



June 11, 2018

Catherine E. Lhamon, Chair
United States Commission on Civil and Human Rights
1331 Pennsylvania Ave., NW, Suite 1150
Washington, DC 20425

Re: The Federal Government's Role in Responding to Hate Crimes

Dear Chair Lhamon and Commission Members:

On behalf of the National Association of Councils on Developmental Disabilities (NACDD), we wish to thank the United States Commission on Civil Rights (USCCR) for the opportunity to provide a statement urging a strong federal role in enforcing the civil rights of victims of crimes committed based on a person's protected characteristics of race, religion, ethnicity, nationality, gender, sexual orientation, gender identity, and disability. People with disabilities have made great strides in asserting full rights to citizenship and self-determination leading to greater community integration and inclusion. But, the undercounting and underreporting of hate crimes and bias-motivated violence against people with disabilities continue to mask severe and pernicious violence against people because of their disability.

NACDD is a national nonprofit, nonpartisan organization that serves as the national voice of the 56 state and territorial Councils on Developmental Disabilities (DD Councils). Because the DD Councils are federally funded, governor-appointed entities with memberships that are at least 60% persons with developmental disabilities and immediate family members, our DD Councils are in a unique position to provide critical feedback on laws must equally protect people with developmental disabilities from hate crimes and bias-motivated violence.

NACDD allied with the National Disability Rights Network and other disability advocacy groups to press Congress to extend civil rights protections to persons with disabilities to include protection from bias-motivated violence. Years of advocacy led to the passage of the Matthew Shepard and James Byrd, Jr., Hate Crimes Prevention Act in 2009, which finally recognized disability as one of the protected classes of individuals who are covered by federal hate crimes under certain circumstances.ⁱ But simply having a federal law is insufficient to guarantee civil rights and protection from violence. We need a strong commitment from the federal government and law enforcement to enforce those rights.

A person cannot be a fully integrated member of a community unless they are free from violence. Since the Matthew Shepard and James Byrd, Jr., Hate Crimes Prevention Act passed, in every year from 2009 to 2015, the rate of violent victimization against persons with disabilities was at least twice the age-adjusted rate for persons without disabilities and 1 out of 5 crime victims in this population are believed to have been targeted because of their disability.ⁱⁱ Yet, while the overall number of reported hate crimes increased, reporting of hate and bias-motivated incidents targeting people with disabilities has declined for the past two years.ⁱⁱⁱ These seemingly conflicting statistics deserve additional analysis and cause for concern. We believe it is likely that significant undercounting and underreporting of bias-



motivated incidents targeting people with disabilities is occurring and hiding the true prevalence of hate crimes towards people with disabilities.

Undercounting and underreporting of hate crimes is not unique to the disability community. Federal authorities estimate that more than half of all hate crimes aren't reported to police.^{iv} Additionally, audits have found that states fail to accurately count hate crime statistics for several reasons including elimination of reporting resources due to budget cuts, lack of Department of Justice oversight, lack of law enforcement training, failure to educate the community about the need to report hate crimes, and more.^v However, people with disabilities often face additional hurdles due to significant lack of accommodation when dealing with law enforcement not properly trained to comply with the various federal laws governing the civil rights of people with disabilities such as the Americans with Disabilities Act.^{vi}

As noted disability rights advocate Ruth Luckasson said, "For people with developmental disabilities, the criminal justice system is the last frontier of integration." Only by addressing the problem of undercounting and underreporting of hate crimes and bias-motivated violence will we ever truly understand the problem and begin crafting solutions to address it.

We sincerely appreciate the commission's work to shed light on the need for a strong federal role in enforcement of federal hate crimes statutes. NACDD and our national network of Councils on Developmental Disabilities are ready to work with the commission as you continue your critical work to inform the development of national civil rights policy. Please feel free to contact us at eprangley@nacdd.org or (202)506-5813.

Sincerely,

Erin Prangley

Director, Public Policy

Sarah Mays

Policy Fellow

ⁱ United States Department of Justice, Civil Rights Division. Hate Crimes Law. Downloaded on June 11, 2018 at <https://www.justice.gov/crt/hate-crime-laws>

ⁱⁱ Harrell, Erika, Ph.D. *Crime Against Persons with Disabilities, 2009-2015 - Statistical Tables*. U.S. Department of Justice Office of Justice Programs. Bureau of Justice Statistics. July 2017. Downloaded on June 11, 2018 at <https://www.bjs.gov/content/pub/pdf/capd0915st.pdf>. See also Heasley, Shaun. *Crime Twice As Common Among People With Disabilities*. Disability Scoop. July 18, 2017. Downloaded on June 11, 2018 at <https://www.disabilityscoop.com/2017/07/18/crime-twice-common-disabilities/23934/>

ⁱⁱⁱ Federal Bureau of Investigation. *2016 Hate Crimes Statistics*. 2017. Downloaded on June 11, 2018 at <https://ucr.fbi.gov/hate-crime/2016>. See also Diament, Michelle. *FBI Reports Drop In Disability-Related Hate Crimes*. Disability Scoop. November 14, 2017. Downloaded on June 11, 2018 at <https://www.disabilityscoop.com/2017/11/14/fbi-reports-drop-hate-crimes/24430/>.

^{iv} See *supra* Harrell, Erika, Ph.D. *Crime Against Persons with Disabilities, 2009-2015 - Statistical Tables*. See also

Thompson, Don. *State Auditors Say California Underreports Hate Crimes*. Associated Press. June 1, 2018. Downloaded on June 11, 2018 at <https://apnews.com/61a0f04f1e1449a4adbcaa437b2254aa>

^v See *supra* Thompson, Don. *State Auditors Say California Underreports Hate Crimes*. Associated Press.

^{vi} See Taylor, Barry C. and Weisberg, Rachel M. *Criminal Justice & the ADA*. Great Lakes ADA Center. September 2016. Downloaded on June 11, 2018 at http://adagreatlakes.com/Publications/Legal_Briefs/BriefNo27_CriminalJustice_and_theADA.pdf