



Written Statement by the Southern Poverty Law Center

Submitted to the U.S. Senate Judiciary Committee

In connection with its hearing entitled

***A Threat to Justice Everywhere: Stemming the Tide of Hate
Crimes in America***

September 17, 2024

On behalf of the Southern Poverty Law Center (SPLC) Action Fund, we write to provide our insights for today's hearing, *A Threat to Justice Everywhere: Stemming the Tide of Hate Crimes in America*. We appreciate the opportunity to share our expertise on the nature and magnitude of hate crime in the United States, to underline the impact these crimes have on targeted communities and our communal institutions, and to offer several practical, achievable policy recommendations to improve response to hate violence and address this critical domestic threat. We respectfully request that this statement be included as part of the official hearing record.

Established in 1971, the SPLC has been tireless in identifying and rooting out extremist groups to create a fair, inclusive, and unified nation. We are a nonprofit advocacy organization serving as a catalyst for racial justice throughout the South. We work in partnership with communities of color to dismantle white supremacy, strengthen intersectional movements through transformative policies and initiatives, and advance human rights of all people. We work primarily in the Southeast United States, where we have offices in Alabama, Georgia, Florida, Louisiana, Mississippi, and Washington, D.C.

We have deep expertise in monitoring the activities of domestic hate groups and other extremists – including the Ku Klux Klan, the neo-Nazi movement, racist skinheads, antigovernment militias, and others. We currently track

Christian supremacy and dominionism are now animating features of antigovernment conspiracies and movement organizing, with the goal of transforming U.S. culture and politics into an authoritarian state. Efforts by these activists to make Christianity authoritative and supreme in everyone's lives represent the greatest threat to American democracy that most people have never heard of.

The militia movement continued to shift to a more local and regional structure, attempting to “rebrand” themselves as benign, supplemental law enforcement or disaster relief workers in their community. The national structure used by militias like Oath Keepers and Three Percenters proved a liability following the law enforcement crackdown after Jan. 6. This resulted in many militias reverting to the local/regional structure used in past decades. But these efforts are merely a smokescreen, a public relations ruse, as their combat trainings still feature heavily armed followers training for what they view as an inevitable battle with the New World Order.³

The Nature and Magnitude of the Current Hate Crime Threat

There is a long history of threats and violence directed against marginalized and historically discriminated against people – especially Black Americans and their institutions. Though it has been more than 60 years since

In recent years, top officials at the Department of Justice, the FBI, the DHS, and the intelligence community have prepared reports,⁵ assessments⁶ and congressional testimony,⁷ concluding that the two most lethal elements of today's domestic terrorism threat are (1) racially or ethnically motivated violent extremists who advocate for the superiority of the white race and (2) anti-government or anti-authority violent extremists, such as militia v

18,000 federal, state, university, city, and tribal law enforcement authorities and publish an annual report. The FBI most recent HCSA report, published on October 16, 2023, documents 2022 hate crimes.¹²

1,947 hate crimes targeted at individuals because of their sexual orientation – a 14 percent increase over the 1,711 reported for 2021 and the highest number of sexual orientation-based crimes ever reported.

469 hate crimes were directed against people and property on the basis of their **gender identity**, a 37 percent increase over 342 reported in 2021 (after a 29 percent increase from 2020 to 2021) – and, by far, the highest reported since the FBI began collecting this specific data in 2013.

A special five-year FBI retrospective on hate crime in in K-12 schools, colleges, and universities documented that schools are the third most common location for hate crimes, accounting for ten percent of all reported hate crimes offenses in 2022.¹⁵

Hate crime reports came from 14,660 participating law enforcement agencies in 2022 – out of more than 18,800 federal, state, local, and tribal law enforcement agencies nationwide.

This is a decrease from the 14,859 reporting agencies for 2021, the lowest number of reporting agencies since 2012, and the fifth straight year of decline in police participation.

3,109 of the 14,660 agencies that participated in the FBI data collection effort – 21 percent – reported one or more hate crimes – the highest number of agencies reporting one or more hate crimes ever.

79 percent of all police agencies that participated in the 2022 HCSA data collection program affirmatively reported zero (0) hate crimes, including dozens of cities with over 100,000 in population.

Though clearly incomplete due to underreporting, the annual FBI HCSA reports provide the most comprehensive national snapshot available of hate violence in America. Because the FBI has integrated hate crime reporting into its overall Uniform Crime Reporting system (UCR) since 1991, the report can be compared to other crime data and used to analyze national trends. Even more important, the HCSA report has sparked many improvements in the way police departments across the country address hate violence.

To understand the annual FBI HCSA report, there are several key facts to keep in mind:

- 1) Reporting hate crime data to the FBI is not compulsory.** The entire UCR system of crime reporting is voluntary – murders, rapes, kidnapping, robberies: all voluntarily reported to the FBI by federal, state, local, and tribal law enforcement agencies. In addition, 29 states and the District of Columbia mandate reporting this data to their own state criminal justice authority.¹⁶ One state, New Mexico, mandates reporting to the FBI, as well.¹⁷
- 2) The FBI HCSA reports exclusively on crimes – not arrests or prosecutions** – just the facts as they appear at the scene of the crime. 46 states and the District of Columbia have hate crime laws, but even states without a hate crime statute report hate crime data to the FBI. The 92-page 2022 FBI *Hate Crime Data Collection Guidelines and Training Manual* contains definitions, scenarios, and best practices for

¹⁵ Federal Bureau of Investigation, (2024, January). *Reported Hate Crime at Schools: 2018-2022*, <https://cde.ucr.cjis.gov/LATEST/webapp/#/pages/explorer/crime/special-reports>.

¹⁶ Movement Advancement Project, *Hate Crime Laws*. https://www.mapresearch.org/equality-maps/hate_crime_laws.

¹⁷ Justia. (2023). *2023 New Mexico Statutes Chapter 31 - Criminal Procedure Article 18B - Hate Crimes Section 31-18B-4 - Hate crimes; data collection*. <https://law.justia.com/codes/new-mexico/chapter-31/article-18b/section-31-18b-4/>.

reporting this data to the Bureau.¹⁸ The guide is an excellent resource to assist stakeholders in identifying and crafting a meaningful prevention plan and response to hate crime.

- 3) Studies have shown that more comprehensive, complete hate crime reporting can deter hate violence.¹⁹ Better data will assist in the proper allocation of police resources and personnel – preventing crimes and reassuring victims.²⁰ In addition, effective data collection helps facilitate better police-community relations. Improved data collection will necessarily require outreach and expanded networking and communication with targeted communities, as well as more training for law enforcement personnel in how to identify, report, and respond to hate violence. The International Association of Chiefs of Police has long recognized the importance of effective response to hate violence. Their March 2021 Model Hate Crime Policy is inclusive and excellent – and promotes mandatory hate crime reporting to the FBI and hate incident reporting as a best practice.²¹ The National Policing Institute’s Open Data Initiative demonstrated conclusively the police-community relations benefits of credible, real-time open hate crime data.²²
- 4) **The numbers do not speak for themselves.** On average, more than 32 hate crimes occurred every day in America in 2022. The impact of these crimes on communities can never be reduced to mere numbers. Behind each of the 11,643 reported criminal incidents in 2022 is a victim of violence, intimidation, or vandalism who has been targeted for no other reason than their race, religion, national origin, gender, gender identity, or sexual orientation.
- 5) **Accurate hate crime data collection is a two-way street.** Improved reporting requires both law enforcement agency capability and willingness to accurately report the data and trust from the community that reporting to the police will matter and make a difference. If Black, Indigenous, and people of color (BIPOC) or other targeted community members – including immigrants, people with disabilities, LGBT community members, Muslims, Arabs, Middle Easterners, South Asians, and people with limited language proficiency – cannot report, or do not feel safe reporting, law enforcement cannot effectively address these crimes, thereby jeopardizing the safety of all.
- 6) **Analyzing HCSA data requires nuance.** The voluntary nature of the HCSA program and the obvious, consistent underreporting have created gaps in our overall understanding of hate crimes in America. We really cannot know if the 2022 HCSA report accurately documented that more hate crimes were committed, or if the report merely reflects better, more complete reporting by police and victims. Many African Americans, Latinx, Muslims, LGBTQ people, and other historically discriminated communities do not trust the police and, for a variety of reasons, may be reluctant to report their hate crimes.²³

¹⁸ Department of Justice, Federal Bureau of Investigation. (2022). *Hate Crime Data Collection Guidelines and Training Manual*. <https://le.fbi.gov/file-repository/hate-crime-data-collection-guidelines-and-training-manual.pdf/view>.

¹⁹ Schwencke, K. (2023, July 11). *There have been huge gaps in FBI hate crime data for years. A new law aims to fix that*. ProPublica. <https://www.propublica.org/article/there-have-been-huge-gaps-in-fbi-hate-crime-data-for-years-a-new-law-aims-to-fix-that>.

²⁰ International Association of Chiefs of Police. (2021, March). *Investigation of Hate Crimes*, Concepts and Issues Paper. <https://www.theiacp.org/sites/default/files/2021-03/Hate%20Crimes%20Formatted%202021-03-23.pdf>.

²¹ International Association of Chiefs of Police. (2021, March) *Investigation of Hate Crime*, Model Policy. <https://www.theiacp.org/sites/default/files/2021-03/Hate%20Crimes%20Formatted%202021-03-23.pdf>.

²² National Policing Institute. (2018, January). *Releasing Open Data on Hate Crimes: A Best Practices Guide for Law Enforcement Agencies*. <https://www.policinginstitute.org/publication/releasing-open-data-on-hate-crimes-a-best-practices-guide-for-law-enforcement-agencies/>.

²³ According to national surveys conducted by the Department of Justice’s Bureau of Justice Statistics (BJS), almost 250,000 hate crimes occurred each year between 2005 and 2019. https://bjs.ojp.gov/sites/g/files/xyckuh236/files/media/document/hcv0519_1.pdf. The BJS

Federal Legislative Response to Hate Violence.

Congress enacted the Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act (HCPA) in 2009.²⁴ The HCPA complements and updates other federal criminal civil rights statutes, facilitating investigations and prosecutions and, for the first time, providing authority for federal officials to work in partnership with state and local law enforcement officials to investigate and prosecute cases in which the bias-motivated violence occurs because of the victim’s actual or perceived sexual orientation, gender, gender identity, or disability. The HCPA attracted the support of a remarkably broad coalition of civil rights, religious, educational, professional, law enforcement, and civic organizations that promoted the enactment of the measure for more than a dozen years until it became law. It has proven to be the most important hate crime enforcement law enacted in the past 50 years.

In recent years, Congress has complemented existing federal criminal enforcement laws with important legislation designed to build community awareness and resilience.²⁵

The Improving Reporting to Prevent Hate Act of 2024

We strongly support this bipartisan legislation, sponsored by Reps. Don Beyer (D-VA) and Don Bacon (R-NE), that

students who experience discrimination or harassment based on their actual or perceived shared ancestry or ethnic characteristics – including Jews, Muslims, Sikhs, and others.³⁵ In recent years, as concerns about antisemitism and Islamophobia have grown, the Department has made clear that it will use its authority to protect these students from discrimination. The Department’s Office for Civil Rights deserves applause for its vigorous enforcement of its authority. The OCR website

SPLC supported the White House *National Strategy to Counter Antisemitism* and SPLC programs were included among the many whole-of-society initiatives announced in the comprehensive plan.⁴¹ In the section entitled “Build Cross-Community Solidarity and Collective Action to Counter Hate,”

hate-fueled discrimination and extremism announced at that impactful Summit. In fact, the very first commitment announced at the Summit was The White House Initiative on Hate-Motivated Violence, designed to

strengthen interagency coordination in preventing and responding to hate-motivated violence, leverage federal research and resources, and enhance engagement and consultation with diverse stakeholders, including communities targeted for who they are or what they believe.⁴⁵

We have called for Congress to appropriate \$10 million to implement the Summit's meaningful commitments.⁴⁶

Our country remains deeply divided, and hostility toward difference is growing. Administration and

make hate crime prevention initiatives and credible hate crime reporting by all law enforcement agencies a condition precedent to receiving federal funds.⁵¹

The FBI recently designated civil rights and hate crime as one of its highest national threat priorities.⁵² Though reporting hate crime data to the FBI is voluntary, the Department of Justice and the FBI should build the capacity of state and local law enforcement agencies to provide data to the FBI, and support efforts to expand the use of National Incident Based Reporting System (NIBRS) among local law enforcement agencies. Special attention should be devoted to large underreporting law enforcement agencies that either have not participated in the HCSA program at all or have incorrectly reported zero hate crimes.

The FBI can and should do more to encourage reporting:

- FBI Field Office and FBI Resident Agent offices should keep track of law enforcement agencies in their jurisdictions that are substantially underreporting hate crimes, communicate directly with them, and take more responsibility for ensuring their credible participation in the Bureau's HCSA program.
- The success of this outreach should be taken into account as part of each FBI Field Office's evaluation, with recognition for improved reporting and ineffective cooperative communication with police departments on hate crime reporting factored in as part of the Special Agent in Charge's own evaluation and rating.

Each of the 94 US Attorneys should promote comprehensive hate crime reporting for cities in their jurisdictions. Each office should publicly designate a person or team to lead hate crime prevention and response – and enable community-based organizations to have a point of contact.

The Department of Justice and the FBI should expand their commitment to regional hate crime training sessions with a particular focus on jurisdictions that are underreporting hate crimes and where incidents appear to be on the rise. Closing these data gaps will enhance law enforcement's ability to recognize, investigate, and report accurate data on hate crimes, build community trust, and help educate and engage the public in combatting hate crimes.

The Department of Justice should fund comprehensive research to understand gaps in hate crime reporting by law enforcement agencies, including why law enforcement agencies do not report, barriers to reporting by hate crime victims, and identification of best practices in hate crime training, data collection for both crimes and hate incidents, and reporting.

Under the Clery Act, colleges and universities are required to report their hate crimes to the Department of Education, yet very substantial gaps in reporting currently exist.⁵³ The administration and congress should ensure that colleges and universities are prioritizing the safety of their students, including comprehensive hate crime reporting to the Department of Education.

Enforce hate crime laws and provide more funding for training and community-based prevention initiatives

Enforcement of properly-crafted federal and state hate crime laws that include sexual orientation and gender identity – and training for judges, prosecutors, and law enforcement officials charged with enforcement – is

⁵¹ H.R. 7648, (2024, March 13). *Improving Reporting to Prevent Hate Act of 2024*. 118th Congress. Available at <https://www.congress.gov/118/bills/hr7648/BILLS-118hr7648ih.pdf>.

⁵² Department of Justice. *Combatting Hate Crimes*. <https://www.justice.gov/opa/press-release/file/1428666/download>.

⁵³ The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act, 20 U.S.C. § 1092(f), with implementing regulations in the U.S. Code of Federal Regulations at 34 CFR 668.46.

Appendix One

Law enforcement agencies serving populations of over 100,00 that did not report any hate crime data to the FBI for 2022

Jurisdictions with 250,000+ Population

County	State
Hillsborough	Florida
Escambia	Florida
Manatee	Florida
Osceola	Florida
Palm Beach	

Law enforcement agencies serving populations of over 100,000 that affirmatively reported zero (0) hate crimes to the FBI for 2022 [REDACTED] 2 (i) 81

City	State	Population
Henderson	Nevada	325,332
Newark	New Jersey	304,311
Chandler	Arizona	281,373
Gilbert	Arizona	277,123
Scottsdale	Arizona	243,576
Savannah	Georgia	239,089
Cape Coral	Florida	213,074
Columbus	Georgia	204,986
Little Rock	Arkansas	201,513
Grand Prairie	Texas	199,663
Peoria	Arizona	197,894

Provo	Utah	114,120
Waterbury	Connecticut	113,464
Elgin	Illinois	113,205
Springfield	Illinois	112,549
Temecula	California	111,611
Dallas County Community College District	Texas	110,694
Miami Gardens	Florida	110,649
Peoria	Illinois	110,551
Sparks	Nevada	110,475
South Fulton	Georgia	110,102
Brockton	Massachusetts	110,084
Menifee	California	109,673
Jurupa Valley	California	108,601
Green Bay	Michigan	106,916
Edinburg	Texas	104,987
St. George	Utah	104,158
Wichita Falls	Texas	103,337
Fishers	Indiana	102,921
Inglewood	California	102,879
Hesperia	California	101,748
Tuscaloosa	Alabama	101,280
Davenport	Iowa	100,437