

Statement of Vanita Gupta, President & CEO, The Leadership Conference on Civil and Human Rights  
House Committee on the Judiciary

Hearing – “Hate Crimes and the Rise of White Nationalism”

April 9, 2019

My name is Vanita Gupta and I am the president and CEO of The Leadership Conference on Civil and Human Rights (The Leadership Conference), a coalition of more than 200 national organizations committed to promoting and protecting the civil and human rights of all persons in the United States. Before I took the helm of The Leadership Conference, I had the honor of leading the Justice Department’s Civil Rights Division during the last two and a half years of the Obama administration. In that role, I was the nation’s chief civil rights prosecutor overseeing federal hate crimes prosecutions. Thank you for the opportunity to submit testimony for the record regarding hate crimes in the United States today.

Today’s hearing comes at a crucial time, when too many people in this country feel unwelcome, unsafe, and marginalized. Divisive rhetoric during the recent presidential election, comments, and policies targeting or casting wide aspersions on Muslim, immigrant, and other marginalized communities have heightened concerns that our country is increasingly legitimizing or normalizing hate. An alarming number of gut-wrenching incidents of hate-motivated violence have shaken the public in recent months. It is incumbent upon all of us to reduce hate violence and bias-motivated incidents. Hate crimes have a long history in this country. They have a reverberating effect striking fear not only in the victim, but also in the broader community. These incidents further splinter and segregate our communities by eroding the diverse fabric of American life.

There is little question that violence committed against individuals because of their race, religion, ethnicity, national origin, gender, gender identity, disability, or sexual orientation remains a serious problem in America. Nearly 30 years have passed since the 1990 enactment of the Hate Crime Statistics Act (HCSA), and since 2009 the number of hate crimes reported has consistently ranged around 7,000 annually, or nearly one every hour of the day. These data almost certainly understate the true numbers of hate crimes committed, with certain victims being fearful of authorities and not reporting these crimes; or local authorities not accurately characterizing these violent incidents as hate crimes and thus failing to report them to the federal government.

Religious-based hate incidents and crimes have spiked, especially in the wake of the 2016 election. From anti-Semitic attacks in Pittsburgh at the Tree of Life Synagogue, to the Kroger shooting in Kentucky, to the white nationalist deadly attack in Charlottesville and even the New Zealand mosque attacks which were inspired by anti-Muslim rhetoric in America, hate is prevalent. We know that acts of hate not only devastate individuals, but can also target entire communities, undermining the most basic tenets of our democracy. Because hate crimes can change the behaviors of people who are targeted, certain survivors may withdraw from communities and employment, leaving a negative impact on the broader economy. As such,

every sector of society has an important role to play in helping to ensure that no person is targeted for violence based on his or her personal characteristics. We must speak out against hate and bigotry when we see it and document incidents of hate whenever they arise.

## I. Background

Over the last 30 years, The Leadership Conference has been at the forefront of the fight against hate incidents and crimes. In partnership with the Anti-Defamation League and Human Rights Campaign, The Leadership Conference led a diverse coalition that included civil rights, professional, civic, educational, major religious groups, and law enforcement, which advocated tirelessly for passage of the Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act, a historic piece of legislation signed into law in October of 2009 that expanded the definition of federal hate crimes to include sexual orientation, gender, gender identity, and disability, and removed unnecessary obstacles to federal prosecution.

Passage of the Matthew Shepard and James Byrd, Jr. Act, formerly the Local Law Enforcement Hate Crimes Prevention Act, was one of several key recommendations in The Leadership Conference's comprehensive report, "Confronting the New Faces of Hate: Hate Crimes in America 2009," highlighting the need for a coordinated response by every sector of society to eradicate the problem of hate incidents and crimes in the United States. That need continues today. The Leadership Conference, through the work of our hate crimes taskforce, led by the Anti-Defamation League, Muslim Advocates, and the Human Rights Campaign, will remain steadfast in our advocacy to prevent hate crimes and seek stronger protections on both the federal and state levels. We also commend the leadership and commitment of the International Association of Chiefs of Police to combat hate crimes through prevention, training, and enforcement – efforts that have been crucial to our advocacy.

### **The Increase in Hate Crimes:**

The most recent data from the FBI documented that hate crimes against African Americans, Latinos, the LGBTQ community, Native Americans, Jews, and Muslims all increased in 2017. The FBI announced a disturbing 17 percent increase in reported hate crimes in 2017. There were 7,175 hate crimes in America during 2017, up from 6,121 in 2016, the third consecutive year that reported hate crimes have increased. Even more disturbing, 87 percent of all participating police agencies affirmatively reported zero (0) hate crimes to the FBI (including at least 82 cities over 100,000). This means that more than 1,000 law enforcement agencies did not report any data to the FBI. Therefore, Congress must devise ways to improve federal and state responses to hate violence, including how to address FBI Hate Crime Statistics Act underreporting. The federal government must improve their hate crime data collection to accurately represent this country's epidemic of hate.

## II. Coalition Responses to the Current State of Hate:

More recently, in response to the recent uptick in hate incidents, hate crimes, and harassment across the country, our sister organization The Leadership Conference Education Fund (The Education Fund), the Lawyers' Committee for Civil Rights Under Law, and partner organizations representing diverse communities that reflect the fabric of America, launched "Communities Against Hate"(CAH), a national initiative to document stories and respond to incidents of violence, threats, and property damage motivated by hate around the United States. CAH provides a safe place for survivors and witnesses to share stories of hate incidents through our [online database](#) and telephone hotline (1-844-9-NO-HATE). Through the hotline, we connect local organizations combating hate in their communities, as well as hate survivors and witnesses, to legal resources and social services to meet their needs. It is our hope that this coordinated effort will contribute to and build upon longstanding work by other organizations to raise awareness, and educate the public on the prevalence of hate and empower local communities and community-based organizations to respond effectively to hate – including wherever possible, to report these crimes to police, cooperate in investigations, and assist in prosecution through the justice system when appropriate.

Since our launch of CAH in March of 2017, we have collected almost 5,000 incidents, most of which can be seen on the publicly searchable side of our database. On behalf of CAH, The Leadership Conference Education Fund issued [Hate Magnified](#), a report exploring where hate is prevalent, which communities are most likely to fall victim to hate incidents, and what form those incidents most often take. Individuals reported in the poll that they experienced depression and anxiety, sought therapy, and even moved after hate incidents occurred. The findings show that after people experience hate incidents, they largely feel unsafe and unwelcome in their communities, which further divides the nation. The data are clear: Hate is pervasive in America. The recommendations presented in Hate Magnified include:

- Local and federal agencies must strengthen data collection of hate incidents/hate crimes.
- Local and federal agencies must conduct thorough investigations of hate-based incidents and crimes in the future.
- Congress must pass legislation mandating that U.S. Department of Justice funds be made available only to those agencies that are demonstrating credible participation in the Hate Crime Statistics Act program.
- Elected leaders, public officials, and those in positions of power must publicly condemn scapegoating, bias crimes, racism, and other hate speech.
- Federal elected leaders, public officials, and those in positions of power must use their fiscal authority to fund, for the first time, grants authorized under Sec. 4704 of the Hate Crimes Prevention Act.
- The Department of Justice and the Department of Education must work with Congress to pass comprehensive legislation focusing on inclusive anti-bias education, hate crimes

prevention, bullying, and cyberbullying, as well as harassment education, policies, and training initiatives.

### **What Hate Looks Like in America and on the Internet:**

The internet has increased connections among people, facilitating civil rights advocacy and adding new voices to our culture and public debate. But it has also enabled discriminatory conduct, exacerbated existing disparities, and given new tools to those who want to threaten, harass, intimidate, defame, or violently attack people different from themselves. Digital platforms have been used by hate groups, political entities, and others to stoke racial or religious resentment or violence against African Americans, Jewish people, and Muslims while at the same time encouraging the censorship of Black, Arab, Muslim, and other marginalized voices.

In 2014, The Leadership Conference and other civil rights stakeholders released [Civil Rights Principles for the Era of Big Data](#), urging government and industry to develop and use new technologies in ways that will support equal opportunity and justice and bring greater safety, economic opportunity, and convenience to everyone. Since then, these and dozens of other groups have continued to sound the alarm about the harms that digital platforms can turbocharge. In October 2017, we joined with civil rights organizations [to express our deep concern](#) regarding ads, pages, and hateful content on Facebook's platform used to divide our country, and in particular, to promote anti-Muslim, anti-Black, anti-immigrant, and anti-LGBTQ animus. Though in May 2018, Facebook committed to a long-overdue civil rights audit, in November 2018, along with Color of Change, we wrote to [Facebook again](#) in the wake of new, disturbing revelations, to urge them to take immediate steps to build public faith in the platform – faith that is further eroded as we learn more about how the company has undermined our democracy and civil society. We also called for an update on the status of their audit, and a commitment to addressing the problems and implementing solutions.

There is no question that this sort of pressure from the civil rights community matters. Last month, Facebook [announced](#) it would ban white nationalist content from the platform. The Leadership Conference and our allies will continue to advocate for greater accountability and reform to ensure that these platforms serve the best interests of all of us.

We believe Congress should encourage companies to conduct civil rights audits of both their company and its products. These audits should be transparent and involve the civil rights community in order to reduce civil rights harms on their platforms and promote equal opportunity and equal justice. In light of the pervasive presence and organizing by hate groups on certain platforms, we believe these audits should address these companies' efforts to mitigate harm, including by (1) reviewing content constituting hate speech; (2) monitoring efforts to use platforms to stoke identity-based, racial, or religious resentment or violent actions; and, (3) quickly responding to complaints about content that reasonably creates fear and chills speech on these platforms.

### III. Recommendations for Addressing Hate Based Incidents & Crimes in the Future

Federal lawmakers have an important role to play in combatting hate crimes. Hate crime laws and other effective responses to hate violence by public officials and law enforcement authorities can play an essential role in deterring and preventing some of the most heinous crimes against individuals from marginalized communities. Moreover, the Department of Justice, as well as local law enforcement agencies, must continue to identify, investigate, report, and vigorously prosecute violence and harassment based upon hatred for protected categories. If we are ever going to fully and effectively eliminate hate violence in this country and keep our communities safe and free from violence and harassment, Congress must take additional action, including:

- Pass the National Opposition to Hate, Assault, and Threats to Equality Act (NO HATE) legislation designed to provide incentives for hate crime reporting, grants for state-run hate crime hotlines, a federal private right of action for victims of hate crimes, and additional sentencing options for individuals convicted under the Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act.
- Recognizing the limits of legal responses to hate violence, Congress and the Department of Education should increase programs and funding for inclusive school climate, anti-bias education, and hate crime prevention. Schools should be directed to implement properly crafted anti-bullying, cyberbullying, and harassment education and training initiatives.
- Pass legislation to clarify that enforcement of the Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act does not require a “but-for” causation standard.
- Provide funding incentives to encourage state and local law enforcement agencies to more comprehensively collect and report hate crimes data to the FBI, with special attention devoted to the 91 large underreporting law enforcement agencies that either did not participate in the 2017 HCSA program at all or have incorrectly reported zero hate crimes. A commitment to more effective hate data collection will spark improvements in training for officials in how to identify, report, and respond to hate violence.
- Provide appropriate funding levels to ensure that the FBI and the Justice Department’s Civil Rights Division have the training and outreach resources they need to enforce federal law and vigorously investigate and prosecute hate crimes – and build community trust in law enforcement officials. To the extent that marginalized or targeted communities are more reluctant to report that they’ve been the victim of a crime – or do not feel safe reporting – law enforcement cannot effectively address these crimes, thereby jeopardizing the safety of all.
- Provide funding for the Department of Justice to expand and deepen its webpage, <https://www.justice.gov/hatecrimes>, in consultation with law enforcement organizations, civil rights organizations, and religious groups with interest and expertise in combatting hate violence. The webpage should aggregate resources from other federal agencies, including the Department of Education, the U.S. Commission on Civil Rights, and the Department of Housing and Urban Development, that address bias and

discrimination. In addition, DOJ should develop a public awareness campaign that helps to promote the webpage to ensure that it is accessible to all.

- Provide funding for academic research on the extent to which divisive, polarizing rhetoric and executive actions have helped create a climate in which individual perpetrators could feel emboldened to act.
- Oppose any efforts to reduce funding or jurisdiction of the Community Relations Service of the Justice Department.
- Oppose any effort to eliminate training, education, and outreach to address hate crimes based on gender identity.
- Conduct robust, frequent oversight over the following programs and activities:
  - The extent to which divisive, polarizing rhetoric and executive actions have helped create a climate in which individual perpetrators could feel emboldened to act. The best way to address hate crimes is to address hate. The federal government cannot effectively address hate crimes if it is, at the same time, scapegoating Muslims, denigrating Hispanics, demonizing immigrants, refugees, and asylum seekers as “invaders,” mocking people with disabilities, marginalizing women and religious minorities through policy and executive action, and promoting regulatory changes and filing briefs that negatively impact LGBTQ communities – especially the transgender community.
  - Just as the internet and social media have created immense positive value by connecting people, facilitating civil rights advocacy, and adding new voices to our culture and public debate, it can also enable bigoted and discriminatory conduct, exacerbate existing disparities, and give new tools to those who want to bully, threaten, harass, intimidate, defame, or violently attack people different from themselves. New technologies – including algorithmic decision making, artificial intelligence, and machine learning – must protect civil rights, prevent discrimination, and advance equal opportunity.

#### IV. Conclusion

Acts of hate not only devastate individuals, they target, divide, and destabilize entire communities, sending a message that some of us are not welcome. This shocking sentiment is felt most by communities of color, religious groups, and marginalized communities. People do not just think hate is increasing overall, they are experiencing hate personally and witnessing hate in their communities. The pervasiveness of hate in America takes its toll on communities across the country.

Our government must do everything in its power to ensure that people in this country live free from physical harm or intimidation that is based on their race, gender, religion, sexual

orientation, gender identity, or disability status. We must continue working to build an America as good as its ideals.

Thank you for your leadership on this critical issue and for the opportunity to submit this statement for the record today.