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Questions for the Record

Questions for Jonathan Greenblatt, CEO and National Director of the Anti-Defamation League

For Hearing Dated May 22, 2017 Anti-Semitism in America

Just last week, the ADL published an alarming report about the rise of Anti-Semitism in America – with an overall 34% increase in anti-Semitic assaults, vandalism, and harassment last year.

This surge, according to the LA Times, stood in stark contrast to a separate report indicating that anti-Semitic acts dropped 12% *globally*.

1. To what do you attribute the growing number of Anti-Semitic acts in America in contrast to the figures that the rest of the world is seeing?

Answer:

Anti-Semitism is a complex phenomenon which defies simple analysis and measuring techniques. The various watchdog groups that track and analyze anti-Semitic incidents in countries throughout the world may, in fact, have different answers to these questions. Lacking common definitions or measuring techniques – and in the absence of common laws and equivalent preparedness and commitment by law enforcement authorities – we can only speculate on regional differences. Nevertheless, here are a few observations on the dichotomy between the United States and other countries.

American Jews are unafraid. Anecdotal evidence suggests that in some European countries, in order to avoid anti-Semitic encounters, Jews increasingly avoid wearing items that reveal their identity and religious faith, such as yarmulkes or Star of David-embellished jewelry. Fortunately, we are not aware of any similar trend in the United States.

Refugees are currently a target of choice – especially in Europe. Anti-Semitism often goes hand-in-hand with other types of racism and xenophobia. As we experience the worst worldwide refugee crisis since World War II, in many countries, individuals who want to act on their base prejudices are acting against Muslims or other new immigrants or vulnerable refugees.

An extended and tumultuous presidential campaign season. As we noted in our testimony, we believe the extraordinarily polarizing and divisive long election campaign – which featured harshly anti-Muslim rhetoric and anti-Semitic dog whistles – played a role in some of the increased number of incidents in the US over the past eighteen months. During the campaign, hate-filled language, memes, stereotyping, and scapegoating were injected into the mainstream

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of America's debate through traditional and social media. Specifically, we saw a level of anti-Semitism and a normalization of bigotry that were deeply concerning. Nearly 30 percent of all anti-Semitic incidents (369) recorded as part of the League's annual *Audit of Anti-Semitic Incidents* occurred in November and December 2016, spiking immediately after the election. Our *Audit* included 34 incidents linked directly to the election. For example, in Denver, graffiti posted in May 2016 said "Kill the Jews, Vote Trump." In November, a St. Petersburg, Fla., man was accosted by someone who told him "Trump is going to finish what Hitler started." Much of the vandalism and harassment used slogans sourced from the Trump campaign such as "Make America Great Again."

The majority of anti-Semitic incidents and other hate crimes are not carried out by extremists or organized hate groups. But the unusually harsh and divisive election campaign coarsened the public discourse and fostered an atmosphere in which white supremacists and other anti-Semites and bigots now feel emboldened and believe that their views are becoming more broadly acceptable. The campaign's repeated flirtation with these elements – retweeting their content and quoting their heroes – and the President's initial reluctance to address rising anti-Semitism, helped to mainstream their ideas.

And, indeed, we have seen a resurgence of white supremacist activity in the United States.¹ Extremists and anti-Semites are using technology in new ways to spread their hatred and to impact the Jewish community on college campuses,² and on and off line. During the election campaign, white supremacists harassed and intimidated Jewish journalists on social media with anti-Semitic tropes and horrific images of the Holocaust.³

2. What are some ways in which American lawmakers, community and political leaders can help prevent these types of Anti-Semitic crimes and religious hate crimes?

Answer:

The testimony we submitted to the Committee for the May 2 hearings contained a number of legal, legislative and programmatic policy recommendations and identified several key prevention suggestions.

Effective responses to hate violence by public officials and law enforcement authorities can play an essential role in deterring and preventing these crimes.

- 1) **Speak out against bigotry at every opportunity.** It would be hard to overstate the importance of political and community leaders using their bully pulpit to speak out against

¹ *With Hate in their Hearts: The State of White Supremacy in the United States*
<https://www.adl.org/education/resources/reports/state-of-white-supremacy>

² *White Supremacists Making Unprecedented Effort on U.S. College Campuses to Spread Their Message, Recruit*
<https://www.adl.org/news/press-releases/adl-white-supremacists-making-unprecedented-effort-on-us-college-campuses-to>

³ *Anti-Semitic Targeting of Journalists During the 2016 Presidential Campaign*
https://www.adl.org/sites/default/files/documents/assets/pdf/press-center/CR_4862_Journalism-Task-Force_v2.pdf

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racism, anti-Semitism, homophobia, Islamophobia, and bigotry of all forms. Hate crimes are message crimes. The best antidote to this message of fear, intimidation and isolation is another message: one that is inclusive and promotes trust and safety. At the same time, *failure to speak out* in the aftermath of a hate crime – or failing to effectively address these crimes – can send the disturbing message that these deeply-impactful crimes are not priorities.

- 2) Improve hate crime data collection and reporting.** The FBI's Hate Crime Statistics Act numbers do not speak for themselves. Behind every statistic is an individual or an institution targeted for no other reason than their identity or characteristics. The true value of the national data collection program is to improve every law enforcement agency's response to each and every hate crime. If police officials are charged with reporting hate crimes to the FBI, they must train their officers in how to identify, report, and respond to these incidents effectively.
- 3) Expand hate crime and implicit bias training for federal state and local law enforcement agencies.** The Administration and Congress should provide funding for hate crime and implicit bias training (like the training announced last June). The Justice Department should highlight and support best practices by U.S. Attorneys, such as hate crime working groups composed of community-based organizations, civic leaders, and police officials. The FBI should expand training with its excellent *Hate Crime Data Collection Guidelines and Training Manual*.
- 4) Advance police-community relations by building the necessary climate of trust.** Anti-immigrant rhetoric in the national political debate, coupled with the Executive Orders on immigration, refugee policy, and sanctuary cities have, too frequently, set up a false choice in the public debate between fear of terrorism and crime, and honoring America's heritage as a haven for those fleeing persecution and violence. The Administration and Congress should take no action that would drive a dangerous wedge between law enforcement and immigrant communities which could create an environment in which victims would be afraid to report crimes or come forward as witnesses, including hate crimes. If people intent on hurting others know that immigrants will not call the police for help, immigrants will become even more vulnerable to hate violence.
- 5) Expand anti-bias education and bullying prevention programs.** However strong and inclusive our federal and state hate crime laws are – and however effectively they are enforced – it will always be better to *prevent* a hate crime than to respond effectively to it. FBI statistics indicate that juveniles are disproportionately both the victims and the perpetrators of hate crimes. Recognizing the limits of legal responses to hate violence, Congress and the Department of Education should increase federal funding for inclusive school anti-bias education and bullying prevention programs.
- 6) Research into the nature and magnitude of hate violence.** In conjunction with academic institutions, the Department of Education and the Department of Justice should fund research into the nature and magnitude of the hate crime problem in America – and into the connection between online hate and hate violence, bullying, and harassment.
- 7) Provide technical assistance with institutional security and funding for victim assistance.** The federal government should expand outreach, training, and education concerning security planning and preparedness programs for religious institutions, places of worship, and other institutions that have been targeted because of their affiliation with any particular religious, racial, or ethnic minorities. Congress should expand federal assistance available for victims of hate crimes.

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California, which has a significant Jewish population, had 211 anti-Semitic incidents last year, the highest number for a U.S. state and a year-to-year increase of 21%. There were 87 anti-Semitic incidents in the state in the first three months of this year.

3. From your perspective, what more do you believe state and local authorities in states such as California can do to make sure that these criminal acts are swiftly investigated?

Answer:

With regard to California, as an initial matter, it is important to note that not all of the 87 anti-Semitic incidents that ADL recorded during the first quarter of 2017 were criminal in nature. In fact, 51 of them were non-criminal acts of discrimination or other forms of harassment. Of the remaining thirty-six, twenty-one were acts of vandalism and fifteen were bomb threats against Jewish institutions (a unique 2017 occurrence). Nonetheless, non-criminal biased conduct is frequently a precursor to criminal acts, and it is essential for law enforcement to respond in a timely manner when victims report these incidents. Capturing these occurrences is important for both trend analysis and for determining where to direct resources.

California is fortunate to have a comprehensive set of hate crime laws that is a model for other states. In addition, both the general public and law enforcement authorities in California are highly attuned to the perniciousness of bias-motivated violence and the need to address it aggressively. That said, this is a large, diverse and populous state, and there is always more that can be done to improve hate crime investigations, prosecutions, data collection, and law enforcement training.

Though the 2016 election was divisive, and many minority communities reported increases in harassment, discrimination and violence, one silver lining is that California's lawmakers and other officials are speaking out and taking action.

California's legislature is currently considering a number of bills to improve hate crime reporting and investigations, including 1) **Assembly Bill (AB) 800**, requiring the attorney general to establish a toll-free hotline for the reporting of hate crimes; and 2) **AB 1161**, which would mandate that law enforcement agencies' hate crime policies accurately reflect the Commission on Police Officer Standards and Training (POST) Model Policy Framework on hate crimes, and require them to consult with community and civil rights groups in developing their policies. ADL strongly supports these measures and urges the legislature to pass them and Governor Brown to sign them into law.

In addition, the Assembly has reconstituted its Select Committee on Hate Crimes under the leadership of Assembly Member Kansen Chu (D-25). ADL urges the Committee to quickly schedule public hearings with community and law enforcement participation to determine what more needs to be done to combat hate crimes, and then formulate appropriate recommendations.

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California's lawmakers and other high-profile officials are also working to ensure that trust between law enforcement and the communities they serve is not eroded by President Trump's Executive Orders on immigration and so-called "sanctuary cities." For instance, **Senate Bill 54**, the California Values Act, prohibits state and local law enforcement agencies, including school police and security departments, from using state and local resources to enforce federal immigration laws. ADL strongly supports this measure and urges the legislature to pass – and Governor Brown to sign – this and other bills protecting immigrant rights into law.

California's Attorney General and Supreme Court Chief Justice have both been outspoken on this issue. Immediately following the President's issuance of the sanctuary cities executive order, Attorney General Beccera criticized it, saying, "In California, we want to foster trust between law enforcement authorities and the communities they are obliged to protect." California Chief Justice Tani Cantil-Sakauye publicly and repeatedly has called on Immigration and Customs Enforcement to refrain from enforcing immigration laws in our courthouses. Immigration enforcement practices that inhibit victims and witnesses from accessing our court systems and law enforcement – whether they be victims of a hate crime or other injustices – put all of our communities at risk. We urge all elected officials to follow these examples and similarly speak out decisively to foster trust within their communities.

Each public statement and piece of legislation sends a message to Californians that they should feel confident and secure interacting with law enforcement. This, in turn, impacts their reporting of hate crimes to law enforcement agencies. It is true that California's reported hate crime numbers are relatively high every year. A significant contributing factor is the decades of work by law enforcement, community organizations, like ADL, and elected officials to encourage comprehensive reporting, robust investigations, and prosecutions of hate crimes. ADL has five offices in California – each of which devotes significant time to educating community members and law enforcement authorities about identifying, reporting and responding to bias-motivated incidences and crimes. While it is true that many communities feel targeted post-election, it is also true that the cumulative effect of strong laws and consistent training and education leads to more enforcement, and hence higher statistics. Stakeholders must redouble these efforts to assure communities that they are safe and welcome in our state.

Some of the best police work is done long before a crime occurs: building relationships and understanding between law enforcement agencies and the communities they serve. Closer relationships lead to better understanding and communication. In turn, affected communities will be more likely to alert law enforcement to increased tensions or non-criminal acts of bias, often the precursors to actual hate crimes. This synergy gives law enforcement a better chance of preventing a possible hate crime before it occurs. We believe California should invest energy and resources towards helping law enforcement agencies develop and deepen their relationships with the diverse communities they serve.

Currently, 45 states and the District of Columbia have enacted hate crime laws. The five states without hate crime laws are Arkansas, Georgia, Indiana, South Carolina, and Wyoming. And every state's hate crime law is different: only 30 states and DC include sexual orientation; only 30 states and DC include gender; only 31 states and DC include disability; and only 16 states and DC include gender identity. ADL is working with a broad coalition of national civil rights, religious, and education organizations in a coalition called 50 States Against Hate to enact and perfect existing laws, to enhance hate crime data collection and reporting, and to improve federal and state response to hate violence.

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4. What more can the federal government do?

Answer:

- 1) **Establish a Federal Agency Coordinating Hate Crime Task Force.** The Trump administration should designate a White House Coordinator for Fighting Hate and create a federal inter-agency Task Force on Fighting Hate, which includes the Department of Justice, FBI, the Department of Education, the Department of Homeland Security and others, to meet regularly with stakeholders and community-based organizations and to promote cross-agency collaboration to address hate crime prevention and response. The creation of a Justice Department Hate Crime Subcommittee of the Attorney General's Task Force on Crime Reduction and Public Safety – and announced plans for a hate crime summit at the end of the June – are welcome first steps.
- 2) **Aggregate Online Hate Crime Prevention and Response Resources.** In cooperation with law enforcement organizations and civil rights and religious groups, Congress should fund, and the Administration should create a website – similar to the extraordinarily helpful www.stopbullying.gov – to serve as a one-stop hate crime prevention and response portal for key stakeholders and the general public.
- 3) **Strengthen Federal Hate Crime Prevention and Enforcement Laws.**
 - a. Congress should consider adding “threats” to the Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act (HCPA 18 USC §249).
 - b. In the aftermath of an unduly-restrictive interpretation of the statute by the 6th Circuit Court of Appeals in 2014 in *United States v. Miller*, 767 F.3d 585 (6th Cir. 2014), Congress should clarify that enforcement of the HCPA does not require a “but-for” causation standard.
 - c. The President and Congress should support budget authority to fund, for the first time, grants authorized under Sec. 4704 of the HCPA to promote federal coordination and support for bias-motivated criminal investigations and prosecutions by state, local, and tribal law enforcement officials.
 - d. Congress should criminalize threats under the Church Arson Prevention Act (18 USC §247). Similar to pending legislation like HR 1730 and S 994 (introduced by Sens. Feinstein and Hatch), Congress should enact legislation to criminalize bomb threats and other violent threats against religiously-affiliated organizations, including Jewish Community Centers.
 - e. Congress should enact the National Opposition to Hate, Assault, and Threats to Equality (NO HATE) Act of 2017 (S 662/HR 1566). This legislation would improve the response to hate violence in a number of different ways: 1) Establish a federal private right of action for hate crimes; 2) Improve reporting of hate crimes; 3) Promote state Hate Crime Hotlines staffed with knowledge of state hate crime laws, victim service providers, and community-based organizations that can support victims and help them navigate the criminal justice system; 4) Provide alternative sentencing and community service opportunities for certain individuals convicted under the Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act.

ADL Community Support Center

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- f. Enact the Anti-Semitism Awareness Act (ASAA), legislation which is designed to help the Department of Education and Department of Justice effectively determine whether an investigation of an incident of anti-Semitism is warranted under their statutory anti-discrimination enforcement authority. The bill references a 2010 definition of anti-Semitism used by the State Department, and instructs the Department of Education to "take into consideration" the definition "as part of the Department's assessment" of whether incidents constitute unlawful, discriminatory harassment based on individuals' Jewish heritage or ethnicity.
- g. Congress should confer with specialists in online harassment and the First Amendment, law enforcement officials, and privacy law experts to identify new, constitutionally-sound means for legal redress for victims of cyberbullying, cyberstalking, doxxing, and swatting. Law enforcement officials should receive more training on how to respond to these dangerous practices, which use online activity to harm victims in the physical world.

We hope these responses are helpful. Again, we deeply appreciated the attention paid to the issue by the Committee, and the opportunity to present our views on the issues to Committee members.

Sincerely,

Jonathan A. Greenblatt
CEO and National Director

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