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Bias and Hate Online and How the Law is Falling Short

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Speaker Biographies

Carrie Goldberg

Founder, C.A. Goldberg, PLLC

Carrie Goldberg is a victims' rights lawyer born and raised in Aberdeen, Washington. Her law firm, C.A. Goldberg, PLLC, is based in Brooklyn and litigates nationally for targets of online harassment, stalking, and sexual assault. Before starting her law firm, Carrie provided social services to Nazi victims and went on to become a lawyer for the Vera Institute of Justice. Her major litigations include *Herrick v. Grindr*, *NNAF v. John Doe*, *Hadley v. City of Anaheim*, *L.W. as parent/guardian of K.M. v. New York City Department of Education*. Her work was featured in the documentary *Netizens*. Carrie attended Vassar College and Brooklyn Law School. She resides in Brooklyn, New York. Carrie's book *Nobody's Victim: Fighting Stalkers, Psychos, Pervs and Trolls* was published by Penguin in August 2019.

Cynthia Lowen

Director, *Netizens*

Cynthia Lowen is an Emmy-nominated filmmaker and writer. She's the director and producer of 'Netizens,' a feature documentary about women and online harassment, premiering at the Tribeca Film Festival. "Bristling with rightful fury," says *Teen Vogue* of the film, 'Netizens' follows three women, including Carrie Goldberg and Anita Sarkeesian, as they confront digital abuse and strive for justice online. Cynthia is also the producer and writer of 'Bully,' a feature documentary following five kids and families through "a year in the life" of America's bullying crisis. Lauded by reviewers, 'Bully' was nominated for two Emmy-awards and screened at the White House. Cynthia is also winner of The National Poetry Series for her collection 'The Cloud That Contained the Lightning,' about J. Robert Oppenheimer and the legacy of the atomic bomb.

Ari Waldman

Microsoft Visiting Professor at Princeton University, Center for Information Technology Policy Professor of Law and the Founding Director of the Innovation Center for Law and Technology, New York Law School

Ari Ezra Waldman is the Microsoft Visiting Professor at Princeton University, Center for Information Technology Policy, the Professor of Law and the Founding Director of the Innovation Center for Law and Technology at New York Law School, and an Affiliate Fellow of the Information Society Project at Yale Law School. This year, he also serves as a Belfer Fellow of the Anti-Defamation League's Center

for Technology and Society. Ari researches how law and technology mediate social life and the asymmetrical power relations created and entrenched by technology. In particular, his work focuses on privacy, technology design, online speech, and the experiences of marginalized populations. He has won numerous awards for his scholarship, including the highest award in privacy law, the Best Paper Award at the Privacy Law Scholars Conference (in 2019 and in 2017), the 2019 Privacy Papers for Policymakers Award, and the 2018 Deirdre G. Martin Memorial Lecturer on Privacy. His first book, *Privacy As Trust: Information Privacy for an Information Age* (Cambridge University Press 2018), argues privacy law should protect as private information shared in contexts of trust. His scholarship has been or will soon be published in leading law reviews including the Washington University Law Review (twice), the Cornell Law Review, the Iowa Law Review, the Indiana Law Journal, and the Fordham Law Review, among others, and in peer-reviewed journals such as *Law and Social Inquiry* and *Current Issues in Psychology*. He holds a Ph.D. in sociology from Columbia University, a J.D. from Harvard Law School, and a B.A. from Harvard College.

Moderator:

Lauren Krapf

National Policy Counsel, ADL

Lauren Krapf serves as National Policy Counsel for the Anti-Defamation League. In this capacity, she oversees ADL's civil rights work and policy initiatives to decrease hate online and promote the use of technology to counter bias. Lauren also serves as ADL's counsel for free speech and civil rights issues on college and university campuses. Prior to joining ADL, she worked as a litigation associate in Los Angeles at Burke Williams & Sorensen, where she was the co-founder and lead of the law firm's Harassment and Bias Intervention Training (HABIT) Series. Lauren started her legal career as a Fellow of the American Board of Trial Advocates and went on to practice civil litigation. She has appeared in state and federal courts, authored appellate briefs, and argued before the Court of Appeals for the Ninth Circuit.

Lauren is barred in California (SBN: 292115) and received her Juris Doctorate from Loyola Law School. During her time at Loyola, she was Chief Note & Comment Editor of the *International and Comparative Law Review* and was awarded "Top Ten Brief" in the Scott Moot Court Competition. After law school, Lauren served as an American Board of Trial Advocates fellow. She received her Bachelor of Arts degree, magna cum laude, in Journalism and Communication & Culture from Indiana University, where she was an Ernie Pyle Scholar. Lauren uses she/her pronouns.



Online Hate and Harassment: The American Experience

Chapters

① Survey Report

② Recommendations

SURVEY REPORT

Executive Summary

The American public has become increasingly aware of online hate and harassment in recent years. The scale and complexity of online hate has reached unprecedented levels as seen in sustained online harassment campaigns that violently threaten journalists to organized racist attacks launched against an African-American student leader by a far-right online community. High-profile targets of coordinated online harassment – such as Jewish journalists and African-American actress and comedian Leslie Jones – have drawn the attention of technologists, policy makers, and the public to the problem of online hate.

This report is based on a nationally representative survey of Americans conducted from December 17, 2018 to December 27, 2018, and sheds light on these issues.



This figure is substantially higher than the 18% reported to a comparable question in a 2017 survey by the Pew Research Center. Approximately one-third of online harassment appears to be a result of the target's protected characteristic, such as race or ethnicity, religion, gender identity, sexual orientation or disability. LGBTQ+ individuals, Muslims, Hispanics and African-Americans face especially high rates of identity-based discrimination.

Online harassment impacts the target in a variety of ways. The most common response is to stop, reduce or change online behavior, which 38% of those who have been harassed have done.

This can include steps like posting less often, avoiding certain sites, changing privacy setting, deleting apps, or increasing filtering of content or users. Many go further, with 18% of harassment targets contacting the technology platform to ask for help or report harassing content.

Fifteen percent take steps to reduce risks to their physical safety, such as moving locations, changing their commute, taking a self-defense class, avoiding being alone, or avoiding certain locations.

Finally, 6% have contacted the police to ask for help or report the online hate or harassment.

People are concerned about the impact that online hate has on society.

More than half of Americans (59%) believe that online hate and harassment are making hate crimes more common.

Significant swaths of the population also feel less safe in their community (22%) as a result of online hate.

More Common Indifferent/Disagree

ACTIONS TO ADDRESS ONLINE HATE AND HARASSMENT

Americans overwhelmingly want to see concrete steps taken to address online hate and harassment. The survey shows that across political ideologies, the vast majority of Americans believe that private technology companies and government need to take action against online hate and harassment.

Over 80% of Americans want government to act by strengthening laws as well as improving training and resources for police on online hate and harassment. Americans also want platforms to take more action to counter or mitigate the problem.

67% of Americans want companies to make it easier to report hateful content and behavior.

81% want companies to provide more options for people to filter hateful or harassing content. In addition, an overwhelming percentage of survey respondents want companies to label comments and posts that appear to come from automated “bots” rather than people.

Take Action



Use ADL's Cyber Safety Action Guide to report hate online



Stay in touch with the Center for Technology and Society



Share your Cyberhate story with us

Methodology

A survey of 1,134 individuals was conducted by YouGov, a leading public opinion and data analytics firm, on behalf of ADL examining Americans' experiences with and views of online hate and harassment. Eight hundred surveys were collected to form a nationally representative base of respondents with additional oversamples from individuals who identified as Jewish, Muslim, African-American, Asian-American or LGBTQ+. For the oversampled target groups, responses were collected until at least 100 Americans were represented from each of those groups. Data was weighted on the basis of age, gender identity, race, census region and education to adjust for national representation. YouGov surveys are taken independently online by a prescreened set of panelists representing many demographic categories. Panelists are weighted for statistical relevance to national demographics. Participants are rewarded for general participation in YouGov surveys but were not directly rewarded by ADL for their participation in this survey. Surveys were conducted from December 17, 2018 to December 27, 2018 and took on average 5 minutes to complete. The margin of sampling error for the full sample of respondents is plus or minus 3 percentage points.

Results

Prevalence and Nature of Online Hate and Harassment

This nationally representative survey finds that harassment is a common aspect of many Americans' online lives, and appears to be increasing. Over half (53%) of Americans experienced some type of online harassment. This is higher than the 41% reported to a comparable question asked in 2017 by the Pew

Research Center. Most prevalent are forms of harassment that are generally isolated offensive incidents: some 41% of Americans were subjected to offensive name calling and 33% had someone try to purposefully embarrass them. More severe forms of harassment were also commonly experienced – with 37% of American adults reporting such an experience, up from 18% in 2017. We defined “severe harassment” consistent with Pew Research Center as including physical threats, sexual harassment, stalking and sustained harassment.

Chart 1: Percentage of U.S. Adults Who Have Experienced Harassment Online



 Share

More than one-in-five Americans (22%) reported being subjected to physical threats online and nearly one-in-five experienced sexual harassment (18%), stalking (18%), or sustained harassment (17%).

Online harassment can occur for a variety of reasons, and the survey asked specifically about perceived causes. Around one-third (32%) of Americans who had been harassed reported that the harassment was a result of their sexual orientation, religion, race or ethnicity, gender identity, or disability. One-in-five (20%) respondents who had experienced online harassment believe it was a result of their gender identity and some 15% because of their race or ethnicity. Roughly one-in-ten had been targeted as a result of their sexual orientation (11%), religion (11%), occupation (9%), or disability (8%).⁶ In addition, 21% of those who were harassed reported that physical appearance and political views drove at least part of the harassment. One consequence of widespread online hate and harassment is that it leaves people worried about being targeted in the future: 27% of those who had experienced harassment and an additional 14% of Americans who had not experienced harassment reported worrying about future harassment.

Chart 2: Reasons for Online Hate



Share

The survey also sheds light on the relative rate of harassment of different groups. Identity-based harassment was most common against LGBTQ+ individuals, with 63% of LGBTQ+ respondents experiencing harassment because of their sexual orientation. Religious-based harassment was very common against Muslims (35%) and, to a lesser extent, Jewish (16%) respondents. Harassment was also common among other minority groups, with race-based harassment affecting 30% of Hispanics or Latinos, 27% of African-Americans, and 20% of Asian-Americans.⁷ Finally, women also experienced harassment disproportionately, with gender identity-based harassment affecting 24% of female-identified respondents, compared to 15% of male-identified.

Chart 3: Percentage of Respondents Who Were Targeted Because of Their Membership in a Protected Class



 Share

While online hate and harassment is prevalent across all age groups, younger Americans report higher rates than older Americans. The majority of 18–29 year olds (65%) experienced some form of hate or harassment, with 49% reporting severe harassment. Online harassment is also common among older age groups. Among 30–49 year olds, 60% were targeted (42% severely). For Americans 50 and over, 39% were targeted (25% severely).

Chart 4: Online Hate and Harassment by Age

🔗 Share

The survey also asked about where hate and harassment had occurred online. Of those respondents who were harassed online, over half (56%) reported that at least some of their harassment occurred on Facebook. Smaller shares experienced harassment or hate on Twitter (19%), YouTube (17%), Instagram (16%), WhatsApp (13%), Reddit (11%), Snapchat (10%), Twitch (8%) and Discord (7%).

Chart 5: Location of Online Hate and Harassment



Share

This analysis sheds light on the absolute amount of online harassment occurring on platforms. In order to explore the rate of hate and harassment on each platform, the survey asked about the respondent's use of different platforms. Chart 6 depicts the proportion of regular users (defined as using the platform at least once a day) who experienced harassment on that platform. The results suggest higher rates of harassment of regular users of Twitch, Reddit, Facebook and Discord. Note that the results may underestimate the amount of harassment on the platforms because some targets may have since stopped using a platform for reasons either related or unrelated to the harassment.

Chart 6: Harassment of Daily Users of Platforms



Impact of Online Hate and Harassment

Many people who have been targeted or fear being targeted took action as a result of online harassment. Some 38% stopped, reduced or changed their activities online, such as posting less often, avoiding certain sites, changing privacy setting, deleting apps, or increasing filtering of content or users. Some 15% took steps to reduce risk to their physical safety, such as moving locations, changing their commute, taking a self-defense class, avoiding being alone, or avoiding certain locations. Some attempted to get help, either from companies or law enforcement: 18% contacted the platform and 6% contacted the police to ask for help or report online hate or harassment.

Chart 7: Impact of Online Hate and Harassment



In addition to impacting individuals' behavior, online hate and harassment is impacting how people see society. More than half of Americans (59%) believe that online hate and harassment are making hate crimes more common, and half believe that they are increasing the use of derogatory language. More than one-third (39%) think that online hate and harassment are making young Americans lose faith in the country, and 30% believe that they are making it harder to stand up to hate. Some feel less comfortable in their more immediate environments: Approximately 22% of Americans report that online hate and harassment makes them feel less safe in their community while 18% feel that it makes family members trust each other less.

Chart 8: Societal Impact of Online Hate and Harassment



Actions to Address Online Hate and Harassment

Americans overwhelmingly want platforms, law enforcement agencies and policymakers to address the problem of online hate and harassment. Over 80% of Americans want government to act by strengthening laws and improving training and resources for police on cyberhate.

Strong support exists for these changes regardless of whether an individual has previously experienced online hate and harassment. Those who were targeted held similar views as those who had not experienced harassment.

Support also exists for these recommendations across the political spectrum. Although respondents identifying as liberal reported even greater agreement with the actions, those identifying as conservatives overwhelmingly supported all the actions as well.

Chart 9a: Government and Societal Actions



Chart 9b: Government and Societal Actions



Americans also want to see private technology companies take action to counter or mitigate online hate and harassment, with 84% saying that platforms should do more. They want platforms to make it easier for users to filter (81%) and report (76%) hateful and harassing content. In addition, Americans want companies to label comments and posts that appear to come from automated "bots" rather than people. Finally, a large percentage of respondents were in favor of platforms removing problematic users as well as having outside experts independently assess the amount of hate on a platform. As with the government and societal recommendations, comparable support existed for these recommendations regardless of whether a respondent had previously experienced harassment.

Like with the government and societal recommendations, support is strong for these recommendations across the political ideological spectrum. Although liberals especially support platform recommendations, with a majority of conservatives also supporting all recommendations.

Chart 10a: Platform Actions



Chart 10b: Platform Actions



1. Fingas, J. (2019, January 26). Trolls threaten laid off reporters in coordinated online campaign. Retrieved from <https://www.engadget.com/2019/01/26/trolls-threaten-laid-off-reporters>

2. Larimer, S. (2018, December 21). Man who harassed black student online must deliver 'sincere' apology, renounce white supremacy. Retrieved from https://www.washingtonpost.com/education/2018/12/21/man-who-harassed-black-student-online-must-deliver-sincere-apology-renounce-white-supremacy/?noredirect=on&utm_term=.3f649d68ee15

3. ADL (2016, October 19). ADL Task Force Issues Report Detailing Widespread Anti-Semitic Harassment of Journalists on Twitter During 2016 Campaign. Retrieved from <https://www.adl.org/news/press-releases/adl-task-force-issues-report-detailing-widespread-anti-semitic-harassment-of>

4. Rogers, K. (2016, July 19). Leslie Jones, Star of 'Ghostbusters,' Becomes a Target of Online Trolls Retrieved from <https://www.nytimes.com/2016/07/20/movies/leslie-jones-star-of-ghostbusters-becomes-a-target-of-online-trolls.html>

5. Duggan, M. (2018, January 03). Online Harassment 2017. Retrieved from <http://www.pewinternet.org/2017/07/11/online-harassment-2017/>

6. Respondents could select multiple characteristics that they have been harassed over or are worried about being harassed over.

7. Survey respondents were asked which racial or ethnic group best describes them.

RECOMMENDATIONS

This report's findings show that the vast majority of the American public – across demographics, political ideology, and past experience with online harassment – want both government and private technology companies to take action against online hate and harassment. To that end, ADL recommends the following actions:

For Government

1. Strengthen laws against perpetrators of online hate

Hate and harassment have moved from on the ground to online, but our laws have not kept up. Many forms of severe online misconduct are not consistently

covered by cybercrime, harassment, stalking, and hate crime law. State legislators have an opportunity, consistent with the First Amendment, to create laws that hold perpetrators of severe online hate and harassment more accountable for their offenses, including:

- Legislators should ensure hate crime laws cover online hate. Apart from Illinois, which mentions “cyberstalking,” no state hate crime statute expressly includes online conduct within its scope. These laws can and should be updated to explicitly cover online hate incidents.
- States should close the gaps that often prevent stalking and harassment laws from punishing online misconduct. Many states have intent, threat, harm or “directed at” requirements that prevent prosecution of online behavior that would otherwise easily fit the definitions of stalking or harassment statutes. Improved laws can allow for more cyberstalking and cyber-harassment prosecutions without creating constitutional complications. States like Connecticut, Maine, and New Jersey provide examples of broad but constitutionally sound stalking laws that address problematic online behavior.
- Legislators should increase liability and remedies for information-sharing cybercrimes such as doxing, swatting, non-consensual pornography, and deepfakes. Many statutes require the perpetrator to harbor an intent “to place another person in reasonable fear for his or her safety,” which applies to some but not all perpetrators of doxing. Additionally, eight states lack non-consensual pornography prohibitions and should pass laws to ban these actions. Finally, legislators must address newer forms of online harassment, such as deepfakes. While tort laws such as intentional infliction of emotional distress, false light (as well as other privacy torts), defamation, and copyright might allow claims against creators of deepfakes, comprehensive legislation can and should address gaps in cybercrime liability and remedies.

In addition, Congress has an opportunity to lead the fight against cyberhate by increasing protections for targets as well as penalties for perpetrators of online misconduct. Some actions Congress can take include revising Federal law to allow for penalty enhancements based on cyber-related conduct; updating federal stalking and harassment statutes’ intent requirement to account for online behavior; and legislating specifically on cybercrimes such as doxing, swatting, non-consensual pornography, and deepfakes.

2. Urge social media platforms to institute robust governance

Government officials have an important role to play in encouraging social media platforms to institute robust and verifiable industry-wide self-governance. This could take many forms, including Congressional oversight or passing laws that require certain levels of transparency and auditing. The internet plays a vital role in allowing for innovation and democratizing trends, and that should be preserved. At the same time the ability to use it for hateful and severely harmful conduct needs to be effectively addressed.

3. Improve training of law enforcement

Law enforcement is a key responder to online hate, especially in cases when users feel they are in imminent danger. Increasing resources and training for these departments is critical to ensure they can effectively investigate and prosecute cyber cases and that targets know they will be supported if they contact law enforcement.

For Private Technology Companies

1. Ensure strong policies against hate

Every social media platform must have clear terms of service that address hateful content and harassing behavior, and clearly define consequences for violations. These policies should include, but should not be limited to:

- Making clear that the platform will not tolerate hateful content or behavior on the basis of protected characteristics.
- Prohibiting abusive tactics such as harassment, doxing and swatting.
- Establishing an appeal process for users who feel their content was flagged as hateful or abusive in error.

2. Strengthen enforcement of policies

Social media platforms should assume greater responsibility to enforce their policies and to do so accurately at scale. This means:

- Improving the complaint process so that it provides a more consistent and speedy resolution for targets. We know from research that content moderators regularly make mistakes when it comes to adjudicating hateful content.
- Relying less on complaints from individual users, and instead proactively, swiftly, and continuously addressing hateful content using a mix of artificial intelligence and humans who are fluent in the relevant language and knowledgeable in the social and cultural context of the relevant community.

3. Designing to reduce influence and impact of hateful content

Social media companies should design their platforms and algorithms in a way that reduces the influence of hateful content and harassing behavior. Steps should include:

- Making hateful content more difficult to find in search and algorithmic recommendations. This means, for example, never recommending hatemongers’ tweets, suggesting them as friends, or auto-playing their videos.
- Removing advertisements from hateful content.
- Not allowing hateful content to be monetized for profit.
- Labeling content suspected to be from automated “bot” accounts, given the use of bots for spreading hate. For example, ADL previously found that [over 30% of anti-Semitic tweets](#) seem to come from bots.

4. Expand tools and services for targets

Given the prevalence of online hate and harassment, platforms should offer far more services and tools for individuals facing or fearing online attack. This

includes:

- Greater filtering options that allow individuals to decide for themselves how much they want to see likely hateful comments.
- Protections for individuals who are being harassed in a coordinated way.
- User-friendly tools to help targets preserve evidence and report problems to law enforcement and companies.

5. Increase accountability and transparency

Platforms should adopt robust governance. This should include regularly scheduled external, independent audits so that the public knows the extent of hate and harassment on a given platform. Audits also allow the public to verify that the company followed through on its stated actions and to assess the effectiveness of company efforts across time. Companies should provide information from the audit and elsewhere through more robust transparency reports. Finally, companies should create independent groups of experts from relevant stakeholders, including civil society, academia and journalism, to help provide guidance and oversight of platform policies.

8. Doxing is the search for and publishing of private or identifying information about a person on the internet, typically with malicious intent.

9. Swatting is the action or practice of making a prank call to emergency services in an attempt to bring about the dispatch of a large number of armed police officers to a particular address.

10. Deepfake is an artificial intelligence-based technique that can create fake content, including images and videos that look real but are fabricated and inauthentic.

11. Koebler, J., & Cox, J. (2018, August 23). Here's How Facebook Is Trying to Moderate Its Two Billion Users. Retrieved from https://motherboard.vice.com/en_us/article/xwk9zd/how-facebook-content-moderation-works

JULY 2019

Free to Play?

Hate, Harassment and
Positive Social Experiences
in Online Games



ADL®

Our Mission:

To stop the defamation of the Jewish people and to secure justice and fair treatment to all.

ABOUT

Center for Technology & Society

In a world riddled with cyberhate, online harassment and misuses of technology, the Center for Technology & Society (CTS) serves as a resource to tech platforms and develops proactive solutions. Launched in 2017 and headquartered in Silicon Valley, CTS aims for global impacts and applications in an increasingly borderless space.

It is a force for innovation, producing cutting-edge research to enable online civility, protect vulnerable populations, support digital citizenship and engage youth. CTS builds on ADL's century of experience building a world without hate and supplies the tools to make that a possibility both online and off-line.

ADL (Anti-Defamation League) fights anti-Semitism and promotes justice for all. Join ADL to give a voice to those without one and to protect our civil rights.

Learn more: [adl.org](https://www.adl.org)

Thanks to **Christina Ingersoll** for her significant contributions to authoring this report.

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Executive Summary

Globally, video games are a \$152 billion industry. 53% of the total population of the US and 64% of the online population of the US play video games.

This report explores the social interactions and experiences of video game players across America and details their attitudes and behaviors in a rapidly growing social space. Globally, video games are a \$152 billion industry. Fifty-three percent of the total population of the US and 64 percent of the online population of the US play video games.¹ Video games have functioned as social platforms over the past three decades, where players around the world have interacted with one another while playing video games online. Like in other social platforms, these interactions can be both personally enriching as well as harmful.

In this report we provide an analysis of key findings from a nationally representative survey designed by ADL in collaboration with Newzoo, a data analytics firm focusing on games and esports. The survey found that 88 percent of adults who play online multiplayer games in the US reported positive social experiences while playing games online. The most common experiences were making friends (51%) and helping other players (50%). The games in which players most reported positive social experiences were *World of Warcraft* (59%), *Minecraft* (55%), *NBA 2k* (51%), *Overwatch* (49%), *Counter-Strike: Global Offensive* (48%) and *Fortnite* (47%).

In spite of these findings, harassment is quite frequent and should give the industry pause. Seventy-four percent of adults who play online multiplayer games in the US experience some form of harassment while playing games online. Sixty-five percent of players experience some form of severe harassment, which includes physical threats, stalking and sustained harassment. Alarmingly, nearly a third of online multiplayer gamers have been doxed (29%).² The games in which the greatest proportion of players experience harassment are *Dota 2* (79% of players of the game), *Counter-Strike: Global Offensive* (75%), *Overwatch* (75%), *PlayerUnknown's Battlegrounds* (75%) and *League of Legends* (75%).

Fifty-three percent of online multiplayer gamers who experience harassment believe they were targeted because of their race/ethnicity, religion, ability, gender or sexual orientation. Thirty eight percent of women and 35 percent of LGBTQ+ players reported harassment on the basis of their gender and sexual orientation, respectively. Approximately a quarter to a third of players who are black or African American (31%), Hispanic/Latinx (24%) and Asian-American (23%) experience harassment because of their race or ethnicity in an online multiplayer game. Online multiplayer gamers are also targeted because of their religion: 19 percent of Jews and Muslims also report being harassed.³

Twenty-three percent of online multiplayer gamers who have been harassed either avoid certain games due to a game's reputation for having a hostile environment while 19 percent have stopped playing certain games altogether as a result of in-game harassment, as other research has suggested.⁴ The games that most players either become more careful playing or stopped playing altogether as a result of harassment are *Dota 2* (37%), followed by *Fortnite* (36%), *Counter-Strike: Global Offensive* (36%), *NBA 2K* (33%), *Madden NFL* (31%), *Overwatch* (29%), *Apex Legends* (28%), *World of Warcraft* (27%) and *League of Legends* (27%). Perhaps most notable is that only 27 percent of online multiplayer gamers reported that harassment had not impacted their game experience at all, meaning that fully 73 percent of players had their online multiplayer game experience shaped by harassment in some way.

The impact of harassment in online multiplayer games goes beyond game environments as well: 23 percent of harassed players become less social and 15 percent feel isolated as a result of in-game harassment. One in ten players has depressive or suicidal thoughts as a result of harassment in online multiplayer games, and nearly one in ten takes steps to reduce the threat to their physical safety (8%). To seek recourse for online harassment, 12 percent of online multiplayer gamers contact a game company and 5 percent call the police.

In addition to harassment, the study also explores players' exposure to controversial topics such as extremism and disinformation in online game environments. Alarming, nearly a quarter of players (23%) are exposed to discussions about white supremacist ideology and almost one in ten (9%) are exposed to discussions about Holocaust denial in online multiplayer games.

The survey also measured players' attitudes towards efforts to make online multiplayer games safe and more inclusive spaces for players. A majority of online multiplayer gamers (62%) agree that companies should do more to make online multiplayer games safer and more inclusive for players, and over half (55%) agree that these games should have technology that allows for content moderation of in-game voice chat.

53%

of online multiplayer gamers who experience harassment believe they were targeted because of their race/ethnicity, religion, ability, gender or sexual orientation.

73%

of players in the U.S had their online multiplayer game experience shaped by harassment in some way.

23%

of players are exposed to discussions about white supremacist ideology in online multiplayer games.

88%

of adults who play online multiplayer games in the US have had positive social experiences while playing games online.

65%

of players have experienced some form of severe harassment, which includes physical threats, stalking and sustained harassment.

We see opportunities that for many different stakeholders to take action and do more to address harassment in online games:



Games Industry: Game developers and publishers need to take a more holistic approach towards reducing hate and harassment in online games. This includes developing sophisticated tools for content moderation that include voice-chat; comprehensive and inclusive policies and enforcement around hate and harassment that mirror and improve upon the known best practices of traditional social media; and game ratings systems that consider the amount of harassment in specific games, among other improvements. The games industry should also reach out to collaborate with civil society, to educate civil society about the unique challenges of their community and take advantage of civil society's expertise.



Civil Society: Just as in recent years much of civil society has expanded their work to include the impact of traditional social media on their issues and communities, so too should civil society use their resources, expertise and platforms to address the impact of games as digital spaces. To aid in this, civil society should engage with and support scholars and practitioners who have been and continue to do crucial research and practice to help fight hate, bias and harassment in games.



Government: Federal and state governments should strengthen laws that protect targets of online hate and harassment, whether on social media or in online games. Governments should also, as they do with social media companies, push for increased transparency and accountability from game companies around online hate and harassment.

We believe this report provides insight into the power of video games to enrich lives and also a better understanding of ways the game industry can improve.

Introduction

In March 2019, the CEO of Epic Games—creators of *Fortnite*, one of the most popular games in the world (especially in Western countries)—spoke about the future of the game industry:

“We feel the game industry is changing in some major ways. **Fortnite** is a harbinger of things to come. It’s a massive number of people all playing together, interacting together, not just playing but socializing. In many ways Fortnite is like a social network. People are not just in the game with strangers, they’re playing with friends and using **Fortnite** as a foundation to communicate. We feel now is the time and we have very large ambitions.”⁵

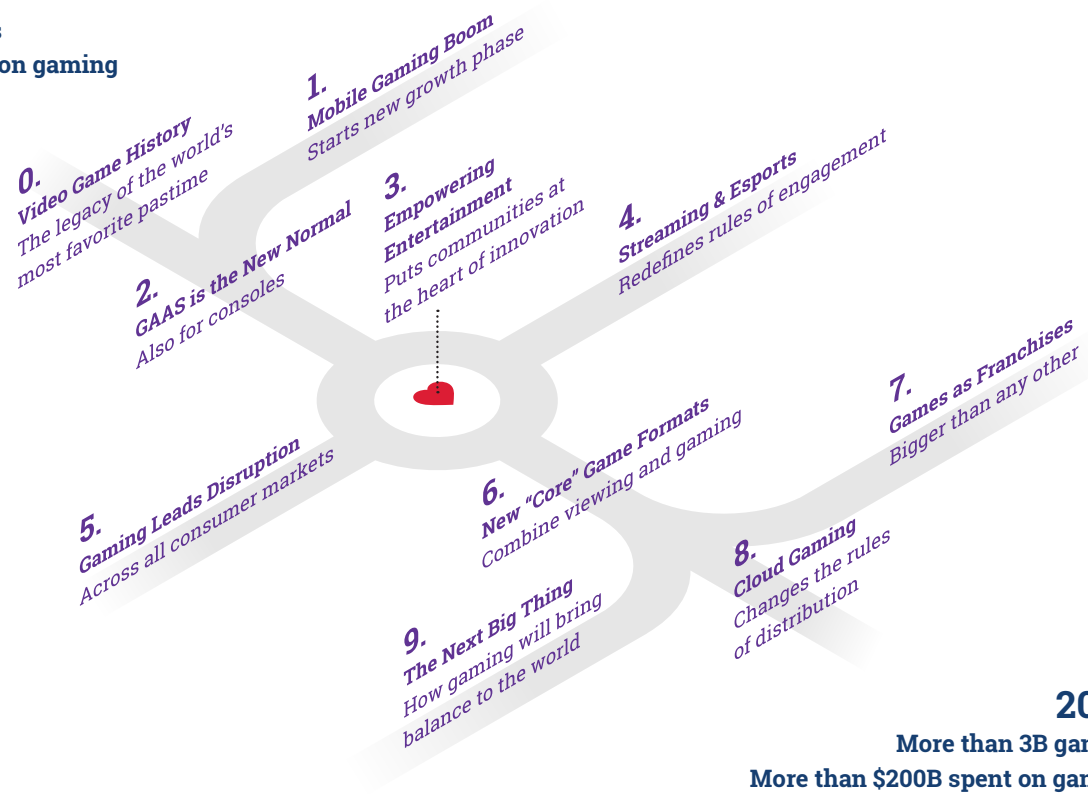
The idea of online games as social platforms is not new. Some of the earliest virtual communities, going back to 1978,⁶ were MUDs or “Multi-User Dungeons” where users played together inside text-based fantasy adventure games on university servers. MUDs developed over time to adapt to the growing internet, including both this kind of fantasy adventure game experience but also more general social interaction. In the early 1990s, MUDs were even being called “the first examples of social virtual realities.”⁷ Over time graphics were introduced, first with the game *Habitat* in 1985⁸ and notably with *Neverwinter Nights* launching online inside AOL in 1991. *Neverwinter Nights* became a blockbuster due in large part to its social nature, with players organizing their own in-game summer festivals, trivia nights and competitions, and those with good reputations being promoted to a version of a community moderator.⁹ As access to the internet expanded, this model did as well with the noted successes of stand-alone massively multiplayer online games such as *Everquest* and *Ultima Online* in the late 1990s and early 2000s. In 2006, noted game scholars Constance Steinkuehler and Dmitri Williams examined the rapidly expanding ecosystem of massively multiplayer online games¹⁰ (MMOs) like *Everquest* and *Ultima* as spaces for social interaction. They found that:

“By providing spaces for social interaction and relationships beyond the workplace and home, MMOs have the capacity to function as one form of a new “third place” for informal sociability much like the pubs, coffee shops and other hangouts of old. Moreover, participation in such virtual “third places” appears particularly well suited to the formation of bridging social capital (Putnam, 2000), social relationships that, while not providing deep emotional support per se, typically function to expose the individual to a diversity of worldviews.”

2005

Fewer than 1B gamers

Less than \$35B spent on gaming



Since then, the games industry and online games have experienced explosive growth, becoming a roughly \$150 billion industry today. Over two billion people play games globally and projections have predicted the industry growing to over \$200 billion in revenue with three billion players globally by 2022.¹¹ This has been driven in large part by the growth of online games, online communities and publications around games and social media platforms designed specifically for the game community (e.g., Twitch and Discord).¹² In the first quarter of 2019 alone, prominent traditional tech and social media companies have announced major initiatives focused on online gaming communities such as Google's Stadia initiative and Facebook's adding a gaming tab to the core functionality of its platform.¹³

Figure 1. Navigating Towards the Future of Gaming: How Global Growth has Accelerated. A graphic from the Newzoo Global Games Market Report illustrating the evolution and future of the games market.

Source: Newzoo Global Games Market Report



Figure 2. Screenshot of Overwatch. Overwatch is a team-based first person shooter, created by Blizzard, where teams play together in order to control points on a map or play a version of capture the flag.

According to the Entertainment Software Association, 65 percent of American adults play games and 75 percent of Americans have at least one game player in their household.¹⁴ Video games and game-like experiences have been prescribed by doctors¹⁵ to address complex health issues like addiction and substance abuse, and video games developers are using their craft to tackle depression, anxiety and other mental health issues head-on.¹⁶ Video games are even being integrated into classroom curriculums across a wide variety of subjects.¹⁷ Recently, competitive gaming and esports (games as spectator sports) have increased their presence in high schools as part of collegiate pathways through athletics and scholarships. Yet, as ADL Belfer Fellow Gabriela Richard and colleagues suggest, “As the legitimacy of esports increases at a societal level, we must more meaningfully attend to the variety of ways differential access may affect educational and professional opportunities for historically marginalized groups.”¹⁸

ADL’s Belfer Fellow Dr. Karen Schrier has written extensively on the ways in which games of all stripes—from big budget online first-person shooters to simple games using only shapes and colors—can be used to promote ethical decision making, empathy, bias reduction and can even be used to solve real-world problems.¹⁹ Her recent paper for ADL, *Designing Ourselves: Identity, Bias, Empathy and Game Design*, explores the ways in which the practice of game design can be used to encourage game developers, and people more generally, to explore their own identity and take on new perspectives.²⁰

Figure 3. Screenshot of Call of Duty. *Call of Duty* is a popular first-person shooter video game franchise initially set in World War II (though branching out to other settings later). It was not included in the survey but included here for illustrative purposes.



At the same time, the toxic and exclusionary culture surrounding games goes back to the early days of digital games. Dr. Richard has written about how researchers have been studying the exclusionary nature of game design in terms of gender in various ways since at least the 1980s.²¹ Intersectional approaches to exploring the culture and practice of games, including analysis of how games operate in relation to race, sexual orientation, gender identity and ability have been more recently gaining ground in the study of games.²²

Games and game players have changed dramatically and dynamically from the earliest studies of gaming to present time. For example, in 2004 the average age of a US game player was 29,²³ while the average age of a US game player in 2018 was 34. In 2004, 39 percent of game players identified as women,²⁴ whereas 45 percent of the US game players identified as women in 2018.²⁵ Even so, toxic culture and exclusionary practices continue in games. A longitudinal, mixed methods study of game players, initiated by Dr. Richard, explored how between 2009-13 a cross section of game players had experiences of harassment as a form of gatekeeping and silencing in social game spaces. For example, in the study, a 29 year old female Latina player described her experience playing games socially:

“They would send me pictures of things I didn’t want to see, or they would harass me, or if I were good, because I was great at **Call of Duty 4**, they’d say I was a guy playing under a girl’s name... I don’t talk on the mic, I just play... I just stopped talking cuz they’d be like, “oh that’s a girl, let’s harass her or ask for her number or something.”²⁶



Figure 4. Screenshot of Defense of the Ancients 2 (Dota 2). Dota 2 is a multiplayer online battle area or MOBA, in which two teams of five players compete to destroy a large structure called an “Ancient”, which is owned by the opposing team while simultaneously defending their own.

Her experience is echoed by a wide variety of players included in the study. This broader trend of harassing and silencing people because of their identities was most publicly evident in 2014’s Gamergate event—a coordinated harassment campaign that targeted women in the games industry. Gamergate also targeted individuals belonging to a wide cross section of marginalized groups who called for and were working toward games becoming more inclusive. Gamergate involved severe forms of harassment, like doxing and threats of physical violence, that often made online life extraordinarily difficult for those targeted and impossible for outspoken targets to work in the games industry and sometimes to even move freely in public.

This report provides a snapshot of online multiplayer games as social platforms in the US. The games represented in this survey are some of the most popular online multiplayer games being played in the US as of April 2019. This is important to note, as this survey does not focus on the large number of people and companies dedicated to creating and playing games beyond commercially focused mass market

Figure 5. 2018 Insights into the U.S. Games Market.

Source: Newzoo Global Games Market Report



games. That said, it is our hope that through this report we can encourage game designers, game players, government and civil society to consider these popular online video game platforms with the same seriousness that surround conversations around the impact of mainstream social media platforms.

Methodology

We defined “disruptive behavior” as being the target of trolling/griefing, being personally embarrassed by another online player, being called offensive names, being threatened with physical violence, being harassed for a sustained period of time, being stalked, being sexually harassed, being discriminated against by a stranger or doxing.

ADL designed a nationally representative survey to examine Americans’ experience of hate, harassment and positive social experiences in online games in collaboration with Newzoo, a data analytics firm focusing on gaming and esports. We collected 1,045 responses from a base of adults 18-45 years old who play games across PC, console and mobile platforms, including 751 responses from people who play multi-player online games. We oversampled individuals who identify as LGBTQ+, Jewish, Muslim, African American and Hispanic/Latinx. For the oversampled target groups, responses were collected until at least 60 Americans were represented from each of those groups. Surveys were conducted from April 19th to May 1, 2019. The margin of error based on our sample size is four percentage points.

In addition to being asked about positive social experiences in online games, respondents were asked whether and how often they experienced “disruptive behavior.” We defined “disruptive behavior” as being:

- The target of trolling/griefing (deliberate attempt to upset or provoke)
- Personally embarrassed by another online player
- Called offensive names
- Threatened with physical violence
- Harassed for a sustained period of time
- Stalked (online monitoring/information gathering used to threaten or harass)
- Sexually harassed
- Discriminated against by a stranger (based on age, gender, ethnicity, sexual orientation, etc.)
- Had personally identifying information made public (known as doxing).

In the following analysis, we refer to these forms of disruptive behavior as forms of harassment. We consider harassment hate-based when the activity or actions are clearly motivated by the identity of the target.

Results

Positive Social Experiences

The positive aspects of digital social spaces that exist inside online games include the opportunity they provide people to connect, build friendships and communities and allow for learning and knowledge sharing. In fact, according to our results, positive social experiences are incredibly common in online game environments.

Eighty-eight percent of online multiplayer gamers have experienced some form of positive social interaction while playing online multiplayer games including making friends (51%) or helping other players (50%). Nearly a third of players (30%) felt like they belonged to a community in an online game, and a third (32%) discovered new interests as a result of playing an online game.

Twenty percent learned about themselves and 28 percent learned about interesting topics in online game environments. Eight percent found a mentor and 13 percent have found a partner through an online game. These findings indicate that online multiplayer games can facilitate deep social connection among players and meaningfully impact their lives.

Figure 6. Positive Experiences in Gaming. The positive aspects of digital social spaces that exist inside online games include the ability for these spaces to connect people, build friendships and communities and allow for learning and knowledge sharing.

Source: ADL/Newzoo 2019 Online Game Survey

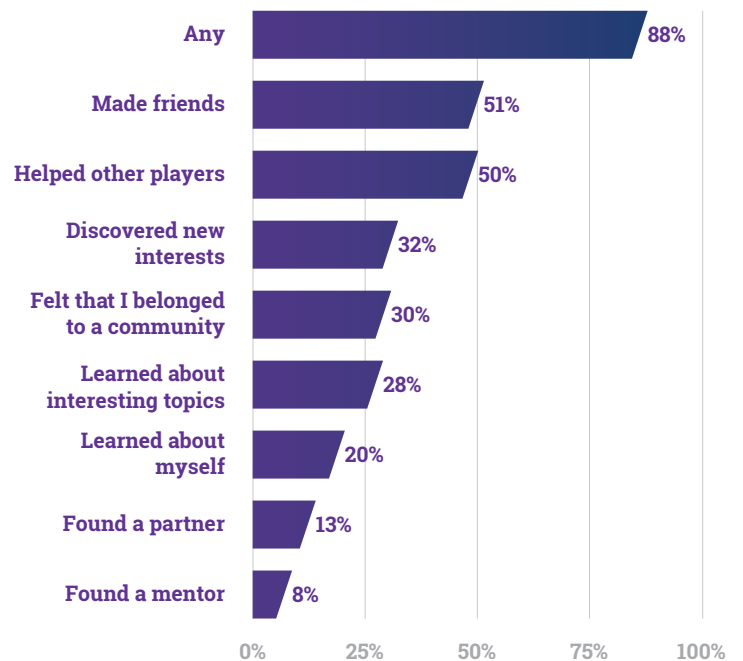


Figure 7. Screenshot of World of Warcraft.

World of Warcraft is a massively multiplayer online roleplaying game where players create custom characters in a high fantasy setting and go on adventures either on their own or in groups to fight monsters, gain abilities and equipment.



97%

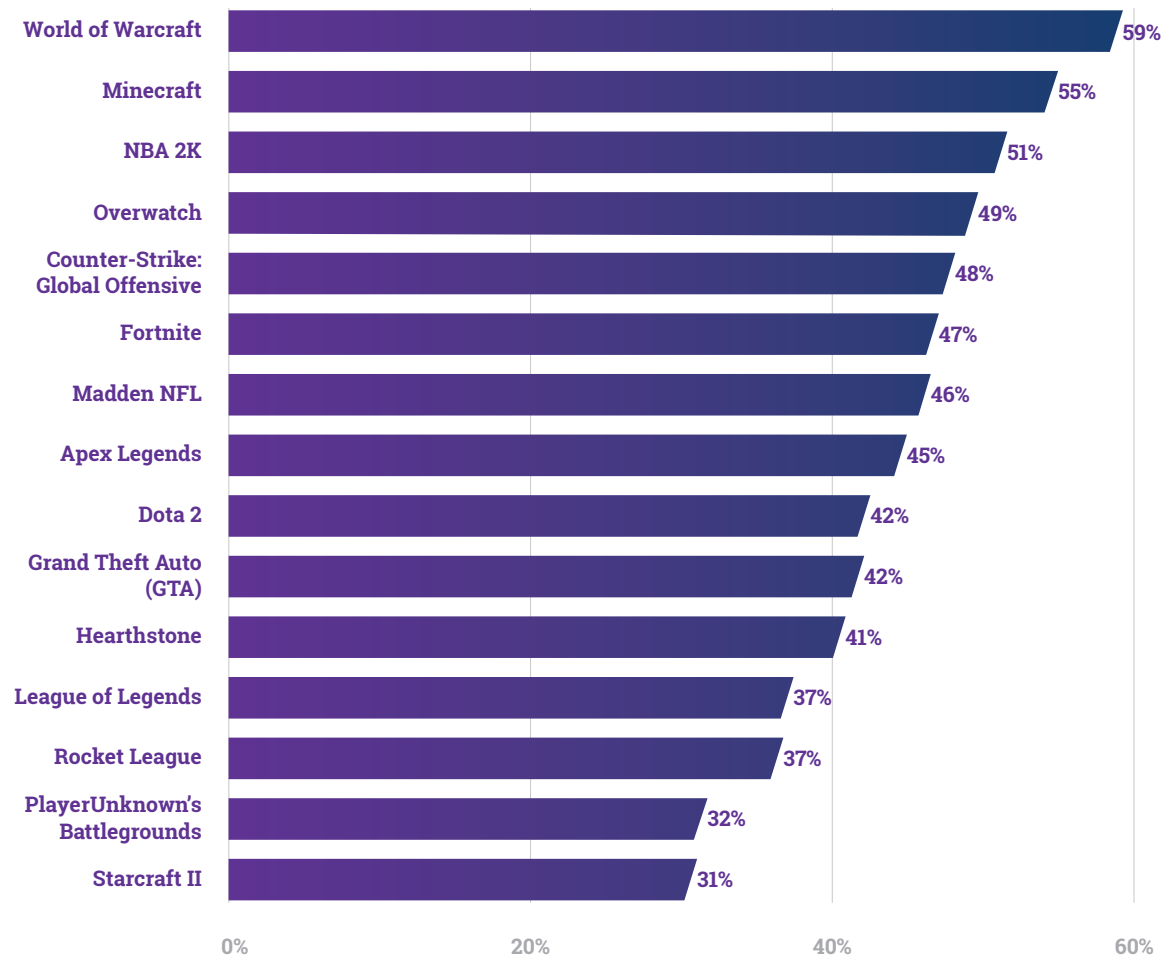
of players who quit or avoided a game also acknowledged having a positive experience in an online game at some point.

We also looked at positive experiences by identity category to investigate whether these experiences are more common among certain groups. We found that over 80 percent of online multiplayer gamers across many gender identities, races/ethnicities, religions and sexual orientations have had positive social experiences while playing an online game.

At their best, online games can function as social platforms connecting people and building communities for a multitude of lived experiences. Notably, however, 43 percent of online multiplayer gamers who had a positive social experience in a game also quit or started avoiding at least one game as a result of harassment. In fact, 97 percent of players who quit or avoided a game also acknowledged having a positive experience in an online game at some point. Despite having positive experiences, the intensity of harassment for these players in some spaces was enough to motivate players to remove themselves from some game environments.

“I think online gaming can also be a positive thing for those who seem to be introverts in person.”

Female, 36-45, Native American, Other Religion, Heterosexual game player



Positive Social Experiences by Game

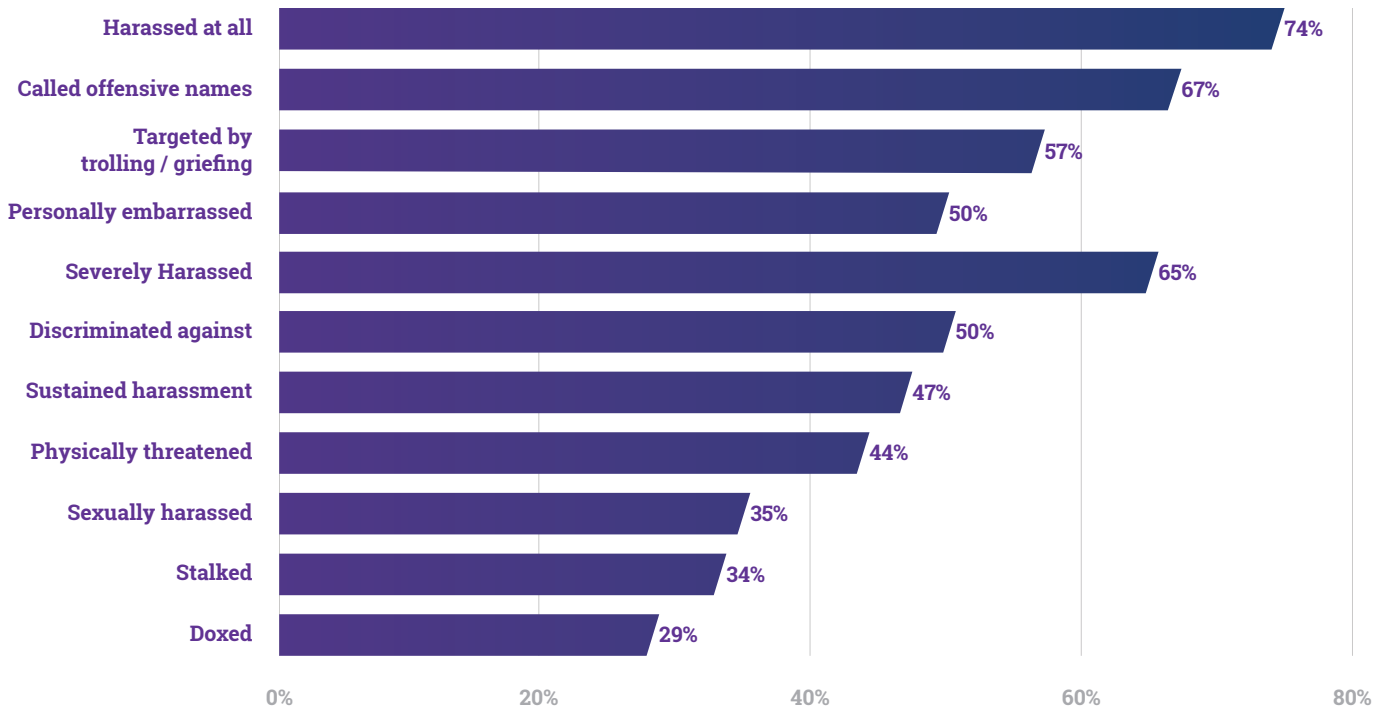
Fifty-nine percent of individuals who played *World of Warcraft (WOW)* had positive social experiences in the game, making it the game with the highest percentage of players who have had positive experiences in it. Fifty-five percent of *Minecraft* players had a positive social experience in game, while 51 percent of players have ever had positive social experiences in *NBA 2K*.

Roughly half of players had positive social experiences in *Overwatch*, *Counter-Strike: Global Offensive* and *Fortnite*. These three games are notable because they are each first- or third-person shooters of various types and structures. Shooters have been a central aspect of public discussion about video games and their relationship with gun violence

Figure 8. Positive Social Experiences by Game. Roughly half of players had positive social experiences in *Overwatch*, *Counterstrike: Global Offensive* and *Fortnite*, notable because they are each first- or third-person shooters of various types and structures.

Source: ADL/Newzoo 2019 Online Game Survey

and morality. That said, these results point to a non-trivial amount of US adults having positive social experiences in an online shooter: making friends, learning about oneself or others and finding community.



Hate and Harassment

In addition to highlighting the less well-known positive characteristics of online games as social platforms, the survey nevertheless also found widespread harassment. Nearly three quarters (74%) of online multiplayer gamers have experienced some form of harassment in online multiplayer games. Sixty-seven percent have experienced being called offensive names in online multiplayer games, while 57 percent of online multiplayer gamers have been the target of trolling, meaning players were the target of deliberate and malicious attempts to provoke and antagonize them into some form of negative reaction.

Sixty-five percent of online multiplayer gamers have experienced more severe forms of harassment. Forty-seven percent reported being directly harassed for a sustained period of time, and 50 percent have been discriminated against by a stranger on the basis of their identity. Forty-four percent have been threatened with physical violence, and 34

Figure 9. Harassment all, Severe and By Type. Nearly three quarters (74%) of online multiplayer gamers have experienced some form of harassment in online multiplayer games.

Source: ADL/Newzoo 2019 Online Game Survey

percent have been stalked, meaning their online presence had been monitored in game and the information gathered was used to threaten or harass them.

Perhaps most alarmingly, 29 percent of online multiplayer gamers report having been doxed ("had a stranger publish private information about me") in an online game. Although the survey did not gather additional information about the results of these experiences, this type of exposure of information can result in sustained harassment outside of online games and can severely impact a person's relationships, employment and mental health.

“The guy said that my place (I am [a] Jew) is in Auschwitz”

Male, 26-35, White, Jewish, Heterosexual game player

Identity or Hate-Based Harassment

Hate-based harassment is when players become targets of harassing behaviors on the basis of their identity, including but not limited to their gender, gender identity, sexual orientation, race/ethnicity, religion or membership in another protected class. Fifty-three percent of online multiplayer gamers who experienced harassment believed they had been targeted at some point based on their race/ethnicity, religion, ability, gender or sexual orientation.

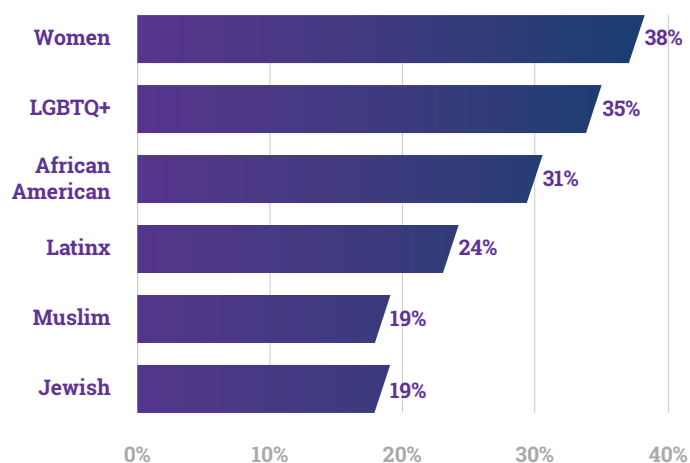
Exploring identity-based harassment reveals that gender and sexual orientation are often the basis for abuse: 38 percent of women and 35 percent of LGBTQ+ game players reported harassment on the basis of their gender and sexual orientation, respectively. Approximately a quarter to a third of game players who were Hispanic/Latinx (24%), black or African American (31%) and Asian-American (23%) experienced harassment because of their race or ethnicity. Online multiplayer gamers are also targeted because of their religion: 19 percent of both Jews and Muslims report being harassed because of their religion.²⁷

Harassment by Game

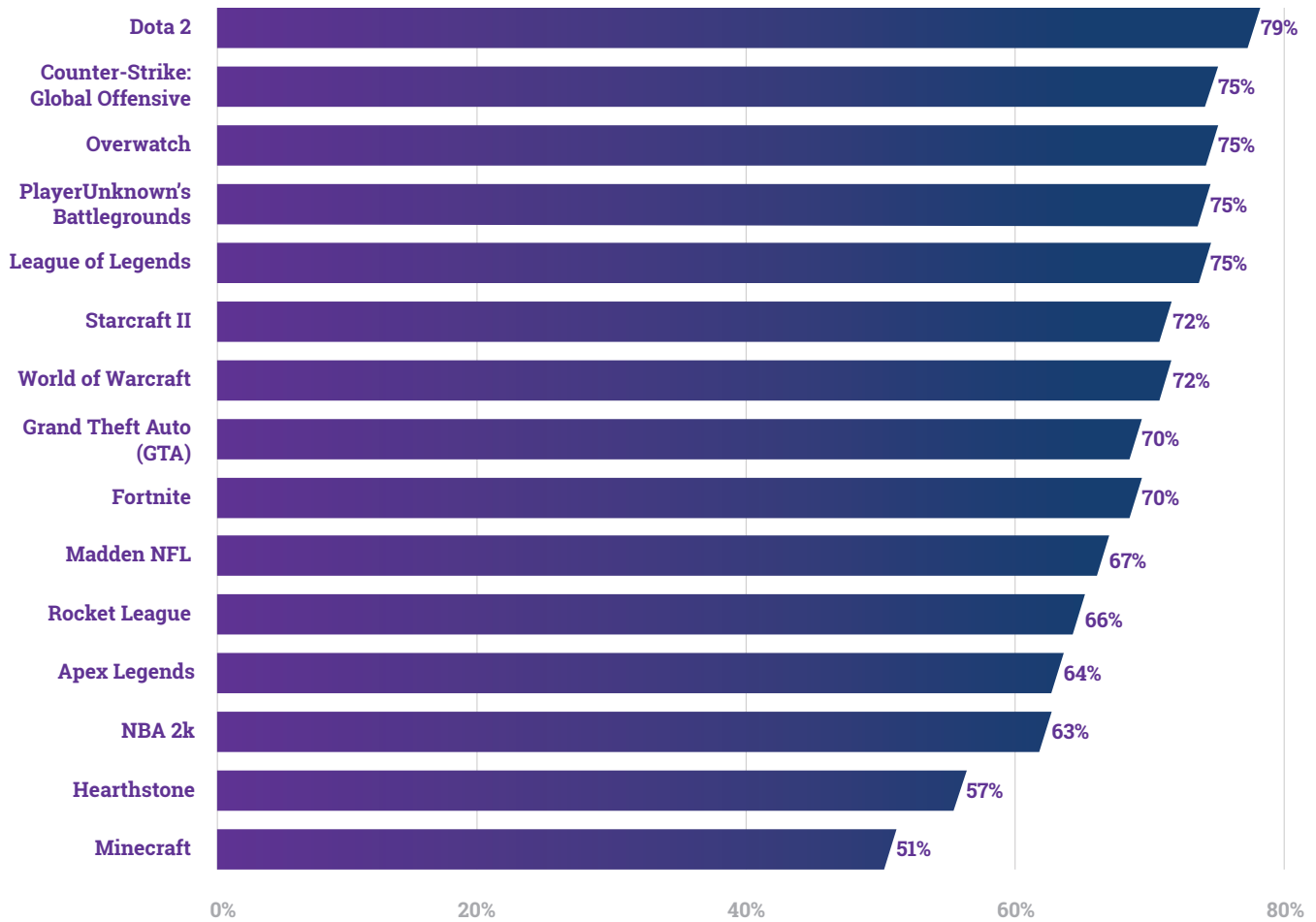
This study looked specifically at players' experiences of harassment in several prominent online games in the US. These games were selected by ADL and Newzoo as being among the most popular in the US as of April 2019. They run the gamut from first-person shooters, strategy games, card games, sports simulators and role-playing games. Just as Facebook, Twitter and YouTube are dominant among traditional mainstream social platforms, the popular games included here capture a large portion of

Figure 10. Experienced Harassment by Identity. Exploring identity-based harassment reveals that gender and sexual orientation are often the basis for abuse: 38 percent of women and 35 percent of LGBTQ+ game players reported harassment on the basis of their gender and sexual orientation.

Source: ADL/Newzoo 2019 Online Game Survey



the online gaming population. Several popular online game franchises that were not included in this survey include *Call of Duty*, *Fallout*, *Halo*, *Destiny* and *FIFA*. We did not include these games because we wanted to cover a broad range of types of games and could not include every example of a particular genre (shooters, for example). Further, we wanted to focus on games most popular in the US.



In each of the 15 online games included in the survey, at least half of players reported that they had experienced some form of harassment. For example, in *Minecraft*, 51 percent of players experience some form of in-game harassment.

Seventy-nine percent of those who played *Dota 2* (*Defense of the Ancients 2*) reported experiencing in-game harassment, with 38 percent of *Dota 2* players being harassed frequently—making it the game with the highest proportion of players who experience harassment among the games we included.

Figure 11. Harassment by Game. For every one of the 15 online games included in the survey, at least half of players reported that they had experienced some form of harassment.

Source: ADL/Newzoo 2019 Online Game Survey

Three shooters were reported as containing the next highest percentage of players who experienced in-game harassment: Three quarters (75%) of players of *Counter-Strike: Global Offensive* (CS:GO), *Overwatch* and *PlayerUnknown's Battlegrounds* (PUBG) experienced some in-game harassment, with roughly a quarter of players reporting frequent harassment in each of these three games.



Figure 12. Screenshot of League of Legends. League of Legends is a multiplayer online battle arena where players select distinct “champions” with certain abilities and battle in teams in order to destroy the opposing team’s “Nexus”, although other game modes also exist.

Both the games *CS:GO* and *Dota 2* were developed by Valve Corporation. This means that Valve Corporation games are in both the first and second places for highest proportion of game players who experience harassment in online multiplayer games included in this survey.

Three-quarters of *League of Legends* players also experienced in-game harassment, with 36 percent experiencing frequent harassment. Of the five games where players experienced the most harassment, *League of Legends* is the most popular in terms of number of players, with an estimated 118 million players globally and a thriving esports scene.²⁸ This is also notable because *League of Legends* is the oldest of these games. It launched in 2009, and still maintains hundreds of millions of users ten years later. That said, our survey showed that 27 percent of *League of Legends* players ended up quitting or avoiding the game due to harassment. In terms of positive social experiences, *League of Legends* ranked 12 out of 15 on our list of games, with just 37 percent of players reporting positive social experiences in game. This is particularly noteworthy, as *League of Legends* overhauled their in-game system to reward positive behavior in 2016, and has reported on its success in reducing harassment.²⁹

Figure 13. Screenshot of Anti-Semitic Harassment in Fortnite. *Fortnite* is a battle-royale style shooter, where players are air-dropped onto an island and compete to be the last person standing. *Fortnite* allows players to build structures.

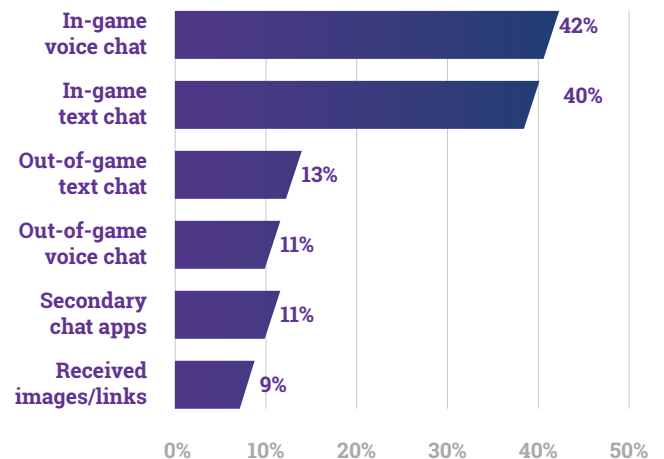


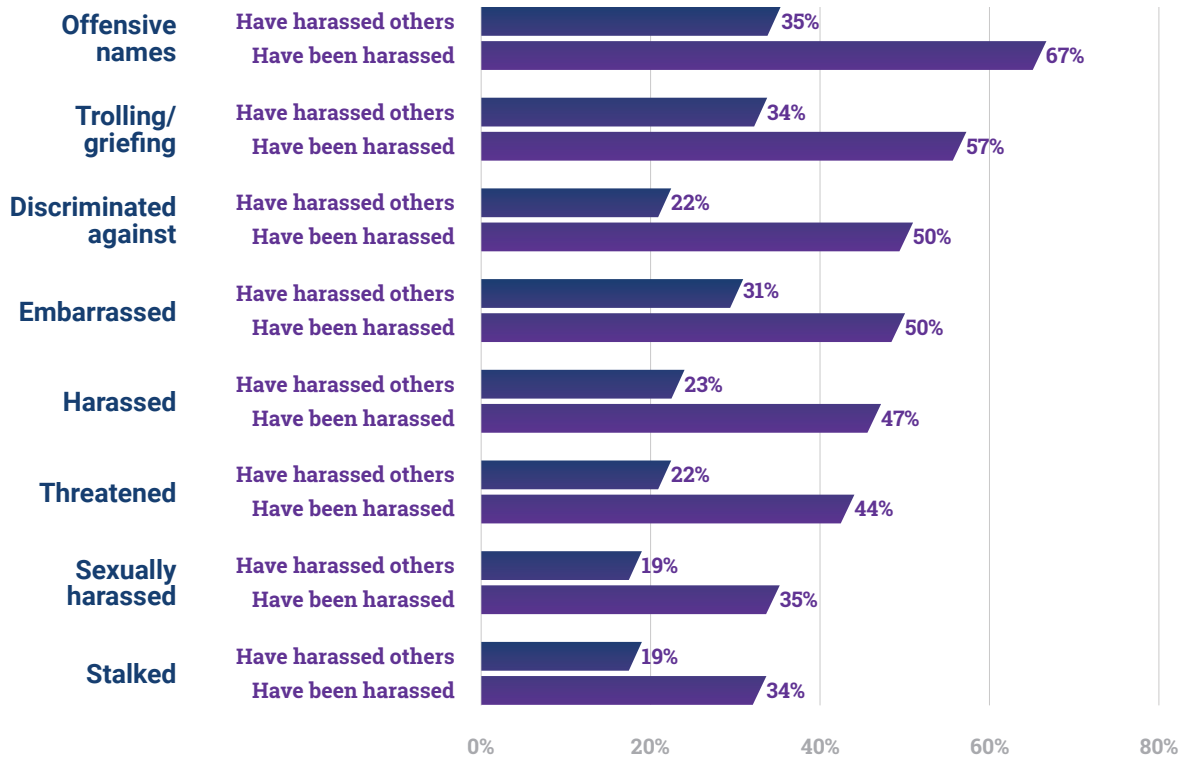
Another extremely popular game, arguably one of the most popular games in the world at the moment, especially in Western countries, is *Fortnite*, which has registered 250 million players worldwide as of March 2019.³⁰ According to our survey, 70 percent of *Fortnite* players have experienced some form of harassment in-game, while 26 percent experience harassment frequently. Additionally, 36 percent of *Fortnite* players have quit or avoided the game as a result of harassment, making it the second most quit or avoided game among those included. While 47 percent of *Fortnite* players have had positive social experiences in the game, these harassment statistics in such a popular game should give its creators at Epic Games pause.

The study also investigated the communication modes where players most often experience harassment within online games. Many online multiplayer gamers experience at least some harassment as part of in-game voice chat (42%) and in-game text chat (40%). Less than a quarter of players experience harassment in other game-connected communication modes, such as secondary-chat apps (11%) and out-of-game text chat (13%).

Figure 14. Harassment by Communication Mode. The study investigated the communication modes where players experience harassment within online games.

Source: ADL/Newzoo 2019 Online Game Survey





Player Participation in Harassment

We included questions about whether online multiplayer gamers engaged in eight specific types of “disruptive behavior” in online games (see Appendix II). We used the term “disruptive behavior” in the survey because harassment has such specific connotations that we were concerned using the term would result in biased answers. The behaviors, however, are all consistent with harassment and parallel the types of harassment we asked about earlier in the survey. Our results indicate that 46 percent of players engage in some form of online harassment in online multiplayer games.

More than 30 percent of online multiplayer gamers have called other players offensive names (35%), trolled or grieved other players (34%) or purposefully embarrassed them (31%). In terms of severe harassment, 38 percent of players had at some point engaged in at least one of

Figure 15. Rates of Harassment and Harassing in Online Gaming. The study investigated whether online multiplayer gamers engaged in “disruptive behavior” in online games.

Source: ADL/Newzoo 2019 Online Game Survey

the severe forms of harassment in online games. (See Appendix II for a description of which types of harassment we asked about and which are considered severe.)

For each type of severe behavior, around 20 percent of online multiplayer gamers have ever engaged in this behavior to some degree, and around 7 percent engage in these severe behaviors frequently. These players and players like them are likely to have been harassment targets as well: 96 percent of those who identified as harassers have experienced harassment themselves.

“[I experienced a] player saying whites are superior to other races which made me feel disappointed.”

Male, 18-25, White, Jewish, Heterosexual game player

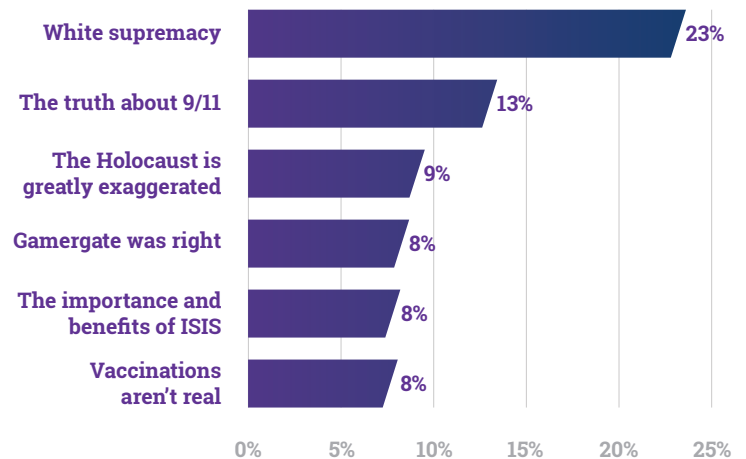
Extremism, Conspiracy Theories and Disinformation

ADL has been analyzing the ways in which new technologies and digital spaces can be weaponized by extremists and bad actors to amplify their hateful agenda since the mid-1980s. Much has been made of the connection between extremists and the game community, with some claiming that extremists of various belief systems have been infiltrating online games in order to radicalize players to adopt their hateful ideology.³¹ In order to assess these anecdotes and claims, the survey included questions about whether players were exposed to specific controversial topics in online games. The results confirm that these topics are being discussed in online game environment, though we cannot say to what extent people were exposed nor in what context (e.g., if it was related to radicalization or recruitment).

Almost a quarter of online multiplayer gamers (23%) have been invited to discuss or have heard others discussing the “superiority of whites and inferiority of non-whites” and/or “white identity/a home for the white race.” The “superiority of whites” is a core tenet of white supremacist ideology, that posits that the “white race” is in every way superior to other identities such as Jews and people of color. White supremacist ideology is at its core anti-Semitic, anti-Muslim, racist and sexist. While this result does not necessarily imply that players were being recruited to join a white supremacist organization in any online game, the prevalence of expressions of white supremacy in online games suggests that this hateful ideology may be normalized in some game subcultures.

Figure 16. Exposure to Specific Controversial Topics in Online Games. The survey asked whether players were exposed to specific controversial topics in online games. The results confirm that these topics are being discussed in online game environments.

Source: ADL/Newzoo 2019 Online Game Survey



Also, 13 percent of online multiplayer game players were exposed to disinformation about the 9/11 attack on the United States, 9 percent of online multiplayer gamers were exposed to denials of the scope and impact of the Holocaust, 8 percent of players were exposed to positive views of the activities of Islamic state/ISIS, 8 percent were exposed to positive views of Gamergate and 8 percent of players were exposed to disinformation about vaccinations. Though the exact context and content of these exposures is not known, these numbers are alarming, and point to the need for much further investigation on extreme viewpoints and disinformation in games.

“[In] voice chat in overwatch I was called transphobic and homophobic slurs. I was sick to my stomach and ended up quitting the game.”

Other Gender, 26-35, Other Race/Ethnicity, Jewish, LGBTQ+ game player

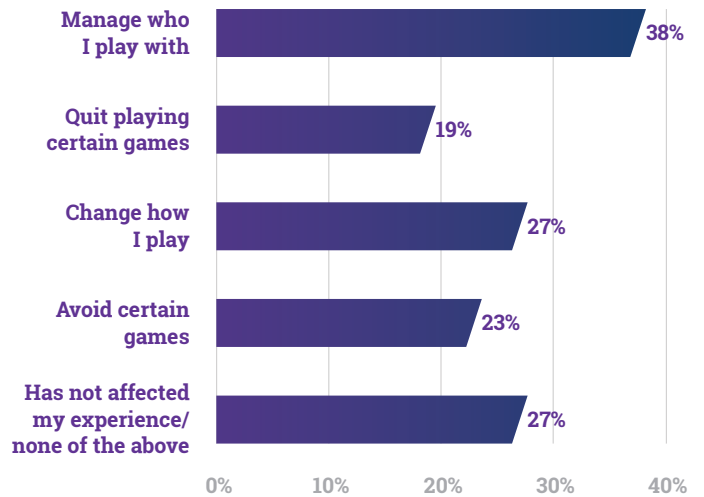
The Impact of Hate and Harassment on Players

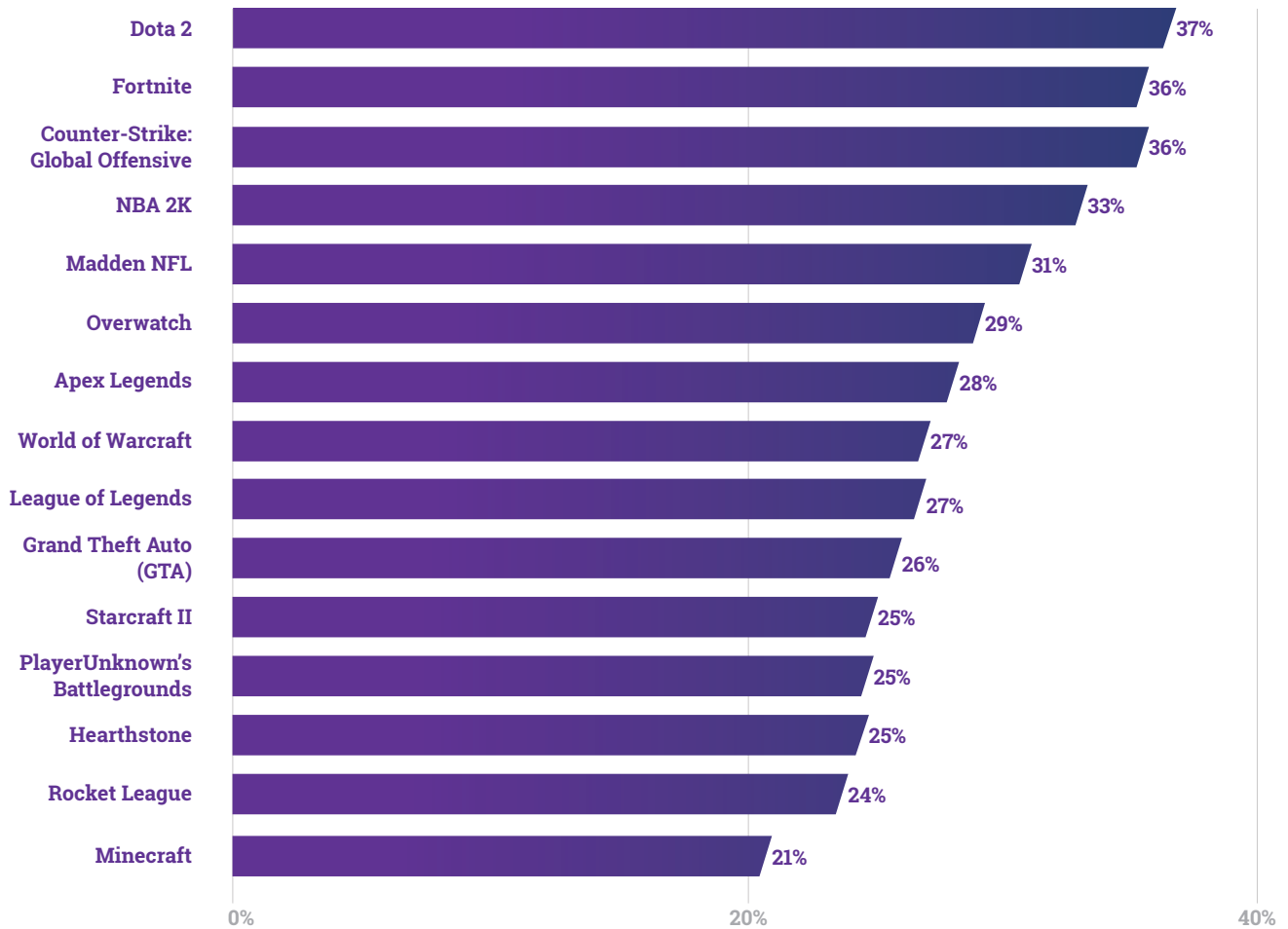
This survey sheds light on the impact of harassment in online games on players: how they alter their play in online games, and the impact of harassment on their daily lives outside of games. In both cases, the results reflect the deep and lasting impact of online harassment on targets, especially for players in vulnerable and marginalized groups.

Thirty-eight percent of online multiplayer gamers have become more careful about who they play games online with out of concern for online harassment. Twenty-seven percent have changed the way they play out of concern for harassment. Examples we gave people in the survey regarding how they changed their mode of play included, “not using in-game voice chat” and “changing their username”.

Figure 17. Reactions to Harassment. Survey results reflect the deep and lasting impact of online harassment on targets, especially for players in vulnerable and marginalized groups.

Source: ADL/Newzoo 2019 Online Game Survey





In fact, 23 percent of online multiplayer gamers who have been harassed avoid certain games due to a game's reputation for having a hostile environment and 19 percent have stopped playing certain games altogether as a result of in-game harassment. Perhaps most notable is that only 27 percent of online multiplayer gamers reported that harassment had not impacted their game experience at all, meaning that fully 73 percent of players had their online multiplayer game experience shaped by harassment in some way.

Figure 18. Games Quit or Approached More Carefully. This survey also looked at which specific games players either quit or became more careful in approaching.

Source: ADL/Newzoo 2019 Online Game Survey

The games that most players either become more careful playing or stop playing altogether as a result of harassment are *Dota 2* (37%), followed by *Fortnite* (36%), *Counter-Strike: Global Offensive* (36%), *NBA 2K* (33%), *Madden NFL* (31%), *Overwatch* (29%), *Apex Legends* (28%), *World of Warcraft* (27%) and *League of Legends* (27%).

“[I’ve experienced] being harassed for ‘sounding black’”

Male, 26-35, Black or African-American, Agnostic, Heterosexual game player

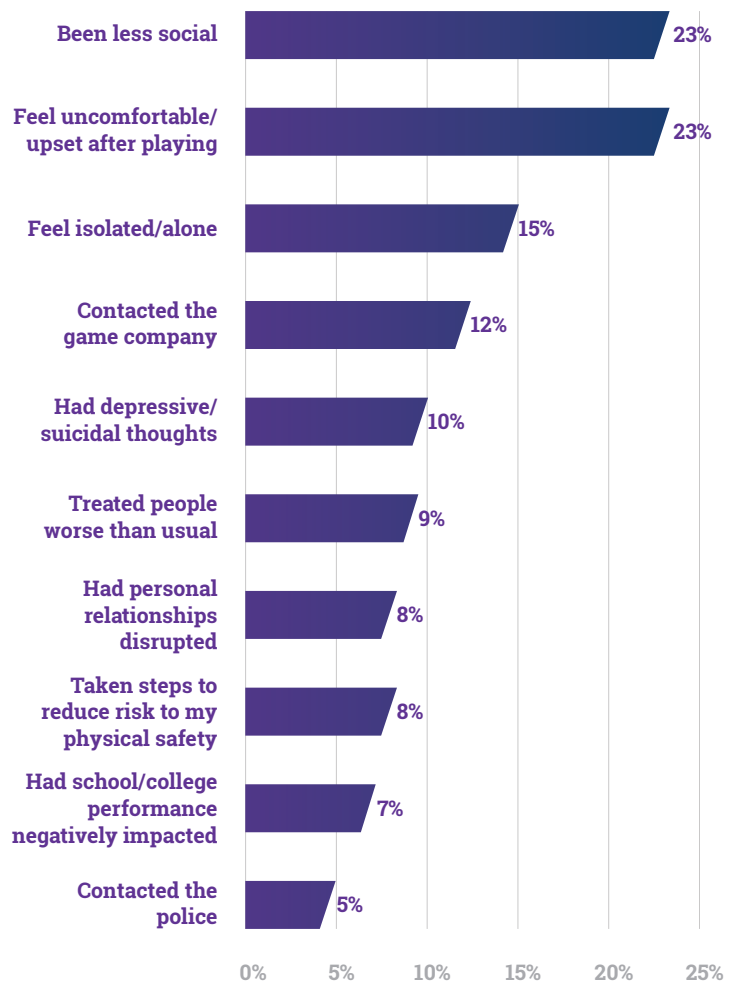
Additionally, of all game players in the survey, 27 percent stated that they play games, but never play games online. Thirty-six percent of these offline game players stated they would be more likely to play online if steps were taken to address hate and harassment in online games.

The impact of harassment in online games goes beyond the game environments, and can have a significant impact on players’ lives. The population of game players in the US was around 178 million in 2018.³² Extrapolating from existing data and our results, we can estimate that 73 million American adults play online games.³³

Based on that, it can be surmised that somewhere between 6 and 16 million American adults (between 8% and 23%) are adjusting how they socialize, considering self harm or taking precautions to ensure their physical safety because of the negative experiences in online games. More than that, the negative experiences in games impact the personal relationships and school performance of 5 to 6 million Americans (between 7% and 8%). Our results indicate that five percent of players targeted call the police. This implies that roughly 3 million Americans have contacted the police because of harassment in online multiplayer games. Despite the widespread nature of this behavior, only 12 percent of players reported harassment to the game company, implying there is much more for the industry to do to inspire the trust of players to address this problem.

Figure 19. Impacts of Harassment. The impact of harassment in online games goes beyond the game environments, and can have a significant impact on players’ lives.

Source: ADL/Newzoo 2019 Online Game Survey



“I am frequently bothered when using voice chat due to being a (Southern) female.”

Female, 18-25, White, Agnostic, Heterosexual Game Player

Player Attitudes and Suggestions for Industry

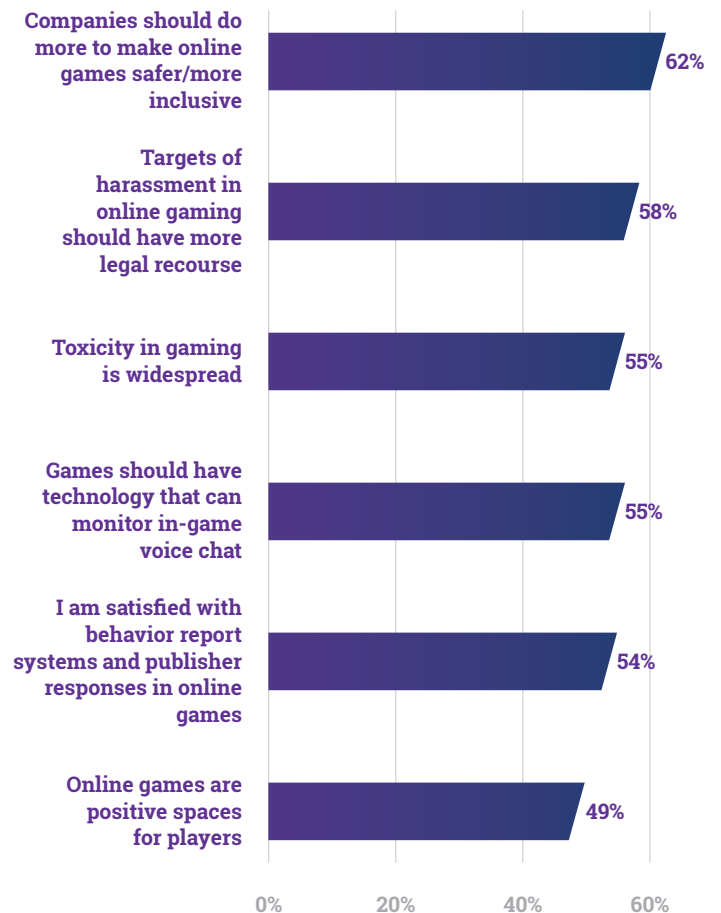
Consistent with their experiences, roughly half of players see online multiplayer games as both positive social spaces (49%) and having widespread toxicity (55%). A majority of players (62%) feel that companies should do more to make online games safer and more inclusive for players.

In terms of support for specific courses of action to help alleviate the problem of harassment in online games, over half of players believed that targets of harassment in online games should have more legal recourse to seek justice against perpetrators for the real harms caused by these incidents (58%).

Another specific solution that had majority support from game players was the development of content moderation tools for in-game voice-chat. Over half of players (55%) agree that games should have technology that allows for content moderation in in-game voice chat, in the same way that there are currently technologies that allow for content moderation for in-game text chat.

Figure 20. Agree with Statements. In the survey, players were asked whether they agree with various statements about the state of gaming.

Source: ADL/Newzoo 2019 Online Game Survey



Recommendations



For the Game Industry

Develop a rating system that gives meaningful information to consumers about the nature of the game's online community

We recommend that the ESRB and the game industry work with outside experts on the nature of online social platforms to create a ratings system that provides meaningful information to consumers about the nature of communities and interactions in online games.

The current major rating system for games is the Entertainment Software Ratings Board (ESRB) system.³⁴ Originally designed in 1994, the ESRB rating system was designed for a time before the majority of gameplay took place online across multiple game platforms. Though the rating system has been updated over time, a game's rating does not claim to rate games according to the nature of online interaction that might occur in them.

As a result, among the six games that were identified in our results as fostering widespread harassment, only two have "mature" ratings from the ESRB. A "mature" rating means the game's intended audience are players 17 years or older. Three of the games are rated "Teen," meaning that they are intended for players ages 13 years or older. One of them, *Dota 2*, has no ESRB rating at all, providing players with no guidance as to whom the content of the game is appropriate for, let alone the online interactions accompanying it.

We recommend that the ESRB and the game industry work with outside experts on the nature of online social platforms to create a ratings system that provides meaningful information to consumers about the nature of communities and interactions in online games. The results of a survey such as this one could feed into a rating system, alongside evaluations of a game platform's policies on hate and harassment, and their in-game mechanisms for allowing users to report.

Figure 21. Image of game player with headset. A majority of game players support more content moderation for in-game voice chat.



Create tools for content moderation for in-game voice chat

Voice chat in online games is a major locus of harassment. Tools and techniques to detect hate and harassment for in-game voice chat lag far behind tools for evaluating and moderating text communication. A majority of game players support more content moderation for in-game voice chat.

The gaming industry, academia and civil society should invest in developing in-game voice chat content moderation. ADL's Center for Technology and Society is currently in conversation with major companies in the tech industry to find ways to help push crucial research towards this technology in order to help make online games safer and more inclusive for all people.

“I was playing apex legends and I was new at the game, over voicechat. I got called a female and was told to go back to the kitchen”

Female, 18-25, Hispanic, Agnostic, Heterosexual game player

Strengthen policy and enforcement of terms of service

Many of the companies that make the games included in this survey have Codes of Conduct or Terms of Use that prohibit hate or harassment, but rarely do they go far enough in describing which communities they are meant to protect and what explicit behaviors are forbidden. We recommend companies specify the protected categories (including gender, gender identity, race/ethnicity, religion, sexual orientation, ability) in their Terms of Use, and explicitly prohibit doxing. In developing these Terms of Use, we recommend that game companies consult with individuals and organizations who represent groups that experience high rates of harassment.

We recommend that game companies consult with individuals and organizations who represent groups that experience high rates of harassment in further developing their policies, community guidelines and terms of service.

Improve workplace inclusivity efforts

Game studios should embody in their own corporate culture the kinds of behaviors and communities they want to see on their game platforms, because this will make their products more inclusive. To help achieve this, studios should work towards creating an inclusive and supportive work and development environment and culture. This can include inclusive HR policies, a long-term commitment to regular anti-bias trainings for all employees and implementing supportive workplace practices that explicitly stand in opposition to “crunch culture.”³⁵

AnyKey focuses on creating inclusive spaces in competitive games and esports; AbleGamers works for inclusion and improved quality of life for people with disabilities through games; and Black Girl Gamers focuses on promoting diversity within the gaming industry.

“People were ranting on about how it’s the white, heterosexual, cis male that is the most oppressed group of people.”

Female, 18-25, White, Non-Religious, LGBTQ+ game player

We recommend that the game industry work with experts on white supremacy and white supremacist ideology to find ways to counter their abuse of online games.

Establish industry-wide effort to address white supremacy

Given the high rate of discussion of white supremacist ideology in online game spaces, we recommend that the game industry support research into the use and abuse of online games by white supremacists. We recommend that the game industry work with experts on white supremacy and white supremacist ideology to find ways to counter their abuse of online games. Such research could include reviews of usernames for common extremist terms and sharing of information between companies on radicalization efforts.

Game companies should produce transparency reports to inform the public and stakeholders in civil society.

Increase transparency on harassment and hate on platforms

While many social media companies currently provide limited transparency reports on these issues, no game company does. We recommend that game companies produce transparency reports that describe the prevalence of hate, harassment and positive social experiences in online games in order to inform the public and stakeholders in civil society of an accurate picture of the nature of various social interactions in online games.

“It is usually just very harsh verbal abuse and harassment, usually to the point where the person leaves the game. It starts with name calling and sometimes progresses to physical threats and even the threat of swatting.”

Female, 18-25, Asian-American, Buddhist, Heterosexual game player



For Civil Society

Increase focus on how games impact vulnerable populations

Civil society organizations in the US have started to scrutinize the effects of traditional social media on users and society. It is equally important to take a serious look at the impact of games on players and society. Some organizations are already starting to do this work.

Civil society organizations have the opportunity to investigate and engage with the research, practice and experts focused on specific communities.

- ADL's Center for Technology and Society is focused on fighting hate, bias and harassment in games and the game community. In that context, we have organized anti-bias game jams across the US; worked with leading researchers to explore the intersection of game design, empathy and bias; convened game industry leaders to discuss solutions to these important problems; and started advocacy efforts with game companies in the same manner that we have engaged social media companies.
- GLAAD added a category to its media awards that highlighted LGBTQ+ representation in video games.³⁶ The fact that a prominent and historic advocacy group is using its platform to highlight the role games play in the industry demonstrates the growing importance of this issue for the community GLAAD represents.
- Gaming-specific nonprofits are also engaging with these issues. For example, AnyKey focuses on creating inclusive spaces in competitive games and esports;³⁷ AbleGamers works for inclusion and improved quality of life for people with disabilities through games;³⁸ and Black Girl Gamers focuses on promoting diversity within the gaming industry.³⁹ We believe partnerships between broad and gaming-specific groups could be a promising approach to achieving change.

“In Overwatch I’ve seen hateful players call others gay slurs and tell them to kill themselves many times. I always report it but rarely feel like I’m taken seriously. This should be a one time bannable offense.”

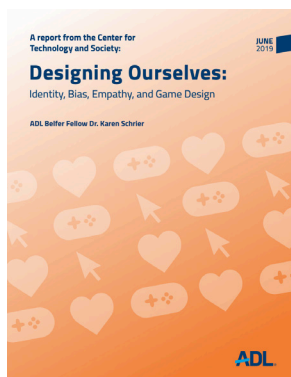
Male, 26-35, White, Atheist, LGBTQ+ game player

Figure 22. Screenshot of The Elder Scrolls Online: Summerset. [The Elder Scrolls Online: Summerset](#) won Outstanding Video Game at the 30th Annual GLAAD Media Awards, the first year the category was added.



Support game scholars and practitioners who have expertise on these issues to increase research

There are a wealth of incredible game scholars and practitioners in academia who have been working for at least the last 30 years, studying both how games can be used for social good and the real harms that games and game culture can do. We encourage civil society organizations to engage seriously with these researchers, and help to expand knowledge about both the positive and harmful impacts of games. ADL's work in this space has benefited greatly from our partnership and collaboration with game scholar Dr. Karen Schrier as part of our Belfer Fellowship program. Her work focuses on games and learning, empathy and ethics, as well as using game design as a way to support anti-bias education, compassion and perspective-taking. In the coming year, we will collaborate further with new Belfer Fellow Dr. Gabriela Richard and her work on esports and livestreaming as an intervention method for game players. Just as ADL has created such partnerships, civil society organizations have the opportunity to investigate and engage with the research, practice and experts focused on specific communities.



The Center for Technology & Society previously released [Designing Ourselves: Identity, Bias, Empathy and Game Design](#) by ADL Belfer Fellow Dr. Karen Schrier.



For Government

Legislators have an opportunity, consistent with the First Amendment, to create laws that hold perpetrators of severe online hate and harassment more accountable for their offenses.

Strengthen laws against perpetrators of online hate

Hate and harassment translate from on the ground to online spaces, including in social media and games, but our laws have not kept up. Many forms of severe online misconduct are not consistently covered by cybercrime, harassment, stalking and hate crime law. State legislators have an opportunity, consistent with the First Amendment, to create laws that hold perpetrators of severe online hate and harassment more accountable for their offenses, including at the state level:

- Ensuring hate crime laws cover crimes that take place online. Apart from Illinois, which mentions “cyberstalking,” no state hate crime statute expressly includes online conduct within its scope. These laws can and should be updated to explicitly cover applicable online crimes.
- States should close the gaps that often prevent stalking and harassment laws from capturing online misconduct. Improved laws can create better protections for victims and targets without creating constitutional complications.

Congress has an opportunity to lead the fight against hate in online games as well, by increasing protections for targets, by updating federal stalking and harassment statutes’ intent requirement to account for online behavior.

Urge the game industry to institute robust governance in their online game products

Government officials have an important role to play in encouraging the game industry to institute robust and verifiable industry-wide self-governance. This could take many forms, including Congressional oversight that raises awareness and understanding of the problem of hate and harassment in online games.

Improve training for law enforcement

Law enforcement is a key responder to online hate, especially in cases when users feel they are in imminent physical danger. Increasing resources and training for these departments is critical to ensure they can effectively investigate and prosecute cyber cases.

Appendix 1

Descriptions of Games

The following games were included in this survey. Below please find more information on each game, including a brief description, their ESRB rating and a rough estimate of the most recent statistics regarding the number of players.



DOTA 2

Defense of the Ancients 2 (Dota 2) is a multiplayer online battle area or MOBA, in which two teams of five players compete to destroy a large structure called an “Ancient”, which is owned by the opposing team while simultaneously defending their own.

Number of Players:
500k average
concurrent in last
30 days⁴⁰

Rating: None

Genre: MOBA



Counter-Strike: Global Offensive (CS:GO), published by Valve, is a first-person shooter in which a team of “Terrorists” competes against a team of “Counter Terrorists” with the goal to eliminate the other, in addition to completing other objectives.

Number of Players:
380k average
concurrent in last
30 days⁴¹

Rating: Mature (17+)

Genre: Shooter



OVERWATCH

Overwatch is a team-based first-person shooter, created by Blizzard, where teams play together in order to control points on a map or play a version of capture the flag.

Number of Players:
40 million total⁴²

Rating: Teen (13+)

Genre: Shooter



PlayerUnknown's Battlegrounds (PUBG) is a battle-royale style shooter, the first of its kind that popularized the genre, where players are airdropped onto an island and collect equipment and battle to become the last person standing on the island.

Number of Players:
360k concurrent in last 30 days⁴³

Rating: Teen (13+)

Genre: Shooter



World of Warcraft (WOW), is a massively multiplayer online roleplaying game, developed and published by Blizzard, where players create custom characters in a high fantasy setting and go on adventures either on their own or in groups to fight monsters, gain abilities and equipment.

Number of Players:
1.7 million total⁴⁴

Rating: Teen (13+)

Genre: RPG



Starcraft II is a real-time strategy game set in a sci-fi universe, developed by Blizzard, where players can play as a number of either human or alien species and compete to conquer each other.

Number of Players:
2 million every month⁴⁵

Rating: Teen (13+)

Genre: Strategy



Fortnite is a battle-royale style shooter, where players are air-dropped onto an island and compete to be the last person standing. Fortnite also operates in several other modes, including one focused on building and creativity.

Number of Players:
250 million total⁴⁶

Rating: Teen (13+)

Genre: Strategy



League of Legends is a multiplayer online battle arena where players select distinct “champions” with certain abilities and battle in teams in order to destroy the opposing team’s “Nexus”, although other game modes also exist.

Number of Players:
115 million total⁴⁷

Rating: Teen (13+)

Genre: MOBA



Rocket League is a vehicular soccer game, where players select a car or other vehicle and compete to hit a ball into the opposing team’s goal.

Number of Players:
50 million total⁴⁸

Rating: Everyone

Genre:
Racing/Sports



Grand Theft Auto (GTA) an open-world online action game where players can engage in a variety of modes of play in a contemporary urban crime setting, including heists, races and deathmatches.

Number of Players:
70 million total⁴⁹

Rating: Mature (17+)

Genre: Action



Madden NFL is a sports simulator game, allowing players to play as various professional football teams and players.

Rating: Everyone

Genre: Sports



Apex Legends is a team-based battle-royale style shooter which air-drops players onto an island and has them compete to be the last team standing.

Number of Players:
50 million total⁵⁰

Rating: Teen (13+)

Genre: Shooter



NBA 2K is a sports simulator game that allows players to play as various professional basketball teams and players.

Rating: Everyone

Genre: Sports



Hearthstone is an online card game based on characters and lore from the Warcraft franchise, where players each have a deck of cards representing unique abilities of their hero and compete to destroy the other player's hero.

Number of Players:
100 million total⁵¹

Rating: Teen (13+)

Genre: Card game



Minecraft, published by Xbox game studios, is a 3D sandbox game that allows players to build structures using various kinds of blocks, and play in a variety of modes that can include resource gathering, crafting, combat and exploration.

Number of Players:
176 million total⁵²

Rating: Everyone (10+)

Genre:
Puzzle/Adventure

Appendix 2

Disruptive Behavior Descriptions

In this survey, we asked about players' experience of the following "disruptive behaviors" which we refer to as harassment in the report. We included six of these behaviors as examples of severe harassment. Those behaviors are listed and briefly described below.

Harassment

1. Trolling/griefing: a deliberate attempt to upset or provoke
2. Personally embarrassing another player
3. Calling a player offensive names

Severe Harassment

4. Threatening a player with physical violence
5. Harassing a player for a sustained period of time
6. Stalking a player (online monitoring/information gathering used to threaten or harass)
7. Sexually harassing a player
8. Discriminating against a player by a stranger on the basis of age, gender, ethnicity, sexual orientation, etc.
9. Doxing (from "dropping documents"): the internet-based practice of researching and broadcasting private or identifying information (especially personally identifying information) about an individual, group or organization. In the gaming context, doxing commonly manifests as personal information and is posted in chat and streaming comments

Endnotes

- 1 <https://newzoo.com/insights/articles/the-global-games-market-will-generate-152-1-billion-in-2019-as-the-u-s-overtakes-china-as-the-biggest-market/>
- 2 Doxing (or doxxing; from “dropping documents”) is the internet-based practice of researching and broadcasting private or identifying information (especially personally identifying information) about an individual, group or organization. In the gaming context, doxing commonly manifests as personal information and is posted in chat and streaming comments.
- 3 These numbers should be interpreted with caution, as the sample size for Jewish and Muslim respondents was small.
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- 33 According to the Entertainment Software Association, 58 percent of those game players are between 18 and 49, which roughly translates to around 103 million people out of the original 178 million. According to our results, 71 percent of overall respondents play online games, which would translate to roughly 73 million Americans out of 103 as online multiplayer gamers between 18 and 49.
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ADL by the numbers | **OUR IMPACT**

EDUCATE

5.2m
STUDENTS



impacted through our Holocaust education program, Echoes & Reflections, since inception in 2005

27k
EDUCATORS



acquired skills to teach anti-bias concepts and support students in using ally behaviors to challenge bias and identity-based bullying

30k
EDUCATORS



receive ADL education updates and curriculum resources

ADVOCATE

46
STATES + D.C.



have enacted Hate Crimes legislation based on, or similar to, the ADL model produced in 1981

MONITOR

2.6m
TWEETS



containing anti-Semitic language were identified in our 2016 report about online harassment of journalists

250 

WHITE SUPREMACISTS

who attended the 2017 "Unite the Right" rally in Charlottesville were identified by ADL in cooperation with local law enforcement

PARTNERS

300+
MAYORS



pledged to join ADL through the Mayors' Compact to combat hate, extremism and discrimination, a new partnership with the U.S. Conference of Mayors

INVESTIGATE


11k 
CASES

in which ADL has provided extremist related information to law enforcement, including critical, up-to-the-minute background on extremist threats

TRAIN

100% 

of all new FBI agents have been trained by ADL since 2001

+150k 
**LAW ENFORCEMENT
PROFESSIONALS**

were trained by ADL in the last ten years, helping them to fight extremism and build trust with the communities they serve

ADL's Approach

ADL has a comprehensive approach to address anti-Semitic incidents and to counter all forms of hate. ADL's Center on Extremism is a foremost authority on extremism, terrorism and all forms of hate. The COE's team of investigators and analysts strategically monitors and exposes extremist movements and individuals, using cutting-edge technology to track real time developments and provide actionable intelligence and data-based analysis to law enforcement, public officials, community leaders and technology companies.

ADL also does this work through:

- **Reaching 1.5 million students** annually with our anti-bias and anti-bullying programs
- **Building coalitions among diverse organizations and communities,** and boldly advocating against government policies, organizations and people that promote anti-Semitism, racism and bigotry
- **Working in Silicon Valley through ADL's Center on Technology and Society,** which works in close partnership with tech industry leaders to establish best practices for addressing cyber hate and to develop proactive solutions to fight the spread of anti-Semitism and other forms of hate online

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Jeffrey Rosen

President of the National
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Jeffrey Saper

Vice Chair, Wilson Sonsini

Katie Jacobs Stanton

Consulting (Color Genomics,
Twitter Alum)

Anne Washington

Public Policy Professor,
George Mason University

Whitney Wolfe Herd

Founder and CEO, Bumble

The ADL Center for Technology & Society

Eileen Hershenov

ADL SVP Policy

Adam Neufeld

ADL VP Innovation & Strategy

Daniel Kelley

CTS Associate Director

For additional and updated
resources please see:
www.adl.org

Copies of this publication are available in
the Rita and Leo Greenland Library and
Research Center.

Take Action

Partner with ADL to fight hate in your community and beyond.

- Sign up at adl.org for our email newsletters to stay informed about events in our world and ADL's response.
- Report hate crimes and bias-related incidents in your area to your regional ADL office.
- Engage in respectful dialogue to build understanding among people with different views.
- Get involved with ADL in your region.

ADL[®]
FIGHTING HATE FOR GOOD

The image features a dark blue background with a faint, large-scale silhouette of a hand holding a pen, positioned as if to write on a document. The document itself is a lighter shade of blue and contains some very faint, illegible text. In the lower center, the ADL logo is displayed in white, with a blue horizontal bar striking through the letter 'A'. Below the logo, the tagline 'FIGHTING HATE FOR GOOD' is written in a smaller, blue, sans-serif font.

OCT
2019

The Trolls are Organized and Everyone's a Target

The Effects of Online
Hate and Harassment

**BACKSPACE
HATE**
AN ADL INITIATIVE

 **bumble**

ADL[®]
FIGHTING HATE FOR GOOD

Our Mission:

To stop the defamation of the Jewish people and to secure justice and fair treatment to all.

ABOUT

Center for Technology & Society

In a world riddled with cyberhate, online harassment and misuses of technology, the ADL Center for Technology & Society (CTS) serves as a resource to tech platforms and develops proactive solutions. Launched in 2017 and headquartered in Silicon Valley, CTS aims for global impacts and applications in an increasingly borderless space.

It is a force for innovation, producing cutting-edge research to enable online civility, protect vulnerable populations, support digital citizenship and engage youth. CTS builds on ADL's century of experience building a world without hate and supplies the tools to make that a possibility both online and off-line.

ADL (Anti-Defamation League) fights anti-Semitism and promotes justice for all. Join ADL to give a voice to those without one and to protect our civil rights.

Learn more: [adl.org](https://www.adl.org)

We gratefully acknowledge Bumble's generosity in supporting this research.

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OCT
2019

The Trolls are Organized and Everyone's a Target

The Effects of Online
Hate and Harassment

**BACKSPACE
HATE**
AN ADL INITIATIVE

 **bumble**

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FIGHTING HATE FOR GOOD

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Executive Summary

Online hate and harassmentⁱ have increasingly become a common part of the online experience. Public attention has usually focused on harassment of celebrities and public figures. However, our recent work has shown that a substantial swath of the American public has experienced online harassment, with 37% of adults having experienced severe online harassment,ⁱⁱ defined by the Pew Research Center as including physical threats, sexual harassment, stalking and sustained harassment.ⁱⁱⁱ For this study, we wanted to examine the effects of online hate and harassment on private individuals—the type of people whose experiences represent the bulk of that statistic. We engaged in an extensive literature review and also conducted 15 in-depth qualitative interviews to better understand and chronicle the full experience of being a target of online harassment. We explore the personal stories of targets of online hate in an attempt to paint a more complete picture of the ways in which harassment can envelop multiple facets of a person's life. We hope this report sheds light on the statistics.

- i. Cyber harassment has been defined as “to involve the intentional infliction of substantial emotional distress accomplished by online speech that is persistent enough to amount to a ‘course of conduct’ rather than an isolated incident.” Citron, D. K. (2014). *Hate Crimes in Cyberspace*. Harvard University Press.
- ii. <https://www.adl.org/onlineharassment>
- iii. Duggan, M. (2018, January 3). *Online Harassment 2017*. Retrieved from <https://www.pewinternet.org/2017/07/11/online-harassment-2017/>

Five findings stand out from the literature review and interviews:



Online hate incidents are frequently connected to the target's identity

Whether it was simply being a Jewish business owner or authoring a blog post on feminism, the online hate incidents experienced by our interviewees were frequently centered around issues of identity.



Harassers use platform design to their advantage

Coordinated attacks often caused harm to a target by leveraging key features of social media platforms. This included the ability to be anonymous online, to create multiple accounts by one person, the fact that there is no limit to the number of messages one user can send to another, and the use of personal networks as weaponized audiences.



Online hate can cause significant emotional and economic damage

Targets of harassment reported deep and prolonged emotional difficulties. Additionally, harassers often targeted individuals' economic wellbeing by trying to tarnish their reputation or by contacting their employers.



Harassers attack and impact others in the target's community

Interviewees revealed experiences of harassment where perpetrators would also attack their relatives, friends and employers. Targets were highly disturbed by the spillover of hate into their offline lives, and felt that the increase in radius of attack was meant to cause further harm to them.



Social media platforms are not adequately designed to remove or efficiently review hateful content

Respondents were universally unhappy with the processes and functions of the reporting systems on major social media platforms. Interviewees expressed frustration in having to wait weeks for the content moderation teams to respond to their reports of harassment. They also felt that the ability to only report one piece of content at a time created a bottleneck in content flagging. The lack of options when reporting harassment and an attitude described by targets as a general disinterest towards their plight caused further unease for interviewees.

Cyber harassment is defined as the use of digital technology to intentionally inflict substantial emotional distress on the intended target.

Severe cyber harassment includes physical threats, sexual harassment, stalking and sustained harassment.^{iv}

iv. As defined by the Pew Research Center. ADL has adopted this definition for its research on online harassment.

“I can’t explain it now because it’s over, but when you’re in the middle of it, receiving rape threats, death threats, on a daily basis, impersonating you. It’s hard to reach out for help, and when you do, you get a stock response. It just makes my heart sink”



Increase users’ control over their online spaces

Interviewees felt like they had no control over their profiles, pages or accounts to prevent attackers from targeting them relentlessly. Platforms could provide more sophisticated blocking features like blocking a user’s ability to stalk someone across a platform. Platforms should also allow users to designate friends’ accounts as co-moderators, with specific permissions to assist with harassment management and moderation.



Improve the harassment reporting process

Companies should redesign their reporting procedures to improve the user experience. Platforms should provide step-by-step tracking portals, so users can see where their abuse report sits in the queue of pending reports. Platforms should also allow bulk reporting of content, consider harassment occurring to the target on other platforms, and respond to targets quickly. Platforms could set up hotlines for people under attack who need immediate assistance and assign case managers to help targets of hate through the process.



Build anti-hate principles into the hiring and design process

Safety, anti-bias and anti-hate principles should be built into the design, operation, and management of social media platforms. Platforms should prioritize diversity in hiring designers, including individuals who have been targets of online harassment. Platforms should create user personas and use cases that address the needs of vulnerable populations. Platforms should also weigh tool functionality against increased opportunities for harassment before implementing new features. We also recommend that input from a diverse set of community representatives and outside experts should be solicited before additions to or changes in platforms features are made.

While interviewees did not directly comment on the Government’s role in passing legislation that holds perpetrators accountable for their actions, it’s important that federal and state governments strengthen laws that protect targets of online hate and harassment. Many forms of severe online misconduct are not consistently covered by cybercrime, harassment, stalking and hate crime law. Legislators have an opportunity, consistent with the First Amendment, to create laws that hold perpetrators of severe online hate and harassment more accountable for their offenses.



Introduction

According to ADL's 2019 Online Hate and Harassment survey,¹ 53 percent of American adults have experienced online harassment and 37 percent have experienced severe harassment.² The prevalence of online toxicity is even higher in video games, a series of platforms which have recently emerged as a leading social space. In a first-of-its-kind survey, ADL found that 74 percent of adults who play online multiplayer games in the US experience some form of harassment while playing games online, while 65 percent of players experience some form of severe harassment.³

Relying on both a literature review of online harassment and in-depth interviews with targets of hate, this report describes experiences of the people behind these stark numbers. The ethnographic study that informs this report has been designed using an extensive literature review on the topic of cyber harassment. Through that exercise, we explored the definitions of hate and online harassment and studied the history and evolution of these concepts. We also provided a comprehensive taxonomy of the different forms through which online hate manifests itself. We pored over studies that explored potential causes of online hate, including behavioral reasons and the features on platforms that are ripe for abuse. A few of the more prevalent themes in cyber hate literature included:

Gender and Harassment

Some of the most widely reported incidents of campaign harassment (the ability of harassers to use online networks to organize campaigns of hate) and networked harassment (the weaponization of a target's online network) have been waged against women and the LGBTQ+ community. Such incidents demonstrate a new way to police and attempt to control these targets' ability to speak and participate in public life.

Racism, Islamophobia and Anti-Semitism

Racism, Islamophobia and anti-Semitism are also common motivating factors in networked harassment episodes. In fact, these three kinds of hate often appear together.

Targeting Intersectional Identities

Hate campaigns often target individuals with complex identities or affiliations with special vigor. Scholars and activists use the term "intersectionality," the idea that bias, discrimination and oppression manifest differently when identifiers like race and gender overlap.⁴

Harassment of Professionals

People are also targeted because of their professions. For example, journalists and academics are frequently targeted due to the public nature of their careers. This places them in a double bind since it's imperative to their career to publish and promote their work online.

“It’s just infuriating...someone sits behind their screen and tries to destroy everything I’ve worked so hard for. They don’t have any consequences and I have to defend everything I do.”

First-generation college grad and non-profit professional

For this report, ADL conducted 15 in-depth interviews with individuals about their experiences with online hate and harassment. For the safety of the interviewees, this report does not publish their names or personally identifiable details. ADL selected subjects with diverse backgrounds, identity characteristics and professional experiences.

We deliberately selected and interviewed subjects who are not famous or public figures, as are well-known targets Carlos Maza (a video producer for Vox who was subjected to homophobic slurs by an alt-right commentator on a popular YouTube channel⁵) and Zoë Quinn (a non-binary video game developer who suffered sustained harassment including threats of rape and death⁶). Such cases have been extensively covered in news articles and research papers. Social media platforms are also more reactive to cases of harassment in which public personalities are targeted,⁷ and these individuals might have more financial and social capital to respond or recover.

Our interview subjects represent a collection of experiences that have been described as distressing but are also displays of powerful resilience against a barrage of hate. Embedded in their stories are tales of setback, courage and resistance. But beyond compelling narratives, they also serve a more practical function—these interviews help us more fully understand the dynamics of online harassment at a depth that would be very challenging to extract from survey results. Moreover, these interviews shine a light on how harassers exploit the design of social media platforms.

15
in-depth interviews
conducted with
individuals about their
experiences with online
hate and harassment.

Findings

Targets experience harassment on a wide variety of platforms:

Mainstream Social Media



YouTube



Facebook



Twitter

Web Boards



8chan



4chan



Reddit

Gaming and Related Sites



Twitch



Discord

Publishing Platforms



Wordpress



Medium

Online Review Sites



Yelp



Google

Extreme Content



Breitbart



Quillette



Stormfront

Our in-depth interviews show that online harassment and hate come in a variety of forms, ranging from single but intense episodes of hate to months-long sustained harassment campaigns. They cross from online-only events to offline incidents. They can target one person or seek to disrupt entire personal and professional networks.

While the breadth of strategies available to attackers can be an overwhelming topic to explore, the impetus for harassment appears to be especially myopic. More often than not, targets felt they were attacked because of an identity-related attribute. Equally troubling is the fact that targets felt they did not have any legitimate recourse for action. In their attempts to remove hateful content, they felt stymied by the content reporting mechanisms across major social media platforms.

Finally, interviewees and other targets experience harassment on a wide variety of platforms, including mainstream social media (especially Twitter, Facebook and YouTube), anonymous or pseudonymous web boards (such as 4chan, 8chan and Reddit), gaming and related sites (Twitch and Discord), online review sites (Yelp and Google), publishing platforms (Wordpress, Medium and other online publications), and websites that pander to users spreading extreme content (Breitbart, Quillette and Stormfront). In addition, email was often used.

“Being trans and successful is all it takes to attract harassment”



Key Finding 1

Online hate incidents are frequently connected to the target's identity

While the breadth of strategies available to attackers can be an overwhelming topic to explore, the impetus for harassment appears to be especially myopic. More often than not, interviewees felt they were attacked because of an identity-related attribute. The specifics of how identity resulted in harassment varies, but the common theme in hateful incidents across interviews was identity. Being a member of a marginalized community makes an individual particularly vulnerable to hate and harassment online. People who spoke out against sexist, racist and anti-Semitic injustice also attracted vicious attacks, typically in response to their condemnation of hate and bias. Overall, we found that it required very little to be targeted online—it could be one comment or a single publication, but the overwhelming focus was related to identity, as opposed to political belief.⁸

Recent research has found that individuals from marginalized communities experience online harassment at much higher rates. ADL's 2019 Online Hate and Harassment survey report⁹ revealed that identity-based harassment was most common against LGBTQ+ individuals, with 63 percent of LGBTQ+ respondents experiencing harassment because of their sexual orientation or gender identity. In fact, around one-third (32 percent) of Americans who had been harassed reported

that they thought the harassment was a result of their sexual orientation, religion, race or ethnicity, gender identity or disability. Similarly, in the ADL games survey report,¹⁰ 53 percent of online multiplayer gamers who experienced harassment attributed their targeting to their race/ethnicity, religion, ability, gender or sexual orientation.

Our interviews found that harassers often weaponized aspects of their targets' characteristics by using slurs, offensive imagery and threats of violence based on their targets' real or perceived identities. For example, themes of misogyny were prevalent when our female interviewees were attacked on social media. Perpetrators' comments to women were often premised on a woman's appearance or their "proper place" being in the home, doing housework and bearing children.

Some people received harassment solely because of their identity. For example, both trans women reported harassment just because they were trans and publicly visible online. In one instance, a trans woman who is a gaming professional reported harassment on Twitch, including receiving invasive comments about her body and gender identity. In some cases, the transgender interviewees shared that their gender identity was ignored by harassers who would purposefully misgender them.

An academic who researches gender in the United States was harassed following the publication of her scholarly essay about masculinity and consumer culture...The harassment stemming from this one article lasted for nine months.

In other cases, people were targeted because of an identity-related article or statement they published or posted online. For example, an academic who researches gender in the United States was harassed following the publication of her scholarly essay about masculinity and consumer culture. On Twitter and Instagram, harassers followed her, insulted her appearance and attacked her with threats of rape and death. The far-right news site Breitbart wrote critically about her article. The Breitbart coverage led to her receiving hundreds of harassing messages on social media. The harassment stemming from this one article lasted for nine months.

Similarly, one interviewee, a researcher, also faced public threats after arguing with a prominent white feminist and activist on Twitter about the portrayal of a woman of color in popular culture. The prominent feminist shared the researcher's tweets in a mocking way, triggering other (mostly) white women to begin harassing her for being "too sensitive." Far-right harassers picked up on the argument among white feminists and a piece was written about the poster on Breitbart, sending a second wave of harassment her way. Fortunately, her employer helped keep her safe in her workplace during this period of sustained harassment.

Women of color faced similar harassment tactics and vulnerabilities. In certain instances, when our interviewees commented on social media about topics related to disparate impact and injustice, they became targets of racist, xenophobic and misogynistic comments that triggered persistent harassment episodes.

"I have an obligation being a public facing scholar because we have a mission to educate... the museum social media asks me to be front and center on the [museum] pages and those moments I end up attracting more attention than I seek otherwise."

Museum researcher and educator



Isha Writerson

Media Publication Staff Writer / Academic / Freelance Writer

Isha is a researcher and writer who often reports on politics, civil rights, and social dynamics. She is either self employed or works for a news outlet or university. She holds a master's degree or Ph.D. in social science. She is a mid-career professional who is often the main byline on articles or primary investigator on research publications and submits articles to other publications besides her primary one. She maintains her own website with a repository of her work. She relies on social media to gain readership, make connections and advance her career.

Pain Points

- Often inundated with hate, harassment, rape or death threats when posting her work.
- Cannot leave online spaces since her career and brand depend on it.
- Cannot safely appoint a second person to maintain accounts.
- Screenshots and submits individual reports of harassment but does not hear back from companies, or they only respond with generic language.
- Must report to each platform independently even if she is reporting the same person.
- Has no way to block and mute all accounts associated with one dogpile, brigade, or attack.

Figure 1. Media Publication Staff Writer / Academic / Freelance Writer User Persona.

Use of Online Media

- Uses Twitter, Facebook and Instagram to publicize work.
- Uses Twitter to engage colleagues and readers.
- Uses Facebook to engage closer personal network about work and personal topics.
- Maintains a WordPress or Medium account to maintain a public record of her writing.

Design Needs

- Immediate help from the platform when she is under attack.
- Evidence that the platform cares about her experience.
- To safely designate sub-accounts to trusted people to act as moderators.
- To create one comprehensive report on all the hate she receives.
To know where her reports are in the evaluation process.
- To block hateful user at the IP level so she doesn't have to block the same person repeatedly.
To be able to report, block, and mute in bulk and be able to block users who found the link to her work on a hateful platform like Stormfront, Quillette, or Gab.



Key Finding 2

Harassers use platform design to their advantage

Through their design, platforms encourage (or discourage) certain practices and behaviors.¹¹ Many of the platforms' designs make harassment easy, and harassers are effective at taking advantage of platforms' features. For example, the video game streaming site, Twitch, makes it easy to ban users from the chat feature of a streamer's individual channel, but it is quite difficult to ban users from viewing a stream on an individual channel and it is especially difficult to ban users across the platform from different streams and chats. An interviewee who live streams explained that this allowed their stalkers to continue tracking them by viewing their streams even when users were banned from the chat feature on an individual's channel. It also allowed users to continue engaging in harassing activity by attacking the intended target in chat rooms on different channels.

Multiple accounts controlled by a unique user—often for the purpose of dominating chat forums, harassing a target or spreading information—are known informally as “sock puppet” accounts. Interviewees cited the ability to create multiple accounts operated by the same person on Twitter as an example of a social media feature that can be easily abused by harassers. This feature can be useful when someone, for example, wants to have a professional and personal account; however, it can also be used as a means to continue cyber stalking or harassment even after the target blocks the initial account.

Another common feature most platforms have is the ability to send unlimited messages to another user. In the cyber harassment context this feature can prove to be incredibly problematic. If a user does not block or mute a harasser on a platform, the harasser can send them hundreds of messages at a time.

Additionally, most interviewees reported being targeted across multiple online platforms in campaigns that weaponized the target's networks. For the purposes of this report, we will refer to this phenomenon as “networked harassment.”¹²

Networked harassment uses the target's online networks and the openness and features of social media platforms against the target. This includes inserting embarrassing and fallacious news into a target's professional networks, engineering the disruption of important identity-based alliances by turning groups against each other, and resharing posts to incite further harassment. Features such as interlinked user profiles and user-created shareable content increased the ease with which a perpetrator could harass someone across multiple platforms.

One interviewee saved the comments and harassment she saw in what she called her “strange trolls folder,” a collection of what she describes as “weird and low-effort” hate. For her, it wasn’t even the individual threats that scared her, but rather the larger threat of an intensive harassment campaign. She gave up special opportunities and interesting connections for safety and peace of mind.

In some instances of networked harassment, perpetrators discussed their motivations. In one instance, there was explicit conversation about making the target, a woman of color, angry with the intention of making her unemployable. In another example, there was explicit conversation about increasing distrust between white women and feminists of color. In a third example, an article picked up by a far-right website was paired with a call to action to harass the author. This call-to-action resulted in an individual target receiving thousands of hateful messages for months.

In another instance, a graduate student living in the United Kingdom tweeted a question on Twitter inviting followers to describe a time they were “mansplained.” This question quickly went viral and resulted in a harassment campaign against her on both Twitter and Facebook. As a dedicated researcher, she set out to find where harassers were coordinating their efforts and discovered a lengthy thread on 4chan that tracked women of color and coordinated harassment campaigns against them. There, she found her name, as well as the names of other female journalists of color.

The term **“Networked harassment”** as used in this report is adapted from Caroline Sinderson’s concept of “campaign harassment,” a phenomenon in which harassers organize using online platforms to target an individual for cyber harassment en masse.



Key Finding 3

Online hate can cause significant emotional and economic damage

Subjects noted that their harassers often targeted their colleagues and supervisors in order to tarnish their reputation and with the goal or feared outcome of making them unemployable.

Our interviewees detailed the emotional effects and economic burdens of being the target of Internet abuse. Targets described their experiences as stressful and demoralizing, often isolating and traumatizing, and sometimes fear-inducing.

Some individuals interviewed actively worked to compartmentalize their feelings when trying to document and report their harassment, so as not to internalize the hate spewed at them across the screen. Many interviewees acknowledged that desensitization was necessary to get through a comprehensive review of the harassing and hateful messages they received in order to address them. This process forced the subjects into states of numbness in order to avoid experiencing the full depth and breadth of the attacks. Relatedly, in at least one case, being subject to this abuse led to extreme social isolation. Due to intense fear, these subjects kept their experiences private, and felt detached and alone as a result.

Targets also reported feeling exhausted and frustrated by the process of “cleaning up the hate” while also trying to maintain their distance from it. Removing an onslaught of hateful comments involved deep engagement with abusive images and messages, since the targeted individuals were solely responsible for screen-capturing, saving, deleting, documenting and reporting cross-platform abuse. Unfortunately, this process did not help these interviewees feel safer and took several hours to complete. The inadequacy of the platform reporting mechanism served as a prevalent source of frustration for the subjects we interviewed. Many of our interviewees responded by limiting their online presence or visibility, or by posting less frequently.

A family business run by a Jewish couple found its reputation in shambles when angry reviews claimed that the business was run by a “Jewy Jew” and the type of person “who gave rise to Hitler.”

Uncertainty was cited as a common driver for targets’ emotional and psychological response to the abuse. Many interviewees explained that not knowing how long an attack would last, the ultimate effects on their personal relationships and professional standing, or in stalking cases, why they were targeted and by whom, were major components of their distress. Interviewees who experienced uncertainty due to cyberstalking¹³ were often the most stressed and upset, and the most likely to take additional security measures or contact law enforcement. One interviewee felt exceedingly frustrated that Facebook wouldn’t provide any information about her stalkers, despite the target having access to their IP addresses.

The impact on targets went beyond emotional suffering, affecting their economic sustainability and job prospects. Subjects noted that their harassers often targeted their colleagues and supervisors in order to tarnish their reputation and with the goal or feared outcome of making them unemployable.

One subject discussed how her attacker publicly accused her of being anti-white. A streaming professional we interviewed explained that, as a result of a harassment incident, viewers unsubscribed from her channel, a portion of whose subscription fee had been income for the interviewee. A non-profit employee who was a first-generation college graduate was falsely accused of being anti-Semitic in a defamatory email and spent weeks working with a university ombudsperson to craft a response explaining the incident to colleagues. The interviewee said that her colleagues did not understand the

nature of the harassment and assumed the defamatory email was true. Instead of supporting her, they said, “See, that’s why we don’t use social media,” even though social media was crucial to the young woman’s career. Another woman said that she lost her job because her company was unable to support her in handling the grueling and unrelenting harassment.

One interviewee discussed how her harassment experience centered around the perpetrator attacking her family business. Rather than focusing on the individual’s professional online presence, the attacker targeted the company. It was common knowledge in her community that her husband, who was also her business partner, was active on Jewish Facebook groups. One day, the couple discovered vitriolic reviews of their business on Yelp, Google Reviews and Glassdoor posted by a fake Facebook account. These reviews plummeted the business’s online ratings and slowed growth. The reviews themselves attacked the business at large but made specific references to the husband being a “Jewy Jew” and the type of person “who gave rise to Hitler.” This episode resulted in months of lost potential income.

There are also costs associated with cyber harassment protection. One interviewee describes installing security cameras in her home. Another interviewee installed an expensive security system and hired private security guards for her home, fearing that her online stalker was a former client who had the potential to be dangerous.



Key Finding 4

Harassers also attack and impact others in the target's community

Networked and campaign harassment often involved not just the targeted victims but also their friends, family, colleagues and broader communities. In some interviews, targets explained the depths to which their networks experienced harassment. One professor was shocked and horrified when alt-right harassers targeted his wife and daughter. His distress continued when, in response to the defamatory statements spewed by the perpetrators, a local elected official called for an investigation of the professor and not the harassers. These actions left the victim's family and employer—a public university—tasked with managing the actual harassment as well as the fallacious investigation.

A game designer and researcher described the gut-wrenching feeling of finding out that her attackers attempted to swat her mother. Swatting is the act of falsely reporting a serious crime with the aim of drawing a massive police response to the home of an unsuspecting target (often a SWAT team with extreme weaponry).¹⁴ Swatting has resulted in at least one fatality in the United States.¹⁵

Beyond family and friends, harassment episodes have permeated entire companies. When a law firm owner was the target of online harassment, his entire firm lost business, spent money on security and sacrificed productivity. The owner and his employees spent hours tracking, analyzing and reporting hate. They spent additional time meeting together to discuss whether the stalker was someone they knew and if firm employees were in physical danger. In another instance, a woman who was defamed to her employer found that her colleagues began to doubt her decisions and actions—affecting productivity and team-oriented tasks.

Finally, this harassment often occurs in ways that other members of the public witness, which can have a negative impact of silencing or bystander effect on witnesses. For example, on Twitch, viewers witnessed certain instances of harassment as it unfolded. As mentioned earlier, the streamer interviewees reported losing followers and donations, and hypothesized that this change in behavior was due to their followers wanting to remove themselves from hostile environments or avoid inadvertently subjecting themselves to harassment.



Key Finding 5

Social media platforms are not adequately designed to remove or efficiently review hateful content

Every person we interviewed used their respective platform's reporting tools when attempting to mitigate their online harassment. Most interviewees said that they did not receive meaningful or helpful responses to a majority of their abuse reports for weeks or months—some reports went completely unanswered. The subjects noted that when platforms did send responses, the messages lacked empathy for or a real understanding of the broader difficulties created by networked harassment.

Most platforms have reporting systems and structures for users to contact them about harassment, spam, hate speech and other violations of their Terms of Service (TOS). Notably, a majority of our study interviewees criticized the current systems, deeming them largely ineffective.¹⁶ One of the deepest sources of frustration our subjects highlighted was that platforms make it extremely difficult to accurately, thoroughly and quickly report massive attacks; most

platform reporting systems are designed so users can only report one hateful post or account at a time. Twitter does allow users to aggregate five posts in one complaint, but this was inadequate for our interviewees who faced hundreds or thousands of harassing messages at a time.

Interviewees expressed the belief that reporting harassment to the platforms had limited efficacy. They explained that reporting mechanisms do not provide easy ways to explain and substantiate the depth and breadth of a harassment incident. In fact, many of the harassing comments interviewees reported were deemed "admissible" upon platform review, meaning that an initial evaluation by human moderators—employees or contractors working for the individual platform—determined the harassing comments did not violate the platform's terms of service.

Interviewees noted that some technology platforms had more effective reporting tools. They felt most secure when platform responses validated and supported them, when they had access to appropriate and effective resources specifically related to the type of harassment that occurred, and when they had a better idea of who was targeting them and through what means. For example, some interviewees said that platforms where an individual could see a perpetrator's referring website or track harassers' IP addresses were far more helpful in the target's quest to manage harassment than sites that merely allowed a target to report harassing activity.

Based on our interviews, the platforms that offered the most effective reporting tools were Discord, Medium and Wordpress. For example, Wordpress's webmaster tools give users more autonomy and control in spam filtering through a mechanism called Akismet. Additionally, Medium and Wordpress display referring sites of visitors. This information allows administrators to see, for example, if harassment being directed at an individual is by a perpetrator coming from a specific website, like 4chan. Websites like Reddit and Twitch allow for volunteer moderation in certain instances. One benefit of volunteer moderation is that some communities can set their own standards to better protect community members from harassment.



Luda Streamington

Game Streamer on Twitch

A few years into her career as a professional game streamer, Luda broadcasts her gameplay on Twitch five days a week. After a few years of building a following on Twitch, she is self-employed with 90% of her income coming from viewer donations while only 10% comes from freelance writing for gaming publications and speaking at gaming conferences. She is seen as a leader in the gaming space and appears on other Twitch channels to support other streamers. She also maintains a safe LGBTQ Discover server with thousands of members.

Pain Points

- When volunteer moderators are not available, cannot block all the incoming hateful messages on the stream even with time delay.
- Cannot block brigades of harassers even when they all came from the same channel or server or when using platform tools like time delay.
- Must report abusive users after the stream is over. Makes capturing hate difficult and does not stop the attack while it's happening. Often ends the stream early and/or the streamer does fewer streams than planned in the near future.
- Luda often uses LGBTQ+ language in a positive way to create a safe space for her viewers and has to whitelist those words over and over again.

Figure 2. Game Streamer on Twitch User Persona.

Use of Online Media

- Streaming gameplay on Twitch every day.
- Uses Twitch to engage with viewers and collect donations daily.
- Posts on Twitter and engages in discussions around games and the politics of games with other gamers and journalists.
- Uses Medium to publish articles about gaming occasionally.
- Employs Instagram for personal use a few days a week.

Design Needs

- Needs help moderating her stream when her volunteers are unavailable.
- Needs an easier way to block brigades of harassers, such as blocking users at the IP level and stopping multiple accounts controlled by the same person.
- Immediate help from the platform when she is under attack.
- Needs whitelisting to “stick” and not have to whitelist the same terms over and over.

Recommendations

When asked to provide recommendations, an interviewee said:

“There’s a responsibility that doesn’t get talked about. Perpetrators are represented as a weird force of nature that screams “fuck” uncontrollably at women. There are things you can do from the community angle, and from the tool-making algorithm level.”



Recommendation 1

Increase users’ control over their online space

Targets of online harassment often felt like they had no control over their profiles, pages or accounts because perpetrators invaded them relentlessly and without consent.

Platforms can support targets by giving them more control over moderating their individual online spaces. Some of the interviewees reported satisfaction in managing harassment when they had the ability to block harassers at the IP level rather than blocking a single account. Interviewees also reported satisfaction in managing harassment when they could control which users could engage in their space and enforce community norms. Platforms should provide more sophisticated blocking features.

Another way platforms can support targets is to allow users to designate trusted friends as moderators to help targets control the traffic on their page. Many of our interviewees said that they shared usernames and passwords with friends and colleagues to help them regulate the influx of harassing messages they received. Instead, as a safer and more streamlined alternative to this method, platforms should allow users to designate sub-accounts as co-moderators, with specific permissions to assist with harassment management and moderation.

Q: What is it like to report harassment (on Twitch)?

A: "You throw the report into the void."

Q: Is it ever satisfactory?

A: "No."



Recommendation 2

Improve the harassment reporting process

Companies should redesign their reporting procedures to improve the user experience and to make it more responsive to networked harassment.

Platforms' reporting features should allow users to thoroughly explain and demonstrate their abuse to the moderation team. At present, there is no streamlined way to aggregate campaign or networked harassment in one report. Platforms should implement reporting systems that allow for detailed, nuanced and comprehensive reporting.

Users need clear, transparent means to track and report harassment—these processes should not require specialized knowledge or tech expertise. In our interviews, the only subject who was successful in getting meaningful

responses from moderation teams was an individual who called in a personal favor and had social networking professionals advise her on submitting her complaint. Platforms should provide step-by-step tracking portals, so users can see where in queue their abuse report sits, how it is being processed and who in the company is the assigned case manager.

Finally, platforms should respond to targets quickly and with compassion. Platforms could set up hotlines for people under attack who need immediate assistance; assign internal caseworkers to assist with aggregating and investigating the harassing activity, or develop other more effective response procedures.



Recommendation 3

Build anti-hate principles into the hiring and design process

Safety, anti-bias and anti-hate principles should be built into the design, operation, and management of social media platforms. To create safer and more hospitable online spaces, platforms should appropriately train designers to understand Internet abuse so they can anticipate and prevent new opportunities for harassment as they build and architect platform features. We recommend that companies solicit input from a diverse set of community representatives and outside experts before they make additions to or changes in platforms' features.

Companies can also build anti-hate principles into cross-industry initiatives. Interviewees spoke at length about how attackers would use multiple platforms to target someone. Designing content moderation processes that result in an automatic sharing of information between companies safety teams could improve safety standards for the entire industry. Admittedly this is a complicated solution that would require different platforms reaching a common understanding of online harassment definitions. However, the benefits to users who are vulnerable to online hate and harassment would be immense.

Platforms should prioritize diversity in hiring designers, including individuals who have been targets of online harassment. These individuals have a unique perspective on how the tools, features and mechanisms being built by social media companies can be weaponized. In addition to adding diverse individuals—especially targets—on design teams, companies should educate designers on the specific details of extreme harassment cases from both their own sites and other sites. Designers can also learn through the production of user personas and journey maps detailing extreme harassment episodes.

Platforms should also weigh tool functionality against increased opportunities for harassment before implementing new features. Features that promise to increase performance metrics or reduce friction sometimes exacerbate already abusive dynamics or inadvertently create opportunities for new harassment. If a new feature has a high likelihood of facilitating harassment, it should be modified. Similarly, features that have led to abuse in the past should be adjusted to reduce abuse.

Moving Forward

Protecting Targets of Hate Through Better Government Regulation

BACKSPACE HATE

AN ADL INITIATIVE

Online hate stokes fear, silences voices and causes harm to people's personal and professional lives. Backspace Hate is ADL's campaign to support victims and targets of online hate and harassment. We're raising awareness about the consequences of cyberhate and advocating for measures to hold perpetrators accountable for their actions online, including by improving state and federal laws. Working together we can backspace hate and make room for good.

It's important to note that this ethnographic study does not represent the full breadth of views and experiences embodied by the victims and targets of online hate and harassment. That said, it is our hope that through this report we can encourage social media platforms, government and civil society to take ownership of their roles in addressing these issues. The best way to approach these issues is through a multi-faceted lens.

Federal and state governments should strengthen laws that protect targets of online hate and harassment. Many forms of severe online misconduct are not consistently covered by cybercrime, harassment, stalking and hate crime law. States should close the gaps that often prevent government agencies from holding individual perpetrators accountable because the laws do not appropriately capture online misconduct. Many states have intent, threat, harm or "directed at" requirements that prevent prosecution of online behavior that would otherwise easily fit the definitions of stalking or harassment statutes. Many states do not have swatting or doxing laws on the books.

Legislators have an opportunity, consistent with the First Amendment, to create laws that hold perpetrators of severe online hate and harassment more accountable for their offenses. Additionally, governments can require better data from law enforcement agencies regarding online harassment investigations and prosecutions. Finally, social media companies should be required to increase transparency around online hate and harassment on their platforms, so we better understand the scale and scope of hate and harassment on social media.

An email addressed to an interviewee called her "an unapologetic Latina Supremacist," and attributed anti-Semitic slurs to her. The email claimed she had a "vicious anti-white agenda," based on completely fabricated Facebook comments. Elaine was "floored, just floored...[she] was shaking," and couldn't bear to read the defamatory email all the way through.

Conclusion

“What bothers me the most: how callous it’s made me, pretty jaded. I didn’t used to assume the worst in people. The trolls have won in that way.”

Ethnographic interviews can expose important details about individual experiences that are difficult to capture through other methods. In the absence of an experience as visceral as sustained harassment, the underlying assumptions, hypotheses and priorities developed by academics that guide quantitative research might not mesh with the sentiments of targets of hate. For example, we didn’t go into this study with a specific intention to learn about the ways in which friends, colleagues and relatives are exploited to increase harm and reputational damage against one target. Moreover, the details surrounding networked harassment exposed through these interviews helped us craft recommendations, like user journey maps, as a means to plug holes in platform design.

The semi-structured interviews conducted for this study remind us of the value in listening to an individual narrate a complete story, which can reveal new, unpredicted insights. And the findings of this study provide a sobering reminder of the emotional and economic harms that vulnerable communities shoulder when using online platforms. While much damage has already been done, and many lives upended because of online hate, it’s not too late for social media companies to learn about their users and redesign their platforms to mitigate further harassment.

“Don’t want to give troll power...you feel annoyed but does not want to show those feelings. Revealing them give harassers power.”

What is it like to hide those feelings?

“It’s really hard! It produces stress after the show is over. The emotional stress is exhausting, often end steam earlier, leads to lethargy. As you become used it just wears you down.”



Appendix

Research Methods

This study was conducted using semi-structured, ethnographic interview methods. Fifteen interviewees were recruited and interviewed remotely, following a pre-established interview guide. Two professionals with extensive experience in ethnographic research established the guide and conducted the interviews.

Recruitment

Fifteen people who were targets of extensive cyber harassment were recruited and interviewed for this study. Interviewees were asked to indicate characteristics with which they identified or associated. Interviewees included thirteen women (including two trans women) and two men. Nine of the interviewees were white, one was Black, three were Latinx and two were Asian. Four were researchers or academics, five were in the gaming industry (players and designers), three were media professionals (though two were in different careers at the time of the interview), two owned or founded businesses, and one worked for a social justice non-profit.

Interviewees were recruited via snowball sampling. Initial interviewees were recruited through professional networks and open calls publicized on ADL and Implosion Labs' social media channels. Then, the variety and number of interviewees "snowballed." Each person was asked to recommend others who might be eligible and interested in participating.

Process

Two researchers developed and used an interview guide to conduct interviews via the videoconferencing platform Zoom, using audio only or video plus audio based on the interviewee's preference. Interviews covered the following topics:

- An explanatory introduction to the study, including the interviewee's right to withdraw and a description of security measures in place;
- An invitation for the interviewees to describe themselves demographically, professionally and biographically;
- A walkthrough of a specific episode of cyber harassment, including events, platforms and responses;
- Reasons why the interviewees thought they were targeted;
- A description of how cyber harassment affects the individual and their networks or communities; and
- An opportunity to reflect on what they wish had gone differently and what could be changed to prevent similar cyber harassment from happening in the future.
- Recruitment and interviewing began in February 2019 and was completed in April 2019.

Endnotes

- 1 <https://www.adl.org/onlineharassment>
- 2 “Severe harassment” as defined by the Pew Research Center includes physical threats, sexual harassment, stalking and sustained harassment. ADL has adopted this definition for its research on online harassment. Duggan, M. (2018, January 3). Online Harassment 2017. Retrieved from <https://www.pewinternet.org/2017/07/11/online-harassment-2017/>
- 3 <https://www.adl.org/free-to-play>
- 4 Coleman, A. L. (n.d.). What Is Intersectionality? A Brief History of the Theory. Retrieved from <https://time.com/5560575/intersectionality-theory/>
- 5 Rosenberg, E. (2019, June 5). A right-wing YouTuber hurled racist, homophobic taunts at a gay reporter. The company did nothing. Retrieved from <https://www.washingtonpost.com/technology/2019/06/05/right-wing-youtuber-hurled-racist-homophobic-taunts-gay-reporter-company-did-nothing/>
- 6 Marcotte, A. (2019, August 28). Gamergate is back, because it never went away: Zoë Quinn faces new round of attacks. Retrieved from <https://www.salon.com/2019/08/28/gamergate-2-0-zoe-quinn-accuses-game-developer-alec-holowka-of-abuse/>
- 7 Spangler, T. (2019, June 6). YouTube Says It’s Reviewing Harassment Policies, After It Condoned Sustained Attacks on Gay Latino Journalist. Retrieved from <https://variety.com/2019/digital/news/youtube-harassment-policies-attacks-gay-latino-carlos-maza-steven-crowder-1203234645/>
- 8 For the purposes of this study, “identity” refers to how interviewees self-define, often in terms of gender and sexuality, race or ethnicity, and sometimes in terms of immigration status, nationality, profession, religious affiliation or perceived religious affiliation, and political beliefs.
- 9 <https://www.adl.org/onlineharassment>
- 10 <https://www.adl.org/free-to-play>
- 11 Boyd, Danah. 2014. *It’s Complicated*. New Haven: Yale University Press., 233–53. SAGE Publications Ltd.; Bucher, Taina, and Anne Helmond. 2019. “The Affordances of Social Media Platforms.” In *The SAGE Handbook of Social Media*, 233–53. SAGE Publications Ltd.; Dijck, José Van, and Thomas Poell. 2013. “Understanding Social Media Logic.” *Media and Communication*, 1 (1): 2–14; Majchrzak, Ann, Samer Faraj, Gerald C Kane, and Bijan Azad. 2013. “The Contradictory Influence of Social Media Affordances on Online Communal Knowledge Sharing.” *Journal of Computer-Mediated Communication* 19 (1): 38–55; Costa, Elisabetta. 2018. “Affordances-in-Practice: an Ethnographic Critique of Social Media Logic and Context Collapse.” *New Media and Society* 20 (10): 3641–56.
- 12 The term has been adapted from Caroline Sindere’s concept of “campaign harassment.” Campaign harassment is a phenomenon in which harassers organize using online platforms to target an individual for cyber harassment en masse. Caroline Sindere, 2018, An Incomplete (but growing) History of Harassment Campaigns since 2003. Medium. Accessed Dec. 20, 2018. <https://medium.com/digitalhks/an-incomplete-but-growing-history-of-harassment-campaigns-since-2003-db0649522fa8>
- 13 Defined as “an online “course of conduct” that either causes a person to fear for his or her safety or would cause a reasonable person to fear for his or her safety.” Citron, D. K. (2014). *Hate Crimes in Cyberspace*. Harvard University Press.
- 14 Madani, D. (2019, March 30). Serial ‘swatter’ Tyler Barriss sentenced to 20 years for death of Kansas man shot by police. Retrieved from <https://www.nbcnews.com/news/us-news/serial-swatter-tyler-barriss-sentenced-20-years-death-kansas-man-n978291>
- 15 Miller, R. W. (2019, March 30). His ‘swatting’ prank call caused a man’s death. Now he’ll serve 20 years in prison. Retrieved from <https://www.usatoday.com/story/news/nation/2019/03/30/swatting-tyler-barriss-get-20-years-hoax-911-call-andrew-finch-death/3320061002/>
- 16 See also Charlie Warzel, “A Honeytrap For Assholes”: Inside Twitter’s 10-Year Failure To Stop Harassment, BuzzFeed News, Aug. 2016, <https://www.buzzfeednews.com/article/charliwarzel/a-honeytrap-for-assholes-inside-twitters-10-year-failure-to-s>

ADL by the numbers | **OUR IMPACT**

EDUCATE

1.3m
STUDENTS



learned to use the power of positive peer influence to take action against bias and bullying in 2018

17k
EDUCATORS



acquired skills to support students in using ally behaviors to challenge bias and identity-based bullying in 2018

5.2m
STUDENTS



impacted through our Holocaust education program, Echoes & Reflections, since inception in 2005

ADVOCATE

45
STATES + D.C.



have enacted Hate Crimes legislation based on, or similar to, the ADL model developed in 1981

MONITOR

2.6m
TWEETS



containing anti-Semitic language were identified in our 2016 report about online harassment of journalists

250



WHITE SUPREMACISTS

who attended the 2017 "Unite the Right" rally in Charlottesville were identified by ADL in cooperation with local law enforcement

PARTNERS

2000+



MEXICAN CONSULAR STAFF AND LATINX COMMUNITY LEADERS

received ADL training on hate crimes/hate incidents, bullying/cyberbullying and anti-immigrant extremists under ADL's MOU with the Government of Mexico. If room add: After El Paso shooting, ADL, LULAC and Unidos US will collaborate to combat hate crimes and extremism.

INVESTIGATE

11k 
CASES

in which ADL has provided extremist related information to law enforcement, including critical, up-to-the-minute background on extremist threats

TRAIN

100% 

of all new FBI agents have been trained by ADL since 2001

+140k 

**LAW ENFORCEMENT
PROFESSIONALS**

were trained by ADL in the last ten years, helping them to fight extremism and build trust with the communities they serve

ADL's Approach

ADL has a comprehensive approach to address anti-Semitic incidents and to counter all forms of hate. ADL's Center on Extremism is a foremost authority on extremism, terrorism and all forms of hate. The COE's team of investigators and analysts strategically monitors and exposes extremist movements and individuals, using cutting-edge technology to track real time developments and provide actionable intelligence and data-based analysis to law enforcement, public officials, community leaders and technology companies.

ADL also does this work through:

- **Reaching 1.5 million students** annually with our anti-bias and anti-bullying programs
- **Building coalitions among diverse organizations and communities,** and boldly advocating against government policies, organizations and people that promote anti-Semitism, racism and bigotry
- **Working in Silicon Valley through ADL's Center on Technology and Society,** which works in close partnership with tech industry leaders to establish best practices for addressing cyber hate and to develop proactive solutions to fight the spread of anti-Semitism and other forms of hate online

Support

This work is made possible in part by the generous support of:

The Robert Belfer Family

Dr. Georgette Bennett

Bumble

**Joyce and Irving Goldman Family
Foundation**

The Grove Foundation

Walter & Elise Haas Fund

Luminate

Craig Newmark Philanthropies

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Obvious Ventures

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Katie Jacobs Stanton

Consulting (Color Genomics,
Twitter Alum)

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Anne Washington

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George Mason University

Whitney Wolfe Herd

Founder and CEO, Bumble

The ADL Center for Technology & Society

Eileen Hershenov

ADL SVP Policy

David L. Sifry

ADL VP CTS

For additional and updated
resources please see:

www.adl.org

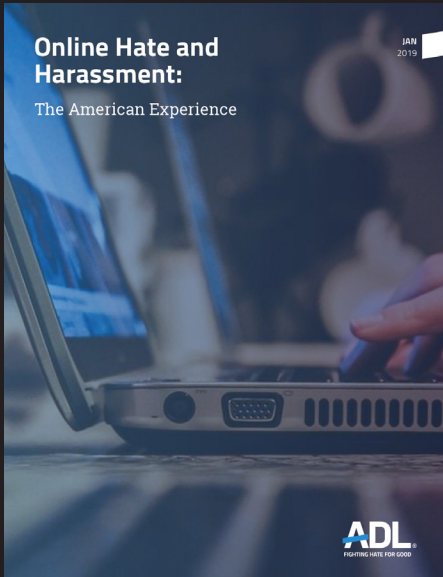
Copies of this publication are available in
the Rita and Leo Greenland Library and
Research Center.

Take Action

Partner with ADL to fight hate in your community and beyond.

- Sign up at adl.org for our email newsletters to stay informed about events in our world and ADL's response.
- Report hate crimes and bias-related incidents in your area to your regional ADL office.
- Engage in respectful dialogue to build understanding among people with different views.
- Get involved with ADL in your region.

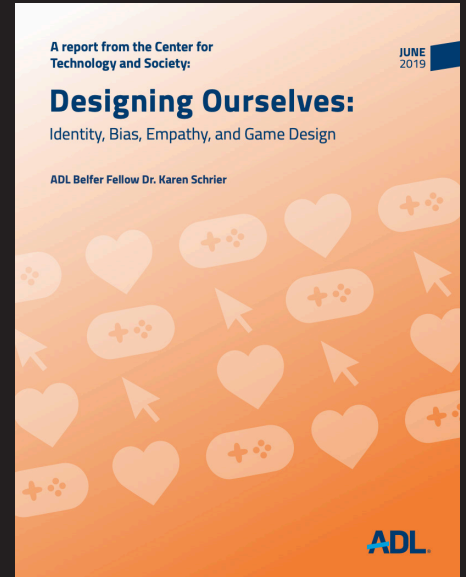
Featured Resources from the ADL Center for Technology and Society



Online Hate and Harassment:
The American Experience
www.adl.org/onlineharassment



Free to Play?
Hate, Harassment, and Positive Social Experiences in Online Games
www.adl.org/free-to-play



Designing Ourselves:
Identity, Bias, Empathy, and Game Design
www.adl.org/designing-ourselves

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 Anti-Defamation League

 @ADL

 @adl_national

ADL[®]
FIGHTING HATE FOR GOOD

115TH CONGRESS
1ST SESSION

H. R. 3067

To amend title 18, United States Code, to establish certain criminal violations for various aspects of harassment using the interstate telecommunications system, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 27, 2017

Ms. CLARK of Massachusetts (for herself, Mrs. BROOKS of Indiana, and Mr. MEEHAN) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To amend title 18, United States Code, to establish certain criminal violations for various aspects of harassment using the interstate telecommunications system, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Online Safety Modernization Act of 2017”.

6 (b) TABLE OF CONTENTS.—The table of contents for
7 this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—INTERSTATE SEXTORTION PREVENTION

Sec. 101. Coercion of sexual acts, sexual contact, or sexually intimate visual depictions.

Sec. 102. Amendments to existing statutory offenses.

TITLE II—INTERSTATE SWATTING HOAX

Sec. 201. False communications to cause an emergency response.

TITLE III—INTERSTATE DOXXING PREVENTION

Sec. 301. Disclosure of personal information with the intent to cause harm.

TITLE IV—CYBERCRIME STATISTICS

Sec. 401. National strategy, classification, and reporting on cybercrime.

TITLE V—PRIORITIZING ONLINE THREAT ENFORCEMENT

Sec. 501. Improved investigative and forensic resources for enforcement of laws related to cybercrimes against individuals.

Sec. 502. Annual reports.

Sec. 503. Definition of cybercrimes against individuals.

TITLE VI—CYBERCRIME ENFORCEMENT TRAINING ASSISTANCE

Sec. 601. Local law enforcement grants.

Sec. 602. National Resource Center Grant.

1 **TITLE I—INTERSTATE**
 2 **SEXTORTION PREVENTION**
 3 **SEC. 101. COERCION OF SEXUAL ACTS, SEXUAL CONTACT,**
 4 **OR SEXUALLY INTIMATE VISUAL DEPIC-**
 5 **TIONS.**
 6 (a) IN GENERAL.—Part 1 of title 18, United States
 7 Code, is amended by adding at the end the following new
 8 chapter:
 9 **“CHAPTER 124—COERCION OF SEXUAL**
 10 **ACTS, SEXUAL CONTACT, OR SEXU-**
 11 **ALLY INTIMATE VISUAL DEPICTIONS**

“2751. Coercion of sexual acts.

“2752. Coercion of sexual contact.

“2753. Coerced production of sexually intimate visual depictions.

“2754. Coercion using sexually intimate visual depictions.

- “2755. Extortion using sexually intimate visual depictions.
- “2756. Offenses involving minors.
- “2757. Offenses resulting in death or serious bodily injury.
- “2758. Attempt.
- “2759. Repeat offenders.
- “2760. Forfeitures.
- “2761. Mandatory restitution.
- “2762. Civil action.
- “2763. Definitions.

1 **“§ 2751. Coercion of sexual acts**

2 “(a) IN GENERAL.—Whoever, using the mail or any
3 facility or means of interstate or foreign commerce, know-
4 ingly causes any person to engage in a sexual act with
5 another through coercion, fraud, or a threat to injure the
6 person, property, or reputation of any person, shall be
7 fined under this title or imprisoned for any number of
8 years or for life, or both.

9 “(b) THREATS.—Whoever, with the intent to cause
10 any person to engage in a sexual act with another, know-
11 ingly transmits any communication containing a threat to
12 injure the person, property, or reputation of any person,
13 using the mail or any facility or means of interstate or
14 foreign commerce, shall be fined under this title or impris-
15 oned not more than 5 years, or both.

16 **“§ 2752. Coercion of sexual contact**

17 “(a) IN GENERAL.—Whoever, using the mail or any
18 facility or means of interstate or foreign commerce, know-
19 ingly causes any person to engage in sexual contact with
20 another through coercion, fraud, or a threat to injure the
21 person, property, or reputation of any person, shall be

1 fined under this title or imprisoned for not more than 10
2 years, or both.

3 “(b) THREATS.—Whoever, with the intent to cause
4 any person to engage in sexual contact with another,
5 knowingly transmits any communication containing a
6 threat to injure the person, property, or reputation of any
7 person, using the mail or any facility or means of inter-
8 state or foreign commerce, shall be fined under this title
9 or imprisoned not more than 5 years, or both.

10 **“§ 2753. Coerced production of sexually intimate vis-
11 ual depictions**

12 “(a) IN GENERAL.—Whoever, in a circumstance de-
13 scribed in subsection (b), knowingly causes any person to
14 produce a sexually intimate visual depiction of any person
15 through coercion, fraud, or a threat to injure the person,
16 property, or reputation of any person, shall—

17 “(1) if a sexual act with another results, be
18 fined under this title or imprisoned for any number
19 of years or for life, or both; and

20 “(2) in any other case, be fined under this title
21 or imprisoned not more than 20 years, or both.

22 “(b) CIRCUMSTANCES DESCRIBED.—The cir-
23 cumstances referred to in subsection (a) are—

24 “(1) that the person used the mail or any facil-
25 ity or means of interstate or foreign commerce to

1 cause any person to produce a sexually intimate vis-
2 ual depiction of any person;

3 “(2) that the person knows or has reason to
4 know that such visual depiction will be—

5 “(A) transported or transmitted using any
6 means or facility of interstate or foreign com-
7 merce;

8 “(B) transported or transmitted in or af-
9 fecting interstate or foreign commerce; or

10 “(C) mailed;

11 “(3) the visual depiction was produced or trans-
12 mitted using materials that have been mailed, or
13 shipped or transported in or affecting interstate or
14 foreign commerce by any means, including by com-
15 puter;

16 “(4) such visual depiction has actually been—

17 “(A) transported or transmitted using any
18 means or facility of interstate or foreign com-
19 merce;

20 “(B) transported or transmitted in or af-
21 fecting interstate or foreign commerce; or

22 “(C) mailed; or

23 “(5) any part of the offense occurred in a terri-
24 tory or possession of the United States or within the

1 special maritime and territorial jurisdiction of the
2 United States.

3 “(c) THREATS.—Whoever, with the intent to cause
4 another person to produce a sexually intimate visual depic-
5 tion of any person, knowingly transmits any communica-
6 tion containing a threat to injure the person, property, or
7 reputation of any person, using the mail or any facility
8 or means of interstate or foreign commerce, shall be fined
9 under this title or imprisoned not more than 5 years, or
10 both.

11 “(d) OFFENSES INVOLVING MINORS.—Notwith-
12 standing any other provision of law, in any case under this
13 section involving a victim under the age of 18 where the
14 sexually intimate visual depiction constitutes child pornog-
15 raphy as defined in section 2256(8), the offender shall be
16 punished as provided in section 2251(e).

17 “(e) DEFINITION.—In this section, the term ‘sexually
18 intimate visual depiction’ shall not include any computer-
19 generated sexually intimate visual depiction.

20 **“§ 2754. Coercion using sexually intimate visual de-**
21 **pictions**

22 “(a) IN GENERAL.—Whoever, using the mail or any
23 facility or means of interstate or foreign commerce, know-
24 ingly causes another person to engage or refrain from en-
25 gaging in conduct through a threat to publish any sexually

1 intimate visual depiction of the addressee or of an imme-
2 diate family member or intimate partner of the addressee,
3 shall be fined under this title or imprisoned not more than
4 7 years or both.

5 “(b) THREATS.—Whoever, with the intent to cause
6 another person to engage or refrain from engaging in con-
7 duct, knowingly transmits any communication containing
8 a threat to publish any sexually intimate visual depiction
9 of the addressee or of an immediate family member or inti-
10 mate partner of the addressee, using the mail or any facil-
11 ity or means of interstate or foreign commerce, shall be
12 fined under this title or imprisoned not more than 5 years,
13 or both.

14 “(c) DEFINITION.—In this section the term ‘sexually
15 intimate visual depiction’ includes any computer-generated
16 sexually intimate visual depiction that is indistinguishable
17 from an actual depiction of the addressee or of an imme-
18 diate family member or intimate partner of the addressee.

19 **“§ 2755. Extortion using sexually intimate visual de-**
20 **pictions**

21 “(a) IN GENERAL.—Whoever, using the mail or any
22 facility or means of interstate or foreign commerce, know-
23 ingly extorts any money, property, or other thing of value
24 from another person through a threat to publish any sexu-
25 ally intimate visual depiction of the addressee or of an im-

1 mediate family member or intimate partner of the ad-
2 dressee, shall be fined under this title or imprisoned not
3 more than 7 years or both.

4 “(b) THREATS.—Whoever, with the intent to extort
5 any money, property, or other thing of value from any per-
6 son, knowingly transmits any communication containing
7 a threat to publish any sexually intimate visual depiction
8 of the addressee or of an immediate family member or inti-
9 mate partner of the addressee, using the mail or any facil-
10 ity or means of interstate or foreign commerce, shall be
11 fined under this title or imprisoned not more than 5 years,
12 or both.

13 “(c) DEFINITION.—In this section the term ‘sexually
14 intimate visual depiction’ includes any computer-generated
15 sexually intimate visual depiction that is indistinguishable
16 from an actual depiction of the addressee or of an imme-
17 diate family member or intimate partner of the addressee.

18 **“§ 2756. Offenses involving minors**

19 “(a) OFFENSES INVOLVING MINORS UNDER 18.—If
20 the conduct that violates this chapter involves a victim or
21 intended victim who has attained the age of 12 years but
22 has not attained the age of 18 years, or who the defendant
23 believes has attained the age of 12 years but has not at-
24 tained the age of 18 years, the maximum term of impris-
25 onment authorized for that offense shall be increased by

1 5 years in addition to any penalty otherwise provided in
2 this chapter.

3 “(b) OFFENSES INVOLVING MINORS UNDER 12.—If
4 the conduct that violates this chapter involves a victim or
5 intended victim who has not attained the age of 12 years,
6 or who the defendant believes has not attained the age
7 of 12 years, the maximum term of imprisonment author-
8 ized for that offense shall be twice that otherwise provided
9 in this chapter.

10 **“§ 2757. Offenses resulting in death or serious bodily**
11 **injury**

12 “(a) OFFENSES RESULTING IN DEATH.—A person
13 who commits a violation of this chapter that results in the
14 death of any person, shall be fined under this title or im-
15 prisoned for any number of years or for life, or both.

16 “(b) OFFENSES RESULTING IN SERIOUS BODILY IN-
17 JURY.—A person who commits a violation of this chapter
18 that results in serious bodily injury to any person, shall
19 be fined under this title or imprisoned not more than 20
20 years, or both.

21 **“§ 2758. Attempt**

22 “(a) IN GENERAL.—An attempt to violate section
23 2751(a), 2752(a), 2753(a), 2754(a), or 2755(a) shall be
24 punishable in the same manner as a completed violation
25 of that section.

1 “(b) LIMITATION.—For the purposes of sections
2 2751, 2752, 2753, 2754, and 2755, conduct consisting ex-
3 clusively of a violation of 2751(b), 2752(b), 2753(e),
4 2754(b), and 2755(b) shall not constitute an attempted
5 violation of 2751(a), 2752(a), 2753(a), 2754(a), and
6 2755(a).

7 **“§ 2759. Repeat offenders**

8 “(a) MAXIMUM TERM OF IMPRISONMENT.—The
9 maximum term of imprisonment authorized for a violation
10 of section 2751(a), 2752(a), or 2753(a)(1) after a prior
11 sex offense conviction shall be twice the term of imprison-
12 ment otherwise provided by this chapter, unless section
13 3559(e) applies.

14 “(b) DEFINITIONS.—In this section—

15 “(1) the term ‘prior sex offense conviction’
16 means a conviction for an offense—

17 “(A) under chapter 109A, chapter 110,
18 chapter 117 or section 1591, 2751(a), 2752(a),
19 2753(a)(1); or

20 “(B) under State law or the Uniform Code
21 of Military Justice involving an offense de-
22 scribed in subparagraph (A) or would be such
23 an offense if committed under circumstances
24 supporting federal jurisdiction; and

1 “(2) the term ‘State’ means a State of the
2 United States, the District of Columbia, and any
3 commonwealth, territory, or possession of the United
4 States.

5 **“§ 2760. Forfeitures**

6 “(a) IN GENERAL.—The court, in imposing sentence
7 on any person convicted of a violation of this chapter, shall
8 order, in addition to any other sentence imposed and irre-
9 spective of any provision of State law, that such person
10 shall forfeit to the United States—

11 “(1) such person’s interest in any property, real
12 or personal, that was used or intended to be used to
13 commit or to facilitate the commission of such viola-
14 tion; and

15 “(2) any property, real or personal, constituting
16 or derived from any proceeds that such person ob-
17 tained, directly or indirectly, as a result of such vio-
18 lation.

19 “(b) PROPERTY SUBJECT TO FORFEITURE.—

20 “(1) IN GENERAL.—The following shall be sub-
21 ject to forfeiture to the United States and no prop-
22 erty right shall exist in them:

23 “(A) any property, real or personal, used
24 or intended to be used to commit or to facilitate
25 the commission of any violation of this chapter;

1 “(B) any property, real or personal, that
2 constitutes or is derived from proceeds traceable
3 to any violation of this chapter; and

4 “(C) any visual depiction that was pro-
5 duced, used, or intended for use in violation of
6 this chapter.

7 “(2) APPLICABILITY OF CHAPTER 46.—The pro-
8 visions of chapter 46 of this title relating to civil for-
9 feitures shall apply to any seizure or civil forfeiture
10 under this subsection.

11 “(c) TRANSFER OF FORFEITED ASSETS.—

12 “(1) IN GENERAL.—The Attorney General is
13 authorized to transfer assets forfeited pursuant to
14 this section, or the proceeds derived from the sale
15 thereof, to satisfy victim restitution orders arising
16 from violations of this chapter.

17 “(2) USE OF NON-FORFEITED ASSETS.—Trans-
18 fers pursuant to paragraph (1) shall not reduce or
19 otherwise mitigate the obligation of a person con-
20 victed of a violation of this chapter to satisfy the full
21 amount of a restitution order through the use of
22 non-forfeited assets or to reimburse the Attorney
23 General for the value of assets or proceeds trans-
24 ferred under this subsection through the use of non-
25 forfeited assets.

1 **“§ 2761. Mandatory restitution**

2 “(a) IN GENERAL.—Notwithstanding section 3663 or
3 3663A, and in addition to any other civil or criminal pen-
4 alty authorized by law, the court shall order restitution
5 for any offense under this chapter.

6 “(b) SCOPE AND NATURE OF ORDER.—

7 “(1) DIRECTIONS.—The order of restitution
8 under this section shall direct the defendant to pay
9 to the victim (through the appropriate court mecha-
10 nism) the full amount of the victim’s losses as deter-
11 mined by the court pursuant to paragraph (2).

12 “(2) ENFORCEMENT.—An order of restitution
13 under this section shall be issued and enforced in ac-
14 cordance with section 3664 in the same manner as
15 an order under section 3663A.

16 “(3) DEFINITION.—For purposes of this sub-
17 section, the term ‘full amount of the victim’s losses’
18 includes any costs incurred by the victim for—

19 “(A) medical services relating to physical,
20 psychiatric, or psychological care;

21 “(B) physical and occupational therapy or
22 rehabilitation;

23 “(C) necessary transportation, temporary
24 housing, and child care expenses;

25 “(D) lost income;

1 “(E) attorneys’ fees, plus any costs in-
2 curred in obtaining a civil protection order; and

3 “(F) any other losses suffered by the vic-
4 tim as a proximate result of the offense.

5 “(4) ORDER MANDATORY.—

6 “(A) The issuance of a restitution order
7 under this section is mandatory.

8 “(B) A court may not decline to issue an
9 order under this section because of—

10 “(i) the economic circumstances of the
11 defendant; or

12 “(ii) the fact that a victim has, or is
13 entitled to, receive compensation for his or
14 her injuries from the proceeds of insurance
15 or any other source.

16 “(c) TRANSFER OF CRIME VICTIM’S RIGHTS.—In the
17 case of a victim who is under 18 years of age, incompetent,
18 incapacitated, or deceased, the legal guardian of the victim
19 or representative of the victim’s estate, another family
20 member, or any other person appointed as suitable by the
21 court, may assume the crime victim’s rights under this
22 chapter, but in no event shall the defendant be named as
23 such representative or guardian.

1 **“§ 2762. Civil action**

2 “(a) IN GENERAL.—An individual who is a victim of
3 an offense under this chapter may bring a civil action
4 against the perpetrator (or whoever knowingly benefits, fi-
5 nancially or by receiving anything of value from participa-
6 tion in a venture which that person knew or should have
7 known has engaged in an act in violation of this chapter)
8 in an appropriate district court of the United States and
9 may recover damages and any other appropriate relief, in-
10 cluding reasonable attorney’s fees.

11 “(b) JOINT AND SEVERAL LIABILITY.—An individual
12 who is found liable under this section shall be jointly and
13 severally liable with each other person, if any, who is found
14 liable under this section for damages arising from the
15 same violation of this chapter.

16 “(c) STAY PENDING CRIMINAL ACTION.—

17 “(1) Any civil action filed under this section
18 shall be stayed during the pendency of any criminal
19 action arising out of the same occurrence in which
20 the claimant is the victim.

21 “(2) In this subsection, the term ‘criminal ac-
22 tion’ includes an investigation and prosecution that
23 is pending, until final adjudication in the trial court.

24 “(d) STATUTE OF LIMITATIONS.—No action may be
25 maintained under this section unless it is commenced not
26 later than the later of—

1 “(1) 10 years after the cause of action arose;

2 or

3 “(2) 10 years after the victim reaches 18 years

4 of age, if the victim was a minor at the time of the

5 alleged offense.

6 **“§ 2763. Definitions**

7 “In this chapter:

8 “(1) SEXUAL ACT.—The term ‘sexual act’

9 means—

10 “(A) any genital to genital, oral to genital,

11 anal to genital, or oral to anal contact, not

12 through the clothing;

13 “(B) the penetration, however slight, of the

14 anal or genital opening of any person by a hand

15 or finger or by any object; or

16 “(C) the intentional touching, not through

17 the clothing, of the genitalia of or by any per-

18 son.

19 “(2) COERCION.—The term ‘coercion’ means—

20 “(A) threats of serious harm to or physical

21 restraint against any person;

22 “(B) any scheme, plan, or pattern intended

23 to cause a person to believe that failure to per-

24 form an act would result in serious harm to or

25 physical restraint against any person; or

1 “(C) the abuse or threatened abuse of law
2 or the legal process.

3 “(3) SEXUAL CONTACT.—The term ‘sexual con-
4 tact’ means the intentional touching, either directly
5 or through the clothing, of the genitalia, anus, groin,
6 breast, inner thigh, or buttocks of any person, or the
7 intentional transmission or transfer of male or fe-
8 male ejaculate onto any part of another person’s
9 body.

10 “(4) PRODUCE.—The term ‘produce’ means to
11 create, make, manufacture, photograph, film, video-
12 tape, record, or transmit live a visual depiction.

13 “(5) SEXUALLY INTIMATE VISUAL DEPIC-
14 TION.—The term ‘sexually intimate visual depiction’
15 means any photograph, film, video, or other record-
16 ing or live transmission of a person, whether pro-
17 duced by electronic, mechanical, or other means (in-
18 cluding depictions stored on undeveloped film and
19 videotape, data stored on computer disk or by any
20 electronic means that is capable of conversion into a
21 visual image, and data that is capable of conversion
22 into a visual image that has been transmitted by any
23 means, whether or not stored in a permanent for-
24 mat), that depicts—

1 “(A) the naked exhibition of the anus, the
2 post-pubescent female nipple, the genitals, or
3 the pubic area of any person;

4 “(B) any actual or simulated sexual con-
5 tact or sexual act;

6 “(C) bestiality; or

7 “(D) sadistic or masochistic conduct.

8 “(6) VICTIM.—The term ‘victim’ means the in-
9 dividual harmed as a result of a commission of a
10 crime under this chapter.

11 “(7) MINOR.—The term ‘minor’ means any per-
12 son who has not attained the age of 18 years.

13 “(8) PUBLISH.—The term ‘publish’ means to
14 circulate, deliver, distribute, disseminate, transmit,
15 or otherwise make available to another person, and
16 includes the hosting or display on the internet by an
17 information content provider.

18 “(9) IMMEDIATE FAMILY MEMBER.—The term
19 ‘immediate family member’ means the addressee’s—

20 “(A) spouse, parent, legal guardian, grand-
21 parent, sibling, child, grandchild, or person for
22 whom the addressee serves as legal guardian; or

23 “(B) any other person living in the ad-
24 dressee’s household and related to the addressee
25 by blood or marriage.

1 “(10) INTIMATE PARTNER.—The term ‘intimate
2 partner’ means a person who is or has been in a so-
3 cial relationship of a romantic or intimate nature
4 with the addressee, as determined by the length of
5 the relationship, the type of relationship, and the
6 frequency of interaction between the persons in-
7 volved in the relationship.

8 “(11) COMPUTER-GENERATED SEXUALLY INTI-
9 MATE VISUAL DEPICTION.—The term ‘computer-gen-
10 erated sexually intimate visual depiction’ means a
11 depiction that has been created, adapted, or modi-
12 fied through the use of any computer technology to
13 appear to be a sexually intimate visual depiction.

14 “(12) INDISTINGUISHABLE.—The term ‘indis-
15 tinguishable’, means virtually indistinguishable, in
16 that the computer-generated sexually intimate visual
17 depiction is such that an ordinary person viewing
18 the computer-generated depiction would conclude
19 that it is an actual depiction of the addressee or of
20 an immediate family member or intimate partner of
21 the addressee. This definition does not apply to de-
22 pictions that are drawings, cartoons, sculptures, or
23 paintings depicting any person.

24 “(13) ACTUAL DEPICTION.—The term ‘actual
25 depiction’ means a depiction that has not been fab-

1 ricated or materially altered to change the appear-
2 ance or physical characteristics of the persons, ob-
3 jects, or activities depicted.

4 “(14) SERIOUS BODILY INJURY.—The term ‘se-
5 rious bodily injury’ means bodily injury that involves
6 a substantial risk of death, unconsciousness, extreme
7 physical pain, protracted and obvious disfigurement,
8 or protracted loss or impairment of the function of
9 a bodily member, organ, or mental faculty.”.

10 (b) CLERICAL AMENDMENT.—The table of chapters
11 at the beginning of part 1 of title 18, United States Code,
12 is amended adding at the end the following new item:

**“CHAPTER 124—COERCION OF SEXUAL ACTS, SEXUAL CONTACT, OR
SEXUALLY INTIMATE VISUAL DEPICTIONS”.**

13 (c) DIRECTIVE TO UNITED STATES SENTENCING
14 COMMISSION.—

15 (1) IN GENERAL.—Pursuant to its authority
16 under section 994(p) of title 28, United States Code,
17 and in accordance with this section, the United
18 States Sentencing Commission shall review and
19 amend its guidelines and its policy statements appli-
20 cable to persons convicted of an offense defined in
21 chapter 124 added to title 18, United States Code,
22 by this title, to ensure that the guidelines and policy
23 statements are consistent with those amendments
24 and reflect the intent of Congress that the guidelines

1 reflect the seriousness and great harm caused by
2 those offenses.

3 (2) CONSIDERATIONS.—In carrying out this
4 section, the United States Sentencing Commission
5 shall consider—

6 (A) the mandate of the United States Sen-
7 tencing Commission, pursuant to its authority
8 under section 994(p) of title 28, United States
9 Code, to promulgate guidelines that meet the
10 purposes of sentencing as set forth in section
11 3553(a)(2) of title 18, and in particular to en-
12 sure that sentencing courts properly consider
13 the seriousness of the offense, to promote re-
14 spect for the law, to provide just punishment
15 for the offense, to afford adequate deterrence to
16 criminal conduct, and to protect the public from
17 further crimes of the defendant; and

18 (B) the intent of Congress that the pen-
19 alties for defendants convicted of an offense
20 under that chapter are appropriately severe and
21 account for the nature of the visual depiction,
22 the acts engaged in, and the potential harm re-
23 sulting from the offense; the number and age of
24 the victims involved; and the degree to which
25 the victims have been harmed.

1 **SEC. 102. AMENDMENTS TO EXISTING STATUTORY OF-**
2 **FENSES.**

3 (a) Section 843(b)(2)(C) of title 10, United States
4 Code (Art. 43(b)(2)(C) of the Uniform Code of Military
5 Justice), is amended by inserting “, 2751(a), 2752(a), or
6 2753(a)(1)” after “section 1591”.

7 (b) Section 1001(a) of title 18, United States Code,
8 is amended by inserting “2751(a), 2752(a), or
9 2753(a)(1),” after “section 1591.”.

10 (c) Section 2251(e) of title 18, United States Code,
11 is amended by inserting “section 2751(a), section 2752(a),
12 section 2753(a)(1),” after “section 1591.”.

13 (d) Section 2252(b) of title 18, United States Code,
14 is amended—

15 (1) in subsection (1) by inserting “section
16 2751(a), section 2752(a), section 2753(a)(1),” after
17 “section 1591,”; and

18 (2) in subsection (2) by inserting “section
19 2751(a), section 2752(a), section 2753(a)(1),” after
20 “under this chapter,”.

21 (e) Section 2252A(b) of title 18, United States Code,
22 is amended—

23 (1) in subsection (1) by inserting “section
24 2751(a), section 2752(a), section 2753(a)(1),” after
25 “section 1591,”; and

1 (2) in subsection (2) by inserting “section
2 2751(a), section 2752(a), section 2753(a)(1),” after
3 “under this chapter,”.

4 (f) Section 2252A(g) of title 18, United States Code,
5 is amended by inserting “or section 2751(a), 2752(a), or
6 2753(a)(1) (involving a minor victim),” after “117 (involv-
7 ing a minor victim),”.

8 (g) Section 2255(a) of title 18, United States Code,
9 is amended—

10 (1) by striking “or” after “2422,”; and

11 (2) by inserting “, 2751(a), 2752(a), or
12 2753(a)(1)” after “2423”.

13 (h) Section 2260A of title 18, United States Code,
14 is amended—

15 (1) by striking “or” after “2423,”; and

16 (2) by inserting “2751(a), 2752(a), or
17 2753(a)(1),” after “2425,”.

18 (i) Section 2426(b)(1)(A) of title 18, United States
19 Code, is amended—

20 (1) by striking “or” after “chapter 110,”; and

21 (2) by inserting “, section 2751(a), section
22 2752(a), or section 2753(a)(1)” after “section
23 1591”.

24 (j) Section 2516(1)(c) of title 18, United States Code,
25 is amended by inserting “sections 2751, 2752, 2753,

1 2754, and 2755 (relating to coercion of sexual acts and
2 related crimes),” after “2425 (relating to transportation
3 for illegal sexual activity and related crimes),”.

4 (k) Section 3014(a) of title 18, United States Code,
5 is amended—

6 (1) by redesignating subsection (5) as sub-
7 section (6);

8 (2) in subsection (4), by striking “or” at the
9 end; and

10 (3) by inserting after subsection (4) the fol-
11 lowing:

12 “(5) section 2751(a), 2752(a), or 2753(a) (re-
13 lating to coercion of sexual acts and related crimes);
14 or”.

15 (l) Section 3142 of title 18, United States Code, is
16 amended—

17 (1) in subsection (c)—

18 (A) by striking “or” after “2423,”; and

19 (B) by inserting “, 2751(a), 2752(a), or
20 2753(a)(1)” after “2425”; and

21 (2) in subsection (e)(3)(E)—

22 (A) by striking “or” after “2423,”; and

23 (B) by inserting “, 2751(a), 2752(a), or
24 2753(a)(1)” after “2425”.

1 (m) Section 3156(a)(4)(C) of title 18, United States
2 Code, is amended by inserting “section 2751(a), 2752(a),
3 2753(a)(1), or” after “any felony under”.

4 (n) Section 3282(b) of title 18, United States Code,
5 is amended—

6 (1) in paragraph (1), by inserting “, section
7 2751(a), or section 2753(a)(1)” after “chapter
8 109A”; and

9 (2) in paragraph (2), by inserting “, section
10 2751(a), or section 2753(a)(1)” after “chapter
11 109A”.

12 (o) Section 3299 of title 18, United States Code, is
13 amended by inserting “, 2751(a), 2752(a), or 2753(a)(1)”
14 after “section 1591”.

15 (p) Section 3553(b)(2)(A) of title 18, United States
16 Code, is amended by inserting “2751(a), 2752(a), or
17 2753(a),” after “section 1591,”.

18 (q) Section 3559(e)(2)(F)(i) of title 18, United
19 States Code, is amended by inserting “coerced sexual act
20 (as described in sections 2751(a) and 2753(a)(1));” after
21 “sexual abuse (as described in sections 2241 and 2242)”.

22 (r) Section 3559(e)(2)(A) of title 18, United States
23 Code, is amended—

1 (1) by striking “or” after “2422(b) (relating to
2 coercion and enticement of a minor into prostitu-
3 tion),”; and

4 (2) by inserting “, or 2751(a) and 2753(a)(1)
5 (relating to coercion of sexual acts);” after “2423(a)
6 (relating to transportation of minors)”.

7 (s) Section 3583(k) of title 18, United States Code,
8 is amended—

9 (1) by striking “or” after “2423,”;

10 (2) by inserting “, 2751(a), 2752(a), or
11 2753(a)(1)” after “2425”;

12 (3) by striking “or” after “section 1201,” the
13 second place it occurs; and

14 (4) by inserting “2751(a), 2752(a), or
15 2753(a)(1),” after “1591,” the second place it oc-
16 curs.

17 (t) Section 2(1) of the PROTECT Our Children Act
18 of 2008 (42 U.S.C. 17601(1)) is amended—

19 (1) by striking “and” after “chapter 110,”; and

20 (2) by inserting “, and chapter 124” after
21 “chapter 117”.

1 **TITLE II—INTERSTATE**
2 **SWATTING HOAX**

3 **SEC. 201. FALSE COMMUNICATIONS TO CAUSE AN EMER-**
4 **GENCY RESPONSE.**

5 (a) IN GENERAL.—Chapter 47 of title 18, United
6 States Code, is amended by adding at the end the fol-
7 lowing new section:

8 **“§ 1041. False communications to cause an emergency**
9 **response**

10 “(a) CRIMINAL VIOLATION.—Whoever, in the ab-
11 sence of circumstances reasonably requiring an emergency
12 response, uses the mail or any facility or means of inter-
13 state or foreign commerce to knowingly transmit false or
14 misleading information that would reasonably be expected
15 to cause an emergency response, shall—

16 “(1) if an emergency response results, be fined
17 under this title or imprisoned not more than 5 years,
18 or both;

19 “(2) if serious bodily injury (as defined in sec-
20 tion 1365) results, be fined under this title or im-
21 prisoned not more than 20 years, or both;

22 “(3) if death results, be fined under this title
23 or imprisoned for any number of years or for life,
24 or both; and

1 “(4) in any other case, be fined under this title
2 or imprisoned not more than 1 year, or both.

3 “(b) CIVIL ACTION.—

4 “(1) IN GENERAL.—Any party incurring dam-
5 ages incident to an offense under this section may
6 bring a civil action against the perpetrator in an ap-
7 propriate district court of the United States and
8 may recover damages and any other appropriate re-
9 lief, including reasonable attorney’s fees.

10 “(2) JOINT AND SEVERAL LIABILITY.—An indi-
11 vidual who is found liable under this subsection shall
12 be jointly and severally liable with each other person,
13 if any, who is found liable under this subsection for
14 damages arising from the same violation of this sec-
15 tion.

16 “(3) STAY PENDING CRIMINAL ACTION.—

17 “(A) Any civil action filed under this sub-
18 section shall be stayed during the pendency of
19 any criminal action arising out of the same oc-
20 currence in which the claimant is the victim.

21 “(B) In this subsection, the term ‘criminal
22 action’ includes an investigation and prosecu-
23 tion that is pending, until final adjudication in
24 the trial court.

25 “(c) REIMBURSEMENT.—

1 “(1) IN GENERAL.—The court, in imposing a
2 sentence on a defendant convicted of an offense
3 under subsection (a), shall order the defendant to
4 reimburse any party, any State or local government,
5 or any private not-for-profit organization that pro-
6 vides fire or rescue service incurring expenses inci-
7 dent to any emergency response necessitated by such
8 offense.

9 “(2) LIABILITY.—A person ordered to make re-
10 imbursement under this subsection shall be jointly
11 and severally liable for such expenses with each
12 other person, if any, who is ordered to make reim-
13 bursement under this subsection for the same ex-
14 penses.

15 “(3) CIVIL JUDGMENT.—An order of reim-
16 bursement under this subsection shall, for the pur-
17 poses of enforcement, be treated as a civil judgment.

18 “(d) DEFINITIONS.—In this section:

19 “(1) EMERGENCY RESPONSE.—The term ‘emer-
20 gency response’ means any deployment of personnel
21 or equipment, order or advice to evacuate, or
22 issuance of a warning to the public or a threatened
23 person, organization, or establishment, by an agency
24 of the United States or a State charged with public
25 safety functions, including any agency charged with

1 detecting, preventing, or investigating crimes or with
 2 fire or rescue functions, or by a private not-for-profit
 3 organization that provides fire or rescue service.

4 “(2) STATE.—The term ‘State’ means each of
 5 the several States, the District of Columbia, each
 6 commonwealth, territory, or possession of the United
 7 States, and each federally recognized Indian tribe.”.

8 (b) TECHNICAL AMENDMENT.—The table of sections
 9 for chapter 47 of title 18, United States Code, is amended
 10 by adding at the end the following new item:

“1041. False communications to cause an emergency response.”.

11 **TITLE III—INTERSTATE**
 12 **DOXXING PREVENTION**

13 **SEC. 301. DISCLOSURE OF PERSONAL INFORMATION WITH**
 14 **THE INTENT TO CAUSE HARM.**

15 (a) IN GENERAL.—Chapter 41 of title 18, United
 16 States Code, is amended by adding at the end the fol-
 17 lowing:

18 **“§ 881. Publication of personally identifiable informa-**
 19 **tion with the intent to cause harm**

20 “(a) CRIMINAL VIOLATION.—Whoever uses the mail
 21 or any facility or means of interstate or foreign commerce,
 22 to knowingly publish a person’s personally identifiable in-
 23 formation—

24 “(1) with the intent to threaten, intimidate, or
 25 harass any person, incite or facilitate the commis-

1 sion of a crime of violence against any person, or
2 place any person in reasonable fear of death or seri-
3 ous bodily injury; or

4 “(2) with the intent that the information will be
5 used to threaten, intimidate, or harass any person,
6 incite or facilitate the commission of a crime of vio-
7 lence against any person, or place any person in rea-
8 sonable fear of death or serious bodily injury,
9 shall be fined under this title or imprisoned not more than
10 5 years, or both.

11 “(b) CIVIL ACTION.—

12 “(1) IN GENERAL.—An individual who is a vic-
13 tim of an offense under this section may bring a civil
14 action against the perpetrator in an appropriate dis-
15 trict court of the United States and may recover
16 damages and any other appropriate relief, including
17 reasonable attorney’s fees.

18 “(2) JOINT AND SEVERAL LIABILITY.—An indi-
19 vidual who is found liable under this subsection shall
20 be jointly and severally liable with each other person,
21 if any, who is found liable under this subsection for
22 damages arising from the same violation of this sec-
23 tion.

24 “(3) STAY PENDING CRIMINAL ACTION.—

1 “(A) Any civil action filed under this sub-
2 section shall be stayed during the pendency of
3 any criminal action arising out of the same oc-
4 currence in which the claimant is the victim.

5 “(B) In this subsection, the term ‘criminal
6 action’ includes an investigation and prosecu-
7 tion that is pending, until final adjudication in
8 the trial court.

9 “(c) DEFINITIONS.—In this section:

10 “(1) PUBLISH.—The term ‘publish’ means to
11 circulate, deliver, distribute, disseminate, transmit,
12 or otherwise make available to another person.

13 “(2) CRIME OF VIOLENCE.—The term ‘crime of
14 violence’ has the meaning given the term in section
15 16.

16 “(3) PERSONALLY IDENTIFIABLE INFORMA-
17 TION.—The term ‘personally identifiable informa-
18 tion’ means—

19 “(A) any information that can be used to
20 distinguish or trace an individual’s identity,
21 such as name, prior legal name, alias, mother’s
22 maiden name, social security number, date or
23 place of birth, address, phone number, or bio-
24 metric data;

1 “(B) any information that is linked or
2 linkable to an individual, such as medical, fi-
3 nancial, education, consumer, or employment
4 information, data, or records; or

5 “(C) any other sensitive private informa-
6 tion that is linked or linkable to a specific iden-
7 tifiable individual, such as gender identity, sex-
8 ual orientation, or any sexually intimate visual
9 depiction.

10 “(4) SEXUALLY INTIMATE VISUAL DEPIC-
11 TION.—The term ‘sexually intimate visual depiction’
12 means any photograph, film, video, or other record-
13 ing or live transmission of a person, whether pro-
14 duced by electronic, mechanical, or other means (in-
15 cluding depictions stored on undeveloped film and
16 videotape, data stored on computer disk or by any
17 electronic means that is capable of conversion into a
18 visual image, and data that is capable of conversion
19 into a visual image that has been transmitted by any
20 means, whether or not stored in a permanent for-
21 mat), that depicts—

22 “(A) the naked exhibition of the anus, the
23 post-pubescent female nipple, the genitals, or
24 the pubic area of any person;

1 “(B) any actual or simulated sexual con-
2 tact or sexual act (as defined in section 2763);

3 “(C) bestiality; or

4 “(D) sadistic or masochistic conduct.

5 “(d) ATTEMPT.—An attempt to violate this section
6 shall be punishable in the same manner as a completed
7 violation of this section.

8 “(e) ACTIVITIES OF LAW ENFORCEMENT.—This sec-
9 tion does not prohibit any lawfully authorized investiga-
10 tive, protective, or intelligence activity of a law enforce-
11 ment agency of the United States, a State, or political sub-
12 division of a State, or of an intelligence agency of the
13 United States.”.

14 (b) CLERICAL AMENDMENT.—The table of sections
15 at the beginning of chapter 41 title 18, United States
16 Code, is amended by adding at the end the following new
17 item:

“881. Publication of personally identifiable information with the intent to cause
harm.”.

18 **TITLE IV—CYBERCRIME**
19 **STATISTICS**

20 **SEC. 401. NATIONAL STRATEGY, CLASSIFICATION, AND RE-**
21 **PORTING ON CYBERCRIME.**

22 (a) NATIONAL STRATEGY.—The Attorney General
23 shall develop a national strategy to reduce the incidence
24 of cybercrimes against individuals, coordinate investiga-

1 tions of cybercrimes against individuals by Federal law en-
2 forcement agencies, and increase the number of Federal
3 prosecutions of cybercrimes against individuals.

4 (b) CLASSIFICATION OF CYBERCRIMES AGAINST IN-
5 DIVIDUALS FOR PURPOSES OF CRIME REPORTS.—Pursu-
6 ant to authority under section 534 of title 28, United
7 States Code, the Director of the Federal Bureau of Inves-
8 tigation shall—

9 (1) design and create within the Uniform Crime
10 Reports a category for offenses that constitute
11 cybercrimes against individuals;

12 (2) to the extent feasible, within the category
13 established pursuant to paragraph (1), establish sub-
14 categories for each type of cybercrime against an in-
15 dividual which is an offense under Federal or State
16 law;

17 (3) classify the category established pursuant to
18 paragraph (1) as a Part 1 crime in the Uniform
19 Crime Reports; and

20 (4) classify each type of cybercrime against an
21 individual which is an offense under Federal or
22 State law as a Group A offense for the purpose of
23 the National Incident-Based Reporting System.

24 (c) ANNUAL SUMMARY.—The Attorney General shall
25 publish an annual summary of the information reported

1 in the Uniform Crime Reports and the National Incident-
2 Based Reporting System relating to cybercrimes against
3 individuals.

4 (d) DEFINITIONS.—In this section:

5 (1) The term “cybercrimes against individuals”
6 means Federal, State, or local criminal offenses that
7 involve the use of a computer to cause personal
8 harm to an individual, such as the use of a computer
9 to harass, threaten, stalk, extort, coerce, cause fear,
10 intimidate, without consent distribute intimate im-
11 ages of, or violate the privacy of, an individual, ex-
12 cept that—

13 (A) use of a computer need not be an ele-
14 ment of such an offense; and

15 (B) such term does not include the use of
16 a computer to cause harm to a commercial enti-
17 ty, government agency, or any non-natural per-
18 sons.

19 (2) The term “computer” includes a computer
20 network and any interactive electronic device.

1 **TITLE V—PRIORITIZING ONLINE**
2 **THREAT ENFORCEMENT**

3 **SEC. 501. IMPROVED INVESTIGATIVE AND FORENSIC RE-**
4 **SOURCES FOR ENFORCEMENT OF LAWS RE-**
5 **LATED TO CYBERCRIMES AGAINST INDIVID-**
6 **UALS.**

7 (a) IN GENERAL.—Subject to the availability of ap-
8 propriations to carry out this subsection, the Attorney
9 General, in consultation with the Director of the Federal
10 Bureau of Investigation, shall, with respect to cybercrimes
11 against individuals—

12 (1) ensure that there are at least 10 additional
13 operational agents of the Federal Bureau of Inves-
14 tigation designated to support the Criminal Division
15 of the Department of Justice in the investigation
16 and coordination of cybercrimes against individuals;

17 (2) ensure that each office of a United States
18 Attorney designates at least 1 Assistant United
19 States Attorney as responsible for investigating and
20 prosecuting cybercrimes against individuals; and

21 (3) ensure the implementation of a regular and
22 comprehensive training program—

23 (A) the purpose of which is to train agents
24 of the Federal Bureau of Investigation in the
25 investigation and prosecution of such crimes

1 and the enforcement of laws related to
2 cybercrimes against individuals; and

3 (B) that includes relevant forensic training
4 related to investigating and prosecuting
5 cybercrimes against individuals.

6 (b) ADDITIONAL FUNDING FOR RESOURCES.—

7 (1) AUTHORIZATION.—In addition to amounts
8 otherwise authorized for resources to investigate and
9 prosecute criminal activity, there are authorized to
10 be appropriated to carry out this section \$4,000,000
11 for each of fiscal years 2018 through 2022.

12 (2) AVAILABILITY.—Any amounts appropriated
13 under paragraph (1) shall remain available until ex-
14 pended.

15 (3) USE OF ADDITIONAL FUNDING.—Funds
16 made available under this subsection shall be used
17 by the Director of the Federal Bureau of Investiga-
18 tion and the Attorney General, for the Federal Bu-
19 reau of Investigation and the Criminal Division of
20 the Department of Justice, respectively, to—

21 (A) hire and train law enforcement officers
22 to—

23 (i) investigate cybercrimes against
24 person; and

1 (ii) assist in the prosecution of such
2 crimes; and

3 (B) enable relevant units of the Depart-
4 ment of Justice, including units responsible for
5 investigating cybercrimes against individuals, to
6 procure advanced tools of forensic science and
7 expert computer forensic assistance, including
8 from nongovernmental entities, to investigate,
9 prosecute, and study such crimes.

10 **SEC. 502. ANNUAL REPORTS.**

11 (a) REPORT OF THE ATTORNEY GENERAL.—Not
12 later than 1 year after the date of the enactment of this
13 Act, and annually thereafter, the Attorney General shall
14 submit a report to Congress on actions taken to carry out
15 this title. The initial report required under this subsection
16 shall be submitted by May 1, 2018. All subsequent annual
17 reports shall be submitted by May 1st of each fiscal year
18 thereafter. The report required under this subsection may
19 be submitted as part of the annual performance report of
20 the Department of Justice, and shall include, with respect
21 to the authorizations under section 501, the following:

22 (1) The number of law enforcement officers
23 hired and trained.

1 (2) The number and type of investigations and
2 prosecutions resulting from law enforcement officers
3 designated to cybercrimes against individuals.

4 (3) The advanced tools of forensic science pro-
5 cured to investigate, prosecute, and study
6 cybercrimes against individuals.

7 **SEC. 503. DEFINITION OF CYBERCRIMES AGAINST INDIVID-**
8 **UALS.**

9 The term “cybercrimes against individuals” means
10 Federal, State, or local criminal offenses that involve the
11 use of a computer to cause personal harm to an individual,
12 such as the use of a computer to harass, threaten, stalk,
13 extort, coerce, cause fear, intimidate, without consent dis-
14 tribute intimate images of, or violate the privacy of, an
15 individual, except that—

16 (1) use of a computer need not be an element
17 of such an offense; and

18 (2) such term does not include the use of a
19 computer to cause harm to a commercial entity, gov-
20 ernment agency, or any non-natural persons.

1 **TITLE VI—CYBERCRIME EN-**
2 **FORCEMENT TRAINING AS-**
3 **SISTANCE**

4 **SEC. 601. LOCAL LAW ENFORCEMENT GRANTS.**

5 (a) IN GENERAL.—Subject to the availability of ap-
6 propriations, the Attorney General shall award grants
7 under this section to States and units of local government
8 for the prevention, enforcement, and prosecution of
9 cybercrimes against individuals.

10 (b) APPLICATION.—

11 (1) IN GENERAL.—To request a grant under
12 this section, the chief executive officer of a State or
13 unit of local government shall submit an application
14 to the Attorney General within 90 days after the
15 date on which funds to carry out this section are ap-
16 propriated for a fiscal year, in such form as the At-
17 torney General may require. Such application shall
18 include the following:

19 (A) A certification that Federal funds
20 made available under this section will not be
21 used to supplant State or local funds, but will
22 be used to increase the amounts of such funds
23 that would, in the absence of Federal funds, be
24 made available for law enforcement activities.

1 (B) An assurance that, not fewer than 30
2 days before the application (or any amendment
3 to the application) was submitted to the Attor-
4 ney General, the application (or amendment)
5 was submitted for review to the governing body
6 of the State or unit of local government (or to
7 an organization designated by that governing
8 body).

9 (C) An assurance that, before the applica-
10 tion (or any amendment to the application) was
11 submitted to the Attorney General—

12 (i) the application (or amendment)
13 was made public; and

14 (ii) an opportunity to comment on the
15 application (or amendment) was provided
16 to citizens and to neighborhood or commu-
17 nity-based organizations, to the extent ap-
18 plicable law or established procedure
19 makes such an opportunity available.

20 (D) An assurance that, for each fiscal year
21 covered by an application, the applicant shall
22 maintain and report such data, records, and in-
23 formation (programmatic and financial) as the
24 Attorney General may reasonably require.

1 (E) A certification, made in a form accept-
2 able to the Attorney General and executed by
3 the chief executive officer of the applicant (or
4 by another officer of the applicant, if qualified
5 under regulations promulgated by the Attorney
6 General), that—

7 (i) the programs to be funded by the
8 grant meet all the requirements of this sec-
9 tion;

10 (ii) all the information contained in
11 the application is correct;

12 (iii) there has been appropriate co-
13 ordination with affected agencies; and

14 (iv) the applicant will comply with all
15 provisions of this section and all other ap-
16 plicable Federal laws.

17 (F) A certification that the State or in the
18 case of a unit of local government, the State in
19 which the unit of local government is located,
20 has in effect criminal laws which prohibit
21 cybercrimes against individuals.

22 (G) A certification that any equipment de-
23 scribed in subsection (e)(7) purchased using
24 grant funds awarded under this section will be
25 used primarily for investigations and forensic

1 analysis of evidence in matters involving
2 cybercrimes against individuals.

3 (c) USE OF FUNDS.—Grants awarded under this sec-
4 tion may only be used for programs that provide—

5 (1) training for State or local law enforcement
6 personnel relating to cybercrimes against individuals,
7 including—

8 (A) training such personnel to identify and
9 protect victims of cybercrimes against individ-
10 uals;

11 (B) training such personnel to utilize Fed-
12 eral, State, local, and other resources to assist
13 victims of cybercrimes against individuals;

14 (C) training such personnel to identify and
15 investigate cybercrimes against individuals;

16 (D) training such personnel to enforce and
17 utilize the laws that prohibit cybercrimes
18 against individuals;

19 (E) training such personnel to utilize tech-
20 nology to assist in the investigation of
21 cybercrimes against individuals and enforce-
22 ment of laws that prohibit such crimes; and

23 (F) the payment of overtime incurred as a
24 result of such training;

1 (2) training for State or local prosecutors,
2 judges, and judicial personnel, relating to
3 cybercrimes against individuals, including—

4 (A) training such personnel to identify, in-
5 vestigate, prosecute, or adjudicate cybercrimes
6 against individuals;

7 (B) training such personnel to utilize laws
8 that prohibit cybercrimes against individuals;

9 (C) training such personnel to utilize Fed-
10 eral, State, local, and other resources to assist
11 victims of cybercrimes against individuals; and

12 (D) training such personnel to utilize tech-
13 nology to assist in the prosecution or adjudica-
14 tion of acts of cybercrimes against individuals,
15 including the use of technology to protect vic-
16 tims of such crimes;

17 (3) training for State or local emergency dis-
18 patch personnel relating to cybercrimes against indi-
19 viduals, including—

20 (A) training such personnel to identify and
21 protect victims of cybercrimes against individ-
22 uals;

23 (B) training such personnel to utilize Fed-
24 eral, State, local, and other resources to assist
25 victims of cybercrimes against individuals;

1 (C) training such personnel to utilize tech-
2 nology to assist in the identification of and re-
3 sponse to cybercrimes against individuals; and

4 (D) the payment of overtime incurred as a
5 result of such training;

6 (4) assistance to State or local law enforcement
7 agencies in enforcing laws that prohibit cybercrimes
8 against individuals, including expenses incurred in
9 performing enforcement operations, such as overtime
10 payments;

11 (5) assistance to State or local law enforcement
12 agencies in educating the public in order to prevent,
13 deter, and identify violations of laws that prohibit
14 cybercrimes against individuals;

15 (6) assistance to State or local law enforcement
16 agencies to establish task forces that operate solely
17 to conduct investigations, forensic analyses of evi-
18 dence, and prosecutions in matters involving
19 cybercrimes against individuals;

20 (7) assistance to State or local law enforcement
21 and prosecutors in acquiring computers, computer
22 equipment, and other equipment necessary to con-
23 duct investigations and forensic analysis of evidence
24 in matters involving cybercrimes against individuals,
25 including expenses incurred in the training, mainte-

1 nance, or acquisition of technical updates necessary
2 for the use of such equipment for the duration of a
3 reasonable period of use of such equipment;

4 (8) assistance in the facilitation and promotion
5 of sharing, with State and local law enforcement of-
6 ficers and prosecutors, of the expertise and informa-
7 tion of Federal law enforcement agencies about the
8 investigation, analysis, and prosecution of matters
9 involving laws that prohibit cybercrimes against indi-
10 viduals, including the use of multijurisdictional task
11 forces; or

12 (9) assistance to State and local law enforce-
13 ment and prosecutors in processing interstate extra-
14 dition requests for violations of laws involving
15 cybercrimes against individuals, including expenses
16 incurred in the extradition of an offender from one
17 State to another.

18 (d) REPORT TO THE SECRETARY.—On the date that
19 is one year after the date on which a State or unit of local
20 government receives a grant under this section, and annu-
21 ally thereafter, the chief executive of such State or unit
22 of local government shall submit to the Attorney General
23 a report which contains—

1 (1) a summary of the activities carried out dur-
2 ing the previous year with any grant received by
3 such State or unit of local government;

4 (2) an evaluation of the results of such activi-
5 ties; and

6 (3) such other information as the Attorney
7 General may reasonably require.

8 (e) REPORT TO CONGRESS.—Not later than Novem-
9 ber 1 of each even-numbered fiscal year, the Attorney
10 General shall submit to the Committee on the Judiciary
11 of the House of Representatives and the Committee on
12 the Judiciary of the Senate a report that contains a com-
13 pilation of the information contained in the report sub-
14 mitted under subsection (d).

15 (f) AUTHORIZATION OF APPROPRIATIONS.—

16 (1) IN GENERAL.—There are authorized to be
17 appropriated to carry out this section \$20,000,000
18 for each of fiscal years 2018 through 2022.

19 (2) LIMITATION.—Of the amount made avail-
20 able under paragraph (1) in any fiscal year, not
21 more than 5 percent may be used for evaluation,
22 monitoring, technical assistance, salaries, and ad-
23 ministrative expenses.

24 (g) DEFINITIONS.—In this section:

1 (1) The term “cybercrimes against individuals”
2 means the criminal offenses applicable in the rel-
3 evant State or unit of local government that involve
4 the use of a computer to cause personal harm to an
5 individual, such as the use of a computer to harass,
6 threaten, stalk, extort, coerce, cause fear, intimidate,
7 without consent distribute intimate images of, or vio-
8 late the privacy of, an individual, except that—

9 (A) use of a computer need not be an ele-
10 ment of such an offense; and

11 (B) such term does not include the use of
12 a computer to cause harm to a commercial enti-
13 ty, government agency, or any non-natural per-
14 sons.

15 (2) The term “computer” includes a computer
16 network and an interactive electronic device.

17 **SEC. 602. NATIONAL RESOURCE CENTER GRANT.**

18 (a) IN GENERAL.—Subject to the availability of ap-
19 propriations, the Attorney General shall award a grant
20 under this section to an eligible entity for the purpose of
21 the establishment and maintenance of a National Re-
22 source Center on Cybercrimes Against Individuals to pro-
23 vide resource information, training, and technical assist-
24 ance to improve the capacity of individuals, organizations,

1 governmental entities, and communities to prevent, en-
2 force, and prosecute cybercrimes against individuals.

3 (b) APPLICATION.—To request a grant under this
4 section, an eligible entity shall submit an application to
5 the Attorney General not later than 90 days after the date
6 on which funds to carry out this section are appropriated
7 for fiscal year 2018 in such form as the Attorney General
8 may require. Such application shall include the following:

9 (1) An assurance that, for each fiscal year cov-
10 ered by an application, the applicant shall maintain
11 and report such data, records, and information (pro-
12 grammatic and financial) as the Attorney General
13 may reasonably require.

14 (2) A certification, made in a form acceptable
15 to the Attorney General, that—

16 (A) the programs funded by the grant
17 meet all the requirements of this section;

18 (B) all the information contained in the
19 application is correct; and

20 (C) the applicant will comply with all pro-
21 visions of this section and all other applicable
22 Federal laws.

23 (c) USE OF FUNDS.—The eligible entity awarded a
24 grant under this section shall use such amounts for the

1 establishment and maintenance of a National Resource
2 Center on Cybercrimes Against Individuals, which shall—

3 (1) offer a comprehensive array of technical as-
4 sistance and training resources to Federal, State,
5 and local governmental agencies, community-based
6 organizations, and other professionals and interested
7 parties, related to cybercrimes against individuals,
8 including programs and research related to victims;

9 (2) maintain a resource library which shall col-
10 lect, prepare, analyze, and disseminate information
11 and statistics related to—

12 (A) the incidence of cybercrimes against
13 individuals;

14 (B) the enforcement, and prosecution of
15 laws relating to cybercrimes against individuals;
16 and

17 (C) the provision of supportive services and
18 resources for victims of cybercrimes against in-
19 dividuals; and

20 (3) conduct research related to—

21 (A) the causes of cybercrimes against indi-
22 viduals;

23 (B) the effect of cybercrimes against indi-
24 viduals on victims of such crimes; and

1 (C) model solutions to prevent or deter
2 cybercrimes against individuals or to enforce
3 the laws relating to cybercrimes against individ-
4 uals.

5 (d) DURATION OF GRANT.—

6 (1) IN GENERAL.—The grant awarded under
7 this section shall be awarded for a period of 5 years.

8 (2) RENEWAL.—A grant under this section may
9 be renewed for additional 5-year periods if the At-
10 torney General determines that the funds made
11 available to the recipient were used in a manner de-
12 scribed in subsection (c), and if the recipient resub-
13 mits an application described in subsection (b) in
14 such form, and at such time as the Attorney General
15 may reasonably require.

16 (e) SUBGRANTS.—The eligible entity awarded a grant
17 under this section may make subgrants to other nonprofit
18 private organizations with relevant subject matter exper-
19 tise in order to establish and maintain the National Re-
20 source Center on Cybercrimes Against Individuals in ac-
21 cordance with subsection (c).

22 (f) REPORT TO THE SECRETARY.—On the date that
23 is one year after the date on which an eligible entity re-
24 ceives a grant under this section, and annually thereafter

1 for the duration of the grant period, the entity shall sub-
2 mit to the Attorney General a report which contains—

3 (1) a summary of the activities carried out
4 under the grant program during the previous year;

5 (2) an evaluation of the results of such activi-
6 ties; and

7 (3) such other information as the Attorney
8 General may reasonably require.

9 (g) REPORT TO CONGRESS.—Not later than Novem-
10 ber 1 of each even-numbered fiscal year, the Attorney
11 General shall submit to the Committee on the Judiciary
12 of the House of Representatives and the Committee on
13 the Judiciary of the Senate a report that contains a com-
14 pilation of the information contained in the report sub-
15 mitted under subsection (d).

16 (h) AUTHORIZATION OF APPROPRIATIONS.—There
17 are authorized to be appropriated to carry out this section
18 \$4,000,000 for each of fiscal years 2018 through 2022.

19 (i) DEFINITIONS.—In this section:

20 (1) CYBERCRIMES AGAINST INDIVIDUALS.—The
21 term “cybercrimes against individuals” has the
22 meaning given such term in section 601(g).

23 (2) ELIGIBLE ENTITY.—The term “eligible enti-
24 ty” means a nonprofit private organization that fo-
25 cuses on cybercrimes against individuals and that—

1 (A) provides documentation to the Attor-
2 ney General demonstrating experience working
3 directly on issues of cybercrimes against indi-
4 viduals; and

5 (B) includes on the entity’s advisory board
6 representatives who have a documented history
7 of working directly on issues of cybercrimes
8 against individuals and who are geographically
9 and culturally diverse.

○

No. 13-983

IN THE
Supreme Court of the United States

ANTHONY D. ELONIS,
Petitioner,

v.

UNITED STATES OF AMERICA,
Respondent.

**On Writ of Certiorari to the United States
Court of Appeals for the Third Circuit**

**BRIEF *AMICUS CURIAE* OF
THE ANTI-DEFAMATION LEAGUE
IN SUPPORT OF RESPONDENT**

STEVE M. FREEMAN
LAUREN A. JONES
SETH M. MARNIN
ANTI-DEFAMATION LEAGUE
605 Third Avenue, 10th
Floor.
New York, N.Y. 10158
(212) 885-7700

CHRISTOPHER WOLF*
KEITH O'DOHERTY
ARTHUR KIM
HOGAN LOVELLS US LLP
555 Thirteenth Street, N.W.
Washington, D.C. 20004
(202) 637-5719
christopher.wolf@hoganlovells.com

Counsel for Amici Curiae

*Counsel of Record

(Additional counsel listed on inside cover)

Additional Counsel:

FREDERICK M. LAWRENCE
BRANDEIS UNIVERSITY
PRESIDENT AND PROFESSOR
OF POLITICS
415 South Street, M/S 100
Waltham, MA 02453-2728
(718) 736-3009

Of Counsel

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**STATEMENT OF INTEREST OF
AMICUS CURIAE**

The Anti-Defamation League (ADL)¹ was founded in 1913 to combat anti-Semitism and other forms of

¹ No counsel for any party authored this brief in whole or in part, and no person or entity, other than the amici curiae and their members, made a monetary contribution to the prepara-

discrimination, to advance goodwill and mutual understanding among Americans of all creeds and races, and to secure justice and fair treatment for all. Today, ADL is one of the world's leading civil and human rights organizations, combating all types of prejudice and working to eradicate hate both online and offline. ADL has long played a leading role in raising awareness about hate on the Internet and working with major industry providers to address the challenge it poses. In September 2014, ADL released Best Practices for Responding to CyberHate, an initiative establishing guideposts for the Internet community to help prevent the spread of hate online.² This initiative was embraced by Facebook, Google/YouTube, Microsoft, Twitter, and Yahoo, reflecting the industry's concern about the growing problem of online hate speech, including anti-Semitism, anti-Muslim bigotry, racism, homophobia, misogyny, xenophobia, and other forms of online hate.

ADL is also a leader in developing anti-cyberbullying training, curriculum, and resources for youth, educators, youth providers, and adult family members. After authoring a model cyberbullying prevention statute, ADL created CyberALLY, a cyberbullying prevention program for middle and high school students, and Internet Guidelines for Families to help keep adolescents safe online.

tion and submission of this brief. This brief is filed with the consent of the parties, whose letters of consent have been filed with the Clerk.

² The Best Practices are available at <http://www.adl.org/cyberhatebestpractices>.

As a civil rights advocacy organization, ADL is committed to the preservation of democratic freedoms and the constitutional rights that gird them, including the rights to freedom of speech and freedom of expression. ADL's mission and work make it keenly aware of the importance of effectively distinguishing between speech protected by the First Amendment and unlawful true threats. By properly allowing a fact finder to consider the entire context of a case, an objective inquiry achieves this goal.

SUMMARY OF ARGUMENT

Using a reasonable-person, objective inquiry to determine whether threats are “true threats” remains faithful to the purpose of the true threat exception to the First Amendment – protecting individuals from fear of violence and the disruption caused by such fear, while at the same time avoiding unnecessarily chilling speech. The plain language of the statute at issue, 18 U.S.C. § 875(c), makes unlawful “*any* threat to injure the person of another.” (emphasis added.) Because the jury in this case found that petitioner’s Facebook posts conveyed an objective intent to harm his wife, local law enforcement, elementary school children, and an FBI agent, his conduct plainly fell within the scope of “any threat.”

The First Amendment does not change that analysis. This Court long has recognized that the State may punish “true threats,” including a “serious expression of an intent to commit an act of unlawful violence to a particular individual or group of individuals,” even when the speaker does not actually intend to carry out the threat. *Virginia v. Black*, 538

U.S. 343, 360 (2003). True threats fall outside the protections of the First Amendment because a prohibition on such speech “protects individuals from the fear of violence” and “from the disruption that fear engenders,” in addition to protecting people “from the possibility that the threatened violence will occur.” *Id.* (citing *R.A.V. v. City of St. Paul*, 505 U.S. 377, 388 (1992)).

An objective intent inquiry more effectively distinguishes true threats from constitutionally protected speech. As noted, fear of violence and the resulting societal disruption distinguish true threats from protected speech. *Id.* Thus, a test that accurately and effectively identifies true threats should focus on whether the speech at issue creates such fear and disruption. An objective test has this proper focus. It allows a fact finder to consider the full circumstances, such as the impact on the audience and historical context, and to weigh all the evidence, including information about the speaker’s state of mind. With all this in mind, a fact finder then determines if the speech at issue has reasonably created the fear and disruption that separates true threats from protected speech. By contrast, improperly focusing on subjective intent treats a subset of disruptive speech – that which lacks proof of subjective intent – as protected speech. Accordingly, by not focusing solely on a speaker’s state of mind, an objective inquiry more effectively separates protected speech from true threats.

An objective inquiry does not unnecessarily chill speech. By proscribing speech that instills fear in a target and causes societal disruption, rather than focusing on a hard-to-discern state of mind, an

objective test creates a more predictable standard. This predictability reduces any potential chilling effect. In addition, there is no liability under an objective inquiry for unforeseeable or unreasonable audience reactions.

This Court has never found that the First Amendment requires proof of subjective intent for true threat liability. True threats made with subjective intent are only one “type” of true threat. *Black*, 538 U.S. at 360. A government may choose, as it has in the past, to proscribe only this type of true threat. *See id.*; *Watts v. U.S.*, 394 U.S. 705, 706 (1969). The statute at issue here, however, prohibits “any threat,” not just those accompanied by proof of subjective intent. 18 U.S.C. § 875(c). Accordingly, requiring proof of subjective intent would unnecessarily limit the plain language of the statute.

Because an objective test effectively distinguishes between unlawful true threats and protected speech, this Court should affirm.

ARGUMENT

I. TRUE THREATS FALL OUTSIDE FIRST AMENDMENT PROTECTIONS.

Free speech is a cornerstone of American democracy. Our nation’s “profound national commitment” to “uninhibited, robust, and wideopen” debate recognizes that public discourse may well be “vehement, caustic [or] unpleasant[]” and yet still be protected by the First Amendment. *Watts*, 394 U.S. at 708. The expression of unpopular ideas or viewpoints is at the heart of our democracy and is rightfully protected by the First Amendment.

First Amendment protections, however, are not absolute. Certain categories of speech are “of such slight social value as a step to truth that any benefit that may be derived from them is clearly outweighed by the social interest in order and morality,” and thus fall outside the protections of the First Amendment. *City of St. Paul*, 505 U.S. at 382-83 (quoting *Chaplinsky v. New Hampshire*, 315 U.S. 568, 572 (1942)). The government, consistent with the Constitution, may regulate the following categories of speech and expression:

advocacy intended, and likely, to incite imminent lawless action; obscenity; defamation; speech integral to criminal conduct; so-called “fighting words”; child pornography; fraud; true threats; and speech presenting some grave and imminent threat the government has the power to prevent.

United States v. Alvarez, 132 S. Ct. 2537, 2544 (2012) (internal citations omitted). “True threats” are on this list; and as this Court has explained, they may be proscribed in order to protect “from the fear of violence and the disruption that fear engenders, as well as from the possibility that the threatened violence will occur.” *Black*, 538 U.S. at 344; *Watts*, 394 U.S. at 707-08.

True threats are not simply extreme or unpopular opinions. Nor are they directionless or open-ended. They are targeted. They identify a specific individual or group. They intimidate others and prevent them from thinking, acting, and speaking freely. *Black*, 538 U.S. at 359-60; *Watts*, 394 U.S. at 707. By

doing so, true threats instill fear, disrupt society, and absorb law enforcement resources. In order to prevent this fear and societal disruption, a government may prohibit all true threats, not just those made with proof of subjective intent.

II. IT IS MORE DIFFICULT TO DISCERN A SPEAKER'S TRUE INTENT THROUGH NEW MEDIA.

New mediums of communication, such as those at issue here, have changed the way people interact. Today, the world lives both online and offline. While these worlds differ, they are fundamentally interconnected and together make up the full sphere of modern social and public interaction. Indeed, in the Internet age, it is nearly impossible to avoid online communications. From business communications to schoolwork, dating, and friendships, interaction through new media is as much a part of everyday life as face-to-face interaction. Today, it is virtually impossible to function fully “off the grid.”

The nature of online interactions – in which people often connect without face-to-face contact, sometimes with fewer than 140 character messages, or with photos that disappear in seconds – is changing the way people communicate information. In this context, discerning a speaker's subjective intent is particularly difficult. New media communications often lack the contextual clues and associated non-verbal communication inherent in face-to-face interaction. For example, body language and facial expressions cannot typically be judged online. Tone is often hard to decipher. There may be no clear distinction between an angry epithet and a lyric rapped to a beat, which a listener would clearly hear

in a face-to-face interaction. Because new media communications are often drafted in private, there are frequently no third-party witnesses to the contemporaneous context of a message. It is, therefore, often more difficult with new media for the audience to distinguish whether a message has been purposefully drafted to intimidate, crafted as an artistic expression, or written in jest.

In addition to opening new lines of communication, new media has also lowered many of the traditional barriers to intimidation and other true threats. With new media, an individual can threaten and harass from the comfort of home. Because it is easier to act outside of the public's view, there is less pressure to comport with traditional social norms that may have previously curtailed truly threatening behavior. *See, e.g.*, L. B. Lidsky, *Incendiary Speech and Social Media*, 44 *Tex. Tech. L. Rev.* 147, 149 (2011) (noting that “the actual or practical anonymity” of social media communications “fosters a sense of disinhibition in those contemplating violence”). Further, connecting with those that share hateful perspectives has become far easier in the Internet age. *See, e.g.*, A. H. Foxman & C. Wolf, *Viral Hate: Containing Its Spread on the Internet*, 14 (2013) (“Don Black, former grand dragon of the Ku Klux Klan, noted that, ‘as far as recruiting, [the Internet has] been the biggest breakthrough I’ve seen in the 30 years I’ve been involved in [white nationalism].’”). This leads to validation of hate and empowerment of tendencies to intimidate or act on violent thoughts. *See id.* at 29-30; *see also* Lidsky, *Incendiary Speech and Social Media*, *supra*, at 149 (noting that interactions through subcommunities on social media “may

serve to foster group violence or to ‘normalize’ individual violence”). Online supporters often encourage or enable would-be harassers to intimidate and threaten. *See, e.g.,* Lidsky, *Incendiary Speech and Social Media, supra*, at 157.

New media communications have lower cost, greater reach and specificity, and can be more persistent and pervasive. An attacker can make contact with a specific target, virtually anywhere, without ever having to know his or her physical location. An attacker has no need to track a victim, travel any distance, or expend effort ensuring that the intimidation reaches its intended target. With new media communications, the message instantly finds its target, regardless of time, distance, or location. And with social media, such as Facebook, an individual can threaten a target privately, or in full view of his or her peers. In these ways, the Internet has lowered the barriers to issuing a true threat.

And yet, in many ways, these new social media interactions mirror traditional social interactions. With new media, one can choose to interact with the public at large such as with a tweet on Twitter, much as in a town square or a shopping mall; with a reduced audience on a Facebook wall, such as at a private party; or with an exclusive audience through a personal message, such as in a private conversation. Unlike older forms of media, such as television broadcasting, new media can be as widely broadcast or as directly targeted as a user wishes.

Thus, true threats via new media, as much as those made face-to-face, can induce fear in a target, divert societal resources in the form of law enforcement

time and effort, and put targets in jeopardy of actual physical injury. *See, e.g.*, S. K. Schneider, *et al.*, *Cyberbullying, School Bullying, and Psychological Distress: A Regional Census of High School Students*, 102 *Am. J. Public Health* 171, 175 (2012) (finding that “victims of cyberbullying alone reported more distress than did school bullying victims alone”); *see also* D. K. Citron, *Intermediaries and Hate Speech: Fostering Digital Citizenship for our Information Age*, 91 *B.U. L. Rev.* 1435, 1448-50 (2011) (discussing examples of the disruptive effect of threatening behavior through new media); D.K. Citron, *Cyber Civil Rights*, 89 *B.U. L. Rev.* 61, 69-81 (2009) (same). Indeed, because threats through new media communications can be virtually omnipresent, they are often more damaging than those made through traditional mediums. Cyberbullying, for example, can become so pervasive that it can lead to psychological damages and self harm. *See, e.g.*, S. K. Schneider, *et al.*, *Cyberbulling, School Bullying, and Psychological Distress*, *supra*, at 175 (finding that “there is a robust relationship between cyberbullying victimization and all forms of psychological distress along the continuum from depression to suicide attempts”); *see also* C. Hay *et al.*, *Bully Victimization and Adolescent Self-Harm: Testing Hypothesis from General Strain Theory*, 39 *J. Youth & Adolescence* 5, 446 (2010); S. Hinduja *et al.*, *Bullying, Cyberbullying, and Suicide*, 14 *Archives of Suicide Research* 3, 206 (2010). It is this kind of targeted fear and disruption that the true threat exception was created to prevent.

Because of these ever-changing methods of communication, evolving social norms, difficulties dis-

cerning a speaker's intent, and profound impacts on a target, it is crucial to fully consider all context when evaluating threatening speech through new media. Only by doing so can speech that causes fear and disruption be properly separated from protected speech.

III. AN OBJECTIVE INQUIRY MORE EFFECTIVELY DISTINGUISHES TRUE THREATS FROM PROTECTED SPEECH, WITHOUT UNNECESSARILY CHILLING SPEECH.

The First Amendment does not require this Court to read subjective intent into the statute at issue here. To the contrary, an objective inquiry fulfills the purpose of the true threat exception by effectively distinguishing speech that causes fear and disruption from protected speech, is true to the plain language of the statute, and aligns with this Court's precedents.

A. Neither The Statute Nor This Court's Precedent Require Proof Of The Defendant's Subjective Intent To Threaten.

Congress elected not to include a subjective intent requirement in 18 U.S.C. § 875(c). This Court should refrain from reading one into the statute. The statute states:

Whoever transmits in interstate or foreign commerce any communication containing *any threat* to kidnap any person or *any threat* to injure the person of another, shall be fined under this title or imprisoned not more than five years, or both.

18 U.S.C. § 875(c) (emphases added). Unlike the statutes at issue in *Watts* and *Black*, the plain language of Section 875(c) does not require proof of subjective intent. See *Watts*, 394 U.S. at 706 (prohibiting, inter alia, “knowingly and willfully” threatening the President); *Black*, 538 U.S. at 348 (prohibiting cross burning “with the intent of intimidating any person or group of persons”). Here, the statute merely requires transmission of “any threat.”

This Court has never held that the First Amendment requires proof of subjective intent for true threat liability. In *Black*, this Court resolved a different question of intent raised by the statute. Unlike the statute at issue in this case, the statute in *Black* explicitly required proof of subjective intent and provided that “any” cross burning was “prima facie evidence of intent to intimidate.” 538 U.S. at 348. This Court viewed and discussed the circumstances of that case through the lens of the statutorily required intent. It had no need to address whether the First Amendment separately required proof of subjective intent because the statute set the necessary level of intent.

Further, this Court noted that true threats made with subjective intent were only a “type” of true threat. See *Black*, 538 U.S. at 360 (“a *type* of true threat” is one made “with the intent of placing the victim in fear of bodily harm or death” and “[t]rue threats’ *encompass* those statements where the speaker means to communicate” a threat) (emphases added). This Court did not find that this was the only type of true threat, nor all that true threats “encompass.” Indeed, this Court reaffirmed that the entire class of true threats are proscribable. *Id.* at

361-62. Thus, in order to fully protect from the fear and disruption that true threats create, the government may prohibit all “types” of true threats, not just those accompanied by proof of subjective intent. The statute at issue in this case does just that, proscribing “any threat.” 18 U.S.C. § 875(c). While “any threat” certainly includes true threats made with subjective intent, the plain meaning is not limited to this type of true threat. Thus, requiring proof of subjective intent would stray from the plain language of the statute.

B. An Objective Inquiry Draws A Clear Distinction Between Protected Speech And True Threats And Allows A Fact Finder To Fully Consider All The Circumstances.

Distinguishing between true threats and protected speech requires a highly factual, case-by-case determination. *Watts*, 394 U.S. at 707-08; *Black*, 538 U.S. at 364-67. In *Black*, this Court found that prejudging evidence would “ignore[] all of the contextual factors” related to the alleged threat and therefore “blur[] the line” between protected speech and true threats. *Id.* at 365, 367 (faulting statute at issue for deeming a cross burning as always being prima facie evidence of intent to threaten). *Black* explained that placing special evidentiary weight on one piece of evidence, in every case, would result in not properly considering all the circumstances. *Id.* at 367. There, the Court considered the full context, including the history of cross burning and related violence, the location of the land where the cross was burned, the likely audience, and whether the accused had permission to enter the land.

In *Watts*, the accused threatened the President but this Court examined the context and concluded that it was not a “true threat.” *Watts*, 394 U.S. at 708. This Court considered the location and timing of the speech, the audience’s reaction, the speaker’s tone and demeanor, the words used, and the location of the target. In *Watts*, the threat was not communicated to the target. The President was elsewhere and was highly unlikely to ever hear the potentially threatening speech, and consequently, highly unlikely to be placed in fear. Taking all this together, the Court found that the speaker’s actions were not a true threat. *Id.* at 708. Thus, when evaluating a true threat, this Court has repeatedly emphasized the importance of fully considering all the circumstances, such as audience reaction and historical context, and warned against prejudging the evidence. *Id.*; *Black*, 383 U.S. at 367, 365.

An objective inquiry aligns with this precedent and accurately separates targeted speech that causes fear and disruption from protected speech. Fear of physical harm and the resulting societal disruption separate true threats from protected speech, not a speaker’s state of mind. An objective inquiry is flexible and focuses on these actual, objective differences. An objective inquiry allows the fact finder to consider the speaker’s intent as part of the totality of the evidence. But it does not require the fact finder to consider evidence about the defendant’s state of mind to the exclusion of other evidence about context, history, and impact on the target. Accordingly, an objective inquiry views every case within its own context and clearly prohibits targeted speech that causes fear and disruption.

By contrast, a subjective inquiry would allow a subset of threatening speech – that which lacks proof of subjective intent – to avoid liability, despite instilling fear in a target and disrupting society. By not focusing solely on a speaker’s state of mind, an objective inquiry identifies all disruptive speech, thereby better separating protected speech from true threats.

An objective inquiry is particularly appropriate in the context of new media communications. As noted, new media communications often lack non-verbal indicia of intent and are frequently drafted in private, leaving the target (and later the finder of fact) very little record beyond the written communication itself. There is no face-to-face interaction to discern tone, volume, facial expression, body language, or other traditional indicia of intent. Thus, individuals have the perfect opportunity to craft messages that engender fear in a specific target and force law enforcement to divert resources to prevent physical harm, but make it difficult to interpret a speaker’s state of mind. Forcing a fact finder to determine a speaker’s state of mind in this manner requires a great amount of speculation and inference, “blur[ring] the line” between true threats and free speech. *Black*, 538 U.S. at 365.

By creating an accurate test to distinguish protected speech from that which causes targeted fear and disruption, the objective standard does not criminalize speech that should rightly be protected. True threats are undeserving of First Amendment protections because of the significant tolls they take on the target and society at large. *Watts*, 394 U.S. at 707-08; *Black*, 538 U.S. at 359-60. When a reasonable

person targeted by a true threat becomes afraid for his or her physical safety and engages law enforcement for protection, the costs are the same regardless of whether the speaker's intent is provable in a court of law. Under the objective standard, the finder of fact must effectively determine whether a reasonable person in the defendant's position knew or should have known that his or her actions would engender fear in the target. This does not subject defendants to the whims of an "eggshell" victim or punish speech that a reasonable person could not foresee would instill fear. Rather, it proscribes only that speech that the speaker should have known would exact the interpersonal and societal tolls that the true threats exception was intended to address.

The objective standard clearly distinguishes between protected speech and true threats, taking into account the impact on the target and society at large. In so doing, it effectively fulfills the purpose of the true threat exception by deterring the targeted fear and societal disruption that true threats create.

CONCLUSION

For the foregoing reasons, and for those in Respondent's brief, the Third Circuit's judgment should be affirmed.

Respectfully submitted,

CHRISTOPHER WOLF*
KEITH O'DOHERTY
ARTHUR KIM
HOGAN LOVELLS US L.L.P.
555 Thirteenth Street, N.W.

17

Washington, D.C. 20004
(202) 637-8834
christopher.wolf@hoganlovells.com

*Counsel of Record
Counsel for Amicus Curiae

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BIAS AND HATE ONLINE AND HOW THE LAW IS FALLING SHORT

GLOSSARY OF TERMS

- **Cyber Harassment** is when someone engages in electronic communication that harasses, torments, terrorizes, offends or threatens a target. This term is used both to describe individual acts and as an umbrella term to broadly describe types of internet-enabled abuse.
- **Cyberstalking** is when someone uses the internet and technology to stalk a target. Most often cyber stalking refers to a pattern of online activity, amounting to a course of conduct, targeted at or concerning a particular person, which then causes that person to fear for their safety (or the safety of their family). Cyberstalking includes everything from sending continued and unwanted messages, to secretly tracking someone's location with geolocation technology, to hacking accounts using secretly installed password trackers, to sending a barrage of messages to an individual or their network from fake accounts.
- **Deep Fakes** are videos that use existing video footage and audio recordings to create fake videos of people doing things and saying things they never did or said. It has been used to create videos of politicians depicted in situations that never really happened. It has also been used to create fabricated pornographic videos. On the video front, there are endless opportunities for perpetrators to abuse this tool, including by disrupting elections and fabricating video evidence. On the audio front, this could lead to serious forms of fraud and identity theft.
- **Doxing** is the broadcasting of private or identifying information about an individual, group or organization with the intent that the information be used against the target for an unlawful purpose. This sometimes involves releasing a private phone number or address and inciting harassment.
- **Non-Consensual Distribution of Intimate Imagery**, also known as nonconsensual pornography (NCP), cyber sexual abuse (CSA) or "revenge porn," is defined as the distribution of sexually graphic images of individuals or depicting individuals in a sexually graphic way without their consent. Perpetrators often disseminate these images to humiliate targets, make them a social outcast, or make them unemployable.
- **Swatting** is the act of falsely reporting an emergency to someone's home with the goal of having a police unit (usually a SWAT team) deployed to their residence. This can result in injury to the target or other witnesses and has even resulted in a fatality.



BIAS AND HATE ONLINE AND HOW THE LAW IS FALLING SHORT

CASE LAW

Elonis v. United States, 135 S. Ct. 2001 (2015)

Anthony Elonis was arrested and charged with five counts of violating a federal **anti-threat statute**, 18 U.S.C. § 875(c) including threatening his ex-wife, co-workers, a kindergarten class, the local police, and an FBI agent. At his trial, Elonis asked the court to dismiss the charges, stating that his Facebook comments were not true threats. He argued that he was an aspiring rap artist, that his comments were artistic expression, and that they served as a therapeutic release to help him cope with life's frustrations. Ultimately, the Supreme Court held that while the text of § 875(c) did not specify a mens rea requirement, the common law principle that "wrongdoing must be conscious to be criminal" required the court to impute a standard higher than negligence. In a concurrence, Justice Alito noted a critical problem with the majority's opinion: it remanded to the Court of Appeals without providing guidance about what standard to apply. Alito argued that the Court should not leave the question for another day, and should instead affirmatively adopt a recklessness standard for § 875(c) threats. On remand, the Third Circuit reinstated Elonis' conviction, holding that the trial record would have supported a conviction under either a recklessness or knowledge intent standard.

United States v. Ledgard, 583 F. App'x 654 (9th Cir. 2014)

Kevin Ledgard hacked into his ex-girlfriend's online accounts, overdrew her bank account, maxed out her credit card, and sent nude photos of the victim to her family, friends, and coworkers. After a bench trial, the defendant was convicted of violating the **Computer Fraud and Abuse Act (CFAA)** and all convictions were affirmed on appeal. The Ninth Circuit found that there was sufficient evidence to support the CFAA convictions because the defendant had accessed the victim's Amazon, Hotmail, and bank accounts via the Internet and without authorization. The defendant was sentenced to twenty-five months in prison plus three years of supervised release but was not charged with **non-consensual pornography**, as the law was not enacted at the time. Currently, California prosecutors must prove that someone who shared private photos or videos of someone without their permission has done so with malicious intent.

United States v. Osinger, 753 F.3d 939 (9th Cir. 2014).

Osinger sent several threatening and sexually explicit text messages, emails, and photographs to the victim, her family, and her friends. He also created a Facebook page with a name similar to the victim's, added her family and friends as Facebook friends, and posted sexually explicit photos of her. The defendant was convicted under the Interstate **Stalking** statute but argued that the conviction violated his First Amendment rights. The Court upheld the convictions and rejected the First Amendment challenges. The Court found that the proscribed acts were tied to the underlying criminal conduct and that the speech was not protected because it was integral to criminal conduct and involved sexually explicit publications about a private individual. The Court also rejected the defendant's vagueness challenge for the terms "harass" and "emotional distress." Finally, the Court held that the statute's "intent" requirement undermined any argument that the defendant could not know his actions were prohibited by the statute.

[In United States v. Sayer, 748 F.3d 425 \(1st Cir. 2014\)](#)

In this case, Sayer took sexually explicit photos and videos of the victim, stalked her in person, posted videos of their sexual activity on pornography sites, posted ads on Craigslist, and created several fake social media profiles. The defendant impersonated the victim and encourage men online to visit her at her home. The defendant pled guilty to one count of **cyberstalking** but appealed the district court's denial of his motion to dismiss on constitutional grounds contending that his sentence was unreasonable. On appeal, the First Circuit rejected the defendant's First Amendment challenge because his course of conduct involved speech or online communications—noting that his conduct was not protected because it was integral to criminal conduct.

[People v. Austin 2019 IL 123910](#)

In October 2019, the Supreme Court of the State of Illinois held that prohibiting the **nonconsensual dissemination of private sexual images** does not unconstitutionally restrict freedom of speech. Importantly, the court upheld one of the few statutes in the U.S. that does not require some form of malicious purpose, such as the intent to harass, intimidate, humiliate or coerce. The majority opinion focused on the statute's importance in the context of privacy nothing that "[the revenge porn statute] does not prohibit but rather regulates the dissemination of a certain type of information." The court compared the statute to laws restricting the distribution of medical records, biometric data or Social Security numbers. "To invalidate [the statute] would cast doubt on the constitutionality of these and other statutes that protect the privacy rights of Illinois residents."

FEDERAL STATUTES

[Interstate Stalking or Harassment, 18 U.S.C. § 2261A](#)

Under 18 U.S.C. § 2261A outlaws using any facility of interstate or foreign commerce, including any interactive computer service or electronic communication service or electronic communication system, to engage in a course of conduct that places person in reasonable fear of death or serious bodily injury to person, person's spouse or immediate family.

[Interstate Threats or Extortion, 18 U.S.C. § 875](#)

18 U.S.C. § 875 criminalizes communicating threats or extorting value from another person across state lines. A person who publishes or threatens to publish private, intimate photos or videos of another with the intention of extracting money or otherwise forcing the victim into prescribed conduct the victim would not have otherwise engaged in, may be charged with extortion if the perpetrator transmitted the communication to the victim through interstate commerce channels.

[The Computer Fraud and Abuse Act \(CFAA\), 18 U.S.C. § 1030](#)

The CFAA outlaws conduct that victimizes computer systems and protects federal computers, bank computers, and computers connected to the Internet. It covers trespassing, threats, damage, espionage, and corrupt use of computer systems as instruments of fraud. The CFFA has been amended several times since it was initially enacted. Congress updated the CFFA in 1988, 1989, 1990, 1994, 1996, 2001, 2002, and 2008.

DOXING AND SWATTING

- As of October 2018, eight states have specific statutes prohibiting **swatting** (CA, CO, CT, IL, KS, LA, MI, and NJ). There is no Federal swatting statute.
- States have minimal protections for criminal **doxing**. As of October 2018, only Utah has a law specifically addressing doxing. There is no Federal doxing statute.



BIAS AND HATE ONLINE AND HOW THE LAW IS FALLING SHORT

ACCORDING TO ADL RESEARCH

Over one third (37%) of American adults experience some form of severe online harassment including stalking, doxing, swatting, and sexual harassment. Approximately a third of the individuals who had been harassed reported that the harassment was a result of their sexual orientation, religion, race or ethnicity, gender identity, or disability.

Online harassment has substantial impacts, with 38% of those who were harassed changing their online activity, and 15% of the harassed taking steps to reduce risk to their physical safety.

An estimated 8 million Americans have gone to the police for help with online hate and harassment.

86% of Americans support strengthening laws against perpetrators of online harassment.

RESOURCES AND SERVICES FOR VICTIMS AND TARGETS

- **For managing online hate:** general guide for mitigating and managing online hate and harassment <https://www.adl.org/resources/reports/managing-cyberhate-harassment>
- **Ways to better protect your information online:** guide to mitigating online hate and a network of survivors who offer support to victims and targets. <http://www.crashoverridenetwork.com/coach>
- **For online harassment related to domestic violence:** a tech safety guide for victims of cyberstalking, stalking, and intimate partner violence available in English and Spanish. Listings of counseling centers, housing centers, legal resources, and a 24-hour hotline. <https://www.safehorizon.org/>
- **For non-consensual intimate imagery (revenge porn):** how-to guide for removing non-consensual intimate imagery from the internet, legal services, and 24-hour hotline. <https://www.cybercivilrights.org/>
- **For reporting incidents of bias:** ADL's reporting portal for cyberhate, harassment and incidents of bias. <https://www.adl.org/reportincident>

**BACKSPACE
HATE™**
AN ADL INITIATIVE

Online hate stokes fear, silences voices, and causes harm to people's personal and professional lives. Backspace Hate is ADL's initiative to protect victims and targets of online hate and harassment. We're raising awareness about the consequences of cyberhate and advocating for measures to hold perpetrators accountable for their actions online, including by improving state and federal laws. Working together, we can backspace the hate and make room for good. www.backspacehate.org.