



U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

SEP 11 2017

The Honorable Charles E. Grassley
Chairman
Committee on the Judiciary
United States Senate
Washington, DC 20510

Dear Mr. Chairman:

Enclosed please find responses to questions for the record arising from the appearance of Eric Treene, Special Counsel for Religious Discrimination in the U.S. Department of Justice Civil Rights Division, before the Senate Judiciary Committee on May 2, 2017, at a hearing entitled, "Responses to the Increase in Religious Hate Crimes." We apologize for our delay in responding.

Please do not hesitate to contact this office if we may be of additional assistance regarding this or any other matter. The Office of Management and Budget has advised us that there is no objection to submission of this letter from the perspective of the Administration's program.

Sincerely,

A handwritten signature in black ink, appearing to read "Stephen E. Boyd".

Stephen E. Boyd
Assistant Attorney General

Enclosure

cc: The Honorable Dianne Feinstein
Ranking Member

Questions for the Record
Eric Treene
DOJ Special Counsel for Religious Discrimination
Civil Rights Division
U.S. Department of Justice
For Hearing on “Responses to the Increase in Religious Hate Crimes”
May 2, 2017
Senate Judiciary Committee

Questions from Ranking Member Feinstein

- 1. How many federal prosecutions are there pending now this year and how many have there been for the last ten years under the following statutes, with a breakdown by religious target:**
 - a. Title 18, United States Code, Section 247 - Damage to Religious Property/Obstruction?**
 - b. Title 18, United States Code, Section 249 - Shepard Byrd Act (passed Oct. 2009, effective Jan. 2010)?**

The Department of Justice (“Department”) is committed to vigorously prosecuting hate crimes that target individuals based upon their religion or perceived religion. Two important statutes that the Department uses to combat religious-bias hate crimes are 18 U.S.C. § 247 – Damage to Religious Property/Obstruction of Exercise of Religious Beliefs; and 18 U.S.C. § 249 – Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act, which also encompasses hate crimes motivated by biases other than religion. Importantly, the Department also uses other statutes to bring those who commit these acts to justice, including, but not limited to 18 U.S.C. § 371 – Conspiracy; and 18 U.S.C. § 875 – Interstate Communications; and 18 U.S.C. § 876 – Mailing Threatening Communications.

Over the past ten years, the Civil Rights Division has charged, together with the U.S. Attorneys’ Offices, 33 cases under 18 U.S.C. § 247, four of which are currently pending. Of those cases, 16 targeted Muslim victims; 11 targeted Christian victims; five targeted Jewish victims; and one targeted both Jewish and Christian victims. Since the passage of 18 U.S.C. § 249 in 2009, the Civil Rights Division has charged 37 cases under that statute, three of which were charged, in part, based upon religious bias – one was charged as being because of the victims’ Muslim religion, one was charged as targeting victims perceived to be Muslim, and one was charged as targeting Amish victims. Where appropriate, federal prosecutors have also charged violations of laws prohibiting making threats in interstate commerce, while a hate-crime investigation is pursued.

Among the more significant bias hate crime cases charged is *United States v. Dylann Roof*, in which the defendant was convicted of federal hate crime and firearms charges and sentenced to death following a jury trial earlier this year. Roof was convicted on all counts of a 33-count indictment, including 24 hate crime charges that alleged he killed and

attempted to kill 12 African-American parishioners at Emanuel AME Church in Charleston, South Carolina, because of their race and, in doing so, forcibly interfered with their free exercise of their religious beliefs. The indictment charged Roof with three groups of charges: 1) 12 violations of 18 U.S.C. § 249(a)(1), for the race-motivated killings and attempted killings of the parishioners; 2) 12 violations of 18 U.S.C. § 247(a)(2) for forcibly interfering with the parishioners' free exercise of their religious beliefs; and 3) nine violations of 18 U.S.C. § § 924(c) & (j) for using a firearm to commit murder during a crime of violence.

More recently, on June 9, 2017, Adam Purinton was indicted on federal hate crime and gun charges (18 U.S.C. §§ 249 and 924(j)) for a shooting he committed at a bar in Olathe, Kansas, on February 22, 2017. The defendant racially harassed two Indian patrons at the bar and was escorted out; he then returned 30 minutes later with a gun and shot both victims, killing one and injuring the second. A bystander who chased the subject after the shooting was also shot and wounded. The state has charged Purinton with one count of premeditated murder and two counts of attempted murder.

2. What police trainings and inter-agency/community working groups are presently operating under DOJ, or have been over the last ten years?

The Civil Rights Division, together with the United States Attorneys' Offices, has expended significant resources to train law enforcement and has actively participated in inter-agency outreach with a wide range of community groups. Some specific examples are provided below.

In the spring of 2016, the Department announced a new initiative to address backlash against Muslim, Arab, Sikh and South Asian Americans following the terrorist attacks in Brussels, Paris and San Bernardino, California. The Department held 14 events in 11 districts. U.S. Attorneys in California, Colorado, Connecticut, Idaho, Louisiana, Massachusetts, Michigan, Minnesota, New Jersey, Ohio and Utah worked with community leaders and law enforcement. More information and portions of the event can be accessed at these websites: <https://www.justice.gov/usao-edca/pr/us-attorney-holds-roundtable-community-and-law-enforcement-leaders-address-prevention> and <https://www.justice.gov/usao-edca/video/stand-anti-muslim-sikh-backlash-nationwide-event-highlights>

In 2016, the Department launched "Combating Religious Discrimination Today," an interagency community engagement initiative designed to promote religious freedom, challenge religious discrimination, and enhance enforcement of religion-based hate crimes. The United States Attorneys' Offices, in partnership with the Civil Rights Division and other federal agencies, hosted a series of community roundtables across the country that focus on protecting people and places of worship from religion-based hate crimes; combating religious discrimination, including bullying and harassment, in education and employment; and addressing unlawful barriers that interfere with the construction of places of worship. The report of the initiative is available at <https://www.justice.gov/crt/file/877936/download>.

Since 2009, the Justice Department has conducted dozens of hate crimes identification training programs for law enforcement and community groups, reaching thousands of law enforcement agents and hundreds more community members. In 2015, in commemoration of the Fifth Anniversary of the Matthew Shepard and James Byrd Jr. Hate Crimes Prevention Act. (HCPA) and to further these collaborations, the Justice Department held five regional trainings on hate crime prevention and prosecutions in California, Kansas, Florida, Mississippi, and Oregon.

In April 2017, the Civil Rights Division conducted an intensive four-day training for federal prosecutors and agents on prosecuting criminal civil rights violations at the National Advocacy Center in Columbia, South Carolina, a significant part of which focused on bias motivated crimes.

In May, 2017, representatives from the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), United States Attorney's Office, and the Civil Rights Division hosted an interfaith community forum in Pittsburgh for representatives from seven houses of worship and the communities they represent.

The Federal Bureau of Investigation (FBI) Civil Rights Unit has formalized a comprehensive national training strategy, the National Training Initiative (NTI). This initiative aims to strengthen the civil rights educational footprint throughout the nation by expanding the training and materials that field offices may provide to law enforcement partners, non-governmental organizations, and community groups. As part of the NTI, the FBI conducts hundreds of seminars, workshops, and training sessions for local law enforcement, minority and religious organizations, and community groups to promote cooperation, reduce civil rights abuses, and provide education about civil right statutes. Each year, the FBI also provides hate crimes training for new agents, hundreds of current agents, and thousands of police officers worldwide. The majority of FBI field offices currently participate in local Hate Crimes Working Groups. These working groups combine community and law enforcement resources to develop strategies to address local hate crime problems, including hate crimes against the LGBT, Latino, and African American communities. The FBI also has developed a Protecting Houses of Worship course to better prepare houses of worship for security and active shooter response.

Agents and supervisors involved with the Civil Rights Program also engage in extensive outreach to community groups and law enforcement agencies. The FBI has forged partnerships nationally and locally with many civil rights organizations and community groups to establish rapport, share information, address concerns, and cooperate in resolving bias motivated incidents. Many hate crimes cases are prosecuted at the state or local level as homicides or assaults. The FBI, therefore, works with state and local law enforcement on hate crimes, providing resources, forensic expertise, and experience in the identification and proof of bias-based motivations, even when federal charges are not brought or do not apply.

The Department's Community Relations Service (CRS) facilitates Hate Crime Prevention and Know Your Rights Forums at local houses of worship and religious community centers to bring community members together with local, state, and federal law enforcement

partners, as well as with human rights commissions and organizations that offer relevant resources and support services. So far, this year, CRS has facilitated forums in Illinois, Kansas, Maryland, Massachusetts, Michigan, Virginia, and Washington. CRS also provides conciliation and mediation services and technical assistance (often in the form of sharing best practices).

a. What is DOJ's budget with respect to training and outreach related to hate crimes in general and religious hate crimes specifically?

There are many components of the Department that have been participating in the extensive training and outreach outlined above, and there is no central budget dedicated to training and outreach related to hate crimes in general or religious hate crimes specifically. The Civil Rights Division, the FBI, the Community Relations Service, the United States Attorneys' Offices, ATF, and others have dedicated thousands of staff hours, pulled from their travel budgets, and found resources to host and produce these trainings.

3. Do you have an approximate breakdown of how many of the religion based hate crime incidents over the past five years involved organized hate groups?

Only one of the federally charged religion-based hate crime incidents over the past five years involved an individual who was a member of an organized group. The majority of the cases charged are committed by lone actors, some of whom have become self-radicalized to violence, but do not appear to be part of an organized group. In some instances, two or three defendants jointly commit an opportunistic religion-based hate crime, in which the perpetrators are frequently fueled by alcohol and angered by a recent news story, but are not part of an organized group.

a. Can you please provide a breakdown by hate groups, and specify which years the incidents occurred?

As stated above, the majority of these cases are committed by lone actors who may have self-radicalized to violence, that do not appear to be part of, or endorsed by, any particular group. In the case referenced above, the defendant committed a series of racially-motivated arsons in December 2010, including the arson of a historic African-American church in Crane, Texas, as part of an effort to murder a disabled African-American man. The defendant admitted that he started the fire intending to kill the disabled African-American man whom he believed lived at a shelter within the church. The defendant ransacked the church, wrote a series of threatening and racist messages in large letters across the wall of the church next to the pastor's office, and "tagged" the church with references to the Aryan Brotherhood. The arson of the church was part of a series of racially-motivated arsons that the defendant perpetrated that day in his attempt to gain status with the Aryan Brotherhood of Texas. The Department aggressively prosecuted this matter, obtaining a sentence of more than 37 years for this defendant.

b. What portion of these cases involved juveniles or young adults?

Approximately one-third of the religion-based hate crimes that have been federally charged

in the last five years have involved defendants who were under the age of 25 when they committed their crimes. This unfortunate trend is exemplified by two such matters recently in the news: 1) the federal prosecution of Dylann Roof, discussed above, involving a defendant who was 21 years old at the time of the crime; and 2) the recently filed complaint charging an Israeli man with making threatening communications to various Jewish Community Centers and other crimes, involving a defendant who was 18 years old at the time of the incidents.¹

c. What are some specific strategies that you suggest are best suited to address the unique nature of such hate crimes which predominantly involve youth?

The Department believes that education and early intervention play an important role in keeping minors from embarking on a life of crime. Effective prosecutions can provide a strong deterrent effect for other potential youthful offenders.

The Department vigorously enforces federal civil rights laws that protect students from discrimination, including harassment, and continues its longstanding work to combat religious discrimination in schools. Specifically, the Educational Opportunities Section of the Civil Rights Division (“EOS”) is responsible for enforcing, among other statutes, Title IV of the Civil Rights Act of 1964, which protects students from discrimination on the basis of race, color, national origin, sex, and religion in public schools and institutions of higher learning. The Department continues to invest in its partnership between EOS and U.S. Attorneys’ Offices around the country to combat religious discrimination in schools. This initiative was created specifically to expand the Department’s ability to respond to allegations of religious discrimination in schools. Through the EOS-USAO initiative, U.S. Attorneys and experienced civil rights attorneys who specialize in education work together to respond to incidents of religious bullying and discrimination.

The Department has also been proactive, outside of formal investigations, in providing educators with tools to address religious discrimination in schools. For example, the Department’s Office of Juvenile Justice and Delinquency Prevention hosted a web-based training, attended by more than 400 school administrators from around the country, entitled, “Helping Educators and Counselors Prevent Bullying of America’s Muslim Youth.” (*See*

<https://www.nttac.org/index.cfm?event=trainingCenter.traininginfo&eventID=1637>.)

Additionally, the Department’s Community Relations Service (CRS) continues to help schools build strategies to improve lines of communication, establish programs to eliminate racial and ethnic misconceptions, and develop plans to prevent conflict and improve intergroup relations among students, faculty, staff, parents and community groups. (*See, e.g.,* CRS’ “SPIRIT” program:

<https://www.justice.gov/sites/default/files/crs/legacy/2012/12/17/school-multicultural-conflict.pdf>.) Finally, the Department actively participates in the Federal Partners in

¹ We note that the charges against this individual are merely accusations. All defendants are presumed innocent of the charges, and it is the government’s burden to prove a defendant’s guilt beyond a reasonable doubt at trial.

Bullying Prevention, an interagency coalition tasked with coordinating anti-bullying work across federal agencies.

When hate crimes on any basis are committed in schools, the Department relies on criminal prosecutors to investigate and litigate those cases.

FBI Hate Crimes Data Collection

The number of law enforcement agencies reporting their hate crimes statistics to the FBI seems to be decreasing. In 2015, more than 3,000 law enforcement agencies did not provide hate crimes data to the FBI, which was almost 500 fewer than in 2014.

1. What does the Department intend to do to make it easier for local agencies to report this crucial data to the FBI?

The UCR Program is in the process of transitioning all law enforcement agencies (LEAs) to the National Incident-Based Reporting System (NIBRS) by January 1, 2021. Reporting via NIBRS will improve the quality, reliability, and accuracy of the data received from participating LEAs. It will also ease the ability for LEAs to report hate crime data because hate crime is collected under a separate data element within NIBRS. As with the current reporting system, reporting under NIBRS will be voluntary, and thus it remains critical to the success of federal hate crime data collection that we partner with state, local, and tribal law enforcement agencies to maximize participation by agencies and individual officers.

2. What does the Department intend to do about the serious discrepancies found between FBI Hate Crimes data and the DOJ Bureau of Justice Statistics report to provide law enforcement as well as policy and law makers with a more comprehensive view?

The FBI Uniform Crime Reporting (UCR) Hate Crimes data collection and the Department's National Crime Victimization Survey (NCVS) use different methodologies for collecting hate crime data. Although the two data collections were intended to be complementary, the FBI cautions users against making comparisons between the administrative data of the UCR Program's Hate Crime data collection and the NCVS self-report survey data. The NCVS was designed to capture a broader range of incidents, including those that are not reported to law enforcement.

The FBI UCR Program and the Bureau of Justice Statistics are actively participating on the Subcommittee on Hate Crimes of the Attorney General's Task Force on Crime Reduction and Public Safety. This group is focusing on developing strategies for improving the hate crime data collection.

The FBI routinely provides training throughout the United States. In fiscal year 2016, the FBI's Criminal Justice Information Services (CJIS) Division provided 49 training sessions to participants from a combined 1,414 state and local agencies. The FBI will continue to provide training to local LEAs and will emphasize hate crime collection to the attendees.

Throughout 2015, the FBI UCR Program participated in five regional training sessions sponsored by U.S. Attorneys' offices. Training locations were chosen based on the low number of LEAs reporting hate crime statistics to the FBI UCR Program. The trainings focused on increasing the understanding of how state and federal entities can work together to prosecute hate crime incidents and emphasized the benefits of reporting hate crime statistics to local law enforcement participants. Following up on this effort, in November 2016, the FBI UCR Program provided each U.S. Attorney's office with a list of LEAs, broken down by district, which either did not participate or reported zero hate crime incidents to the FBI UCR Program in 2015. In an effort to improve reporting, U.S. Attorneys were encouraged to contact the LEAs in their districts to emphasize the importance of hate crime reporting and offer assistance if necessary. We plan similar follow up with U.S. Attorneys in the near future.

Combatting Hate Groups and Anti-Muslim Hate Crimes

1. What is the Department's strategy to combat specific hate groups?

The First Amendment to the United States Constitution gives individuals and groups the right to peacefully advocate for the advancement of all manner of views, even views that many of us find distasteful, immoral, or evil. For this reason, the Department does not target groups for investigation or prosecution based upon their beliefs or ideology. Instead, Department prosecutors, in conjunction with our partners in the FBI, as well as state and local authorities, examine whether any person, whether working as part of an organized hate group, aspiring to belong to such a group, or acting on his or her own initiative, has violated any federal laws. This does not mean we cannot take action until a violent event occurs, since there are laws that punish inchoate crimes such as solicitation to commit an offense or conspiracy to commit an offense.

In addition, the Department is working to devise a strategy to combat hate crimes nationally. To solicit input from stakeholders on that plan, the Department hosted a Hate Crime Summit in June of this year to discuss most effective practices for investigating, prosecuting, and preventing hate crimes.

2. The Southern Poverty Law Center has collected data showing that the number of anti-Muslim hate groups have tripled in 2016, going from 34 in 2015 to 101 last year. What can be done to address this?

As discussed above, the Department is devoting considerable resources to combatting hate crimes, whether committed by members of organized groups or committed by individuals acting on their own.

Given its priority within the Administration, federal agents and prosecutors continue to investigate aggressively allegations of criminal conduct that, if true, would violate relevant hate crime statutes. Nonetheless, there are constitutional limitations on the power that the Department may exercise to address any rise in the number of "hate groups" that may be occurring. Protections for speech and association that do not amount to criminal behavior circumscribe law enforcement's role in addressing the problems to which you refer. While

criminal law enforcement will always be available when appropriate, troubling social dynamics, such as a rise in hate groups, may well be better addressed through civic institutions such as schools, religious organizations, and community groups.

3. Late last year and into 2017, in California and throughout the country a series of threatening letters were sent to mosques. There have also been an alarming number of mosque arsons since the beginning of this year. To name a few examples from this year:

- **Jan. 7, 2017: Islamic Center of Lake Travis in Austin, TX was burned to the ground before its construction was fully complete;**
- **Jan. 14, 2017: The Islamic Center of Eastside in Bellevue, WA was set on fire intentionally;**
- **Jan. 27, 2017: Arson intentionally destroyed the Victoria Islamic Center in Victoria, TX;**
- **Feb. 24, 2017: The Islamic Society of New Tampa in Thonotosassa, FL was intentionally set on fire just months after a mosque in Fort Pierce, FL was set on fire; and,**
- **April 22, 2017: A fire destroyed the Brooklyn Broadway Jame Masjid and Islamic Center early in the morning while worshipers were inside; while there were no injuries, the mosque's furniture and books were destroyed.**

For communities that are directly impacted by such attacks on houses of worship, what government resources are available for religious institutions to recover from these types of attacks? What government resources are available to protect themselves from future attacks?

Attacks on places of worship or other religion based hate crimes such as those referenced above strike at the core of their respective communities. Recognizing that an immediate response aids in recovery and healing, the FBI, when appropriate, will assign one of their victim specialists located in field offices across the country to personally assist victims such as the ones described in the above question. These specialists are assigned from the local field office, to ensure timely and personal attention to the victims.

Unfortunately, children are sometimes the victims of—or witnesses to—hate crimes in religious communities. In those delicate situations, the FBI may utilize forensic child interviewers who have the ability to tailor their interviews to the child's stage of development and who make every effort to minimize any additional trauma to the child.

When a hate crime case is formally indicted, DOJ's victim service coordinators begin their involvement with the victims. The responsibility of the Victim Witness Coordinator (VWC) is to conduct crisis intervention techniques and to assess the emotional needs of the staff and members of the religious community. VWCs usher victims through the entire court process, provide trial support, make referrals to community partner resources, and assist with community and individual impact statements in the event of a conviction. The VWC services may come from the local U.S. Attorney's Office or the Civil Rights

Division, or a collaboration between the two.

DOJ has a Victim Notification System (VNS), which is an automated system providing victims with up to date information about the case as required by the Crime Victims' Rights Act.

DOJ's Office for Victims of Crime (OVC) administers two Victims of Crime Act (VOCA) formula grant programs that support crime victim compensation and assistance. The VOCA Compensation Formula Grant Program provides funding to supplement state compensation programs that provide financial assistance and reimbursement to victims for crime-related out-of-pocket expenses, including medical and dental care, counseling, funeral and burial expenses, and lost wages and income. The VOCA Assistance Formula Grant Program supports thousands of victim assistance programs throughout the Nation each year. The states provide subgrants to local community-based organizations and public agencies that provide services directly to victims. Direct assistance to crime victims includes crisis counseling, telephone and onsite information and referrals, criminal justice support and advocacy, shelter, therapy, and additional assistance. Funds may also be used to develop new programs that address emerging needs, gaps in service, and training of victim service advocates. In the event that a hate crime qualifies as an act of terrorism or mass criminal violence, and overwhelms the affected jurisdiction or program's ability to respond to the event OVC may provide grant funding under its Anti-terrorism Emergency Assistance Program (AEAP). AEAP funding may assist with crisis response in the initial aftermath of an event, and help victims adapt following the event. AEAP funds may also support state crime victim compensation administrative agencies to reimburse victims for out-of-pocket expenses.

Additional resources for victims in a religious community in the wake of a hate crime can come from DOJ's Community Relations Service (CRS). CRS works with the Civil Rights Division to resolve tensions in the aftermath of racial, ethnic and religious tensions, conflicts, and civil disorders. Their role is to educate, communicate, mediate, and facilitate.

Regarding resources to protect against future attacks, DOJ works with its partners at the Department of Homeland Security (DHS) through community outreach events and other public education efforts such as webinars, national community phone conferences, and media to educate communities about resources such as the Department of Homeland Security's Protective Security Advisor (PSA) network. PSAs are regionally deployed physical security subject matter experts who regularly engage with faith based communities and will conduct, for free, security assessments of vulnerable infrastructure, including places of worship. A good example of such collaboration is the recent Arson Awareness Week, May 7 to 13, which focused on arson at houses of worship. The Civil Rights Division, along with other federal agencies, partnered with the U.S. Fire Administration on this effort, encouraging U.S. Attorneys' Offices to hold events around the country, publicizing the efforts and providing educational materials to the public, and participating in a national interagency webinar for religious communities.

Similarly, the Civil Rights Division participates in the Department of Homeland Security's

Office for Civil Rights and Civil Liberties Incident Communication Coordination Team (ICCT); the ICCT is a rapid response conference call between the federal government and impacted communities in the aftermath of major hate crime events or terrorist attacks raising concerns about backlash against particular communities. This conference call connects concerned stakeholders with government officials, to provide threat assessments and information about available resources. The Civil Rights Division, U.S. Attorneys' offices, and the Community Relations Service also regularly engage with communities on hate crime issues through meetings, town halls, conferences and similar events, often addressing preventive measures and information about reporting hate crimes.

The FBI likewise offers a wide range of educational and training resources to communities. The FBI Civil Rights Unit's National Training Initiative (NTI) is a comprehensive national training program providing hundreds of seminars, workshops and trainings on civil rights issues to state, local and tribal law enforcement partners, non-governmental organizations, and community groups. The majority of FBI field offices currently participate in local Hate Crimes Working Groups. These working groups combine community and law enforcement resources to develop strategies to address local hate crime problems. The FBI also conducts a Protecting Houses of Worship course for local communities, covering active shooter and other aspects of protecting places of worship. Additionally, agents and supervisors involved with the Civil Rights Program engage in extensive outreach to community groups and local law enforcement.

4. **Since 2001, the Civil Rights Division has convened regular meetings with Muslim, Arab, Middle Eastern, South Asian and Sikh community organizations to discuss hate crimes and other issues affecting those communities. I understand that these interagency meetings have been helpful to participant organizations. How does the Civil Rights Division determine which organizations are able to participate in these meetings to ensure that outreach is effective and inclusive? Does the Civil Rights Division plan on continuing with these meetings?**

The Civil Rights Division has held meetings with Muslim, Arab, Middle Eastern, South Asian, Sikh, and Hindu community groups on a regular basis since 2001 on a variety of issues, including hate crimes and other specific issues of concerns as they have arisen. The Division has also frequently spoken at local, regional, and national events and conferences sponsored by members of these communities. Since 2004, the Division has also hosted, and which I believe your question is referring to, an Interagency Meeting with Muslim, Arab, Sikh, South Asian and Hindu (MASSAH) Communities, which brings groups from these communities together with diverse federal agencies including DOJ components, DHS components, the Departments of Education, Transportation, and Treasury, the Equal Employment Opportunity Commission, and others, to discuss civil rights matters relating to these communities. The Civil Rights Division held such a meeting in March 2017 and intends to continue them for the foreseeable future. The groups invited to these meetings change from time to time, but the groups invited are determined by the Civil Rights Division staff based on the goal of including diverse voices from these communities who have experience in civil rights matters while keeping the size of the meeting at a level that will encourage discussion and collaboration. Many other outreach efforts reach groups not included in particular meetings.

- 5. Has the Justice Department considered putting together a one-stop shop for hate crime victims to learn about their rights and gain access to resources and law enforcement contacts such as stopbullying.gov? Please describe any and all plans that the Justice Department has for creating such resources for hate crime victims.**

Over the past several years some civil rights groups have requested that there be a centralized hate crimes website for hate crime victims similar to stopbullying.gov. This issue was raised by some participants in the Combating Religious Discrimination Today initiative, discussed above, the report of which was released in July 2016. One recommendation from participants was for the Federal government to “update and revise current online resources in order to make the information more accessible to the public.” A number of participants also suggested “that the Federal government consider creating a centralized resource page, similar to Stopbullying.gov, that could include all the relevant information related to combating religion-based hate violence.” The Department at that time did not create such a website. However, it did create a hate crime web page on the Criminal Section website and included links to other federal resources. The Department is always looking for ways to improve education about hate crimes, including through its internet presence and social media, in an effective manner.

Questions from Senator Blumenthal

1. **My bill, the NO HATE Act, aims to improve reporting of hate crimes data by providing grants for law enforcement agencies to implement the National Incident-Based Reporting System (NIBRS), as well as grants for hate crimes training and the establishment of State-run hate crimes hotlines.**
 - a. **How would full implementation of NIBRS in all law enforcement agencies assist with the problem of severe underreporting of hate crimes?**

Transitioning to NIBRS will ease the ability for law enforcement agencies to report hate crime incident data because hate crime is collected under a separate data element within NIBRS. However, agencies still have the ability to report zero hate crimes, so this will not guarantee the number of hate crime incidents reported within NIBRS will increase.

2. **What resources does the DOJ make available for houses of worship and religious community centers to keep their communities and facilities safe?**

The primary role of the Department in making places of worship and religious community centers safe is as investigators and prosecutors of crimes. By treating threats and attacks on places of worship as the serious crimes that they are, investigating and prosecuting them vigorously, and obtaining stiff sentences against convicted perpetrators, we seek to deter others who might be tempted to attempt such threats or attacks. That is the strongest weapon in our arsenal.

However, Department components undertake a wide range of proactive measures against hate crimes as well. The Civil Rights Division and U.S. Attorneys' Offices regularly engage with religious and community organizations through national, regional, and local conferences, forums, town halls and similar events to ensure that communities are aware of the risks they face, the laws that protect them, and how to report possible hate crimes. The Department works with its partners at the Department of Homeland Security through community outreach events, and other public education efforts such as webinars, national community phone conferences, and media, to educate communities about resources such as the DHS Protective Security Advisor (PSA) network. PSAs are regionally deployed physical security subject matter experts who regularly engage with faith based communities, and will conduct, for free, security assessments of vulnerable infrastructure, including places of worship. A good example of such collaboration is the recent Arson Awareness Week, May 7 to 13, which focused on arson at houses of worship. The Civil Rights Division, along with other federal agencies, partnered with the U.S. Fire Administration on this effort, encouraging U.S. Attorneys' Offices to hold events around the country, publicizing the efforts and providing educational materials to the public, and participating in a national interagency webinar for religious communities. For example, in the wake of the tragedy at the Mother Emanuel Church in Charleston, a number of United States Attorneys' Offices convened community "Protecting Houses of Worship" training and information seminars.

The Department's Community Relations Service also offers unique community

engagement resources. CRS facilitates Hate Crime Prevention and Know Your Rights Forums at local houses of worship and religious community centers to bring community members together with local, state, and federal law enforcement partners, as well as with human rights commissions and organizations that offer relevant resources and support services. The forums are designed to be informative, enable community members to share concerns and perceptions, and strengthen police-community relations, which can aid in the investigation of the hate crime and lead to more hate crime reporting in the future. CRS also provides conciliation and mediation services and technical assistance (often in the form of sharing best practices).

The FBI likewise offers a wide range of educational and training resources to communities. The FBI Civil Rights Unit's National Training Initiative (NTI) is a comprehensive national training program providing hundreds of seminars, workshops and trainings on civil rights issues to state, local and tribal law enforcement partners, non-governmental organizations, and community groups. The majority of FBI field offices currently participate in local Hate Crimes Working Groups. These working groups combine community and law enforcement resources to develop strategies to address local hate crime problems. The FBI also conducts a Protecting Houses of Worship course for local communities, covering active shooter and other aspects of protecting places of worship. Additionally, agents and supervisors involved with the Civil Rights Program engage in extensive outreach to community groups and local law enforcement.

3. What resources are offered by the DOJ to help a religious community recover in the wake of a hate crime?

Attacks on places of worship or other religion-based hate crimes strike at the core of their respective communities. Recognizing that an immediate response aids in recovery and healing, the FBI, when appropriate, will assign one of their victim specialists located in field offices across the country to personally assist victims of religious hate crimes. These specialists are assigned from the local field office, to ensure timely and personal attention to the victims.

Unfortunately, children are sometimes the victims of or witnesses to hate crimes in religious communities. In those delicate situations, the FBI may utilize forensic child interviewers who have the ability to tailor their interviews to the child's stage of development and who make every effort to minimize any additional trauma to the child.

When a hate crime case is formally indicted, DOJ's victim service coordinators begin their involvement with the victims. The responsibility of the Victim Witness Coordinator (VWC) is to conduct crisis intervention techniques and to assess the emotional needs of the staff and members of the religious community. VWCs usher victims through the entire court process, provide trial support, make referrals to community partner resources, and assist with community and individual impact statements in the event of a conviction. The VWC services may come from the local U.S. Attorney's Office or the Civil Rights Division, or a collaboration between the two.

DOJ has a Victim Notification System (VNS), which is an automated system providing

victims with up to date information about the case as required by the Crime Victims' Rights Act.

DOJ's Office for Victims of Crimes (OVC) administers two Victims of Crime Act (VOCA) formula grant programs that support crime victim compensation and assistance. The VOCA Compensation Formula Grant Program provides funding to supplement state compensation programs that provide financial assistance and reimbursement to victims for crime-related out-of-pocket expenses, including medical and dental care, counseling, funeral and burial expenses, and lost wages and income. The VOCA Assistance Formula Grant Program supports thousands of victim assistance programs throughout the Nation each year. The states provide subgrants to local community-based organizations and public agencies that provide services directly to victims. Direct assistance to crime victims includes crisis counseling, telephone and onsite information and referrals, criminal justice support and advocacy, shelter, therapy, and additional assistance. Funds may also be used to develop new programs that address emerging needs; gaps in service, and training of victim service advocates. In the event that a hate crime qualifies as an act of terrorism or mass criminal violence and overwhelms the affected jurisdiction or program's ability to respond to the event, OVC may provide grant funding under its Anti-terrorism Emergency Assistance Program (AEAP). AEAP funding may assist with crisis response in the initial aftermath of an event and help victims adapt following the event. AEAP funds may also support state crime victim compensation administrative agencies to reimburse victims for out-of-pocket expenses.

Additional resources for victims in a religious community in the wake of a hate crime can come from DOJ's Community Relations Service (CRS). CRS works to resolve tensions in the aftermath of racial, ethnic and religious tensions, conflicts, and civil disorders. Their role is to educate, communicate, mediate, and facilitate.

DOJ's Office of Community Oriented Policing Services (COPS Office) has partnered with The Working Group to support the Not In Our Town (NIOT) anti-hate campaign, which supports safe and inclusive communities. Through this partnership, the COPS Office has resources for communities including films illustrating the important interplay between hate crime victims, the greater community, and law enforcement; action guides that will provide practical methods for engagement, discussion, and assessment; and law enforcement guides that will help agencies and professionals work with diverse community groups, especially populations that might be difficult to reach because of perceived trust issues.

- 4. What is the appropriate role of political leadership in responding to hate violence? Are you disturbed by comments that President Trump has made—as President and prior to becoming President—demeaning others for their background? For example, as a candidate, Mr. Trump demeaned a federal judge for his Mexican heritage. Do these comments disturb you?**

It is good policy and practice for governmental leaders to denounce violent crime, assure victims that the perpetrators of crimes will be pursued, and encourage investigators and prosecutors that leaders will provide them with the resources and backing to pursue these crimes and ensure that justice is done. This is equally true for hate motivated crimes.

Indeed, hate crimes can instill particular terror and fear in targeted communities, so such support from leaders is especially important in these situations. I am encouraged as a Civil Rights Division attorney that President Trump emphasized in his first address to Congress that “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.”

Similarly, I am encouraged by Attorney General Sessions’ leadership on hate crimes. In establishing a hate crimes subcommittee to his Task Force on Crime Reduction and Public Safety, he said: “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.” Likewise, the head of the Civil Rights Division, former Acting Assistant Attorney General Tom Wheeler, has repeatedly stated, upon the convictions or sentencing of perpetrators of hate crimes, that these crimes are an affront to our core American values. For example, in response to the sentencing of a man to a year in prison for sending a threatening letter to a mosque in Minneapolis, former Acting Assistant Attorney General Wheeler stated on March 8 that: “The free exercise of one’s religious beliefs is a fundamental tenet of our Democracy. This sentence sends a message that anyone who threatens others with violence because of religious intolerance will face significant consequences.” These are all good examples of the appropriate role of political leadership in responding to hate violence.

Questions from Senator Hirono

Statements Regarding Minority Groups

1. **We now have a President who is seemingly at ease with demonizing huge swaths of Americans including Muslims, immigrants, and people of color.**
 - a. **When our leaders use this type of rhetoric does it have the effect of emboldening people to commit crimes?**

The question you ask assumes several factual premises that are not clearly established. I thus am not able to provide a response.

2. **In addition to the more overt threats being investigated as hate crimes, Muslims in Hawaii have reported smaller expressions of hate such as men yelling at women in hijab, telling them to go back to their country. I've heard heartbreaking stories of Muslim children asking their parents if they can change their names to something "American." These types of actions make for a less welcoming atmosphere in our communities.**
 - a. **How do we prevent these types of actions from becoming "normal" in our communities? Should these actions be investigated as hate crimes?**

The heartbreaking stories that you mention are, indeed, troubling. However, the Department's ability to proscribe certain interactions is governed, in part, by the First Amendment to the Constitution. While speech can be unpleasant, degrading, or abusive, the First Amendment protects against criminalizing even hateful speech unless it falls within limited categories. As Justice Brandeis famously put it, the First Amendment ordinarily denies a State "the power to prohibit dissemination of social, economic and political doctrine which a vast majority of its citizens believes to be false and fraught with evil consequence." *Whitney v. California*, 274 U.S. 357, 374 (1927) (Brandeis, J., concurring).

One category of communication that is prohibited is speech that amounts to a "true threat." A "true threat" encompasses those "statements where the speaker means to communicate a serious expression of an intent to commit an act of unlawful violence to a particular individual or group of individuals." *Virginia v. Black*, 538 U.S. 343, 359 (2003). While the public often uses the term "hate crimes" loosely, there are significant constitutional limitations on what kind of communication amounts to a prosecutable crime. The Department can, and does, prosecute true threats. For example, on February 8, 2017, the Department obtained a guilty plea from a man on hate crime charges that he threatened two Muslim grocery store owners with harm if they did not close their stores and move. We will continue to be aggressive in investigating and prosecuting conduct and communication that is prohibited by law.

Recent Increases in Religious-Based Hate Crimes

1. **Since January of this year there has been an alarming trend of attacks on houses of worship--from threats of violence to hundreds of religious institutions to a series of mosque arsons in a short span of a few months.**

- a. **Secretary Kelly has indicated that the Department of Homeland Security is taking steps to address the issue. From your perspectives, what would an effective federal response entail?**

The Department of Justice continues to aggressively prosecute religion-based bias hate crimes, and believes in the deterrent power of such prosecutions. For example, the Department recently filed a complaint charging an Israeli man with making threatening communications to various Jewish Community Centers and other crimes.² Earlier this year, the Department convicted at trial a defendant for soliciting another person to violate federal civil rights laws by burning down a mosque in Islamberg, New York. In separate cases last year, the Department convicted a defendant for setting fire to a mosque in Joplin, Missouri; a defendant for threatening to firebomb a mosque in Florida; a defendant for threatening a congregant at a mosque in North Carolina; and a defendant for threatening to “blow up” a mosque in Minnesota.

Education is another important component of an effective federal response. For example, this year Arson Awareness Week, May 7 to 13, focused on arson at houses of worship. The Civil Rights Division, along with other federal agencies, partnered with the U.S. Fire Administration on this effort, encouraging U.S. Attorneys’ Offices to hold events around the country, publicizing the efforts and providing educational materials to the public, and participating in a national interagency webinar for religious communities. This included information about DHS resources available to help protect vulnerable infrastructure such as places of worship. The FBI, U.S. Attorneys’ offices, and the Community Relations Service also engage in extensive outreach and education efforts.

In addition, the Department is working to devise a strategy to combat hate crimes nationally. To solicit input from stakeholders on that plan, the Department hosted a Hate Crime Summit in June of this year to discuss most effective practices for investigating, prosecuting, and preventing hate crimes.

2. **According to the Southern Poverty Law Center, The number of hate groups operating in the country rose from 892 in 2015 to 917 in 2016. By far the most dramatic change was increase in anti-Muslim hate groups, from 34 in 2015 to 101 last year — a 197% increase.**

- a. **What is the DOJ doing to ensure that these groups do not carry out attacks?**

The law criminalizes certain behavior that falls short of an actual attack. Generally referred to as “inchoate crimes,” the law criminalizes solicitations to commit crimes, conspiracies to

² We note that the charges against this individual are merely accusations. All defendants are presumed innocent of the charges and it is the government’s burden to prove a defendant’s guilt beyond a reasonable doubt at trial.

commit crimes, and certain threats to commit crimes. While there is no general “attempt” crime in federal law, certain attempts to commit federal crimes are prohibited if there is proof that the actor intended to commit the underlying substantive offense and took a substantial step toward its completion. While the Department cannot detain people merely for belonging to groups identified as “hate groups,” the Department investigates and prosecutes anyone where there is sufficient evidence to establish that they have violated the law, including the laws prohibiting inchoate crimes.

For example, as mentioned above, the Department recently successfully prosecuted a man for soliciting another person to violate federal civil rights laws by burning down a mosque in Islamburg, a hamlet outside Hancock, New York. Evidence presented at trial established that between February and April of 2015, the defendant planned an armed attack on Islamburg, which is a community that is home to a large Muslim population. His plans included burning down a mosque, a school, and a cafeteria in the community. He also solicited others to join in his planned attack through Facebook posts, telephone conversations, and in-person meetings. The defendant specifically targeted the mosque because it was a religious building, and he discussed burning it down or blowing it up with a Molotov cocktail or other explosive device. The investigation and prosecution is a good example of the Department’s pursuit of a defendant who had not yet engaged in violence, but who had nonetheless violated criminal law through his solicitation to commit violence.

Training and Tools

1. **Since 2001, the Civil Rights Division has convened quarterly interagency meetings with Muslim, Arab, Middle Eastern, South Asian and Sikh community organizations to discuss hate crimes and other issues affecting those communities. While these interagency meetings have been helpful to participant organizations, there are a wide range of community organizations and institutions that do not have access to those meetings and the resources shared.**
 - a. **What is the government doing to educate people around the country about resources and preventative efforts, particularly those who are directly impacted by these issues?**

We recognize the importance of education in combatting hate crimes and increasing trust in affected communities, as noted in the response to your question about effective federal responses.

The Department engages in educational efforts throughout the year for local law enforcement, religious organizations, and diverse community groups to promote cooperation and reduce civil rights violations. The Civil Rights Division and U.S. Attorneys’ Offices regularly engage with religious and community organizations through national, regional, and local conferences, forums, town halls and similar events to ensure that communities are aware of the risks they face, the laws that protect them, and how to report possible hate crimes. The Department works with its partners at the Department of Homeland Security through community outreach events and other public education efforts such as webinars, national community phone conferences, and media, to educate

communities about resources such as the Department of Homeland Security's Protective Security Advisor (PSA) network. PSAs are regionally deployed physical security subject matter experts who regularly engage with faith based communities and conduct, for free, security assessments of vulnerable infrastructure, including places of worship. For example, in the wake of the tragedy at the Mother Emanuel Church in Charleston, a number of United States Attorneys' Offices convened community "Protecting Houses of Worship" training and information seminars.

The Department's Community Relations Service facilitates Hate Crime Prevention and Know Your Rights Forums at local houses of worship and religious community centers around the United States to bring community members together with local, state, and federal law enforcement partners, as well as with human rights commissions and organizations that offer relevant resources and support services. The forums are designed to be informative, enable community members to share concerns and perceptions, and strengthen police-community relations, which can aid in the investigation of hate crimes when they occur and lead to more hate crime reporting.

As part of its National Training Initiative (NTI), the FBI conducts hundreds of seminars, workshops, and training sessions for local law enforcement, minority and religious organizations, and community groups to promote cooperation, reduce civil rights abuses, and provide education about civil right statutes. The majority of FBI field offices currently participate in local Hate Crimes Working Groups. The FBI also conducts a Protecting Houses of Worship course for local communities, covering active shooter and other aspects of protecting places of worship. Additionally agents and supervisors involved with the Civil Rights Program engage in extensive outreach to community groups and local law enforcement.

2. Is the Department of Justice undertaking any initiatives in conjunction with the education community to address bullying and instances of hate within schools?

The Department, through the Office of Justice Programs, the Civil Rights Division, and the Community Relations Service, participates in the Federal Partners in Bullying Prevention, an interagency effort led by the Department of Education that works to coordinate policy, research, and communications on bullying topics.

On the research and statistics front, the Department collects data on the prevalence of hate motivated bullying in secondary schools nationwide through the School Crime Supplement to the National Crime Victimization Survey, jointly sponsored with the Department of Education.

The Department vigorously enforces federal civil rights laws that protect students from discrimination, including harassment, and continues its longstanding work to combat religious discrimination in schools. Specifically, the Educational Opportunities Section of the Civil Rights Division ("EOS") is responsible for enforcing, among other statutes, Title IV of the Civil Rights Act of 1964, which protects students from discrimination on the basis of race, color, national origin, sex, and religion in public schools and institutions of higher learning. The Department continues to invest in its partnership between EOS and

U.S. Attorneys' Offices around the country to combat religious discrimination in schools. This initiative was created specifically to expand the Department's ability to respond to allegations of religious discrimination in schools. Through the EOS-USAO initiative, U.S. Attorneys and experienced civil rights attorneys who specialize in education work together to respond to incidents of religious bullying and discrimination.

The Department has also been proactive, outside of formal investigations, in providing educators with tools to address religious discrimination in schools. For example, the Department's Office of Juvenile Justice and Delinquency Prevention hosted a web-based training, attended by more than 400 school administrators from around the country, entitled, "Helping Educators and Counselors Prevent Bullying of America's Muslim Youth." (See <https://www.nttac.org/index.cfm?event=trainingCenter.traininginfo&eventID=1637>.) Additionally, the Department's Community Relations Service (CRS) continues to help schools build strategies to improve lines of communication, establish programs to eliminate racial and ethnic misconceptions, and develop plans to prevent conflict and improve intergroup relations among students, faculty, staff, parents and community groups. (See e.g., CRS' "SPIRIT" Program <https://www.justice.gov/sites/default/files/crs/legacy/2012/12/17/school-multicultural-conflict.pdf>).

With regard to incidents of hate, when hate crimes on any basis are committed in schools, the Department relies on criminal prosecutors to investigate and litigate those cases.

Investigation and Prosecution of Hate Crimes

- 1. The Civil Rights Division at the Department of Justice has created a subcommittee focused on hate crimes that is embedded in a larger task force targeting undocumented immigrants and drug trafficking.**
 - a. How will you ensure that hate crimes are given sufficient priority within the Civil Rights Division? I am concerned that the hate crimes subcommittee is under a larger task force that is focused on immigration enforcement.**

As the Attorney General has stressed, the Department "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." Combating hate crimes remains an important priority of the Department, and the Civil Rights Division continues to dedicate resources and career prosecutors to evaluating the viability of successfully prosecuting each such case brought to its attention. As previously noted, the Division proactively engages on a regular basis with local, state, and federal partners on this issue distinct from any efforts related to immigration enforcement, and continues to aggressively prosecute hate crimes nationally.

- b. How will you ensure that hate crimes are given sufficient priority within the Civil Rights Division?**

The Attorney General has made clear his commitment to hate crime prosecutions. His

initiative in creating the Subcommittee and directing it to meet with stakeholders is just one way in which he has displayed this commitment. The Civil Rights Division continues to be staffed by career prosecutors who will continue to evaluate the viability for successful prosecution of each case as they always have, based upon the facts, the statute, and the relevant case law.

Consent Decrees

1. Recently, Attorney General Jeff Sessions ordered a review of consent decrees around the country with the possibility of rolling them back.

a. What effect do you believe rolling back consent decrees would have on community relations with police in those communities?

There are many different ways in which to improve and reform policing practices, and consent decrees are only one of many possible mechanisms for doing so. The Department is committed to exploring the best ways to improving how we ensure public safety and protect civil rights. Good community relations with police in any given community is an important part of improving public safety, and the Department will continue to explore how best to achieve this.

b. Could this result in less reporting, investigating, or prosecuting of hate crimes in those communities?

The Department will continue to vigorously investigate and prosecute any and all hate crimes that can be pursued under federal statutes. The Department will continue to assist its state and local partners in prosecuting hate crimes when the Department lacks jurisdiction to file federal charges or when state charges are appropriate for other reasons. The Department is committed to analyzing all barriers to the underreporting of hate crimes. However, we have no data or other indication that the under-reporting of hate crimes is connected to a lack of court supervision of police departments. Under-reporting of hate crimes is one of the subjects that was discussed at the Hate Crime Summit. The Department is committed to working with our state and local partners to improve outreach to relevant communities across this country to ensure that all persons feel comfortable reporting hate crimes to state and local police as well as to federal authorities.

VOICE Office

1. The Department of Homeland Security recently established the Victims of Immigration Crime Enforcement (VOICE) Office. Secretary Kelly directed resources to be reallocated from advocacy efforts to establishing the VOICE Office. However, undocumented immigrants are often victims of hate crimes.

a. What is DOJ doing to prevent and prosecute hate crimes against undocumented immigrants?

We recognize the particular vulnerability of undocumented immigrants who are victims of

hate crimes and who may be reluctant to contact law enforcement to report what has happened to them. The Department is committed to prosecuting all perpetrators of hate crimes, or any other crime, regardless of the legal status of the victim. For example, in 2011, in the first 18 U.S.C. § 249 case to go to trial, the Department prosecuted two defendants for targeting five Hispanic men, one of whom was undocumented, who had pulled into a gas station parking lot. The defendants yelled racial epithets at the men and told them to “go back to Mexico.” When the victims drove away, the co-conspirators pursued them, eventually catching up with the victims. One of the defendants leaned out of the front passenger window and waved a tire wrench at the victims, while the driver rammed into the victims’ car repeatedly, causing the victims’ car to cross the opposite lane of traffic, go off the road, crash into a tree and ignite. The victims were badly injured and one of the victims sustained life-threatening injuries. The defendants were convicted and sentenced to terms ranging from four to eleven years in prison.