

HEARING ON
HOW THE TAX CODE SUBSIDIZES HATE

HEARING
BEFORE THE
SUBCOMMITTEE ON OVERSIGHT
OF THE
COMMITTEE ON WAYS AND MEANS
U.S. HOUSE OF REPRESENTATIVES
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Hearing on How the Tax Code Subsidizes Hate

U.S. House of Representatives,
Subcommittee on Oversight,
Committee on Ways and Means,
Washington, D.C

WITNESSES

Mr. Brandon Wolf

Survivor of the Pulse Nightclub Shooting

Mr. Jeff Binkley

Father of Maura Binkley and Founder of Maura's Voice

Dr. Sylvia Y. Acosta

CEO, YWCA El Paso Del Norte Region

Mr. Marcus S. Owens

Partner, Loeb & Loeb LLP

Professor Eugene Volokh

Gary T. Schwartz Distinguished Professor of Law, UCLA School of Law



HOUSE COMMITTEE ON WAYS & MEANS
CHAIRMAN RICHARD E. NEAL

ADVISORY

FROM THE COMMITTEE ON WAYS AND MEANS

FOR IMMEDIATE RELEASE
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CONTACT: (202) 225-3625

Chairman Lewis Announces Oversight Subcommittee Hearing on How the Tax Code Subsidizes Hate

House Ways and Means Oversight Subcommittee Chairman John Lewis announced today that the Subcommittee will hold a hearing entitled **How the Tax Code Subsidizes Hate**. The hearing will be held on Thursday, September 19, 2019 at 10:00 a.m. in room 1100 of the Longworth House Office Building.

In view of the limited time available to hear witnesses, oral testimony at this hearing will be from invited witnesses only. However, any individual or organization not scheduled for an oral appearance may submit a written statement for consideration by the Committee and for inclusion in the printed record of the hearing.

DETAILS FOR SUBMISSION OF WRITTEN COMMENTS:

Please Note: Any person(s) and/or organization(s) wishing to submit written comments for the hearing record must follow the appropriate link on the hearing page of the Committee website and complete the informational forms. From the Committee homepage, <http://waysandmeans.house.gov>, select "Hearings." Select the hearing for which you would like to make a submission, and click on the link entitled, "Click here to provide a submission for the record." Once you have followed the online instructions, submit all requested information. ATTACH your submission as a Word document, in compliance with the formatting requirements listed below, **by the close of business on Thursday, October 3, 2019**. For questions, or if you encounter technical problems, please call (202) 225-3625.

FORMATTING REQUIREMENTS:

The Committee relies on electronic submissions for printing the official hearing record. As always, submissions will be included in the record according to the discretion of the Committee. The Committee will not alter the content of your submission, but reserves the right to format it according to guidelines. Any submission provided to the Committee by a witness, any materials submitted for the printed record, and any written comments in response to a request for written comments must conform to the guidelines listed below. Any submission not in compliance with these guidelines will not be printed, but will be maintained in the Committee files for review and use by the Committee.

All submissions and supplementary materials must be submitted in a single document via email, provided in Word format and must not exceed a total of 10 pages. Witnesses and submitters are advised that the Committee relies on electronic submissions for printing the official hearing record.

All submissions must include a list of all clients, persons and/or organizations on whose behalf the witness appears. The name, company, address, telephone, and fax numbers of each witness must be included in the body of the email. Please exclude any personal identifiable information in the attached submission.

Failure to follow the formatting requirements may result in the exclusion of a submission. All submissions for the record are final.

The Committee seeks to make its facilities accessible to persons with disabilities. If you require special accommodations, please call (202) 225-3625 in advance of the event (four business days' notice is requested). Questions regarding special accommodation needs in general (including availability of Committee materials in alternative formats) may be directed to the Committee as noted above.

Note: All Committee advisories and news releases are available at [\[here\]](#).

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HOW THE TAX CODE SUBSIDIZES HATE

Thursday, September 19, 2019

House of Representatives,
Subcommittee on Oversight,
Committee on Ways and Means,
Washington, D.C.

The Subcommittee met, pursuant to notice, at 10:03 a.m., in Room 1100, Longworth House Office Building, Hon. John Lewis [Chairman of the Subcommittee] presiding.

Chairman Lewis. Good morning. Welcome. The subcommittee will now come to order.

Let me begin by recognizing the chairman of the full committee, Richard Neal, of the great state of Massachusetts.

Chairman Neal. Thank you, Mr. Chairman. Mr. Kelly, as well. I want to thank you for holding this hearing today. Today's hearing is a very somber one, but it is also a very important one.

We don't want hate to become mainstream in America. We see it in the news. We read about it online. We encounter it face to face. And some of us even experienced some of the comments offered up on positions and policies that we take.

But, unfortunately, tragedies motivated by hate are not an anomaly. Last month, 22 innocent people lost their lives in El Paso. Minutes before going on a shooting rampage, the perpetrator published a manifesto online full of anti-Hispanic, anti-immigrant rhetoric. One of our witnesses, Dr. Sylvia Acosta, will share stories from that community.

Last month, Maura Binkley, a college student, and Dr. Nancy Van Vessem lost their lives at a Tallahassee yoga studio at the hands of a gunman who professed a hatred for women. Maura's father joins us today.

Mr. Binkley, we are all truly sorry for your loss.

In October, 11 people lost their lives at the Tree of Life Synagogue in Pittsburgh. The gunman, motivated by anti-Semitism, opened fire on a peaceful congregation coming together to pray.

Without objection, I also would like to submit for the record the testimony of Rabbi Jeffrey Myers, who is a survivor of this horrific attack.

In 2016, 49 people lost their lives at the Pulse Nightclub in what was the deadliest attack on the LGBTQ community. One of our witnesses was there that night. We welcome Mr. Wolf, and we are sorry for the loss of friends.

A young woman lost her life in Charlottesville when a neo-Nazi drove his car into a crowd. And before that, nine people lost their lives when a white supremacist entered a church in Charleston and started shooting.

These are just a few of the incidents that we all would say are too many.

As Members of Congress we have a responsibility to make the country stronger, to bolster the national fabric, and to keep our people safe. That includes the responsibility to do all we can to put an end to the senseless, hate-motivated violence that plagues our communities. We need to lead by example, and that requires us not only to reject, but to condemn outright hate in all of its forms. Racism, misogyny, xenophobia, they have no place here, and America has no place for hate.

And our tax code is no place for hate, as well. And I think every member of this dais would agree with that. Groups that propagate white supremacy, anti-

Semitism, hatred for the LGBTQ community, among others, do not deserve government subsidy through tax exemptions. Hate is not charitable, and it is not educational.

So I want to welcome Mr. Owens to discuss this important matter from a tax perspective, as well.

Thank you all for the witnesses that are here. For some of you, I imagine that sharing your stories is profoundly difficult and an act of courage. You remind us that, no matter where we stand on this policy debate, there is the human side that is much more -- on policy debates there is a human side that is much more important. Your bravery is inspiring, and we will not forget what you share with us today.

Let me thank Mr. Lewis, who has been a beacon of light and hope for all of us in the Congress and the country for holding this hearing.

You have spent your life trying to eradicate hate, and we sincerely thank you for that, Mr. Chairman.

[The statement of Chairman Neal [follows](#).]

*Chairman Lewis. Thank you, Mr. Chairman. Now it is my pleasure to recognize Mr. Brady from the great state of Texas, the ranking member of the full committee.

*Mr. Brady. Thank you, Chairman Lewis, for holding this important hearing today. It goes without question every member sitting up here on this dais today strongly condemns all hate crimes. Those individuals who seek to incite or engage in violent behavior are antithetical to what it means to be an American.

Now, all of our witnesses with us here today on behalf of the Republican members of our committee, we want to say that we are with you. No family should have to suffer the senseless loss of a loved one, just because they are targeted for being who they are. No student, no child, no member of law enforcement, no Christian attending church, no Jew attending the synagogue, no Muslim going to the mosque for prayer, no one should have to fear for their lives when they leave their home to go about their daily lives.

The tragedies that you all have had to endure are unfathomable. Many of you have been victims and survivors of domestic terrorism, whether it is in El Paso, Gilroy, in Dayton, Florida, beyond -- around this country. I am encouraged the FBI is treating these senseless attacks as such. And the bravery you have all shown in the face of these inexcusable events have been relentless and inspiring.

The individuals who wrongly attacked you, wrongly attacked our neighbors and our loved ones have no place in our society. What I hope we can accomplish today at this hearing is, step one, is working together, Republicans and Democrats, to find a constitutional solution to ensure any group that is violent or seeks to cause violence doesn't receive the same tax benefits that our nonprofits and our churches receive, because, for us Americans and us Republicans, we strongly defend the First Amendment and strongly condemn any group that commit or incite violence.

During this debate, we want to keep the founding principles of the First Amendment in mind, because the truth is the First Amendment not only applies to

speech we agree with, but it also applies to speech we despise. As the late Justice Black wrote in the 1960s, our First Amendment rights must be accorded to the ideas we hate, or sooner or later they will be denied to the ideas we cherish.

So the question we as lawmakers must address is how do we not only protect, but indeed enhance our rights of free speech by also encouraging hate groups that do not receive the same tax benefits as others (sic).

A Republican believes it begins by urging the IRS to have a much stronger application examination process for both new groups applying for tax-exempt status and, again, for those that already have it. If the tax-exempt group violates our laws, the appropriate penalty should be the result. And this includes a potential loss of tax-exempt status. The Constitution protects your right to free speech. It doesn't protect your right to a tax exemption.

And equally as important, while we consider our best to do this, we must not allow the IRS to become politicized. My belief is that the darkest days in America have been when we have weaponized the government. We saw this during the civil rights era. We saw this during the Vietnam War protest. We saw it more recently when the IRS targeted Americans based on their political beliefs because they were too pro-Israel or too pro-Constitution or too pro-life. We saw that happen during the Obama Administration. We cannot allow the IRS to be used as a political weapon to discriminate against different organizations based on just convictions or ideology.

I think we find ourselves in a time in our nation's history where some would rather shut down debate and silence political opponents, instead of engaging in constructive dialogue. In the end we can't politicize hate. We can protect the fundamental First Amendment right to free speech so that we can engage with one another, become more tolerant, and more diverse as a society, one that condemns hate, cherishes dissent, celebrates differences. And today should be a check on that.

This hearing should be a chance, Mr. Chairman, for us to listen to each other, to work together toward an effective constitutional solution, to do all that we can to make sure this doesn't happen to any other families, to any other parents, to any other loved ones in America.

And I am hoping that, working together, we can find out how to ensure our tax code protects the First Amendment while disavowing hate groups that we will hear about today.

Thank you, Mr. Chairman.

[The statement of Mr. Brady [follows](#).]

*Chairman Lewis. Thank you, Mr. Brady.

Let me begin by expressing my appreciation to the witnesses for taking the time to be here today. I know it is not easy, and I want to thank you for being brave and bold, and for taking the time to speak up, to speak out, and share your stories.

Today the Oversight Subcommittee will review how the tax code supports hate groups. The code exempts some charitable and educational organizations from paying taxes. Some of these organizations promote hate based on race, gender, religion, sexual orientation, or ethnic background. Their actions taint the good work of all tax-exempt organizations.

Hate is not consistent with the goodwill of our nation and its people. A federal government should not be in the business of financing hate. It is not right. It is not fair.

Any tax-exempt organization that promotes hate and sows the seeds of violence is one -- just one -- too many.

Unfortunately, hate is on the rise throughout our country. We have a duty, a mission, and a mandate to ask the question: "Why?" We can no longer avoid this fact. We must be vigilant, and we must take action.

Dr. Martin Luther King, Jr. would often remark that darkness cannot drive out darkness; only light can do that. Hate cannot drive out hate; only love can do that.

As Members of the Congress, we must have what I often call an executive session with ourselves, and we must do our part, and do it so well that no other person can do it any better. Today's hearing I ask that members open our ears, our hearts, and minds to the witnesses who are here to share the real impact of hate.

We will hear from a survivor of a mass shooting, who lost two of his friends in a deadly attack on the LGBTQ community.

We will hear from a father who lost his beloved daughter in an attack on women.

We will hear from a community which lost 22 of its members in an attack on Latinos and immigrants.

This morning I ask each and every member of this subcommittee to put our personal politics aside. I ask you to listen to our witnesses with empathy and love.

I ask you to think about our role and responsibility to do all we can to stem the cycle of hate and gun violence in our country.

Again, I thank all of our witnesses for being here today. I look forward to your testimony.

[The statement of Chairman Lewis [follows:](#)]

*Chairman Lewis. Now I am pleased to recognize the ranking member of this committee, my friend and my brother, Mr. Kelly.

*Mr. Kelly. Thank you, Chairman. I don't know of a better position to be in in Congress than to be able to sit by you, talking about things that really go to the heart and soul of America. You certainly have experienced it firsthand, and have been a champion your whole life, to be aware of all this. So I thank you so much for being here.

Also, I want to thank our witnesses, especially Dr. Acosta, Mr. Wolf, Mr. Binkley. What you and your families have gone through, this horrific experience

that you had, the loss of a loved one, the loss of somebody so close to you that you can't imagine how you get through the next day, and for -- and as Abraham Lincoln often said, "I am driven to my knees" when encountering these type of experiences. So I want to thank you for being here, and for sharing with us what we need to hear from you.

I also want to join with Mr. Lewis, Mr. Neal, and Mr. Brady, and my colleagues on both sides of the aisle to strongly condemn and denounce any groups with racist, bigoted, and discriminatory views that undermine the very fabric of this democracy. And beyond that, as a Member of Congress and a member of this committee, I condemn any group that would advocate for or incite violence in the furtherance of spreading their hateful ideas. In fact, I imagine that everyone in this room, not just everybody in this -- up here, but everybody in this room shares the same view.

This is -- how did we get to this point in our country? How did we sink this low? We are always on a slippery slope when it comes to how we would handle this situation, because often the change has to take place in the hearts and souls of the very people who were inciting this hate, who were making these hateful statements, and doing these horrible things.

And we can all agree with you that groups that use or incite violence should not receive tax-exempt status, and to do so should be criminally prosecuted to the fullest extent of the law. Speech that incites violence, however, is not protected by the First Amendment. We can all unite around the belief that racist and discriminatory views are repulsive and strongly denounce them. And I understand and share that desire to limit such offensive and disgusting views.

Often times when we have things like this that come up, and we look into it, and we say, "Why don't we look into our past to see where we -- what we should be doing right now in the present," if I could quote from James Madison, Federalist Papers No. 51 -- and I want you to think about this because -- think about the time it was written and why it was said. "If men were angels, no government would be necessary. If angels were to govern men, neither external nor internal controls on government would be necessary. Framing a government which is to be administered by men over men, the great difficulty lies in this: You must first enable the government to control the governed, and in the very next place oblige it to control itself."

The question is not whether we believe that this type of speech should exist. The question is what are the limits on government? And what can we do, as a united people, to change the efforts in the -- of some of these hateful people.

Chairman Brady talked very clearly about the Tree of Life in Pittsburgh. That is a neighborhood that my mother grew up in. And we look at what has gone on across our country. For most of us we sit back and we recoil and say, "This is not who we are, this is not who we ever were. This is why we die every day all over the world to defend the freedom and liberty of other people." We are willing to do that.

Yet in our own country this is fomenting, and it is reaching a level now that I think we all have to take a good long look at it and say, "What can we do?"

Since the angels do not govern us, what can we do, as men? And what can we do, as a government, to fulfill the needs that we face today, and the obligations

that we have?

Mr. Chairman, it is indeed a pleasure to be with you today, and the other members, to be with you all today to hear from you. I really want to tell you I -- being the father of 4 and grandfather of 10, I don't know how in the world you can face what you face each day, knowing what you lost yesterday. So thank you so much for being here and sharing. God bless.

[The statement of Mr. Kelly [follows](#).]

*Chairman Lewis. Thank you, Mr. Kelly. I would like to welcome our first witness, Mr. Brandon Wolf. I had an opportunity to spend time with him in 2016, when I paid my respects to survivors and families at the Pulse Nightclub. Now it is my honor to yield one minute to the gentlelady from Florida to introduce Mr. Wolf.

*Mrs. Murphy. Thank you, Mr. Chairman, and thank you for your steadfast leadership combating hate and discrimination in this country. It is my pleasure to introduce one of my state's greatest and hardest working advocates for equality, Brandon Wolf, who, like me, is proud to call central Florida home.

Central Florida is a diverse and vibrant community that welcomes people from all walks of life. In June of 2016 a man filled with hate in his heart walked into Pulse, a gay nightclub in Orlando, and massacred 49 people and wounded 53 more. Brandon was there and survived this nightmare.

What happened to our community that night, to the people like Brandon and his friends, was devastating. What I admire about Brandon is how he, like so many central Floridians, has refused to let hate win. Rather than get swallowed up by anger and fear, Brandon set out to honor the victims' legacies through action.

Brandon works on issues affecting the LGBTQ, Latinx, and other minority communities. He is -- currently serves as the media relations manager for Equality Florida, the state's largest LGTBQ (sic) advocacy organization. He also sits on the board of the Citizens Initiative to Ban Assault Weapons in Florida.

I have gotten to know Brandon as we have worked together on these issues. He is a friend, and I consider him one of my personal heroes. So it is my distinct privilege and honor to introduce a champion for equality, Brandon Wolf.

STATEMENT OF BRANDON WOLF, SURVIVOR OF THE PULSE NIGHTCLUB SHOOTING

*Mr. Wolf. Thank you, Congresswoman, Chairman Lewis, Ranking Member Kelly, and members of the subcommittee. I want to thank you for inviting me to speak before you today.

The night of June 11th was ordinary. Just like I always did after a long week, I went for a drink with my best friends, Drew, and Juan. Our decision to go to Pulse was little more than the flip of a coin. We got a later start than usual, piled into our rideshare, and just picked the club that was closest.

To be honest with you, there are moments from that night and the early hours of June 12th that are lost for me behind a traumatic fog. But there are others that are crystal clear. I remember dancing. I remember Juan's goofy laugh, Drew's long, gangly arm around my shoulder as he said, "I wish we said 'I love you' more." I remember we accidentally wore matching outfits. And before I knew it, it was 2:00 a.m.

I can remember cold water from the faucet, a plastic cup teetering on the edge of the sink. I remember gunshots, confusion, the rancid stench of blood and smoke. I remember the hair standing up on the back of my neck, my heart pounding as I crouched on the bathroom floor. I remember the faces of terror on those people trapped there with me, a panicked sprint for an open door. And I swear I can still hear every single one of the 110 rounds that man pumped into the club.

I called Drew what felt like 1,000 times over the next few hours, every dial more desperate than the last. I begged anyone for news of my friends, roamed the streets of Orlando until the sun came up, only to go home and stare at the television, waiting for their names on a list.

I will never forget calling Juan's family to tell them that their son had been shot, his mother's heartbroken screams in the background, as if something in her died that day, too. And I can never unsee their lifeless bodies in cold, hard caskets, the last reminder that this was a nightmare none of us would be waking up from.

The sad reality is that my story isn't unique. Hatred and the violence it begets are on the rise, and they have infected every single corner of this country.

In America it feels like we have made a decision. Rather than use every tool in our toolbox to combat hatred, we have chosen to subsidize it, embolden it, and hand it an assault weapon. Instead of uniting us and calling upon our better angels, we have a President in Donald Trump who traffics in the darkest elements of racism, misogyny, and hatred to score cheap political points.

Inaction in the face of hatred makes you complicit. And it is high time that this Congress do something to protect those of us on the front line.

I am not the first person who has lost loved ones in a shooting fueled by hate. There are people like me in Charleston, Pittsburgh, San Diego, El Paso, and so many more.

And the fact is there are actions that this Congress, that you can take right now to push back against hate and violence. Your Senate colleagues can pass

universal background checks to make sure that people who shouldn't have guns don't get them. You can enact red flag laws so that the justice system can temporarily separate people from their guns. You can close loopholes that let people convicted of misdemeanor hate crimes possess firearms, and you can reinstate a ban on assault weapons and high-capacity magazines that are tearing our communities to shreds.

I have seen the power of hatred. It tore my world apart, stole my sense of joy, and still haunts me in my nightmares. That is why I can say with confidence that if you are not using everything at your disposal to snuff hatred out, then you are just not doing enough.

My best friends are not a statistic. There are empty seats at dinner tables, missing faces at birthday parties. They had futures that were stolen by hatred and our obsession with easy access to guns. So when this conversation gets bogged down in taxes and numbers, I simply ask that you remember their faces, remember their names, their stories, and honor them not with empty words and hollow sympathies, but with action. Thank you.

[The statement of Mr. Wolf [follows](#):]

*Chairman Lewis. Thank you. Thank you, Mr. Wolf, for your testimony. It is now my pleasure to introduce Mr. Jeff Binkley.

I am sorry for your loss, and thank you for sharing your story. You may begin.

STATEMENT OF JEFF BINKLEY, FATHER OF MAURA BINKLEY AND FOUNDER OF MAURA'S VOICE

*Mr. Binkley. Chairman Lewis, Ranking Member Kelly, members of the committee, I am Jeff Binkley from Atlanta, Georgia. I appreciate the opportunity to be here today, and testify regarding this, what we all agree to be critically important matter.

The story I will relate is one that our family never expected to tell, yet it is one we must tell.

On November 2nd, 2018, my daughter, Maura Binkley, an Atlanta native and then-21-year-old senior at Florida State University, lost her life in a shooting at a Tallahassee yoga studio. Also lost was Florida State Medical School professor, Dr. Nancy Van Vessem -- left behind three daughters. Four other women were wounded.

The shooter was a misogynist and member of the incel subculture with a long history of abusive and criminal behavior toward women.

This was a premeditated crime, with the Tallahassee Police Department concluding at the end of a comprehensive and thorough investigation that the motive was hatred toward women, a hate crime of the most vicious type. The victims were targeted for no other reason than being women.

The Tallahassee shooter, whose name I will never repeat, openly expressed his admiration of other misogynist killers, such as the perpetrator of the Isla Vista UC Santa Barbara shooting, who is referred to as a saint in incel misogynist online forums.

For those who may not be familiar with the term incel, it is used to describe an involuntary celibate.

My vocabulary is inadequate to fully describe the impact of this crime committed on our family, Maura's friends, the communities of Florida State University,

Tallahassee, and our city of Dunwoody in metro Atlanta, though please understand that the pain, the sense of loss, the constant awareness of a future foregone are with us every minute, every hour, every day, every week, every month, and will be every year. And understand that every hate crime not only impacts families and communities, but also undermines the basic values of our society.

Our Maura, always smiling, approached life with a focus on and belief in her responsibility toward her sisters and brothers. When we gathered with Maura's Tri Delta sisters and other friends on campus in Tallahassee after the tragedy, so many expressed to us how she had literally changed their lives with her expressions of love toward them. Because, to Maura, we are all sisters and brothers. To her and to her legacy there was and there is no other.

Maura was set to graduate in May of this year. We learned after our loss that she had been accepted into the Fulbright Fellowship Program, and would -- no, should -- be teaching now in Germany. Her plans were then to attend graduate school in international relations, and pursue a career in diplomacy, ever seeking to bring people, her sisters and brothers, together.

No evil act arising from the darkness and perpetrated by the hands of hate can ever extinguish Maura's light, Dr. Van Vessem's light, and the light of all the other victims of hate crimes from Orlando, from Pittsburgh, from El Paso, and all the other communities victimized. Yet that is exactly what individuals consumed by hatred and those who work to incite them seek to do. We can't let that happen.

I spoke of Maura's sense of responsibility based in love toward all. I can hear Maura's voice. I hope you can, too. She is telling us we must all share this sense of responsibility, and the actions of our body politic must reflect it. If so, then we will experience the reality of that beautiful line, "Only love can conquer hate."

Thank you.

[The statement of Mr. Binkley [follows](#):]

*Chairman Lewis. Thank you, Mr. Binkley. We share your feeling, your loss. Thank you for being here, and for your testimony.

*Mr. Binkley. You are very welcome.

*Chairman Lewis. Dr. Acosta?

STATEMENT OF SYLVIA Y. ACOSTA, CEO, YWCA EL PASO DEL NORTE REGION

*Ms. Acosta. Chairman Lewis and members of the committee --

*Chairman Lewis. Thank you for being here.

*Ms. Acosta. Thank you. Thank you for the opportunity to testify. I stand before you as the CEO of a nonprofit organization whose mission is to eliminate racism, empower women, and promote peace, justice, freedom, and dignity for all. This mission has no exceptions and it has no borders.

I am the daughter of an immigrant and a migrant worker, where Spanish was my first language. My mother was an American citizen born in Oxnard, California, but moved to Mexico with her family in the 1930s as part of the Mexican repatriation program. The fear mongering directed at immigrants at the onset of the Great Depression forced my mother into a country she had never known.

Years later, my mother returned to the United States and married my father, who was a brasero, a copper miner, and later a real estate entrepreneur. My parents were proud American citizens of Mexican heritage. Through their story they taught me to value education, hard work, and ethics. They also taught me to love my country. I am proud to say that my parents were immigrants.

As much as my parents loved this country, they were not immune to discrimination. As a brown-skinned woman, I am familiar with the same discrimination. I have heard the stereotypical comments based on my race. Many times I have had people try to re-label me as Spanish, Greek, Mediterranean, as if being Mexican-American somehow limited my intelligence or my ability. Although these acts would frustrate me, it never occurred to me once that in 2019 someone's skin color, immigrant story, or ethnicity could result in murder.

On Saturday, August 3rd, all of that changed. A gunman motivated by hate and anti-immigrant sentiments drove 10 hours to a Walmart in El Paso to murder 22 individuals and injure dozens more because they were Mexican, because he saw them as invaders. His hate of Hispanics clearly outlined his goal: Stop the invasion.

The language of hate has historically caused acts of violence against innocent individuals. I wasn't alive when Emmett Till was murdered. I was a baby when Martin Luther King, Jr. was assassinated. My whole life I have empathized with African-Americans who have been enslaved, lynched, and murdered because of the color of their skin. My heart ached for the millions of Jews killed by a Nazi Germany because of their faith. My husband is Native American, and I have been horrified at the acts of genocide faced by his people.

Hateful and cruel treatment is not new. In many communities people of color are treated disdainfully and met with cruel words. Although I was consciously aware of the effects of hate-filled rhetoric, I did not internalize these feelings until it turned into mass murder.

Earlier this month, more than 200 El Pasoans came together to discuss the August 3rd attack and the rise of hate language in today's society. Present were the pastor of a church whose daughter was shot three times during the attack, the sister of a man killed while protecting his wife and granddaughter, the attending physician at University Medical Center who received the wounded. None of those mentioned were Hispanic. None of them were the expressed target of the shooter, yet they were casualties of the hate that was meant for Mexican invaders.

The pain, the suffering, the deaths were not restricted to one skin color. This was because hate does not discriminate. Hate cannot be controlled or contained. Hate is not a mental illness. Rather, hate is a direct manifestation of intolerance, ignorance, and fear that is fueled and disseminated through language. Hate

dehumanizes and kills. If we allowed the continued rise of hateful language, no one will be safe.

Today I call on Members of Congress to unequivocally denounce hate speech. This is not a Republican or a Democrat issue. The denunciation of hate is not political, and it is not partisan. And so I say to those of you who remain neutral in the fight against hate and language, do not think you are safe. You may not be the target, you may not be the object of someone's hate, but you or someone you love may one day be the collateral damage.

Thank you for the opportunity to submit this testimony. We look forward to working with you on these critical issues.

[The statement of Ms. Acosta [follows](#).]

*Chairman Lewis. Thank you very much, Dr. Acosta, for your testimony.

Mr. Marcus Owens, you may testify.

STATEMENT OF MARCUS S. OWENS, PARTNER, LOEB & LOEB, LLP

*Mr. Owens. Good morning. Thank you, Chairman Neal, Chairman Lewis, Ranking Member Brady, and Ranking Member Kelly for inviting me to testify here today.

I have not experienced the personal tragedy that the first three witnesses experienced. I am here because of my practice of law and my experience in the practice of law focusing on tax-exempt organizations.

My experience includes 25 years with the Internal Revenue Service, the last 10 of which I was the director of the Exempt Organizations Division. I have -- I would like to speak about the structure of the law that the IRS enforces, and something about its ability to deal with these kinds of issues.

Section 501(c)(3) of the Internal Revenue Code provides that organizations that are organized and operated for certain enumerated purposes qualify for federal income tax exemption. And that status allows contributions to them to be deductible as charitable contributions by donors. It is clearly a subsidy.

Organizations strive to achieve it. The term "educational," as in educational purposes, is one of the enumerated parts of Section 501(c)(3).

The statute goes no further, though, to describe what is meant by educational. That task was left up to the Treasury Department and the Internal Revenue Service. The Treasury Department issued regulations in 1959 that further illuminate what is meant by educational, and essentially divided into two separate categories. One is providing information to the individual to improve their capabilities, or providing information to the general public so that they better understand subject matter that is relevant for their lives.

The Internal Revenue Service is charged with administering those tax provisions, the ones in the code and regulations. And in doing so, they applied those standards to a variety of groups and it resulted in litigation when the IRS took an adverse position against them. The two groups were a feminist group named Big Mama Rag, the second was a white supremacy group named the National Alliance. The IRS lost the first case involving Big Mama Rag, and prevailed in

the second case involving National Alliance.

In the wake of those two decisions the Internal Revenue Service decided to issue guidance on how revenue agents should analyze the fact patterns in cases to try to better understand whether an organization qualified as educational for tax exemption or not. Those guidelines were issued in something called revenue procedure 86-43. That revenue procedure directs agents in trying to determine whether an organization is educational to look at the nature of the methodology that the organization used to prepare its public statements about what it does.

Public statements often indicate what the underlying actions are that the organization undertakes in furtherance of its tax-exempt status. The revenue procedure directs agents to look for disparaging terms, terms that are threatening, terms that are not reflected in facts. In other words, no content to the speech, no educational content, but simply statements that are intended to incite or invite some particular action.

The revenue procedure, though, notes that there may indeed be additional facts that are not necessarily ones set out in the revenue procedure that could be relevant. So it is an open-ended list, and it is not directive in the sense that it instructs the agents to come to any particular conclusion. It simply indicates factors that suggest that speech may not be educational.

And organizations that are exempt from tax on the basis of education have to demonstrate that their activities are educational. The speech may simply reflect those activities. The IRS does not take either favorable or unfavorable positions based on speech. It takes them based on activities and operations. That is the charge in the Internal Revenue Code. The speech may indicate that there are activities that are inappropriate going on; it is not conclusive.

Now, the -- this methodology, revenue procedure has been tested in court. The IRS prevailed in a case called the Nationalist Movement vs. Commissioner, a white supremacy case. The case -- the organization -- the IRS, rather, prevailed in the court of appeals, as well, in that case, although the court of appeals felt that there was enough in the way of other underlying problems with the organization that it did not have to address the methodology test set out in the revenue procedure.

And that raises an important point, from the standpoint of any enforcement effort, and that is the speech of an organization may likely reflect the underlying activities. There are also a good chance that there will be other issues present in a particular case that will justify an adverse action by the Internal Revenue Service. So speech may indicate problems. The existence of other problems may actually be as important or significant for tax administration.

Now, the code, the regulations, and the revenue procedure are of little import, unless the Internal Revenue Service enforces those rules. They are not self-enforcing. The Internal Revenue Service, in the last year for which they have published a data book, indicates that -- and this is in fiscal year 2018 -- that about 1.6 million organizations filed Form 990 returns. That is the tax return that is filed by a tax-exempt organization with the IRS. In that year the IRS, according to the data, closed 2,816 examinations of organizations that filed those returns. That is an infinitesimally small number of organizations. At the

same time that the IRS was conducting examinations, they were processing applications for exemption from new organizations.

The IRS, because of budgetary constraints on their activities, has been forced to reduce the amount of information they collect in that front-end processing.

The front-end processing uses a -- effectively, a registration system to obtain tax exemption. That is for most new organizations these days that want to become tax-exempt charities --

*Chairman Lewis. Sir?

*Mr. Owens. Excuse me.

*Chairman Lewis. We would put the rest of your statement in the record, and submit it for the record.

*Mr. Owens. Yes, it is.

*Chairman Lewis. Your five minutes are up.

[The statement of Mr. Owens [follows](#):]

*Chairman Lewis. Thank you very much for being here.

*Mr. Owens. Thank you very much.

*Chairman Lewis. Professor Volokh, you may testify. Thank you for being here.

STATEMENT OF EUGENE VOLOKH, GARY T. SCHWARTZ DISTINGUISHED PROFESSOR OF LAW, UCLA SCHOOL OF LAW

*Mr. Volokh. Thank you very much for the invitation. I share the contempt of, I imagine, everyone in this room for advocacy of violence, whether it is violence based on race, or based on sexual orientation, or sex, or religion, or advocacy of violence against people who don't -- who belong to particular religions or who don't share yours.

I condemn the advocacy of violence against police officers, against American military members such as those murdered in the Fort Hood shootings, or violence against Americans, generally, or, for that matter, other nationalities, whether it is Israelis, or Palestinians, or what -- any other such group.

These are evil ideas, but they are ideas that are, generally speaking, protected by the First Amendment. First Amendment has a few narrow exceptions. One is for true threats of violence. If somebody were to say, "I am going to kill a particular person." Another is for incitement, which is defined as speech intended to and likely to create imminent lawless conduct. So that is, "Let's burn down this building now, or maybe this evening." But broader advocacy of violence, as well as advocacy of peace, of illegality, as well as advocacy of lawful conduct, is, generally speaking, protected by the First Amendment.

Now one might ask, even if it is protected against criminal punishment or against civil fines, might it be permissible to deny tax exemptions on the theory that a tax exemption is a subsidy? This was, in fact, the premise of some attempts to prevent subsidies of Communist advocacy, which, of course, was advocacy in the 1950s, advocacy of violent revolution.

There was a California statute which denied tax exemptions to people in organizations who advocated the overthrow of the government by violence, and the U.S. Supreme Court held that this kind of denial -- this is in an opinion by Justice Brennan -- held that this kind of denial of tax exemptions was essentially the same as a fine for speech. It was, frankly, aimed at the suppression of dangerous ideas and, therefore, presumptively unconstitutional. And there the court said it was, indeed, unconstitutional.

The Supreme Court has repeated this point in 1983 and 1995, that viewpoint-based denials of tax exemptions are unconstitutional. And to quote Justice Brennan again, that means all viewpoints, from *NAACP v. Button*, a case in which the court ruled in favor of the NAACP -- the court took care to stress that the First Amendment protects all ideas, regardless of the truth, popularity, or social utility. And again, that extends to denial of tax exemptions, as well as outright prohibition. That cannot be done based on a viewpoint.

Now, it could be done based on conduct. So, for example, somebody could be punished for violence, and a group could be punished for, basically, orchestrating violence in a direct way covered by, say, federal conspiracy statutes, or state conspiracy statutes. But I take it that is not what we are talking about. Presumably, if a group and its members are actually engaged in violence, they should be -- the denial of tax exemption is the last thing they should be worried about. They should be worried about being thrown in prison or, in certain situations, executed.

So when you have groups that are targeted because of the views they express, even hateful views, that is unconstitutional. And that was also reaffirmed in the D.C. Circuit case *Z Street v. Koskinen*, where the IRS was alleged to have denied benefits -- tax exemptions to groups based on their pro-Israel views. There the D.C. Circuit said, of course, viewpoint-based denials are unconstitutional.

Now it is possible that the IRS might have content-based, but viewpoint-neutral rules. A classic example is that 501(c)(3) status is denied to groups that electioneer, that advocate for the defeat or election of candidates. That is viewpoint-neutral.

Likewise, you could imagine a test that deals with the methodology of the group's advocacy, whether, for example, it cites factual evidence for its positions that, if implemented in a viewpoint-neutral way, would also be constitutional. That is what the D.C. Circuit held in the *National Alliance* case.

But again, it has to be done in a viewpoint-neutral way. So if the IRS were to scrutinize groups, whether they are white supremacist groups, or black nationalist groups, or anti gay-rights groups, or any other such groups on the grounds that their advocacy doesn't have some requisite methodology, adequate factual basis, it would have to do the same for pro-life groups, or pro-choice groups, or environmentalist groups, or any other groups, or else be sued, and successfully sued, for viewpoint discrimination.

So if you want to have the IRS apply such rules, then they have to be applying them even-handedly. And if we think the IRS probably oughtn't be trusted to apply those kinds of rules even-handedly, then it shouldn't be applying those rules at all.

[The statement of Mr. Volokh [follows](#).]

*Chairman Lewis. Thank you so much for your testimony. Let me thank each witness for being here today. I now yield to the ranking member of the full committee, Mr. Brady.

Any question? And I will come back to myself.

*Mr. Brady. Yes, thank you, Chairman. I was just thinking about the testimony we heard today. Thank you for that. I know that is not easy for anyone. So I look at Texas and think they are -- we have, unfortunately -- the number-one target of Texans in mass shootings have been law enforcement. In Dallas, the attack on the police headquarters, more recently law enforcement who were protecting the safety of protesters. It was a Black Lives Matters rally, a sincerely held belief. Law enforcement was targeted and killed actually protecting the safety of protesters who -- they disagreed with their opinion, but believed so strongly that they should be protected, they died for that.

In Texas, one of the most frequent targets of mass shootings are Christians. So religious hate crimes in the Wedgwood Baptist Church shooting, of eight in Fort Worth, the Sutherland Springs Church shooting, the Baptist church, 27 Texans were killed, 20 more wounded.

We have seen domestic violence, we have seen the horrific attack in El Paso.

I was fortunate to have missed by about four minutes or five the shooting of -- at our congressional baseball practice two years ago. But for the heroics of two Capitol police officers, both wounded -- and Alexandria police -- I think that would likely have been a bloodbath of 20 Members of Congress targeted why? Merely because they were Republicans.

We are seeing far too much of this in our country. The challenge for us -- so no one should be targeted based on who they are, what they look like, what their beliefs are, period.

The question today, though, is how do we -- is the tax code, the way we address it.

Mr. Volokh, I am trying to figure out can we protect First Amendment speech? And what can we do, while at the same time making sure we are constitutionally limiting their ability to receive tax-exempt status? Can we -- can't we do both? Or can we do both constitutionally?

*Mr. Volokh. So there is no right, constitutional right, to a tax exemption. But there is a constitutional right not to be discriminated based on viewpoint in the grant or denial of a tax exemption. We see that in *Speiser v. Randall* in 1958. That is that Justice Brennan opinion I cited. We see that in other Supreme Court cases. We see that in D.C. Circuit cases. That is quite well settled law. And I think it is sound law, because otherwise the government gets to discriminate against whatever views they dislike.

I take it some people on this committee would not trust the Trump Administration in administering viewpoint-based rules. I take it others wouldn't trust a hypothetical future Bernie Sanders Administration. And because of that, the Supreme Court has said we need to have a flat rule of viewpoint neutrality that

protects everybody. That is the requirement. And if you are seeking a way of targeting racist groups, or targeting anti-American groups, or targeting anti-police groups, there is no such constitutional way of doing so through the tax exemption process, because the point is to be viewpoint neutral.

Now, if you -- if there is some rule that is viewpoint neutral, that, for example, says you can -- maybe only universities get educational exemption and other groups don't, that would be permissible. It may not be wise, but that would be permissible.

Likewise, it is possible that a test-based methodology that really is even-handedly applied, and is clear and precise enough to be even-handedly applied would be constitutional. I am inclined to say that it probably is an open invitation to viewpoint discrimination, and that is probably not wise. But the courts have upheld it, despite that. But it has to be done in a viewpoint-neutral way. That is the First Amendment requirement.

*Mr. Brady. Okay. You opened a lot of doors there. So thank you. Thank you again, Chairman Lewis. Thank you for this important hearing.

*Chairman Lewis. Thank you for being here. I have a question for Mr. Wolf, Mr. Binkley, and Dr. Acosta.

You have shared your stories. Is there anything else you can tell us, that you want to tell us? You have an opportunity to do it now.

*Mr. Wolf. I think it goes without saying that it is a comfort for Americans to hear that a bipartisan group of leaders would come together and denounce hatred and reject violence. The unfortunate part is that Americans are tired of waiting for that talk to turn into action. I am the first person that survived the tragedy at Pulse Nightclub to be invited to testify before Congress. It has been over three years, and this is the first time someone's story like mine has been shared with a group of lawmakers like you.

Americans are encouraged when they hear their leaders speak out against these issues. Americans are encouraged when they hear that folks want to take a stand. But Americans, quite frankly, are simply tired of hearing things. They want to see something different.

So I appreciate the hearing today, I appreciate the topic. I appreciate the willingness to get creative in how we push back against hatred and violence in this country. I am hopeful that Congress will move forward with actions that, from the outside, look to be common-sense and things that we all agree on. But I would urge folks that America is done with talk. They really, really want to see some action come from this body.

*Chairman Lewis. Mr. Binkley?

*Mr. Binkley. Last summer Maura's mother, Margaret, and I -- Maura toured Germany. We were in Berlin. And there are many monuments there, memorials to remind us of the monstrosities unleashed when hatred is allowed to build in a society, often fomented by organizations that, at least initially, maintain a veneer of respectability.

With regard to the specific purpose of this committee -- and this has been noted and alluded to, but I would like to draw the distinction even further -- it does seem that, with regard to organizations claiming status, that legitimacy of educational purpose is something appropriate to consider, and that is a function of the

law, rule, and practice by the administrative agency.

*Chairman Lewis. Thank you.

Dr. Acosta?

*Ms. Acosta. The recent tragedy in El Paso was just a few weeks ago, a month ago. So I will tell you that the pain and the anger that exists in our community is still very alive. I am sure you could hear it in my testimony.

When we gathered people together -- and these were people of all faiths -- we partnered with the Holocaust Museum, we partnered with the City of El Paso.

And these were -- and we have talked to the people in Sutherland Springs. We have met with many groups that have come from throughout the country that have also been the victims, and have also been targets of the hate rhetoric directed specifically at their community.

And right now El Paso is still heartbroken, and we are still angry. We are angry because the language of hate is -- it triggers people to move in directions that kill other human beings. And we look to you. You are elected officials. We look to you to stand up against this. We look to you to find a solution to what is happening in our country. And we look to you to stand up for a higher cause, to look beyond your political beliefs and your political leanings, to think about why it was that you were elected to represent Americans, all Americans.

And what we are asking you to do today is to remember that this is a responsibility that falls on your shoulders. You are our voice. You were elected for a reason. We look to you to enact and take those bold, bold steps. And they may not be popular. It is not popular to do things that your constituents or others disagree with, but it is right. And we must hold you to that higher standard.

So, as you look at the tax law, and you look at the challenges -- and I absolutely understand the gray that comes in with freedom of speech and hate speech. I understand that. But we must all be called to a higher standard, and we look to you to find those solutions, but to make them a reality.

Like Mr. Wolf stated, the language is great, and talking about doing things is great. But it is time to do something.

The FBI director, when speaking about what had happened, a few months ago said, "Well, there will be another one coming up." We all know that. There is not one person in this room -- after El Paso I thought, "Oh, my gosh, when could it happen again?" Then I fell asleep and woke up, and it happened in Dayton.

We all know there will be another tragedy. Is the next tragedy in your home town? Is that where it needs to reach before we stand up?

So we put this on you, and we look to you, as our leaders, to work this out, and to make a change, and stand up for the America that we all believe in. Thank you.

*Chairman Lewis. I thank you very much. It is now my pleasure to yield to Mr. Kelly, the ranking member of this subcommittee.

*Mr. Kelly. Thank you, Chairman.

There is nobody that disagrees with what you just said. One of the things that I think is difficult is that, often times, we walk away from personal responsibility and say, "They need to do something about this, and they need to do it soon, because we are really disappointed that they aren't."

And then I go into different communities, and I say, "What are you doing here to start that?"

And I would like to say that there is a movement across the United States to do that. Unfortunately, not all of us were raised by the same people, went to the same churches, or believe the same things. That is the beauty of America. But what the -- hearing today, the purpose of it is -- under the code, under the tax code, the 501(c)(3), is that allowing hate speech to be actually somehow getting extra revenue, that somehow, in that law or in that statute, we are actually encouraging the raising of revenue for that?

Dr. Volokh, I was interested in what you said because in your testimony you state that groups can be denied tax-exempt status if they deliberately engage in speech that falls within one of the few narrow exceptions to the First Amendment. Can you speak a little bit more about how narrow those exceptions are, and, in particular, how close to violence the speech has to be before it is not protected speech?

*Mr. Volokh. If you are speaking about the incitement exception, very narrow. There was a case called *Hess v. Indiana* from 1973, where the court basically, more or less, said that "imminent" -- that is the key term from the inside -- basically means in the coming minutes, hours, maybe day or two. Whereas, advocacy of criminal conduct at some unspecified time in the future does not fit within the incitement exception.

And that was quite deliberate on the court's part. This was a reaction to some of the excesses of the anti-Communist movement of the 1950s, where there were attempts to ban advocacy of violent revolution in the future. And I have no sympathy at all for that speech, but the court ultimately concluded that even that speech has to be protected unless, again, it is like standing in front of a building saying, "Burn it down now."

An analogy might be religious organizations. Religious organizations are not covered by 501(c)(3), as such. There is a separate provision in the code. But that means all religions, including hateful religions. There are quite a few religions that spread hate against members of other religious groups. In fact, some very -- historically, against Catholics, for example, some extremist Protestant groups and others. They are just as covered by the 501 -- excuse me, by the religious institution exemption as other groups. Likewise, with educational groups, they have to be protected likewise with --

*Mr. Kelly. So it is a very narrow opening to really look at these things and say, "Listen" --

*Mr. Volokh. Right.

*Mr. Kelly. -- "we can't have this going on." Let me just ask you.

So, Mr. Owens, I am going to switch to you very quickly. In 2018 -- these are numbers I have -- there were 91,981 applications for tax-exempt status; 72 of these applications were disapproved, and 8,043 withdrew their applications, which means there was a 91 percent approval rate.

Now, I don't know how many 501(c)(3)s there are in existence right now, but, from an IRS standpoint, how would you have oversight all over these entities to say are they actually operating within the windows that we believe, and the narrow exceptions that are there? How would you begin to look at that, and pass judgement on it? I really don't know how we would handle that.

*Mr. Owens. Well, that is the charge the Internal Revenue Service has been given by Congress. The -- it requires staff that is specially trained, that is backed up not just with revenue agents who have 24 hours of accounting credits at the college level, but attorneys, financial analysts --

*Mr. Kelly. Yes, I don't want to stop you from testifying, but it seems to me this is an enormous task that requires a great deal of time and scrutiny by the people actually doing this oversight. And one of the chief concerns we have, as long as we are not in some way breaching their ability to have free speech -- that is the narrowness, is it not? That is the scale. I don't know how we would have enough people to actually look into all these 501(c)(3)s and say, "This one is operating the way it should, this one is not."

And then the question comes. Who is it that makes that decision that you are no longer going to be given this status because of something we have decided? I think the beauty of this country, in fact, is we have a legislature, we have a judiciary, and we have an executive branch acting in concert to protect the people of the United States, not just any one, but all together.

But this narrowness is the thing that is most striking to me, and this idea that, somehow, the tax code is promoting this hateful speech. I don't think the tax code promotes that. I think a lot of what we have learned and what we know today has actually happened with our moms and dads, our grandmas and grandpas, and our extended families, who have said, "This is the right thing to do, this is the wrong thing to do." I have never been able to understand in my mind, cannot get wrapped around this idea that some people wake up every morning with the idea that they hate somebody. It just doesn't make sense to me. I know it exists, but I don't understand it.

I just -- I applaud all of you for being here. I wish we had a statute that could outlaw evil, that could outlaw mental illness, that could outlaw this type of behavior. But a lot of it falls on our own shoulders and our own communities and our own families to actually having oversight over -- somebody is saying something you don't like? Please, walk away or turn it off. Don't listen to these folks.

Thank you, I yield back.

*Chairman Lewis. Thank you, Mr. Kelly.

Pursuant to committee rules, and based on the members in attendance, we will question the witnesses two Democrats to one Republican.

The chair now recognizes for five minutes the gentlelady from Washington, the State of Washington.

*Ms. DelBene. Thank you, Mr. Chairman, and thank you for calling this hearing. And I want to thank all our witnesses for being with us today. In

particular, Mr. Wolf, Mr. Binkley, and Dr. Acosta for sharing your very powerful and painful stories, and for the work that you are doing every day to stand up to hate in all its forms, because it is the responsibility of all of us to do that, and I appreciate you being here and really setting that standard for all of us.

I want to dig in to the tax side of this a little bit. And Mr. Owens, I wanted to ask you. According to Everytown for Gun Safety, in 2016 the NRA Foundation, which is a 501(c)(3) that receives tax-deductible contributions, the Foundation transferred \$19.2 million to the NRA, which is not eligible for tax-deductible contributions.

So, Mr. Owens, I wondered. Do you find it problematic that, as a 501(c)(3) organization that is prohibited from engaging in political activity, the NRA Foundation transferred nearly \$20 million to the NRA in 2016, and then the NRA spent nearly \$55 million that year on federal elections?

*Mr. Owens. That is a highly suspect transaction. 501(c)(3) charities are required to keep their money solely used for charitable purposes, even in the hands of other organizations, in the hands of their grantees. They are required to have oversight and control over the use of their grant funds by their grantee organizations.

So to structure that transaction the NRA Foundation would have had to have in place contractual agreements and actual oversight, and reports back on the uses made of its money by the NRA, a 501(c)(4) organization.

*Ms. DeIBene. And would the IRS then look at that activity and be able to investigate that?

*Mr. Owens. Well, if the IRS had an active enforcement program, the answer would be yes.

*Ms. DeIBene. Also, according to the Chronicle of Philanthropy, there are more than 60 hate groups that have been granted 501(c)(3) status, including anti-immigrant, anti-gay right organizations, white nationalists, and Holocaust deniers. Fifty-five of those organizations are registered as charities, while eight are 501(c)(4) social welfare groups that also receive tax exemptions.

You talked about -- a little about this in your testimony, but can you speak to the criteria that the IRS uses to determine what organizations receive 501(c)(3) status? And specifically how the IRS differentiates between what is considered an educational organization and a hate group.

And then, lastly, if an organization is granted tax-exempt status, and the IRS then finds activity that is inconsistent with that, do you have examples where that status has been revoked?

*Mr. Owens. Well, to answer your question, the IRS looks at activities in determining whether an organization qualifies for tax exemption, and whether it qualifies for continued tax exemption. That analysis, though, depends on a flow of information from the organization.

For purposes of that front-end review there is an application for tax-exempt status that has multiple questions. It is -- essentially, tries to obtain the equivalent of a business plan from the organization: what it is going to do, how it is going to do it, and who is going to do it.

The IRS, because of resource constraints, has created a -- essentially, a registration system now. The short form application for exemption requires name and address, and that is pretty much it. So it is very easy now for an organization to get tax-exempt status without providing the information that would be required to make the difficult decisions that we have talked about this morning.

In addition, there is a sort of secondary market that has -- appears to have come into place involving dormant charities, those that no longer have enough to raise money from their supporters. They -- instead of winding up and going down to business, they are kept alive -- at least alive in a corporate sense -- and then resurrected when they become useful to someone else.

And a good example of that process, which results in no information coming to the IRS, is actually what appears to have been followed by a white supremacy group called the National Policy Institute, run by Richard Spencer, who has been in the news somewhat. His organization never applied for tax-exempt status. It never furnished any information to the Internal Revenue Service. The reason for that is in 1997 an organization called the Institute for Free Enterprise Development started to wind down. It filed its last Form 990 in 1997, showing it was spending itself out of existence.

It did not go out of existence. In 2005 it suddenly was resurrected with a new board and a new name. That new name was National Policy Institute. And the new board with Richard Spencer in charge became the National Policy Institute. It never informed the IRS of what it was going to do.

The activities of that earlier organization involved making grants to various organizations, Heritage Foundation to put on conferences, perfectly legitimate section 501(c)(3) activity. It morphed into a white supremacy group.

*Ms. DeBene. I am sorry, my time has expired. Thank you for your testimony.

I yield back, Mr. Chairman.

*Chairman Lewis. Thank you. The chair now recognizes for five minutes the gentlelady from California.

*Ms. Sanchez. Thank you, Mr. Chairman, for having the courage to call this very important hearing.

And I want to also extend a huge thank you to Mr. Wolf, Mr. Binkley, and Dr. Acosta for your courageousness, not just being here, telling your story and the story of your loved ones, but for not giving up in the face of so many obstacles. I know that that is difficult.

Dr. Acosta, I just want to mention I really appreciate part of your testimony in which you stated that hate is not a mental illness, because I think all too often it is very easy to just point to an individual who, you know, carries out some kind of act of domestic terror and hate and say, "Well, they were just mentally ill," and we shrug our shoulders and we move on from there.

Hate is something that is grown. It is something that is created. It starts with fear and ignorance, and it is fed by language. It is fed by hate speech. And we hear story after story about individuals who committed acts of terror in our communities, or who have been stopped before they could, and we are told that they

are inspired, they are inspired, they are fed, they are nurtured, they are bolstered by groups that promote views that are anti-immigrant, anti-LGBT (sic), anti-Semitic, anti-Muslim, white nationalist, and the list goes on and on and on.

People have lost their lives because of vile hatred that is spewed by these groups. The LA Times recently reported that Los Angeles recorded its highest levels of hate crimes in a decade, with a nearly 13 percent increase in 2018 over the year before.

And there are over 80 hate groups in California, roughly 15 based in the Los Angeles region, and one even based in my district.

You know, in some ways I feel like our country advances, but then attacks like the one in El Paso happen, and you realize just how far we still need to go.

You know, I am a mom of a 10-year-old son, and I don't think that anybody should have to learn escape routes as they go about their daily lives, whether that is at a yoga studio, a nightclub, a shopping center, or at a school. Enough is enough. Enough is enough.

And Mr. Owens, I want to turn my first question to you, because I read with a great deal of interest the fact that there is really not a lot of enforcement within the IRS, once groups have been granted these tax-exempt statuses, to go back and re-evaluate. Are they really continuing educational purpose?

There seems to be some scrutiny on the front end, although you just talked about this secondary market, in which people can skirt those rules -- and I find that fascinating, as well -- but you really talk about how the IRS is under-resourced, and how there is really no follow-up to check on these groups, once they have received their tax-exempt status. Could you expand on that, briefly?

*Mr. Owens. Certainly. Not only is the IRS constrained by drastically and dramatically reduced resources in this area, because it doesn't generate tax revenues, and the purpose of the IRS is to collect money to fund the federal government. These organizations don't generate tax revenue, so it is a different function.

*Ms. Sanchez. So because they are not adding to our treasury, there is really not much scrutiny going on there. Is that correct?

*Mr. Owens. That is correct. And because of the resource constraints that have been in place -- not just current years, but going back 15 years or more -- the IRS has systematically dismantled the enforcement structure that was in place for 25 years.

When I worked at the agency, there was a completely different enforcement structure in which lawyers and revenue agents combined resources to try and deal with these very tough questions. These are not tax questions in an accounting sense; these are difficult, almost philosophical questions we are wrestling with.

And that system has been dismantled completely.

*Ms. Sanchez. And because that has been dismantled, we have hate groups that have been tax-exempt, and they are able to feed into this hate speech that causes so much pain and suffering throughout our communities.

And I just want to make one final point, and allow Mr. Wolf or Mr. Binkley or Dr. Acosta to comment.

You have been asking for action because words are cheap. We hear from colleagues, "Oh," with much hand-wringing, "we are so sorry," and, "Our deepest condolences," and, "Our thoughts and our prayers are with you," and yet, when it comes to actually supporting resources at the IRS to conduct the kind of oversight and enforcement that it should, we hear it is too expensive, "Oh, we can't afford it," "Oh, our" -- you know, that is not important.

I just want to hear from you all. Do you think it is worthwhile to pass legislation to try to attempt to curb this abuse of the IRS, or do you think you are comfortable with just hearing our thoughts and prayers every time some kind of tragedy happens?

*Mr. Wolf. With respect to what I have heard so far, I hear you when you say it is our responsibility in our communities to grow a culture of inclusion and diversity and goodwill. It is what we have been doing. It is what I have been doing for three years, while I waited for the people who represent me to do something different in the halls of Washington, D.C. to keep me safe. It is what I have been doing day in and day out. It is why I left a 14-year career in business to go work for a nonprofit, so that I could do the work you are talking about.

But that doesn't absolve this body, or the folks who are elected in office from their responsibility. And their responsibility is to use every avenue possible to make life better for the American people, and to protect people, especially our children.

So to hear conversation around the IRS and its lack of an enforcement mechanism, to hear conversation around the NRA transferring money, and there is -- you know, because it doesn't pad the bottom line we are not looking into these things, is disturbing and it is disheartening. And I certainly hope that there is something you can do about it.

*Ms. Sanchez. Thank you, Mr. Wolf. My time is expired. But Mr. Binkley, Dr. Acosta, I would ask you to submit a written response to that question for the record.

[Additional questions for the Record from Ms. Sanchez to Dr. Acosta [follows](#):]

I thank the chairman for his indulgence, and I yield back.

*Chairman Lewis. The chair now recognizes for five minutes the gentlelady from Indiana.

*Mrs. Walorski. Thank you, Mr. Chairman. And thanks again to all of you. I, for one, am grateful to be here today to hear the profound stories that the three of you shared. And I can tell you that I have learned much, sitting here in the time that we have just listened and had a conversation.

I want to be clear, as well. Any type of discrimination and violence, or an incitement to violence are never acceptable, period. We should do everything we can, as a nation -- I agree -- to use our constitutionally-protected rights to defeat these forms of discrimination and hate. We need to continue to work together to foster an environment where all Americans feel like they can achieve the American Dream. I look forward to working with all of you and my colleagues in a bipartisan manner to do just that.

I just want to take a second to share with you a very disturbing story from my district. Over the weekend it was reported that more than 2,200 fetal remains were found on the property of a long-time Southbend abortion doctor, Ulrich Klopfer. Over 2,200 fetal remains were in jars in his house. Over the course of his time in Southbend he performed thousands of abortions. And as someone who has always believed that every human life is precious, and every woman and child deserve quality care, this gruesome discovery this weekend is incomprehensible to me, and sickening beyond words.

These outrageous reports underscore the need for rigorous oversight of the abortion industry. Federal and state authorities must conduct a thorough investigation into this case.

But the story doesn't end there. Recently, Whole Women's Health Alliance, a 501(c)(3) organization with a history of health and safety violations, was allowed by a federal court to operate an abortion clinic in my district, in Southbend, Indiana, without a license from the Indiana Department of Health. Then a federal appeals court granted this organization a license. This is an egregious situation where the federal court overstepped its authority.

However, even though the result of this court case hasn't gone the way I wanted it to, and even though I have a deep, fundamental, political difference with Whole Women's Health Alliance, you don't see me calling for them to be investigated by the IRS for their political position on abortion, or to lose their tax-exempt status.

Nor do you see me calling for IRS investigations or the loss of tax-exempt status for groups that actively engage in the boycott, divestment, and sanctions, or BDS movement, an anti-Semitic campaign designed to isolate and de-legitimize Israel. The BDS movement is rampant with misinformation and distortion, and only serves to inspire discrimination and hatred against the people of Israel.

But this is America. These groups have a right under the Constitution to operate. The First Amendment guarantees freedom of speech, not just speech groups that we associate and agree with, but also the speech that we disagree with. Pro-abortion groups and pro-BDS groups have a right to a tax-exempt status, no matter how much I disagree with what they say or what they stand for.

Dr. Volokh, has the IRS tried to impose limits on who can receive tax-exempt status based on the content of their speech in the past? And, if so, what happened?

*Mr. Volokh. Yes, indeed, this has happened in the past. As I understand, it happened extensively during the civil rights movement. There were attempts to investigate the Reverend Martin Luther King, Jr., and I believe the Southern Christian Leadership Conference. I think there was actually a prosecution of the Reverend King for some tax-related offenses, which led to an acquittal.

More recently there have been allegations that, at least the federal circuit courts, have concluded -- quoting an inspector general report -- had a good deal of substance to them, that the IRS was deliberately targeting -- in purporting to apply neutral rules, nonetheless was deliberately targeting so-called Tea Party

groups.

And then there is the Z Street case, where there were at least credible allegations that the IRS was targeting pro-Israel groups that were pro-Israel kind of beyond the scope of -- or, essentially, had positions inconsistent with American foreign policy with regard to Israel, and the settlements, and the like.

And that is unsurprising, because people at IRS are humans. It is human nature to take vague rules and try to interpret them in ways that they -- that support your friends and are against your political adversaries, even subconsciously. That is one reason that, actually, I think it is a bad idea for the IRS to use these kinds of standards like the methodology test.

But to the extent it is constitutional, there would have to be police to make sure that it is done in a viewpoint-neutral way.

*Mrs. Walorski. I appreciate it, and I yield back, Mr. Chairman. Thank you.

*Ms. Sanchez. [Presiding] I thank the gentleman -- or gentlewoman, my apologies. The chair now recognizes for five minutes the gentleman from New York, Mr. Suozzi.

*Mr. Suozzi. Thank you, Madam Chairwoman. Again, I want to thank everybody for testifying here today. We really appreciate it.

This is so upsetting, so difficult to figure out, so frustrating, as Mr. Wolf points out, because we talk about these things and, you know, what do we get done?

It is one of the very frustrating parts of this job is to how hard it is to actually push things over the goal line.

And, you know, it is clear everyone has a constitutional right to free speech. People can say just about anything. The President says things all the time that, you know, aren't even accurate. But he has a constitutional right to do it. Everybody has got a constitutional right to free speech.

But as was pointed out, there is no constitutional right to a tax exemption. And, in fact, there are cases in the past -- 1983 is the case that we see in our notes a lot -- that the IRS revoked Bob Jones University's nonprofit status over its prohibition on interracial dating. And there was talk about denying tax-exempt status when it is clearly contrary to fundamental public policy, such as racial discrimination in education.

But then there were some questions later on as to whether or not that law still held, whether it was too vague or not to apply that type of standard. So I can't figure this out. I don't know what the answer is. This is really complicated stuff that -- you know, Mr. Owens said it is philosophical. It is very -- a lot of legal questions, constitutional law questions.

How do you give people free speech, but you block who we would all agree -- Democrats and Republicans, we all agree -- the bad guys. How do we stop the people who we think are the haters and the killers and the racists and the mean-spirited ones? How do we stop them from getting tax-exempt status, where they are, in effect, being subsidized by the people of the United States of America? How do we do it?

So I don't know the answer.

So one thing we heard is there needs to be more money for enforcement. Is that what you are trying to say, Mr. Owens, there needs to be more people, more money focused on enforcement? Would you agree with that?

*Mr. Owens. Yes, and there needs to be more information about the organizations that are tax-exempt, that are applying for exemption, and that are exempt.

*Mr. Suozzi. So, Mr. -- I don't know how to say your name. Is it Volkoff?

*Mr. Volokh. Volokh.

*Mr. Suozzi. Volokh, Mr. Volokh, would you agree with Mr. Owens? Because you both come at this from different perspectives, I think. Would you agree that there should be more money and more people working on enforcement, or do you disagree with that?

*Mr. Volokh. You know, I am not an expert in fiscal policy, but --

*Mr. Suozzi. You are more of an expert than anybody else on this topic.

*Mr. Volokh. My --

*Mr. Suozzi. You think there should be more money for enforcement --

*Mr. Volokh. Right.

*Mr. Suozzi. -- on enforcement?

*Mr. Volokh. I would be skeptical about that. And part of the reason --

*Mr. Suozzi. You don't trust them to do enforcement at the IRS?

*Mr. Volokh. Well, partly. But what is going to happen is, if this happens, then people from 501(c)(3) groups, perfectly legitimate 501(c)(3) groups in your districts, are going to be calling and saying, you know --

*Mr. Suozzi. Okay. So you are saying it just can't be done? Nobody can enforce this?

He says it is impossible to enforce it, so we shouldn't enforce it at all.

*Mr. Volokh. So I said that it is the kind of enforcement that is rife with opportunity for abuse. But even if it is done --

*Mr. Suozzi. But if I agree with you that it is rife with opportunity for abuse, I agree with you that some human beings will manipulate the system -- it has happened in the past. You talked about Martin Luther King before, and there are other cases more recently. I agree with you.

But do you think that there should be more money for enforcement to do the -- assuming that it would be done -- could be done properly, would you agree with that, or not?

*Mr. Volokh. I would not. More money for enforcement --

*Mr. Suozzi. Okay, so you don't want any more money for enforcement. So this can't be enforced in any way, you are saying.

*Mr. Volokh. Well, if it is enforced, it will be enforced if it is being enforced even-handedly. Ninety-five percent of the --

*Mr. Suozzi. Okay, but to enforce it even-handedly --

*Mr. Volokh. -- will be targeted at non-racist groups --

*Mr. Suozzi. To enforce it even-handedly you need more money and more people to do it. So do you think we should have more money and more people to do it, assuming they would do it even-handedly?

*Mr. Volokh. What it -- will end up happening is it will end up burdening all --

*Mr. Suozzi. So you are saying it is impossible to do that?

*Mr. Volokh. It is possible. It would be expensive and it would be rife with risk of abuse.

*Mr. Suozzi. Okay.

*Mr. Volokh. But it is certainly possible.

*Mr. Suozzi. So if we had more money, we could do a better job enforcing this.

*Mr. Volokh. Then you would do a better job enforcing it, and you would also put lots of extra burdens on perfectly proper 501(c)(3)s who are going to have to go --

*Mr. Suozzi. Okay.

*Mr. Volokh. -- through all of these extra bureaucratic --

*Mr. Suozzi. We got a big problem in our country.

*Mr. Volokh. Maybe that is worth it.

*Mr. Suozzi. We have got a lot of hate groups out there that are -- now have tax exemption, and nobody is enforcing it.

Okay, so the second question is, Mr. Owens -- this is so complicated -- is there a standard that the IRS can apply to go -- we have read all different types of reports. There are 60 groups that have been identified by the philanthropy organizations as being hate groups. Is there a way, is there a standard that could be applied to look at those folks and to stop them from getting tax exemption?

If you had a control and you were the president or the emperor, what would be the way to do it?

*Mr. Owens. The way to do it would be to require organizations to describe what they do in furtherance of their tax-exempt purposes, to do that in writing, to do that in electronic format, so it can be quickly and efficiently reviewed, and a staff to review it, and then a staff to take action if it suggests there is

inappropriate activity going on.

*Mr. Suozzi. And is -- it would have to be even-handed, as has been pointed out earlier.

*Mr. Owens. That is correct. And it has to be based on activities, not just what one person happened to say one day.

*Mr. Suozzi. Okay. Thank you very much. My time has expired.

Mr. Chairman, you weren't here earlier. I just want to thank you again for your leadership on so many different issues, including this issue. This is so hard, because we open ourselves up to, like, well, what are you going to get done, as Mr. Wolf was pointing out. It is very frustrating to even talk about this stuff. But you have got tremendous courage, and you are a great model for all of us. So thank you so much for your leadership.

*Chairman Lewis. [Presiding] Thank you for your question, for your statement. Now the chair recognizes the gentlelady from California.

*Ms. Chu. Thank you. Thank you, Mr. Chair. And I would like to thank all the witnesses for being here today to tell your very, very moving stories.

I would like to retell the story of what happened at a place of worship, a Sikh temple in Oak Creek, Wisconsin. It was August 5th, 2012, and a horrible tragedy befell them. As they did every Sunday morning, a community of Sikhs prepared meals for langar, which is their community kitchen, after three days of prayer. Without warning, a white supremacist walked into the temple. He did not speak, he just began shooting anyone in his path.

When it was over, six people were dead, and three others critically wounded. The victims ranged in age from 39 to 84, including Satwant Singh Kaleka, the temple's president, who died confronting the gunman with only a butter knife.

Satwant's life story embodied the American Dream. He was originally from the Punjab region of India, moved to Milwaukee, and worked 3 shifts 18 hours a day to make ends meet. Eventually, he became the proud owner of eight gas stations. He reinvested much of his profits back into the Sikh community, including building the gurdwara, the temple where he was brutally murdered.

The gunman was a 40-year-old Army veteran described in the media as a frustrated neo-Nazi who led a racist white power band. He used a semi-automatic pistol to kill four people inside the temple, and three inside, including himself.

And yet this all could have been stopped. The bill passed out of the judiciary to stop the sale of high-capacity magazines would have limited this carnage.

We had for 10 years an assault weapons ban. That would have limited and stopped the carnage. And the Judiciary Committee also just passed a bill that makes a hate crime a basis for denying a gun when a universal background check is done. And that could stop future shooters like this from committing such murders.

Well, according to the FBI, just in 2017 alone 183 people of Asian-Pacific Islander backgrounds fell victims to hate crimes. And among religious groups Jews and Muslims face the highest number of attacks, at 938 and 273, respectively.

And there was also an attack on a church in Charleston, as we know, where nine people were gunned down while they were praying. And an attack at a 2017 mosque, which was burned in Victoria, Texas, and a 2018 mass shooting at the Tree of Life Synagogue.

So Mr. Owens, the Southern Poverty Law Center has a list of over 60 hate groups that have tax-exempt status. One of those groups is the National Policy Institute. And the National Policy Institute leader, Richard Spencer, who gained notoriety when he hailed President-elect Trump's victory with a Nazi-style salute, at a recent meeting of the group said that being included on the hate list has had no major repercussions for the Institute, and that, in fact, its revenue has tripled in the last year.

And yet this group appears to not be complying with the IRS in any way, whatsoever. In fact, the group's 2012 Form 990 reports more than 125,000 in revenue, but it actually hasn't filed a 990 since. So this group, obviously, has engaged in flagrant violations. How can this be, and what should be done about it?

*Mr. Owens. Well, that is exactly the point I was making about the need for information delivered to the Internal Revenue Service by organizations that are exempt from federal income tax. Without that information, the IRS may not even know where they are, much less what they are doing with their money. Without that information, there can really be no enforcement, whatsoever.

And the Institute is one of the organizations that appears to have acquired its tax exemption in the secondary market. I know that because it is using an employer identification number first issued to a completely different organization.

*Ms. Chu. And how about just the fact that it hasn't even filed since 2012?

*Mr. Owens. Well, I don't know if the exceptions to filing might apply, but, you know, failure to file is -- once again, the flow of information to the Internal Revenue Service has ceased at that point.

*Ms. Chu. Thank you, and I yield back.

*Chairman Lewis. Thank you very much. The chair now recognizes for five minutes the gentleman from Illinois.

*Mr. LaHood. Well, thank you, Mr. Chairman, for having this hearing today. And I also want to recognize the witnesses here today for your valuable testimony, for your passion, and for sharing your tragic stories with us here today, and your valuable advocacy for what you believe in. And I think it is important to have this debate today.

And I also strongly condemn all organizations that encourage hate, violence, or incitement of violence. And those acts of violence are evil, and do not belong in our society. And I sit here today committed to working with my Democratic colleagues to find constitutional solutions to make sure that purely violent organizations do not benefit from tax-exempt status.

And, you know, as we think about these constitutional issues today, you know, my view is the IRS should not be used as a political tool to discriminate against organizations that differ in viewpoints or ideologies.

And it has been noted and referenced several times today we must remember this country is the beacon of freedom because of our First Amendment rights.

And the First Amendment applies to all speech, not just speech we politically agree with. We cannot use political disagreement as a metric to define hate speech or a hate group. This type of labeling can and has led to violent acts. Targeting groups on speech we find disagreeable or even repugnant is not allowed under the First Amendment and, under current law, does not allow the IRS to revoke tax-exempt status.

And as I think about these constitutional issues, what keeps coming up to me is what role -- as we think about First Amendment considerations, should the government play the role as the arbiter of truth? And what is truthful and what is not truthful?

And I know my colleague just referenced the Southern Poverty Law Center. And I would reference, again, an example that I think is relevant here. In 2012 an armed man named Floyd Lee Corkins, walked into the Family Research Council, Washington headquarters, with the intent to shoot and kill as many of its employees as possible. He was apprehended, but not before wounding the nonprofit's business manager.

Mr. Corkins later told the FBI that he had seen the nonprofit group listed as an anti-gay hate group on the Southern Poverty Law Center's website. In the wake of this incident, Tony Perkins, the Council's president, said that Southern Poverty Law Center's designation of this group gave Mr. Corkins, the defendant, "a license to shoot."

Now, I am not advocating that we should revoke the nonprofit status of the Southern Poverty Law Center, but it illustrates what we have heard on both sides here on issues that we have seen. And again, should the IRS or the government be the arbitrator of truth? And what is the standard for that?

And I think we both had this discussion on -- both sides have had that discussion here today on all the different factors we have looked at.

Mr. Volokh, in your written testimony you discussed the court's jurisprudence on the intersection of the First Amendment and tax-exempt status in recent years.

Can you provide any examples of the type of speech that is not protected by the First Amendment, and particularly in the defense of free speech of a partisan issue?

In other words, what sort of interest groups out there agree that even repulsive speech is protected under the First Amendment?

*Mr. Volokh. So, I am sorry, examples of speech that is unprotected by the First Amendment?

*Mr. LaHood. Correct.

*Mr. Volokh. A classic example is true threats of violence, especially ones that target particular people. So if a group or an individual were to say, "We are going to kill Congressman X or media commentator Y," that is punishable speech. People go to prison for that. And if a group does this through its official

channels, it could be prosecuted and could be -- as a corporation, presumably, it could be. But in any case, it could certainly lose its tax exemption.

Another example is a group that regularly organizes -- essentially, speaks to mobs of people outside of buildings, and urges them to say, destroy this abortion clinic, or something like that. I don't know of any particular groups that do that, but if they were to do that, that would be punishable incitement. But that is a narrow category.

And, more broadly, 501(c)(3)s, 99 percent of them, are not hate groups. Any rule that would be applied to require them to provide more information and make it -- make them jump through more hoops, 99 percent of it, if it is applied even-handedly, will apply to non-hate groups.

Now, maybe it is worth it, to make sure that they don't misuse the 501(c)(3) tax exemption, but that is the consequence. The ones that you talk about that could be targeted are really a very small category.

*Mr. LaHood. Thank you. Thank you, Mr. Chairman.

*Chairman Lewis. Thank you. The chair now recognizes for five minutes the gentlelady from Wisconsin.

*Ms. Moore. Thank you so much, Mr. Chairman. And, of course, I do want to thank our panel for coming.

I did have to Google this word, "incel." I had never heard of that concept. And it is just yet another venue for hate. And you are so right, Dr. Acosta, who is next? It seems that none of us will be able to escape the inevitable scourge of hate, no matter who we are: Jewish, LGBTQ, Hispanic, black. You could be a white person just in the way at the movie theater, or in your yoga class. And so this is a problem for all of us.

I do want to follow up from a line of questioning that my colleague, Ms. Chu, started, with you Mr. Owens. I really want you to sort of walk us through the IRS process for providing the tax-exempt status.

You have said in your written testimony that we have almost a virtual system. It sounds like you just apply and it comes automatically, that there is not a lot of scrutiny up front. And also, this notion of receiving a EIN number on the "secondary market," I wasn't even clear that that was possible. I mean it is -- you know, it is sort of like recycling a Social Security number of someone who is deceased.

How can you -- can you just explain to us how we might close those loopholes? Because I certainly agree with my colleague who says you may be entitled to hateful speech, but you are not entitled to a tax exemption. And so I would yield to you at this time.

*Mr. Owens. Well, there two applications for exemption, two forms, one the so-called long form that requires extensive information about the applicant. It is used by larger, more complex tax-exempt organizations that are just filing for tax-exempt status. It is increasingly less used.

It is much more common for organizations to file a very short form that is effectively a registration form. It provides little information beyond the name and address and the current officers. It doesn't require the production of the organizing documents, the articles of incorporation, the bylaws, or any significant

financial or operational information. That is on the front end. Most new organizations don't file much to obtain tax-exempt status with the IRS.

During the course of the organization's life it files a Form 990 return, assuming it has sufficient income and assets to trigger that requirement. And there are several versions of the Form 990, a long form and a short form, depending on the size and complexity of the organization. The IRS, to the extent it has information, then reviews the application for exemption. It will review the Form 990s -- at least it could, in theory. The statistical data suggests very few are reviewed.

Now, the question you raised about employer identification numbers --

*Ms. Moore. In the secondary market.

*Mr. Owens. In the secondary market. The -- it is appropriate for an organization to change its name. Organizations do that for a variety of reasons that are perfectly legitimate. It is appropriate for an organization to amend its articles of incorporation, to add new directors, to replace directors. In other words, all the changes that can occur often happen in organizations in the normal course.

What is different is when that organization actually goes dormant, when it no longer has any viable activities, perhaps doesn't even have an existing board, other than a caretaker who is probably a lawyer or an accountant somewhere, and it just sits on that attorney or accountant's shelf. They file the short 990N once every three years to keep the IRS from automatically terminating their tax-exempt status for failing to file a return, and it sits there waiting for someone to ask if they can utilize it for their tax-exempt organization, thus bypassing the application process. And that is what appears to have happened with Mr. Spencer's organization.

*Ms. Moore. So, Mr. Chairman, I could see that my time has expired, but I would commend to this committee that we might look at ways to reform the process of providing it up front, and also to look at this particular loophole. And so I would yield back.

Thank you, sir, for that. It was very helpful.

*Chairman Lewis. I thank the lady from Wisconsin for her suggestion, her recommendation, and for being here. The chair now recognizes for five minutes the gentleman from Illinois.

*Mr. Davis. Thank you, Mr. Chairman, for holding this hearing to thoughtfully consider ways to address hate and violence. It is important for us to consider how our policies can help reduce hate and violence through any vehicle, any mechanism, any apparatus, any way that we possibly can.

I also want to thank all of the witnesses for sharing your experiences and expertise with us. I know the personal loss from gun violence. I know what it feels like to have a loved one whose life was wiped out unnecessarily, and for no real apparent reason. And so I thank you for your courage and your advocacy on behalf of all people, and especially those whose lives have been interrupted by violence.

Given the fact that gun violence in America is at an epidemic proportion, prominent public health researchers from Harvard and Boston Children's Hospital advocate that we should address gun violence as a public health crisis. And the Cook County Board of Commissioners, where I live, have recently voted on a resolution introduced by one of its commissioners, Dr. Deer, that racism in and of itself is a public health crisis.

If we take this perspective then, as part of a comprehensive strategy to reduce hate and gun violence, we need stable revenue to fund violence prevention efforts, seriousness enforcement of existing gun laws, and gun violence research. These are the lessons from public health successes in addressing tobacco use and drunk driving, which means that the possibilities are not out of reach. There are ways in which we have found successes in changing social behavior and social thinking.

Dr. Acosta, you make such a valid point. I would like for you to re-articulate that all of us are really caught up -- I experienced in the community where I live -- children who are killed accidentally with someone shooting at someone else, the street gangs who kill each other. I remember a young lady who performed right here in this building who was shot down by someone shooting at someone else. Could you re-articulate what you said?

*Ms. Acosta. Thank you so much. Absolutely, collateral damage. That is what we have come to call individuals that are murdered or killed while they were in somebody's way. They may not have been the target of that act of violence, but they happened to be in that space at that time.

And we need to be very careful when we look at why we are choosing action or inaction, because inaction -- when you choose inaction at this point, what you are really doing is you are justifying an opportunity for an individual who may never have targeted your group to kill somebody that is from your district, from your community, from your church, because they happened to be somewhere at the wrong place, at the wrong time, and may not have had anything to do with the hate that that person had in their soul. Thank you.

*Chairman Lewis. Thank you. The chair now recognizes for five minutes the gentleman from New York.

*Mr. Reed. Thank you, Mr. Chairman. I have listened to the testimony and come here today, not on the Oversight Subcommittee, but as an interested elected official, to hear this testimony.

And I do believe we are taking action, just by having this hearing today. Because, to the three here that have suffered so much, know your courage in coming forward has not only moved a needle on many issues, but, for example, just as my colleague from Wisconsin indicated, I did not know what incel was until today's hearing.

And I have been inspired in this committee room many, many years by people such as John Lewis and others, where I stood with John on that bridge, and he inspired me, and many of his colleagues inspired me with the lesson that what often is the best antidote to hate, to violence, to despicable evil is sunshine and the courage to stand up. And that is what you are doing.

And so I applaud us taking a look at this issue because we all want to do something. And the trick here, as you heard the testimony and some concern expressed by my colleagues on both sides of the aisle, is that we are dealing with a very difficult constitutional question.

And you are potentially looking, as a solution -- when I hear, Mr. Owens, your testimony about what the IRS needs is more people and more dollars -- is you are empowering -- you are looking to empower a government individual, a human being, with the ability to judge what is bad speech, what is good speech.

And Mr. Volokh, your testimony very much impacted me, also, because to find that balance under the Constitution is extremely difficult, as you articulated.

And if we over-burden those law-abiding -- if I get your testimony correct -- those law-abiding tax-exempt organizations, do we not threaten the very good work that 99 percent of these tax-exempt organizations are engaging in, because we may put them out of business? Many of these charitable organizations are not multi-million-dollar organizations. They are on shoestring budgets. They are pinching pennies to do the public good in their communities.

So, as we go down this path, I encourage members -- and I take the commentary from members today very sincerely -- that we better make sure we take a look at those unintended consequences of doing something.

And so, my question to you is maybe there is another solution out there that hasn't been discussed, Mr. Owens. When you talk about the IRS, what technological improvements could the IRS do in this area?

You talk about these employer identification numbers that exist out there that aren't monitored. Does that really, truly need a human being to review those on a regular basis?

Are there not abilities under technological advancements today to pull out data, to mine data that is out, publicly available, and we could implement reforms within the IRS under the existing structure to maximize technology to get at some of this issue that you say the only solution is money and people?

*Mr. Owens. Yes. The IRS could, if it had more funding, purchase the computers and the experts in programming to create an electronic flow of data. But ultimately, it will require a human being to analyze that data and make a judgement call. And that is because human beings are the ones that --

*Mr. Reed. Why is that?

*Mr. Owens. Well, because that judgement call as to, you know, what is a church, what is a religious organization --

*Mr. Reed. And has it --

*Mr. Owens. -- what is speech requires a human being to make that call. That is why we have judges. That is why we have --

*Mr. Reed. And, Mr. Owens, is that not the fundamental question at hand? Because you are asking a human being to be empowered to make that decision, and that human being would be a government actor. And if that human being disagrees with your point of view of life, isn't that a very dangerous amount of power to put into one person's hands in order to have that person making those fundamental judgement calls?

*Mr. Owens. Those sorts of decisions are why we have laws and why we have courts, where people settle their differences peacefully in open debate --

*Mr. Reed. Doesn't it eventually --

*Mr. Owens. -- in front of a judge.

*Mr. Reed. If that government power becomes too much, you don't have access to those courts.

*Mr. Owens. Well, that is why our democracy is important.

*Mr. Reed. And that is why --

*Mr. Owens. And that is --

*Mr. Reed. And that --

*Mr. Owens. And we are a system of laws. The law enforcement has to be funded, or the system of laws --

*Mr. Reed. And that is why democracy is hard, and freedom is hard. But we agree with you. We should learn the lessons and bring sunshine to these issues of hate. Because now I know incel, I will teach my children to watch out for that hate, watch out for that violence, and I will hopefully spread from here an action that I can take and make productive use of this.

Thank you, Mr. Chairman.

*Chairman Lewis. Thank you. The chair now recognizes for five minutes the gentlelady from Florida.

*Mrs. Murphy. Thank you, Mr. Chairman, for letting me join this timely and emotional hearing. And thank you to the witnesses for joining us and sharing your stories and your personal tragedies. I applaud your courage for participating publicly in this legislative process.

You know, the witnesses reminded us that there is a human side to this policy debate, and we must never forget their stories and their call for action.

This is a particularly personal issue for me, because I represent Florida, central Florida, home to one of the nation's worst mass shootings in its history. And that shooting, it shocked me and it filled me with sadness and anger, but it also made me determined to do something some people call crazy, like run for Congress. And I am here, in part, because I couldn't stand on the sidelines while dangerous people used battlefield weapons to destroy American lives and tear apart American communities.

And it is important to remember that these are not just random acts of violence, but hate crimes promoted by various organizations. The number of hate groups, hate crimes, and gun deaths in America are on the rise, and hatred towards people's gender, race, sexual orientation, religion, or ethnicity are examples of motivators for these types of attacks. We need to take a stand before it gets any worse.

And the focus of this hearing is just one way that we can examine the role of government in reducing hate crimes and gun violence. This is a moment of crisis

in our country, and we should leave no stone unturned in fighting to make a difference. Examining tax-exempt status is just one piece.

Mr. Wolf, as you have eloquently stated here, the tragedy of Pulse was not just a terrorist attack, but also a hate crime targeting the LGBTQ and Latinx communities. Could you talk about the ripple effects of hate targeted at historically disadvantaged communities? And why do you think it is important for government to come to their defense?

*Mr. Wolf. Thank you for the question. These are the communities that are targeted every single day. And not only are they the communities that are targeted every single day, they are also the communities that lack the resources and the support to recover from moments like this.

I think about stories like those folks who were at Pulse that night who, because their families' immigration status was a question, did not come forward to the FBI to tell their story and, therefore, never received any sort of support, benefits, mental health resources after the shooting at Pulse, for fear that their families would be punished or targeted because of their immigration status.

These are people who live every single day afraid to be in this country because of the color of their skin, because of the person that they love, because of their gender identity. Because of so many things they feel targeted every single day, and the statistics bear that out, that they are targeted every single day.

And so, while I have heard some interesting arguments and interesting questions and learned a lot of things about tax law that I didn't think I would learn, I keep coming back to the same thought, that the First Amendment protects speech, whether it is speech that I agree with, or like, or speech that I disagree with. But the First Amendment does not require that I fund hate speech across this country, and it certainly does not require that I subsidize the targeting of people who look different from me, who love different from me, who sound different from me. And so I believe that there are actions that this body could take that would protect the most marginalized among us, and I think that is what should happen.

*Mrs. Murphy. Thank you.

And Mr. Owens, is it reasonable that people might infer that any organization granted tax-exempt status is inherently supported by the government?

*Mr. Owens. I think that is a reasonable conclusion.

*Mrs. Murphy. And therefore, is it reasonable to believe that tax-exempt organizations promoting and spreading hateful propaganda is supported by the government?

*Mr. Owens. That, again, is a reasonable conclusion.

*Mrs. Murphy. Thank you, and I yield back.

*Chairman Lewis. The chair now recognizes for five minutes the gentleman from Illinois.

*Mr. Schneider. Thank you, Chairman Lewis, for convening this hearing. And I want to thank the witnesses for being here today, for sharing your stories.

Those of you who have suffered loss, our sympathy to you and your families. Your experience -- your loved ones are ones we will never forget. And I appreciate you being here.

This hearing is an important hearing about how the tax code subsidizes hate. I think, if there is a lesson I want to take away from it, it is that hate can have no safe harbor in the United States.

And the next thing we have to say is that hate and hate groups can find no comfort within the United States tax code. That is not a matter of speech; I think that is a matter of principle.

And the tax-exempt status is a privilege we extend to organizations that are working to benefit the public good. We have highlighted today several organizations that are using their nonprofit status, not for good, but to spread hate. And it is important that we hold these groups to account.

But there is also a second group that is abusing -- or are abusing their tax-exempt status to enrich their leadership, and to enrich individuals through self-dealing or misappropriation. In that vein, I turn to you, Mr. Owens, and have some questions leaning particularly on your perspective as a former director of the IRS Exempt Organizations Division.

Recently, as you may be aware, there have been a number of revelations about questionable financial dealings by the leadership of the National Rifle Association, the NRA. NRA is a nonprofit, tax-exempt organization. An example of those reports are indications that the NRA has been using funds to pay for more than half-a-million dollars in high-end Italian suits and lavish international travel for their CEO and executive vice president, Wayne LaPierre. It appears the spending was primarily routed through the NRA's long-time public relations firm, Ackerman McQueen.

My question is, does the fact pattern of more than a half-a-million, \$500,000, spent on high-end clothing and travel, does that raise questions to you about what is happening with the NRA and their tax-exempt status?

*Mr. Owens. Absolutely. It appears to be the sort of diversion that I actually testified before this committee about 30 years ago regarding, and that is the use of a nonprofit's assets, its income, for the benefit of the people in charge. And Congress enacted section 4958 after those hearings, which applies in excise tax, and applied it to both section 501(c)(4) organizations and section 501(c)(3) organizations.

*Mr. Schneider. Thank you. And it is not just Italian suits and travel. There is reporting indicating that the NRA was involved in plans to purchase Mr. LaPierre and his wife a home in Texas. And by home I mean a \$6.5 million mansion. Again, there was money routed through Ackerman McQueen. NRA issued a \$70,000 check to a newly-formed LLC to help facilitate this purpose.

Again, Mr. Owens, is it normal and customary for a nonprofit to buy or even consider buying a mansion for its leadership?

*Mr. Owens. That is unusual, but not unprecedented.

*Mr. Schneider. Okay. In your mind do you think this would qualify as an abuse of an organization's subsidized nonprofit status?

*Mr. Owens. A residence of that size and that cost is an extraordinary benefit, and calls into question whether his total compensation is excessive under the conditions imposed by Congress in section 4958 of the code.

*Mr. Schneider. And is the concern not just protecting American taxpayers who are subsidizing these types of organizations, but the donors to these organizations who are submitting their dues or contributions, whatever it may be, to further the mission of the organization, not to buy a mansion for the home of an executive?

*Mr. Owens. That is right. And it may come as a surprise to the members of the organization who pay the dues.

*Mr. Schneider. So, staying in this vein, with respect to the fancy clothes and extravagant travel, and the purchase of a lovely home, these were all paid for through a vendor -- in this case, through the PR firm Ackerman McQueen -- as opposed to the organization.

Should what may appear as a laundering of these expenses through an outside vendor, should that raise questions by the -- by our IRS?

*Mr. Owens. Yes, the standards that I have referenced, the standard of an excess benefit transaction, applies to indirect transactions. That is, transaction enrichment that is run through a separate organization, and then cycles back to the individual and place of control. That is not an uncommon way that diversion happens.

*Mr. Schneider. Great. Well, thank you. I am out of time, but I will make clear for the record I have asked Ackerman McQueen for documents related to these activities that could expose the violations with respect to the NRA. I believe this is just the tip of the iceberg, based on the reporting. And this information will be very important. I am hopeful that we can get that information from Ackerman McQueen. The NRA is blocking that, but I look forward to getting that information at a later date.

And with that I yield back. Thank you.

*Chairman Lewis. The chair now recognizes for five minutes the gentleman from Ohio.

*Mr. Wenstrup. Thank you, Mr. Chairman, I appreciate it, and thank you all for being here today to share your stories and bring more awareness to, you know, I think, a huge problem we have in our country, in our world. I have served in war, and the idea of hate -- I would like to associate myself with many of the things that Mr. Reed said to all of you. I appreciate it.

And, you know, I was at the baseball field that morning that someone decided to open up and fire upon us. Fortunately, we all lived. Driven by hate, driven by hate. And he said many hateful things, or at least associated himself with many things that were hateful.

And often times I will be out and about, and I will have people, constituents, address me in very hateful ways. And my response many times is I didn't go to

D.C. to hate people, I came here to work on policy, and to move this country forward. But we are subject to it. We are subject to it all the time. You could look at any one of our Facebook pages on either side of the aisle, and you are going to see it.

And there is that First Amendment right.

And I get confused, because I see at the same time we have a public school in our district where the community had decided years ago to post the Ten Commandments out in front of the school, part of which said -- and, to me, the Ten Commandments are policy ideas, many are weaved into our laws, yet the Supreme Court said, "You must take that down." So we have to take down "Thou Shalt Not Kill." Some strange things going on, when you think about it, at least in my mind. It is very conflicting.

The Constitution prohibits the government from discriminating based on viewpoint, and that is fair. That is what we are here to do, to debate policy, to discuss viewpoints. And I just want to ask the question, I guess, of Mr. Volokh. That is correct, right, that the Constitution prohibits the government from discriminating based on viewpoint?

*Mr. Volokh. Yes, that is right.

*Mr. Wenstrup. Your mic please, your microphone, please. Your microphone.

*Mr. Volokh. Sorry, yes, that is right. When it comes to either criminal punishment or civil liability or denial of tax exemptions. Again, there is no right to a tax exemption, but there is a right not to be discriminated against based on viewpoint in a tax exemption.

*Mr. Wenstrup. So where are we when it comes to hateful speech?

*Mr. Volokh. There is no hate speech exception to the First Amendment. The Supreme Court just recently unanimously held that, even when it comes to government benefits -- there a pretty minor one, having to do with a particular kind of trademark enforcement -- the government cannot deny that benefit just because it concludes that that speech is hateful. In that case, the speech was perceived by some as a slur against Asian-Americans.

*Mr. Wenstrup. Yes, and, you know, I would certainly say we have come a long way from -- my parents used to say sticks and stones can break my bones, but names will never hurt me, and it somewhat taught me to drive on through some of that.

But what exactly would be considered speech that incites violence? Like, for example, we know you can't go into a movie theater and yell fire, because you are not inciting violence, but you are inciting mayhem and potential harm to people. That is pretty clear. So how do we actually determine what speech incites violence?

*Mr. Volokh. Well, the Supreme Court, in the Brandenburg v. Ohio case in 1969 unanimously held that speech could be restricted as incitement only if it is intended to and likely to cause imminent lawless conduct. So basically, right away. The classic example is speech to an angry mob.

Let me offer an example drawn on something that some people pointed out: anti-immigrant speech, they said. I am an immigrant. I think immigration has generally been very good for America. But lots of people disagree with me on that. Lots of people think that immigration is bad. In fact, lots of people think -- I think wrongly -- are that immigrants are, on balance, bad for America, whether it is immigrants generally, or immigrants from particular places, or immigrants of particular -- let in under particular provisions. That is something that they are entitled to say, whether it is perceived as hateful or not. Now, if they stand in front of an ICE building and say, "Let's go destroy it because we don't like ICE," or, "Let's go attack those counter-protestors who support immigrant rights, and let's attack them now," that is advocacy of imminent lawless conduct. But if all they say is something in the future, that is not within that very narrow incitement exception.

*Mr. Wenstrup. It is -- do you have to wait for the action to occur, I guess, is the question.

*Mr. Volokh. Pretty much, in many situations, yes. Now, of course, if somebody is about to attack, you can try to stop them and punish them for attempted crime. But yes, that is one of the things that Justice Brandeis, in his leading opinion in *Whitney* talked about, is how normally we prohibit action and not advocacy, and we wait until the action is about to happen, rather than stifling debate, just because some of it might regrettably lead to violence.

*Mr. Wenstrup. Thank you. I yield back, my time has expired.

*Chairman Lewis. The chair now recognizes for five minutes the gentleman from Pennsylvania.

*Mr. Evans. Thank you, Mr. Chairman. And thank you for your leadership on this issue.

Mr. Wolf, in your written testimony you said inaction in the face of hatred has consequences. I could not agree with you more. Where I come from is the City of Philadelphia. We saw 154 gun-related deaths, 631 overall victims of gun violence in just the 6 months of 2019. We need voices like your testimony to the true cost of inaction to serve as a wake-up call to those in Congress who are dragging their feet.

What would you like to say to those Members who don't seem to think of it as time to act?

*Mr. Wolf. Thank you. The time has passed to act. One of the things that I was told in the hours and the days after Pulse was that it was too soon to talk about gun violence, it was too soon to talk about hate. We needed to wait until the funerals were over. We needed to wait until people had calmed down.

And that made me angry because, for my best friends, Drew and Juan, it was too late to talk about gun violence. It was too late to talk about hatred. For 47 other families who came home to one extra empty chair at the dinner table, it was too late to talk about these things.

So to those who continue to hide behind how complicated the law is, how challenging these issues are, and take comfort in sitting around and talking about potentially doing something somewhere down the road, my answer to them is the rest of the country is paying the price today. People in El Paso paid the price. People in Tallahassee paid the price. People in Orlando paid the price. Every day you go into a public space and you hold your breath because if a

balloon pops you are sure it is the last day you will have on earth. That should tell you that this country is at a precipice, and the time for waiting to take action is far from over.

*Mr. Evans. Thank you, Mr. Wolf.

Mr. Owens, in your written testimony you describe the IRS mission of collecting revenue as being somewhat contradictory to its administration of the tax laws that apply to tax-exempt organizations. In your view, is there a better or more efficient way to administer the laws regarding tax-exempt organizations, or is the IRS the best entity to carry out this function?

*Mr. Owens. Well, thank you for that question. I actually have spent a little time thinking about that possibility.

One of the things I do is I serve on the board of a Canadian private foundation that is examining that issue in the context of Canada. The Canadian experience and the U.S. experience, the UK experience, Australia, and New Zealand all spring from the same common-law tradition.

Some countries -- the United Kingdom and Australia -- have a separate charities commission that is separate entity, separate from the tax collector, whose job is to oversee charities in that country -- charities and similar kinds of organizations. That allows for expertise for focus to hire the people who can struggle with these very difficult issues of freedom -- First Amendment freedoms. It seems like that sort of a model is worth considering.

*Mr. Evans. Mr. Chairman, listening to Mr. Owens, I think that he put some suggestions on the table, particularly something worth pursuing, because I do think, since I have been on this committee, it is a little difficult that -- for all that we ask the IRS to do, the reality of listening to him just now, I think that not just, you know, the under-funding and the -- sort of the political aspects of how the IRS has been dealt with, and I have heard that. And if we are truly committed to what Mr. Wolf has said, of trying to make this more meaningful than just the discussion, but some results, I think that is something that we should really consider.

So I thank you, Mr. Chairman, for allowing me this opportunity. I yield back.

*Chairman Lewis. The chair now recognizes for five minutes the gentleman from New Jersey, Mr. Pascrell.

*Mr. Pascrell. Thank you, Mr. Chairman. Thank you for putting this together. I want to commend all five witnesses today. You are a class act, regardless of what your positions are.

But I want the first three witnesses to understand it is not your courage which is under the microscope today, nor the courage of members of your family, or your friends. We, our courage, is under the microscope, as to what we are going to do about this phenomenon. That is what we are about, and that is what -- all we are about. So we have to produce. We have to produce.

Are you saying, Mr. Volokh, that speech is protected, even if there is an incitement to violence, to take up arms, if it is a call to -- more than a few moments, or

a few hours into the future, a call for action? Is that what you are saying?

*Mr. Volokh. That is, I think, what the Supreme Court has said.

*Mr. Pascrell. No, I want -- I am asking what you are saying.

*Mr. Volokh. Yes, that advocacy of violence at some unspecified future time is protected by the First Amendment, and that is specifically what the court has held in *Brandenburg v. Ohio*, *Hess v. Indiana*, and various --

*Mr. Pascrell. Yes, what I would question is your perception -- and this is not meant as a critical statement, I am just -- I am not a lawyer.

For instance, the ban on Muslims. I read that case very carefully, and the opposition -- members of the Supreme Court -- on that. Did you think that was constitutional? The court sided on the -- with, you know, its decision to ban -- allow the ban on Muslims.

*Mr. Volokh. So that case involved a ban on entry from certain -- a small subset of Muslim countries.

*Mr. Pascrell. Right.

*Mr. Volokh. Generally speaking --

*Mr. Pascrell. Not all countries.

*Mr. Volokh. Generally speaking, deliberate targeting of people based on religious ideology is just as unconstitutional as political.

*Mr. Pascrell. Right.

*Mr. Volokh. There is a different rule when it comes to immigration. There is a case called *Kleindienst v. Mandel*.

*Mr. Pascrell. Right.

*Mr. Volokh. It says the First Amendment principles generally don't apply when it comes to deciding whom to let into the country. And that is why, for example, some -- there was a case involving a Holocaust denier who was denied access to the country just recently. And, you know, that might have been constitutional, even though it is illegal -- it would be unconstitutional to ban Holocaust denial by Americans.

*Mr. Pascrell. Now you cited in your testimony the Christian Legal Society. And you say that the court made very clear in that particular case -- the decision happened that day continues the court's tradition of protecting the freedom to express the thought that we hate. I thought that was a good example of that you picked out.

Let me say this. I have got some examples from hate groups, and I would like your opinion of them.

*Mr. Volokh. Sure.

*Mr. Pascrell. The National Policy Institute, you ever heard of them?

*Mr. Volokh. I heard of Mr. Spencer. I had not heard of that group by its name until --

*Mr. Pascrell. The president of that group is a Richard Spencer.

*Mr. Volokh. Yes.

*Mr. Pascrell. And -- whose mission is to preserve the heritage, the identity, and the future of people of European descent.

*Mr. Volokh. Right.

*Mr. Pascrell. Is that you?

*Mr. Volokh. I am, although since I am a Jew, I think he would --

*Mr. Pascrell. That is me.

*Mr. Volokh. -- not include me in that category.

*Mr. Pascrell. So we are the good guys. And around the world. That is what he believes. The rest, who knows?

How about the American Border Patrol, you ever heard of them?

*Mr. Volokh. Are those one of the groups that tries to stop illegal entry into the U.S.?

*Mr. Pascrell. Exactly.

*Mr. Volokh. Well, their advocacy would be constitutionally protected. The physical actions on their part might be -- very well be criminally punishable.

*Mr. Pascrell. There is a Glen Spencer of no relationship. He has called Mexicans a cultural cancer with a secret plan to take over the American Southwest.

I didn't know that. Maybe you knew that they were trying to take over the Southwest.

How about the American Family Association, ever hear of them?

*Mr. Volokh. You know, all those names blend into one. I am not sure that I have heard -- I have heard of other groups --

*Mr. Pascrell. They do for me, also.

*Mr. Volokh. Pardon?

*Mr. Pascrell. They do for me, also.

*Mr. Volokh. Right.

*Mr. Pascrell. But all three of these organizations -- it is only the tip of the iceberg, here -- all three of these organizations are protected. All three of these organizations my tax money goes to.

*Mr. Volokh. Yes, just like it goes to churches or religious groups, whom --

*Mr. Pascrell. Yes, I will get to those.

*Mr. Volokh. -- often teach -- that teach things that are hostile to --

*Mr. Pascrell. How about the D.A.R.E. Foundation, ever hear of them?

*Mr. Volokh. I don't think so.

*Mr. Pascrell. They argue that diversity, per se, is not strength, but vulnerability.

*Mr. Volokh. Every right to argue that.

*Mr. Pascrell. I know my time is running out. Thank you for your courtesy. But I want to say to you thank you for being very specific and very honest today. And that is what we have to address. Not you, us on this side. And we are going to do this. And we are going to do this, because this is our duty and our obligation.

And you know, as well as I do -- in conclusion -- that when we are talking about speech, there is nothing very absolute. When you look at the cases, when you look at -- you can't -- you know, the example before, you can't yell fire in a theater. That is not even absolute, when you look at the cases that have come before the courts.

We got to get beyond that. We got to get beyond that and protect the people in our society. They can speak their mind, but if it is leading to actions and we can prove it, then darn it, we have to protect the American taxpayer.

Thank you for your testimony.

Thank you, Mr. Chairman.

*Chairman Lewis. Thank you. I would like to thank all of the witnesses, each one of you, for being here today and taking the time to testify, for some of you to tell your personal stories.

Please be advised that members will have two weeks to submit written questions to be answered later in writing. Those questions and your answers will be made part of the formal hearing record.

We will have more hearings.

But remember, as Martin Luther King, Jr. said on one occasion -- who I met when I was 18 -- when I was 15 -- that hate is too heavy a burden to bear. And we must find a way out of -- maybe a way out of no way, but we got to do it. End the hate. Stop the killing. We are one people, we are one family. We all live in the same house. Not just an American house, but the world house. We got to teach our children, our neighbors, that we have to live together.

We are going to have more hearings, right? We are going to have more hearings. And we are going to have some formal staffers and officials of CDC to

come and testify, right?

We have to stop it, stop the madness. You happened to make a down payment on stopping this madness. So thank you.

The hearing is adjourned. Thank you very much.

[Whereupon, at 12:34 p.m. the subcommittee was adjourned.]

[Questions for the Record from Mr. Schneider [follows](#):]

[Submissions for the Record follows:]

[The Honorable Bill Pascrell, Jr. - Time to Fight Back Against Right-Wing Extremism](#)

[Mr. Michael Bindner, The Center for Fiscal Equity](#)

[Mr. Tim Delaney, The National Council of Nonprofits](#)