

Senator Lindsey O. Graham
Questions for the Record
“A Threat to Justice Everywhere: Stemming the Tide of Hate Crimes in America”
September 17th, 2024

Questions for Kenneth Stern

Dear Senator Graham:

Thank you for these questions.

1. In 2023, there was a reported 140% year-over-year increase in antisemitic incidents across the United States, the most in at least 45 years. Most of this dramatic increase took place following the October 7th Hamas attack on Israel. What steps should the Department of Justice take to ensure that antisemitic hate crimes are thoroughly reported and prosecuted?

There is no question that antisemitic incidents and hate crimes increased after October 7, 2023. Incidents, of course, are distinct from hate crimes. And since October 7 there have also been increased incidents and crimes targeting Arabs, Palestinians and Muslims. There have been attacks on Jews who are anti-Zionist as well.

Fighting hate crimes against Jews (or anyone else) is a job that of course includes, but requires much more than, the Department of Justice’s prosecutions. NGOs and others have an important role here too, and DOJ (and Congress) can help.

I suspect almost everyone would like to see hate crime reporting improved. The data is still woefully incomplete. The DOJ must continue to support transition from the Summary Reporting System (SRS) to the National Incident Based Reporting System (NIBRS) to provide law enforcement and community members with the most accurate and useful data about hate crimes, including funds to support the transition and training and technical assistance from the FBI. As they have in recent years, U.S. Attorneys across the country should use their positions as the lead federal law enforcement officers in their jurisdictions to meet with state and local law enforcement agencies to emphasize the importance of the identification and effective response to acts of hate. In 2023, 80% of the 16,009 agencies that reported data to the FBI reported zero hate crimes – including about 60 agencies serving populations over 100,000.¹ U.S. Attorneys must particularly focus on working with these “zero reporting” agencies to highlight why an effective response to hate is central to effective policing.

¹ [1]U.S. DOJ, FBI Hate Crimes Statistics Annual Report, Number of Participating Agencies Table and Table 14 Hate Crime Zero Data Reported, available at [CDE \(cjis.gov\)](https://www.cde.cjis.gov/); see also [FBI’s hate crime statistics can be improved | Southern Poverty Law Center \(splcenter.org\)](#)

Part of the challenge is of course structural with law enforcement, given the demands of extra paperwork and the voluntary nature of reporting. But I also am deeply concerned about the reasons victims of hate crime may not report.

The Bard Center for the Study of Hate (in partnership with Western States Center and the Montana Human Rights Network) wrote a manual for community groups opposing hate: <https://bcsh.bard.edu/files/2022/05/OpposingHateGuide-single-pages-8M-5-3.pdf>. When we were drafting the report, we reached out to community groups wanting to know what would be useful for them. I was surprised to hear how many would not want to report a hate crime. Some just don't trust police, given their experiences with law enforcement. This included, but was not limited to, Black citizens who could point to their own experience as well as incidents in the news, Muslim communities who saw police as more interested in what information they could share about other Muslims (especially post 9/11), and immigrants who worried that reporting hate crimes would lead to deportation.

The Community Relations Service people at DOJ have a hard job, but I'd like to see more effort put into supporting them addressing and de-escalating tensions that arise from allegations of discrimination and acts of hate in communities, so that trust is built and the cost-benefit people weigh about reporting changes. CRS has the ability to work in communities in the aftermath of acts of hate that do not rise to the level of a crime, helping ensure law enforcement earns the trust necessary to encourage accurate reporting and to support effective investigations and prosecutions. And as law enforcement continues to be asked to do more with less resources, CRS can reduce the burden on police departments by serving as a resource for communities targeted for acts of hate that are not crimes but still cause reverberate and instill fear.

I was encouraged to see the recent awards from DOJ² that are designed, in part, to help communities effected by hate crimes. This includes community-focused grants under the Jabara Heyer NO HATE Act, a part of the COVID-19 Hate Crimes Act, as well as grants under the Matthew Shepard and James Byrd, Jr. grant programs. These are important because they help ensure that individuals and communities targeted for hate not only get an effective law enforcement response, but also receive social services and resources they need. But so much more is needed.

In 2021, the FBI's Criminal Investigative Division elevated civil rights violations to its highest-level national threat priority. Hate crime responses must continue to be prioritized with funding and resources. While of course not the only type of hate crime, recent high profile prosecutions of white nationalist organizations targeting immigrants, Jews, LGBTQ individuals, and others demonstrates the importance of consulting and considering the available data about who is committing hate crimes and ensuring we are addressing white nationalist threats.³ Federal and state law enforcement authorities have increasingly recognized white supremacist groups as one

² See https://www.ojp.gov/news/news-release/doj-awards-nearly-30m-combat-rise-hate-and-bias-crimes?utm_campaign=fundingnewsandresources&utm_medium=email&utm_source=govdelivery.

³ [https://www.justice.gov/opa/pr/leaders-transnational-terrorist-group-charged-soliciting-hate-crimes-soliciting-murder - :~:text=The Justice Department announced today that Dallas Humber, 34, of](https://www.justice.gov/opa/pr/leaders-transnational-terrorist-group-charged-soliciting-hate-crimes-soliciting-murder-%3A%3Atext=The%20Justice%20Department%20announced%20today%20that%20Dallas%20Humber%2C%2034%2C%20of)

of the top threats to national security. Indeed, in 2021, DHS identified white supremacists as posing the greatest domestic terror threat.⁴

As I mentioned in my testimony, hate crimes have an economic impact. There's a model for how to calculate those costs, created by a Bard college economics professor.⁵ Congress might require the calculation by the GAO or other appropriate federal agency, but the DOJ might support efforts of local groups to quantify the cost of hate crimes in their community. Putting a dollar figure on this scourge might bring more understanding and impetus to tackle the problem.

As I also mentioned last month, there's a huge need to have victims of hate crime get the support they need, even if they don't know what they might need. The Eradicate Hate Global Summit is working on a project to connect people who want to leave hate groups, and family members of people in hate groups, with psychologists and other resources. We're discussing possible expansion of that project to create a clearinghouse so that if someone is victimized by a hate crime, social media will help direct them to a resource that is interactive and will help them file police reports, and get emotional and other support.

One possible additional component would be connecting victims with real human beings who can help them. A promising model is CA vs. Hate – <https://www.cavshate.org/>. It's a program that has received state and federal funding, and through which people who are targeted for hate can learn about their options, including how to connect with law enforcement and/or local community organizations and service providers. A care coordinator supports the person targeted for hate until they get the resources they need. Expansion of these type of resources with DOJ funding would be extremely helpful. And if they are built, training for police will also be an important component to be funded.

Sometimes when people report what they believe is a hate crime they are told that the facts don't support bringing such a charge. That person, likely hurt and discouraged and feeling dismissed, may well be less likely to report a hate crime in the future, while others in their community will learn the lesson that it's futile to go to the police. BUT if there were an easily accessible clearinghouse of resources the police officer could direct the victim to in order to get support, the interaction would likely be seen by them (and others in their community) as helpful, thus encouraging future reporting. (CA vs. Hate has helped to fill this role; in a recent California Commission on Police Officer Standards and Training ([POST training](#)), law enforcement leaders encouraged their colleagues to connect community members with CA vs Hate to get support when an act of hate does not rise to the level of a crime.)

⁴ <https://www.nytimes.com/2021/05/12/us/politics/domestic-terror-white-supremacists.html>.

⁵ https://bcsh.bard.edu/files/2023/03/BCSH-Economic-Cost-of-Hate_3-13-23_Online-.pdf.

2. In 2023, 1 in every 10 antisemitic incident took place at a school or on a college campus. What steps should the Department of Education take to make campuses safe for Jewish students and faculty?

One of the most effective Hillel directors I've known over the decades, someone deeply concerned about Jewish life on campus, once quipped "If you make it about Jews, you lose." He didn't mean ignore antisemitism; far from it. He meant that to help Jewish students and faculty the focus should be on what the campus must be. If the campus is working well, Jewish students and faculty will be protected.

When I speak to administrators and faculty at universities, I stress one principle above all others: whatever you choose to do, think about whether it will advance or harm academic freedom. The same rule should apply for the Department of Education. If it does something that is seen as promoting academic freedom, it will more likely have the desired effect (partly because faculty will not see the action as a threat to their ability to teach and research).

One thing the Department of Education can do is to encourage universities to underscore, through both teaching and training, the following principle: EVERY STUDENT (REGARDLESS OF WHETHER THEY ARE IN A PROTECTED CLASS) HAS THE RIGHT TO EXPECT THEY WON'T BE HARASSED, INTIMIDATED, BULLIED, DISCRIMINATED AGAINST, OR VICTIMIZED BY TRUE THREATS; NO STUDENT SHOULD BE PROTECTED FROM HEARING IDEAS (EVEN ONES THEY MIGHT PERCEIVE AS HATEFUL).

Since October 7, there has been much talk (and hearings in the US House of Representatives) suggesting that students have a right not to hear hateful expressions. And so we've seen attempts, some successful, to punish speech, such as by banning certain pro-Palestinian groups not based on what they have done, but on disfavored expression.

I've been deeply concerned when speakers perceived to be conservative, including Ann Coulter, Charles Murray, Steve Bannon and Milo Yiannopoulos, have been stopped from campus presentations by heckler's vetoes. While I disagree with most of what these speakers have to say, people have a right to hear an invited speaker's views. I learned in college the importance of primary sources. These people are primary sources for their points of view, views that significant parts of our society agree with. Students who have stopped their talks sometimes say these speakers are engaged in "verbal violence," and thus shouldn't be heard. They say they feel "unsafe" by mere expressions.

Stopping speech some don't like on campus harms the bedrock principles of the academy and is destructive to its mission. Campuses should be places that LOOK AT IDEAS, and encourage students to wrestle with them (including why others might have the point of view one detests). And there are things to do to counter (and teach about) speech one doesn't like. Censorship or suppression not only is bad policy, it is counter-productive.

Part of the challenge for pro-Israel students and faculty is that their views are seen as conservative. I sometimes wonder which would be more difficult – being a pro-Israel student on campus or a Trump supporter?

Ideally, the Department of Education should encourage ways to break this false and dangerous notion of “safety.” What won’t work, indeed will backfire, is to do what some are suggesting: using law to chill or suppress speech about Israel and Palestine.

I’ve been perplexed by why some conservatives have been taking this approach. Rather than feed the binary of what pure speech is permitted, and what isn’t, our universities will only work well if students know that opinions, even ugly ones, will be opposed (and the subject of intellectual dissection), not disciplined or suppressed through law. One thing the Department of Education can do is find ways (through statements and ideally programs and funding) to help universities underscore the distinction between actual safety and intellectual safety.

While I understand the reason some universities have spent the summer revising and announcing policies on time/place/manner restrictions on speech (some of which have been criticized as overbroad or otherwise ill-advised), I wish they would have proudly shared a list of the 20 new courses they were going to offer students that would help them understand the relevant challenges. Courses on hate from brain science to most other fields exploring how humans are seduced by the comfort and simplicity and righteousness of “us” and “them” buckets. Courses on the principles of academic freedom and free speech. Courses about protest movements. Courses on antisemitism. Courses on other hatreds, and how they interconnect. Creative courses that mine the Israel/Palestine conflict.⁶

I’ve seen some campuses post-October 7 promote programs for helping students learn how to have difficult conversations across differences, and that’s a step in the right direction. But I worry that many of these efforts are being put under the banner of DEI. DEI is not the same in every place. In some places it tries to fit everything in a binary around concepts like power and privilege and whiteness. In others it is less dogmatic, and I’ve been invited to many campuses by DEI staff to train them about antisemitism. But the campus will be better served by encouraging and incentivizing faculty to engage students intellectually, with the goal of having students better poised to look at different points of view as a matter of intellectual curiosity, and reject the idea that they should righteously hunt for speech they don’t like and try to suppress it.

As I said, I was invited to many campuses this year. Some are handling the moment better than others, and these seem to be ones where faculty, despite strong differences of opinion over the war, model how to discuss these differences, and where they prioritize their duty to students over their own politics. I’ve also seen some things that worry me. At one campus the divide between the faculty was so deep that people were even blocking colleagues they disagreed with on social

⁶ I describe one such creative course in my 2020 book where students have to re-enact the 1930s Peel Commission, getting roles against type as either a Brit, a Jew, or an Arab, thus engaging the complexities of the guts of the conflict in almost a first-hand way. Students entering the class sometimes said they were eager to learn how the Israeli-Palestinian conflict might have been settled. They come out of the class knowing why, more than 80 years later, it still hasn’t. Also, after October 7 my Bard colleagues put together a course on “key words,” taking deep dives into words being thrown around (genocide, Zionism, settle colonialism, etc.) what they mean and how people hear them differently. The potential for teaching is seemingly inexhaustible.

media. On another the only thing that pro-Israel and pro-Palestinian faculty could agree on is a deep distrust for the administration, each feeling it was harming their academic freedom in favor of the other side.

The Department of Education could make a significant contribution that would benefit Jewish students and faculty (and in fact all students and faculty) if it found ways to incentivize new teaching, and ways to bring faculty together.

It might hold a summit with leaders in education, highlighting best practices that some campuses have used to bridge divides across difference, and use the best tools of the university – its ability to teach critical thinking and deeply examine ideas.⁷

It might also, as I suggested in my written submission, use ideas from the disciplines that inform Hate Studies to promote not only new educational models for universities, but to help high school students be ready for a college experience where they will engage students from different political, religious, ethnic and racial background. The potential pilot project I mentioned based on the Robbers Cave study and inspired by the late Secretary of State Colin Powell's efforts to promote national service, would be worthy of attention and support.

3. In August, a United Nations spokesperson announced that the U.N. had found sufficient evidence to conclude that 9 individuals employed by the United Nations Relief and Works Agency for Palestinian Refugees were involved in the October 7th Hamas attack on Israel. Given this finding, do you believe Congress erred in its decision to not appropriate any funding for UNRWA in fiscal year 2024?

I know there have been allegations of serious problems with UNRWA in the past as well. Despite this history, my understanding is that the agency provides needed relief for Gazans, and of course since October 7 that need is acute. That a few employees may have participated in the atrocities means they should be held accountable, and if the others in the agency facilitated the employees' actions, they should have to answer too, and other changes made. But you ask, should the acts of 9 people be a sufficient reason to cut funding? An important question would be, what would be the consequences of ending funding? Innocent civilians in Gaza (including children), are already suffering the death of family members, displacement, lack of food and education and other essentials. I would presume these human beings would suffer more because of such a cut. I don't think cutting aid would be in their interest, in Israel's interest, or the United States'.

⁷ Congress can help by authorizing additional funding to the Department of Education for such initiatives, as well as providing further funding for OCR.