



# Department of Justice

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**STATEMENT OF**  
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**BEFORE THE**  
**COMMITTEE ON THE JUDICIARY**  
**UNITED STATES SENATE**

**FOR A HEARING CONCERNING**  
**RESPONSES TO THE INCREASE IN RELIGIOUS HATE CRIMES**

**PRESENTED**

**MAY 2, 2017**

Good afternoon Chairman Grassley, Ranking Member Feinstein, and respected members of the Committee. I want to thank you for holding this hearing to discuss the important topic of enforcing Federal hate crime laws.

The Attorney General has made fighting violent crime one of his top priorities. One category of violent crimes are those based on actual or perceived race, color, national origin, gender, gender identity, religion, sexual orientation, disability, and similar factors—generally known by the shorthand “hate crimes.” Addressing hate crimes must be part of our national effort to reduce violent crime.

Hate crimes make up over 4% of all violent crime in the United States, according to Bureau of Justice Statistics data from 2012. It is thus an important component of the overall violent crime picture. These are crimes that are designed by their perpetrators to intimidate and terrorize communities and groups of people. If people of a particular faith are being targeted for hate crimes in a community, for example, members of that faith carry with them not merely the concerns that all of us do that violent crime might affect us and our families, but the additional fear as they go about their lives that they, or their loved ones, may be specifically targeted simply because of who they are.

In his first address to Congress on February 28, President Trump opened by talking about hate crimes and civil rights. He said:

Tonight, as we mark the conclusion of our celebration of Black History Month, we are reminded of our Nation's path toward civil rights and the work that still remains. Recent threats targeting Jewish Community Centers and vandalism of Jewish cemeteries, as well as last week's shooting in Kansas City, remind us that while we may be a Nation divided on policies, we are a country that stands united in condemning hate and evil in all its forms.

On April 21, the Department of Justice charged a man with making threatening calls to Jewish Community Centers in Florida. An investigation is ongoing in this matter, including into whether these acts are chargeable under federal hate crimes statutes. An arrest has been made in the Kansas City shooting the President referenced, in which two Indian-American men were shot, one fatally. That investigation is also ongoing.

Last week, President Trump re-asserted his resolve to confront hate-based violence at the U.S. Holocaust Museum's Day of Remembrance event in the Capitol Rotunda, where he stated “This is my pledge to you: We will confront anti-Semitism. We will stamp out prejudice, we will condemn hatred, and we will bear witness and we will act.”

Earlier this month, the Attorney General released details about the Department's Task Force on Crime Reduction and Public Safety, which he created on February 27, 2017. The Attorney General highlighted the importance of combating hate crimes by creating a Hate Crimes Subcommittee, which is one of the subcommittees through which the Task Force will do its work. In doing so, he stated:

We must also protect the civil rights of all Americans, and we will not tolerate threats or acts of violence targeting any person or community in this country on the basis of their religious beliefs or background. Accordingly, the Hate Crimes Subcommittee will develop a plan to appropriately address hate crimes to better protect the rights of all Americans.

In the third week of June, the Task Force will hold a summit on violent crime. The following week, on June 29, 2017, the Hate Crimes Subcommittee will hold an additional one-day summit focusing solely on identifying, prosecuting, and preventing hate crimes. This summit will allow officials from the Civil Rights Division, the United States Attorney's Offices, the Community Relations Service, and other Department components to discuss with experts, community group representatives, and state and local law enforcement partners how best to reduce the incidence of hate crimes in America. Thus, we will have more to report to Congress and the general public in the months ahead. But let me for now give you an overview of where things stand, both in terms of the federal statutory enforcement structure and the nature and trends of the problem.

In our Federal system of government, the majority of violent crimes are prosecuted at the state and local levels. Hate crimes involve an underlying crime—assault, arson, murder, threats—with the additional factor that the crime is motivated by the actual or perceived race, color, ethnicity, religion, national origin, gender, sexual orientation, gender identity, disability, or other characteristic of the victim. In many cases, justice can be served by state prosecutions for assault, murder, and so forth. Additionally, most states have hate crime laws, which can provide for greater punishments. Therefore, in the majority of cases, Federal prosecutions are not necessary.

However, Congress has recognized that with hate crimes, the vindication of Federal interests in protecting civil rights and in deterring and punishing violence will sometimes require a Federal prosecution because the penalties under applicable state law are not sufficiently severe, and Federal prosecutions ensure that justice is served for the victims of these serious crimes. In other cases, Federal hate crime laws give the Federal Bureau of Investigation (FBI), the Bureau of Alcohol, Tobacco and Firearms (ATF), and Federal prosecutors the ability to come in and provide helpful investigatory and prosecutorial resources to state and local law enforcement and prosecutors.

Federal hate crime prosecutions are coordinated by the Civil Rights Division's Criminal Section, composed of experienced civil rights prosecutors and support staff who work on cases around the country in partnership with prosecutors from our ninety-four United States Attorney's offices. They develop cases in coordination with the FBI's Civil Rights Unit, the FBI's 56 field offices, and the ATF. While civil rights prosecutions often include claims under general Federal criminal statutes, such as use of a firearm in conjunction with a felony, there are five basic Federal hate crime statutes:

*Interference with Federally Protected Activities:* This law, 18 USC § 245, enacted in 1968, makes it a Federal crime to use force or the threat of force to interfere with, on the basis of race, color, religion or national origin, a person's exercise of his or her civil rights, including attendance at a public school or college, employment, interstate travel, and other enumerated civil rights. The Department used this statute in the recent prosecution of a man who threatened Muslim grocery store owners in Fort Myers, Florida, telling one of them that if he did not close his business, then he would be killed by the defendant and four associates. He then made similar threats to a second Muslim man. The defendant pleaded guilty on February 8, 2017, to two hate crime charges.

*Criminal Interference with Fair Housing:* Also enacted in 1968 as part of the Fair Housing Act, 42 U.S.C. § 3631 makes it a Federal crime to use force or the threat of force to interfere with fair housing rights. On April 10, 2017, the Department obtained a 15-year sentence in a case where a Bakersfield, California man yelled a racial epithet and fired a sawed-off shotgun toward a Latino man while he was standing in the front yard of his house with his wife and son, telling them to get out of the neighborhood. The defendant then fired his shotgun at a nearby convenience store owned by a man of Middle Eastern descent.

*Damage to Religious Property and Violent Interference with Religious Exercise:* In response to a rash of church arsons in the early 1990's, Congress enacted the *Church Arson Prevention Act* of 1996, 18 U.S.C. § 247. This law makes it a crime to deface, damage or destroy religious real property because of the religious nature of the property, or because of the race, color or ethnicity of the congregation. It also makes it a crime to use threats or violence to interfere with religious exercise. This law was used (along with the *Shepard-Byrd Act* discussed below) to obtain the death penalty against Dylann Roof on January 11, 2017, for the killing of nine African American congregants at a Bible study at Charleston's Emanuel African Methodist Episcopal Church in 2015. This law was also used to convict Robert Doggart, a Tennessee man who solicited another man to help him launch an attack on the hamlet of Islamburg, New York, founded by a group of African-American Muslims. Doggart planned to bomb the community's mosque and shoot community members but was thwarted by an FBI investigation. Doggart was convicted on February 16, 2017, and his sentencing is set for May 31, 2017.

*The Matthew Shepard and James Byrd, Jr., Hate Crimes Prevention Act of 2009*, 18 U.S.C. § 249, makes it a crime to willfully cause bodily injury (or attempt to do so using fire, a firearm, or another dangerous weapon) based on a person's actual or perceived race, color, religion, national origin, gender, sexual orientation, gender identity, or disability. This statute is best known for adding sexual orientation, gender identity, disability and gender as protected categories under federal hate crime laws, but it is also notable in that it permits prosecution of violent attacks based on race, color, religion, and national origin without the requirements that the crime also interfere with other federally protected rights. This law only applies to violent acts and attempted violent acts involving a weapon but not to threats or attempted assault without a weapon. Recent cases include the prosecution of an Idaho man who beat and kicked a gay man to death in an attack last April. The attacker pleaded guilty on February 7, 2017, and was sentenced to 336 months in prison last week. In another recent case, two men assaulted a Somali man who was sitting on a bench in front of an African market. They were sentenced on February

26, 2017, with one to serve 26 months' imprisonment and the other sentenced to two years' supervised release.

*Conspiracy Against Rights:* 18 U.S.C. § 241 is the civil rights conspiracy statute, enacted in 1948 based on an earlier conspiracy law dating back to Reconstruction. Section 241 makes it unlawful for two or more persons to agree together to injure, threaten, or intimidate a person in any state, territory or district in the free exercise or enjoyment of any right or privilege secured by the Constitution or the laws of the United States. This law is used in conjunction with other hate crime laws, or can be used on its own. One particularly brutal recent example involved a conspiracy by a group of Brandon, Mississippi, men to assault African Americans, leading to their viciously beating a man in a motel parking lot and driving over him in a truck, killing him. The three men who attacked the victim were charged under 241 and 249, and sentenced in February 2015 to 600, 220, and 84 months imprisonment.

As the examples above demonstrate, hate crimes are a problem that we must face as a society and work together to reduce. Hate crimes included in the FBI's annual Uniform Crime Reports declined from 8,063 total incidents in 2000 to 5,850 in 2015. Race-based hate crimes, the largest category of hate crimes, decreased from 4,337 in 2000 to 2,754 in 2015. Reported hate crimes based on sexual orientation, religion, and ethnicity all declined over that period as well. Anti-Muslim hate crimes rose from 28 in 2000 to 257 in 2015. Looking at the latest data available for short term trends, we saw a 23% rise in religion-based hate crimes from 2014 to 2015, including a 67% rise in anti-Muslim hate crimes and a 9% rise in anti-Jewish hate crimes. It should be noted that the number of law enforcement agencies participating in data collection rose from 11,690 in 2000 to 14,997 in 2015.

The FBI hate crime statistics are useful in identifying trends, but they rely on voluntary reporting by state and local law enforcement agencies, and are only as accurate as the identification and reporting processes that law enforcement agencies put into place and implement with all of their officers. The Bureau of Justice Statistics (BJS) polls households each year to try to estimate how many people were victims of crime in the prior year, whether reported to the police or not. Based on this polling, the incidence of hate crimes may be greater than those crimes captured through the UCR data collection process. The BJS polling-based data show some patterns consistent with the FBI data, and some divergences. Both show a decline in hate crimes based on race and sexual orientation. However, the BJS polling data indicate a modest *increase* in total hate crimes from 2004 to 2012, where the FBI data show a significant decline. The BJS data point to an almost three-fold increase in religion-based hate crimes from 2004 to 2012, compared to a modest decline in the FBI data.

This discrepancy between polling data and data collected based on actual cases being investigated and reported by police points to a need for more accurate data collection. This is an issue that the FBI Criminal Justice Information Services (CJIS), the U.S. Attorneys' Offices, and the Civil Rights Division have been working on in recent years. For example, after the Oak Creek, Wisconsin Gurdwara shooting in 2012, in which Sikh congregants and a police officer were shot in an apparent hate crime, killing six people, community groups highlighted the fact that Sikhs, along with Arab-Americans, Hindus, and a number of distinct religious groups, were

not separately accounted for in the hate crimes data. After reviewing the issue, CJIS added these groups to the data collection coding forms. This revised form provided an opportunity for training on hate crime data collection, and CJIS and U.S. Attorney's offices held trainings around the country in 2014 as the new categories were implemented. CJIS has incorporated hate crime training as an element of all of its Uniform Crime Reports training program, which last year provided training to 1,414 law enforcement agencies. This year a comparable number of trainings are planned. Having a better picture of the incidence and trends in hate crimes in America will help us allocate resources and evaluate which approaches are working.

In addition to data collection, the Department, through the Civil Rights Division, regularly engages with national, regional and local organizations to expand understanding of hate crimes. For example, for Arson Awareness Week this year, May 7, 2017, through May 13, 2017, the Civil Rights Division is partnering with the Federal Emergency Management Agency's U.S. Fire Administration and the Department of Homeland Security's Office for Civil Rights and Civil Liberties to focus attention on Preventing Arson at Houses of Worship. U.S. Attorney's Offices engage with their communities on a range of issues, including hate crimes. I have been regularly speaking with groups such as the Muslim Jewish Advisory Council, the Anti-Defamation League, the Jewish Community Center Association, The Emmitt Till Foundation, and various Muslim, Arab, Sikh, South-Asian, and Hindu American organizations about these issues.

The Department's Community Relations Service (CRS), as a central part of its mandate, works with local communities and law enforcement officials on developing and implementing strategies to prevent hate crimes and to respond effectively to them when they occur. For example, yesterday, CRS along with the FBI, U.S. Attorney's Office, and local partners, facilitated a Hate Crimes Prevention Forum at the Jewish Community Center in Rockville, Maryland. The Department, through the Hate Crimes Subcommittee of its Task Force on Crime Reduction and Public Safety, is committed to finding creative ways to build upon these efforts and increase our ability as a society to prevent, identify, report, respond to, and collect data on hate crimes.

Thank you for the invitation to be here today. I look forward to discussing this issue with you.