

Questions for the Record

Questions for Vanita Gupta, Incoming President and CEO, Leadership Conference for Civil and Human Rights

For Hearing Dated May 2, 2017

Anti-Muslim Hate Crimes

You have spoken about the dangerous rise in hate crimes against Muslims or those perceived to be Muslims such as those in the Sikh, Middle Eastern, or South Asian communities.

1. Based on your experience, what specifically can the Justice Department do to address hate crimes targeting American Muslims or those perceived to be Muslim?

The Department of Justice (DOJ) should prioritize the enforcement of civil rights statutes that promote religious freedom and combat religious discrimination in education and protect the rights of religious communities to build places of worship. The DOJ should also continue the online and in person trainings for law enforcement officers and members of the public to help them better identify and respond to hate crimes in their communities. In 2015, the Civil Rights Division of the Department of Justice launched a special initiative with law enforcement in five target states—Mississippi, California, Oregon, Kansas and Florida. These regional sessions involved intensive trainings designed to enhance state and local law enforcement’s ability to recognize, investigate, prove, and encourage better reporting and the collection of accurate data on hate crimes, as well as to help them educate and engage the public in combating hate crimes. The trainings were conducted by the FBI and prosecutors from the Civil Rights Division and U.S. Attorneys’ offices, and included state and local law enforcement as well as community- and faith-based organizations which are often the first point of contact for victims. These trainings can be critical to police officers’ ability to effectively identify and investigate these crimes.

We should also require mandatory data collection and reporting. Data collection and reporting needs to include more granular information on specific populations that are being targeted and attacked, like American Muslims. Department of Justice funds should only be made available to agencies that are demonstrating participation in the Hate Crimes Statistics Act (HCSA) program. Currently, state and local law enforcement are encouraged—but not required by law—to provide information on hate crimes to federal authorities. The DOJ can also support training on hate crime data collection and reporting for law enforcement officers.

2. Why is it important that the Justice Department continue to pursue federal hate crime charges?

Hate crimes laws demonstrate to all citizens that violence against anyone because of actual or perceived race, color, religion, gender, gender identity, sexual orientation, disability status, or national origin will never be tolerated in this country. Stakeholders across the board—including law enforcement—agree that these laws serve important deterrent effects. Without them, and without congressional oversight and rigorous enforcement of these federal and state hate crimes statutes, isolated incidents of hate, bigotry, and prejudice could spread into an epidemic. The DOJ has an important role to play not only in prosecuting hate crimes, but using the bully pulpit to speak out against hate and encourage communities to embrace diversity and promote respect amongst different communities.

a. Based on your experience as the former head of the Civil Rights Division, what type of effect do these prosecutions have on impacted communities?

For the communities specifically protected, enforcement of these laws is often a matter of life and death and represents the government's commitment to protecting all its citizens. Every individual in this country – no matter their race, religion, gender, gender identity, sexuality, disability status, or national origin – deserves to feel safe, welcome, and protected by their government.

3. Given all of your vast experience, what would you say is the best way to prevent this violence instead of simply reacting to them after they occur?

Education is key to preventing hate violence. The elimination of prejudice in the United States will require that Americans develop respect for cultural differences and establish dialogue across racial, ethnic, cultural, and religious boundaries. Senior public officials must use their bully pulpit to speak out against hate and send a message that hate-based violence will not be tolerated. Additionally, Congress must take additional action to combat hate crimes. This includes:

- Passing the National Opposition to Hate, Assault, and Threats to Equality Act, the (NO HATE Ac) which would provide funding for states to establish hotlines for reporting and addressing crimes and support training on hate crime data collection and reporting for law enforcement officers.
- Passing legislation mandating data collection and reporting and requiring that certain DOJ funds are only available to agencies participating in the Hate Crimes Statistics Act (HCSA) program.
- Publicly condemning scapegoating, bias crimes, racism, and other hate speech and hate crimes.
- Promoting the enactment of comprehensive legislation focusing on inclusive anti-bias education, hate crime prevention, and bullying, cyberbullying, and harassment education, policies, and training initiatives.

4. What are things the federal government can do to ensure that state and local police, as well as federal offices are equipped to best address and prevent this kind of violence?

Informational webinars and hate crimes identification trainings for law enforcement officers can help them better identify and respond to hate crimes in their communities. In 2015, the Civil Rights Division of the Department of Justice launched a special initiative with law enforcement in five target states—Mississippi, California, Oregon, Kansas and Florida. These regional sessions involved intensive trainings designed to enhance law enforcement's ability to recognize, investigate, prove, and encourage better reporting and the collection of accurate data on hate crimes, as well as to help them educate and engage the public in combating hate crimes. Providing these trainings to identify and respond to hate crimes is critical to police officers' ability to effectively report these crimes.

5. What level of staffing do you recommend the DOJ assign to Civil Rights and Hate Crimes Law Enforcement?

The DOJ must ensure adequate staffing levels for civil rights and hate crimes law enforcement. Hate crimes cases are resource-intensive. The DOJ should assess current staffing levels in the Criminal

Section of the Civil Rights Division to ensure adequate resources are put to this work, particularly given the uptick. However, other parts of the Division should not be depleted or transferred to this work – all of the Division’s work is important.

The Division needs adequate resources as well to do nationwide outreach to targeted communities via the U.S. Attorneys’ and FBI offices around the country.

The work to rebuild police-community trust is also vital to ensure hate crimes enforcement because victims will only report to police if they trust them. The Special Litigation Section needs more staff devoted to the 14141 policing work that builds trust where it has eroded as a result of patterns of unconstitutional policing.

6. Have there been areas of the country where the problem has been most pronounced? Please explain your answer.

We have sadly seen an increase in hate violence across the country, and religious-based hate incidents and crimes have spiked over the past few years. Per the Anti-Defamation League (ADL), anti-Semitic incidents in the U.S. surged more than one-third in 2016 and have jumped 86 percent in the first quarter of 2017.¹ In its annual Audit of Anti-Semitic Incidents, ADL reports that there has been a massive increase in the amount of harassment of American Jews, particularly since November, and a doubling in the amount of anti-Semitic bullying and vandalism at non-denominational K-12 grade schools.² And in 2017 alone, Jewish Community Centers have received over 150 bomb threats.³

Just as concerning is the recent stream of hate incidents around the country directed at Muslims or people perceived to be Muslim. South Asian and Sikh Americans continue to experience a high volume of hate crimes. Earlier this year, in a short span of ten days, there were multiples shootings of South Asian men across the country. One particularly appalling incident was the shooting of Srinivas Kuchibhotla and Alok Madasani, who were patrons at a bar in Olathe, Kansas, when a man told them to “get out of my country” before opening fire at them, shooting them both, and killing one of them. After the incident, the perpetrator told police that he thought the two men were Middle Eastern.⁴

Additionally, Since January of this year, Muslim Advocates has tracked more than 80 incidents of violence and threats of violence targeting American Muslims and those that people confuse for Muslim⁵ – including the assault of an airport worker by a traveler in New York⁶ and the attempted removal of an Atlanta teen’s hijab.⁷ In addition to a series of threatening letters sent to mosques around the country starting late last year and continuing into 2017, there have also been an alarming number of mosque arsons and incidents of vandalism since the beginning of this year. The Islamic Center of Eastside in Bellevue, Washington, was set on fire intentionally;⁸ arson intentionally destroyed the Victoria Islamic Center in Victoria, Texas;⁹ the Islamic Society of New Tampa in Thonotosassa, Florida, was intentionally set on fire just months after a mosque in Fort Pierce, Florida, was set on fire;¹⁰ and a 44-year-old man vandalized a mosque in Columbus, Ohio, writing a number of Islamophobic and politically charged messages, including “Allah is a fraud” and “Oppose Trump You Are Doomed!”¹¹

This shows a disturbing trend that is not confined to a particular area of the country. Particular communities are being targeted across the country and it requires urgent action.

Youth and Hate Crimes

I understand that a disproportionately high number of hate crime perpetrators and victims are young people acting in groups or gangs and are under 21 years old.

1. Why do you think that is?

Young people are easily influenced by what they see around them. During their formative years, young people may hear the President, other public officials, as well as community members using rhetoric that scapegoats and targets certain communities of people. They are then more likely to act upon the language they hear against their peers with these perceived differences. Social media gives young people the space to post instant and anonymous hateful comments about their peers. Additionally, the Internet provides young people with easily accessible propaganda produced by racists, anti-Semites, and anti-government extremists. We need to better understand the trends and ways to combat the rise of hate speech and hate crimes online.

2. What are some specific strategies that you suggest are best suited to address the unique nature of hate crimes insofar as they disproportionately involve young people?

It is clear that we need to address the growing challenges of cyber hate, particularly those that involve young people. Education and awareness are the key steps to help young people embrace their differences. First, we should expand anti-bias education and bullying prevention programs in schools. Congress and the Department of Education should increase federal funding for these programs. Recognizing the current legal limitations on addressing hate speech online, Congress should work with specialists in online harassment and the First Amendment to identify constitutionally-sound means for legal redress for victims of cyberbullying.

Victim Reporting

I understand that, as is the case with many crimes, such as domestic violence crimes, sometimes victims are afraid to report hate crimes at all because of language barriers or other barriers, such as their lack of legal or other immigration status.

1. What can be done to address that issue to encourage and enable full and accurate reporting from victims?

It is critical that victims and witnesses of hate crimes and hate violence are able to safely report these crimes. Between 2009 and 2016, the Department of Justice organized online and in person trainings for law enforcement officers and members of the public to help them better identify and respond to hate crimes in their communities. The DOJ should continue these trainings as they are an important first step in ensuring that police officers are able to identify and respond to hate violence. With these trainings, police officers can more effectively identify and investigate hate crimes. It is critical that the Department of Justice continue robust engagement with vulnerable communities around the country in partnership with U.S. Attorney offices and local community-based and faith-based organizations. Senior officials at the Department must use the bully pulpit to speak out against acts of hate violence.

Congress can also play an important role in encouraging full and accurate reporting. Federal lawmakers should pass the National Opposition to Hate, Assault, and Threats to Equality Act, the NO HATE Act (S. 662 and H.R. 1566), which would provide funding for states to establish hotlines for reporting and addressing hate crimes, establish a private right of action for victims of hate crimes, support training on hate crime data collection and reporting for law enforcement officers, and authorize effective rehabilitative services for those convicted of hate crimes.

2. What else can be done to make it safer, and more conducive, for victims to report hate crimes?

Communities need to trust the police and the government in order to feel safe reporting hate crimes. The work to build trust between the police and vulnerable communities is vital to ensure that the latter feel safe to report hate crimes. If victims see the police and their government as unequivocally standing up against hate-based violence and policies that unfairly target their communities, they will be more likely to report hate crimes.

In addition, in response to the recent uptick in hate incidents, hate crimes, and harassment across the country, The Education Fund, the Lawyers' Committee for Civil Rights Under Law, and partner organizations representing diverse communities that reflect the fabric of America, including: Arab Community Center for Economic and Social Services (ACCESS); Asian Americans Advancing Justice; Center for Community Change; Color of Change; Genders & Sexualities Alliance Network (GSA Network); Hollaback Inc.; Muslim Advocates; National Council of La Raza; New York City Anti-Violence Project; South Asian Americans Leading Together; and the Transgender Law Center, launched "Communities Against Hate," a national initiative to document stories and respond to incidents of violence, threats, and property damage motivated by hate around the United States.

"Communities Against Hate" 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. Through the hotline, we aim to support the organizations, individuals, government, and law enforcement leaders in communities across the country to work together to improve the prevention of and response to hate incidents and hate crimes. It is our hope that this coordinated effort will contribute to and build upon longstanding work by organizations like the Southern Poverty Law Center 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.

3. What can we do to incentivize witnesses to also come forward to report hate crimes?

Public awareness and trust are crucial to encouraging witnesses to come forward to report hate crimes. Federal, state, and local law enforcement hate crimes trainings that include community-based organizations that are often the first to receive information about hate crimes have been important for increasing awareness of reporting options among victims. We recommend that the Department of Justice continues to organize and fund these opportunities.

There are concerns that aggressive and possibly overreaching federal prosecutions in other areas – such as immigration enforcement and mass incarceration – might in fact trigger hate crimes because such an aggressive stance towards minority communities might provide inspiration and fodder for hate groups.

1. What is your response to that?

Federal prosecutions and policies that target specific minority communities can trigger hate crimes and provide inspiration for hate groups. We have recently seen policymakers use hateful rhetoric to demonize historically marginalized communities, which deepens existing divisions among our country along racial, religious, and ethnic lines. In addition to official comments, policies singling out protected groups can normalize hate and legitimize hate-motivated violence directed at Muslims or people perceived to be Muslim, Jews, people of color, immigrants, refugees, the LGBTQ community, and people with disabilities across the United States. These policies have a chilling effect on victim reporting, particularly for victims in vulnerable communities that are scared and may not trust the government or law enforcement.

We have seen an increase in hate crimes since federal policies started scapegoating communities of people. The Southern Poverty Law Center found 867 bias-related incidents in the 10 days following the presidential election.¹² That number has since increased to 1,372 documented bias related-incidents.¹³ They include: multiple reports of Black children being told to ride in the back of school buses; the words “Trump Nation” and “Whites Only” being painted on a church with a large immigrant population; and a gay man being pulled from his car and beaten by an assailant who said the “president says we can kill all you faggots now.”¹⁴ In our view, these incidents demonstrate that there are people who have felt emboldened to commit hate crimes given the rhetoric used by the President and others leaders.

2. How do you believe the federal government can both enforce the law fairly and vigorously while also fostering an environment where victims feel safe to report crimes to law enforcement?

If the federal government is going to truly pursue justice, it must ensure that the law protects and respects

all people and their differences. Laws that are unjust and discriminatory towards certain communities must be changed. It is incumbent on the federal government to ensure equal protection under law and not use the law to demonize and scapegoat certain groups of people. It is also imperative that when the law is unjust or discriminatory that the federal government work with lawmakers to change the law. In the absence of reform, the Administration should strive to enforce the law fairly without using the law as a means to target certain communities. If communities of color feel that they cannot trust law enforcement because of the policies of the federal government, they will never feel safe to report hate-based incidents. It is the responsibility of the federal government to help foster greater trust.

¹ See “U.S. Anti-Semitic Incidents Spike 86 Percent So Far in 2017 After Surging Last Year, ADL Finds.” *Anti-Defamation League*. Apr. 24, 2017. <https://www.adl.org/news/press-releases/us-anti-semitic-incidents-spike-86-percent-so-far-in-2017>.

² *Id.*

³ See Ellis, Lindsey. “Multiple Jewish Community Centers receive bomb threats” *Houston Chronicle*. Mar. 12, 2017. <http://www.wbaltv.com/article/multiple-jewish-community-centers-receive-bomb-threats/9124465>.

⁴ See “First-degree murder charge filed in possible hate crime shooting at Olathe’s Austins bar.” *The Kansas City Star*. Feb. 23, 2017. <http://www.kansascity.com/news/local/crime/article134459444.html>.

⁵ See “Map: Recent incidents of anti-Muslim hate crimes.” *Muslim Advocates*. <https://www.muslimadvocates.org/map-anti-muslim-hate-crimes/>.

⁶ See Branigin, Anne. “A Timeline of Anti-Immigrant and Anti-Muslim Incidents Since Trump Took Power.” *Fusion*. April 4, 2017. <http://fusion.net/a-timeline-of-anti-immigrant-and-anti-muslim-incidents-1793772492>.

⁷ See “Hate in America: An updating list.” *Slate*. http://www.slate.com/articles/news_and_politics/politics/2016/12/hate_in_america_a_list_of_racism_bigotry_and_abuse_since_the_election.html.

⁸ See Day, Matt and Lindblom, Mike. “Man arrested after Bellevue mosque damaged in suspected arson.” *The Seattle Times*. Jan. 14, 2017. <http://www.seattletimes.com/seattle-news/crime/bellevue-mosque-damaged-in-suspected-arson-fire/>.

⁹ See Malewitz, Jim. “Investigators: Fire that ravaged Victoria mosque was arson.” *The Texas Tribune*. Feb. 8, 2017. <https://www.texastribune.org/2017/02/08/investigators-fire-ravaged-victoria-mosque-arson/>.

¹⁰ See “2nd Florida mosque hit by arson in past 6 months.” *The Seattle Times*. Feb. 24, 2017. <http://www.seattletimes.com/nation-world/fire-officials-tampa-florida-mosque-fire-was-arson/>.

¹¹ See Branigin, Anne. “A Timeline of Anti-Immigrant and Anti-Muslim Incidents Since Trump Took Power.” *Fusion*. April 4, 2017. <http://fusion.net/a-timeline-of-anti-immigrant-and-anti-muslim-incidents-1793772492>.

¹² See “Ten Days After: Harassment and Intimidation in the Aftermath of the Election.” *Southern Poverty Law Center*. Nov. 29, 2016. <https://www.splcenter.org/2016/11/29/ten-days-after-harassment-and-intimidation-aftermath-election>.

¹³ See “Post-Election Bias Incidents Up To 1,372; New Collaboration with ProPublica.” *Southern Poverty Law Center*. Feb. 10, 2017. <https://www.splcenter.org/hatewatch/2017/02/10/post-election-bias-incidents-1372-new-collaboration-propublica>.

¹⁴ See “New SPLC reports reveal alarming pattern of hate incidents and bullying across country since election.” *Southern Poverty Law Center*. Nov. 29, 2016. <https://www.splcenter.org/news/2016/11/29/new-splc-reports-reveal-alarming-pattern-hate-incidents-and-bullying-across-country>.