, local prosecutors
2 secured a conviction for illegally firing a weapon
3 from a Maryland man who identified himself as a Ku
4 Klux Klan Imperial Wizard, who was recorded on
5 video firing his gun towards a black man counter-
6 protesting at the Charlottesville Unite the Right
7 Rally last year. These prosecutors did not secure
8 a conviction for a hate crime and the prosecution
9 was not federal.

10 One set of questions we take up today
11 involve whether and when local prosecution without
12 a hate enhancement is sufficient to respond to hate
13 motivated criminality.

14 In the wake of the anti-Semitic and
15 race based violence in Charlottesville last year
16 this Commission unanimously stated that, quote,
17 white supremacy and religious intolerance dishonor
18 national commitments we have forged over time, and
19 violence in the name of these ideologies must be
20 met swiftly and forcefully with condemnation and
21 unwavering and unified response.

22 Some communities are already living
23 this unified response. While I have been
24 devastated, as so many of us have, by news reports
25 of acts of violence and vandalism motivated by

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1 hate, I have also drawn hope and inspiration from
2 the communities that have come together to condemn
3 manifestations of hate, displaying that unified
4 response.

5 Citing just one example, last year,
6 after several Jewish cemeteries were vandalized,
7 including in Saint Louis, Missouri, several Muslim
8 activists started a fund-raising effort to ensure
9 that the cemeteries could be rebuilt and repaired.

10 As much as that and similar stories of
11 communities rebuilding and connecting together to
12 strengthen themselves against hate reaffirm for me
13 the strong pull of equity, I was astounded to learn
14 in the course of preparing for today's briefing
15 that the majority of hate and bias motivated crimes
16 are committed by persons 29 years old and younger,
17 with approximately 17 percent under the age of 17.

18 That statistic underscores the need for
19 effective response to hate incidents in schools,
20 ensuring that we train the nation's students toward
21 productive civic engagement, not toward hate.

22 I look forward to benefitting from the
23 experiences and expertise of those who will present
24 to us today and I look forward to working with my
25 colleagues to draw conclusions and make

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1 recommendations after reviewing the materials
2 submitted to the Commission and benefitting from
3 today's briefing.

4 Today's briefing features 21
5 distinguished speakers who will provide us with an
6 array of viewpoints, as well as the opportunity to
7 hear from the public.

8 Panel 1 includes local law enforcement
9 officials, as well as representatives from a
10 national law enforcement group and the Department
11 of Justice and a journalist.

12 Panel 2 includes community
13 stakeholders, including advocates and family
14 members and survivors of hate incidents.

15 Panel 3 includes policy and legal
16 experts. Panel 4 includes current and former
17 government officials who are serving or who have
18 served at the Bureau of Justice Statistics, the
19 FBI, and the Department of Education.

20 I note here that the Commission staff
21 invited current officials from the relevant offices
22 at the Department of Education, but they declined
23 to participate in today's briefing.

24 I thank all who join us now to focus on
25 this critical topic. Your views help us to fulfill

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1 our mission to be the nation's eyes and ears on
2 civil rights.

3 I now turn to Commissioner Heriot, who
4 has asked to speak briefly to today's topic.

5 COMMISSIONER HERIOT: Thank you, Madam
6 Chair. I want to thank everyone responsible for
7 putting together this briefing. But let me say
8 that I am not really a fan of most hate crimes
9 laws, which I believe have a tendency to fuel
10 identity politics at a time when the nation needs
11 to come together.

12 In particular, I oppose the federal
13 hate crimes statute passed in 2009. I don't have
14 time to mention all the special problems with hate
15 crimes law, in particular with federalizing hate
16 crimes law, but let me mention just one.

17 We all know that the Constitution's
18 double jeopardy clause prohibits the government
19 from trying someone again after they've been
20 acquitted for a crime.

21 Many people don't know, however, that
22 the clause does not apply when both the state and
23 the federal government seek to prosecute the same
24 defendant.

25 They both get their chance to

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1 prosecute, even in the event of an acquittal in the
2 other system. Such a rule might have been
3 tolerable back when the number of federal crimes
4 was small, but now that large numbers of crimes are
5 potential federal crimes, it is essentially become
6 a two bites at the apple rule.

7 The Hate Crimes Act is a significant
8 contributor to this. It defines hate crimes very,
9 very broadly. It doesn't actually require group
10 hatred, hence, a Hate Crimes Act is actually a
11 misnomer.

12 It's enough that a violent crime occur
13 because of, that's a quote from the statute,
14 someone's race, sex, disability, et cetera. Many
15 crimes you wouldn't think of as hate crimes are
16 actionable under this law. That's not a good idea.

17 Note that hate crimes are frequently
18 the most politically sensitive crimes, and those
19 are exactly the crimes where a double jeopardy
20 prosecution protection is most important.

21 There will be pressure to re prosecute.
22 We've already seen that kind of pressure with the
23 Trayvon Martin case. We're likely to see more of
24 it as time goes by.

25 CHAIR LHAMON: Thank you, Commissioner

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1 Heriot. Commissioner Adegbile is one of the
2 cosponsors of the project, also will help us
3 introduce the briefing.

4 COMMISSIONER ADEGBILE: Good morning.
5 Today, we are here to speak about a subject of
6 vital importance to the nation. Equal protection
7 of the law, both as a Constitutional matter, but
8 also as a value, is something that runs to our
9 core.

10 Crimes, that is actions, not just
11 thoughts or ideology, motivated by hate against a
12 member of a protected class strike a blow against
13 the rule of law, our commitment to liberty and
14 equality, our communities, our families, our
15 children, and sometimes, as we will hear today from
16 people who sadly know this from personal
17 experience, against individuals, that is, our
18 fellow neighbors who are targeted, terrorized,
19 attacked, maimed, or sometimes even killed by hate
20 motivated violence.

21 These crimes strike a blow against what
22 it is to be a nation based on the values that we
23 hold dear in America.

24 Today, we remember Mr. Byrd and his
25 unspeakable murder in Jasper, Texas, dragged behind

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1 a pickup truck to his death. We remember, too, Mr.
2 Shepard, a 21-year-old college student, a gay
3 college student who, because of his identity, was
4 murdered in Wyoming.

5 We remember also too many others who
6 are not here today, but who we think about. And
7 most importantly, we recommit ourselves to learn
8 about what local and federal officers, law
9 enforcement officers, can do to prevent and
10 prosecute these crimes.

11 We learn about efforts to collect data
12 and information, so that we can understand the
13 nature and frequency of these crimes, and so our
14 policy and law enforcement efforts can be based on
15 information and data.

16 And it is my hope too that we will hear
17 the role that law enforcement and political leaders
18 can play in speaking about the injury that these
19 crimes strike against our core American values.

20 The United States is as much as
21 anything else an idea that people should have an
22 opportunity to live their lives regardless of what
23 their religion is, their race, their gender
24 identity, and the like.

25 We are grateful today for all of the

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1 witnesses who are engaged in the continuing work to
2 make sure that we live up to our promises in the
3 democracy, and we look forward to being informed by
4 all of you. Thank you very much.

5 CHAIR LHAMON: I now turn us to begin
6 our briefing with a few housekeeping items. First,
7 deep thanks to the Commission staff, who researched
8 and brought today's briefing into being, Marik
9 Xavier-Brier and Kathy Culliton Gonzales, in
10 addition to critical support from Teresa Adams,
11 LaShonda Brenson, Sheryl Cozart, Pam Dunston,
12 Latrice Foshee, Laura Gevarter, Jason Lagria, Tina
13 Louise-Martin, Mayowa Olubakinde, Warren Orr,
14 Lenore Ostrowsky, Krista Painter, Maureen Rudolph,
15 Sarale Sewell, Wanda Smith, Irena Vidulovic, Brian
16 Walch, Michele Yorkman-Ramey, and Shimeng Zeng, for
17 preparing and making logistical details for today
18 work.

19 I thank Vice Chair Timmons-Goodson for
20 spearheading much of the work for today's briefing
21 and Staff Director Morales for his leadership as
22 well.

23 I caution all speakers, including our
24 Commissioners, to refrain from speaking over each
25 other for ease of transcription and to allow for

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1 sign language translation to my right.

2 For any individuals who might need to
3 view the sign language translation, there are seats
4 available in clear view. I ask everyone present to
5 please silence your phones and not to take flash
6 photos to minimize health risk to persons present.

7 After our four panels and an afternoon
8 break, we will reconvene at 5:00 p.m. for a public
9 comment period. If you are interested in
10 participating in the public comment period, during
11 which each person will have up to three minutes to
12 speak, we will be honored to hear from you.

13 In total, the oral public comment
14 period will last no longer than an hour and a half,
15 with 30 spots allotted on a first-come first-served
16 basis. If you did not already sign up for one of
17 the first ten spots online, you may sign up at the
18 registration desk beginning at 3:30 p.m., the spots
19 will be available until filled.

20 For any member of the public who would
21 like to submit materials for our review, our public
22 record will remain open until Monday, June 11,
23 2018. Materials can be submitted by mail to the
24 U.S. Commission on Civil Rights Office of Civil
25 Rights Evaluation, 1331 Pennsylvania Avenue

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1 Northwest, Suite 1150, Washington, D.C. 20425, or
2 by email, hatecrimes@usccr.gov.

3 During the briefing, each panelist will
4 have seven minutes to speak. After each panel
5 presentation, Commissioners will have the
6 opportunity to ask questions within the allotted
7 period of time and I will recognize Commissioners
8 who wish to speak.

9 I will strictly enforce the seven
10 minute allotment given to each panelist to present
11 his or her statement. And so, to avoid my cutting
12 you off, I do encourage you to stay within that
13 time.

14 And unless we did not receive your
15 testimony before today, you may assume that we have
16 read your statements, so you do not need to read
17 them to us as your opening remarks. Please focus
18 your remarks on today's topic.

19 I also note that we have a very tight
20 schedule for the day, with nearly two dozen experts
21 who will speak before us, so I ask my fellow
22 Commissioners to be cognizant of the number of
23 panelists in the interest of each Commissioner to
24 ask questions.

25 Please be brief in asking your

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1 questions so we can move quickly and efficiently
2 through today's schedule, and I will step in to
3 move things along if necessary.

4 I also note that today's topic is a
5 sensitive one and we have several panelists who
6 will speak from personal experiences. I ask our
7 audience to be cognizant and respectful of all our
8 panelists, and I ask my fellow Commissioners to
9 keep that in mind during our question and answer
10 period.

11 Panelists, please notice the system of
12 warning lights that we have set up. When the light
13 turns from green to yellow, that means that two
14 minutes remain. When the light turns red, you
15 should conclude your statements so you do not risk
16 my cutting you off mid-sentence.

17 My fellow Commissioners and I will do
18 our part and keep our questions and comments
19 concise.

20 **PANEL ONE: LOCAL LAW ENFORCEMENT**

21 CHAIR LHAMON: Now, we turn to our first
22 panel of law enforcement officials. The order in
23 which they will speak is: Sergeant Detective Carmen
24 Curry of the Boston Police Department; Assistant
25 Chief Marc Garth Green of the Seattle Police

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1 Department; Retired Chief Terrence Cunningham,
2 Deputy Executive Director of the International
3 Association of Chiefs of Police.

4 Unfortunately, Chief Will Johnson of
5 the Arlington, Texas Police Department and head of
6 the Civil Rights Subcommittee for IACP could not be
7 with us today, but we are very grateful, Mr.
8 Cunningham, that you have stepped in at the last
9 minute, thank you; Robert Moossy, Deputy Attorney
10 General at the U.S. Department of Justice; and
11 finally, Robby Soave, Associate Editor at Reason
12 Magazine and I note also a member of our D.C. State
13 Advisory Committee.

14 So, thank you very much for your
15 service to us in that capacity and also for sharing
16 your expertise with us today.

17 I note that Detective Kevin Hamm of the
18 Phoenix, Arizona Police Department was scheduled to
19 speak, but he was unfortunately unable to be with
20 us today. His written statement will be added to
21 the record for the Commission's consideration.

22 So, Sergeant Detective Curry, please
23 begin. And you'll want to turn your microphone on.
24 Thank you.

25 SGT. DETECTIVE CURRY: Good morning.

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1 CHAIR LHAMON: Good morning.

2 SGT. DETECTIVE CURRY: I'd like to take
3 this opportunity to thank the Commissioners for
4 having this event and having me here today to talk
5 about this most important issue of hate crimes.

6 I've been working in the Civil Rights
7 Unit of the Boston Police Department for 20-plus
8 years and have an opportunity to look at these and
9 deal with victims personally.

10 I think we're seeing an increase of
11 hate crimes that are happening on a national level.
12 When I first went into the unit, I was of the
13 assumption that hate crimes would be eradicated by
14 now, but what we see is that that's not happening.

15 I think I want to share some, what I
16 believe are some best practices. And one of the
17 things that I think is key for law enforcement
18 agencies is to establish a hate crimes unit.

19 The Boston Police established a hate
20 crimes unit over 40 years ago and they've had the
21 opportunity to maintain this unit. And so, that's
22 all we do there. So, we look at hate crimes, we're
23 involved with victims, and I think it's crucial
24 that police departments have someone who is going
25 to look specifically at hate crimes.

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1 There are not a lot of agencies that
2 have a unit that does that, that's dedicated
3 specifically to deal with hate crimes. I think
4 having a unit sends a clear message to the
5 community, to would-be haters or would-be
6 perpetrators that the issue of hate crimes is
7 important. It's important, it sends a message to
8 those internally with the police departments.

9 We see that, in the climate that we're
10 living in today, there is an increase in and a
11 boldness of the verbiage that's being used by our
12 leaders, by the media, by politicians. We see
13 social media, Facebook, Snapchat, Twitter, they all
14 play a role in this increase that we're seeing
15 today.

16 I think establishing a civil rights
17 unit with a diverse group of dedicated officers
18 solely to investigate hate crimes would play a key
19 role in getting victims to report hate crimes.
20 When we establish that unit, we establish trust
21 with the community.

22 It's important to establish that trust.
23 It's important to develop relationships in the
24 community. It's important to have community
25 outreach. When you have a unit or an individual

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1 who is dedicated specifically for hate crimes, they
2 become experts, because that's all they do and
3 that's what's really important here.

4 We need community advocacy agencies, we
5 need the clergy, we need the local, state, and
6 federal agencies to come together. In Boston, we
7 do a lot of community outreach. We meet with a lot
8 of people to sit at the table and talk about this
9 issue.

10 One of the things in community outreach
11 is things like, when the holidays are coming
12 around, to meet with the groups.

13 So, we see Ramadan is coming on May 15,
14 we get out and we go and we introduce ourselves and
15 we let them know that we're aware of what's
16 happening in the community, we're aware of the
17 season that we're in now, to let them know we're
18 there, to let them know to be aware, to look around
19 in their surroundings.

20 And that's one of the things that I
21 believe establishes a trust relationship, when they
22 know that the police are going to take these crimes
23 seriously.

24 Victims don't come forward for many
25 different reasons. We talk about data collection,

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1 it starts at the head. It starts with the police
2 department clearly articulating that responding,
3 documenting, and prosecuting hate crimes is a
4 priority, these types of crimes will not be
5 tolerated. It must trickle down from the top.

6 We must encourage victims to report
7 hate crimes. There are many factors why victims
8 don't report hate crimes. It could be contingent
9 upon many factors.

10 Their immigration status, this is a
11 huge one, we are constantly telling advocates and
12 victims that their status has no bearing on their
13 case, nor will we look into their status. In most
14 instances, victims with illegal status will not
15 move forward. Victims do not speak English and are
16 afraid to come forward.

17 Victims in the LGBTQ community, in many
18 instances, they're not out, so they're not going to
19 come forward to report these crimes. Victims of
20 color may have issues with mistrust with the police
21 departments, or they may have language barriers.

22 The Community Disorders Unit, where we
23 work, the Civil Rights Unit, we're a victim-
24 oriented unit and so, we hand-hold victims and we
25 take them through the whole process.

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1 It doesn't matter whether it's a Part 1
2 crime or whether it's just a vandalism, if the
3 person is selected because of who they are, we're
4 going to hold their hand and we're going to take
5 them through the whole process.

6 We have people who won't come forward
7 because they lead very busy lives and they don't
8 want to go through the process because it's too
9 disruptive.

10 One of the challenges that we're seeing
11 is college campus incidents don't get reported to
12 the local police departments. They tend to keep
13 those on the inside, which is a challenge for the
14 local police departments and it's a challenge for
15 reporting.

16 I believe that for law enforcement,
17 training is the key, because if a police officer
18 does not know how to identify a hate crime, then
19 it's not going to be reported. And so, that's
20 where we see that there's a decrease in reporting.

21 Particularly in Massachusetts, when we
22 look at the numbers of how many Massachusetts law
23 enforcement agencies do not participate in
24 reporting hate crimes, I believe that they don't
25 report them because they don't know how to identify

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1 what a hate crime is.

2 And so, training is key. Training is
3 key and training with victims and letting them
4 know, understand what a hate crime is, what it
5 isn't, and what the resources are available to
6 them.

7 If an officer isn't documenting the
8 incident correctly, it's not going to go to court.
9 No one is going to be arrested, there's not going
10 to be any prosecution of that incident.

11 CHAIR LHAMON: Thank you very much,
12 Sergeant Detective. We'll now hear from Assistant
13 Chief Marc Garth Green.

14 ASSISTANT CHIEF GREEN: Thank you very
15 much, Madam Chairwoman. And thank you
16 Commissioners for having me here today. I am Marc
17 Garth Green and I represent the Seattle Police
18 Department at this time. Next slide, please.

19 So, for our Bias Crime Unit, it was
20 staffed in 2015 as a dedicated detective, it's
21 centered out of our Homicide and Assault Units.
22 They are dedicated for bias crimes in the
23 investigation, data gathering, and the analysis, as
24 well as our public outreach. We have now moved
25 that up to two detectives this year, based on the

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1 number of increases that we are seeing. Next
2 slide, please.

3 So, our legal authority comes from our
4 Revised Code of Washington 9A.36.080 and the
5 Seattle Municipal Code 12A.06.115. The Seattle
6 Municipal Code actually adds different classes to
7 it. We add homelessness, marital status, political
8 ideology, age, or parental status at the
9 misdemeanor level as well.

10 Both of our statutes here are
11 severable, so that if we cannot prove the bias
12 elements, we can go forward with the underlying
13 crime as well, so that allows us to work on both
14 fronts at the same time. Next slide, please.

15 So, at the Seattle Police Department,
16 we gather our data in coordination and in following
17 the Uniform Crime Reporting Standards set by the
18 FBI and report on the NIBRS, the National Incident
19 Based Reporting System.

20 The three types of incidents that we
21 break it down into are the malicious harassments
22 incidents themselves, which are sometimes referred
23 to as hate crimes or bias crimes. That's the legal
24 definition of the crime.

25 The next one are crimes with bias

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1 elements, which is generally when a crime occurs
2 and during the commission of that crime, some type
3 of derogatory language is used.

4 While not an element of the crime, it
5 is something that we truly look at. This is where
6 we see our greatest degree of increase in our
7 crimes in the City of Seattle are bias elements,
8 not actually malicious harassment crimes.

9 And we have non-criminal bias
10 incidents, which are used primarily when folks are
11 using derogatory language, but not in a criminal
12 nature. Next slide, please.

13 One of the important things with it,
14 obviously, for us is the outreach to the community.
15 We have seen an increase in reporting over the last
16 periods of several years that we've been keeping
17 our data, to include a larger degree after we've
18 had, on the political side, the national front, of
19 the #MeToo movement and other movements along those
20 lines.

21 Where we're emboldened in the City of
22 Seattle and pleased is that we have seen an
23 increase in reporting by witnesses, people who are
24 walking down the street and observe something
25 happening in front of them, across the street from

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1 them, and feel that it's not right and will call in
2 to us.

3 So, that is a great thing for us,
4 because it means that our outreach is working, that
5 our folks in our city are not tolerating that type
6 of behavior.

7 One of the ideas that came in channel
8 that we worked very hard on was what we call a Safe
9 Place Program. And it started out with the LGBTQ
10 community in a specific geographic region of our
11 city.

12 But what it is training through
13 businesses that train their staff that when people
14 were victims of malicious harassment or hate
15 crimes, that they could go into those businesses,
16 speak with those employees there. Those employees
17 would call 911 and offer them a safe place to wait
18 until police were coming to take their report.

19 So, over time, we've spread it citywide
20 to over 6,000 businesses in Seattle and we've had a
21 great degree of success with this program and
22 really enjoy that. Move forward, please.

23 Our Bias Crime Coordinator does
24 community outreach, engage in frequent community
25 meetings, especially with the under-reporting

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1 communities that we've identified in the City of
2 Seattle.

3 We have a variety of different
4 communities that do not speak English, and so, we
5 try to partner with the Seattle Office of Civil
6 Rights, have interpreters, and then, move out to
7 those communities as well, to really meet with
8 them.

9 We do a lot with cultural centers and
10 religious institutions as well to make sure that
11 that voice is getting out, as well as issuing
12 pamphlets in all different types of languages to
13 help people. Next slide, please. And we'll skip
14 to the next one, thank you.

15 One of the things that we're really
16 excited about in the City of Seattle is we have
17 publication dashboards that gather our data.
18 They're updated daily for internal facing, however,
19 they're updated monthly for external facing.

20 So, anybody in the city of Seattle can,
21 or anywhere else in the nation, can log on and go
22 to our crime dashboard and take a look at what's
23 going on within their city, within their geographic
24 area, their neighborhoods as well.

25 It's broken down to that, captures the

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1 types of incidents, how they're broken down, and
2 the actual associated offense type of those
3 incidents. So, they can go to that.

4 There are also links to our outreach
5 there and, as the Detective Sergeant said, that is
6 probably one of the biggest things that law
7 enforcement can do, is to try to sever that
8 mistrust that has been built over years.

9 A lot of it comes from different groups
10 that have moved to this country, where they have
11 suffered abuse by law enforcement in their own
12 countries, failures on those legal systems, and
13 those memories hold dear to them and they come over
14 with that interpretation as well.

15 And so, meeting with them in their
16 place of location and their place of safety to talk
17 about how we do things differently here. With
18 that, one of the things that we do is, when a
19 severe malicious harassment crime takes place, we
20 actually have a team that moves out into the
21 community.

22 It is composed of our Bias Crimes
23 detectives, some community members, and then, also
24 our U.S. State Attorney, one of his deputies goes
25 out as well. We meet with the victim, in part for

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1 the victim, but in a larger part, it's really for
2 the community.

3 We mobilize with the community to let
4 them know that this is not tolerated, to find out
5 what they need to restore themselves to a sense of
6 security, and then, for follow-up as to how to
7 prevent these in the future. So, we use that
8 program quite often when we need to as well.

9 But that is -- the biggest thing, as
10 Detective Sergeant alluded to also, with
11 immigration status being an issue right now, we
12 also work under the premise that we do not ask,
13 we're not concerned with immigration status at the
14 time of reporting or through the follow-up, to
15 ensure that justice is served for those folks.

16 As far as continued outreach, continued
17 legislation, continued law enforcement activities
18 as well. Obviously, the very first step in any
19 type of these things is for the enforcement
20 portion, for police to get in there.

21 What we see as a correlation of, in
22 higher crime areas, we have higher bias related
23 incidents. And on average, 40 percent of ours in
24 the City of Seattle are conducted by people
25 suffering from mental crisis or under the influence

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1 of alcohol or narcotics. So, those are two
2 different areas that we need to address as well.

3 CHAIR LHAMON: Thank you very much.
4 Now, we'll hear from Chief Cunningham.

5 CHIEF CUNNINGHAM: Great. Good morning,
6 Madam Chairman and Vice Chair Timmons-Goodson and
7 distinguished Commissioners. My name is Terrence
8 Cunningham, I'm the Deputy Executive Director of
9 the International Association of Chiefs of Police.
10 I'm a former chief of the Wellesley, Massachusetts
11 Police Department, and I also served as the
12 President of the IACP from 2015 to 2016.

13 The IACP is the world's largest
14 association of law enforcement leaders, with more
15 than 30,000 members in over 150 countries. Hate
16 crime and hate incidents are heinous acts that
17 demand immediate attention, response, and
18 resolution whenever possible.

19 What makes hate crimes so malicious is
20 that their impact spreads far beyond the direct
21 victims and their families. These crimes have far-
22 reaching effects on large segments of communities
23 in which they take place, spreading fear, toxicity
24 throughout our communities.

25 The IACP has been discussing the

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1 challenges and impact of hate crimes for close to
2 two decades, when we held our first summit on the
3 issue and developed recommendations and a guide for
4 officer response and investigation to hate crimes.

5 Since that time, we've developed a
6 model policy concept and issues paper in
7 conjunction with the Anti-Defamation League in
8 2016, and on the investigation of hate crimes, an
9 aid to law enforcement agencies.

10 Additionally, the IACP has partnered
11 recently with the Lawyers Committee for Civil
12 Rights Under Law to create an advisory committee
13 that encompasses diverse representation from law
14 enforcement, civil rights organizations, and
15 academia.

16 We have hosted a series of meetings to
17 hear perspectives from hate crime survivors,
18 academic experts, national and grassroots advocacy
19 leaders, and law enforcement officials on barriers
20 and best practices to combat hate.

21 The end product will be a summary
22 report outlining the critical issues and action
23 items detailing the discussions from the advisory
24 group and it will be released between this summer
25 and early fall of 2018. It is a very comprehensive

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1 document that we will clearly make available to
2 this committee.

3 Today, I'd like to focus on some of the
4 challenges law enforcement faces when it comes to
5 hate crimes. Under-reporting of hate crimes
6 statistics, as you've heard from the last two
7 presenters.

8 Over the years, one of the greatest
9 barriers to confronting and overcoming hate
10 violence has been the lack of statistical data on
11 the occurrence and nature of these crimes.

12 Participation in the FBI's national
13 reporting system, which, like the rest of the UCR,
14 Uniform Crime Reporting Program, is voluntary.
15 While participation has increased over the years,
16 participation levels are seriously lacking.

17 We know that the figures as reported to
18 the FBI strongly suggest a serious under counting
19 of hate crimes and that there is a need for more
20 training and education on the importance and
21 utility of hate crime reporting and data collection
22 as a tool for law enforcement in preventing these
23 crimes and safeguarding the public.

24 While more data needs to be reported by
25 law enforcement agencies, we also need our

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1 communities to report hate crime incidents. The
2 most recent hate crime victimization publication
3 from the Bureau of Justice Statistics shows that 54
4 percent of violent hate crime victimizations were
5 not reported to police during the period of 2011 to
6 2015.

7 As law enforcement, we need to make
8 sure that our communities understand that we want
9 these incidents to be reported and that no hate
10 crime or any other crime is insignificant.

11 We never want our communities to feel
12 that they shouldn't bother us. It's our job and
13 it's clearly why we chose this career, we want to
14 protect and serve.

15 So, directly to the challenges of hate
16 crimes, investigating. The decision of a law
17 enforcement official whether to classify a crime as
18 a hate crime and the separate decision of a local
19 prosecutor whether or not to bring hate crime
20 charges can be very complicated.

21 It is extremely difficult to determine
22 the motives of one's heart and their intentions.
23 Law enforcement executives need to ensure
24 investigators are looking at each individual case
25 on its own merits and take a proactive approach on

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1 identifying potential crimes with a hate nexus.

2 In today's world, the internet provides
3 extremists with an unprecedented ability to spread
4 hate and recruit followers. Individual racists and
5 organized hate groups now have the power to reach
6 global audiences of millions to communicate among
7 like-minded individuals easily, inexpensively, and
8 anonymously.

9 The ease of sending internet hate
10 messages and threats across states lines can make
11 perpetrators and victims difficult to identify and
12 locate, and creates criminal jurisdictional issues
13 and pose special challenges to investigators.

14 And although hate speech is offensive
15 and hurtful, the First Amendment usually protects
16 such expressions. However, when speech contains
17 direct credible threats against an identifiable
18 individual, organization, or institution, it
19 becomes criminal conduct. Regardless of the mode
20 of delivery, hate speech containing criminal
21 threats is not acceptable and it is not protected
22 by the First Amendment.

23 In order for law enforcement to be
24 truly effective, officers and agencies must have
25 the active assistance and support from every facet

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1 of our communities.

2 Establishing and maintaining these
3 crucial relationships in order to build a mutual
4 understanding and level of trust with diverse
5 communities requires time and is an ongoing effort.
6 To maintain and establish strong community-police
7 relations, we must work towards prevention of hate
8 crimes in our communities.

9 In order to effectively prevent and
10 respond to hate crimes, I have a few action item
11 recommendations that I believe the federal
12 government, law enforcement, our communities, and
13 elected officials could take.

14 Number one, the National Criminal
15 Justice Commission. There is a need to establish a
16 National Criminal Justice Commission. This would
17 not just be another study.

18 The establishment of such a committee
19 would set forth a strategic blueprint for criminal
20 justice that would guide efforts to protect our
21 communities for years to come. The last commission
22 was created in 1965 and produced landmark changes
23 for the criminal justice system.

24 Training. Law enforcement officers
25 need training to identify, investigate, and report

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1 hate crimes. Training is also needed to help
2 understand the victim's culture, language, and what
3 questions to ask.

4 Enhancing community-police relations.
5 Positive relationships between law enforcement and
6 communities will encourage members to report hate
7 crimes and minimize the chance of retaliatory
8 crimes.

9 Enhanced reporting. Provide
10 incentives, including additional financial
11 resources, to states and localities to report crime
12 data, particular hate crimes, to the FBI.

13 Specialized units. Funding to create
14 specialized hate crime units or to help agencies
15 team up to develop multi-agency task forces.

16 Speak out against hate crimes. The
17 President, members of Congress, state and local
18 elected officials all need to condemn acts of
19 bigotry every chance they can.

20 And on behalf of the IACP, I conclude
21 by thanking you again for the opportunity to appear
22 before you today and would be happy to answer any
23 questions that you may have. Thank you.

24 CHAIR LHAMON: Thank you very much,
25 Chief Cunningham. Now, we'll hear from Mr. Moossy.

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1 MR. MOOSSY: Good morning. It's really
2 a pleasure to be here. I'm a 24-year career
3 employee of the DOJ Civil Rights Division and I am
4 delighted to be here with my fellow members of law
5 enforcement and a journalist to talk about the
6 important work we're doing to combat bias motivated
7 violent crimes, often called hate crimes.

8 I've spent the majority of my time with
9 the Civil Rights Division prosecuting a variety of
10 crimes, including law enforcement misconduct, human
11 trafficking, and hate crimes. And I can say with
12 confidence that combating hate crimes is among the
13 highest priorities for the Civil Rights Division
14 and for this Justice Department.

15 As you know, hate crimes can be
16 prosecuted in state or federal courts, depending on
17 each jurisdiction's laws. We in the Civil Rights
18 Division, working with our U.S. Attorney partners
19 and the FBI, prosecute hate crimes in federal
20 courts across the nation.

21 We're committed to using federal
22 prosecutions to make clear that any act of bias
23 motivated violence is unacceptable and that the
24 Department will use our investigative and
25 prosecutorial authority to bring perpetrators to

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1 justice.

2 The FBI is currently investigating over
3 200 hate crimes nationwide. Since January 2017,
4 the Department has brought hate crimes charges
5 against more than two dozen defendants and obtained
6 22 convictions.

7 And some examples are, on April 30, two
8 Texas defendants were sentenced to 15 and 20 years
9 for using social media dating platforms for gay men
10 to arrange to meet victims in their homes where
11 they brutally assaulted them.

12 On April 18, after a four week trial, a
13 federal jury convicted three men in Kansas of
14 conspiracy to use a weapon of mass destruction and
15 conspiracy to commit a hate crime. The defendants
16 plotted to blow up an apartment complex in an
17 effort to kill the Somali Muslim immigrants who
18 lived there and worshiped at a mosque there.

19 Also in April, three East Los Angeles
20 men agreed to plead guilty to federal civil rights
21 and racketeering charges for participating in a
22 2014 fire-bombing intended to drive African
23 American residents inside of the Ramona Gardens
24 housing developing out of that development.

25 In March, following a three day trial,

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1 a jury found a man guilty of committing a federal
2 hate crime when he used a stun device during a
3 racially motivated assault of a neighbor at his
4 apartment complex in Utah.

5 Evidence presented at trial showed that
6 the defendant shouted racial slurs at the victim's
7 seven-year-old son as he rode a scooter in the
8 common area of the apartment and then, when his
9 father tried to stand up for his son, the defendant
10 used the stun gun to assault him.

11 In February of 2018, a Virginia man was
12 indicted for a hate crime for threatening employees
13 of the American Arab Institute.

14 Also in February 2018, the Department
15 announced the indictment of a dual United States
16 and Israeli citizen in three different
17 jurisdictions for hate crimes and other offenses
18 arising from alleged threats he made to Jewish
19 community centers across the United States,
20 specifically in the Florida, the Israeli Embassy,
21 and the Anti-Defamation League here in D.C., as
22 well as multiple other Jewish organizations across
23 the United States.

24 And in November 2017, the Department
25 cross-designated one of our Civil Rights Division

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1 prosecutors to assist in the state murder trial of
2 an Iowa man, who was ultimately convicted of
3 murdering Kedarie Johnson, a transgendered
4 teenager. And he now faces life imprisonment.

5 So, while my background is federal
6 prosecutions, the Department of Justice takes a
7 broader approach in responding to hate crimes
8 across our nation.

9 Attorney General Sessions has made hate
10 crimes one of the pillars of his Task Force on
11 Crime Reduction and Public Safety.

12 The Civil Rights Division has convened
13 a Hate Crimes Enforcement and Prevention Working
14 Group, composed of the Civil Rights Division, the
15 FBI, the U.S. Attorneys Offices, the Office of
16 Community Oriented Policing, our Office of Justice
17 Programs, and our Community Relations Service,
18 known as CRS.

19 And we've been working together to
20 figure out how can the Department of Justice bring
21 all of our authorities and abilities and resources
22 together to really, first and foremost, assist
23 federal and state investigators to identify and
24 report these crimes and how to respond to
25 communities that have been harmed by these crimes.

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1 Our local police and sheriff officers
2 are important partners for identifying and
3 investigating hate crimes. They are the women and
4 the men who respond to violence on the streets,
5 they are the officials who will identify a hate
6 crime when it happens and collect the on-scene
7 evidence and leads. These local law enforcement
8 agencies must have the support they need to
9 identify, investigate, and report hate crimes.

10 Likewise, because there are many more
11 state and local prosecutors than there are federal
12 prosecutors, our local district attorneys must also
13 have the state laws and resources they need to
14 prosecute hate crimes in the local and state
15 courts.

16 Also important are the victims
17 themselves and community-based organizations that
18 support victims. This is especially true when it
19 comes to reporting hate crimes to law enforcement.

20 We are really working across the
21 Department to figure out, how can both law
22 enforcement and victims better report hate crimes?
23 Accurate data helps localities better target crime.

24 And we have to understand why 88
25 percent of police departments that participate in

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1 the UCR, the Uniform Crime Reporting, reported that
2 they had zero hate crimes in 2016. And why four
3 law enforcement agencies in jurisdictions with more
4 than 250,000 residents didn't even report hate
5 crimes data to the FBI.

6 We also have to understand and address
7 why, according to crime victim surveys, more than
8 half of hate crime victims do not report hate
9 crimes when they happen.

10 About a quarter of those who don't
11 report say that they didn't believe the police
12 would want to be bothered or get involved, that the
13 police would be inefficient or ineffective, or that
14 the police would cause trouble to the victims. And
15 I know you have a panelist later to talk about hate
16 crimes data.

17 We are working really hard to improve
18 our training and outreach, because we believe this
19 will in turn improve our ability to identify and
20 report hate crimes and then, investigate and
21 prosecute them.

22 So, since January 2018, our Community
23 Relations Service has hosted five hate crimes
24 forums in Pennsylvania, Maryland, Texas, Oregon,
25 and New York, bringing together 50 to 400 federal

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1 and local law enforcement, community leaders,
2 federal agencies, and advocates. And we're picking
3 more locales to do these trainings in the coming
4 years.

5 CRS also recently updated two
6 trainings, one aimed at engaging and building
7 partnerships with Muslim Americans and another at
8 engaging and building partnerships with Sikh
9 Americans. These are aimed at both law enforcement
10 and community leaders to better establish community
11 relationships with those populations.

12 Our FBI has a national training
13 initiative that reaches literally thousands of
14 people every year to train them about hate crimes
15 and civil rights, both in law enforcement and in
16 the community.

17 And we in the Civil Rights Division
18 will be hosting a training at our National Advocacy
19 Center this August to bring together FBI agents and
20 prosecutors to help increase our ability to
21 identify and prosecute hate crimes.

22 So, it is a pleasure to be here, I look
23 forward to answering any questions you may have.

24 CHAIR LHAMON: Thank you very much, Mr.
25 Moosy. Mr. Soave?

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1 MR. SOAVE: Thank you. I am deeply
2 honored to participate in this briefing and so
3 grateful to the Commission for inviting me. What
4 is the government's role in preventing hate crimes?
5 I think it might be a slightly more complicated
6 question than it seems.

7 Most people would agree that the
8 government obviously has a compelling interest in
9 preventing crime and most people would also agree
10 that hateful conduct is unwelcome, but many actions
11 this society deems hateful are nevertheless
12 protected by the Bill of Rights.

13 I mean, the First Amendment does give
14 us the explicit right to engage in expression that
15 some people would consider hateful. And while many
16 of today's college students think hate speech
17 should be illegal, in fact, nearly half of them
18 according to the Cato Institute, the Supreme Court
19 has been crystal clear on this, that the thought
20 that we hate, the famous quote, is perfectly --
21 it's Constitutional and permissible to engage in
22 that.

23 Most recently as 2011 in the famous
24 sort of Westboro Baptist Church case, the Supreme
25 Court said, the Snyder v. Phelps case, that people

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1 shouting for the deaths of military servicemen and
2 shouting horrific things at gay people that even
3 that kind of speech was protected.

4 Now, obviously, there's a critical
5 distinction between hate speech and hate crime.
6 Here, I think we're generally talking about hate
7 crime in the context of being additional penalties
8 against people who commit crimes for reasons that
9 are especially hateful.

10 Although, I think I did hear one of my
11 fellow panelists talking about derogatory language
12 during the commission of a crime being itself an
13 additional crime, which I think starts to blur that
14 distinction in ways that could impugn our civil
15 liberties or free speech rights.

16 The law generally recognizes that
17 crimes such as vandalism, assault, and murder are
18 especially heinous if committed for reasons of
19 bigotry or bias. Although some, I think, might
20 contend in a philosophical sense, if not a legal
21 one, that is not in some sense murder murder
22 regardless of the killer's motivations, or that we
23 could sort of read the mind of the killer and
24 divine whether it was impugning some protected
25 category.

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1 Anecdotally, we hear from many media
2 outlets, as someone who is in the press and pays
3 close attention to this, we hear often that hate
4 crime rates have increased or are always
5 increasing.

6 The FBI reported a five percent rise in
7 hate -- and, indeed, the FBI did report a five
8 percent rise in hate crimes from 2015 to 2016.
9 Still, that's a small enough increase that it could
10 actually have been the result of better reporting,
11 rather than an actual spike in hate.

12 The FBI reported an increase in anti-
13 Muslim hate, but that might be because the FBI, the
14 way I understand it, changed slightly how they were
15 tracking that information from one year to the
16 next.

17 According to the U.S. Bureau of Justice
18 Statistics, hate crime levels have occasionally
19 fluctuated, but remained relatively stable between
20 2004 and 2015.

21 As a reporter who focuses specifically
22 on education issues, schools, higher education in
23 particular, I can say that the situation on college
24 campuses is very complicated.

25 There is some data suggesting that hate

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1 crimes on campuses, specifically, increased as high
2 -- by as much as 25 percent in just the last year
3 or two, possibly because of the divisiveness of the
4 2016 election, that's kind of been the theory that
5 was put out.

6 Many of these are hate-inspired acts of
7 vandalism, destruction of property, and
8 intimidation. Even so, it can be very difficult to
9 truly kind of grapple with these incidents and
10 understand, they are not always what they appear to
11 be on their face, because perpetrators are almost
12 never caught in these cases.

13 BuzzFeed News, for instance, reviewed
14 400 things that were reported on university
15 campuses as hate crime or a bias incident.

16 Oftentimes, universities have a
17 separate bias reporting system, where students,
18 professors can anonymously file reports. This is
19 obviously a much broader category of behavior.
20 Many of these things I think would be deemed
21 perfectly legal, they would be clearly examples of
22 free expression.

23 But out of 400 cases that BuzzFeed
24 reviewed of hate generally, and it was able to
25 verify that 154 did happen, but only in five

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1 percent of the cases was the perpetrator caught.

2 This -- unfortunately, it is true that
3 some of the incidents on college campuses have
4 turned out to be accidents or even hoaxes. Two
5 crimes reported at Michigan, the University of
6 Michigan, where I am a graduate, in the immediate
7 wake of the election, in November of 2016, they
8 were discovered to be hoaxes, one involving a young
9 Muslim woman who claimed a man had threatened to
10 set her on fire, another involving a young woman
11 who said a man had attacked her with a safety pin
12 because she was a pro-immigrant sort of
13 demonstrator. Police confirmed, the alleged victim
14 admitted that both crimes had actually been made
15 up.

16 And I bring up these incidents not at
17 all to suggest that a large percentage of hate
18 crimes are hoaxes, I think that's certainly not
19 true. But on campuses particularly, and we're so
20 focused on the school question these days, it is
21 hard to know exactly what's going on.

22 I've seen cases where it appeared that
23 it was a message of hate, like anti-immigrant hate
24 or anti-black hate, but actually the person doing
25 it was an immigrant or a person of color and what

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1 they were saying, they were saying, this hateful
2 message has now become acceptable in our country.

3 So, they were making sort of a
4 political demonstration. So, that changes whether
5 obviously it was an act of hate, given who was
6 doing it.

7 I would urge policymakers, law
8 enforcement, and other authorities to resist media
9 pressure to characterize the current atmosphere in
10 the U.S. as one of increasing hatefulness.

11 While we can and should continue to
12 track and prosecute criminal activity, we should
13 keep in mind our cherished First Amendment rights.
14 There are vastly fewer protections for free
15 expression in other countries, and I worry at times
16 that we could undermine our own protections by
17 drawing the hate crime category too broadly.

18 Scotland, for instance, recently
19 arrested and fined a comedian on YouTube for a hate
20 crime. His crime was making a video of his dog
21 giving like a Nazi salute. He was just trying to
22 make his girlfriend mad, is what he said. He was
23 not a Nazi or affiliated with any Nazi
24 organizations. And he was arrested and fined for
25 doing so.

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1 In Liverpool, a young woman named
2 Chelsea Russell was reported to a hate crime unit
3 for posting the lyrics to a rap song on her
4 Instagram page. She was doing it in tribute to a
5 young man who had died in a car -- who had been run
6 over by a car and it was like his favorite song.

7 The authorities never charged anyone in
8 the young man's death, but they did arrest the
9 woman for posting the rap lyrics. The judge said
10 there is no place in civil society for language
11 like that.

12 I think these hate crime arrests in the
13 U.K. underscore the need for officials in our own
14 country to remain cognizant of the line between
15 hate speech and hate crime and to avoid fatalism
16 and pessimism when considering whether the reach of
17 hate is actually growing. Thank you.

18 CHAIR LHAMON: Thank you very much, Mr.
19 Soave. I'm going to open it up now to questions
20 from my fellow Commissioners.

21 I do want to note, and I think
22 Assistant Chief Garth Green can speak for himself,
23 but I didn't hear Assistant Chief Garth Green
24 actually say what you characterized him as having
25 said about what the crimes were.

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1 ASSISTANT CHIEF GREEN: Thank you, Madam
2 Chairwoman. No, what that was was that's where we
3 captured the data, is in those --

4 MR. SOAVE: Okay.

5 ASSISTANT CHIEF GREEN: -- three things,
6 that the crime doesn't fit the hate speech.

7 CHAIR LHAMON: Thank you. So,
8 Commissioner Narasaki has a question.

9 COMMISSIONER NARASAKI: I have so many
10 questions.

11 (Laughter.)

12 COMMISSIONER NARASAKI: I started my
13 career working on hate crimes, anti-Asian violence
14 in particular, with the murder of Vincent Chin, who
15 was viciously murdered a few days before he was
16 supposed to get married by a father and a son who
17 was angry about the Japanese car makers in Detroit.

18 And they went after him with a baseball
19 bat, killed him, and the judge slapped them on the
20 wrist and gave them time served, because they were
21 otherwise fine Americans.

22 So, I would say to Commissioner Heriot,
23 I would not worry that there is too much double-
24 dipping with the federal government, because it is
25 extremely difficult to get the federal government

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1 to step in, there are a lot of jurisdictional
2 hurdles.

3 And, obviously, the first choice is
4 always local police, but unfortunately, in this
5 country, we have a history where local police have
6 not always been on the side of protecting minority
7 victims.

8 So, with that, I will say, I have a lot
9 of questions, so because we have only a short
10 amount of time, if I cut you off, it's not because
11 I'm being rude, it's because I want to get to my
12 other questions.

13 So, first of all, this is just a short
14 question for Assistant Chief Green. So, who helped
15 pay for the development of the Seattle data
16 website, because that sounds like it's a very
17 important tool?

18 ASSISTANT CHIEF GREEN: Thank you. That
19 was done internally, it's part of our budget
20 process is that we do that. We do get some money
21 from the city as well, external money from them, to
22 add to it, but it's mostly done internally.

23 COMMISSIONER NARASAKI: And is there a
24 role for the federal government to try to help
25 other police departments move into that technology

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1 space?

2 ASSISTANT CHIEF GREEN: Absolutely, I
3 mean, with the increase in technology out there,
4 capturing that and putting that out there for folks
5 to see, I think absolutely.

6 Where I think the biggest thing there
7 is just what you alluded to there earlier, ma'am,
8 is funding. Funding for some of the smaller
9 agencies that may not have the budgetary needs to
10 be able to support that.

11 COMMISSIONER NARASAKI: Great, thank
12 you. And one of the reasons I'm so excited about
13 this panel is, we picked you with, or staff picked
14 you with precision because you are all at the
15 cutting edge of really trying to lead on
16 prosecuting hate crimes and we want to learn from
17 what you are doing.

18 One of the things that we're concerned
19 about is, there's been a lot of great work on
20 trying to attack the Islamophobia issues in this
21 country. We're wondering what's going on in terms
22 of trying to get at the rising violence and hate
23 violence against transgendered persons and people
24 with disabilities.

25 We have witnesses who are coming later

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1 to talk about the lack of knowledge those
2 communities have and the difficult relationships
3 that some of them have with law enforcement. So,
4 if any of you have some programs that are working,
5 it would be great to hear about that.

6 ASSISTANT CHIEF GREEN: So, I'll jump in
7 there, if that's all right. So, as we alluded to
8 earlier, Safe Place, that started at our LGBTQ
9 community. We have a very large, robust community
10 in the city of Seattle that we partner with.

11 And a lot of it is based on outreach to
12 that community, with police officers that are
13 demographic, that represent that community. We
14 spend a lot of time working with the community,
15 bringing them in, discussing what the issues are
16 with them, and then, doing a lot of public outreach
17 through the media as well.

18 COMMISSIONER NARASAKI: And people with
19 disabilities, is anyone doing any outreach work to
20 that community successfully?

21 MR. MOOSSY: I know when we do our
22 forums across the country, we do outreach for both
23 the transgender community and the disability
24 community. And we are increasingly seeing a number
25 of disability-related bias crime cases come to us

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1 for investigation. It's sort of a pipeline, so --

2 CHAIR LHAMON: Mr. Moossy, would you
3 mind leaning closer to your --

4 MR. MOOSSY: Oh, I'm sorry.

5 CHAIR LHAMON: Thank you.

6 MR. MOOSSY: We're often prosecuting
7 cases today that happened three and four years ago,
8 just because of the time it takes to report,
9 investigate, and prepare for prosecution.

10 But I can say that internally, we've
11 noted the same thing. We feel like we're seeing
12 too few transgender and disability matters and we
13 want to do better at that. That is definitely an
14 area where we want to improve.

15 COMMISSIONER NARASAKI: Great.

16 CHIEF CUNNINGHAM: So, I just wanted to
17 add that the IACP, we're developing model policy
18 and concept and issues paper just specifically to
19 the LGBTQ issue, both internally, from a police
20 perspective, in hiring LGBTQ folks into the police
21 department, and externally, how they should be
22 handled from a street patrol officer's standpoint
23 as well.

24 COMMISSIONER NARASAKI: Good. I
25 particularly appreciate that, because I worked for

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1 over a decade to try to get the hate crime law,
2 that my colleague mentioned that she doesn't like,
3 I worked for ten years to try to get that passed.
4 And one of the reasons was because it expanded the
5 definition to include --

6 CHAIR LHAMON: Commissioner Narasaki,
7 I'm going to ask you to do your last question.

8 COMMISSIONER NARASAKI: -- people with
9 disabilities and LGBT. So, Mr. Moosy, one of the
10 question I have is, a lot of groups have said that
11 they very much appreciate the fact that Attorney
12 General Sessions has been out there talking about
13 hate crimes, but they sent a letter almost a year
14 ago, a coalition of over 80 groups, raising a
15 number of recommendations that they had for the
16 Department of Justice.

17 And I'm wondering what progress has
18 been made, because my understanding is that a
19 response has not come.

20 Particularly, on the recommendation to
21 establish a separate hate crimes task force or
22 working group, rather than embedding it in the
23 Crime Reduction and Public Safety Group; holding
24 inter-agency hate crime meetings that include
25 people who work on mental disability issues; and

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1 creating a website that aggregates the federal
2 resources on these kinds of hate crimes and tools.

3 MR. MOOSSY: Yes, I've spoken -- I
4 actually spoke at the ADL, Anti-Defamation League,
5 earlier this week, as did the Deputy Attorney
6 General, and I was asked about the letter. It is
7 actually with me. We will be responding soon.

8 I kind of wanted to get us to the point
9 where we could publicly say a lot of things that
10 we've been doing and developing over the last year,
11 so I think you'll see that we'll be doing that.
12 And I'm assuming that that letter will be made
13 public. But we definitely will be responding soon,
14 within the next couple days.

15 COMMISSIONER NARASAKI: Okay, thank you.

16 CHAIR LHAMON: We would welcome seeing
17 the response, the Commission also, when you do send
18 it.

19 MR. MOOSSY: I'd be happy to provide it.

20 CHAIR LHAMON: Thank you. Vice Chair, I
21 understand you have some questions.

22 VICE CHAIR TIMMONS-GOODSON: Yes, I do.
23 And again, I also thank you all for taking the time
24 to appear with us. This question is for Assistant
25 Chief Green and for Sergeant Curry.

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1 One of the things that we're seeking to
2 do as a commission is to identify best practices
3 that can be used to combat hate crimes. And it
4 would appear that one of the best practices would
5 be jurisdictions establishing a dedicated unit to
6 fight hate crimes.

7 And it's my understanding that Boston,
8 Sergeant Curry, has had a unit for 40 years. I've
9 been very impressed with what you've done in
10 Seattle, Assistant Chief Green.

11 So, what I was wondering, it might help
12 other jurisdictions that are beginning to consider
13 a dedicated unit to talk about what some of the
14 largest impediments or obstacles were to you
15 getting to the point that you would establish a
16 dedicated unit.

17 So, what can these other jurisdictions
18 that are considering this prepare themselves to
19 face? I know it's been a long time, you've been at
20 it a long time.

21 SGT. DETECTIVE CURRY: What can they
22 look forward to in terms of establishing a unit?

23 VICE CHAIR TIMMONS-GOODSON: The biggest
24 barrier --

25 SGT. DETECTIVE CURRY: Barrier.

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1 VICE CHAIR TIMMONS-GOODSON: -- or
2 impediment to you setting up a dedicated unit.

3 SGT. DETECTIVE CURRY: I think one of
4 the challenges with setting up a dedicated unit is
5 resources, whether that department has enough
6 officers that they could dedicate to a specific
7 unit just to look at hate crimes. That's one of
8 the challenges that I see, is resources.

9 ASSISTANT CHIEF GREEN: I totally agree,
10 resource management is probably the number one
11 thing with it. The second would probably be a true
12 understanding of what hate crimes really are, where
13 sometimes, as we alluded to earlier on the
14 categories that we capture, some people believe
15 that that's a tremendous amount of work.

16 But really, when you start to break it
17 down and you look at truly the crimes, as opposed
18 to others that just involve the bias elements, that
19 body of work actually becomes smaller.

20 That and then, training with the
21 department, allowing the patrol officers to know
22 what information they need to capture and get back.
23 And those, obviously, funding resources at that
24 point.

25 VICE CHAIR TIMMONS-GOODSON: Did you

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1 want to add, sir?

2 CHIEF CUNNINGHAM: If I could, if you
3 don't mind.

4 VICE CHAIR TIMMONS-GOODSON: Yes.

5 CHIEF CUNNINGHAM: So, there's about
6 roughly 18,000 police agencies in the country.
7 About 80 percent of them are 25 officers or less,
8 so most agencies don't have the kind of capacity
9 that Boston and Seattle do.

10 But what we've found is really
11 important is to make sure that they have
12 individuals within the agency that they've
13 identified to get specialized training, because you
14 really need help. The officer on the street needs
15 help looking at those bias indicators, what is it -
16 - is this really a bias or a hate crime?

17 So, it's important so we do have
18 specialized, particularly at the supervisory level.
19 So, if we could get, say, all the sergeants
20 trained, so the sergeants are responding to these
21 type of crimes on the street and then making a
22 determination of whether or not it really is truly
23 a hate crime.

24 ASSISTANT CHIEF GREEN: Ma'am, if I may
25 just add one other thing. The other important

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1 issue would be to look at on a regional level,
2 because -- based on the smaller departments.

3 One of the things that Seattle, we're
4 doing is reaching out to our regional partners, to
5 try to assist them with training and education and
6 then, assistance as well, since we're a larger
7 department. So, I think that's a key thing to
8 focus on as well.

9 VICE CHAIR TIMMONS-GOODSON: Okay, thank
10 you. Madam Chair, may I --

11 CHAIR LHAMON: Yes.

12 VICE CHAIR TIMMONS-GOODSON: -- ask one
13 other quick question? This is for Deputy Attorney
14 General Moossy.

15 Sir, one of our panelists, who will be
16 appearing later today, says that the Civil Rights
17 Division and none of those DOJ components regularly
18 publishes in an easily accessible location any data
19 about cases. And that they should be required to
20 report at least quarterly and those reports should
21 be prominently displayed.

22 I thought about that, in addition with
23 the dashboard that we heard about from in Seattle.
24 Will you address please that concern about -- as
25 expressed by a future panelist?

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1 MR. MOOSSY: Well, I will say,
2 everything public we can say about a hate crime
3 prosecution, we put in a press release at the time
4 of indictment, conviction, or sentencing.

5 And those are all located on our
6 website, we put pretty much every significant
7 action in a hate crime case, or any civil rights
8 case, we make publicly available on our website.

9 So, we do have, on the DOJ website, a
10 page devoted to hate crimes that lists hate crime
11 statistics, that lists the statutes, and it has
12 access to all of the publicly available press
13 releases.

14 I think a number of the groups have
15 asked, civil rights groups have asked, about a more
16 comprehensive website that might provide
17 information both for state and local contacts, FBI
18 contacts, state and locally. Something that might
19 be like the StopBullying.gov website, which I think
20 has been very successful.

21 And I can say, we're looking at doing
22 that. Our, I'm a criminal prosecutor, our
23 technical expertise and our resources to do some of
24 this I think important outward facing information
25 is limited, but it is something that we've been

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1 working on --

2 VICE CHAIR TIMMONS-GOODSON: But we have
3 those resources within the federal government that
4 you could call on, don't we?

5 MR. MOOSSY: Well, we're trying. We
6 have a group looking at trying to standup a
7 website. But as I said, right now, even if you go
8 to DOJ.gov and you go to the Civil Rights Division
9 website, you'll see a hate crimes page.

10 And if you also go to our Public
11 Affairs Office, you'll see every single hate crimes
12 press release will be issued publicly.

13 VICE CHAIR TIMMONS-GOODSON: Well, I
14 don't know that they were necessarily talking about
15 press releases, I believe they were concerned about
16 -- his concern was about data and reports. What
17 about quarterly, the notion of putting the
18 information out quarterly?

19 MR. MOOSSY: I guess I'm not -- I mean,
20 what we have, what we do at the Civil Rights
21 Division is we have criminal investigations that we
22 determine whether they meet the elements of a
23 statute and we prosecute them. So, as much as we
24 can make public about that, we do.

25 I don't -- we don't do reports, we

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1 don't collect data or statistics nationally, the
2 Uniform Crime Report does that with the FBI, and I
3 think they do that. But as far as what we do, I
4 don't know what else we would have that we could
5 make public.

6 VICE CHAIR TIMMONS-GOODSON: Thank you.

7 CHAIR LHAMON: Commissioner Yaki?

8 COMMISSIONER YAKI: Thank you very much,
9 Madam Chair. I have two quick questions, one for
10 Mr. Cunningham and one for Mr. Soave.

11 Mr. Cunningham, one of the things that
12 Mr. Moossy brought up in his testimony was the fact
13 that there are a large number of jurisdictions that
14 don't report hate crimes at all. In fact, Florida,
15 for example, the third most populous state in the
16 country, reports fewer hate crimes than North
17 Carolina, which is less than half its size.

18 There are places, counties in Texas,
19 for example Harris County, with over a million,
20 nearly two million people, that reported zero hate
21 crimes. And there are other jurisdictions -- and
22 that's not, by the way, relegated to the South.
23 Baltimore County only reported one for a population
24 of 831,000.

25 How do we get these police departments

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1 in these larger jurisdictions to start cooperating
2 and what can we do to make it either better,
3 easier, or more compulsory for them to get
4 involved?

5 CHIEF CUNNINGHAM: Sure. So, a couple
6 of responses to that. Number one, I think that in
7 a lot of the jurisdictions, they don't know what
8 those bias indicators are, so they're not sure it's
9 a hate crime, so they don't list it as a hate
10 crime. That's number one.

11 But the bigger issue here is the
12 reporting piece, because it's all voluntary through
13 the Uniform Crime Report. IACP and all the major
14 law enforcement organizations have really been very
15 supportive of trying to move from the UCR to NIBRS,
16 because UCR just doesn't give you enough
17 information.

18 NIBRS gives you a lot more information.
19 The problem with that is that a lot of the
20 agencies, including the larger agencies, don't have
21 the resources to do it. So, their current records
22 management systems don't allow them to capture that
23 information and then upload it and send it to the
24 FBI -- go ahead, sir.

25 COMMISSIONER YAKI: When you mean by

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1 resources, what do you mean?

2 CHIEF CUNNINGHAM: Well, like I said,
3 the records management system isn't capable,
4 because they're very antiquated. So, there would
5 be a significant financial investment.

6 So, what we're seeing in dealing with
7 the FBI, who is leading this effort for us, we've
8 been very, very supportive of it, because as a
9 police professional, you need the data and you need
10 the best data that you can to make decisions.

11 So, we need more information. That
12 NIBRS information gives you a lot more for you to
13 be able to make decisions on. But the problem is
14 that this transition is going to happen by 2020 and
15 we are moving into just the NIBRS and they won't
16 even accept the UCR data anymore, but there are a
17 lot of agencies that need more resources.

18 They just don't have the money to be
19 able to upgrade their records management systems to
20 be able to do this. And absolutely, that is a
21 place where the federal government can help. They
22 have provided some resources, but they need more.

23 COMMISSIONER YAKI: Thank you. Mr.
24 Soave, I was curious about some of the statements
25 that you made regarding the climate of hate speech.

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1 You seemed to indicate that there
2 seemed to be no -- I don't want to paraphrase it,
3 but you said something that seemed to me, struck me
4 as concluding that there was -- too much was being
5 made of the current climate of statements of people
6 making with regard to hate speech and whether it
7 was really increasing or not. Could you -- am I
8 wrong or what exactly did you say about that?

9 MR. SOAVE: I think that I was simply
10 stating that we -- often, people in the media
11 assert that hate crimes are getting worse or that
12 bias incidents are getting worse on college
13 campuses.

14 I don't know that that's not the case,
15 but I don't know that the evidence is as compelling
16 as they often suggest that it is. I think the
17 situation is more complicated, particularly in our
18 schools.

19 We have better data, obviously, for the
20 hard hate crimes, for knowing whether they're --
21 although, as you just mentioned, in some places, we
22 just have simply no information.

23 COMMISSIONER YAKI: I'm curious because,
24 to me, whether it's a college campus or whether
25 it's the city of Houston, while we all agree that

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1 speech is protected, must be protected, certainly
2 speech can create a climate for action.

3 And I looked at the fact that the
4 reporting that's mandated by the Department of
5 Education showed a big spike upwards in reported
6 hate crimes -- and you may dispute that -- after
7 November, around November of last year.

8 And I'm concerned, and I think this is
9 something that goes toward the work that not just
10 you, but other people on this panel are doing,
11 everyone, that goes toward what this climate is
12 that we are engaged in right now and how unusual it
13 is.

14 When you have a President talking about
15 -- and these are all statements, so I'm not
16 renaming out of school -- characterizing Mexican
17 immigrants as racists and criminals, attacking a
18 judge for his Mexican heritage as being biased,
19 talking about people from Haiti as having AIDS,
20 describing countries in Africa as being s-hole
21 countries, which I won't go after, Charlottesville,
22 the "very fine people" comment, pardoning Joe
23 Arpaio, calling Senator Liz Warren Pocahontas.
24 These are things that are out there, I mean, they
25 just -- you can't undo them.

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1 We have someone here who's going to
2 testify later about his role and his bravery in an
3 attack against two Muslim individuals on a train in
4 Portland.

5 And it took the President three days,
6 with 21 other intervening tweets, before that
7 incident was acknowledged by the White House, and
8 it wasn't even acknowledged by the President's own
9 Twitter, it was done by the actually official one,
10 which is not handled by the President himself.

11 These are things that are out there.
12 And I'm curious for you, for all of you, how that
13 atmosphere or does that charge the atmosphere any
14 more for you and how you're dealing with these
15 incidents and the climate and just the average
16 person, patrol person out on the street, in dealing
17 with hate crimes and how that impacts what it is
18 that you do?

19 MR. SOAVE: May I just add one quick --
20 so, I would obviously agree that all the statements
21 you just listed that Trump and others have said
22 were horrible and wrongheaded things, but I
23 certainly wouldn't want our police doing anything
24 to stop people from expressing those things.

25 COMMISSIONER YAKI: No, of course not.

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1 MR. SOAVE: Now, on a campus, it does
2 get a little more confusing, right? What --
3 because teachers have more power in some
4 circumstances, especially if we're talking K-12, to
5 police those statements within their classroom or
6 to make it a hospitable environment for everyone.

7 When you're going to like the public
8 square on a college campus, well you can write
9 whatever you want in chalk in the quad, probably
10 within a greater degree of latitude. Maybe not
11 anything, but it's just writing like, Latinos, go
12 back to Mexico, or something, would that be -- that
13 might get characterized as a bias incident.

14 It's also probably a pretty clear free
15 expression thing if it's at a public university
16 campus, public property. So, that's why I say
17 these things get a little more complicated when we
18 start blurring these distinctions, particularly at
19 schools.

20 COMMISSIONER YAKI: Ms. Curry, you have
21 a comment? Mr. Cunningham?

22 CHIEF CUNNINGHAM: So, I would just say
23 that words really matter. Whether it's the
24 previous administration or the current
25 administration, when it comes from the top of the

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1 administration, what the President of the United
2 States says really matters.

3 During the previous administration, we
4 saw some real high profile use of force cases and I
5 think that there were some folks in the
6 administration that jumped to some conclusions very
7 quickly before they let those investigations play
8 out. And because of that, there were some words
9 that caused some strife within, I know, law
10 enforcement, and there were some issues.

11 And then, in the current
12 administration, some remarks that are clearly
13 insensitive remarks, they matter. Words matter
14 from all of us.

15 COMMISSIONER YAKI: Thank you.

16 CHAIR LHAMON: Ms. Curry, did you have a
17 response?

18 SGT. DETECTIVE CURRY: No.

19 CHAIR LHAMON: Okay, thank you.
20 Commission Kladney?

21 COMMISSIONER KLADNEY: Thank you, Madam
22 Chair. Chief Johnson, you made mention of 18,000
23 police departments and then, I think you said a
24 majority of them have 25 officers or less, or do
25 you have a number?

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1 CHIEF CUNNINGHAM: Eighty percent, 80
2 percent of the police departments within the United
3 States are 25 officers or less.

4 COMMISSIONER KLADNEY: Thank you. Chief
5 Green, Chief Johnson, in his statement, said that -
6 - let me see here -- 44 percent of hate crimes are
7 not reported. I think that's what he said. Fifty-
8 four, so it sounds to me like your department's
9 fairly sophisticated in that regard, have you been
10 able to determine what kind of reporting
11 percentages you have?

12 ASSISTANT CHIEF GREEN: No, sir. We do
13 know that we have quite a bit of under-reporting,
14 as the national average goes, as well. We believe
15 we do have a very robust outreach to gather that,
16 however, I think there's a lot of reasons for it.
17 And it's mostly from personal interaction with
18 folks and what they bring to it.

19 So, as Mr. Soave says, is the increase
20 due to an increase or is it an increase just due to
21 an increase in reporting? At some point, there
22 will be a plateau, I think, and then at that point,
23 we can really start to gather the data on if
24 they're increasing or not.

25 COMMISSIONER KLADNEY: And, Chief

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1 Johnson, I found out the 44 percent, that's where
2 these matters were privately handled. What does
3 that mean? Can you give me some examples?

4 CHIEF CUNNINGHAM: I'm sorry, I'm just
5 not following your question.

6 COMMISSIONER KLADNEY: It said here,
7 hate crimes to police victimization were handled in
8 another way, 44 percent were privately or through
9 non-law enforcement officials.

10 CHIEF CUNNINGHAM: Oh, sure. So, I
11 mean, a lot of times, you'll see, in these hate
12 events, you'll see victims of those go to other
13 civil representatives, go to -- whether it's to the
14 ADL or to other folks, and not report them to law
15 enforcement.

16 As I think the first speaker, the
17 Detective Sergeant, had talked about, folks'
18 immigration status, it's such a concern to people,
19 they're really afraid to come forward and to report
20 a lot of these hate crimes. So, they go to other
21 organizations to make their report.

22 COMMISSIONER KLADNEY: And do police
23 organizations contact those organizations to ask
24 them to at least anonymously report those crimes?

25 CHIEF CUNNINGHAM: So, I think it is,

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1 again, in my comments I made, it is so important
2 for us to maintain those relationships with those
3 organizations, which I know we do have a great
4 relationship with them.

5 But it's really incumbent upon the
6 local agencies to constantly reach out to those
7 organizations, so that the organization feels that
8 the agency, the police agencies, are trustworthy
9 and that they can make those reports to them.

10 COMMISSIONER KLADNEY: Mr. Moossy, is
11 that correct?

12 MR. MOOSSY: Yes.

13 COMMISSIONER KLADNEY: Thank you. You
14 said that Attorney General Sessions supports
15 prosecution of hate crimes. What is DOJ doing in
16 terms of trying to get more reporting done in this
17 regard?

18 Obviously, the software is changing, or
19 the reporting software is changing, but are there
20 other things? You were talking about educational
21 classes around the country, et cetera, can you be
22 more specific?

23 MR. MOOSSY: Yes, I can. First, let me
24 just, to your prior question about outreach to
25 community groups, I think that's so important in

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1 all aspects of our criminal prosecution, whether
2 we're doing prosecutions of police officers for
3 excessive force, human trafficking, hate crimes.
4 The victims in those cases often don't come to
5 local law enforcement.

6 And really, creating a bridge with
7 community groups I think is critical. That's why
8 we have a civil rights point of contact in every
9 U.S. Attorney's office and every FBI office in this
10 country, whose job it is to go out and form
11 relationships with those community groups to try to
12 create a bridge for victims to be able to come and
13 report these crimes through a trusted method.

14 We're -- the department actually has
15 sent two people to this hearing. Later today,
16 you're going to hear from a representative of our
17 Bureau of Justice Statistics, who is an expert on
18 hate crimes reporting and data.

19 But let me say that, I think the first
20 thing that we're trying to figure out -- and this
21 is something -- in our Hate Crimes Working Group,
22 which I mentioned in my statement, this is one of
23 our priorities, is to figure out what is going on
24 with this reporting? Why are 80 percent reporting
25 zero?

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1 And, I mean, in some ways, maybe there
2 are just people who don't want to report. I think
3 there are a number of people who aren't trained and
4 who don't know. In these 18,000 small person
5 police departments, the resources to go out and
6 train every one of them is vast. So, there's a
7 training issue.

8 There's also just, the mechanism, as
9 Chief Cunningham said, is just really difficult.
10 And I think for resource strained departments, the
11 current system is difficult to use.

12 I think the NIBRS system, it's a drop-
13 down box that will drive people to report. In
14 other words, instead of just figuring out to fill
15 out the hate crimes form and then enter that in,
16 there's an actual sort of drop-down menu that
17 basically drives you to report hate crimes. And I
18 think -- and all crimes. And so, I think that
19 that's going to work a lot better.

20 So, we are looking -- I think one of
21 the things that our FBI is doing is, we've put out
22 the word to local police departments that if you
23 want training on reporting, we are providing
24 resources to do that.

25 And we've stepped up a program to start

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1 providing training to local police departments, to
2 increase their ability to do hate crimes reporting.

3 COMMISSIONER KLADNEY: Do you have any
4 idea how that's been going or how long that's been
5 going, whether there's an increase in the training,
6 the numbers? Do you have any of that?

7 MR. MOOSSY: It's new, I know that it's
8 a product of our working group. Because as the
9 Attorney General has put an emphasis on this
10 program over the last year and we've been
11 mobilizing folks, I know that our FBI Crime
12 Reporting Unit is soliciting requests and providing
13 that training.

14 COMMISSIONER KLADNEY: So, this training
15 program is new under this administration?

16 MR. MOOSSY: I would say, we're
17 providing new training under this administration.
18 I don't know that I would classify it as a program,
19 I think what we're trying to do is identify why are
20 people not reporting?

21 For those who are not reporting because
22 they lack training, let's give them that training.
23 Right. For those who are not reporting for other
24 reasons, let's try to address those reasons,
25 whether it be NIBRS, whether it be trying to fund

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1 technology upgrades, things like that.

2 COMMISSIONER KLADNEY: Thank you.

3 CHAIR LHAMON: Commissioner Heriot?

4 COMMISSIONER HERIOT: Thank you, Madam
5 Chair. Mr. Moosy, my understanding is that the
6 2009 Act has a certification requirement and that
7 the AG or his designee must certify certain things
8 before a federal prosecution can be undertaken.

9 Can you walk me through the process for
10 how that's done? Has the AG designated someone
11 else to make that certification and what sort of
12 documentation goes to that person before a federal
13 prosecution can be undertaken?

14 MR. MOOSSY: So, you're correct, before
15 any prosecution under the Shepard-Byrd Act can
16 commence, the Attorney General has to certify that
17 such a prosecution is in the public interest and
18 there's a set of factors laid out in the statute.

19 That authority has been delegated to
20 the Assistant Attorney General for Civil Rights.
21 Right now, the acting Assistant Attorney General is
22 Mr. John Gore. That delegation happened as soon as
23 the statute was enacted in 2009, so it's always
24 been that way.

25 There was a short period of time when

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1 the Attorney General, Ms. Lynch, herself had to do
2 it because of the Vacancies Act and Ms. Gupta's
3 position. But as long as the statute has been in
4 place, there's been this delegation.

5 There is an internal briefing process
6 by the prosecutors to the Assistant Attorney
7 General through me, where --

8 COMMISSIONER HERIOT: In writing?

9 MR. MOOSSY: In writing -- where factors
10 are laid out, the deliberative process is
11 explained, the strengths and weaknesses of the
12 internal analysis of the case, and the analysis of
13 the factors as they relate to the evidence. And
14 then a decision is --

15 COMMISSIONER HERIOT: I would really
16 like to see that kind of documentation, is that
17 something the Commission can get?

18 MR. MOOSSY: I believe it would all be
19 deliberative process protected, just like our
20 indictment memos would all be deliberative process
21 protected. I'm not an expert at the Freedom of
22 Information Act, I would certainly want to comply
23 with it fully and if you filed a FOIA request, it
24 would get through the normal course.

25 COMMISSIONER HERIOT: Okay.

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1 CHAIR LHAMON: Mr. Moossy, would you be
2 able to just share with us what the elements of the
3 memo are, even if you couldn't share what the memo
4 says?

5 MR. MOOSSY: Well, the analysis is,
6 first and foremost --

7 CHAIR LHAMON: I didn't mean as a test
8 right now, you can do it later.

9 (Laughter.)

10 MR. MOOSSY: Oh, okay, sure. I can send
11 you --

12 CHAIR LHAMON: Thank you.

13 MR. MOOSSY: I can send you that, yes,
14 ma'am.

15 CHAIR LHAMON: Thank you.

16 COMMISSIONER HERIOT: Then, Mr. Green,
17 you had said that there are a lot of cases that go
18 unreported, and I'm sure that's true, but isn't
19 that also true for like simple assaults? Do you
20 have a sense of is something like a simple assault
21 that isn't a hate crime, what percentage of those
22 go unreported?

23 ASSISTANT CHIEF GREEN: I don't have a
24 number for you, ma'am, but I would agree that there
25 are a large amount of all crimes that go

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1 unreported, for probably very much similar reasons
2 as hate crimes don't as well.

3 COMMISSIONER HERIOT: And like Mr.
4 Soave, I think it was Mr. Soave, saying that like
5 hate crimes from 2015 to 2016 had gone up between
6 four and five percent. I did a quick Google search
7 and it's also true that violent crime in general
8 went up between four and five percent that year.

9 Now, it was a little bit different,
10 with hate crimes, I think it was 4.6, with violent
11 crimes, it was 4.1. But we're talking about a
12 small difference there.

13 ASSISTANT CHIEF GREEN: Yes, we are, I
14 think, overall. What I would explain, like in the
15 City of Seattle, our crimes, from 2016 to 2017, our
16 non-criminal bias incidents rose 112 percent, so
17 much higher than four to five percent and maybe
18 some of the national averages --

19 COMMISSIONER HERIOT: Wait, wait, wait,
20 run that by me again.

21 ASSISTANT CHIEF GREEN: So, in the City
22 of Seattle, our non-criminal bias incidents from
23 2016 to 2017 rose 112 percent.

24 COMMISSIONER HERIOT: Non-criminal bias
25 incidents?

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1 ASSISTANT CHIEF GREEN: So, what we were
2 talking about, where there was a crime, an
3 underlying --

4 COMMISSIONER HERIOT: Yes, that's --

5 ASSISTANT CHIEF GREEN: -- crime and
6 someone used derogatory, in --

7 COMMISSIONER HERIOT: But that's one
8 that's going to be subject to --

9 ASSISTANT CHIEF GREEN: Right.

10 COMMISSIONER HERIOT: -- huge variation
11 based on how that's perceived. That one is --
12 that's not --

13 ASSISTANT CHIEF GREEN: Right, and
14 crimes with --

15 COMMISSIONER HERIOT: -- really what
16 we're talking about here.

17 ASSISTANT CHIEF GREEN: Right. Crimes
18 with bias elements, which are the malicious actions
19 crimes, rose 113 percent in the city.

20 COMMISSIONER HERIOT: No, I want hate
21 crimes.

22 ASSISTANT CHIEF GREEN: Yes, ma'am.

23 COMMISSIONER HERIOT: Hate crimes.

24 ASSISTANT CHIEF GREEN: One hundred and
25 thirteen percent.

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1 COMMISSIONER HERIOT: Okay. How much
2 did your violent crime go up? How much did your
3 simple assault go up? How much did anything that
4 would be a non-hate, how much did it go up?

5 ASSISTANT CHIEF GREEN: They increased
6 as well, but not nearly by that. They've increased
7 by single or double-digits, not by triple-digits,
8 ma'am.

9 COMMISSIONER HERIOT: Okay.

10 ASSISTANT CHIEF GREEN: Now, I will
11 caveat that with saying, with that, that was only
12 114 incidents in 2018. Or 2017, rather. So, the
13 increase, while you look at the statistical number
14 and you're like, incredible with 113, Seattle is
15 still a very safe place, in the fact that it was
16 still only 114 incidents.

17 COMMISSIONER HERIOT: I'm glad Seattle
18 is a safe place. On the other hand, again, when
19 we're talking about these things that are hurling
20 epithets, you would think that would be subject to
21 wild variations in whether or not people are
22 thinking about reporting it, rather than what the
23 underlying facts are.

24 If people are told, these things are
25 going up, they're going to mention that much more

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1 readily than they would in a case where people
2 aren't thinking about it, shall we say.

3 ASSISTANT CHIEF GREEN: Yes, ma'am.

4 CHAIR LHAMON: With five minutes left in
5 our panel and three questioners still to go --

6 COMMISSIONER HERIOT: Okay.

7 CHAIR LHAMON: -- I'm going to move to
8 Commissioner Kirsanow.

9 COMMISSIONER KIRSANOW: Thank you, Madam
10 Chair. And thanks to the witnesses. I just have a
11 couple of questions for all of the witnesses, if
12 you have this information. I looked through the
13 material that was provided by all witnesses, not
14 just this panel, to see if this information was
15 there and I didn't see it, maybe I missed it.

16 Are you aware of any data, studies, or
17 other evidence that show that designating a crime a
18 hate crime deters, prevents, or reduces that crime?

19 Second, whether designating a crime a
20 federal hate crime reduces, deters, or prevents
21 incidents of that crime?

22 Then, one other question, are you aware
23 of any databases, study, or other evidence that
24 shows that designating a crime a hate crime,
25 whether municipal, state, or federal hate crime,

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1 assists in the resolution of that crime or the
2 apprehension of the perpetrator? Thank you, Madam
3 Chair.

4 CHAIR LHAMON: You're welcome.
5 Commission Adegbile?

6 COMMISSIONER ADEGBILE: Yes, thank you.
7 Chief Cunningham, I think you said that one of the
8 things that is important is that jurisdictions come
9 to understand and are trained in the utility of
10 reporting, the value of reporting. Right now, can
11 you give us the elevator pitch about what the
12 utility of reporting is for jurisdictions?

13 CHIEF CUNNINGHAM: Sure. I think that
14 any police administrator would look at -- they want
15 to make data-driven decisions. So, you look at the
16 data to decide how you put your resources out in
17 the field.

18 So, if you saw 115 percent increase in
19 your hate crimes, you'd say, okay, we either need
20 to establish a unit, add additional resources to
21 that, make sure we make the connections with the
22 community, there's clearly something happening
23 there.

24 But one of the components that I didn't
25 talk about, and one of the reluctance, particularly

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1 in the major cities, when it comes to this shift
2 from UCR to NIBRS, it's going to appear that
3 there's been an increase in crime, when in fact,
4 there hasn't been, it's just a difference in the
5 way that it's being reported.

6 It's much more important that we
7 capture all that data, but if you talk to a lot of
8 the major city chiefs, they'll tell you that they
9 live and die by their crime statistics. And when
10 they shift from the UCR data to the NIBRS data,
11 it's going to look like an increase in crime.

12 So, there's a lot of reluctance on
13 their part. So, even though we're very, very much
14 encouraging everybody to do it at the same time, so
15 that everybody's numbers go up together, because if
16 you've got, say it's Philadelphia that's not
17 reporting, and I don't know that they're not, but
18 say it's Philadelphia that's not reporting and
19 you've got Chicago that's reporting, it's going to
20 look like Chicago had an incredible uptick in
21 crime, when in fact, they didn't.

22 COMMISSIONER ADEGBILE: So, even before
23 we get to the shift in the way that crimes are
24 reported, I think we've heard that Florida has
25 vanishingly small reports and North Carolina has

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1 considerably more and it's a much smaller state, I
2 take it that's not about the way the data is
3 reported, there's some inherent reluctance.

4 For example, Florida is a major tourist
5 destination in the country and people may be making
6 a judgment that it would not be a boom to tourism
7 to be reporting these crimes. So, how do you
8 overcome other issues that are not about how it's
9 reported, but is about the reluctance of
10 jurisdictions to tell it like it is?

11 We've already heard the DOJ, while they
12 issue press releases, don't have any dashboard
13 mechanism or any regular reporting mechanism to
14 help us have an understanding of what this looks
15 like over and across the nation.

16 So, I'm wondering if you could drive
17 down, not just about how we're changing reporting,
18 but there seems to be some inherent reluctance.

19 CHIEF CUNNINGHAM: So, this actually
20 came out at our meetings that we had with the
21 Lawyers Committee on Civil Rights, and particularly
22 those jurisdictions that just aren't reporting
23 anything.

24 There's some shaming that's involved,
25 that when you hold it up and say, hey, you know

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1 what, this jurisdiction didn't report anything and
2 it's a large jurisdiction, there's something going
3 on there.

4 There's also the piece where we talk
5 about, there are no penalties for not reporting,
6 right? So, maybe you need to incentivize agencies
7 to report, give them a carrot instead of the stick.

8 And the other piece that really is the
9 communities holding those agencies responsible. If
10 a community stands up and says, hey, you know what
11 chief, or police department, we're showing zero
12 hate crimes reported here in a jurisdiction of this
13 size, it's just not possible, it's not realistic.

14 And I still go back to the fact that a
15 lot of police officers don't know what those bias
16 indicators are, so they don't report it as a hate
17 crime. I really, in a lot of agencies, I don't
18 think it's they're doing it for nefarious purposes,
19 I think they just don't know. We need more
20 training.

21 COMMISSIONER ADEGBILE: Mr. Moossy,
22 there are, and Commissioner Yaki has spoken about a
23 number of statements that the President has made
24 that were targeted at particular groups.

25 I'm trying to understand, to the extent

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1 that you say community outreach and building a
2 bridge to communities is an essential role and that
3 there's a difficulty with respect to immigration
4 status in having reporting and the like about
5 crimes, I'm trying to understand what role those
6 statements across a category of groups, national
7 origin statements, statements about transgender
8 people, policy pronouncements, how does that make
9 your job any easier in the area of hate crimes?

10 MR. MOOSSY: As I said, I mean, I don't
11 -- I really do think that forming bridges with
12 these community groups is critical. Definitely, we
13 have some impediments to doing that, but I think
14 we're committed to doing it, our Attorney General
15 is committed to doing it, all of us are committed
16 to doing it.

17 I do want to though just say, I want to
18 be really careful about attributing really
19 provocative speech to criminality. And I hope none
20 of us are trying to make any connection, where
21 we're saying that provocative speech somehow
22 exculpates the people who commit violent hate
23 crimes because they're being driven to it or
24 something like that.

25 I mean, that is certainly not our

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1 position. I think under our First Amendment
2 jurisprudence, we see a really hard line there,
3 where we say, if something is a threat, incitement
4 to violence, or violence, those people, you are
5 responsible for that conduct.

6 And so, I think our position has always
7 been, we respect vibrant and, at some times,
8 shocking speech, but that that is separate and
9 apart from violent crime and violent conduct. And
10 the people who engage in violent crime and violent
11 conduct are to be held responsible for that.

12 COMMISSIONER ADEGBILE: But my question
13 went to the bridge building. I take it that
14 there's a distinction in law between speech and
15 conduct, we've been speaking about that today, so
16 I'm not talking about whether or not an authority
17 will duly prosecute when somebody steps over that
18 line.

19 What I'm talking about is that I
20 understand the law enforcement officers on the
21 panel, all of you, to be saying that to do this job
22 well, we need to have bridges to the community and
23 that community interactions are a key component of
24 being able to vindicate these laws.

25 And so, I'm trying to understand how

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1 the tone from the top affects law enforcement's
2 ability to engage with communities that may already
3 be reluctant to participate with law enforcement
4 and to report. That's the question.

5 MR. MOOSSY: Sure. And what I can tell
6 you is, what we do is, we go to those communities.
7 I partner with National Center for Transgender
8 Equality and every month, I get from them a list of
9 possible hate crimes that may happen and we look at
10 those.

11 And so, we make an overt effort to go
12 to our communities and say, I'm with the Civil
13 Rights Division, we care about investigating and
14 prosecuting hate violence. I'm going to stand with
15 my local police department and say, we're the
16 people who, if there's an act of violence, we are
17 here and we want to take it seriously.

18 And so, we're putting faces to our
19 actions. And that's why we have civil rights
20 points of contact in every U.S. Attorney's office,
21 in every FBI, and that's why the FBI has the
22 national training initiative, where they're going
23 out to these communities and saying, if an act of
24 violence happens, my name is Agent Smith, I want
25 you to come and tell me about it because I want to

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1 do something about it, I'm showing you that our
2 commitment to do this is real. That's what we do.

3 COMMISSIONER ADEGBILE: Thank you.

4 CHAIR LHAMON: Thank you. We are close
5 out of time, I'm going to let the -- oh, I'm sorry.

6 ASSISTANT CHIEF GREEN: I'm sorry, Madam
7 Chairman. I misspoke earlier, Commissioner Heriot.
8 So, the actual increase in the crime itself was 33
9 percent, not 113, 33 percent.

10 CHAIR LHAMON: That's an important
11 clarification, thank you. And we'll let the Vice
12 Chair ask one question and then, I'm going to just
13 squeeze in another for myself.

14 VICE CHAIR TIMMONS-GOODSON: Okay.

15 CHAIR LHAMON: But that means that we're
16 going to have a very short break between this panel
17 and the next. So, go fast.

18 VICE CHAIR TIMMONS-GOODSON: Thank you
19 very much, Madam Chair. We were speaking -- you
20 were speaking, Mr. Moosy, earlier about commitment
21 to eradicating hate crimes and all of that.

22 It occurred to me that I believe the
23 most recent budget proposal sought to eliminate
24 roughly 27 positions in the Civil Rights Division
25 or the Civil Rights Team, whatever. How is

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1 eliminating those positions consistent with the
2 reported increases in racial harassment and hate
3 crimes?

4 MR. MOOSSY: So, our -- I believe we got
5 a flat, for the Civil Rights Division, I think it
6 was a flat budget. I'm not aware that -- there was
7 I think some reporting about some spots that were
8 eliminated that were never filled, they were
9 literally just accounting type positions. But as
10 far --

11 VICE CHAIR TIMMONS-GOODSON: I think I'm
12 talking about the proposal sought.

13 MR. MOOSSY: I'm not aware that the
14 Civil Rights Division budget was cut --

15 VICE CHAIR TIMMONS-GOODSON: Or Civil
16 Rights Team --

17 MR. MOOSSY: -- we have a --

18 VICE CHAIR TIMMONS-GOODSON: -- whatever
19 you --

20 CHAIR LHAMON: The Vice Chair is asking
21 about the proposal from DOJ, not what Congress gave
22 to DOJ.

23 MR. MOOSSY: Again, I know that, for
24 example, in our criminal section, we've added
25 attorneys to it. So, for the people who are

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1 prosecuting hate crimes, I think that since January
2 1, 2017, we've added 16 criminal prosecutors, I
3 think for a net of eight, because we've had some
4 attrition.

5 So, for the unit that's doing that kind
6 of work, it's grown. And I know our budget has
7 been flat. I'm not aware of a proposal to decrease
8 the funding to the prosecutors or attorneys who
9 would be handling hate crimes matters. I'm not
10 aware of that all.

11 CHAIR LHAMON: Okay, thank you.

12 VICE CHAIR TIMMONS-GOODSON: Thank you.

13 CHAIR LHAMON: I'm going to ask my quick
14 question, Mr. Moossy, also. We received some
15 recommendations from panelists who are coming later
16 today also about the value of inter-agency working
17 groups focused on hate crimes. And you've included
18 in your testimony information about within DOJ
19 component work about hate crimes focus.

20 In my last life, when I was with the
21 Department of Education, I participated in some of
22 the inter-agency working groups focused on hate
23 crimes. I found them valuable and wonder if you
24 do. And if so, whether any work like that is
25 continuing to take place, if you think it would be

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1 valuable to take place, and if not, why not?

2 MR. MOOSSY: I do think it's valuable
3 and I would love to explore reconstituting our work
4 on that.

5 CHAIR LHAMON: Okay, thank you. Do you
6 have a reason -- do you why it isn't constituted
7 now?

8 MR. MOOSSY: I don't.

9 CHAIR LHAMON: Okay, thank you. With
10 that, we're going to conclude this panel. I thank
11 very much each of the panelists for your expertise.

12 We invite you to share further
13 information if you have further information that
14 occurs to you from today. And we look forward to
15 staying in conversation with you.

16 We'll take a break for four minutes,
17 until 10:40, and invite our next panel to come up.

18 (Whereupon, the above-entitled matter
19 went off the record at 10:36 a.m. and resumed at
20 10:42 a.m.)

21 **PANEL TWO: COMMUNITY STAKEHOLDERS**

22 CHAIR LHAMON: Okay. I am as rigid as
23 possible, so we are back, because it is 10:40.
24 We're going to proceed with our second panel.
25 Commissioner Kirsanow, I'm starting us again,

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1 thanks. We're going to proceed with our second
2 panel of community stakeholders.

3 In the order in which they will speak,
4 our panelists are: Suman Raghunathan, Executive
5 Director of the South Asian Americans Leading
6 Together, SAALT; then, Melissa Garlick, Civil
7 Rights National Counsel from the Anti-Defamation
8 League, ADL; then, Nicole Jorwic, Director of
9 Rights Policy at The Arc; then, Katherine Prescott,
10 LGBTQ Parent Advocate and GLSEN Board Member; and
11 then, Micah David-Cole Fletcher, survivor; and
12 Susan Bro, Chair and President of the Heather Heyer
13 Foundation.

14 I reiterate my other remarks that
15 several panelists today will speak from personal
16 experience and I ask our audience to be cognizant
17 and respectful of all of our panelists, and I ask
18 my fellow Commissioners to keep that in mind during
19 the question and answer session as well. Ms.
20 Raghunathan, please begin.

21 MS. RAGHUNATHAN: Good morning.

22 CHAIR LHAMON: Good morning.

23 MS. RAGHUNATHAN: It's an honor to join
24 today's critical hearing, in particular with
25 survivors and family members of hate violence

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1 victims. Thank you so very much for your
2 resilience, your commitment to change, and for
3 speaking up.

4 South Asian Americans Leading Together
5 is a national nonpartisan racial justice
6 organization fighting for the civil rights of South
7 Asians in the U.S. Our ultimate vision is dignity
8 and full inclusion for all.

9 South Asians are the second most
10 rapidly growing demographic group in the U.S.,
11 numbering over five million today. The South Asian
12 American population has more than doubled since
13 2000.

14 We are a largely immigrant community
15 and roughly one in three South Asians are Muslim.
16 Our communities increasingly are caught in a
17 crosshairs of race, religion, and immigration. All
18 of these factors make our communities and many
19 others the disproportionate targets of violence,
20 regardless of our actual religion or citizenship
21 status.

22 SAALT as an organization was born in
23 the aftermath of September 11, in response to the
24 violent backlash and divisive policies aimed at
25 South Asian, Muslim, Sikh, Hindu, Arab, and Middle

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1 Eastern individuals, communities, and institutions.

2 Our work has grown to include rapid
3 response efforts in the wake of hate violence, to
4 anticipating and working to prevent hate violence
5 through an evolved field and policy strategy. We
6 do this in partnership with the National Coalition
7 of South Asian Organizations, a network of 62
8 grassroots South Asian groups across the country.

9 The NCSO reminds us of the realities
10 our communities are facing everyday on the ground,
11 which in turn informs our strategy for developing
12 national responses through executive and
13 legislative recommendations.

14 SAALT is proud that our work hinges on
15 working with community stakeholders on the front
16 lines to develop policies that prevent and respond
17 to hate violence and hate crimes.

18 This is a critical moment for South
19 Asian, Muslim, Arab, Sikh, Hindu, and Middle
20 Eastern communities as we see our nation become a
21 melting pot of hate, rather than a melting pot of
22 diversity.

23 This pot is being stirred by the White
24 House, key agencies in the federal government, and
25 a resurgent white supremacist movement that is

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1 amplified and, indeed, encouraged by an
2 administration that has already demonstrated its
3 commitment to operationalizing a white supremacist
4 agenda.

5 South Asian, Muslim, Sikh, Hindu, and
6 Middle Eastern communities are existing in a moment
7 where we are the targets of hate that are actively
8 spurred by the anti-immigrant, anti-Muslim, anti-
9 people of color policies advanced by the current
10 administration, including the Department of
11 Justice.

12 We are in the throes of a divisive and
13 troubling surge of hate violence confronting our
14 communities. And we have actually been tracking
15 this issue for more than a decade, since before the
16 FBI updated its own hate crimes categories, and
17 it's becoming tragically clear that this wave of
18 hostility and violence will not ebb any time soon.

19 Our latest report, Communities on Fire,
20 points to a different and more sinister melting
21 pot, one where the tiki torch that was seen in the
22 white supremacist rally of Charlottesville,
23 Virginia has now been supplanting the Statue of
24 Liberty as the symbol of this nation as white
25 supremacist groups proliferate and are enabled by

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1 the policies, pronouncements, and actions of the
2 Trump administration.

3 These symbols are pointing to the
4 xenophobic political rhetoric, as well as hate
5 violence that is impacting our communities. We're
6 also impacted by the devastating and rising tide of
7 anti-immigrant, anti-refugee, and asylee policies,
8 such as the Muslim ban, the Department of Justice
9 lawsuit against California's commitment to
10 protecting all of its residents though its so-
11 called sanctuary cities policies, the rescission of
12 DACA, and federal efforts to erode protections
13 against racial profiling.

14 These policies and rhetoric explicitly
15 target our communities as un-America, identify us
16 as undeserving of core rights and protections and
17 as worthy targets of violence. As a result, our
18 communities are increasingly questioning our very
19 place in this nation.

20 We documented in the year immediately
21 after the election of President Trump 302 incidents
22 of hate violence and xenophobic political rhetoric
23 aimed at South Asian, Muslim, Sikh, Hindu, Middle
24 Eastern, and Arab communities.

25 This was an over 45 percent increase

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1 from the previous year. Eighty-two percent of the
2 incidents that we documented were animated by anti-
3 Muslim sentiment, 82.

4 And perhaps most troubling, one in five
5 of the hate violence perpetrators that we
6 documented explicitly referred to President Trump,
7 a President Trump policy such as the Muslim ban, or
8 a Trump campaign slogan as they were violently
9 assaulting our community members.

10 So, for us right now, the connection
11 between the bully pulpit emboldening, and indeed,
12 encouraging individuals to violently assault our
13 community members is perhaps never been clearer.

14 We have a number of recommendations in
15 our report, which we submitted to the Commission.
16 From a top-line perspective, we know that political
17 leadership can be tied to the troubling uptick in
18 violence.

19 We are deeply troubled by the current
20 administration's silence on a white supremacist
21 agenda. We are deeply troubled as well by the
22 elimination of the budget of the Community
23 Relations Service.

24 And we applaud the leadership of the
25 International Association of Police Chiefs that are

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1 unfortunately placed in the position of having to
2 make up for the inaction or silence of the current
3 administration when it comes to the violence that
4 is impacting our community members every day.

5 We know that we need preventative
6 measures to respond to the needs of our
7 communities. We know that we need to build
8 productive relationships with willing law
9 enforcement leaders between our community members.

10 And we also know that we need to
11 prioritize post--9/11 violence, in particular, this
12 current moment, as an issue that is deeply and
13 disproportionately impacting our communities.

14 And finally, we also know that Congress
15 must pass meaningful legislation to address and
16 stem the current tide of violence against our
17 communities. We have maintained that the NO HATE
18 Act, which is currently in Congress, is the
19 strongest piece of legislation that addresses the
20 spike in religious hate crimes and provides a
21 restorative justice component.

22 And I will simply end with this
23 important acknowledgment: Deah Barakat, Khalid
24 Jabara, Srinivas Kuchibhotla, Nabra Hassanen,
25 Harnish Patel. I believe that the families of

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1 these individuals who were murdered in the context
2 of hate crime incidents in the last two years alone
3 are quite clear, there's no hoax with respect to
4 hate violence today. Thank you.

5 CHAIR LHAMON: Thank you very much, Ms.
6 Raghunathan. Ms. Garlick?

7 MS. GARLICK: Good morning, Chair Lhamon
8 and members of the Commission. My name is Melissa
9 Garlick. I'm the Civil Rights National Counsel at
10 the Anti-Defamation League, ADL. I greatly
11 appreciate the opportunity to testify this morning
12 on behalf of the ADL on hate crimes and the federal
13 government's role in responding to hate crimes.

14 For more than 30 years, this Commission
15 and state advisory committees have done
16 trailblazing work elevating the issue of hate crime
17 and bias motivated violence, and we're grateful for
18 your continued leadership and attention to this
19 national problem.

20 Since 1913, ADL has been working to
21 stop the defamation of the Jewish people and to
22 secure justice and fair treatment for all.

23 We are proud of our longstanding work
24 and leadership on effective responses to violent
25 bigotry, including our annual audit on anti-Semitic

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1 incidents in the country and drafting model hate
2 crime laws for state legislatures. We are
3 privileged to lead the broad coalition which worked
4 in support of the 2009 Matthew Shepard and James
5 Byrd, Jr. Hate Crimes Prevention Act.

6 We all in this society have a stake in
7 effective response to violent bigotry. Hate crimes
8 demand priority attention, as you've heard from our
9 law enforcement partners, because of their unique
10 impact on both victims and members of the victims'
11 community, leaving them feeling fearful, isolated,
12 and vulnerable.

13 Hate crimes damage the fabric of our
14 society, they fragment communities, and they make
15 members of minority communities suspicious of other
16 groups and the power structure that is supposed to
17 protect them. Hate crimes are a national problem,
18 they are all of our problems.

19 Over the past few years, we've seen
20 hate-filled language, memes, stereotyping, and
21 scapegoating injected into the mainstream of
22 America's political and policy debate, especially
23 through traditional and social media. Over the
24 course of the 2016 election, we saw a level in
25 anti-Semitism and the normalization of bigotry that

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1 deeply concerned us at ADL.

2 And now, we see the rhetoric which
3 involves stereotyping and attacks based on national
4 origin, religion, and physical appearance cemented
5 into federal policies and executive actions that
6 marginalize communities already vulnerable to hate
7 crimes and deter these individuals from reporting
8 such crimes to local police.

9 The federal administration policies and
10 positions defending such actions, such as a tax on
11 so-called sanctuary cities, the Muslim ban, the
12 transgender military ban, they all raise legitimate
13 fears in schools and communities across the
14 country, encourage hate, and have created an
15 environment in which victims are afraid to report
16 crimes or come forward as witnesses, including
17 crimes. The federal government has an essential
18 leadership role to play in confronting crimes.

19 And thank you for bringing attention to
20 the letter, which we attached to our testimony,
21 which more than 80 civil rights organizations sent
22 to acting Assistant Attorney General John Gore with
23 recommendations for DOJ after the violence in
24 Charlottesville to address hate crimes. And I'm
25 glad to hear that a response is forthcoming today.

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1 We hope that the Commission will
2 recommend the creation, as has been asked, of a
3 federal inter-agency task force on fighting hate,
4 and recognize the importance and need for federal
5 agencies to call out bigotry at every opportunity.

6 At the same time, we see a rise in
7 anti-Semitic incidents, hate crimes, and the
8 emboldening of extremists. Our recent audit on
9 anti-Semitic incidents shows that the number of
10 incidents remained significantly higher in 2017,
11 compared to 2016, with an increase of 57 percent.

12 Now, these incidents include both
13 criminal and non-criminal acts of harassment, but
14 they provide an important snapshot into trends of
15 anti-Semitism in our society.

16 Similarly, the FBI also documented an
17 increase in hate crimes. In their most recent
18 report available, the FBI documented a five percent
19 overall increase over the 2015 report.

20 Notably and disturbing, 21 percent of
21 all reported hate crimes in 2016 were motivated by
22 religious bias and crimes directed against Jews
23 increased three percent, crimes directed against
24 Muslims increased 19 percent, the second most
25 reported against Muslims ever, second only to the

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1 backlash after the 9/11 terrorist attacks.

2 Ultimately, hate crime statistics do
3 not speak for themselves, because behind every
4 statistic is a victim injured or intimidated for no
5 other reason than how they worship, who they love,
6 and who they are.

7 And these crimes remain seriously
8 under-reported, partly because of mistrust of
9 police in communities. Eighty-eight percent of
10 participating police agencies that participate in
11 hate crime reporting affirmatively reported zero
12 hate crimes to the FBI last year or did not report
13 any data to the FBI.

14 There are significant consequences to
15 this lack of comprehensive reporting of hate
16 crimes. Victims are far more likely to report a
17 hate crime if they believe that police are ready
18 and able to respond effectively and take them
19 seriously. We urge that the Commission recommend
20 and support incentives for participation in the
21 FBI's hate crime data collection program.

22 Our ADL Center on Extremism is also
23 tracking a resurgence in white supremacist activity
24 in the United States. Extremists and anti-Semites
25 are using technology in new ways to spread their

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1 hate on college campuses and communities on- and
2 off-line.

3 After the violence in Charlottesville,
4 ADL partnered with the United States Conference of
5 Mayors to promote the fundamental principles of
6 justice and equality that define America in the
7 Mayors Compact Against Hate.

8 Finally, the growing epidemic of cyber-
9 harassment and stalking and the spread of hate
10 online is something that we continue to monitor and
11 draw attention to.

12 Just a few days ago, ADL released a new
13 report analyzing anti-Semitic speech on Twitter and
14 finding that at least 4.2 million anti-Semitic
15 tweets were shared or re-shared in English on
16 Twitter over the 12 month period ending January 28,
17 2018. Again, not all of these are going to be
18 criminal, but they provide an important snapshot
19 into the state of hate right now.

20 We hope that the Commission will
21 recommend that Congress confer with specialists in
22 the field to identify new and Constitutionally
23 sound ways for victims to achieve legal redress to
24 cyber-harassment and stalking, and that law
25 enforcement receive training, not only in hate

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1 crimes, but also in this context, so that they are
2 better equipped to better handle such incidents.

3 We attached specific and detailed
4 recommendations for the Commission and hope they're
5 constructive, but note that law is a blunt
6 instrument to confront violent bigotry. It is much
7 more important to prevent these crimes in the first
8 place.

9 So, we also urge the Commission to look
10 at recommending comprehensive federal and state
11 anti-bias education, hate crime prevention, and
12 anti-bullying initiatives to complement anything
13 that we do to achieve effective response to hate
14 violence as well.

15 There are no quick complete solutions
16 to these problems, we're in it for the long haul
17 and we look forward to working with the Commission
18 to achieve as much of these recommendations as
19 possible. Thank you.

20 CHAIR LHAMON: Thanks very much, Ms.
21 Garlick. Ms. Jorwic?

22 MS. JORWIC: Good morning. My name is
23 Nicole Jorwic and I am the Director of Rights
24 Policy for The Arc of the United States. I
25 appreciate the opportunity to present in front of

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1 you today and The Arc values the continued work and
2 engagement of the Commission when it comes to the
3 civil rights of individuals with disabilities.

4 The Arc is the largest national
5 community-based organization advocating for people
6 with intellectual and development disabilities, or
7 IDD, and their families. The Arc also runs the
8 National Center for Criminal Justice and
9 Disability, or NCCJD.

10 The Arc was founded over 65 years ago
11 on the guiding principle that all people with
12 disabilities belong in the community and have
13 fundamental moral, civil, and the Constitutional
14 right to be there and fully included and actively
15 participate in all aspects of society.

16 This includes the criminal justice
17 system. However, the criminal justice system is
18 the slowest to adequately respond to the special
19 circumstances of people with disabilities. I
20 believe it was Ruth Luckasson, an expert in the
21 field, who referred to the criminal justice system
22 as the last frontier for people with disabilities
23 when it came to inclusion.

24 This is one reason why the disability
25 community was relieved after the efforts

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1 spearheaded by the National Disability Rights
2 Network, that the Matthew Shepard and James Byrd,
3 Jr. Hate Crimes Prevention Act of 2009 expanded the
4 role of the FBI to allow for the investigation of
5 hate crimes committed against those based on biases
6 related to disability.

7 This is a necessary role for the
8 federal government to lead by example in
9 documenting and enforcing these laws for the
10 disability community after being seen as less-than
11 in society.

12 More does need to be done, though, to
13 ensure that we are fully capturing the scope of
14 these cases and supporting individuals with
15 disabilities to report and be active participants
16 in prosecution. The current laws are not enough.

17 There are many reasons why offenses
18 against people with disabilities go unreported. A
19 key factor is lack of understanding of
20 stakeholders. Often, individuals with
21 disabilities, their family members, allies, don't
22 know what constitutes a hate crime and there is
23 little outreach about this topic to the disability
24 community specifically.

25 Most hate crime related outreach

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1 focuses on other populations, as it should, but
2 more resources must be provided to all parts of the
3 disability community as well.

4 Without that knowledge, reporting will
5 continue to be lower, despite the actual incidence
6 not necessarily being less. This outreach must be
7 cross-disability, reach under-served communities,
8 and accessible to all.

9 We know that across the country many
10 victim assistance organizations, local police
11 departments, health systems, and other providers
12 are not trained on how to assist victims with
13 disabilities or know what kind of accommodations
14 they are required to provide victims with
15 disabilities under the Americans with Disabilities
16 Act.

17 Untrained law enforcement officers
18 often believe incorrectly that victims with
19 disabilities lack credibility and in addition, the
20 police themselves lack standardized protocols for
21 handling complaints by victims with disabilities
22 leading to ineffective assistance and cases that
23 often go unreported and uninvestigated.

24 Prosecuting these cases can be
25 difficult due to the lack of training among court

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1 officials, attorneys, and judges on how to assist
2 individuals with disabilities as victims or
3 witnesses to hate crimes based on disability bias.

4 Unfortunately, we have seen that if a
5 victim of a hate crime has a disability, the case
6 is often minimized. Cases of abuse and torture can
7 sometimes be categorized as pranks or bullying,
8 instead of calling them what they are, hate crimes.

9 We must work to change this
10 mischaracterization, because too often, disabled
11 lives are devalued and we know that disabled people
12 are more than twice as likely to be victims of
13 violent crime overall, but these cases are often
14 lumped together as abuse instead of considered a
15 hate crime.

16 And even when deemed abuse, it often
17 goes un- or under-investigated and not properly
18 prosecuted in the criminal justice system. This,
19 of course, is only for incidents that are reported
20 in the first place, and even reporting is something
21 that is difficult for people with disabilities.

22 A factor in this under-reporting in
23 this disability hate crime is that many people with
24 disabilities know the person who harasses or abuses
25 them, which is not a common feature in other hate

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1 crimes.

2 Clearly, when you know someone, it can
3 be difficult to report an incident, as you may be
4 more afraid of the consequence and not have
5 anywhere to turn for support.

6 This is just one reason why it is
7 imperative that law enforcement continue to make
8 efforts to improve their identification and
9 reporting of hate crime offenses and to continue to
10 support more people to come forward to report these
11 crimes.

12 Legally, disability-related hate crimes
13 can only be prosecuted on the federal level if it
14 is interstate and individual states vary in their
15 state-based hate crime laws.

16 It is imperative that the federal
17 government continues to lead by example to make
18 progress in reporting, prosecuting, and preventing
19 hate crimes, and to be a resource to states as they
20 expand their hate crime statutes to include
21 protections for people with disabilities and better
22 reporting at the local, state, and federal level.

23 A key part of reporting is data
24 collection. In late 2016, the FBI's Uniform
25 Reporting Program released data indicating that

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1 there were 88 reported hate crime offenses during
2 2015 related to disability bias.

3 This was down from 95 the previous
4 year. The decline in disability-related cases
5 comes as the FBI indicated that the total number of
6 hate crimes rose. Again, it is very clear that is
7 due to mis- or under-reporting.

8 Overall, the agency documented 5,850
9 incidents last year, as has been discussed. Among
10 those hate crime victims, 1.2 percent were people
11 with disabilities. We know from the data that hate
12 crimes against people with disabilities are
13 critically under-reported and have discussed the
14 challenges to reporting this type of hate crime,
15 notably, the victim's potential isolation or
16 proximity to the perpetrator, the fear that their
17 claim will not be taken seriously, and the risk
18 that law enforcement officers will not recognize
19 the severity of this type of hate crime.

20 Access to the justice system remains a
21 critical challenge. The Arc urges and challenges
22 the federal government and the U.S. Commission on
23 Civil Rights to play a central role in ensuring
24 better access to these prosecutions for people with
25 disabilities, from the initial assessment of the

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1 victim's needs to support mechanisms for victims
2 through the governmental or non-governmental
3 institutions.

4 Developing an effective police response
5 is something that the Arc's National Center for
6 Criminal Justice and Disability focuses on. To
7 counter these crimes is dependent on collecting
8 reliable data.

9 As states, the general public, and
10 individuals with disabilities and their families
11 recognize hate crimes against people with
12 disabilities and their impacts increase awareness,
13 better reporting by victims and data collection
14 will help reveal the full magnitude of the problem
15 and enable policymakers to identify the appropriate
16 responses.

17 The Arc of the United States looks
18 forward to being a partner to improve the
19 enforcement of hate crimes against people with
20 disabilities. Thank you.

21 CHAIR LHAMON: Thanks very much, Ms.
22 Jorwic. Ms. Prescott?

23 MS. PRESCOTT: Good morning. My name is
24 Katherine Prescott. Thank you for inviting me to
25 be here today as part of this briefing on an issue

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1 of great urgency. It's truly an honor to be here.

2 Author Margaret J. Wheatley wrote, you
3 can't hate someone whose story you know, and I
4 agree. So, let us make it our responsibility to
5 know the stories of those around us and make it our
6 mission to hear one another and share our stories.

7 The story I am here to share with you
8 today is unique and individual, but it's also a
9 story that has much in common with the thousands of
10 stories that continue to play out all across our
11 nation.

12 In sharing my story, my son's story, I
13 hope to give voice to the thousands of other youth
14 who have suffered and continue to suffer, kids who
15 need and demand our support and protection.

16 My son Kyler was a musician, a writer,
17 and an artist. He had a beautiful spirit full of
18 love and compassion for all living things. Kyler
19 was also transgender and he bravely tried to be his
20 authentic self in a society that is intolerant of
21 gender nonconformity.

22 Kyler came out as trans when he was 13
23 years old. Signs of personal struggle had appeared
24 a few years earlier, but it was at 13 that Kyler
25 found the courage to declare that his gender

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1 identity, his sense of self did not conform with
2 the body he was born with.

3 For those of us who have not
4 experienced gender dysphoria, we can only imagine
5 how this would feel. Anyone who has not personally
6 gone through this struggle, the emotional,
7 psychological, and biological toll that it brings,
8 should not pass judgment or pretend to understand
9 what this would be like.

10 But I can tell you that when your own
11 child, whom you love more than life itself, tells
12 you that he can't stand to change his clothes or
13 look in the mirror, you listen.

14 Our family supported Kyler in his
15 transition. He began the process of social
16 transition and received appropriate medical care.
17 We took the legal steps needed to change Kyler's
18 name and gender, and separately, we applied for a
19 new birth certificate based on these legal steps.

20 However, while we could affirm and
21 support our child in the safety of our home, it was
22 not so easy in the public sphere. School, in
23 particular, became a particularly menacing place.

24 Kyler had always loved school and he
25 was a phenomenally gifted student. Once he

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1 transitioned, however, school became a place where
2 Kyler felt unwelcome, misunderstood, and
3 ostracized.

4 While it was most comfortable to
5 imagine that this was because of intolerant young
6 peers, in truth, his difficulties stemmed more from
7 teachers and administrators than they did from
8 other students. School records continued to
9 announce his old name and gender, even after he had
10 received a legal name and gender change.

11 Teachers continued to call him she in
12 front of other students, thus exposing his trans
13 status in front of students who otherwise would not
14 have known. Administrators tried to force him to
15 use the girls' bathroom.

16 Imagine being a child and being called
17 out every day at school by the wrong name and
18 having teachers use the wrong pronouns repeatedly.
19 Imagine being humiliated every day because the
20 school willfully refused to do what it was required
21 to do.

22 The classroom, which had always been a
23 place where Kyler could shine as a brilliant
24 student, became a hostile environment. Over time,
25 we came to the decision that Kyler had to leave

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1 school and do independent study instead.

2 And while this may seem like a solution
3 to some, for Kyler it felt like exile. He felt
4 displaced, unwelcome, and rejected. He was given
5 the unspoken message that his identity was
6 unacceptable, that he was a freak who did not
7 belong with other children.

8 Kyler struggled mightily to be accepted
9 and understood, but on May 18, 2015, just a few
10 weeks shy of his 15th birthday and almost three
11 years ago today, Kyler took his own life. And in
12 so doing, he took a part of me with him. His new
13 birth certificate with his new name and gender
14 change arrived three days after his death.

15 This country guarantees a free
16 education to all of its children. It guarantees to
17 protect its citizens from discrimination.

18 Federal courts have held that
19 transgender students like Kyler, who are entitled
20 to protection under federal law, and many schools
21 live up to those obligations without fanfare and
22 without problems, but Kyler, like so many other
23 youth, was tortured because his school failed in
24 its obligation to protect and serve all students.

25 Schools are ground zero for prevention

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1 of bias related incidents. They are public
2 institutions where, as a government and as a
3 society, we guarantee a safe environment for our
4 children.

5 I stand before you as witness to our
6 collective failure to live up to these promises.
7 Kyler's experience is just one among thousands of
8 youth who are made to feel that they do not belong
9 in our classrooms.

10 And if a child does not feel welcome at
11 school, how can we say that we have guaranteed that
12 child's education? How can a child learn in an
13 environment where he or she does not feel safe,
14 affirmed, and respected? How can we be satisfied
15 with any level of harassment, bias, or hatefulness
16 in our schools?

17 This is not an issue that applies only
18 to transgender youth. It applies to all the
19 children who feel ostracized based on any aspect of
20 their identity, whether it's race, religion,
21 national origin, ethnicity, disability, gender
22 identity, or sexual orientation.

23 Schools where bias is expressed by
24 adults are places where students learn to reject
25 and hate their peers. As adults, perhaps no other

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1 responsibility is more sacred than the
2 responsibility to provide to our children a safe,
3 supportive environment where they can learn,
4 develop, and reach their full potential.

5 History has shown us time and time
6 again that hoping for and expecting the best out of
7 people is not enough when it comes to bias, hate,
8 and civil rights. We know that the government can
9 and does play an essential role in ensuring the
10 freedoms, rights, and dignity of all people.

11 Indeed, over the past decade, we have
12 seen what improvements are possible when the
13 federal government acts to end bias and hate, not
14 just through criminal law, but also through
15 proactive efforts to alert schools to our
16 obligations and to show them how to live up to
17 them.

18 Over the past decade, years of focused
19 federal action led to a decrease in bullying in our
20 schools, including the bullying and discrimination
21 experienced by LGBT students. It can be done.

22 Federal action matters. When a school
23 or community or state is failing to live up to our
24 shared promise of justice and equality, it is
25 incumbent upon the federal government to do all

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1 that it can to right the course.

2 We have the ability to prevent acts of
3 hate and bias related incidents in our schools,
4 whether among children or perpetrated by adults.
5 Kyler was vulnerable and he was wounded by the bias
6 of his school administrators and other students.

7 If Kyler had been accepted and embraced
8 at school, he might still be here today. However,
9 since he cannot be here, I stand in his place to
10 ask that we all come together to create and enforce
11 the federal policies, rules, and procedures to
12 ensure that all of our children, our friends and
13 colleagues are given the respect, honor, and
14 appreciation they deserve to protect the most
15 vulnerable among us from hate.

16 CHAIR LHAMON: Thank you, Ms. Prescott.
17 Ms. Bro, we'll go to you next.

18 MS. BRO: Hi, my name is Susan Bro. My
19 daughter, Heather Heyer, was standing with her
20 friends on August 12 in Charlottesville.

21 The crowd that she was with were
22 getting reports from other people who were watching
23 on the news to let them know where the violence
24 was, so that they could deliberately stay away from
25 the violence.

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1 They carried no weapons with them, they
2 only had signs. The four friends, she and her
3 three friends, didn't even have signs, she simply
4 had her keys, her phone, and her billfold in her
5 pockets.

6 A young man who believed the lies of
7 hate that he had been fed on the internet and who
8 believed the lies of hate that he had been fed by a
9 number of other people in his life chose to drive
10 his car into the crowd.

11 The evidence that I've seen in his
12 preliminary hearing indicated that he pulled
13 forward towards the crowd, stopped, backed up, sat
14 for a second, and then gunned it into the crowd.

15 My daughter was crushed between two
16 cars. All the doctors would tell me was that her
17 heart had stopped. I found out later from the
18 medical report and from photographs that I have on
19 my phone that the cause of death was actually blunt
20 force trauma to the abdomen.

21 Money poured in from around the world
22 for the family and even when we closed the GoFundMe
23 at \$220,000, money continued to pour in. So, nine
24 days within my daughter's death, we filed the IRS
25 paperwork to form a 501(c)(3), which is the Heather

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1 Heyer Foundation.

2 Our first goal, because it is -- having
3 been an educator for a number of years was, well,
4 we can give out scholarships, I don't know what
5 else to do. I was still kind of in shock at that
6 time, obviously.

7 So, we set a goal to give a scholarship
8 at Charlottesville High School, as well as William
9 Monroe High School, where Heather had attended. In
10 addition, we're giving a third scholarship this
11 year.

12 Because of technicality, we forgot to
13 say that we were only doing those two high schools
14 and so, other people applied, and so, we said,
15 okay, we'll do a miscellaneous scholarship. Our
16 goal is to expand the number of high school
17 scholarships we give.

18 And we still didn't feel like that was
19 enough, so we are also launching, this August, a
20 program called Higher Voices, which will have
21 teachers trained as facilitators in schools to
22 allow youth to run their own programs.

23 And the youth that we have talked to
24 around the country are very eager and excited about
25 it and very disappointed that we're not ready to

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1 launch this nationally yet.

2 But we're trying to start it out with a
3 summer camp program first in Waynesboro, Virginia,
4 and then, we will move it into the Albermarle
5 County School District. I have a teacher there
6 who's willing to work with me, we'll work out a few
7 of the kinks and then try to roll it out in a more
8 controlled manner.

9 The third year, I'm looking at perhaps
10 launching a, at least a public access to begin
11 with, television show where people have a chance to
12 speak on TV and explain their situation, because so
13 often, people of diversity, people of color, people
14 of disability, people of gender identity issues
15 don't get a chance to express themselves.

16 So, if they're brave enough to be seen
17 on TV, because it is risky in this current climate,
18 unfortunately, if they're brave enough to come on
19 TV, we will let them share their story and share
20 some of how they feel as a member of the community,
21 positive and negative.

22 Our goal is to move social justice
23 forward in a positive, affirming, nonviolent
24 method. That is continually our focus and our
25 work.

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1 This past year, we worked in
2 conjunction with the AIDS Healthcare Foundation and
3 they approached us, apparently they do a lot of
4 work outside of just AIDS work and they had a
5 program called Stand Against Hate.

6 And we put an essay contest out around
7 the country, we got in 18 essays, because there was
8 only about a three week period there that people
9 knew about it. And the top three winners of that
10 have a chance to ride in the Rose Bowl Parade with
11 us.

12 And we gave out, with the AIDS
13 Healthcare Foundation, a \$5,000 scholarship, I
14 think -- there was at least three \$5,000
15 scholarships and then, two \$1,000 scholarships.

16 So, we're trying to move things forward
17 from Heather's death. I say, I got some very
18 bitter lemons there and we're trying to make some
19 very good lemonade from this.

20 CHAIR LHAMON: Thank you, Ms. Bro.

21 MS. BRO: Thank you.

22 CHAIR LHAMON: Mr. Fletcher?

23 MR. FLETCHER: My name is Micah
24 Fletcher. May 26, 2017, I and two other
25 individuals were assaulted on a commuter train

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1 heading towards Clackamas. The other two people's
2 names were Taliesin Meche and Ricky Best.

3 I was the only person that survived
4 this assault, and I'm immensely nervous today
5 because the unfortunate fact of the matter, as far
6 as I'm concerned, is that it is my responsibility
7 to hold onto the legacy of what occurred that day.
8 And the burden of that is not lost on me.

9 I want to tell you first about who the
10 two men were. Taliesin, despite all accounts,
11 though a very bright, vivacious, and happy young
12 man, was also kind of a troublemaker according to
13 his younger sister, in the most playful of ways.
14 He was always the kind of person that had to get
15 the last word in and he always wanted to make sure
16 that his wit was heard.

17 Ricky Best was more than just a patriot
18 and a veteran, he was a father of multiple
19 children. And he was a good man. And I was just
20 some kid on the MAX trying to get to work after
21 getting off of school.

22 I apologize, I don't feel quite
23 qualified to be sitting in this chair and I really
24 do appreciate the time of the Committee today.
25 Typically, I'm better at these sorts of things.

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1 The gentleman in question, Jeremy
2 Christian, was a man suffering from severe mental
3 illness, as well as alcoholism.

4 From what I've seen from the police
5 reports, it has been seen on video record that he
6 was pounding sangria from what is considered a wine
7 bag, essentially, either during or before entering
8 the train, I cannot remember exactly what the
9 report said. And was known not only for having
10 multiple incidences of arrests, but also for
11 multiple incidences of mental and health.

12 Now, why this is important is because
13 many times nowadays, what you will see with these
14 incidences of what are considered hate crimes is
15 that the perpetrators are mentally unwell and, as
16 somebody who's mental health is not the best, I can
17 understand how that would cause trouble.

18 I'm here today to talk about the fact
19 that I do not believe that pursuing hate crimes is
20 going to be an effective methodology for dealing
21 with this problem.

22 Though the federal government may need
23 to get involved, I do not believe that allocating
24 even more resources to police departments all over
25 across America that are already understaffed and

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1 overwhelmed with the amount of crime occurring in
2 their cities and trying to deal with their cities'
3 problems is the answer.

4 I believe that police and federal
5 organizations are already far stretched too thin
6 and that the best course of action would be to
7 institute methodologies of youth intervention, so
8 that youth are able to have a wider range of
9 experiences to different kinds of people.

10 I took part, for instance, in a program
11 called Caldera, which was an all-year program,
12 after school program, that allowed children access
13 to multiple different art disciplines taught by
14 various professionals. It also put us in the same
15 room as people from all over Oregon once a year for
16 seven days.

17 People from parts of Eastern Oregon,
18 which would be considered mainly red, people from
19 Portland, which is considered mainly blue, would
20 come together and be forced to work together as a
21 unit and get to know each other as a unit via
22 mentorship and arts projects.

23 Now, does it necessarily need to be an
24 arts-based program? No. But I believe that at a
25 fundamental level, the only way we're going to be

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1 able to deal with hatred in America is by making
2 sure that we understand each other, making sure the
3 communities talk.

4 And unfortunately, there comes to a
5 point at a certain age where you cannot force
6 people to listen any more, but our most pliable
7 asset is our children.

8 I have been lucky enough to be raised
9 mainly by people that did not look like me. I'm
10 not going to sit here and pretend that this is an
11 intellectual debate.

12 Quite frankly, I could give a damn less
13 about politics. This matters to me because most of
14 the people that allowed me to be a semi-functioning
15 human being today don't look like me. That's it.

16 I have a vested interest in this and I
17 have no interest in pretending that this is a
18 matter of morality to me, these are my loved ones
19 that are being threatened to some extent by the
20 four, at minimum, known hate groups that exist near
21 and around my city.

22 Those groups being American Front,
23 European Kindred, Volksfront, and another, which I
24 cannot remember the name of, and those are just the
25 major players that we know of today.

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1 Now, the only way to combat this is on
2 a communal level. And in a short minute, I hope to
3 explain that.

4 Essentially, I would like to talk about
5 instituting funding for schools and helping them
6 create programing that allows children from
7 different parts of America, different backgrounds,
8 and different cultures to be able to spend time,
9 bond, and get to know one another in an effort to
10 create more unity amongst communities.

11 I'm not sure whether me, Taliesin, and
12 Ricky were heroes, but we were trying to do the
13 right thing. Thank you for your time.

14 CHAIR LHAMON: Thank you very much.
15 Thank you to each of the panelists, and I will now
16 open up this panel for questions from my fellow
17 Commissioners. To start us off, if each of you
18 could speak to the ways that hate incidents affect
19 an entire community, not only the individuals
20 directly impacted, we would benefit from that.

21 MS. RAGHUNATHAN: I'm happy to begin. I
22 think that the wave of violence and of fear and
23 intimidation that our communities are currently
24 experiencing is felt throughout the fabric of a
25 community.

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1 When you have houses of worship that
2 are being targeted with fire-bombing attacks or
3 with arson or graffiti, that has an impact on a
4 place of refuge or a place that is intended to be a
5 place of refuge for a whole community.

6 Particularly for immigrant communities,
7 these houses of worship and community centers are
8 fundamental to really providing a sense of welcome
9 and refuge in this country.

10 Similarly, I will also note that the
11 two most prevalent targets of hate violence that we
12 have documented in our reports are women wearing
13 hijabs and youth. And those two individuals are
14 really the anchor of so many of our communities and
15 families. Youth were assaulted not only, or were
16 targeted not only in their schools, but on the
17 streets.

18 And so, the impact that that has on a
19 community, which, as I mentioned, is incredibly
20 diverse racial, religiously, socioeconomically, is
21 deep and fundamental.

22 And the impact ultimately on our
23 communities is really questioning the understanding
24 or the belief that our very communities have a
25 place in this country. And I perhaps cannot even

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1 begin to characterize it in words the impact that
2 that has on a community, or a huge swath of our
3 communities in the U.S.

4 CHAIR LHAMON: Thank you.

5 MS. GARLICK: I'll just add briefly to
6 that, all of which I strongly agree, that hate
7 crimes, as we describe them, are unique crimes
8 because of both their special impact on a victim,
9 but also the community.

10 And the only thing that I would add is
11 that hate crimes, everybody in the community that
12 identifies themselves with the victim, or the
13 broader community as we've seen play out on the
14 national scale and the local community scale as
15 hate incidents are occurring more frequently, they
16 have the potential to cause an isolated incident to
17 explode into widespread community tension if
18 they're not handled correctly.

19 So, when we talk about hate crimes, we
20 talk about the fact that they can't just be
21 measured in terms of dollars or cents, but they
22 make -- and they're intended to make the targeted
23 communities feel isolated, feel intimidated, and
24 feel suspicious of other groups.

25 They're intended to divide. And so, if

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1 law enforcement are not trained or if elected
2 officials or if community leaders are not
3 effectively preventing and responding to those hate
4 crimes when they occur, it can cause that isolated
5 hate crime to explode more widely into more
6 community tension as a result.

7 MS. JORWIC: I sit here as a
8 professional, but I also sit here as a sister of my
9 brother Chris, who has autism, and my other brother
10 Luke, who happens to be a gay man. So, on a
11 personal level, the hate I have seen in different
12 experiences can be suffocating.

13 And I know that the history of the
14 disability rights movement and the disability
15 community, people were warehoused in institutions
16 because so often, not the families themselves, but
17 individuals with disabilities were seen as less
18 than human.

19 And I think that the -- when we see
20 that the under-reporting and the not frequent
21 enough appropriate characterizations of hate crimes
22 against people with disabilities as hate crimes,
23 not as pranks, not as things like that, then it
24 shows that that fear continues to escalate.

25 And it keeps people behind closed

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1 doors, and that's where dangerous things happen.
2 It isolates people. It makes families, families
3 like my own family, feel that individuals with
4 disabilities may be better off if they're all
5 together somewhere, because maybe they're safe.

6 And that's the wrong message. And
7 that's the importance of prosecuting hate crimes
8 and looking and really seeing the humanity of
9 everyone else. That's one of the many wonderful
10 things that Micah said, that I think we really have
11 to do more to see the humanity of others.

12 And I think prosecuting and looking --
13 words matter, calling a hate crime a hate crime,
14 that's how we begin to come together and see the
15 humanity of everyone, no matter what their
16 background is.

17 MS. PRESCOTT: Yes. So, to speak
18 specifically of the transgender community, the risk
19 of suicide and murder among that community is
20 extremely high, such that the life expectancy of a
21 transgender individual is extremely reduced by
22 many, many, many years.

23 I cannot express, I don't have the
24 statistics off the top of my head, but the risk of
25 suicide and murder, the murder rate of transgender

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1 individuals is horrifying. And yet, I don't want
2 to say that I'm speaking only of this group, I'm
3 speaking of all groups that are being targeted by
4 hate and bias.

5 So, it matters to have federal
6 guidance, to prevent these attitudes in the
7 beginning. So, I had the opportunity to meet with
8 the Obama administration about six months after my
9 son's death, and we discussed what schools could do
10 to better serve, in particular, what I discussed
11 was transgender, in our schools.

12 And the Obama administration had put
13 guidelines in place to help schools understand what
14 their responsibilities are. And I think this was
15 incredibly critical and it immediately had
16 beneficial effects to transgender students across
17 the nation.

18 Many schools suddenly understood what
19 their responsibilities were simply because there
20 were federal guidelines in place. It wasn't even a
21 new law, it was as simple as putting in guidelines.

22 And I am devastated to say that one of
23 the very first actions of our new administration,
24 within a couple of weeks of coming into the office,
25 the Trump administration rescinded those

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1 guidelines, took away those basic recommendations
2 of how to best protect those students in our
3 schools.

4 And immediately, the situation for
5 transgender students in our schools across the
6 nation deteriorated rapidly. Therefore, I just
7 want to reiterate the importance it is to have
8 basic federal guidelines established about what is
9 expected of our administrators.

10 And I don't just mean in schools, but
11 that's in particular what my experience speaks to.
12 It matters, it absolutely matters, and it made a
13 difference.

14 And why the current administration
15 chose to take away basic guidelines of protection
16 for those among us who are most vulnerable, a
17 student body that's at an extremely high risk of
18 suicide, I will never understand. Thank you.

19 MS. BRO: Micah has indicated I should
20 go next. I addressed my situation, I did not talk
21 about Charlottesville's reality now.
22 Charlottesville was a case of a community-wide
23 attack.

24 The statues were brought to the
25 forefront by a high schooler who requested in a

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1 petition that they be removed due to them being
2 brought to the community during the time of Jim
3 Crow laws, into the prominent black neighborhoods.

4 So, this became a focal point for the
5 white supremacist groups from around the country
6 and the word went out over the internet that a
7 gathering was to happen. So, players from 35
8 states came.

9 They got off the buses with shields,
10 they got off the buses with assault rifles, they
11 got off the buses with their fists wrapped, they
12 were ready to fight and they planned to fight.
13 That sort of violence leaves a scar.

14 Due to previous incidents, when the KKK
15 came to town and the police and the local
16 population had issues, the police chose, for a
17 number of reasons, to step back. Their hands were
18 tied in some ways, when a state of emergency was
19 called and state troops were called in.

20 I've talked with both the police and
21 local citizenry and there's a great deal of
22 mistrust on both sides, a great deal of pain on
23 both sides. Any outside help that comes in right
24 now is viewed as unwelcome, not helpful, and very
25 bitterly received.

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1 So, I'm here to tell you that the hate
2 crimes not only affect individuals in pain, but
3 they can draw tremendous impacts for the
4 community's health as well.

5 I spoke with the pastor from Ferguson,
6 Missouri just a couple of weeks ago and he said
7 that in Ferguson, four years later, they're still
8 having a great deal of pain.

9 So, it's not that hate crimes only
10 affect individuals, they have tremendous impacts on
11 communities and decision making policies and in
12 just so many ways. It's just an ever-spreading
13 effect.

14 CHAIR LHAMON: Thank you. Commissioner
15 Yaki, I think you had a question?

16 COMMISSIONER YAKI: Yes. Going back to
17 a statement made by, I think the official from the
18 Justice Department, who said that he did not
19 believe that you could exculpate anyone who
20 committed a hate crime simply because there was a
21 climate or an atmosphere of hate speech in there.

22 And I think that's right, but I also
23 believe that we have an issue here, more than any
24 other time in our country, of the acceptance of
25 hate speech in the atmosphere, being part of a new

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1 normal, which cannot be a new normal for this
2 country.

3 What is -- I'd like to get your
4 reaction to this, but what is fascinating, not
5 fascinating, I shouldn't say that, what is
6 extremely disturbing to me is that I read earlier a
7 series of statements made by the President, and I
8 won't go into them again, but then, the corollary
9 that follows is you have a number of incidents that
10 have been reported by the press and they all follow
11 a very similar pattern, whether you are gay,
12 whether you are Jewish, whether you are Latino,
13 whether you are African American, where the name of
14 the President becomes a punctuation mark to the,
15 we're going to get rid of you, and then they
16 mention the President's name, or the President is
17 going to get rid of you.

18 This is -- the title of this briefing
19 is In the Name of Hate, but when hate is being
20 spewed in the name of Trump, that's something that
21 is extremely troubling to me.

22 Micah, I was really moved by what you
23 said and I think what I want to get at from panel
24 here is, is this something that just tracking hate
25 crimes is going to be enough?

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1 It seems like we need to do more in
2 terms of the kinds of bridge building, the
3 interconnections between people, the things that
4 bind us as a nation together, that is not being
5 said, is not being done, is not being exalted as it
6 should be.

7 And all of you have views on this and I
8 would just very quickly love to hear what you have
9 to say about it and where you think we can be part
10 of that. And I see Micah would like to go first
11 and I will give you the honor.

12 MR. FLETCHER: Thank you. A lot of my
13 fear comes from the fact that so much of this is
14 tied up in politics and the morality behind it. So
15 very often, we paint issues into a matter of,
16 pardon the pun, but black and white. And I don't
17 mean racially speaking necessarily, I mean in
18 extremes. I'm sorry.

19 MS. RAGHUNATHAN: Perhaps I can jump in.
20 I can't underestimate, and I think it's critical
21 for us to note that the current normalization of
22 hate speech and divisive rhetoric that is coming
23 from the administration, and in particular from the
24 White House, has been buttressed by a raft of
25 policies that operationalize that climate of

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1 division and that single out particular
2 communities, either before they enter the U.S. or
3 upon their arrival in the U.S., for disparate
4 treatment.

5 The list is very long, from the
6 rescission of DACA, to specify only seven largely
7 Muslim Arab nations as fountains of extremism and
8 as threats to the U.S., to the decision on the part
9 of Attorney General Sessions and the Department of
10 Justice to penalize, and indeed target, states that
11 have chosen to protect their immigrant residents,
12 to the targeting of the movement for Black Lives
13 Matter activists.

14 I think that the list goes on and on
15 and on with respect to the statements that are
16 emanating from the White House being implemented or
17 sought to be implemented by the actual policies
18 that are far more lasting, in my opinion, from the
19 current administration that continue to have a real
20 impact on our communities.

21 The day after the Muslim ban was
22 announced, we had a huge spike in hate violence
23 incidents targeting our communities. And
24 certainly, the cast of the wide net of violence was
25 not limited to Muslim, Arab, Sikh, Hindu, and South

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1 Asian communities, right?

2 The idea that it was open season,
3 frankly, on most of the communities and survivors
4 represented at this table cannot be underestimated,
5 and it certainly has not ebbed.

6 MS. GARLICK: So, I'll just add, the
7 federal government, in my opinion, has an essential
8 leadership role to play in confronting hate crimes.

9 And I've said this a couple of times,
10 but it can't do so effectively if it's scapegoating
11 Muslims, refugees, and other marginalized
12 communities, both through rhetoric and through
13 policies that were mentioned.

14 Simply put, the well-documented
15 reluctance to addressing the rise in anti-Semitism,
16 Islamophobia by the administration and hate, has
17 helped to create this environment in which
18 extremists have felt emboldened.

19 And that's what we have seen and what
20 we've tracked with respect to the resurgence of
21 white supremacy and white supremacists, but also
22 the unprecedented outreach efforts that they're
23 suddenly engaged in on places like college
24 campuses, which were relatively low in number until
25 late 2016.

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1 We also see a clear spike from our
2 reports on incidents in anti-Semitic incidents that
3 we track in the first quarter of 2017, for
4 instance, and also immediately after
5 Charlottesville, a spike in anti-Semitic incidents.

6 So, as Suman noted, sort of in response
7 to these incidents in rhetoric and policies, we do
8 see spikes in incidents. Thank you.

9 MS. JORWIC: I think that the inundation
10 that we get on a daily basis of hateful language
11 from all aspects of society, including the
12 administration, has a threat to desensitize all of
13 us, which is why we must be steadfast in
14 documenting, prosecuting, and reporting hate
15 crimes.

16 However, we do need to be -- more needs
17 to be done, so that more voices are valued and
18 heard and that we can move from stunned and
19 overwhelmed silence, because it's all so much, to
20 action.

21 I think the way that we tried -- a way
22 that The Arc tried to do that in the past year, as
23 Director of Rights Policy, I also cover Medicaid,
24 and for example, there's video that's widely spread
25 of then-candidate Trump mocking a reporter with a

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1 disability.

2 And that's terrible and yes, but we
3 need to move -- we took that and said, okay, well
4 then, what do we need to do to engage Congress?
5 What do we need to do to engage the general public?
6 Because that's what we see as the disability
7 community in general.

8 It's not the 1980s, when Geraldo Rivera
9 did his big expose on institutions, hey, those are
10 still open. We need to be able to do more, as all
11 communities that are under-served and under-
12 represented need to do more, but we can't just get
13 stuck in outrage, we have to shift that to action.

14 MS. BRO: I think in my own hometown,
15 which is not Charlottesville, not hometown, but
16 where I've lived the last 25 years or so, when the
17 sheriff there offered four years ago a class on the
18 Muslim threat, and would not allow for anyone who
19 was pro-Muslim to even participate in the classes,
20 and my daughter and he had quite the verbal battle
21 on social media about that.

22 So, I think that we have to remember
23 that, although the current administration is
24 definitely adding to the problem, the problem
25 existed prior to the current administration.

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1 And dealing with the public and
2 educating the public, allowing people to have a
3 broader understanding of who everyone is and get to
4 know more people outside their own little social
5 sphere. But it is difficult when those in charge,
6 as sheriffs or the President or anyone else, fans
7 that rhetoric.

8 But we have to remember that the
9 current administration is in place because a great
10 deal of the American public goes along with that
11 concept. He didn't mince words when he was
12 campaigning, he very clearly laid out who he was,
13 and yet, people supported that.

14 So, we have to deal with the
15 unfortunate reality that this is still very much a
16 public situation and not just a government
17 situation. And I find that kind of sad, because I
18 thought we'd moved past that.

19 CHAIR LHAMON: Commissioner Kirsanow?

20 COMMISSIONER KIRSANOW: Thank you very
21 much, Madam Chair. And thank you to the witnesses,
22 very compelling testimony. We've heard testimony
23 that words matter, and they do, and that the words
24 of the administration officials may have
25 exacerbated the climate in this country.

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1 A review of Bureau of Justice
2 Statistics data shows that, with respect to the
3 commission of hate crimes, certain groups are more
4 likely to commit hate crimes than others. And I'd
5 like to see if I can get your input as to how we
6 can maybe reduce the number of hate crimes.

7 We've heard about this rhetoric, but
8 the Bureau of Justice Statistics shows that blacks,
9 for example, are five and a half times more likely
10 to commit hate crimes than whites.

11 Other intra-ethnic hate crimes are
12 committed, for example, by certain Central
13 Americans against other Central Americans at a
14 higher rate than committed by other perpetrators.
15 Same with certain Asian groups.

16 What, if any, data, studies, evidence,
17 show that this kind of hate crime can be stopped by
18 a reduction in rhetoric or attachment of a hate
19 crime designation or a federal hate crime
20 designation?

21 MS. BRO: My understanding, and I can't
22 provide you the exact names of the studies,
23 unfortunately, my understanding as a mother of a
24 white male and a grandmother of white males is that
25 many of the white males who act out are doing so

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1 because their identity is threatened.

2 I had been previously led to believe
3 that economic conditions were the primary cause of
4 people acting out in fear and hate. It was, we're
5 losing jobs because of the other, whoever the other
6 might be at that given moment.

7 And I think that is part of the
8 problem, but the latest studies seem to indicate
9 that as gender identity and racial identity, fear
10 of being lost in the crowd, fear of being
11 marginalized yourself is what causes you oftentimes
12 to lash out at someone else.

13 But then, there's also the case of the
14 easy target, particularly when it's someone with
15 disability who maybe can't defend themselves or a
16 gender identity child who can't defend themselves.

17 As with most everything, there's no
18 single answer, it's a complicated issue that needs
19 to be dealt with on a number of fronts. I don't
20 think dealing with speech alone is going to stop
21 it.

22 I think that, as a classroom teacher
23 where we didn't allow it, we thought that kind of
24 squashed it, but what it does is it forces it
25 underground. It's not okay to force it out into

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1 the light, but in some ways, it's easier to know
2 what you're dealing with when it's out in the light
3 than it is when it's underground.

4 MS. GARLICK: Thanks for your questions
5 and this is exactly why I say the law is a blunt
6 instrument and it's better to prevent these crimes
7 from happening in the first place. And I think, to
8 your question, prevention, cross-cultural
9 understanding, and all of that is key.

10 So, some best practices that we put
11 forth in our, for instances, Mayors Compact Against
12 Hate, where local mayors are taking the lead in
13 sort of implementing these best practices in their
14 cities across the country, are encouraging schools
15 to implement anti-bias and anti-hate content into
16 their curricula in schools.

17 Promoting advanced partnerships among
18 community-based organizations, civil rights, and
19 religious groups to build trust amongst groups, and
20 also between law enforcement as well. And also,
21 supporting the successful integration of immigrants
22 into communities and society and improving that
23 trust too.

24 So, focusing on education, focusing on
25 cross-cultural understanding, and those best

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1 practices, those have to complement anything that
2 our government, our society does, in order to
3 effectively respond to hate crimes, to prevent them
4 from happening in the first place.

5 MS. JORWIC: I only was able to hear the
6 last little bit of the panel before me, but what I
7 did hear and in reviewing the materials in advance
8 of the hearing today, it does seem that a lot more
9 training needs to be done in order to get a better
10 representation in the data.

11 So, I don't have a data study to cite
12 to, but I do think that more time does need to come
13 out, so that we get a real picture, we get data
14 that really bears a real picture, particularly for
15 people with disabilities, since that's only been
16 included in data collection in recent years.

17 But as far as for people with
18 disabilities, what I can say and what we have data
19 to support, is that as attitudes change in societal
20 views of people with disabilities and all people
21 change, that we're able to move.

22 We have data that supports that people
23 move back into the community once they weren't seen
24 as an other. And I think that that's the broader
25 reason why data is important, but it's not going to

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1 give the full picture when we have to look at the
2 full view of why as a society different groups are
3 seen different ways.

4 And that's also why, as I did state and
5 as you mentioned before, words do matter and why
6 it's important that things that are hate crimes are
7 labeled as such and that we're continuing to track
8 data.

9 MS. PRESCOTT: For this moment, I'll
10 speak as an educator, rather than as a parent,
11 because I am also a teacher. I teach at a
12 community college. And I too noticed sort of an
13 increase in biased speech in the last couple of
14 years.

15 But how I have dealt with it as an
16 educator is to talk about it extensively in my
17 classroom and to make everything that we're talking
18 about here today is something that we discuss in
19 the classroom on a daily basis.

20 Whether it's race, religion, gender
21 identity, sexual orientation, all of those things
22 are things that I think we all need to talk about,
23 in particular, understanding individual stories.

24 I can't say enough that, that's how I
25 began what I said, my remarks today, but I truly

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1 believe that when you get to know individuals, you
2 don't hate them, right? You get to know them as
3 real human beings.

4 One of the books that I consistently
5 teach my class is Bryan Stevenson's Just Mercy,
6 that speaks specifically about the criminal justice
7 system and all of our issues. And Bryan Stevenson
8 is quite a remarkable man.

9 But one of the things that is so
10 powerful about that book is it delves specifically
11 into individual stories, to help people understand
12 that we are all people and we are all here and need
13 to support each other and we are all human and to
14 stop being scared of anyone that is different than
15 ourselves.

16 And I think that as a society, we need
17 to take the same approach, no matter what our role
18 is, is we need to talk, we need to be open, and we
19 need to hear each other's stories.

20 MS. RAGHUNATHAN: If I can just briefly
21 respond. I think also, we cannot underestimate the
22 level of under-reporting.

23 The National Crime Victimization
24 Survey, which is an arm of the federal government
25 itself, estimates itself that under-reporting of

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1 hate crimes to the FBI is at a factor of 40 to 1.
2 So, for every one hate crime that is reported to
3 the FBI, the federal government itself estimates
4 that 40 go under-reported.

5 And so, onto that layer, I would also
6 add the reality of over-policing and over-
7 criminalization in particular of black men in our
8 society, which I'm sure leads to an over-
9 representation, and an extremely small sample of
10 those individuals who are perpetrating hate crimes.

11 Clearly, any individual who perpetrates
12 a hate crime should be addressed and it should be
13 addressed as such, regardless of the racial or
14 ethnic background of the person who perpetrates
15 that incident.

16 But I think we cannot underestimate the
17 extent to which in particular black and Latino men
18 in our community, in our society are explicitly
19 being disproportionately targeted by law
20 enforcement officers and law enforcement agencies
21 often, and seen as agents of criminality from the
22 beginning.

23 COMMISSIONER KIRSANOW: I'm not sure
24 that that really answered the question. I think
25 we've been appropriately directing attention toward

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1 the commission of hate crimes by, I hope,
2 everybody. But it seems to be focused on just one
3 segment.

4 And when you have five and a half times
5 more hate crimes or it's five and a half times more
6 likely that marginalized groups are committing hate
7 crimes, what are we doing wrong? What's going on
8 here?

9 It seems to me there's this
10 presumption, there's this kind of stereotypic view
11 of who's perpetrating the hate crime, when the
12 Bureau of Justice Statistics shows a
13 disproportionate number of hate crimes being
14 committed by the marginalized groups, which are
15 also the victims of hate crimes.

16 MS. JORWIC: With all due respect, the
17 ethnic background of a perpetrator for a person
18 with a disability, it doesn't matter who is
19 actually doing those hateful things to them.

20 Just in Chicago, there was a recent
21 example, it doesn't matter the race of the person,
22 when I read about them cutting into the person's
23 skull, the person with the disability.

24 So, I think -- and, again, if we don't
25 have -- we do not -- I can safely say that we do

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1 not have a full scope of accurate data.

2 I don't believe -- I personally am not
3 casting aspersions on the background of the
4 perpetrator, it's about the crime that's happening
5 and what we're calling it that's so important for
6 the disability community and for, I would imagine,
7 all marginalized communities.

8 MS. PRESCOTT: Just to add to that and
9 to try and clarify, not only what I was trying to
10 refer to, but I think the other panelists, is that
11 creating an atmosphere of bias and hate, that is
12 something that happens throughout the society.

13 So, who becomes the perpetrator is --
14 it's whether -- sorry, I'm trying to clarify my own
15 thoughts. But if you were to look at, for example,
16 who commits domestic violence. Often, those are
17 people who have experienced violence upon
18 themselves.

19 So, people who commit acts of
20 discrimination might have also experienced a lot of
21 biased and hateful incidents upon themselves. So,
22 it's really more of a society-wide thing.

23 I don't think of bias related incidents
24 coming from any specific group. To me that -- who
25 commits the crime is not -- I don't see this as

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1 only done by white males, for example, I really
2 don't.

3 I think it's more just an atmosphere of
4 intolerance that gets perpetuated and then it gets
5 expressed, and that people who have experienced
6 intolerance might also then perpetrate intolerance.
7 So, we need to deal with it as a society as
8 something that impacts all of us.

9 CHAIR LHAMON: Commissioner Narasaki --
10 oh, sorry.

11 MS. BRO: Oh, I'm sorry, I was just
12 going to say, that is kind of my point, is that
13 when white males commit this, it's because they
14 feel marginalized. Groups that are marginalized
15 definitely are acting out on that feeling.

16 Whoever is feeling or being
17 marginalized is the one who is acting out. So, if
18 we can find a way to lessen that society
19 marginalization of people, whether it's with jobs,
20 training, education, housing, whatever we can do to
21 improve quality of life overall and recognize
22 people for who they are, I think is going to help
23 stop the hate crime.

24 CHAIR LHAMON: Commissioner Narasaki?

25 COMMISSIONER NARASAKI: Thank you, Madam

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1 Chair. First of all, I want to thank the witnesses
2 for bringing home that today is not just about an
3 intellectual policy debate, but that we're talking
4 about the lives of real people and real loved ones,
5 so I appreciate that, because I feel bad that we
6 are asking all of you to relive experiences that
7 are very painful. But it is so important and I
8 really thank you.

9 I also wanted to acknowledge the Anti-
10 Defamation League for your long work, both on
11 moving policy, but also the work on teaching
12 tolerance, because as we've heard so eloquently
13 today, laws alone will not solve the problem, we
14 really do need other interventions that bring us
15 together as communities, that help us see the
16 humanity in each individual. So, I just wanted to
17 acknowledge that, because I learned a lot from ADL
18 when I started out.

19 So, there's been this morning some
20 witnesses who've implied that the rise in the FBI
21 data and the various reports that groups are doing
22 may not be actual rises, but may be just a matter
23 of better reporting or changes in reporting. And I
24 wanted to ask you, does that matter and are they
25 right?

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1 MS. RAGHUNATHAN: What I can say,
2 because SAALT has been documenting hate violence
3 incidents that we have sourced, not through the
4 FBI, but through our community members and also
5 through media searches and through the information
6 from our community partners, we've been looking at
7 this data for the better part of a decade, as I
8 mentioned earlier.

9 What I can certainly tell you is that
10 there has been a steady escalation that has been
11 incredibly troubling. From 2014 to 2015, we saw a
12 67 percent increase in hate violence incidents
13 affecting our community members. And from 2016 to
14 2017, we saw a 45 percent increase in hate violence
15 affecting our community members.

16 Even as we continue to get the word out
17 to community members, we continue to forge
18 partnerships with enlightened law enforcement
19 officers on the need to address under-reporting in
20 particular of hate crimes and hate violence.

21 So, from our perspective, which I think
22 has been amply bolstered by FBI crime statistics as
23 well as hate crime statistics, is that the problem
24 continues to escalate.

25 And I think it would be far from the

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1 reality of our communities or from the data that we
2 have collected for us to say that the issue of hate
3 crimes has been a blip or there has not been a
4 continued, sustained, and troubling escalation of
5 hate violence spanning, frankly, two
6 administrations.

7 COMMISSIONER NARASAKI: Thank you. So,
8 there's also been, as you can tell from some of the
9 questions coming from some of the Commissioners, a
10 belief by some that federal law doesn't matter,
11 that the federal government doesn't really have a
12 role, that federal hate crimes are somehow
13 displacing state hate crimes.

14 And I'm wondering whether you can
15 respond to explain how federal law or programs may
16 matter and how they may be complementary to what
17 happens on the state level?

18 MS. JORWIC: Yes. Federal law, and more
19 importantly, federal law enforcement, plays a large
20 role for the disability community. And
21 particularly when it comes to guidance and
22 additional support, whether it's for federal,
23 state, or local law enforcement or stakeholders
24 themselves, it plays a very important role.

25 In a meeting that we had with the

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1 acting head of the Civil Rights Division of the
2 DOJ, Mr. Gore, I was very clear that pulling back
3 these guidances is just as dangerous as not
4 pursuing the lawsuits. The lawsuits matter, we
5 have to continue.

6 We have to continue prosecuting, but we
7 also have to keep the guidance coming from the
8 federal government because, for stakeholders, for
9 families, for administrations when we're talking
10 about the education system, that shows not only the
11 investment, but the commitment, and it's much
12 easier for stakeholders, families, and individuals
13 to access that information and it's an imperative
14 continued role of the federal government.

15 COMMISSIONER NARASAKI: Thank you.

16 MS. BRO: I think some of the evidence
17 has shown that, left to their own devices, some
18 states have extremely lax standard when it comes to
19 civil rights, particularly in the Deep South, it's
20 been shown, but perhaps in others.

21 And I think that by having some federal
22 guidelines, to say the least, although I'm not a
23 big fan of unfunded mandates, but at the very least
24 to have some guidelines that are enforced, would
25 make a big difference in continuity and in

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1 consistency.

2 COMMISSIONER NARASAKI: Thank you. I
3 note that I'm very disappointed that the Department
4 of Education chose not to send someone to the
5 hearing.

6 I do want to acknowledge that we have a
7 former head of the Office of Civil Rights for the
8 Department of Education, who is the reason why the
9 policies did improve over the last several years.
10 So, Chair Katherine, I just want to acknowledge it.

11 CHAIR LHAMON: Very much a group effort,
12 but thank you.

13 COMMISSIONER NARASAKI: So, I want to
14 ask you, what do you see that the Department of
15 Education is doing well and what do you think the
16 Department of Education needs to do better?

17 CHAIR LHAMON: And we're going to try to
18 be speedy in that response, because there are two
19 other people who have questions and we're past our
20 time.

21 MS. PRESCOTT: Very briefly, again, the
22 Department of Education is critical in this fight,
23 because the most important place to begin to
24 address these problems is clearly in our schools.

25 This is the place where we educate our

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1 children, this is the place where the tone is set,
2 begins in our schools. So, providing schools with
3 clear guidelines of what is expected of them is
4 critical.

5 MS. JORWIC: It's the role of the
6 Department of Education to be the resources for all
7 local education agencies on how to better serve
8 individuals with disabilities and individuals in
9 all populations that may be marginalized in the
10 school setting.

11 MS. GARLICK: I would agree. The
12 message that was sent when the Title IX guidance
13 was rescinded, I agree wholeheartedly, it can't be
14 overstated.

15 The Department of Education has a huge
16 role -- and thanks for everything that you did,
17 Chair, in your role at the Department of Education
18 to put in guidance -- to not only encourage and
19 promote anti-bullying education, anti-bias
20 education, but also to reform school discipline
21 policies and other things that disproportionately
22 impact students of color, marginalized communities,
23 et cetera.

24 And so, to your previous question, the
25 federal government has a huge role to play in

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1 preventing and responding to hate crimes, not only
2 on the legal side, where oftentimes states have
3 inadequate hate crime laws, many states still don't
4 protect LGBT communities for instances, five states
5 still don't have hate crime laws, but our other
6 federal agencies also have a role to play in
7 preventing and responding to hate, calling out hate
8 where it happens, and working with other agencies
9 to establish best practices.

10 Which is why our recommendation for an
11 inter-agency task force, I'll again just reiterate,
12 is so important to us.

13 COMMISSIONER NARASAKI: Thank you.

14 CHAIR LHAMON: Commissioner Kladney?

15 COMMISSIONER KLADNEY: Thank you, Madam
16 Chair. I just wanted to clear up, when
17 Commissioner Kirsanow was asking you questions
18 about why minorities could commit these acts, I
19 just -- an African American can commit a hate crime
20 against a Muslim, a disabled person, or a Latino,
21 is that correct?

22 I mean, isn't that what he was speaking
23 to? Or you were speaking to him about? I just
24 want to get the record pretty straight on that.

25 MS. RAGHUNATHAN: That was my

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1 understanding of the question at hand, as well as
2 the reality in some cases. Certainly not all.

3 COMMISSIONER KLADNEY: So, I mean, a
4 white KKK person could commit a crime against a
5 white Jewish person?

6 MS. RAGHUNATHAN: They are, with
7 increasing frequency across the country.

8 MS. GARLICK: Right. And I'll just
9 refer to the bomb threats against the Jewish
10 community that Mr. Moossy referenced from the
11 Department of Justice. The identity -- and I know
12 you have a legal panel later, but it's hard,
13 because I'm a lawyer --

14 (Laughter.)

15 CHAIR LHAMON: We sympathize.

16 COMMISSIONER KLADNEY: Congratulations.

17 MS. GARLICK: Yes, thank you. The
18 identity of the perpetrator doesn't matter for the
19 purposes of hate crimes, as long as the victim was
20 specifically targeted because of who they are,
21 that's what a hate crime is.

22 COMMISSIONER KLADNEY: I just wanted to
23 clear that up. Thank you very much.

24 CHAIR LHAMON: Thank you. And our last
25 question will be from the Vice Chair.

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1 VICE CHAIR TIMMONS-GOODSON: Thank you
2 very much, Madam Chair. And I'm not sure how much
3 of this is a question, but I was so intrigued by
4 Micah's thought that the best course of action
5 would involve not a whole lot of financial
6 resources, but exposing kids to all kinds of people
7 and forcing them to come together and to work as a
8 unit.

9 And that at a fundamental level, he
10 says, you deal with hatred by talking to one
11 another. And then, I thought, listened to what
12 we've said thus far about the federal government's
13 role in combating hate crimes.

14 And so, in putting those together, I
15 wonder if perhaps the solution is in not allowing
16 the resegregation of our schools, where young
17 people are going or people, children, are going to
18 come together, be forced to come together each day
19 as they learn and they'll be exposed to all kinds
20 of different people.

21 And perhaps the solution is not in
22 allowing the resegregation of our public housing.
23 And you have to deal with one another, you have to
24 come together. And so, I'm not sure, Madam Chair,
25 that there's a question in there, but I invite any

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1 --

2 MS. BRO: Can I make a comment --

3 VICE CHAIR TIMMONS-GOODSON: --

4 comments.

5 MS. BRO: -- to that?

6 CHAIR LHAMON: Yes, I was going to
7 reconstruct it as a question, but go right ahead.

8 (Laughter.)

9 MS. BRO: I did learn in education,
10 working with fourth graders and fifth graders and
11 third graders for a number of years that no matter
12 how much I teach at school, the bottom dollar is
13 what's happening at home, because the home has them
14 far longer than I do.

15 And I can teach them and expose them to
16 all kinds of things, but if I'm not also reaching
17 the home and the family, I'm not really making the
18 change that I want to see.

19 So, we have to think broader than just
20 schools, broader than just the children working
21 together. We need to find ways to have families
22 come with other families.

23 VICE CHAIR TIMMONS-GOODSON: But might
24 schools be a place to begin?

25 MS. BRO: School is definitely a place

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1 to begin, we just need to think in addition to
2 that.

3 MS. JORWIC: I think that schools are a
4 great -- or unfortunately, we've seen schools have
5 been a breeding ground for hate. But I think that
6 schools are a very fertile ground.

7 As someone who used to practice special
8 education law myself and someone who ran an
9 organization when I was in high school that was all
10 about people with disabilities and people without
11 disabilities coming together, I think it's a
12 breeding ground too. And that's why it's so
13 important that we continue to move forward.

14 The Arc has a case in Georgia, because
15 the same schools that were used to segregate
16 students by their race in the early part of the
17 20th century are now being used to segregate people
18 with disabilities from their peers. A troubling
19 example of the reality of moving backwards and that
20 segregation.

21 Housing is another area that people
22 with disabilities are often segregated. So, I
23 think between the education system and the service
24 systems that are in place for people that the
25 federal government oversees, there's a huge

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1 breeding ground for coming together and, again,
2 seeing that humanity of one another and learning
3 each other's stories.

4 MS. RAGHUNATHAN: If I could just jump
5 in, I would also reiterate that we need many
6 different tools to address bias in our community.

7 We need strong laws from the federal
8 government, as well as strong state level laws that
9 protect our communities and that enshrine, frankly,
10 the moral compass or the moral compact of our
11 society.

12 We need regulations that are not
13 required by legislation that will make a
14 difference, either by allocation of resources or by
15 clarifying how specific policies and laws should be
16 implemented.

17 We need strong fabric between law
18 enforcement, between community-based organizations,
19 and between communities, to ensure that laws and
20 policies that are already on the books make sense
21 and are implemented effectively for community
22 members and that the relationship is two-way
23 between community members and those who that
24 implementing and enforcing the laws.

25 And then, certainly, of course, we need

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1 to change the sort of arena of public opinion, to
2 make sure that all communities are welcomed and
3 respected.

4 But I think that if you do not have one
5 of those many legs of the stool, then you are not
6 able to actually make sure that all communities are
7 protected, respected, and that we can all live
8 lives of dignity and full inclusion in the nation
9 that sort of advanced the basic idea of core
10 unalienable rights.

11 MS. GARLICK: I was going to say --

12 VICE CHAIR TIMMONS-GOODSON: Who's going
13 to follow that?

14 MS. GARLICK: -- that sounded a lot
15 better --

16 (Laughter.)

17 MS. GARLICK: But in our education
18 programs around schools around the country where we
19 do implement peer-led anti-bias training programs,
20 we actually use a tool called Pyramid of Hate.

21 And what it is is to demonstrate that
22 in all sectors of our society, communities,
23 schools, that if we allow discrimination, if we
24 allow stereotypes, if we allow prejudice to go
25 unchecked and to breed, they can escalate to

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1 further levels.

2 And so, yes, we need to address those
3 lower levels, if you will, or building blocks of
4 hate, but at all levels as well. And so, that tool
5 goes directly to your comment.

6 CHAIR LHAMON: With that, I thank this
7 very powerful panel for your testimony. I really
8 appreciate it. If there's follow-up, we would
9 certainly welcome it. And for all of us present,
10 we'll take a break until 1:00 p.m. and we'll start
11 promptly at 1:00.

12 (Whereupon, the above-entitled matter
13 went off the record at 12:11 p.m. and resumed at
14 1:01 p.m.)

15 **PANEL THREE: POLICY AND LEGAL EXPERTS**

16 CHAIRMAN LHAMON: Thank you for your
17 continued attention to this important topic. And,
18 we're going to now proceed with our third panel of
19 policy and legal experts in the order in which they
20 will speak.

21 Our panelists are Lena Masri who's the
22 National Litigation Director and Acting Civil
23 Rights Director at the Council on American-Islamic
24 Relations, CAIR.

25 Shelby Chestnut, the National

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1 Organizing and Policy Strategist at Transgender Law
2 Center.

3 Kristen Clarke who is the President and
4 Executive Director of the Lawyers Committee for
5 Civil Rights Under Law.

6 Andrea Senteno, Legislative Staff
7 Attorney with the Mexican American Legal Defense
8 and Educational Fund.

9 And, Aviva Vogelstein, Director of
10 Legal Initiatives at the Brandeis Center.

11 Just as a reminder to all, I will cut
12 you off after seven minutes, so I encourage to stay
13 within the seven minutes and to watch the system of
14 lights that we have going.

15 And, Ms. Masri, please begin.

16 MS. MASRI: Thank you, respected
17 Commissioners.

18 The Council on American-Islamic
19 Relations is America's largest Muslim civil
20 liberties and advocacy organization. Its mission
21 is to enhance the understanding of Islam, protect
22 civil rights, promote justice and empower American
23 Muslims.

24 CAIR is dedicated to the foundational
25 ideal of affording all Americans the freedom and

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1 dignity to practice their religion.

2 In fact, CAIR is the only Muslim civil
3 rights organization that provides legal services to
4 all cases reported to CAIR that fall within its
5 mission.

6 Nationwide, CAIR employs more than 40
7 attorneys who provide free legal and advocacy
8 services to individuals who experience religious
9 discrimination and bias.

10 In the process of providing its
11 services, CAIR also assembles data regarding
12 incidents of harassment against American Muslims,
13 the only report of its kind.

14 In April of 2018, CAIR released our
15 annual civil rights report entitled Targeted, a
16 copy of which is attached to the written form of
17 this testimony.

18 The report documents that the Trump
19 Administration's Muslim ban has succeeded in
20 stigmatizing Muslims and demonizing Islam leading
21 to an unprecedented increase in anti-Muslim
22 activity to never before seen levels.

23 The American Muslim community has
24 witnessed an increase in the onslaught of
25 institutional and individualized prejudice against

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1 American Muslims in 2017.

2 Since 2014, CAIR has received reports
3 of 16,800 incidents of targeted hate against
4 American Muslims.

5 Between 2016 and 2017, CAIR's records
6 show a 17 percent increase in incidents of anti-
7 Muslim bias and a 15 percent increase in hate
8 crimes.

9 Those sharp increases themselves
10 accumulate a top surge in recent years. From 2014
11 through 2016, CAIR recorded a 65 percent increase
12 in incidents of anti-Muslim bias and a staggering
13 584 percent increase in hate crimes targeting
14 American Muslims.

15 In 2017 alone, CAIR tracked 300 anti-
16 Muslim hate crimes.

17 The incidents are becoming not only
18 more frequent, but also more violent. Mosques
19 burned down to the ground by arsonists, American
20 Muslim's homes and businesses smeared with
21 threatening graffiti, women harassed on the streets
22 for wearing the hijab or the religious head
23 covering worn by Muslim women, sometimes by
24 aggressors forcibly yanking their hijabs off their
25 heads.

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1 In 2017 alone, CAIR recorded 144 anti-
2 mosque incidents.

3 The rise of anti-Muslim sentiment has
4 cost us lives. Two men were murdered in Portland
5 as they sought to defend a Muslim youth from a
6 knife-wielding aggressor on a train, one of whom we
7 heard testimony from earlier today.

8 There have been Muslims threatened at
9 gunpoint, Muslim children are afraid to go to
10 school not only because of student on student
11 bullying, but teachers on student bullying has
12 significantly increased in 2017, teachers bullying
13 them as terrorists.

14 The chief culprit for this rise in
15 anti-Muslim hate crimes is the Trump
16 Administration's various efforts to exclude Muslims
17 from the United States.

18 Courts have recognized the Trump
19 Administration's Muslim ban as the fulfillment of
20 then candidate Trump's call for a total and
21 complete shutdown of Muslims entering the United
22 States.

23 In the aftermath of this Muslim ban,
24 CAIR recorded a deluge of 464 incidents pertaining
25 to it in the last year.

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1 Even as CAIR has developed its own data
2 set documenting the rise in anti-Muslim activity,
3 CAIR's experience in the community makes clear that
4 incidents of bias are severely under reported.

5 American Muslims often do not report
6 incidents either to CAIR or to law enforcement for
7 two significant reasons.

8 First, members of the American Muslim
9 community fear mistreatment and retaliation from
10 the government itself. Thirty-five percent of
11 incidents of bias reported to CAIR last year
12 concerned mistreatment by the government,
13 principally by CBP and the FBI.

14 Community members are often afraid to
15 invite the government to probe into the details of
16 private hate discrimination they experience because
17 that very invitation is perceived as making them
18 vulnerable to even worse consequences by the
19 government itself.

20 It doesn't help, as BuzzFeed News
21 recently documented that politicians in 49 states
22 have attacked Muslims openly in speeches and with
23 proposed legislation since 2015.

24 Second, members of the American Muslim
25 community consider every day harassment to be so

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1 common that they are desensitized.

2 CAIR staff regularly hear of cases in
3 which individuals are harassed but report the
4 incident to CAIR and not to government authorities.

5 This often happens because the victim
6 feels that the treatment is expected and normal,
7 that nothing can be done, that they will not be
8 believed or sympathized with by their broader
9 community or constant anti-Muslim harassment is to
10 be expected in the United States today.

11 Programs and policies, including the
12 Muslim ban, the terrorist screening database, the
13 extreme vetting initiative and censorship of
14 Palestinian advocacy must be systematically
15 documented and challenged.

16 Laws aimed at suppressing Islam must be
17 rejected and the fact that politicians, law makers
18 from city councils and state legislatures to
19 Congress and the President of the United States
20 regularly consider anti-Muslim measures is as good
21 an indication as any that anti-Muslim sentiment in
22 this country has run amuck.

23 The government has a significant role
24 to play in combating hate crimes, but it must first
25 establish trust in the American Muslim community

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1 that bias and discrimination will not be embodied
2 by the government itself.

3 For the sake of time, our written
4 testimony does include additional recommendations
5 to the Commission, our annual civil rights reports
6 also contains additional recommendations.

7 Thank you.

8 CHAIR LHAMON: Thank you very much.

9 Just a reminder to all panelists that
10 we do have a policy against defamation and
11 degradation so we need to be careful to link our
12 statements to fact. Thank you.

13 MX. Chestnut?

14 MX. CHESTNUT: Good afternoon, my name
15 is Shelby Chestnut, a staff member at the
16 Transgender Law Center.

17 Before I begin, I just want to extend a
18 big thank you for convening all of these panelists
19 today.

20 TLC is the largest national trans-led
21 organization in the United States advocating self-
22 determination for all people. Grounded in legal
23 expertise and committed to racial justice, TLC
24 employs a variety of community driven strategies
25 that keeps transgender and gender nonconforming

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1 people alive, thriving and fighting for liberation.

2 In the last decade, transgender people
3 and gender nonconforming people have gone from the
4 shadows to the covers of magazines, courtrooms and
5 television.

6 This increased visibility has also come
7 with increased public debate, legislative attacks
8 on the rights of transgender people and, sadly,
9 deadly violence.

10 Violence against lesbian, gay,
11 bisexual, transgender, queer people, especially
12 transgender and gender nonconforming people is one
13 of the key civil right issues of our time. And,
14 one that we can no longer ignore.

15 In 2017, according to the National
16 Coalition of Anti-Violence Programs, we lost 28
17 transgender and gender nonconforming people across
18 the United States to violence. A majority of whom
19 are black, transgender women making 2017 the
20 deadliest year on record for transgender people.

21 To date in 2018, this epidemic
22 continues with the murders of at least eight
23 transgender people.

24 In a moment where society is seeing the
25 increase in intersections of racism, misogyny,

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1 classism and anti-LGBT policies on the state and
2 federal level, it seems clear that addressing this
3 violence transgender people are facing should be a
4 top priority for everyone, especially the federal
5 government. Yet, no one seems to be hearing the
6 battle cry.

7 Before we can look at solutions, we
8 must understand some of the sources of this
9 violence.

10 Extreme discrimination and employment
11 education in housing lead many trans-people to see
12 sex work as their best option to survive. But, the
13 criminalization of sex work and legislation like
14 SESTA-FOSTA make sex work extremely dangerous for
15 transgender people contributing to the fatal
16 violence people face.

17 We must stop advancing policies that
18 put the lives of sex workers in danger and we must
19 address the discrimination that limits
20 opportunities for trans-people and forces them into
21 situations where they're vulnerable to trafficking
22 and violence.

23 Violence at the hands of law
24 enforcement remains a persistent issue impacting
25 the lives of trans-people across the country. Law

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1 enforcement routinely profile transgender people,
2 especially black transgender women and criminalize
3 their survival.

4 And, worse, add to the violence and
5 mistreatment when handling the homicides of
6 transgender people, and often times misgendering
7 them and perpetuating the narrative that they are
8 criminal and deserving of deadly violence.

9 Intimate partner violence or domestic
10 violence, while an epidemic in many people's lives
11 in this country, is an issue of grave concern
12 impacting many transgender people.

13 Stigma and lack of public awareness
14 that IPV can impact people regardless of their
15 gender identify and sexual orientation often time
16 leads transgender survivors with limited option for
17 support despite the fact that federal protections
18 like the Violence Against Women Act includes LGBT
19 survivors.

20 State sanctioned anti-trans legislation
21 which seeks to dehumanize and limit trans-peoples'
22 access to public accommodations. Much of this
23 legislation is known as the trans-bathroom bills,
24 seeks to limit people's access to public restrooms.

25 Far being bathroom access, this type of

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1 legislation targets trans-people's civil rights and
2 opens up the floodgates for broader anti-trans
3 legislation and increases violence towards trans-
4 people.

5 We've seen it in North Carolina,
6 Washington State, Texas, Anchorage, Alaska and now,
7 Montana and Massachusetts.

8 When we look at the source of violence
9 and we start to think about solutions, it's clear
10 we have a great deal of work to do to ensure that
11 transgender and gender nonconforming people are
12 central to this conversation.

13 While state and federal hate crime laws
14 were a hard won battle aiming to protect many
15 vulnerable populations, we have done very little to
16 increase public awareness or why LGBT people,
17 especially transgender people, are in need of
18 respect and legal protections.

19 State and federal hate crime laws and
20 prosecution are not the answer to protecting
21 transgender communities from violence. Charging
22 one person with a hate crime does nothing to
23 prevent the next murder or increase public
24 awareness on why transgender people are deserving
25 of respect.

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1 To take this violence seriously, our
2 country must look at solutions to address
3 conditions transgender people face, especially
4 state and federal elected officials who daily
5 create laws and executive orders that strip
6 transgender people of their rights and dignity.

7 We must work towards a world that
8 values transgender people and one in which the
9 media is uplifting their success and contributions
10 to society when they are alive and not dead.

11 City, state and federal funding must be
12 made available to ensure transgender people have
13 access to jobs, housing, education and we must
14 prioritize prevention programs that promote
15 communities to be accepting and welcoming of
16 transgender people versus criminalizing people.

17 We must denounce the rollbacks and
18 attacks of transgender people's rights and we
19 ensure protections like the Violence Against Women
20 Act, HUDs Equal Access Rule and all federal
21 protections remain in place.

22 Right now, as we speak, hundreds of
23 migrants in a highly publicized caravan wait at the
24 U.S. Mexico border seeking entry into the U.S.

25 Among the caravan are a number of LGBT

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1 migrants, most of whom are trans-women and minors
2 who are fleeing violence in their countries of
3 origin.

4 The group was turned away from the port
5 of entry for several days and experienced
6 harassment and extreme violence in Mexico.

7 This past weekend, the LGBT group was
8 repeatedly turned away from refugee shelters due to
9 transphobia and homophobia.

10 After finally being allowed into a
11 shelter, this group was awoken in the middle of the
12 night by armed men who robbed them, threatened
13 them, and then set the shelter on fire.

14 Where is the public outcry for this
15 horrific violence? Why isn't our government
16 intervening?

17 All of us should demand the customs
18 border patrol and immigration customs enforcement
19 allow the remaining members of this caravan entry
20 immediately or we risk them being killed.

21 I want to close today by offering some
22 of the highlights of the amazing work happening
23 around the country to ensure transgender people are
24 not only protected, but thriving.

25 Last year, TLC represented Ash Whitaker

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1 to challenge the Kenosha, Wisconsin school district
2 who denied him access to the boys' restroom in high
3 school because he was transgender. We fought and
4 won.

5 Ash is now a freshman in college and
6 living his authentic life.

7 Last month, in Anchorage, Alaska
8 transgender people worked with their allies to
9 defeat an anti-trans bathroom measure despite high
10 levels of opposition.

11 Recently, national domestic and sexual
12 violence advocates across the country called for
13 the continued support for transgender rights and
14 shared steps advocates can take locally to ensure
15 transgender people have access to services and are
16 respected when seeking services.

17 Right here in our nation's capital,
18 Ruby Corado, a transgender Latino woman runs Casa
19 Ruby and provides housing and services to
20 transgender people 365 days a year.

21 In Montana --

22 CHAIR LHAMON: Sorry, the time is up.

23 MX. CHESTNUT: Oh, thank you.

24 CHAIR LHAMON: Thank you very much.

25 Ms. Clarke?

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1 MS. CLARKE: Good afternoon, my name is
2 Kristen Clarke. I'm here on behalf of the Lawyers
3 Committee for Civil Rights Under Law which is one
4 of the nation's oldest racial justice and civil
5 rights organizations.

6 Founded in 1963 at the request of
7 President John F. Kennedy, our principle mission is
8 to secure equal justice for all through the rule of
9 law, targeting, in particular, the inequities
10 confronting African-Americans and other racial
11 minorities.

12 Over the course of the past year, our
13 work to confront our nation's growing hate crime
14 crisis has been one of our top priorities.

15 We know that the hate crime crisis we
16 see today is not new and is rooted in our country's
17 long and tortured history when it comes to racial
18 animus and hatred faced by African Americans and
19 other racial minorities.

20 Our work is carried out with
21 sensitivity to the legacy of white supremacy and
22 the history of racial violence that loom heavy
23 throughout our nation's history.

24 Our Stop Hate project works to
25 strengthen the capacity of communities to confront

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1 hate by connecting them to existing legal and
2 social resources and by creating new resources to
3 fill gaps.

4 Our 8-4-4-9-NOHATE hotline serves as a
5 resource for individuals and organizations who have
6 experienced or witnessed hate.

7 And, our www.8449nohate.org website
8 provides know your rights materials and tool kits
9 to support communities combating hate and includes
10 information on hate crime laws and relevant
11 statutes in all 50 states.

12 I want to use my time this afternoon to
13 talk about the unique challenges that we face in
14 terms of the spike in hate activity online.

15 Violent white supremacists and the alt-
16 Right are using online platforms to plan, incite,
17 promote and generate violence at an unrelenting
18 pace.

19 At the Lawyers Committee for Civil
20 Rights Under Law, part of our work to address this
21 crisis has entailed a concerted focus on how white
22 supremacists exploit racial divisions to reach
23 broader audiences online and, in turn, incite
24 unlawful, hateful activity.

25 And, I want to be clear that there is,

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1 indeed a meaningful distinction between hate speech
2 and hate activity, especially in the context of the
3 internet.

4 Hateful activity is inciting or
5 engaging in threats, harassment, violence,
6 defamation, intimidation or other illegal action
7 with bigoted animus.

8 Unlike mere speech these forms of
9 unlawful conduct are not protected by the First
10 Amendment. They cause tangible and real injury to
11 victims and communities.

12 We believe it is critical to hold
13 private service providers accountable. And, I want
14 to talk about some examples of the work that we
15 have been doing in this space.

16 Richard Spencer's alright.com stands
17 as one of the darkest examples of websites that
18 celebrates and encourages racial violence.

19 In the course of our investigation into
20 alright.com, we observed that Go Daddy was
21 providing domain registration services for the
22 site.

23 Alright.com was, in our view, in clear
24 violation of Go Daddy's own terms of service which
25 clearly prohibit violence, particularly against

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1 racial and ethnic minorities.

2 Go Daddy's universal terms of services
3 agreement require that consumers not use their
4 services in a manner that is illegal or that
5 promotes or encourages illegal activity.

6 Yet, we observed countless examples of
7 published content and postings on the site that
8 directed people to, for example, use live
9 ammunition at the border with the substantial
10 chance that they, they being immigrants crossing
11 the border, might lose their life in the process.

12 There were other postings on this site
13 which encouraged violence against women and
14 violence against people on the basis of their
15 religion.

16 We went after Go Daddy and pushed them
17 to enforce their own terms of service, which they
18 did and altright.com went dark last week.

19 We took similar action against
20 Stormfront, the oldest and largest white
21 supremacist hate site online. For more than 25
22 years, this is a site that has been tied to the
23 deaths of individuals and other violent activities.

24 The Southern Poverty Law Center aptly
25 describes this site as, quote, "the murder capital

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1 of the internet."

2 Following our action, Network Solutions
3 enforced its own terms of service agreement and
4 pulled Stormfront offline.

5 Stormfront eventually was resurrected
6 by a private services provider, Tucows, and we urge
7 this company to closely examine how its services
8 are being manipulated by Stormfront today to incite
9 violence in the U.S. and abroad.

10 In addition to these hate sites, Daily
11 Stormer is a site that has had a particularly
12 devastating impact on young people.

13 In 2018, we filed a law suit against
14 the publishers of the Daily Stormer for actions
15 that led to the targeting of an African-American
16 student at American University who had been
17 recently elected as student body president.

18 In this instance, the publishers of the
19 site facilitated a massive campaign of racist
20 trolling activity that disrupted the student's
21 life, impeded her educational experience, made her
22 fearful for her safety and caused significant
23 physical and emotional trauma.

24 The vicious targeting of this student
25 incited unlawful activity by others online.

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1 Using local human rights law here in
2 D.C., we are now pursuing a legal challenge against
3 the Daily Stormer and other online trolls for
4 denying the student an equal opportunity to
5 participate in the very aspects of life we take for
6 granted, including taking full advantage of
7 educational institutions right here in D.C.

8 Where do we go from here? We believe
9 that action must be taken to encourage more victims
10 to report, to push law enforcement to do a better
11 job investigating hate incidents that arise in
12 their community and that the Justice Department
13 must play a critical role here as well.

14 Fifty years after the tragic
15 assignation of Dr. Martin Luther King, we are still
16 working to fulfill the goals which animated his I
17 have a Dream speech.

18 We know that nonprofit organizations
19 can't do all of the work on its own and we thank
20 the Commission for focusing on this very important
21 issue today.

22 CHAIR LHAMON: Thank you, Ms. Clarke.

23 Ms. Senteno?

24 MS. SENTENO: Good afternoon and thank
25 you for having me.

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1 My name is Andrea Senteno and I'm a
2 legislative staff attorney with MALDEF, the Mexican
3 American Legal Defense and Educational Fund.

4 Founded in 1968, MALDEF is the nation's
5 leading Latino legal civil rights organization.
6 MALDEF has worked for almost 50 years to confront
7 discrimination and bias where ever they occur.

8 We know intimately how an agenda
9 motivated by hate creates the space for anti-Latino
10 laws, policies and practices.

11 The rhetoric and messaging that cast
12 Latinos and other underrepresented communities as
13 outsiders and threats are the root of the policies
14 and actions that MALDEF challenges every day.

15 This briefing on the role of the
16 federal government in responding to hate crimes
17 comes at a critical time.

18 In 2016, reported hate crimes reached a
19 five year high. The rise in anti-immigrant
20 sentiment and the efforts by state and local
21 governments to enforce immigration laws or to
22 create hostile environments for immigrants leave
23 the Latino community to attack and make it more
24 difficult for our community members to seek
25 protection.

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1 Time and again, our community and
2 others have warned the impact that hate rhetoric
3 can have and how it can lead to violent
4 consequences.

5 The federal government and local law
6 enforcement must work to investigate and
7 prosecute hate crimes when they occur and must send
8 a powerful message to those who might perpetrate
9 hate crimes that these actions will not be
10 normalized.

11 The continual depiction of Latinos as
12 criminals, rapists and drug dealers and as threats
13 to the American workforce and the dominant culture
14 provide those who wish to do us harm the cover that
15 they seek to carry out these biased attacks.

16 The rise in hate crimes against Latinos
17 is certainly motivated by the anti-Latino and
18 exclusionary laws and policies that have long
19 marked a political discourse and that are gaining
20 new steam today.

21 According to the federal government,
22 reported hate crimes in 2016 -- of those reported
23 hate crimes in 2016, approximately half were
24 motivated by racial bias and one-third of those --
25 one-third motivated by ethnic discrimination.

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1 However, as you all know, federal
2 reporting of hate crimes provides an incomplete
3 picture of the problem that we are dealing with.
4 Local law enforcement are encouraged but not
5 required to report hate crimes annually to the FBI.

6 But, since these law enforcement
7 agencies are the largest source of information,
8 their nonparticipation presents a real barrier to
9 truly understanding the scope of this problem.

10 In addition to underreporting, many
11 times hate crimes are incorrectly identified which
12 adds to the limitation that this data -- that is
13 current collected.

14 For example, if a police officer
15 arrives to the scene of a location and sees
16 vandalism with a slur or a hate image, they may
17 report that incident as vandalism but not as a hate
18 crime.

19 It's important that everybody does
20 better to ensure that the jurisdictions and the FBI
21 are correctly identifying hate crimes in our
22 communities.

23 There have been some outside efforts to
24 track and document these hate crimes by news
25 outlets and others. However, this presents many

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1 limitations as many crimes are not reported in the
2 news or made viral on social media.

3 As hate crimes are going up for many
4 racial and ethnic minorities, we must also discuss
5 how race intersects with gender, gender identity,
6 sexual orientation and disability and the
7 heightened risk that certain members of our
8 community face.

9 For instance, Los Angeles County noted
10 that after the 2016 presidential election, there
11 were 31 anti-transgender hate crimes, a 72 percent
12 increase and that 97 percent of those were violent
13 crimes.

14 In 2012 and 2016, hate crime rate of
15 violence rose by 96 percent against transgender
16 people and by 76 percent against LGBTQ individuals.

17 Transgender women of color are
18 particularly vulnerable and are disproportionately
19 targeted with deadly violence.

20 In order to have an inclusive
21 discussion about anti-Latino hate crimes in
22 America, we must also recognize and talk about how
23 racial discrimination intersects with sexism,
24 homophobia and transphobia in our society which can
25 lead to deadly results for members of our

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1 community.

2 MALDEF is also particularly concerned
3 with hate crimes and hate rhetoric in our schools.
4 Immigrant and Latino and other underrepresented
5 students are particularly susceptible to bullying
6 based on their identity.

7 One recent study from 2016 revealed
8 that immigrant youth in the U.S. experience greater
9 rates of bullying than do native born youth. Even
10 when controlling for other factors like age,
11 gender, race and ethnicity, grade level and family
12 affluence.

13 The Latino students who experience
14 bullying in high school also suffer from
15 significant GPA drops compared to other students.

16 There have been numerous reports of
17 anti-bullying incidents during and after the
18 presidential election. After then candidate Trump
19 called Mexican immigrants racists and criminals,
20 Latino students in Sioux City, Iowa reported being
21 harassed and bullied during school hours as other
22 students changed Trump's name in their presence.

23 Students at the Rosa Parks Elementary
24 School in Berkeley, California reported statements
25 like -- reportedly made statements like, you live

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1 in a Taco Bell and you'll get deported to other
2 students.

3 And, the day after the election, middle
4 school students in Royal Oak, Michigan chanted,
5 "Build the wall," referencing the President's
6 desire to build a border wall between the U.S. and
7 Mexico, bringing several Latino students to tears.

8 The ASBLC reported 201 incidents of
9 harassment and intimidation two days after that
10 presidential election alone with anti-immigrant
11 sentiments being the second most reported
12 motivation.

13 MALDEF has created a resource material
14 to educate students, teachers, administrators and
15 parents about anti-immigrant and anti-Latino
16 bullying and what their rights are.

17 At this critical time, MALDEF is
18 prepared to provide leadership and to work to
19 oppose discrimination and hate against the Latino
20 community living in the United States.

21 We bring cases across the country to
22 resist the tide of anti-Latino sentiment that
23 infiltrates our communities.

24 We have brought litigation on behalf of
25 Latinos that were violently assaulted and detained

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1 at work and against anti-Latino agendas at the
2 state and local level and we remain committed to
3 this fight.

4 MALDEF is ready to meet that challenge
5 before us and to give -- to work with you to end
6 hate in our communities and to realize a vision for
7 America that protects that protects every
8 individual from being targeted because of who you
9 are.

10 Thank you very much for the opportunity
11 to speak today.

12 CHAIR LHAMON: Thank you, Ms. Senteno.

13 Ms. Vogelstein?

14 MS. VOGELSTEIN: Chair Lhamon and
15 distinguished members of the Commission, it's an
16 honor to appear before you today.

17 I'm Aviva Vogelstein, I'm the Director
18 of Legal Initiatives at the Brandeis Center, an
19 independent nonpartisan institution for public
20 interests, advocacy, research and education.

21 Our mission is to advance the civil and
22 human rights of the Jewish people and promote
23 justice for all.

24 In the course of my work as a civil
25 rights lawyer, I've closely studied religiously

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1 motivated hate and bias incidents with a particular
2 focus on anti-Jewish incidents.

3 Religiously motivated hate is
4 undeniably on the rise in our country and
5 religiously motivated harassment is infiltrating
6 our nation's schools. Some recently reported
7 incidents help illustrate the problem.

8 Last May, a Muslim student was
9 assaulted at a New York City public school. The
10 assailant spit on her and attempted to pull off her
11 hijab.

12 Last November, in Washington State, a
13 14-year-old Sikh boy wearing a turban was punched
14 and knocked down by a classmate.

15 Just two weeks ago, two members of a
16 Jewish fraternity at a Maryland university were
17 followed by suspects shouting "F" the Jews and
18 calling them an ethnic slur.

19 The suspects then followed the victims
20 and began punching one of the victims in the face.

21 At the Brandeis Center, we have
22 assisted students who've been physically assaulted,
23 spit on, verbally harassed and harassed on social
24 media because of their actual or perceived Jewish
25 identity.

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1 Significant data as many panelists
2 today have mentioned demonstrate that the numbers
3 of anti-religious hate incidents are high and
4 potentially rising. It's also important to
5 remember the likelihood that many incidents are not
6 even reported.

7 This problem in our schools has been
8 almost entirely ignored until very recently. Until
9 last month, the Department of Education's Office
10 for Civil Rights did not collect data on
11 religiously motivated harassment and bullying,
12 although it amassed data on sex, race, color,
13 national origin and disability.

14 The Brandeis Center has long encouraged
15 data gathering on hate against religious
16 minorities. We explained how it's a tremendously
17 important first step to provide an accurate
18 portrait of the problem and necessary to compel an
19 effective governmental response.

20 In 2016, under the leadership of then
21 Assistant Secretary for Civil Rights, Catherine
22 Lhamon, the Department of Education announced that
23 they would be expanding their mandatory civil
24 rights data collection of American's public schools
25 to include religious based bullying.

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1 OCR's new report just released proved
2 the importance of this collection. An alarming
3 10,848 incidents, 8 percent of the total incidents
4 in 2015 through 2016 were harassment or bullying
5 based on religion.

6 Now that OCR has finally gathering this
7 information, it has provided us with over 10,000
8 reasons to take action. It's unconscionable that
9 this category of hate averaging approximately 30
10 incidents per school day, 150 per school week and
11 602 incidents per school month has, up until now,
12 been largely unaddressed.

13 Our federal civil rights laws do not
14 properly protect students from harassment based on
15 religion.

16 Harassment and bullying is likely to
17 have lasting psychological and emotional effects on
18 students. Bullying has been linked to many
19 negative outcomes.

20 Kids who are bullied can experience
21 negative physical, school and mental health issues.
22 And, kids who bully others can engage in violent
23 and other risky behaviors into adulthood.

24 The federal government needs to take
25 action to better protect Muslims, Sikh, Jewish and

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1 all students from religiously motivated harassment.

2 Title 6 of the Civil Rights Act of 1964
3 which prohibits discrimination on the basis of
4 race, color or national origin in federally
5 assisted programs and activities has a glaring
6 omission. It does not prohibit harassment based on
7 religion.

8 The Department of Education has made
9 incremental improvements. In a 2004 Dear Colleague
10 Letter written by then Assistant Secretary for
11 Civil Rights, Ken Marcus, who is currently the
12 President of the Brandeis Center, OCR clarified
13 that Title 6 protected students from certain
14 religious groups that also have ethnic or ancestral
15 component such as Judaism, Islam or Sikhism.

16 This guidance was largely unenforced
17 for about six years but, in 2010, it was reaffirmed
18 by both the Department of Justice and the
19 Department of Education.

20 Though this guidance is currently in
21 effect, there are several concerns.

22 As it's informal guidance, it may not
23 endure through subsequent administrations.

24 Further, OCR could achieve a clearer,
25 more transparent understanding of what is permitted

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1 and what is not through providing more guidance.

2 By properly defining what
3 discrimination based on ethnicity or ancestry
4 entails, OCR could more easily identify address and
5 prevent such incidents from recurring.

6 OCR should also discuss in guidance as
7 recommended by the Commission in 2011 the First
8 Amendment implications of anti-bullying policies.

9 The guidance should include that the
10 Department's Title 6 policies should not be
11 construed in ways that will limit free speech.

12 Moreover, OCR's policies do not protect
13 students from harassment based on religion alone.
14 They require an ethnic or ancestral component.

15 By prohibiting religion -- by
16 prohibiting discrimination based on ethnicity or
17 ancestry without also banning purely religious
18 based discrimination, Title 6 extends greater
19 protections to members of religious groups with
20 shared ethnic or ancestral characteristics than to
21 groups without.

22 All students deserve the same
23 protections.

24 Congress must pass legislation to
25 protect religious minorities from harassment.

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1 The new data on religious harassment
2 reveals the extent of the problem. Now that OCR
3 has taken this important first step, we urge OCR to
4 use the new data for its intended purpose, to
5 provide technical assistance where there are
6 patterns of harassment, to assist with
7 investigations in response to complaints and to
8 compel an effective governmental response.

9 To do so, OCR must both disaggregate
10 the data that has been collected and collect more
11 data, particularly with regards to individual
12 religions, type of harassment or bullying by
13 religion, where the incidents are occurring and the
14 context behind each incident.

15 This data could be useful for federal
16 investigations and NGO research, but only if more
17 details are added.

18 To help curb religious harassment and
19 bullying, we urge the Commission to make the
20 following recommendations.

21 Perhaps most importantly, Congress must
22 act to prohibit religious harassment in federally
23 assisted programs and activities. This could be
24 achieved through amending existing legislation such
25 as Title 6 of the Civil Rights Act or the Higher

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1 Education Opportunities Act or, alternatively,
2 Congress could introduce new standalone legislation
3 to protect students from harassment based on
4 religion.

5 For OCR, OCR should disaggregate
6 existing data and collect additional data on what
7 types of harassment and bullying are occurring by
8 religion, where the incidents are occurring and the
9 nature and severity of each incident.

10 OCR should also provide clarification
11 and more definitions. And, in lieu of time, we
12 urgently need more data, federal legislation and
13 strong enforcement.

14 With over 10,000 incidents of religious
15 hate in our public schools, the federal government
16 must act. Religiously motivated hate is
17 unacceptable and should be combated just as
18 vigorously as all other forms of bigotry.

19 I thank you very much for your time.

20 CHAIR LHAMON: Thank you to each
21 panelist. I'll open it up to my fellow
22 commissioners for questions.

23 Commissioner Yaki?

24 COMMISSIONER YAKI: Thank you, Madam
25 Chair and thank all of you for your very powerful

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1 testimony.

2 We had a lot of discussion earlier in
3 the day about the need for better data collection,
4 for greater participation in that data collection.
5 And, of course, I'm not going to talk about any of
6 that.

7 I'm going to -- I have been more
8 concerned about how the -- how our country has
9 treated both the media and the politicians, the
10 whole notion of what constitutes hate crimes and
11 what helps cultivate the environment for that.

12 And, I have a question for you and it
13 has a legal and it has a, I want to call it, it has
14 a public connotation.

15 When there's an organized pattern of
16 action against a protected group, whether it's the
17 folks at the Daily Stormfront or whatever the heck
18 it's called and/or other organizations, it seems
19 like the media has difficulty in calling it -- they
20 call it a hate crime but part of, to me, it seems
21 like it's a form of domestic terrorism.

22 Now, we don't have a domestic terrorism
23 criminal part of the statute. It's in the Patriot
24 Act defined for other reasons, but we've been quick
25 -- we've only really called, I think, maybe Timothy

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1 McVeigh a domestic terror.

2 But, there seems to be some reluctance
3 to use that in the context of hate crimes
4 perpetrated against protected classes.

5 And, I'd like to get the opinion of Ms.
6 Masri and certainly Ms. Clarke about what you think
7 about using that nomenclature more readily for the
8 kinds of activities being perpetrated against
9 protected individuals as well as whether or not the
10 law -- the criminal law itself is sufficient to
11 bring all the tools of the federal government to
12 bear on these sorts of activities?

13 MS. MASRI: Thank you, Commissioner, I
14 appreciate your question.

15 It is true, let's take a step back,
16 terrorism is any violent activity whose purpose is
17 to terrorize a community.

18 And, what we do know is the way that
19 the word terrorism has been used has been
20 disproportionately used against the Muslim
21 community, both in the media, by politicians, but
22 also it's resulted in disproportionate prosecutions
23 against the Muslim community.

24 And, what that has done is it has fed
25 into the narrative that the false narrative that

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1 all terrorism is committed by Muslims.

2 We also have a larger problem and that
3 is that the federal government has, in essence,
4 criminalized the Muslim community by created a
5 Terror Watch List whose standard in being included
6 into the Terror Watch List is so low that
7 reasonable suspicion alone is enough to land
8 somebody on the Terror Watch List.

9 We do know that over 1 million people
10 are on the Watch List and thousands upon thousands
11 of Muslims potentially are on the Watch List.

12 And, having Muslims being named as
13 known or suspected terrorists without even having
14 ever been charged or committed -- or convicted of a
15 crime related to terrorism, that also feeds into
16 the public perception that terrorists are all
17 committed --

18 COMMISSIONER YAKI: Whereas, hate
19 groups, as defined by the Southern Poverty Law
20 Center don't get that in Appalachia they're just
21 called hate groups.

22 MS. MASRI: Yes, and the problem is, is
23 that when terrorism or violence against a community
24 is committed by a non-Muslim, there tends to be a
25 focus on the actual reasons behind that crime.

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1 What are the mental health issues that
2 might be in play? The way under that particular
3 individual grew up in his home and his
4 neighborhood, whether he's been bullied in school.

5 Those are the types of discussions that
6 we really should be having if we want to combat
7 terrorism, if we want to combat hate crimes is to
8 really look at the root cause as opposed to wanting
9 to fall into a false narrative.

10 MS. CLARKE: Thank you for this very
11 important question, Commissioner Yaki.

12 Hate crimes are unique. They have a
13 devastating impact on the individuals targeted and
14 on communities as well.

15 And, for that reason, domestic
16 terrorism feels like an appropriate way to
17 categorize the level of impact and harm that flow
18 from hate crimes when they occur.

19 The challenge, however, is that, in
20 this era, we have seen domestic terrorism, the
21 concept conflated with other things.

22 By way of example, the FBI's domestic
23 terrorism analysis unit recently issued a report on
24 so-called black identity extremism in our country.

25 This appears to be an effort that takes

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1 aim on the work of civil rights advocates. It
2 appears to be an effort that harkens back to the
3 era in which the FBI and our federal government
4 placed a target on the back of Dr. Martin Luther
5 King and other activists.

6 So, we need to make sure that, if we
7 have an agreement that domestic terrorism is an
8 appropriate way to describe hate crimes that are
9 playing out in our country, that we are very clear
10 and have a shared understanding about what we're
11 talking about.

12 And, what we should be directing our
13 administration's limited resources to focus on is
14 the rising tide of violent white supremacy in our
15 country and the increase of hate incidents that are
16 perpetrated against historically protected minority
17 groups like African-Americans and Latinos,
18 immigrants, religious minorities and others.

19 And, we need to make sure that we have
20 agreement that we are not talking about African-
21 American activists and that we put rest this black
22 identity extremism designation which really should
23 have no place in our democracy today.

24 CHAIR LHAMON: Commissioner Narasaki?

25 COMMISSIONER NARASAKI: Thank you,

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1 Madam Chair.

2 Hello, Ms. Clarke, your testimony noted
3 that the FBI can support efforts to increase
4 reporting by engaging special agents in charge.
5 What would that look like?

6 MS. CLARKE: Law enforcement must do
7 more to more effectively combat, investigate and
8 address hate incidents when they arise.

9 One of the things that we've done at
10 the lawyers committee is we forged a partnership
11 with the International Association of Chiefs of
12 Police to help strengthen the way in which local
13 police and sheriffs offices go about combating hate
14 today.

15 But, to your question, we think that
16 training, better training for FBI and our federal
17 law enforcement agencies that are tasked with
18 investigating hate incidents when they arise in our
19 country is key.

20 COMMISSIONER NARASAKI: Great, thank
21 you.

22 Also, there's been a debate all morning
23 about whether the federal government should have a
24 role or has a role in addressing hate crimes either
25 in the education space or in the general space.

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1 And, I'm interested in hearing what you
2 think the federal -- whether there should be a
3 federal role and, if so, what is that federal role?

4 MS. CLARKE: So, Commissioner Narasaki,
5 I would just, to amplify my prior response and
6 address your second question, talk very
7 specifically about the role of federal agencies
8 from A to Z.

9 The U.S. Attorney should be supporting
10 the Civil Rights Division to address and clamp down
11 on hate incidents, whether they are in plain sight
12 of our nation's schools or in our college campuses
13 and universities.

14 The FBI should be supporting these
15 efforts as well and there should be a special agent
16 in charge tasked to respond to hate incidents when
17 they occur.

18 The FBI's Criminal Justice Information
19 Services should also be supporting U.S. Attorneys
20 Offices in this effort, the DOJ's, the Justice
21 Department's Bureau of Justice Statistics plays an
22 important role here as well.

23 But, we are at a moment where we
24 observe the federal government retreating from this
25 space, not bringing enough cases and not activating

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1 the vast resources of the federal government to
2 address these incidents, whether they play out at
3 schools, on campuses or elsewhere in our country.

4 MS. SENTENO: I just wanted to add to
5 that, that while I, you know, understand that
6 question to mean what would be the role of the
7 federal government in perhaps prosecuting or
8 reviewing cases against hate crime and certainly
9 echo the remarks by Ms. Clarke.

10 I also would, you know, encourage there
11 to be some discussion about the role of funding to
12 encourage prevention of hate crimes in schools and
13 in other areas of our community to make sure that
14 law enforcement offices make sure that federal
15 agencies are equipped to provide that kind of
16 support at the local level to prevent these types
17 of crimes from occurring or the type of behavior
18 that can lead to those types of crimes occurring.

19 COMMISSIONER NARASAKI: Thank you.

20 Ms. Vogelstein? Is it Stein or Stein?
21 Sorry.

22 So, unfortunately, the Department of
23 Education didn't -- Office of Civil Rights didn't
24 send a witness. So, we don't have an opportunity
25 to explore from them what's going on.

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1 I'm wondering if you have some thoughts
2 about what they're doing well and what they need to
3 do better?

4 And, also, what the impact is of the
5 reported closure of numerous education, civil
6 rights education complaints on addressing and
7 preventing bias motivated bullying and harassment
8 in schools might be having on the issue?

9 MS. VOGELSTEIN: Sure, thank you,
10 Commissioner.

11 So, the OCR just released their data
12 about two or three weeks ago. And, we were so
13 pleased that for the first time, they included
14 their data collection, a mandatory data collection
15 on religious harassment and bullying in public
16 schools. So, this is great.

17 The -- what the Office for Civil
18 Rights, what we're recommending they do now is they
19 take this one step further and disaggregate the
20 data that they have collected and also collect more
21 data.

22 So, right now, there was a question on
23 the form that said, you know, was there religious
24 harassment or bullying based on religion. And
25 then, the respondees wrote how many incidents.

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1 But, it wasn't separated by religion.
2 So, we don't know what percentage of those
3 incidents were anti-Jewish, anti-Muslim, anti-Sikh,
4 anti-Christian, any type of breakdown like that.

5 We also -- we don't know by the report
6 that was released what types of incidents are
7 occurring by religion.

8 So, we don't know, for example, if they
9 were violent assaults or verbal harassment or
10 assault with a weapon or whatever it was.

11 We also don't know the context behind
12 the incident.

13 So, these are all important things for
14 our federal government to be able to use to take
15 this a step further and fully address the problem.

16 COMMISSIONER NARASAKI: Have they given
17 a reason for why they didn't ask the question in a
18 more disaggregated way?

19 MS. VOGELSTEIN: There was -- I think
20 that because this was the first year that they did
21 it, they were just collecting on religious
22 incidents in general. And, I believe there was
23 some debate when they were asking about whether
24 they were going to be collecting data in 2013,
25 about whether it was disclosing the private

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1 information of individuals to be asking these
2 questions.

3 Chair Lhamon would probably --

4 CHAIR LHAMON: I can speak to that if
5 you would like.

6 (LAUGHTER)

7 MS. VOGELSTEIN: So, what I would like
8 to say is that, it's really necessary for our
9 government to be disaggregating by religion and
10 providing this additional information.

11 It's not a question about necessarily
12 what the religion is of the students, but on what
13 religious grounds they were targeted. And, that's
14 a really important clarification for proper
15 guidance and enforcement by the government.

16 COMMISSIONER NARASAKI: Well, I'd also
17 like to ask that throughout the day, those who
18 oppose hate crime laws, particularly on the federal
19 level, have been questioning whether hate crimes
20 are actually on the rise.

21 In your testimony you said it's
22 undeniably, at least anti-religious is undeniably
23 on the rise.

24 Some people have said, well, maybe it's
25 just that there's more people reporting because of

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1 all the good work that's being done trying to
2 encourage people to report as opposed to there's an
3 actual rise or if they've looked at, oh gee, other
4 crimes are rising and this is rising too. And,
5 unless it's rising at a faster rate, then I guess,
6 apparently, we shouldn't be worried.

7 I don't really quite understand that
8 because I think then you should be worried about
9 any crime that's on the rise.

10 But, I wanted to get your take on that.

11 MS. VOGELSTEIN: Yes, thank you.

12 So, I've looked at a whole bunch of
13 studies on this across the board. And, you are
14 absolutely right that since there is so much that's
15 unreported, we don't necessarily know 100 percent.

16 But, I can say that based on the date,
17 the FBI data, I believe, this year there was -- I
18 think someone said earlier there was a 5 percent
19 increase in hate crimes overall.

20 There was about a 13 percent increase
21 on hate crimes by religion.

22 There was -- there were 50 -- I think
23 it was 54 -- over 54 percent of these hate crimes
24 were anti-Jewish. I think 24 percent were anti-
25 Muslim, the rest were against everyone else.

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1 The anti-Jewish and anti-Muslim
2 incidents have risen significantly since the
3 previous year.

4 I have also looked at surveys by the
5 ADL, by the Sikh Coalition and it appears that the
6 numbers are rising, whether it's -- if it's because
7 there's more reporting than previously, I think
8 it's, you know, it's a good thing that there's more
9 reporting.

10 But, every survey that I looked at
11 shows that the numbers are on the rise.

12 COMMISSIONER NARASAKI: Madam Chair, am
13 I allowed to ask --

14 CHAIR LHAMON: Go ahead.

15 COMMISSIONER NARASAKI: So, when I
16 looked at the data, I have to say I was a little
17 surprised at what the data was for Latinos, given
18 what's going on in the world.

19 But then, I was thinking -- I'm
20 wondering how much of that is maybe attributable to
21 the increase in fear of the community, not just
22 undocumented but those who live with undocumented.
23 Because, we know many live in mixed households.

24 So, I'm wondering if you could tell me
25 whether my instincts are correct or am I totally

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1 off base?

2 MS. SENTENO: Well, I think that is
3 correct. And, I think that to, you know, go to the
4 earlier point when we're looking at whether or not
5 there's a rise in reporting of hate crimes, you
6 know, when you're looking at a population like
7 Latinos and those individuals who live in a mixed
8 status family, a decrease in hate crimes being
9 reported isn't necessarily going to mean that there
10 is a decrease in crimes overall.

11 But, rather, as you've pointed out,
12 there is a very, very probably sense of fear
13 running through our community everywhere. Part of
14 that is attributed to the broader attacks on Latino
15 and immigrant communities across the country, the
16 attacks on sanctuary jurisdictions.

17 In Texas in the wake of SB-4, there
18 were drops in reporting to police of all crimes in
19 Latino communities.

20 And so, because people are afraid to
21 come forward for fear of either -- of some sort of
22 negative retaliation from the federal government
23 that they might be subject to removal, that a
24 family member may be subject to removal or, in
25 other instances, that are probably very common for

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1 many other communities not wanting to report a hate
2 incident in the workplace for fear of losing your
3 job which might have different repercussions for
4 you and your family.

5 We are going to see depressed levels of
6 reporting. I think not just of reporting crimes
7 overall, but also of reporting hate crimes.

8 But, I think that, you know, looking at
9 the reports that MALDEF has seen, particularly in
10 the wake of the election, the type of violence
11 that's being perpetrated against Latinos certainly
12 indicates and is consistent with the reports that
13 we have seen that, you know, in certain areas,
14 Latino hate crimes are being reported are
15 increased, inconsistently reported.

16 And so, I think that, you know, seeing
17 those incidents across the country where someone is
18 targeted because they're Latino and the rhetoric
19 that is used is -- used to cast them as an outsider
20 because they may or may not be perceived to be an
21 immigrant and that is, you know, unpopular from our
22 federal government.

23 I think certainly it contributes to all
24 of that.

25 CHAIR LHAMON: Thank you.

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1 COMMISSIONER NARASAKI: And, one more?

2 CHAIR LHAMON: Okay, this is your last
3 one.

4 COMMISSIONER NARASAKI: Okay, sorry.

5 ~~MxMs~~. Chestnut, so, I'm struck by your
6 very strong statement that, from your perspective,
7 a hate crime law doesn't help. And, anti-Asian
8 violence is something that actually brought me into
9 the movement.

10 And, one of my frustrations was that,
11 really, it was hard to get people to see those
12 kinds of crimes committed against Asians as a hate
13 crime. Because, at the time, Asian Americans
14 weren't really being even thought about because it
15 was a small population.

16 And, on top of that frustration was the
17 media did not cover those hate crimes. You would
18 not see it on Good Morning America, you would not
19 see it on nightly news. At best, you would see it
20 in a local paper and probably not even on
21 television.

22 I worked very hard to get those crimes
23 seen because I thought it was very important for
24 people to understand that, in fact, you're being
25 targeted as a group. Right? It's not you being

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1 targeted as an individual.

2 And, to force people to see, in fact,
3 that that was happening and to get those stories
4 told.

5 So, I wanted to kind of better
6 understand because I will say that, having worked
7 with victims of anti-Asian violence I do feel that,
8 you know, it's more important to work on trying to
9 stop it from the beginning because I learned that
10 even if you prosecute someone and put them away,
11 you can't put the family back together. Right?
12 That family, that community is irretrievably
13 broken.

14 So, I get the fact that laws enough are
15 not enough alone. But, I just wanted to probe a
16 little bit more sort of where that comes from.

17 MX. CHESTNUT: Yes, I think that's a
18 great question and it sounds like a lot of our work
19 had similarities.

20 And, I think, from a trans perspective,
21 it's important to note that like we don't even know
22 how many trans-people exist in the United States,
23 and certainly the media is doing very little to
24 sort of cover trans people in a healthy manner.

25 You ask sort of most Americans what

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1 they think, how they've seen trans-people
2 portrayed, it's a sex worker, it's when they're
3 dead, it's as a criminal.

4 You know, and much of our work at the
5 Trans Law Center is, how do we make sure that
6 society understands the value of trans-people and
7 sort of what they're adding to this society as a
8 whole.

9 You know, and that said, it's -- it
10 needs to come from an abolitionist framework. And,
11 for me, something that I think really shifted
12 personally for me in my mind was, a number of years
13 ago, there was a young woman, her name as Islan
14 Nettles. She was a 20-something transgender woman
15 in Harlem, New York and she was killed because she
16 was trans.

17 She had been on the street at night, a
18 young man, Islan Nettles was African-American as
19 was the man who killed her.

20 He saw her on the street, he cat called
21 her, thought she was really cute. He didn't know
22 that she was trans. She died.

23 He started getting made fun of by his
24 friends and he pushed her to the ground and she
25 died of a trauma to her head.

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1 You know, the police arrived. They
2 didn't realize that she was trans. So, the hate
3 crimes unit wasn't called at all immediately. They
4 figured out she was trans by the time they got her
5 to the hospital.

6 This woman, young woman, was on life
7 support and it took about six months to find the
8 man who had harmed her and ultimately killed her.

9 And, I remember sitting in the
10 courtroom with the victim's mother the day that the
11 sentence came for this young man. He's 24 years
12 old, he's going to spend 12 years in prison.

13 He was not charged with a hate crime,
14 he was charged with second degree murder, I
15 believe.

16 You know, and some of the communities
17 outraged, they're like why isn't this a hate crime.
18 And, in my mind, I'm thinking, this young man's
19 going to go to prison for 12 years.

20 He's known to have killed a trans-
21 person so he's not going to be targeted that he
22 killed a trans-person, he'll be targeted that he
23 was attracted to a trans-woman and he got busted
24 for it.

25 They'll probably get raped in prison.

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1 He'll get harassed the whole time he's there by
2 other inmates and he'll get released and he'll,
3 one, not think any differently of trans-people to
4 value them.

5 His friends will probably taunt him for
6 the rest of his life. And, if anything, escalate
7 violence when they see another trans-person in
8 their neighborhood.

9 So, for me, I think what was most
10 devastating of that, is that it was a community
11 that was impacted by it. It wasn't, you know, it
12 wasn't a white man attacking a community of color,
13 it was a young black man attacking another young
14 black woman.

15 And, what are we doing as a whole, and
16 I don't want to target at one specific community,
17 this is an epidemic. How do we think about that
18 education and, you know, make people understand
19 that violence against trans-people is harming us
20 all and that trans-people, they're not making
21 national news at all, I mean, anywhere.

22 And, it's kind of our responsibility to
23 start talking about that and at a very young age.
24 Young kids who are trans should be able to go to
25 school and be safe and they're not. And then,

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1 they're living up to be, you know, to grow up and
2 be killed.

3 So, I guess, to me, it's all very
4 connected in how do we start that early
5 intervention?

6 COMMISSIONER NARASAKI: Thank you.

7 CHAIR LHAMON: Commissioner Adegbile?

8 COMMISSIONER ADEGBILE: Yes, thank you
9 for your testimony. This question is open to
10 anybody who wants to take a cut at it.

11 I'm trying to understand what the root
12 cause, what we understand the root cause or causes
13 of underreporting to be. Because, I don't think
14 that we can really move the dial until we have a
15 deeper understanding about why it is that
16 jurisdictions don't report these types of crimes.

17 And so, if you all can help us
18 understand what those causes are, we might be
19 better able to recommend things that can move the
20 dial.

21 But, if we don't know, if we don't have
22 an understanding of what those root causes are, I
23 think the pattern is probably going to continue.

24 MX. CHESTNUT: I mean, I can quickly
25 just say this, I think there's fear of reporting to

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1 law enforcement or official government agencies of
2 not being believed or being mistreated as you're
3 reporting.

4 But, I think the reality of it is, is
5 find me an LGBT person who hasn't at some time in
6 their life been called an anti-LGBT epithet or
7 worse and just normalized it and started to sort
8 say like, well, you know, at least I wasn't like
9 beat up today, I was just called like an anti-LGBT
10 epithet while walking to work.

11 So, I think part of its shifting how
12 society wants to think about these things but also
13 encouraging people not to normalize constant
14 harassment.

15 MS. MASRI: And, I can add to that as
16 well. From the Muslim community's perspective, a
17 lot of the hate crimes that are occurring are a
18 direct response to a lot of the sentiment that's
19 been pushed by politicians and elected officials by
20 the government.

21 And, there's also a perception of
22 government policy specifically targeting the Muslim
23 community.

24 And so, as a result, there is a genuine
25 fear among Muslims of reporting any hate crime that

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1 occurs because they fear additional consequences
2 from their interaction with government officials.

3 On the other hand, anti-Muslim
4 sentiment and hate crimes, harassment, intimidation
5 has become so commonplace that people underestimate
6 it or they set it aside as a common occurrence.
7 They don't think that their individual
8 circumstances are important enough to report it or
9 to bring it to anybody's attention.

10 So, it is important that the government
11 first establish trust in order to increase the
12 reporting. There is also other mechanisms of
13 getting reports and that is through state and local
14 agencies that do reporting but are not -- their
15 records are not being transferred into any type of
16 central database.

17 There should be a focus on the federal
18 government to create a central database from all
19 the rights commissions, state agencies that are
20 collecting that will at least increase the numbers
21 that are coming in.

22 MS. VOGELSTEIN: I can add to that.
23 So, our federal civil rights laws don't properly
24 protect students from religious harassment.

25 OCR has extended the protections of

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1 Title 6 to protect students based on ethnicity or
2 ancestry, but not specifically religion.

3 So, through clearer guidance from the
4 Department of Education and through legislation
5 that protects religious students from harassment,
6 there could be better reporting as well as better
7 enforcement of incidents.

8 MS. CLARKE: Yes, thank you for that
9 question, Commissioner Adegbile.

10 I think that this is a very important
11 issue that requires work from a few different
12 angles. Building trust with communities that tend
13 to be targeted by hate crimes is key.

14 And, one way for law enforcement
15 agencies to build that trust is to ensure that
16 their ranks reflect the diversities of -- the
17 diversity of the communities that they endeavor to
18 protect and serve.

19 They should meet and convene regularly
20 with communities. Hear from them, understand them,
21 understand the ways in which they are impacted. Law
22 enforcement stands to learn a lot from communities
23 through meaningful and real engagement.

24 I also think that it is important to be
25 very intentional about wanting to hear from

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1 victims.

2 Through our work with the International
3 Association of Chiefs of Police, we've had law
4 enforcement share that they had not done enough to
5 make fighting hate crimes a priority.

6 And, last summer, through our work with
7 that group, they passed a resolution that made
8 fighting hate crimes a priority which, by itself,
9 sends a strong message to the communities that you
10 care about hate crimes and want to hear from people
11 when they are victimized.

12 But, a more micro level, I think it's
13 important when we're talking about hate crimes
14 inflicted on undocumented and immigrant communities
15 to have a very clear and unmistakable policy that
16 someone's status will not be used against them if
17 they call to report a crime or an incident.

18 So, there are many ways that we can
19 work to attack this issue, trust is paramount but
20 policies, training and engaging with communities I
21 think are equally important parts of the strategy
22 as well.

23 COMMISSIONER ADEGBILE: Ms. Clarke, if
24 I could follow up for a moment. Earlier, I think
25 the DOJ representative shared some of this notion

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1 about engaging with communities as did some of the
2 other law enforcement officers.

3 But, my understanding is, and I don't
4 know if I have this right, but my understanding is
5 that the future of the community relation service
6 and DOJ is in some doubt at this point.

7 And, I'm wondering if that is
8 consistent with this notion that in order to
9 discharge the duty of connecting with communities
10 taking apart an apparatus that was established as
11 part of the 1964 Civil Rights Act for purposes of
12 having outreach into communities and providing a
13 mechanism for positive discussion that is not just
14 treating DOJ as only an enforcement tool.

15 I'm trying to figure out how this lines
16 up with that professed need of law enforcement?

17 MS. CLARKE: The U.S. Department of
18 Justice is our nation's largest and most important
19 federal law enforcement agency. And, for sure, the
20 community relation services the one part of this
21 vast agency that has been tasked for decades with
22 connecting with communities, resolving conflicts,
23 bringing communities that are divided together.

24 We deemed it devastating to hear that
25 the budget has been wiped out for this critical

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1 part of DOJ. And, we think that it turns the clock
2 back decades and efforts to ensure that the Justice
3 Department is able to step into communities that
4 have been impacted and devastated by hate crimes
5 and really get in there and work together to bring
6 people together to promote unity in a way that is
7 so needed on the heels of a hate crime.

8 This is the peacekeeping arm of the
9 Justice Department and we hope that in the weeks
10 ahead, we'll see Congress working with DOJ to
11 reverse the decision to wipe away what truly is one
12 of the most critical parts of our U.S. Department
13 of Justice.

14 COMMISSIONER ADEGBILE: Thank you.

15 CHAIR LHAMON: Commissioner Kladney?

16 COMMISSIONER KLADNEY: Thank you, Madam
17 Chair.

18 I have a question only because we
19 talked a lot about data in the last couple of years
20 and the reporting going up in the last couple of
21 years.

22 What do those numbers and reports look
23 like say for the last 10 years or 20 years? Have
24 they been on the increase or have been on the
25 decline? Was the -- are you talking about the last

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1 two years because there was such a tremendous
2 percentage increase?

3 If I could have some answers, I'd
4 appreciate that if you know what the numbers are or
5 what the percentages have been or if you can lay
6 your hands on those numbers?

7 Okay.

8 MS. SENTENO: So, I'll just say, you
9 know, from our review, according to BJS statistics
10 from 2004 to 2015, the average number of hate
11 crimes reported was about a quarter of a million.

12 And that --

13 COMMISSIONER KLADNEY: Annually?

14 MS. SENTENO: Annually, each year.
15 Wait, that can't be.

16 COMMISSIONER KLADNEY: Sounds like a
17 lot.

18 MS. SENTENO: I'll review if that was
19 actually annually.

20 But, we saw that it looked as though,
21 you know, from 2004 to 2015, there were changes.
22 There were fluctuations up. Our understanding is
23 that hate crime reporting didn't dip significantly
24 or there were no significant kind of decreases, but
25 rather there were changes particularly for Latinos

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1 that there were periods of increased reporting but
2 never kind of dramatic drops.

3 And so, we were always looking at a
4 rate of either a steady level of reporting for hate
5 crimes against Latinos or an increased level for
6 the past 10 years.

7 And, we're certainly able to follow up
8 on that one statistic.

9 And then, our other understanding is
10 that for the period between 2011 and 2015, the most
11 common motivation for hate crimes was racial bias.

12 CHAIR LHAMON: Ms. Vogelstein, it
13 looked like you maybe took out some data.

14 MS. VOGELSTEIN: Yes, I'll just add
15 something. Well, I took out the FBI data and I do
16 know that FBI hate crime reporting, what was
17 reported, there were something like 500 more
18 victims in 2016 than in 2015, 7,615 victims in 2016
19 and I don't have the 2015 data right in front of
20 me. But, it was about 500 less.

21 I will also say with anti-Semitic
22 hatred specifically, the ADL released a study in
23 January. And, I believe that they found that anti-
24 Semitic incidents increased by 59 percent from 2015
25 through 2016, or sorry, 2016 through 2017.

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1 COMMISSIONER KLADNEY: Right. Well, I
2 understand that. I was just trying to see what the
3 results were the last ten years.

4 MS. VOGELSTEIN: Oh, so, I don't know
5 all of the data but I do know that this past year
6 of the ADL's report was the second highest number
7 since they started reporting in the 1970s.

8 COMMISSIONER KLADNEY: Ms. Masri, I'm
9 sure you have something to say.

10 MS. MASRI: Yes, in terms of our
11 internal statistics, I can't give you the numbers
12 off hand, but I can tell you that generally what we
13 saw was a spike and an increase of hate crimes
14 post-9/11. And, a second spike was post-election
15 last year.

16 Post-election last year, we saw a
17 significant spike in bullying as well. And, as I
18 mentioned earlier, specifically teachers on
19 students bullying has spiked in the last year.

20 Generally speaking, since 9/11 hate
21 crimes has been pretty much steadily increasing
22 with the exception of the spikes that I just
23 mentioned.

24 COMMISSIONER KLADNEY: I was wondering
25 if, because we're running out of time and I know

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1 that the Chair is very strict.

2 CHAIR LHAMON: True, and I have some
3 questions, too.

4 COMMISSIONER KLADNEY: So my question
5 is, do you have charts for your individual groups
6 that you represent in this regard that you can
7 submit?

8 Because I think it -- a chart,
9 especially if we could put it in the report of say
10 10 or 20 years of reporting for like religious or
11 Latino or African-American, transgender, Muslim
12 would be very effective in terms of seeing what
13 exactly is happening because everybody's been
14 talking about data all day and it would be nice to
15 see it.

16 Thank you.

17 MS. SENTENO: Can I just, you know,
18 just to go back to the earlier point, the statistic
19 that I cited, it is indeed 250,000 average each
20 year from 2004 to 2015. The data is based on BJS
21 statistics as well as the National Crime
22 Victimization surveys and other data that the
23 federal government pulled together. And, we'd be
24 happy to provide this information.

25 CHAIR LHAMON: Thanks very much.

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1 Ms. Clarke, you testified earlier that
2 we are at a moment where we observe the federal
3 government retreating its hate crime enforcement
4 work and bringing up cases and not addressing hate
5 crimes.

6 At an earlier panel and also in written
7 testimony that we received from DOJ, we heard that
8 combating hate crimes is among the highest
9 priorities for the Civil Rights Division in the
10 Justice Department and a commitment for the
11 Department to use all of our investigative and
12 prosecutorial authority to bring perpetrators to
13 justice.

14 We also heard touting that since
15 January 2017, the Department has brought hate
16 crimes charges against more than two dozen
17 defendants and obtained 22 convictions.

18 I note that that does contrast with the
19 prior administration's record with respect to hate
20 crimes charges, on average about 32 and a quarter
21 charges per year. So, it does look like there may
22 be some decline but -- in those in one year.

23 I'm just curious from your perspective
24 from this work that you've been doing if you could
25 characterize what you mean about seeing the

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1 Department of Justice now retreating from hate
2 crimes enforcement.

3 Because that stands in pretty stark
4 contrast to the testimony received.

5 MS. CLARKE: Thank you very much for
6 that question, Commissioner Lhamon, and for your
7 leadership and focusing the Commission's attention
8 on this crisis.

9 Words must be backed by action. And,
10 from our perspective, many of the new hate
11 incidents and hate crimes that have been happening
12 across our country over the past year, past year
13 and a half have been ones in which we've seen
14 silence from the Justice Department and silence
15 from our Attorney General.

16 I think that these moments are moments
17 that really require leadership, require that we
18 have an Attorney General prepared to stand up and
19 use the bully pulpit of the office to condemn hate,
20 to condemn the impact that hate has on communities.

21 An Attorney General who can sympathize
22 with the victims and communities that have been
23 targeted.

24 It is my observation that Attorney
25 General Jeff Sessions has not done enough to use

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1 the bully pulpit and unique powers of the office to
2 speak out, confront hate and to support local law
3 enforcement in investigating these incidents when
4 they arise or in taking concerted action to have
5 the federal government lead and spearhead more
6 investigations at the federal level and to hate
7 incidents that are taking place in our country.

8 That said, I will give credit to the
9 Justice Department for completing investigations
10 that were initiated and started during the prior
11 administration.

12 And, I think that those have provided
13 some moments for this administration to essentially
14 take credit for work that was already well underway
15 before the clock started on this new
16 administration's efforts.

17 It is our goal and intention to bring
18 pressure to bear on this Justice Department to
19 stand up to hate. And, we feel that it is
20 important for the Justice Department to do more
21 than it has presently.

22 CHAIR LHAMON: Thank you very much.

23 Mx. Chestnut, you made, I thought, a
24 very compelling argument for focusing on prevention
25 and I wonder if you could give us some

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1 recommendations for what kinds of prevention areas
2 you think are most fruitful or most necessary?

3 MX. CHESTNUT: There's been a number of
4 campaigns that have started ahead of sort of states
5 pushing anti-trans ballot measures and really just
6 public education.

7 Because, most of Americans when polled,
8 they aren't against anti-discrimination
9 protections, but when they go to vote, they don't
10 know what they're voting on and they don't
11 understand what transgender people, who they are
12 and what they mean.

13 So, simply like public education
14 campaigns. And, I know a number of years ago, D.C.
15 ran one that was quite successful and it really was
16 just like putting trans-people sort of in the day
17 to day life like, hey, I'm trans and I work with
18 you.

19 California has run a very successful
20 campaign thinking that they were going to have a
21 ballot measure called Transform California and it
22 was about educating local business owners on like
23 who transgender people are, what they might look
24 like and that it doesn't really matter that they're
25 transgender just like don't violate their rights.

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1 You know, and I think part of it is
2 pushing the media around these narratives and
3 moving away from this like only talk about trans-
4 people when they're dead. You know, certainly
5 people like Janet Mock and Laverne Cox have done
6 wonders to sort of bolster this like image of
7 trans-people.

8 But, the reality of it is, not everyone
9 is a Janet Mock or a Laverne Cox and understanding
10 that you might have trans-people working at Bank of
11 America or at McDonald's or right here at the
12 Commission.

13 And, educating people, you know, like
14 asking peoples pronouns at work is a huge step. I
15 was impressed when coordinating this, a staff
16 member was like, can I ask your pronouns? You
17 know, that's uncommon in my experience.

18 So, things like that which are just
19 simple and actions that people really overlook, the
20 healthcare component is huge. You know, like, what
21 we might lose with healthcare for trans-people,
22 it's like, never mind transition related care, it's
23 like people's ability to go to the doctor and be
24 safe is what's the priority here.

25 So, you know, general education that

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1 can start in elementary school and go all the way
2 up. And, frankly, young people are leading the
3 charge here right now. There's amazing young
4 people around the country organizing and adults
5 need to catch up to them.

6 CHAIR LHAMON: Thanks very much.

7 Commissioner Kirsanow, you're the last
8 question.

9 COMMISSIONER KIRSANOW: Great, thank
10 you.

11 Thanks to everybody. Just one quick
12 question. Is there any better database for
13 assessing the rate and number of hate crimes than
14 the FBI's Hate Crime Statistics database?

15 Or, putting it another way, the Bureau
16 of Justice Statistics database?

17 Either from a quantitative or
18 qualitative perspective?

19 MX. CHESTNUT: I mean, an initiative
20 that a number of groups in this room are part of
21 with the Communities Against Hate which was an
22 initiative that started right after the election, I
23 think did a much better job at bringing groups
24 together.

25 I mean, I'll be frank, that the FBI

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1 statistics don't include trans-people so we don't
2 have any idea how many trans-people are harmed.

3 And, part of it's like including
4 communities that might otherwise be excluded from
5 this information.

6 So, I don't know the website but I'm
7 sure one of these groups, which I'm sure, I think,
8 all of these -- some of groups would know the web
9 address.

10 MS. VOGELSTEIN: I'll just add that
11 OCR's mandatory civil rights data collection could
12 be tremendously helpful, especially if more data is
13 added for religious harassment.

14 CHAIR LHAMON: I'm certainly a fan of
15 that database, I will say. But, Mx. Chestnut, if I
16 could, having said that was going to be the last
17 question that was I'm going to ask you one more.

18 Robert Moossy, I think testified
19 earlier today about the regular receipt of data
20 about trans hate crimes or potential hate crimes
21 coming in, I think, on a quarterly basis to the
22 DOJ.

23 And, I wonder if you have any
24 information about whether the DOJ then collects and
25 reports out in way that is accessible to others or

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1 usable for the DOJ itself?

2 MX. CHESTNUT: I can't speak to how it
3 is, but my guess is that it's coming from local law
4 enforcement agencies. And, the problem with it is,
5 is one, I -- there's grave concern that law
6 enforcement should be collecting information on
7 gender identity or sexual orientation to some
8 matter give that the nature in which trans-people
9 are targeted by many different aspects of the
10 community.

11 But then, two, often times, they're not
12 collecting information on gender identities. So,
13 like, it might be a bias crime related to their
14 LGBT identity, but we have no sense of knowing how
15 it's then broken down.

16 So, the data, when you start counting
17 trans-people in the first place before like in
18 other areas of the world before we can then assume
19 that that information's actually making it because
20 it's not.

21 CHAIR LHAMON: Thanks very much.

22 Thank you, again, to this very powerful
23 panel. We really appreciate it.

24 We are going to come back in ten
25 minutes at 2:30 for our next panel today.

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1 (Whereupon, the above-entitled matter
2 went off the record at 2:20 p.m. and resumed at
3 2:30 p.m.)

4 CHAIR LHAMON: Okay. I'm getting us
5 started on time for our fourth panel of the day.

6 **PANEL FOUR: CURRENT AND FORMER FEDERAL OFFICIALS**

7 CHAIR LHAMON: It's a panel of current
8 and former federal officials in the order in which
9 they will speak. Our panelists are Dr. Lynn
10 Langton, Chief of the Victimization Statistics Unit
11 at the Bureau of Justice Statistics, at the U.S.
12 Department of Justice.

13 Roy Austin, who's a Partner at Harris,
14 Wiltshire & Grannis, LLP, and a former Deputy
15 Assistant Attorney General of the Civil Rights
16 Division at the U.S. Department of Justice.

17 Cynthia Deitle, Programs and Operations
18 Director at the Matthew Shepard Foundation and
19 Former Civil Rights Unit Chief at the Federal
20 Bureau of Investigation.

21 Debbie Osgood, who is a Partner at
22 Hogan Marren Babbo & Rose, and former National
23 Enforcement Director at the Office for Civil
24 Rights, at the U.S. Department of Education.

25 And Olabisi Okubadejo of Counsel at

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1 Ballard Spahr and former Supervisory General
2 Attorney at the U.S. Department of Education's
3 Office for Civil Rights.

4 Dr. Langton, please begin.

5 MS. LANGTON: Good afternoon. Thank
6 you for inviting me here today to discuss the
7 Bureau of Justice Statistic's efforts to understand
8 the level and nature of hate crime experienced by
9 residents of our country.

10 As Deputy Assistant Attorney General
11 Robert Moossy noted in his earlier remarks, the
12 Department of Justice and the Bureau of Justice
13 Statistics have long recognized the importance of
14 having accurate and reliable data on hate crime.
15 And we continually work to improve our efforts to
16 provide better and more timely data.

17 As you know, the Department of Justice
18 administers the country's two primary collections
19 of statistical data on hate crime. The first is
20 the FBI's hate crime statistics program which of
21 course is part of the UCR.

22 And these data are compiled by local
23 law enforcement agencies and reflect crimes that
24 are known to police. And recorded as hate crimes
25 by police.

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1 The second source of statistical data,
2 which I'll focus more on today, is the Bureau of
3 Justice Statistics National Crime Victimization
4 Survey. The NCVS is a nationally representative
5 household-based survey that asks residents age 12
6 or older about their experiences with crime,
7 including crimes motivated by hate or bias.

8 Both of these collections, the NCVS and
9 the UCR define hate crime according to the Hate
10 Crime Statistics Act. Including crimes motivated
11 by bias against the victim because of his or her
12 race or ethnicity, gender or gender identity,
13 sexual orientation, religion, or disability.

14 Now the way this is operationalized in
15 the NCVS is that when a respondent answers
16 affirmatively that they experienced a violent or a
17 property crime, that respondent is then asked a
18 series of questions about the nature of the
19 incident. Including whether they believe the
20 incident was motivated by bias against them.

21 The survey also asks victims whether
22 they had any evidence that the crime was motivated
23 by hate. And in order to be classified as a victim
24 of hate crime in the NCVS, the victim has to state
25 that the offender either used hate language, left

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1 hate symbols at the scene of the crime, or that
2 police investigators confirmed that it was a hate
3 crime.

4 Next. The NCVS and the UCR are
5 designed to be complementary but different. So,
6 despite the fact that they're both aligned with the
7 Hate Crime Statistics Act, there are differences
8 between them in the types of crime that they cover,
9 in the types of victims that they cover, in the
10 fact that the NCVS is based on residents'
11 perceptions of hate crime.

12 Which may be a different standard of
13 proof than what's required for law enforcement to
14 record a crime as a hate crime. And another major
15 difference is that the NCVS captures hate crimes
16 both reported and not reported to the police.

17 And we can see the impact of these
18 differences in the data. So, this figure here
19 compares the annual average number of hate crimes
20 according to the NCVS with those captured by the
21 UCR.

22 So if you start on the left with the
23 light blue column, based on NCVS data there were
24 over 210,000 hate crimes occurring annually from
25 2014 to 2016. Slightly different than the number

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1 that was cited by the earlier panel just because of
2 the difference in the time frame.

3 But of those 210,000, 211,000 hate
4 crimes, about 110,000, about 50 percent, were
5 reported to the police. So based on NCVS data
6 collected from the victims, we have 110,000
7 reported to the police.

8 Now of those about 14 percent were
9 confirmed by police investigators to be a hate
10 crime. So about 16,000, which gets us much closer
11 to the UCR annual average for this same period.
12 Which is about 7,000, that last bar there at the
13 end.

14 So this figure illustrates that the
15 hate crimes captured in the UCR data represent a
16 small portion of the total number of hate crimes
17 occurring annually. Because the NCVS is capturing
18 a substantially larger number of hate crimes than
19 the UCR, the two collections also show a somewhat
20 different picture of the types of bias motivating
21 these crimes.

22 In both collections, as you can see on
23 the far left, the largest proportion of hate crimes
24 are motivated by racial or ethnic bias. However,
25 the NCVS shows a larger proportion of hate crimes

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1 motivated by gender bias, sexual orientation bias,
2 or disability bias.

3 This figure shows the number, trends in
4 the number of hate crimes reported, the red line,
5 and not reported, the darker line, to police from
6 2009 to 2016. Overall during this period, there
7 was no statistically significant change in the
8 number of hate crimes occurring each year.

9 But the estimate does appear to be
10 trending downward. This is particularly true among
11 hate crimes not reported to the police. Which seem
12 to be driving any apparent decline in the total
13 number of hate crimes during this period.

14 Using NCVS data, we can also examine
15 trends in the type of bias behind the hate crimes.
16 So from 2009 to 2016, the percent of hate crimes
17 believed to be motivated by gender bias, that's the
18 purple line, the second line there, doubled.

19 The percentage of hate crimes motivated
20 by sexual orientation bias, that's the light blue
21 line, also appeared to increase. But was not
22 statistically significant.

23 And then the other thing to note here
24 is that from 2009 to 2015, the percentage of hate
25 crimes motivated by religious bias declined. But

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1 appeared to tick upward in 2016. And it remains to
2 be seen whether it will continue on that
3 trajectory.

4 So through the NCVS and the UCR the
5 Department of Justice provides important indicators
6 of the patterns and trends in hate crime
7 victimizations. But as I mentioned earlier,
8 efforts are underway to build upon and improve
9 those efforts.

10 For instance, in 2016 the NCVS shifted
11 to a sample design that will eventually allow for
12 estimates of crime to be generated not just at the
13 national level, but also for the 22 most populous
14 states. Which account for about 80 percent of the
15 population.

16 Both the NCVS and the UCR are also
17 focused on increasing the timeliness of data and
18 data reporting. NCVS estimates are typically
19 reported, released eight to ten months after the
20 year ends.

21 So, we anticipate releasing 2017 data
22 in the fall of 2018. And part of that lag is due
23 to the complexity of the survey and the work that
24 the Census Bureau had to do to process the files.

25 And part of that is for BJS

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1 statisticians to analyze the data, verify the
2 results, produce the report. So, those aspects of
3 the processing time are difficult to reduce.

4 But BJS is exploring other options for
5 making the data available sooner. Such as
6 publishing preliminary half year estimates based on
7 the first six months of the year.

8 These efforts are also just one part of
9 the work being undertaken by the DOJ hate crimes
10 statistics working group, which was established
11 through the attorney general's task force on crime
12 reduction and public safety to improve the
13 compilation and aggregation of hate crime
14 statistics.

15 So, in summary hate crime
16 identification, enforcement and prevention is a
17 priority for the DOJ.

18 CHAIR LHAMON: Ms. Langton, I have to
19 stop you. I'm sorry. I wasn't paying enough
20 attention. And we're way over time.

21 MS. LANGTON: All right.

22 CHAIR LHAMON: Thank you. Mr. Austin?

23 MR. AUSTIN: Well, thank you and good
24 afternoon. I come to you as a former hate crime's
25 prosecutor and a supervisor of hate crime's

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1 prosecutor.

2 I personally prosecuted a cross burning
3 in Illinois, and a pistol whipping in Mississippi.
4 I was a supervisor at the time that the first
5 prosecutions under the Shepard/Byrd Hate Crimes
6 Prevention Act were being brought.

7 A major problem with respect to hate
8 crimes statistics is quite obvious. We do not have
9 the slightest idea how many hate crimes there are
10 in America. And we have never known.

11 The numbers currently kept by the FBI,
12 and I'm speaking primarily of the FBI and not to
13 insult my former colleague, Lynn Langton, the
14 numbers currently kept by the FBI are largely
15 useless.

16 While a small handful of states and law
17 enforcement agencies seem to take the collection of
18 hate crime numbers seriously, the majority of
19 states and the vast majority of law enforcement
20 agencies do not seriously report hate crime's
21 numbers. And the handful of numbers that are
22 reported are released late and unaudited.

23 Basically the FBI has little choice but
24 to get whatever it gets from jurisdictions. And
25 they put those number out publically without any

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1 meaningful analysis.

2 But what do these numbers mean? What
3 policy decisions can be made based on these
4 numbers? What enforcement decisions can be made
5 based on these numbers?

6 Sadly, the answer to all these
7 questions is, almost nothing. The importance of
8 collecting good data could hardly be overstated.

9 While every crime is significant, the
10 harm can be exponential when the subject targeted
11 the victim based on his or her actual or perceived
12 race, ethnicity, religion, national origin, gender,
13 sexual orientation, gender identity, or disability.

14 The pain or fear from hate crime
15 reaches a broader community. The act is anathema
16 to who we are as a nation built on diversity.

17 Now my criticism of the numbers is not
18 meant to criticize the individuals who work for the
19 FBI's Criminal Justice Information Services
20 Division, CJIS. As someone who worked with this
21 team, both when I was at the Department of Justice
22 and at the White House, I know it to be a team of
23 smart and hardworking individuals who cared deeply
24 about their work collecting crime data.

25 The team is willing to provide

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1 individualized training to any agency that needs
2 it. Or that needs help reporting hate crime
3 numbers. But few take them up on this offer.

4 The problems are structural. The team
5 is under-resourced for work this important. And
6 where there are no incentives for providing this
7 data, their task is largely impossible.

8 This problem would be relatively easy to fix.
9 Make federal government funding contingent on
10 providing accurate hate crime data.

11 But where we do not even mandate that
12 law enforcement agencies provide general crime
13 statistics, it will require serious leadership to
14 move the ball in this direction on hate crime
15 statistics. Now what exacerbates the problem is
16 the fact that the federal government does not even
17 publish its own hate crime numbers.

18 The FBI works on hate crimes' cases
19 across the country with the Civil Rights Division
20 and the U.S. Attorneys' Offices. And none of those
21 DOJ components regularly publishes in an easily
22 accessible location any data about those cases.

23 Now I understand that Robert Moossy
24 came here and testified earlier. I am very
25 familiar with Robert. And very familiar with the

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1 work that was done by the Civil Rights Division.

2 And I know that we did not regularly
3 publish those numbers in the Obama Administration.
4 Now, how can the federal government expect state
5 and local law enforcement to publish data when it
6 does not do so itself?

7 Now it only requires a quick look at
8 the FBI hate crime statistics to realize just how
9 unhelpful they are. The first thing one might
10 notice is that the most up to date statistics are
11 from 2016. We are now almost half way through 2018
12 and we still do not have national statistics for
13 2017.

14 There are approximately 18 thousand law
15 enforcement agencies in the United States. And
16 almost three thousand agencies did not even bother
17 to respond to the FBI request for hate crime
18 information. And they suffer no consequences for
19 not doing so.

20 Now from the 15 thousand agencies that
21 at least responded, there were only 6,121 reported
22 incidents. Of these incidents, California reported
23 931, New York reported 595. But Alabama reported
24 just 14 incidents. And Mississippi reported just
25 seven.

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1 Now for reasons unknown to me, the
2 state of Hawaii doesn't participate at all. And
3 then what also stands out are the number of large
4 and good sized cities that report that they did not
5 have a single hate crime in 2016.

6 Mobile, Alabama, Corona, California,
7 Wilmington, Delaware, Savannah/Chapman metropolitan
8 area, Georgia, Cedar Rapids, Iowa, Evansville,
9 Indiana, Topeka, Kansas, Shreveport, Louisiana,
10 Springfield, Missouri, Patterson, New Jersey,
11 Winston Salem, North Carolina, Fargo, North Dakota,
12 Charleston South Carolina, Columbia, South
13 Caroline, Corpus Christi, Texas, Laredo, Texas,
14 Lubbock, Texas, Provo, Utah, Roanoke, Virginia,
15 Kenosha, Wisconsin, and Cheyenne, Wyoming, I guess
16 did not have a single hate crime in 2016.

17 Here are just some thoughts on ways
18 that the federal government could improve the
19 current system. One, make reporting mandatory.
20 Congress could pass a law that made law enforcement
21 agencies that do not provide hate crime data
22 ineligible for law enforcement grants from the
23 Department of Justice or any other federal agency.

24 Two, audit reports. The FBI should
25 have a team that audits the reports provided by law

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1 enforcement agencies to ensure accuracy.

2 Three, publish the data quarterly. I'm
3 happy to hear that Lynn noted that there's thoughts
4 about publishing the data at least twice a year.

5 But there's no reason why it shouldn't
6 be reported quarterly. The FBI's hate crime
7 statistics are collected quarterly.

8 If the FBI actually published
9 quarterly, it would not only provide data in a more
10 timely fashion, but it would give more transparency
11 to the effort. By publishing quarterly,
12 individuals who are aware of hate crimes would be
13 better equipped to force their jurisdiction to
14 correct mistakes.

15 Fourth, work with affinity groups to
16 encourage reporting. Hate crime collection can be
17 challenging because it requires work with
18 communities that are often distrustful of law
19 enforcement because of bad prior experiences or
20 lack of language access.

21 Affinity groups may be better
22 positioned to collect the information and report it
23 to law enforcement even in situations where the
24 victim does not want to participate in prosecution.

25 It is sad the numbers that Lynn put up

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1 there showing that probably less than 10 percent of
2 the hate crimes that are reported to law
3 enforcement even show up in the UCR.

4 Number five, get federal agencies to
5 report. Number six, just have better reports. If
6 you try to look at this time at the paperwork that
7 is presented by the UCR, it is unbelievably hard to
8 read in this day and age. Thank you.

9 CHAIR LHAMON: Thank you Mr. Austin.
10 Ms. Deitle.

11 MS. DEITLE: Good afternoon. I'm
12 grateful to the U.S. Commission for inviting me to
13 participate in this discussion with such
14 distinguished panelists.

15 From 1995 until 2017 I was employed as
16 a Special Agent with the Federal Bureau of
17 Investigation. I was extremely fortunate to be
18 able to devote my career to the civil rights
19 program as a street agent in New York City for 12
20 years, as the Chief of the Civil Rights Unit, and
21 as a Supervisor in Boston.

22 I specifically joined the Bureau to
23 investigate allegations of police brutality and
24 violence motivated by hate and bias. As a civil
25 rights agent, I was honored to use the power of the

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1 FBI to protect those most vulnerable in our
2 communities, investigate the police officers who
3 use excessive and unreasonable force, and hold
4 accountable those individuals who target certain
5 folks for violence based on race, religion,
6 ethnicity, disability or sexual orientation.

7 Upon my retirement, I joined the
8 Matthew Shepard Foundation to continue their
9 mission to erase hate through law enforcement
10 training, community outreach, and youth
11 programming. The Foundation was founded 20 years
12 ago by Dennis and Judy Shepard whose son Matt was
13 targeted, attacked and murdered because he was gay.

14 As you are aware, they fought for
15 passage of the Matthew Shepard and James Byrd, Jr.
16 Hate Crime Prevention Act of 2009 which greatly
17 expanded the jurisdiction of the FBI and the
18 Department of Justice to investigate bias crimes.

19 In my 22-year career I learned a few
20 things along the way, which I'd like to share.
21 Street credibility is imperative. If you're a law
22 enforcement official, prosecutor, or victim's
23 advocate, or community leader, you must be a
24 believer and a doer.

25 You must believe that hate crime laws

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1 are necessary to keep communities safe. You must
2 believe that enforcement of these laws is
3 mandatory. And you must believe that reporting
4 hate crimes to your state and to the FBI is one of
5 the most effective ways to mitigate hate fueled
6 violence.

7 If you are not a believer and you are
8 not experienced and passionate about eradicating
9 bias crimes, your law enforcement and special
10 interest partners will not have confidence in your
11 commitment to join them in their quest for equality
12 and justice.

13 Spend the time to learn about hate
14 crimes. Investigate a good number of them. And
15 earn some street credibility.

16 You must be honest and transparent.
17 The federal government actors tasked with the
18 responsibility of investigating and prosecuting
19 hate crimes must be honest and transparent when
20 they carry out their mission.

21 While everyone understands that there
22 are some well-established laws and policies
23 requiring confidentiality in the law enforcement
24 arena, agents and prosecutors must keep an open
25 line of communication with the victim and the

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1 community. And share what they can. Timely
2 transparency builds trust. And trust leads to safe
3 communities.

4 All the players must start from the
5 same place. Building trust between minority
6 communities and law enforcement officers was one of
7 my goals as Chief of the Civil Rights Unit in the
8 FBI, as well as my mission as a Program and
9 Operations Director for the Matthew Shepard
10 Foundation.

11 If officers trust civilians to report
12 crimes in an honest and timely manner, and the
13 victims have confidence that the officers will
14 conduct a thorough and professional investigation,
15 everyone is safer.

16 This symbiotic relationship however,
17 assumes that each player starts at the same place.
18 This equation takes for granted that the officers
19 have been trained to recognize a hate crime, how to
20 collect evidence of bias, and how to use that
21 evidence to successfully prosecute the perpetrator.

22 It also assumes that law enforcement
23 agencies believe that their jurisdiction should
24 enact and enforce hate crime laws. If the bias
25 motivation of the crime is ignored, the victim will

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1 not feel validated, safe, or protected in her
2 community.

3 Accept and acknowledge the past. We
4 are all aware that it wasn't that long ago that law
5 enforcement officers were some of the very people
6 who initiated and facilitated lynchings of African-
7 Americans, targeted LGBTQ community members for
8 harassment and violence, and intentionally failed
9 to protect many other minorities from hate crimes.

10 If the FBI agents working civil rights
11 violations do not accept and acknowledge these
12 facts, they will not earn the trust and respect of
13 the children of these victims, some of whom are
14 facing the potential for the same victimization.

15 Be a leader in the fight for equality
16 and justice. As an FBI agent or government actor
17 involved in eradicating hate, you must be a leader
18 in the fight for justice and equality.

19 Not only must you uphold the rule of
20 law and the Constitution, but you must find new and
21 innovative ways to build relationships, earn the
22 trust of community leaders and minority groups, and
23 you must promote professionalism and integrity.

24 For countless people I met in my
25 career, I was the first and only FBI agent they

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1 ever encountered. I had the honor and duty to
2 ensure that they were left with the belief and the
3 impression that the FBI was an honorable and honest
4 institution.

5 No one wins. Hate destroys everyone it
6 touches, the victim, the perpetrator, their
7 families and the community. When a hate crime is
8 committed, the victim is hurt, traumatized,
9 fearful, and is forever changed.

10 The perpetrator and his family however,
11 are often overlooked when it comes to examining the
12 fallout from a bias incident. In many cases I
13 investigated, the family of the perpetrator was
14 forever changed as well as they learned that they
15 would be seen as bigots regardless of their claims
16 of innocence or tolerance.

17 Oftentimes the perpetrator acted in a
18 violent and biased manner because of their own
19 trauma, their upbringing, and their substance
20 addiction. Federal investigators and prosecutors
21 must be mindful of these factors. And must
22 appreciate that the ripples of hate extend far
23 beyond the targeted victim.

24 Thank you for allowing me to share my
25 thoughts. I look forward to hearing from the

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1 others today.

2 CHAIR LHAMON: Thank you very much Ms.
3 Deitle. Ms. Osgood?

4 MS. OSGOOD: Thank you. Good
5 afternoon. I had the privilege of serving for the
6 Office of Civil Rights for 25 years, both in
7 Headquarters with the current Commission Chair, and
8 in the Chicago Regional Office.

9 And I am very proud of my service,
10 public service for the federal government. And
11 very proud of OCR'S long stated mission of ensuring
12 equal access to education, and promoting
13 educational excellence throughout the nation
14 through the vigorous enforcement of the federal
15 civil rights laws.

16 What I'm going to focus on today, given
17 my background, is the critical role that OCR and
18 the Department of Education must continue to play
19 in preventing and addressing the harassment of
20 students in our schools.

21 I strongly believe that OCR has made a
22 tremendous impact in this area both in its
23 leadership and in the comprehensive approach it has
24 taken to preventing and addressing harassment.

25 Through regulations, policy, guidance,

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1 investigations, and technical assistance, we have
2 seen progress and greater compliance by educational
3 institutions in the area of harassment.

4 And one example I want to give is that
5 I think that because of OCR's policy guidance and
6 strong robust enforcement work in the area of
7 sexual harassment and sexual violence, we have a
8 totally different culture at our schools.

9 And the expectations of parents and
10 students and the communities, are different.
11 People expect that schools will comply with Title
12 IX, that they will prevent and address sexual
13 harassment, sexual violence, when it occurs.

14 And they view that as part of the
15 educational package, what they're getting from
16 their schools when they go to that school. I think
17 that's a tremendous sign of progress in our efforts
18 to address harassment in our educational systems.

19 I have some specific recommendations
20 for how I believe the department and OCR should
21 provide leadership and guidance in this area going
22 forward. And I make these remarks recognizing that
23 we are in an important period in the history of
24 civil rights educational law as the department is
25 currently reviewing all of its regulations as part

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1 of the administration's regulatory review and
2 reform initiatives.

3 And the department itself plans to
4 issue in September, a notice of proposed rulemaking
5 regarding Title IX and sexual misconduct. I know,
6 and I fully expect that the debates over possible
7 changes to OCR's regulations will be exceptionally
8 heated and raucous, and deservedly so given the
9 stakes involved.

10 I think that as we go forward, my first
11 recommendation is that we should use the current
12 and upcoming debate as an opportunity for the
13 federal government and the entire education
14 community, including students, parents, advocates,
15 teachers, faculty members, administration
16 officials, to address harassment issues in a
17 reasonable, collaborative, and equitable way.

18 As we move forward, and I do view us as
19 moving forward, we need to recognize that
20 regardless of what the policy and regulatory
21 changes may be, the obligation and responsibility
22 of schools at all levels to address harassment, is
23 not going away. Schools must continuously affirm
24 that they will not tolerate harassment and take the
25 necessary steps to address harassment effectively.

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1 Our discussions need to focus on how to
2 get better from this fundamental principal forward.
3 And one of the ways to get better is to heed the
4 lessons learned.

5 OCR, the Department of Education, and
6 educational institutions across the country have
7 learned a lot in the last 10 years, 20 years, about
8 how to develop and implement effective anti-
9 harassment policies and procedures.

10 We should also be looking to OCR's
11 guidance as OCR has been working through the facts
12 and specific cases alleging harassment, and
13 becoming, in my view, more sophisticated, more
14 nuanced in assessing the compliance issues related
15 to harassment.

16 I think this body of administrative
17 case law, including past and current OCR cases is
18 very valuable and should be considered closely
19 forward -- going forward.

20 In the spirit of continuous
21 improvement, I really do believe that we should use
22 this public debate as an opportunity to heed the
23 lessons learned by our educational institutions and
24 by OCR so that we can all assess what has been
25 working, what has not been working, and get even

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1 better at addressing these difficult roles.

2 As part of this conversation, I think
3 it's critical that OCR provide clear and reasonable
4 rules. And in my experience at the Department and
5 at OCR, I always felt that we were our most
6 effective as a federal civil rights agency when we
7 were clear through our cases and through our
8 guidance what compliance is, what compliance is
9 not.

10 I encourage the Department to continue
11 to provide clear reasonable rules going forward. I
12 also recommend that we take greater advantage of
13 what I refer to and what I view as kind of a
14 treasure trove of guidance from OCR.

15 OCR has been doing these cases for a
16 long time. The racial harassment guidance came out
17 in 1994. The sexual harassment guidance in 2001.
18 We're looking at decades of cases where OCR has
19 looked at the specific facts of a case and said,
20 yes, this is a violation, or no, this is not.

21 I recommend that OCR consider
22 publishing, with all appropriate redactions, all of
23 its compliance information that's related to
24 harassment. Right now the website only includes
25 resolution agreements and resolution letters, but

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1 it does not include letters where the agency has
2 said there was no violation.

3 Again, if our goal, our common goal is
4 to increase compliance with the civil rights laws
5 that OCR enforces, and reduce harassment of our
6 students, greater understanding of the compliance
7 requirements will, in my view, promote greater
8 compliance.

9 Another recommendation is that OCR
10 provide more technical assistance. This to me
11 seems almost like a no-brainer. Helping schools
12 understand, helping communities understand what the
13 federal laws require, I think has always been very
14 effective.

15 Agencies should continue to provide
16 technical assistance and provide more than it has
17 been in the past year.

18 Some specific suggestions were to
19 update what was affectionately known as the NAAG
20 guide, a comprehensive, multi-jurisdictional guide
21 that was developed by OCR and the National
22 Association of Attorneys Generals. Many schools
23 found that guide to be very useful.

24 Developing a model grievance policy.
25 This has been sort of a pet project that's been in

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1 the works at the agency for many years. And I
2 think that it would be very helpful to schools.

3 And again, just providing more local
4 assistance. Working directly with schools in the
5 OCR region to help them come into compliance.

6 And then finally, I believe that the
7 Department itself should take greater advantage of
8 its own resources and data at the Institute of
9 Educational Science and its National Center for
10 Education Statistics. Thank you very much.

11 CHAIR LHAMON: Thank you Ms. Osgood.
12 Mr. Okubadejo?

13 MS. OKUBADEJO: All right. Thank you
14 so much for inviting me today. I appreciate
15 everything that we've heard today about statistics.

16 But I think like Debbie, I'm coming
17 from a place where I was actively investigating
18 complaints of discrimination and harassment.
19 Actively investigating hate crimes and enforcing
20 some of the laws.

21 And currently I work with colleges and
22 university and educational institutions across the
23 country to craft compliance programs. And I think
24 what I'm seeing is that schools are really hungry
25 for help and wanting to comply in this area.

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1 And are looking for guidance. Sort of
2 the how to respond appropriately under the various
3 civil rights laws.

4 You know, some of the cases I worked
5 with have involved incidents like nooses being
6 placed outside students' lockers or dorm rooms.
7 They've involved sometimes really awful situations
8 where LGBTQ students are harassed in schools and
9 ultimately end up taking their own lives.

10 And helping schools rebuild after
11 something like that happens, and helping students
12 within those schools understand how, you know, a
13 behavior that maybe wouldn't be called a hate
14 crime, was just one more building block that may or
15 may not have contributed to pushing somebody
16 towards a really, really fatal and difficult
17 decision.

18 So, you know, that's sort of the
19 context in which I'm working. And at OCR we had a
20 variety of civil rights laws, you know, Title VI,
21 Title IX, Section 504 of the Rehab Act, that
22 prohibited discrimination and harassment pretty
23 broadly.

24 And that required schools to respond
25 promptly and appropriately when they were incidents

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1 at schools. One of the things that always struck
2 me is that under Title VI it was less clear in
3 terms of requirement for a grievance procedure.

4 And so sometimes that raised reporting
5 issues at schools. And you know, unfortunately
6 under Title VI, you know, the discrimination
7 prohibited is based on race, based on national
8 origin, based on color.

9 And these are some of the areas that
10 we've heard people talk about throughout the day.
11 And what we're seeing sometimes is that students
12 and employees may not know what the process is for
13 raising their hand and saying, this awful thing has
14 happened to me on campus.

15 And if the statute itself, and the
16 regulation, doesn't require that schools have in
17 place a grievance procedure that's published, just
18 like these other laws. So, you know, Debbie just
19 talked about Title IX where there are clearly
20 requirements about what needs to be in place and
21 what's expected to be in place.

22 I think that there's less clarity
23 around that under Title VI, which raises some
24 issues, I think for schools in responding to
25 serious incidents like this. I think it would be

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1 really beneficial for schools to have more guidance
2 documents about how to respond to incidents on
3 campus where there are First Amendment
4 implications.

5 So sometimes we, you know, schools
6 aren't really aware that much student speech or
7 employee speech may be protected. Particularly in
8 public institutions.

9 And many private institutions have
10 language in their policies and procedures that
11 protect speech and expression in ways similar to
12 the protections that public institutions are
13 required to adhere to under the First Amendment.

14 And I think what would be helpful for
15 schools, is if there could be some guidance that
16 helped paint a little bit more of a picture of what
17 to do when there are these incidents involving
18 protected expression where the conduct is tearing
19 the community apart.

20 So, you may have students of color
21 feeling targeted. Feeling like they don't belong
22 on a campus. Feeling excluded. At the same time
23 that the conduct at issue is protected under the
24 First Amendment.

25 And schools are having to navigate

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1 these issues as they happen. And I think are
2 looking for help in doing this.

3 So, I think it would be helpful if it
4 were possible for agencies like OCR, like the DOJ
5 to flesh out some of these issues. Give examples.

6 You know, what do you do? How do we
7 expect you to respond when an incident like this
8 occurs?

9 And then another piece is when there
10 are incidents that don't quite rise to the level of
11 a hate crime. But if you leave them and ignore
12 them and let them fester, that's essentially where
13 you'll be headed.

14 And in some schools there may, you
15 know, if you do a close analysis, it may not appear
16 to trigger an obligation to respond under Title VI
17 or Title IX. But the absence of a response could
18 lead to a more serious incident that could
19 constitute a hate crime.

20 So I think also helping schools
21 understand how to handle those types of incidents.
22 So, you know, do you conduct an investigation? If
23 you do, what does that look like?

24 How quickly are you doing it? Is the
25 fact of your investigation chilling protected

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1 speech? Is there a way to structure that
2 differently?

3 And I think if there could be guidance
4 around those types of areas, it would be incredibly
5 beneficial to schools. And I see the clock
6 ticking. So, I'll just raise one more point that I
7 think is really important.

8 And I think in thinking about how
9 schools and how agencies are interpreting what it
10 means for conduct to be based on sex under Title
11 IX, I think it would be helpful to be able to do
12 that as broadly as possible.

13 I think getting some of the changes and
14 the withdrawal of guidance that we've seen under
15 Title IX, some schools may start to wonder the
16 extent to which conduct involving LGBTQ students is
17 protected. And I think if agencies, if OCR, if the
18 DOJ can make clear that it's continuing to cover
19 conduct aimed at students based on their -- based
20 on sex stereotyping and gender non-conformance.

21 And the types of issues that OCR
22 historically has covered, even as far back as 2001
23 in that guidance, we're seeing language around sex
24 stereotyping. And so I think if it can be made
25 clear that those types of harassment and issues

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1 continue to be covered.

2 And continue to be a priority, it would
3 be really helpful in preventing some of the climate
4 issues that we see for LGBTQ students on campus,
5 where we're seeing really high suicide rates and
6 students feeling excluded on campus.

7 And so those are the main points I
8 wanted to raise. And I thank you for inviting me
9 and for giving me a chance to hear the other
10 panels.

11 CHAIR LHAMON: Thanks very much to all
12 the panelists. We'll open it up for the
13 Commissioners' questions. I understand
14 Commissioner Kladney that you are.

15 COMMISSIONER KLADNEY: Thank you Madam
16 Chair. My questions actually revolve around most
17 of what you've spoken about and I think Mr.
18 Austin's experience. And of course, anybody else,
19 please chime in.

20 But, you said that schools need some
21 guidance. And of course First Amendment
22 implications are very important.

23 I believe one of our other witnesses on
24 the Panel before said something about speech that
25 leads to worse conduct. And I think you just

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1 almost said the same thing.

2 Are there any procedures or model
3 programs or regulations that can be used to help
4 schools in this regard? Because all we've heard
5 about, to me, today is I've heard a lot about data.

6 So, I'm data'ed out.

7 (Laugh)

8 MS. DEITLE: No disrespect.

9 COMMISSIONER KLADNEY: I'm looking for,
10 I'm actually looking for a few solutions because I
11 know First Amendment is important to a lot of the
12 Commissioners here. And --

13 COMMISSIONER KIRSANOW: All.

14 COMMISSIONER KLADNEY: We've had cases
15 -- thank you Commissioner. We've had cases, we've
16 seen cases lately where someone wears a tee shirt
17 to school that's got inappropriate sayings on it.
18 And then the parents take it to court. And you
19 know, there's a whole thing.

20 So, can you give us any guidance? Or
21 do you know where we can look to find some of these
22 types of regulations or approaches that are
23 Constitutional yet helpful?

24 MS. OKUBADEJO: I mean, I think in
25 truth this is what schools are asking for help

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1 with. Because I think there isn't a lot of clear
2 guidance and direction in this area.

3 And it would be incredibly helpful if
4 there were examples of what to do in the instance
5 where a student wears a tee shirt that another
6 student thinks is offensive or a student feels
7 micro aggressed by.

8 You know, how does a school handle
9 that? And how do you balance, you know, the needs
10 and the rights of both students?

11 And what schools are doing right now
12 essentially is navigating really carefully through
13 crucial conversations. And putting on educational
14 programming at the beginning of the school year and
15 at various points during the school year.

16 To help students understand yes, there
17 is the First Amendment, but you know, we also
18 really value certain students on campus.

19 But, you know, in terms of a particular
20 program or a particular regulation, not that I have
21 seen employed regularly.

22 COMMISSIONER KLADNEY: And that's the
23 problem. Right?

24 MS. OKUBADEJO: In my mind that's one
25 of the issues.

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1 COMMISSIONER KLADNEY: And in the cases
2 that you've tried, how has speech interacted with
3 conduct or hate crimes?

4 MR. AUSTIN: So, respectfully I don't
5 see this as even close to an issue in the criminal
6 conduct that I'm talking about. I don't think that
7 the burning of a cross is a First Amendment Issue.

8 COMMISSIONER KLADNEY: Right.

9 MR. AUSTIN: It's a crime.

10 COMMISSIONER KLADNEY: That's right.

11 MR. AUSTIN: I don't think that the
12 assault of a person based on their race, religion,
13 national origin, sexual orientation, is a speech
14 issue. It's a crime.

15 COMMISSIONER KLADNEY: It's factual.

16 MR. AUSTIN: It's factual. Yeah, I
17 mean, I don't -- this isn't a close call for me
18 over whether or not you -- and I think it may be
19 different in the civil context or in the school's
20 context.

21 But, for the numbers that I'm talking
22 about, and I'm sorry that you're data'ed out. But
23 that's kind of something that I feel very
24 passionate about, is that --

25 COMMISSIONER KLADNEY: No, no. It's

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1 fine. I mean.

2 MR. AUSTIN: No. But I'm just saying
3 that it's not -- this isn't an issue. It's already
4 been determined, I think, by the Constitution, by
5 the Supreme Court that when you actually injure
6 someone, or do violence to someone, or you threaten
7 someone based on their race, religion, national
8 origin, sexual orientation that it is in fact a
9 crime.

10 COMMISSIONER KLADNEY: Great. Thank
11 you very much. That's actually an answer I had to
12 another question.

13 CHAIR LHAMON: And we'll turn to
14 Commissioner Kirsanow.

15 COMMISSIONER KIRSANOW: Well thank you
16 Madam Chair. And thanks to the witnesses. I'm not
17 data'ed out. In fact I could use a lot more data.

18 So, the question I have to Ms. Langton
19 is, in your PowerPoint, you have in there that
20 approximately 50 percent of the National Crime
21 Victimization Survey of crimes, hate crimes, are
22 reported.

23 Compared to, I guess you've got a
24 couple of different databases. How does that
25 compare to overall crimes, the number of which are

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1 reported?

2 CHAIR LHAMON: Commissioner Kirsanow,
3 do you mind just moving your microphone up closer
4 to you?

5 COMMISSIONER KIRSANOW: Yeah. I think
6 I broke it.

7 CHAIR LHAMON: Oh, okay. You can
8 switch with Commissioner Heriot.

9 COMMISSIONER KIRSANOW: Yeah.

10 MS. LANGTON: That's a great question.
11 And it's actually pretty consistent with what we
12 see for violent crime in general.

13 The percentage that's reported gets
14 higher when you talk about serious violent crime.
15 Which we define as rape, sexual assault, robbery,
16 and aggravated assault.

17 Bu that is fairly consistent with what
18 we see overall for violent crime.

19 COMMISSIONER KIRSANOW: Okay. And then
20 the second question is, in employment
21 discrimination jurisprudence there's a concept
22 known as mixed motive. That is, someone can make
23 out a prima facie case that they were discriminated
24 against or discharged on the basis of race.

25 The employer says no. He was

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1 discharged because he burned down the warehouse.
2 In other words, there could be two reasons.

3 But if the employer can establish that
4 the person would have been discharged anyway, then
5 that doesn't amount to racial discrimination.
6 Okay?

7 In determining whether or not there's
8 been a hate crime, you said there was corroborative
9 evidence. Let's say somebody steals an iPhone, and
10 in the midst of doing that utters a racial epithet.

11 How do you determine whether or not
12 it's a hate crime or primarily motivated by
13 economic crime?

14 MS. LANGTON: So, we're not making any
15 determination. The NCVS classifies crimes based on
16 their attributes.

17 So, if the victim says their phone was
18 stolen, which -- and stolen from them physically,
19 which could be a robbery. And they believe that
20 the offender was motivated by a racial bias, and
21 they say the evidence for that is that the offender
22 used derogatory or hate language, we would classify
23 that as a hate crime.

24 So, we're not making a judgement call.
25 It's simply based on the attributes of the crime

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1 based on the questions that we're asking.

2 I mean, to your point it is based on
3 the victim's perception. So again, that may not
4 rise to the level of evidence required for a law
5 enforcement agency to record it as a hate crime.

6 But I think that there's still
7 intrinsic value in understanding that that victim
8 perceived that crime to be motivated by bias.

9 COMMISSIONER KIRSANOW: Third, we've
10 got victimization data. Do you have perpetrator or
11 suspect data?

12 MS. LANGTON: So that would be on the
13 FBI side, where they would collect. Especially
14 through the NIBRS Program, the National Incident
15 Based Reporting System, more detailed information
16 about the offenders.

17 But the National Crime Victimization
18 Survey is really focused on the victims. We do ask
19 the victims about their offenders and their
20 perceptions of the offenders.

21 But those can't be used to generate say
22 rates of offending for particular groups.

23 COMMISSIONER KIRSANOW: And last, I
24 posed this question to another Panel. Are there
25 any studies, data, evidence that shows that

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1 designating something a hate crime deters,
2 prevents, or reduces the incidents of that crime?

3 And a subset to that is whether or not
4 designating some as a federal hate crime reduces,
5 deters or prevents such crime?

6 MS. LANGTON: So, I don't have anything
7 in my survey data that I could point to, to answer
8 that question. And I'm not sure of particular data
9 sources that would be used to address that
10 question.

11 Certainly the NCVS is a longitudinal
12 survey. So we go back to victims or to respondents
13 seven times over the course of three and a half
14 years.

15 So, it would actually be an empirical
16 question to see whether someone reports a hate
17 crime in one wave of the survey. And whether they
18 experience a hate crime in later waves of the
19 survey.

20 I'm not sure you would be able to say
21 that the actual reporting of that and their
22 discussing that as a hate crime sort of would
23 impact their behavior perhaps, or the preventative
24 measures they would take personally.

25 I'm not sure you could go that far with

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1 it. But, that's about all you could say with the
2 NCVS data.

3 COMMISSIONER KIRSANOW: Is there any
4 evidence that it assists in the apprehension of a
5 suspect? Designating something as a hate crime?

6 MS. LANGTON: We don't have any
7 evidence of that from the NCVS that we could speak
8 to.

9 COMMISSIONER KIRSANOW: Thank you. I
10 don't have any other questions.

11 CHAIR LHAMON: All right. So I also am
12 not data'ed out. I saw that last month the BJS
13 published a Federal Register Notice of a request to
14 OMB to revise the NCVS to raise the minimum age
15 from 16 to 18 in which respondents will be
16 administered questions about their sexual
17 orientation and gender identity.

18 And I wonder if you could explain to
19 this Commission, what would be the value of knowing
20 less about when youth are subject to crime based on
21 sexual orientation or gender identity?

22 MS. LANGTON: So, just to be clear, we
23 are not making any changes to the questions about
24 hate crime and the questions about whether the
25 crime was motivated by sexual orientation bias.

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1 Those questions will continue to be
2 asked of all respondents age 12 or older. We have
3 proposed raising the minimum wage -- oh, the
4 minimum wage. The minimum age.

5 CHAIR LHAMON: The minimum wage also.
6 Yeah.

7 MS. LANGTON: Different conversation.
8 The minimum age at which we're asking respondents
9 about their sexual orientation.

10 And the comment period on that Federal
11 Registry Notice closes today. And we'll be
12 reviewing the comments and assessing those and
13 making a determination from there.

14 CHAIR LHAMON: Thank you. But that was
15 non-responsive. So, my question is, what is the
16 value of knowing less about the sexual orientation
17 of victims of crimes? Or the gender identity?

18 MS. LANGTON: Well, the concerns are
19 more about the sensitivities of the data and the
20 sensitivities of asking respondents that are minors
21 and maybe in the presence of their parents, those
22 questions.

23 Less about the utility of the value --
24 of the data, trying to balance potential
25 sensitivity issues with collecting this data.

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1 CHAIR LHAMON: And I think you were
2 present during the earlier panel when the earlier
3 panelists were talking about the civil rights data
4 collection, which as you may know, also collects
5 that same data and manages the sensitivity while
6 also getting the information.

7 So it's again, a surprise to me to see
8 the suggestion to change it, which would diminish
9 the value of the data that we've heard all day is
10 substantially less valuable than it could be
11 already.

12 MS. LANGTON: We'll be reviewing the
13 comments that are received and taking those into
14 consideration certainly.

15 CHAIR LHAMON: Okay. I see that there
16 are more questions. But I'm just going to take the
17 microphone while I have it and ask my long list of
18 questions. Because I still can, we have another
19 half an hour.

20 So, to our former education folks,
21 thank you for coming. In your time at the
22 Department, are you aware of any times when the
23 Department took particular steps focused on bias
24 incidents in schools?

25 Maybe creating a task force, or taking

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1 steps to try to address those incidents? And if so,
2 could you describe what those steps were, whether
3 they were effective, and what your views were about
4 them?

5 MS. Osgood: I think there have been a
6 number of steps. Obviously the issuance of the
7 policy guidance in racial harassment, sexual
8 harassment, disability harassment, those have all
9 been helpful.

10 After 9/11 the Department also issued a
11 guidance or a letter reminding schools to take
12 action not to discriminate against Arab-American
13 students. I think that was helpful.

14 It was a very forceful leadership
15 statement from the Department. So, I think that
16 that was helpful.

17 I mentioned the NAAG Guide, which was a
18 really remarkable accomplishment to get all of the
19 National Attorney Generals and the OCR to publish
20 this six hundred and something page document which
21 provided some very specific guidance for schools
22 about how to address this issue.

23 We also worked collaboratively with the
24 Department of Justice, including one of the
25 panelists here on a number of harassment cases

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1 including a case in Anoka Hennepin, Minnesota
2 involving gender stereotyping and the University of
3 Montana sex harassment and sexual violence case.

4 So, there were those initiatives as
5 well, which were part of the Agency's enforcement
6 package.

7 CHAIR LHAMON: And am I to understand
8 that those were particular targeted efforts? Or
9 were they just part of the regular enforcement
10 package?

11 And the distinction I'm trying to draw
12 is whether you think that there's value in the
13 Agency affirmatively focusing on a particular area
14 in its enforcement efforts.

15 MS. OSGOOD: I think that any time the
16 agency has focused on a particular area we've seen
17 progress. We've seen -- I mentioned in the sexual
18 violence area, we've seen schools handling this
19 issue better.

20 So, I would say following that, in my
21 experience, yes. Any type of increased attention
22 generally leads to better compliance and better
23 results.

24 CHAIR LHAMON: Thank you.

25 MS. OKUBADEJO: I agree.

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1 CHAIR LHAMON: Succinct. Thank you.
2 Okay. In that same vein Mr. Austin, I worked with
3 you in our prior lives on some joint interagency
4 task force work, in particular, focused on AAPI
5 harassment in this area.

6 And I wonder if you could describe that
7 work, the value that you saw in the work, if any,
8 and whether you know of a continuation of those
9 efforts, and whether you think they should continue
10 or not?

11 MR. AUSTIN: Yeah. And let me just
12 start by, and I apologize for this, but I do want
13 to address --

14 CHAIR LHAMON: That's fine.

15 MR. AUSTIN: Commissioner Kirsanow's
16 questions and whether or not there's any deterrent
17 effect or assist in the apprehension.

18 I would say, absolutely. First of all,
19 in a country where we believe that greater
20 sentences have a deterrent effect, the fact that
21 there is usually an increased sentence, an
22 enhancement based on the fact that something is a
23 hate crime, certainly has a deterrent effect to the
24 extent any of our laws provide a deterrent effect.

25 Whether it assists in the apprehension,

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1 absolutely. I had a chance to work with Cynthia
2 Deitle, Agent Deitle on a number of investigations.

3 And if I can bring the FBI in to
4 investigate a hate crime, the likelihood of
5 apprehending the individuals who were perpetrating
6 that crime has increased dramatically.

7 Not to mention just having the
8 knowledge that a federal agency is going to be
9 sitting on top of a local agency and demanding that
10 that local agency actually do a proper
11 investigation, is going to increase the
12 apprehension or the likelihood of apprehension of
13 the subjects.

14 And just, you can't understate the
15 importance of public awareness over hate crimes.
16 The condemnation, the shame that goes with that.
17 And how that impacts whether or not someone is
18 going to commit one in the future.

19 So I just want to be clear that I think
20 that without question, calling something a hate
21 crime actually matters. And in my personal
22 experience it matters.

23 And sorry Chairwoman Lhamon --

24 CHAIR LHAMON: That's totally fine,
25 thank you.

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1 MR. AUSTIN: But, with respect to the
2 work that we did in Anoka Hennepin, I mean, we were
3 -- it was incredibly important because not only did
4 we identify a problem, but there was actually work
5 between the Department of Education and the
6 Department of Justice on fixing that problem.

7 On going into the school and working
8 with the different communities that were impacted
9 by it. On working with the teachers, the parents,
10 everybody who was impacted by this.

11 By making a statement to schools around
12 the country over what was permissible and what was
13 not permissible, and what would be acceptable in
14 this country and not acceptable in this country.

15 I think the work that we did was
16 incredibly important, was noted by communities
17 around the country.

18 And I haven't seen that work continuing
19 today. That's really my answer.

20 CHAIR LHAMON: Thank you. Separate and
21 apart from the enforcement work that you just
22 described, which I appreciate, I know you also led
23 actual interagency task force focused on AAPI
24 bullying and put out guidance and materials about
25 it.

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1 But also that followed many, many
2 listening sessions and interagency work together
3 about understanding the scope of the problem and
4 then trying to assess what appropriate next steps
5 would be.

6 And in an earlier Panel we heard from
7 Bob Moossy about intra-DOJ work toward those same
8 ends now, which sounded very impressive and
9 laudable.

10 He was not familiar with interagency
11 work now continuing. And I wonder if you have a
12 view about how valuable that work has been and
13 whether it should continue?

14 MR. AUSTIN: And let me give credit to
15 Jocelyn Samuels in large part. Because she was the
16 head of a lot of the education work that was
17 happening. And I had the opportunity to work very
18 closely with her.

19 You know, having a group of people from
20 inside of a particular agency meet to discuss an
21 important issue is a meeting. Okay. That's the
22 meeting we could have every -- any day at any time.

23 It is so important to bring in, first
24 of all, others who have a different expertise, a
25 different experience. To bring in the community,

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1 to bring in the public to those meetings.

2 Because we don't know everything. If
3 we're sitting in DOJ as important as we thought we
4 were in DOJ, not working with the Department of
5 Education, not working with the Department of
6 Labor, not working with all these other
7 departments, meant that we weren't getting all
8 possible information.

9 It meant that we weren't doing the job
10 that needed to be done. You must bring in other
11 agencies and their expertise and their knowledge
12 and their employees who are working so hard.

13 Or you're just not doing what needs to
14 be done. And so having a meeting among DOJ people
15 to congratulate DOJ people on the great job DOJ
16 people are doing, is not really a useful adventure.

17 CHAIR LHAMON: Thank you. I'm going to
18 hold my other questions for the moment because I
19 understand that other Commissioners have questions.

20 Commissioner Narasaki?

21 COMMISSIONER NARASAKI: Thank you Madam
22 Chair. So my first question is about data. And
23 I'm -- I get a little lost in all the acronyms and
24 the different studies and who's doing them, and
25 what.

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1 But one of the issues that came up in
2 an earlier panel is the fact that many immigrant
3 communities may not be reporting on hate crimes
4 because particularly if they're undocumented, or
5 someone in their family or life is undocumented,
6 they may fear the risk of that.

7 My understanding is that potentially in
8 at least one of the three databases, there's the
9 NCVS, the ECR, and then NIBRS, or whatever that's
10 called, they may actually have, because of the
11 Patriot Act, the civil detainers.

12 Which is basically the list of people
13 who should be deported if they're caught because
14 they have violated the immigration laws.

15 Is that a correct understanding? Does
16 that exist in any of the databases? Or is that
17 just a rumor?

18 MS. LANGTON: I can't speak to the
19 NIBRS data, which is the National Incident Based
20 Reporting System, that's the FBI's. But not in the
21 National Crime Victimization Survey, certainly not.

22 CHAIR NARASAKI: Mm-hmm. Does anybody
23 know about the other ones?

24 MS. DEITLE: I do not. But I would
25 make one point, which is if someone who's

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1 undocumented goes to a non-governmental agency, so
2 Catholic Charities or Bridge Refugee Services, and
3 says, I was a victim of a hate crime, and that
4 agency has a solid relationship with the FBI or the
5 Department of Justice for example, and that's
6 reported then to the FBI or DOJ, unless we initiate
7 a case, that's not counted as a hate crime.

8 So, the FBI would never report that as
9 one hate crime. We might agree that a crime was
10 committed and write a report about that.

11 But if that's not investigated or
12 prosecuted by DOJ, that's not even one. That
13 doesn't go anywhere.

14 COMMISSIONER NARASAKI: No, no. But
15 I'm saying that the concern is that immigrants may
16 not be going to actually report to the police.

17 MS. DEITLE: Right.

18 COMMISSIONER NARASAKI: Because they're
19 afraid that if they do, A, they'll be detained
20 because the police will ask.

21 Or B, if it ends up in a database, and
22 it gets matched against a DHS list, they'll be
23 deported. I'm just trying to understand the
24 interaction between the various lists that exist in
25 law enforcement land.

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1 MS. DEITLE: The only thing I can say
2 is that if that scenario happened when I was still
3 with the FBI, there was no cross-pollination with
4 Homeland Security.

5 So, if an undocumented immigrant came
6 to the FBI and said, I've been a victim of a hate
7 crime, and that went into our database, that
8 information was not submitted, or had access to
9 Homeland Security that then would act on the
10 undocumented status of the victim.

11 COMMISSIONER NARASAKI: Great. That's
12 helpful to know. Then the second thing is, so
13 several people have remarked upon the fact that the
14 federal government itself is not reporting data on
15 hate crimes, but asking the states to.

16 And you were candid enough to note, Mr.
17 Austin, that even in your administration that
18 didn't happen. So, why is it not happening?

19 Are there barriers? What needs to
20 happen to try to make that happen?

21 MR. AUSTIN: There's not a barrier that
22 I'm aware of. I actually used to get monthly
23 reports of the hate crime investigations that were
24 being conducted by the FBI and the prosecutions
25 that were being done by the Civil Rights Division.

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1 Those reports I would assume are still
2 being done. Someone decided not to make those
3 things public.

4 But, people will come and testify on
5 the Hill, before a Commission such as this. And
6 they will say what the numbers are.

7 But, we go all the way back, I want to
8 say, like 15, 20 years of having these numbers
9 across every piece of work that's done by the Civil
10 Rights Division. I know that the FBI also has
11 similar numbers.

12 But they are never released publically.

13 COMMISSIONER NARASAKI: So if our staff
14 went and asked for the data, we wouldn't be told
15 that there's some sort of privilege over it that
16 would keep us from getting it?

17 MR. AUSTIN: I am unaware of any
18 privilege that would prevent you from getting it.
19 But, I don't know what they might say.

20 COMMISSIONER NARASAKI: Great. Thank
21 you. Oh, I just have one more question --

22 CHAIR LHAMON: Oh, I'm sorry.

23 COMMISSIONER NARASAKI: About the
24 interagency, sorry.

25 CHAIR LHAMON: Go ahead.

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1 COMMISSIONER NARASAKI: So, one of the
2 things that struck me about the interagency task
3 force that has existed in the past on hate crimes,
4 and particularly, I believe it also was part of the
5 effort to address bullying against Asian-American
6 and Pacific Islander students, is the involvement
7 of HHS.

8 And particularly their mental health
9 agencies. And I was intrigued by that, and I would
10 like to understand why that's an important
11 component of that kind of task force.

12 MR. AUSTIN: DOJ knows how to prosecute
13 people. HHS is much more in the world of mental
14 health.

15 You want those experts in there. You want
16 that expertise in there. Just like again, DOJ is
17 in the business of prosecuting people.

18 And you want the Department of
19 Education to say, well what makes a good
20 educational environment? This is why we have
21 what's called crisis intervention training for law
22 enforcement.

23 The idea that law enforcement officers
24 shouldn't be the ones necessarily always dealing
25 with people who are in some kind of mental health

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1 crisis. You actually want a social worker. You
2 want someone who knows it, to save lives.

3 So, you want people's expertise. And
4 that expertise does not sit in any one agency. It
5 doesn't sit in any one body.

6 COMMISSIONER NARASAKI: And is there, I
7 mean, we heard also from a couple of witnesses,
8 particularly some of our witnesses who were
9 personally victims or connected to victims about
10 the intersection of mental health issues, both in
11 terms of being a victim but also being a
12 perpetrator.

13 How much work is being done in the
14 federal government to understand that? And to look
15 at how can you address where the mental health
16 issues are in terms of trying to help those who --
17 so you can avoid an action coming in the form of a
18 hate crime because you have failed to address the
19 mental health issues?

20 MR. AUSTIN: I would actually pass to
21 my education panelists. Because --

22 COMMISSIONER NARASAKI: Yeah. No, I
23 was asking everyone. It's not just --

24 MR. AUSTIN: Yeah. Okay. Sorry.

25 COMMISSIONER NARASAKI: I'm not just

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1 picking on you.

2 MR. AUSTIN: Sorry, sorry. No, I just
3 think that that's where so much of this work can be
4 done. Not from a law enforcement officer, but by
5 an educator.

6 MS. OKUBADEJO: And I agree. I think
7 that's one of the critical pieces that's missing
8 is, you know, focusing on mental health issues
9 among students.

10 And you know, as you know, many schools
11 struggle to provide effective mental health
12 services to students. Many are under-resourced.

13 You know, that's a topic that comes up
14 often. And part -- from what I saw at OCR and even
15 now, you know, part of an effective institutional
16 response to hate crimes on campus or bullying or
17 harassment on campus is making sure that students
18 have resources.

19 So students on both sides of the issue,
20 the person who's the target of the harassment or
21 discrimination and then also the person who's
22 perpetrating.

23 And schools -- for example this is one
24 way that Title IX I think gets it right, is that
25 schools are actively offering to students, as soon

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1 as they come in the door, or to employees,
2 connections to on campus and off campus resources
3 to address mental health issues and to target that.

4 And I think that happens to a lesser
5 degree under other statutes. So when there are
6 issues of racial, or disability harassment coming
7 up, we're seeing less of that.

8 But, I don't think there is the type of
9 targeted and thoughtful response that you're
10 talking about where, you know, educators and
11 various groups at the government or at schools are
12 getting together to think through how to address
13 this systematically.

14 I don't think that's happening. But
15 it's hugely needed.

16 MS. OSGOOD: I would say I agree, but
17 also add that there has been talk for a number of
18 years of the Department providing some guidance,
19 perhaps with DOJ, on direct threat, students that
20 pose a risk to themselves or others, and how should
21 schools handle it: What type of accommodations?
22 What type of leave policy should be in place?

23 And that never really came to any
24 formal fruition. And so I would add that to the
25 list of items that BZ mentioned in terms of where

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1 greater clarity would be helpful.

2 CHAIR LHAMON: Okay. Thank you so
3 much. So for example if that guidance were
4 written, it would be good if it were released?

5 MS. OSGOOD: Yes, ma'am.

6 CHAIR LHAMON: Commissioner Adegbile?

7 COMMISSIONER ADEGBILE: Dr. Langton, I
8 have a question for you, understanding that you
9 don't have this absolute power.

10 But, first I want to ask, what is your
11 view about the quality of the data? Your former
12 colleague had a view about the data not being of
13 the highest quality.

14 I'm just wondering, you, as a
15 statistician, what is your view of the quality of
16 the data that you have to analyze?

17 MS. LANGTON: So, are you asking me
18 about the quality of the FBI data? Or the quality
19 of the National Crime Victimization Survey data?

20 COMMISSIONER ADEGBILE: Well, both.

21 MS. LANGTON: So, I'll speak to the
22 quality of the National Crime Victimization Survey.
23 And you know, I think it's considered the gold
24 standard in victimization surveys.

25 And plays a really important role. And

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1 the Census Bureau is our data collection agent, and
2 we, BJS and the Census Bureau have policies and
3 procedures in place at every stage to try to ensure
4 that we're collecting data that are accurate and
5 reliable.

6 So, starting from even the development
7 of the questions and the process that we go
8 through, working with folks with expertise to make
9 sure that we're developing questions that are
10 understood and are capturing the concepts that
11 we're trying to measure.

12 The testing process that we go through
13 with those questions, to then administer them to
14 potential respondents and ensure that respondents
15 can answer the questions in the way that we think
16 they're going to answer them.

17 And that they're comprehending the
18 question the way that we're intending. And then we
19 have extensive testing that we do with our
20 interviewers to ensure that they are administering
21 the survey in a manner that's consistent for all
22 respondents.

23 We have all sorts of data quality
24 procedures and cleaning procedures that are put
25 into place to ensure that the final data are high

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1 quality and accurate and reliable.

2 And obviously, the National Crime
3 Victimization Survey captures much higher counts of
4 hate crime victimization than what you see in the
5 UCR data.

6 And there are a number of reasons for
7 that. And that's part of the reason that we have
8 the National Crime Victimization Survey, to serve
9 as that sort of complementary measure and to get at
10 both the dark figure or the hidden figure of crime.
11 And also to collect data that is not filtered
12 through any sort of lenses.

13 Police data are filtered. Whether it's
14 filtered at the law enforcement level, or it's
15 filtered in what law enforcement agencies report to
16 the UCR.

17 There is some potential there for that
18 filter. And we're collecting information directly
19 from residents.

20 COMMISSIONER ADEGBILE: Do you think
21 there is under-reporting in that data nevertheless?

22 MS. LANGTON: Absolutely. There's
23 error in every data source. And there's absolutely
24 going to be some under-reporting in the National
25 Crime Victimization Survey.

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1 You're asking people about very
2 sensitive topics. And so that's absolutely a
3 problem.

4 But, you know, we try to put measures
5 in place to ensure confidentiality, privacy of
6 interviews. Putting all these procedures in place
7 to encourage respondents to report on what
8 happened.

9 But that's always a possibility.

10 COMMISSIONER ADEGBILE: Thank you. Mr.
11 Austin, you suggested that perhaps one way to
12 improve the FBI data, I take it, was to have
13 mandatory reporting. Is that right?

14 MR. AUSTIN: That is correct.

15 COMMISSIONER ADEGBILE: Now, would that
16 stand in contrast to general crime reports that the
17 FBI gets? Meaning, aren't all of the crime reports
18 voluntary?

19 MR. AUSTIN: They are.

20 COMMISSIONER ADEGBILE: So, what would
21 be the policy, how would we think about this as a
22 policy justification to say that hate crimes are so
23 important that they should be mandatory, and other
24 crimes should be voluntary?

25 MR. AUSTIN: So, I actually wouldn't

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1 make that distinction. And so my feelings are
2 actually across all of our crime data.

3 I think most of our crime data is
4 really bad. And we should be doing better. And
5 for a country that values public safety as much as
6 we do, it is actually embarrassing how bad our
7 crime numbers are across the board.

8 And so, and I think it's just as easy
9 to collect your hate crimes data at the same time.
10 And I think that's what NCVS does, is collects
11 their hate crimes data along with their regular
12 crime data.

13 That's how the census does it. The
14 same thing should be done with law enforcement
15 agencies when you're seeking UCR data.

16 COMMISSIONER ADEGBILE: So, are you
17 making a larger point than that perhaps the extent
18 to which our crime data overall suffers the
19 deficiency of being based on voluntary reporting,
20 our criminal justice policies and investments may
21 not be well put because they're based on garbage
22 in, garbage out data?

23 MR. AUSTIN: Absolutely. But I would
24 say the hate crimes data is particularly laughable.
25 When you have, you know, states where you know more

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1 than seven hate crimes have occurred reporting
2 seven hate crimes, and using that to make any
3 decision, I think is a real problem.

4 COMMISSIONER ADEGBILE: Thank you. Ms.
5 Osgood and Ms. Okubadejo, I definitely need to
6 pronounce that name correctly with a name like
7 Adegbile.

8 So, my sister here. So, my questions
9 to you go to the impact in the higher ed space in
10 particular, of having guidance and certain policy
11 pronouncements put in place, and then taken away as
12 they're starting to take root.

13 Obviously administrations have the
14 opportunity to have their own view about their
15 policy pronouncements. But particularly in some
16 areas where the law is starting to become
17 established or to bring greater protections to
18 communities that have been found to be particularly
19 susceptible to certain dangers in our schools.

20 I'm just wondering what the policy --
21 or forget the policy. What are the real world
22 implications of that whipsaw effect for our kids?

23 MS. OSGOOD: So I do a lot of
24 presentations where I talk about the protections
25 for transgender students and the changes in federal

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1 policy, changes in federal law. I always remind
2 schools that they can do more than is actually
3 required by the laws.

4 That they can protect even if it's not
5 specifically with -- protected under OCR guidance
6 or the like.

7 I think you're suggesting that there's
8 kind of almost a whipsaw effect of when a policy is
9 issued, it's starting to sort of blossom and we're
10 seeing some progress. And then it's withdrawn.

11 I think that's a fair observation. I
12 do think even with the withdrawal of the
13 transgender guidance and the issuance of the
14 interim guidance for sexual violence, we have made
15 progress.

16 I think students are better protected
17 than they were. And now in my view we're in this
18 kind of period of recalibration where there's an
19 agreement as to principle maybe, but how we get
20 there, we're going to have pretty robust debates
21 about it.

22 MS. OKUBADEJO: I mean, I think it
23 really depends on the context. And for some
24 students, I would say withdrawal of the -- and
25 employees also, withdrawal of the transgender

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1 guidance in particular was devastating for some.

2 And in some cases dangerous. Because I
3 think the message that some heard was that it is
4 now okay again to discriminate and to treat people
5 differently.

6 And to, you know, impose discipline if
7 somebody uses quote unquote the wrong restroom.
8 And so I think those types of changes can be really
9 difficult.

10 Luckily though, I think what Debbie is
11 saying is true that schools for the most part, and
12 none of the schools with which I work made any
13 kinds of changes to their internal policies or
14 procedures when that guidance was withdrawn.

15 Because I think they were recognizing
16 that all students are important members of their
17 communities. And all students will be protected.
18 And the rights of all students will be respected.

19 And so, you know, I didn't see
20 immediate changes. But, you know, I can imagine
21 circumstances, in, you know, cases where maybe I
22 wasn't involved in a rural school district where a
23 school district made maybe a different decision
24 than they would have made pre-withdrawal of
25 guidance.

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1 So, I think that can be challenging and
2 can be confusing to schools sometimes if there's a
3 lot of back and forth.

4 COMMISSIONER ADEGBILE: Thank you.

5 CHAIR LHAMON: Thank you for that also.

6 COMMISSIONER ADEGBILE: One last
7 question to Agent Deitle, or former Agent Deitle.
8 I want your view of the relationship between the
9 federal government and local law enforcement.

10 You're somebody who had a long career
11 enforcing some of these laws, investigating these
12 laws, shall I say, in the context of the federal
13 power and the federal law.

14 And obviously there are many state
15 laws, as we all know. And as a general matter,
16 very often the states go first. But sometimes
17 there is a helpful, as we've heard from Mr. Austin,
18 collaboration and a federal presence.

19 So I'm wondering, for example, had you
20 been at the FBI at the time of Charlottesville, how
21 would you have understood the relationship between
22 the federal government and the local officials that
23 were responding to the events that we all witnessed
24 and some of our earlier witnesses in very tragic
25 ways?

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1 MS. DEITLE: Thank you for your
2 question. The FBI would not be able to do its job
3 without information and intelligence.

4 We would also fail miserably without
5 having relationships in place, not just with local
6 law enforcement, but with so many people in the
7 community. With community leaders, with education
8 leaders. We would fail miserably.

9 I think one of the things the FBI does
10 well in all of our field offices is to establish
11 and strengthen the relationships with local law
12 enforcement. So, every special agent in charge has
13 a very solid, healthy, strong relationship with all
14 of the police chiefs and sheriffs, the state police
15 officers, school resource officers oftentimes, too.

16 To make sure that when there is
17 something like Charlottesville, or another tragedy,
18 there's already those relationships in place to be
19 able to have a very quick conversation. To have a
20 dialog very quickly about Mr. Police Chief, Ms.
21 Police Chief, what do you need?

22 This is what we can do to help you, do
23 you want us to hang back for a little while? Just
24 tell us what you need.

25 Because this is what we can help you

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1 with. If those relationships are all -- if they're
2 not already established, it makes it really
3 difficult to respond effectively to, whether it's a
4 hate crime tragedy or a police misconduct
5 situation, it's very difficult to respond with
6 trust and transparency if those relationships are
7 not already solid.

8 So I think the FBI does a really good
9 job with partnering with local law enforcement and
10 establishing those relationships before there's a
11 problem.

12 I think what we can always offer is,
13 we're here. And I think that Roy talked about that
14 too. We're here, we can help.

15 We have a lot of tools. We have a lot
16 of resources. We have a lot of money and a lot of
17 very committed and passionate people that are here
18 to help in a variety of ways.

19 But we like it to be collaborative. We
20 don't want to impose the will of the FBI on a local
21 law enforcement agency without it being a
22 collaborative partnership. That just works more
23 effectively.

24 So, I do think we do a good job with
25 that. And especially if those relationships are

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1 already set, I think we respond more effectively.

2 COMMISSIONER ADEGBILE: Are there ever
3 circumstances where the feds go first?

4 MS. DEITLE: There are. So, I've had a
5 number of cases when I was an agent and a
6 supervisor and unit chief that, for a particular
7 hate crime situation it was the decision not just
8 of the FBI, but also the Department of Justice that
9 the interests of justice were to be served if the
10 FBI and DOJ went first.

11 Those are very rare circumstances. And
12 I think Roy and I have had numerous conversations
13 about this, I think the power of the federal
14 government in this area is most effective if we
15 serve as that backstop.

16 So we are here if you need resources.
17 We are here if maybe we need to go first. But we
18 like all those decisions and discussions to be
19 again, collaborative.

20 We certainly don't want to make a
21 decision with DOJ to go first in a hate crime
22 situation without the agreement and participation
23 of that local law enforcement agency. And the
24 victim too.

25 We want it to be a very transparent

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1 decision-making process with the victim and the
2 community as well. So, we do go first. But that's
3 a very rare circumstance.

4 Sure. Thank you.

5 CHAIR LHAMON: Thank you. Commissioner
6 Yaki?

7 COMMISSIONER YAKI: Thank you very
8 much. Thank you all, the panel for your discussion
9 today.

10 To me there seems to be two sort of
11 under-reporting issues that we're talking about
12 today. One is on the victim's side.

13 And as much as, since we are almost out
14 of time, I'm not going to go into that other than
15 to say that part of me believes that when you have
16 rhetoric from policy leaders that diminishes the
17 worth of those groups who would want, or
18 individuals who want to report because they are
19 Mexican-American, because they are an immigrant,
20 because they see that the consent decree for the
21 police department is no longer in place, it
22 diminishes the confidences of people to do that.

23 But I'm not going to talk about that.
24 What I want to talk about, because we have very
25 little time, is that there is -- one of the persons

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1 this morning said, I'm going to direct this at Mr.
2 Austin and Ms. Langton.

3 When I asked the question about, how do
4 you get at the issue of under-reporting by state
5 agencies? Which is a different issue than the
6 under-reporting by victims, which can be, you know,
7 impacted by outside factors.

8 The answer this person gave was,
9 resources. That they have antiquated, for lack of
10 a better word, it sounded like antiquated computers
11 that couldn't process data and get the data to DOJ
12 in the appropriate form or whatever.

13 I want to know whether or not A, you
14 believe that's -- how believable that is. I'm not
15 saying it isn't believable.

16 But, in terms of importance, is it lack
17 of will? Is it lack of interest? Or is it lack of
18 capital infrastructure?

19 MS. DEITLE: I'm just going to make one
20 quick point to answer your question. I've had
21 those conversations with police chiefs and sheriffs
22 in my career, the ones that do not report.

23 And I've asked them, why don't you
24 report? And I get every answer that you just gave
25 just now. I get answers of, I don't have time for

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1 that.

2 I don't have an intern that can do
3 that. My computer broke. Why do I have to do
4 that? My state agency doesn't mandate that I do
5 that.

6 I've gotten every response you possibly
7 can think of.

8 COMMISSIONER YAKI: My canine unit ate
9 the paperwork, or something like that.

10 MS. DEITLE: Right. I don't have
11 paperwork that can -- I've heard many. And I think
12 I gave this answer right before the hearing
13 started.

14 But, I think one way to address that,
15 the answer of, I just can't get that done, is to
16 put -- to continue to put the onus back on the FBI.
17 To say, look FBI, you collect all the data.

18 This is your data. You put out the
19 data. You analyze the data. You collect the data.
20 The FBI has to do a much better job getting the
21 data. And convincing sheriffs and police chiefs to
22 put their information into a system that then the
23 FBI and that Lynn can access.

24 But in response to the questions of, I
25 just can't get that done, there's always an answer.

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1 And the answer could be, what do you need?

2 Do you need an intern? Well, let's
3 look at the local community college and get a
4 criminal justice intern to help you, Mr. Police
5 Chief. And she can take that data down and enter
6 it into your system.

7 Do you not have the money to upgrade
8 your computer system? We're going to go back to
9 DOJ and we're going to get you a grant. It's going
10 to fund your system and make it better.

11 Do you not see value in reporting?
12 Well, let's talk about that too. There was always
13 an answer. But the issue is, you had to have that
14 conversation.

15 So the special agent in charge, not
16 that I ever was one, but the FBI had to have that
17 conversation with local law enforcement to find
18 out, why are you not reporting? Help us.

19 We want the data. And we want the
20 information. If you're having a problem, we're
21 going to help you fix it.

22 MR. AUSTIN: And just really quickly.
23 First of all I need to correct Cynthia. She kept
24 speaking of the FBI and DOJ, because she's an FBI
25 agent.

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1 DOJ is actually over the FBI. But,
2 sometimes they forget that.

3 (Laughter)

4 MR. AUSTIN: The only other thing I
5 would point out is just the fact that really,
6 there's not a law enforcement agency in this
7 country that is worth its salt that does not
8 collect data on the crimes that are happening.

9 For them to say they can't release it
10 is actually, usually it's pretty silly. Okay?

11 They have it. They know their homicide
12 numbers. They know the vandalism numbers. They
13 know the shoplifting numbers. They have those
14 numbers.

15 It is really in most cases, a lack of
16 will. And a decision not to have their agents,
17 their agents, their officers, their deputies ask
18 the question, you know, why do you think this
19 happened to you?

20 Well, I think it happened to me because
21 of the color of my skin. I think it happened to me
22 because of my sexual orientation.

23 And then checking a box to say that
24 that is the reason. And then putting that
25 information into whatever system they currently

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1 use.

2 There certainly isn't a major law
3 enforcement agency in this country that doesn't
4 collect data across the crimes and then sit down
5 and tell everybody what that is.

6 Because if they didn't, the sheriffs
7 wouldn't be elected, or the police chiefs wouldn't
8 be appointed.

9 MS. LANGTON: And just to take this in
10 a slightly different direction, moving away from
11 the infrastructure issues, I think you know, the
12 big improvement that we're making to the National
13 Crime Victimization Survey right now, which is a
14 major undertaking beginning in 2016, is to change
15 our sample design so that we can collect state
16 level, or produce state level estimates of
17 victimization, including hate crime, for the 22
18 most populous states as I mentioned earlier.

19 And that gives the ability to at least
20 then triangulate at the state level between the FBI
21 data and the NCVS. And potentially even local law
22 enforcement data too, to be able to piece together
23 this picture of where there are these discrepancies
24 in terms of, we have 110,000 victims saying that
25 they're reporting to police that they experienced a

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1 hate crime.

2 When we drill down then at the state
3 level, what does that mean in terms of how many
4 victimizations are getting recorded and reported by
5 law enforcement.

6 CHAIR LHAMON: Okay. So we are past
7 time. But the Vice Chair is going to take us home
8 with the last question of the day.

9 VICE CHAIR TIMMONS-GOODSON: All right
10 then. Thank you very much Madam Chair. And I
11 thank our panelists for being with us today, it's
12 been absolutely wonderful.

13 Through the materials that I read in
14 preparation for this hearing, and from the
15 testimony that I've received, at this point I've
16 been convinced that the collection of good data is
17 absolutely imperative to combating hate crimes.

18 And yet we've heard repeatedly today
19 information that causes us to question the validity
20 and the value of the data. Through other panelists
21 and through you, Mr. Austin, we've heard ways to
22 improve the system of collecting data.

23 One of our earlier panelists said that
24 one of the ways that we can improve the data
25 collection is for us to have our communities

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1 require that our law enforcement agencies, or their
2 local law enforcement agencies are accountable.

3 So hold them accountable. You send up
4 the information saying there wasn't a single hate
5 crime committed in your jurisdiction, folks in the
6 community ought to be up in arms saying, huh? Or
7 how in the world could you possibly come up with
8 that?

9 I'd like to get your thoughts from
10 anyone that wants to offer, on whether that is in
11 fact a valid way to approach this? And if there
12 are any other ways that communities, that we can
13 bring our communities into this so as to improve
14 our data collection?

15 MR. AUSTIN: Sure. I very much
16 appreciate your question. And that was part of the
17 reason why I read the lengthy list of large
18 communities that do not report.

19 Because the millions of people who
20 watch CSPAN, hopefully at least one of them is in
21 one of those communities, and heard that, and will
22 say, I need to make a move on this.

23 Look, I think communities drive most of
24 our change. And communities are the ones who can
25 decide who's going to be the next mayor, the next

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1 police chief, the next sheriff and what not.

2 The problem is that, you know, some
3 things the federal government is just better at.
4 And it needs to take ownership of this problem and
5 do something about it.

6 And our Congress needs to take
7 ownership of this problem and do something about
8 it. Yes, I would love if our communities stepped
9 up and forced their jurisdictions to do so.

10 But, our communities are worried about
11 getting their kids to school and their health care,
12 and the food on the table. And just, you know,
13 making sure that their kids are all right.

14 Data about hate crimes is not
15 necessarily in their top ten list. And I think it
16 is something which a federal government needs to
17 step forward and take ownership of.

18 VICE CHAIR TIMMONS-GOODSON: Thank you.
19 Do you want to say something?

20 MS. DEITLE: I always hate when I agree
21 with you.

22 (Laughter)

23 MS. DEITLE: So, I would just -- where
24 I thought you were going with that was where you
25 went. So, I hate to put that responsibility on a

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1 community.

2 I hate to make people have to think
3 about, is my kid safe in school? Do we have
4 healthcare? And then also, I think the hate crime
5 stats are inadequate.

6 I hate to put that on them. But, I
7 would love someone to take up that cause in every
8 community. And make Honolulu, who doesn't report
9 anything, I would love to make the community in
10 Honolulu report their data or force their law
11 enforcement agency to report.

12 But, I do think that at the end of the
13 day it is the responsibility of the FBI. They
14 collect it. I think they have to do a much better
15 job to go out and get it.

16 And I hope that that's something that
17 changes in due time.

18 CHAIR LHAMON: Thank you very much to
19 this panel for the day. This is amazing testimony.
20 We really appreciate it.

21 We are going to break and reconvene at
22 5:00 p.m. for the open public comment period. All
23 participants in the open public comment period
24 should report back at 4:45 p.m.

25 And this is a brief reminder that

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1 registration for that open public comment period is
2 still open. So we'll recess now until 5:00. Thank
3 you very much.

4 (Whereupon, the above-entitled matter
5 went off the record at 3:58 p.m. and
6 resumed at 5:00 p.m.)

7 **OPEN AND PUBLIC COMMENT**

8 CHAIR LHAMON: So, welcome back,
9 everyone. We're now going to proceed with the open
10 public comment session.

11 A few opening instructions which have
12 been provided to each participant already, please
13 tailor your remarks to the topic of today's
14 briefing which is hate crimes and bias-motivated
15 incidents.

16 Please state your name for the record.
17 Please note that the U.S. Commission on Civil
18 Rights has a policy not to defame, degrade, or
19 incriminate any person.

20 Also, this comment period is a time for
21 the Commissioners to listen, not to engage in
22 questions or discussion with presenters. So we
23 appreciate your testimony, we're very eager to hear
24 it, and we will not take your short time with
25 questions or with dialog.

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1 You'll have three minutes to speak,
2 which will be measured by a timer. The box with
3 the three lights here reflects that time and when
4 the light turns from green to yellow, that means
5 that one minute remains.

6 And when the light turns red, you
7 should conclude your statement, and if you do not
8 conclude it, I will conclude it for you.

9 If you've not finished or would like to
10 submit additional information, we encourage you to
11 do so by mailing or emailing your written
12 submission to us at the address provided on your
13 information sheet. And that should be provided by
14 June 11, 2018.

15 While waiting for your turn, please sit
16 in the numbered chair that corresponds with your
17 ticket. Thank you all for coming up to the
18 microphones already.

19 And if you need to step out briefly
20 before it is your time to speak to use the restroom
21 or otherwise, please let a Staff person know. It
22 doesn't seem like a very good idea in three
23 minutes. And if you have any questions, please ask
24 a Staff Member.

25 At least one of our Commissioners has a

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1 flight to catch and so might have to step out a few
2 minutes early, but I hope we will all be here. So
3 I will now begin public comment with our first
4 speaker.

5 MR. ESTRIN: Hello, my name is David
6 Estrin. I'm here with you today because all four
7 of my grandparents survived the Holocaust.

8 I'm the grandson of Jew Number 67245
9 and when I was 13, my grandfather brought me to the
10 Mauthausen Concentration Camp in Austria to show me
11 what that truly meant.

12 That day, he sparked a fire in me which
13 would go on to reveal my responsibility to fulfil
14 the promises of never forget and never again, not
15 just for the Jewish people but for all people.

16 After he passed away, I founded
17 Together We Remember, a nonprofit that combines
18 technology, art, and activism to transform
19 remembrance into action to end identity-based
20 violence around the world.

21 Each April, genocide awareness and
22 prevention month, we organize interactive vigils
23 that commemorate the victims of genocide and
24 atrocities throughout history and celebrate the
25 stories of heroes who have saved countless lives

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1 time and again.

2 This past April, we organized over 40
3 vigils across nine countries and high schools,
4 universities, museums, houses of worship and public
5 spaces.

6 In Charlottesville, Virginia, we
7 brought together city leaders across identity
8 groups to build relationships of trust and
9 solidarity which will be critical to keep the peace
10 in August, the one-year mark of the Unite The Right
11 rally.

12 In Brooklyn, New York, we united
13 survivors, activists, and tech innovators to
14 explore immersive technologies like virtual reality
15 and portals by shared studios, which can foster
16 empathy, empower vulnerable communities and inspire
17 collective action.

18 In Boca Raton, Florida, an interfaith
19 coalition and the ADL organize an evening of art,
20 activism, and dialog on the meaning of never again,
21 and commemorated the victims of the Marjory
22 Stoneman Douglas school shooting.

23 And here in Washington, Congresswoman
24 Ann Wagner led a series of bipartisan floor
25 speeches in honor of genocide awareness and

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1 prevention month. The list goes on, including
2 communities in Zambia, D.R. Congo, Rwanda,
3 Cambodia, Canada, Germany, France, and the U.K.

4 One of the most common pieces of
5 feedback we've heard from participants is that they
6 don't have many opportunities to connect face to
7 face and work alongside people from across the
8 fault lines in their communities.

9 In countries with a recent history of
10 mass atrocities, networks of non-political peace-
11 building organizations often emerge to mend racial,
12 religious, and political divisions. That sort of
13 network needs to be more fully developed here in
14 America.

15 Our experience has revealed that we
16 already have the technology, know-how, and
17 willpower to end bias-motivated violence, but we
18 need more opportunities to connect, collaborate,
19 and put these puzzle pieces together.

20 Now imagine peaceful rapid response
21 vigils wherever white supremacists seek to achieve
22 silence or violence. Imagine a global counter-
23 narrative campaign every April, in partnership with
24 Facebook, Twitter, Instagram, and YouTube to
25 amplify inspiring voices standing up to hate across

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1 the globe.

2 We believe that if we can create enough
3 of these opportunities to unite, we will turn the
4 tide to rising extremism in the U.S. and make never
5 again a reality worldwide by 2048, the 100-year
6 anniversary of the UN genocide convention.

7 By remembering humanity at its worst,
8 we can inspire humanity to be its best one
9 community at a time. Thank you.

10 MR. WATKINS: I am Devin Watkins,
11 attorney at law. First of all, I wish to inform
12 the Commission that pursuant to 42 U.S.C. 1975(d),
13 it appears that the statutory authority of this
14 Commission has terminated.

15 Returning to the topic of hate crimes.
16 I wish to speak today to oppose the violation of my
17 civil liberties. The Hate Crimes Prevention Act
18 was passed under the purported authority of the
19 Thirteenth Amendment. That amendment prohibits
20 slavery and involuntary servitude.

21 Violence based on a person's race,
22 color, religion, national origin are not slavery
23 nor are they involuntary servitude. It demeans
24 those that had to live in slavery to say otherwise.

25 Slavery legally allowed people to beat,

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1 rape, and murder other human beings. Slavery was
2 an evil beyond anything we experience today and
3 thank God we stopped it in this country.

4 Congress has the power to stop slavery
5 using any reasonable means, but this is not even
6 intended to stop slavery. Does anyone really
7 believe this is the purpose of the law? It isn't
8 even claimed to be doing so.

9 The only valid use of the Thirteenth
10 Amendment is for the end of prohibiting slavery and
11 the involuntary servitude. Slavery and involuntary
12 servitude are already illegal and there is no fear
13 of them occurring again.

14 It is wrong to do violence based on a
15 person's race, color, religion, or national origin,
16 which is why those acts are prohibited in every
17 state. But there is no basis in our Constitution
18 for a Federal prohibition.

19 Our civil liberties are based on the
20 respect of the rule of law, especially the supreme
21 law of the land, the Constitution. It violates
22 everyone's civil liberties to threaten people with
23 an unconstitutional law beyond the enumerated
24 powers of the Federal Government.

25 The reality is these acts are already

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1 prohibited under state law. This statute is
2 instead being used to subject politically disparate
3 minorities to double jeopardy, in violation of the
4 Fifth Amendment.

5 This is done by prosecuting them twice
6 for the same act, once at the state level and again
7 at the Federal level. Justice properly understood
8 requires that all people be given a fair trial in
9 which they are to be released if they are found not
10 guilty.

11 I will leave you with the words of
12 George Washington: the best and only safe road to
13 honor, glory, and true dignity is justice.

14 CHAIR LHAMON: Thank you. Next
15 speaker?

16 MR. LEVIN: Hello, my name is Jake
17 Levin and I am speaking on behalf of the
18 organization Shared Studios.

19 We are a collective of artists,
20 community organizers, and former lawyers who are
21 working to connect diverse communities around the
22 world through live, full-body video environments
23 called portals. When you enter a portal, you come
24 face to face with someone in a similar portal
25 somewhere else around the world and can speak as if

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1 standing in the same room.

2 Participants have expressed feeling as
3 though they are breathing the same air as someone
4 who may be thousands of miles away.

5 We are working to create a world where
6 people from a tech hub in Rwanda and a community
7 center in Milwaukee can engage one another in
8 intimate dialog, collaborate on new ideas, create
9 art, and play.

10 More than 150,000 portal participants
11 have experienced a connection over the last three
12 years. Conversations have ranged from the deeply
13 personal to the every day.

14 Here in Washington, a drone pilot for
15 the U.S. Air Force met an Afghan man for the first
16 time through the portal, only days after flying
17 drones through Afghan air space.

18 A group of Palestinian women shared a
19 portal conversation with an Israeli entrepreneur
20 and an Iranian artist discussing their inability to
21 receive proper cancer care in Gaza City.

22 Iraqi students and their teacher met
23 with Members of Congress before a scheduled vote on
24 the Education for All Act, which directed funds to
25 education and emergency zones. All of those

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1 Members of Congress voted yes.

2 For the last two year, portals have
3 also connected heavily police communities across
4 America and Mexico. Residents in a number of
5 cities have come together in portals to strategize
6 about how to improve police community relations.

7 And on the ground in Milwaukee, our
8 portal curator used his position to bring together
9 rival gangs to create local truces, which led to
10 the creation of a neighborhood watch coalition.

11 While polarization seems to be on the
12 rise, study after study reinforces the idea that
13 hate is reduced through deliberate dialog between
14 diverse groups. Individuals and groups on opposing
15 sides of conflict rarely find opportunities to
16 connect face to face, let alone collaborate.

17 We believe that if we can create enough
18 opportunities for different individuals to share
19 the same physical space, they will quickly realize
20 that their similarities outnumber their
21 differences.

22 We have allowed social media and new
23 technologies to drive us deeper into our own
24 tribes. In these insulated social groups, hatred
25 can thrive but portals created spaces for dialog

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1 outside our tribes that challenged stereotypes and
2 brought in world views.

3 Portals demonstrate how technology, if
4 constructed well, can thrive as a vehicle for
5 peace. Innovations and immersive technology are
6 fundamentally reshaping how we counter hatred and
7 violence, and I hope you'll remember portals as we
8 all seek new solutions to these enduring problems.

9 Thank you.

10 CHAIR LHAMON: Thank you. Our fourth
11 speaker?

12 MS. KIM: Good evening.

13 My name is Jiny Kim and I am the Vice
14 President for Policy and Programs at Asian-
15 Americans Advancing Justice, AAJC. Our mission is
16 to advance civil and human rights for Asian-
17 Americans and to build and promote a fair and
18 equitable society for all.

19 For over 25 years, we've served as the
20 leading civil rights voice for the Asian-American
21 community, the fastest-growing population in the
22 U.S., fighting for our civil rights through policy
23 advocacy, education, and litigation.

24 Following the disturbing rise in
25 hateful rhetoric and hate incidents across the

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1 country leading up to and following the 2016
2 election, the Asian-Americans Advancing Justice's
3 national affiliation launched,
4 standagainsthate.org, a website to track and
5 report hate incidents against Asian-Americans.

6 Since a significant number of Asian-
7 Americans have limited English proficiency,
8 approximately one in three, we've ensured that this
9 site is accessible in multiple languages, including
10 Chinese, Korean, and Vietnamese.

11 We've also partnered with the Lawyer's
12 Committee on Civil Rights Under Law to provide
13 assistance through their stop-hate hotline in
14 Cantonese, Mandarin, Korean, and Vietnamese.

15 Since the launch of this site, we have
16 received more than 200 reports from across the
17 country, covering anti-Asian and anti-immigrant
18 incidents that range from hateful slurs, bullying,
19 harassment, and violence.

20 Asian-Americans have been the targets
21 of violent hate crimes and one widely reported
22 incident that was also shared with our site was the
23 shooting in Olathe, Kansas, which killed Srinivas
24 Kuchibhotla. And the shooter reportedly yelled get
25 out of my country as he attacked.

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1 It is also important to document and
2 share stories of every day hate, including racial
3 slurs and street harassment. While these may not
4 meet the definition of a hate crime, such incidents
5 are still harmful, not only to the impacted
6 individual but also to the community at large.

7 We have received many reports to our
8 site of people being told to go back to your
9 country or you don't belong here, often with curses
10 and racial slurs.

11 We already know that hate crimes are
12 under-reported and the Federal Government must do
13 more to incentivize better collection and reporting
14 of this data.

15 We must do more to invest in outreach
16 and education to encourage reporting and at the
17 same time, ensure that this is accessible, that our
18 communities are not fearful of those whose job it
19 is to keep them safe, and that translations and in-
20 language assistance are available.

21 And in this political climate, we face
22 even greater challenges with assuring immigrants
23 that they should feel safe reporting hate crimes
24 and hate incidents, community safety and community
25 trust suffer when local law enforcement officials

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1 are also tasked with immigrant enforcement.

2 We'll continue to work to report and
3 raise our communities' voices. Thank you.

4 CHAIR LHAMON: Thanks very much. Our
5 next speaker?

6 MR. STACY: Thank you. I'm David
7 Stacy, Government Affairs Director for the Human
8 Rights Campaign, the nation's largest LGBTQ
9 organization working on civil rights.

10 Matthew Shepard lost his life to
11 violence in the fall of 1998. He was brutally
12 beaten with the butt of a 357 magnum, tied to a
13 fence, and left to die in freezing temperatures
14 because he was gay.

15 This October will mark two decades
16 since Matthew's murder and the public reckoning
17 that followed culminated in the passage of the
18 Matthew Shepard and James Byrd Jr. Hate Crimes
19 Prevention Act. This law has served as an
20 essential Federal tool to combat and prosecute
21 bias-motivated crimes.

22 However, it's far from a cure-all.
23 Since 2016, we have seen a significant increase in
24 violence against LGBTQ people, particularly
25 transgender people and in communities of color.

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1 In 2017, it proved to be the deadliest
2 year for transgender people on record. At least 28
3 transgender people lost their lives to violence.

4 Ally Steinfeld was a 17-year-old
5 transgender girl living in rural Missouri. Her
6 lifeless body was found partially burned with stab
7 wounds to her genitals and with her eyes gouged
8 out. Mercedes Williamson was also only 17
9 when she was stabbed multiple times and beaten to
10 death by a hammer while trying to flee. Her
11 attacker admitted to killing her because she was
12 transgender. This extreme violence is often seen
13 with hate crimes.

14 There are also survivors who must live
15 with the emotional and physical scars like Anthony
16 Gooden and Marquez Tolbert. Anthony, who had
17 recently come out as gay to his family, was
18 sleeping next to Marquez after working a long day.

19 A family friend staying at the house
20 saw them sleeping together, boiled a pot of water,
21 poured the scalding water of the couple while they
22 slept, screaming get out of my house with all that
23 gay. Anthony was placed in a medically-induced
24 coma for weeks; over 60 percent of his body burned.

25 Although we know the reported incidents

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1 of hate are on the rise, we also know that the
2 statistics are drastically under-counted.

3 State and local police departments are
4 not federally mandated to record hate crimes and
5 many lack the training necessary to recognize them
6 and to work with survivors and their families.

7 17 percent of jurisdictions across the
8 country had not reported a single hate crime to the
9 FBI for the last 6 years.

10 This means that major cities like
11 Mobile, Alabama, Savannah, Chatham, a metro area in
12 Georgia, and Irving, Texas, report they have
13 consistently had zero hate crimes within their
14 borders. Those numbers are just not credible.

15 Violence against any member of the
16 community sows a culture of fear and otherness that
17 prevents them from living full lives. However,
18 some members bear the disproportionate brunt of
19 this unspeakable violence.

20 The intersection of racism, sexism,
21 homophobia, and transphobia have conspired to drive
22 too many of these women -- employment, housing,
23 transgender housing, healthcare and otherness, as
24 it is making this transgender community more
25 vulnerable to fatal violence.

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1 In addition, people living in the
2 intersection of marginal communities feel less safe
3 going to police.

4 No one should have to fear for their
5 safety because of who they are or who they love.
6 Training is essential and we also believe that
7 mandatory reporting of hate crimes should be
8 required across the country.

9 Thank you.

10 CHAIR LHAMON: Thanks very much. Our
11 next speaker?

12 MR. THOMAS: Good afternoon, and I want
13 to thank the Commission for allowing me to be here
14 this afternoon to comment on hate crimes and other
15 incidents that are bias-related.

16 My name is Juan Thomas and I'm the
17 President of the National Bar Association. The
18 National Bar Association is the largest association
19 of African-American lawyers, judges, and law
20 students in the country.

21 We represent a network of over 65,000
22 across this country and we historically have been
23 opposed to the proliferation of hate crimes and
24 bias-motivated cases. And in many instances, we
25 continue to be ineffective, unfortunately

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1 ineffective, in our responses.

2 Today I come before you as many of my
3 colleagues have already spoken to bring attention
4 to the issue of hate crime nationally, as well as
5 in my home city of Chicago.

6 The NBA believes that the protection of
7 fair housing rights and -- I'm sorry, the NBA
8 believes in the protection of fair housing and fair
9 housing rights.

10 We defend against complaints of
11 discrimination based upon the 16 protected classes
12 including race, sex, religion, sexual orientation,
13 discrimination in employment, housing, public
14 accommodations, credit, and bonding.

15 The NBA stands united with our
16 collaborative bar associations, the civil rights
17 community, and the community at large in condemning
18 hate crimes, white supremacy, and bigotry in every
19 form. And we stand in solidarity with people of
20 color who find ourselves targeted by hate speech
21 and hate crimes.

22 Congress and all civic-minded
23 individuals and entities must explore how our
24 Government is investigating the rooting out of hate
25 crimes and those violent white supremacist groups

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1 that are perpetuating these heinous crimes.

2 As we examine the Federal Government's
3 role in responding to hate crimes, we should also
4 urge Congress to oppose the introduction and¹⁹ the
5 co-sponsorship of the Protect and Serve Act of
6 2018, which would extend hate crime protection to
7 law enforcement officers.

8 We believe it is imperative and
9 counterproductive to consider this legislation as
10 it would further erode police and community
11 relationships.

12 I respectfully submit this statement,
13 urging the Commission to diligently examine best
14 practices for preventing, investigating, and
15 prosecuting, including reporting practices by local
16 law enforcement officials, and efforts by the U.S.
17 Departments of Justice and Education and institute
18 all mechanisms to bring forth a more timely and
19 accelerated remedy to the victims of hate crimes.
20 Thank you.

21 CHAIR LHAMON: Thank you very much and
22 thank you to all of our public speakers. This will
23 close our public comment period. We appreciate
24 your time, thank you.

25 And that will bring us to the end of

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1 our briefing; I thank all of our panelists, all of
2 our public participants, and today has been
3 tremendously informative.

4 Just to be clear, as I said earlier,
5 the record for the briefing remains open until
6 Monday, June 11, 2018.

7 Panelists and members of the public who
8 would like to submit materials for Commission
9 consideration, which we welcome, can mail them to
10 the U.S. Commission on Civil Rights, Office of
11 Civil Rights Evaluation, 1331 Pennsylvania Avenue
12 Northwest, Suite 1150, Washington, D.C., 20425, or
13 email them to hatecrimes@usccr.gov.

14 If there's nothing further, I hereby
15 adjourn our briefing. Thank you very much.

16 (Whereupon, the above-entitled matter
17 went off the record at 5:19 p.m.)

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