HATE-FREE PHILANTHROPY

IDENTIFYING OPPORTUNITIES AND OBSTACLES TO SAFEGUARD THE SECTOR

CAIR

SPLC
Southern Poverty
Law Center

ABOUT THE SOUTHERN POVERTY LAW CENTER
The Southern Poverty Law Center, based in Montgomery, Alabama,
is a nonprofit civil rights organization founded in 1971 and dedicated
to fighting hate and bigotry, and to seeking justice
for the most vulnerable members of society.

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ABOUT CAIR
Since its establishment in 1994, CAIR has worked to protect civil rights
and to promote a positive image of Islam and American Muslims. Through
public outreach, education, and advocacy, CAIR puts forth a mainstream
perspective to ensure the American Muslim voice is represented in all
levels of society. In offering this perspective, CAIR seeks to empower
American Muslims and encourage their participation in political and social
activism. Today, CAIR is the most prominent voice for American Muslims
and is a reliable resource and partner for media, public officials and policy
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EXECUTIVE SUMMARY

Hate crimes, bias incidents, and hate speech across American society all have been rising over the last few years. The scientific evidence — from federal agencies, advocacy organizations, and university-based researchers — reinforces what most observers already recognize: increased mass shootings, attacks on houses of worship, and a resurgence in white supremacist activity. As private and public sector leaders mobilize to find ways to curb the problem, leaders in philanthropy have also recognized the need to combat the problem of hate-funding in their sector, which until very recently was largely overlooked. Recent research by various civil society organizations and independent journalists has shown that individuals have been using Donor-Advised Funds (DAFs) for years to anonymize and direct funding toward hate groups operating as 501(c)(3) tax-exempt organizations.

The following document is the product of a high-level, closed-door symposium composed of more than three dozen practitioners, advocates, and scholars in the philanthropic sector, convened in August 2019 by the Council on American Islamic Relations (CAIR), the Southern Poverty Law Center (SPLC), and the American Muslim Fund. The one-day meeting aimed to assess the current state of the cross-sector discussion surrounding the problem of hate-funding in philanthropy. By identifying best practices, analyzing case studies, and discovering key points of consensus and constraint among leading figures in the sector, the conveners produced this white paper to serve as a learning resource for stakeholders. In addition to benefiting from data gathered at the symposium, this document was also informed by external interviews, literature reviews, and continued consultation with experts.

While the problems identified in this paper can be applied to the entire philanthropic sector, this white paper focuses on the role that community foundations can play in combating hate-funding. It provides readers with insight into four key areas:

1. The problem of hate-funding for philanthropic institutions
2. Understanding Donor-Advised Funds' role in hate-funding
3. Progress in other sectors, especially the technology sector, in adopting comprehensive anti-hate policies
4. Developing a shared framework for sector-wide reform

This white paper aims to help decision-makers accelerate existing efforts to address the complex problem of hate-funding in philanthropy — efforts that are slowly converging in different parts of the country and that demonstrate varying degrees of progress. This effort is, admittedly, the first step in a long journey to ensure that philanthropy remains true to its mission of enhancing the public good rather than be subverted by forces that enact an America at odds with its fundamental ideals and promise. •

SUMMARY OF KEY RECOMMENDATIONS

- **Establish leadership.** Community foundations should reassert their role as vanguards in establishing reforms that will curtail hate-funding and steward the public discussion on philanthropy and the public good.

- **Learn from other sectors.** Because the questions facing philanthropy are not unique, the sector should engage in shared-learning models concerning hate-funding and screening from related and parallel sectors such as social media, banking, the media, and internet service providers.

- **Support cross-sector collaboration.** Industry leaders in philanthropy should support the development of resources and tools such as university research collaborations, software products, and public education materials to help foundations and their stakeholders mitigate the problem of hate-funding.

- **Support the Hate is Not Charitable campaign.** Affinity organizations should encourage their members to both adopt the pledge and begin reviewing internal procedures to screen grantees.

- **Expand Diversity, Equity, and Inclusion (DEI) policies** and programming initiatives to explicitly condemn hate activity.

- **Align donor agreements with existing hate-free and anti-discrimination policies** that govern other activities.

- **Adopt policies and establish best practices** to guide peer institutions such as family foundations, religious and faith-based charities, and commercially backed charities.

- **Establish variance power standards.** Because preventing and stopping hate-funding in philanthropy will likely trigger questions about donor intent, leaders in the sector should immediately convene research and public education initiatives to clarify the current state of practice on variance powers and DAFs.

- **Fund research.** The sector should make particular efforts to support the growing but largely under-resourced research community — composed of think tanks, scholars, and independent journalists — exploring the impact of DAFs on the philanthropic landscape.

INTRODUCTION

In recent years, numerous charitable institutions have been used by donors to indirectly support organizations that use their nonprofit tax status to actively seek funds to promote racism and bigotry. In 2013 and 2014, for example, the National Policy Institute, an organization started by white nationalist leader Richard Spencer, received two anonymous Donor-Advised Fund (DAF) grants from the Community Foundation for the Central Savannah River Area.[1] Spencer has used the National Policy Institute to advocate for an "ethno-state" that would be a "safe space" for white people.[2] After being made aware of the National Policy Institute's ideology, the foundation severed ties with the group.[3] However, unfortunately, the use of DAFs to funnel monies from donors, wishing to hide their identity, to hate groups is seemingly far more widespread than had previously been known.

In May 2019, CAIR released *Hijacked by Hate: American Philanthropy and the Islamophobia Network*, a report mapping the flow of funding from family, community, and commercial foundations to anti-Muslim special interest groups that have a destructive impact on public life.[4] The report found that the Islamophobia Network has been drawing upon mainstream American philanthropic institutions for financial and political support for years, largely from DAFs that these institutions sponsor. CAIR researchers found 1,096 charitable organizations responsible for funding 39 groups in the Islamophobia Network between 2014 and 2016, amounting to over $125 million in direct donations. This money has advanced anti-Muslim and anti-Islam animus in American politics, media, law enforcement, educational institutions, and lobbying groups. CAIR's findings add to existing research and independent reports documenting the way white supremacists, as well as anti-immigrant and anti-LGBTQ groups, are using the charity sector to advance their agenda of bigotry and hate.[5]

Thought leaders in the philanthropy sector have begun raising awareness to address this urgent problem. The most promising of such efforts is the "Hate is Not Charitable" campaign led by the Amalgamated Foundation, which asks foundations and nonprofits to pledge that their donor funds will not be delivered to hate groups. The pledge campaign has thus far gathered more

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than 80 institutional sponsors and has amplified an important national discussion.[6] In addition, a growing number of community foundations, workplace giving programs, and corporate entities are making similar decisions to screen out hate groups that might take advantage of their platforms.

To advance the national conversation on this topic, CAIR, along with the SPLC and the American Muslim Fund, hosted a symposium in August 2019 for nearly 40 leaders and stakeholders in the philanthropy, advocacy, and nonprofit sectors to exchange information, share best practices, assess the current state of the field, and explore collaborative opportunities to tackle the problem of hate-funding. The convening was held using the Chatham House Rule, which aids in the free discussion of sensitive issues. Specifically, it provides a way for speakers to openly discuss their views in private while allowing the topic and nature of the debate to be made public and contribute to a broader conversation. For that reason, while the paper reflects the general

Richard Spencer has used the National Policy Institute to advocate for an "ethno-state" that would be a "safe space" for white people.

discussion from the convening, no part of this paper should be attributed to any of the participating individuals or organizations.

This document discusses the points of consensus and constraint that sector leaders identified during the roundtable discussions. The analysis and recommendations are also informed by a review of relevant literature as well as continued consultation with sector actors, experts, and advocates. It starts with an overview of the problems on hate funding in the philanthropic sector, followed by a summary and analysis of the roundtable discussions convened during the dialogue, covering three broad thematic areas: the role of DAFs in hate-funding; anti-hate initiatives in the tech sector as a model for philanthropy; and the potential for sector-wide solutions and shared frameworks.

In addition to identifying specific aspects of the problem, the discussion at the symposium yielded several key themes that deserve special mention. These include 1) the unique role of community foundations in combating hate-funding; 2) the need for foundations to abandon the "pretense of neutrality" in their giving strategies and to expand their commitment to diversity, equity, and inclusion; 3) the need for sector-wide reform and coordination; and 4) the importance of safety and risk assessment. The conclusion contains a series of immediate and actionable recommendations for stakeholders to consider. Also included are appendices that contain useful information for practitioners, such as suggested further readings, resources on security for organizations thinking about screening out hate groups, definitions of key terms, and frequently asked questions. •

I. HATE AND HATE-FUNDING IN PHILANTHROPY

In recent years, we have witnessed the normalization of hate throughout society. FBI data shows a 12 percent increase in violent hate crimes in 2018; in fact, hate crime violence is at its highest level in 16 years.[7] Latinos, the LGBTQ community, and the Jewish community all experienced an increase in hate crimes in that year. One in five hate crimes stemmed from anti-LGBTQ bias, while hate crimes against Latinos were at their highest level since 2010.

CAIR recorded more than 10,000 bias incidents against Muslims between 2014 and 2019, with significant spikes in hate crimes, harassment, and property damage during the period of the 2016 presidential election.[8] These findings by the FBI and CAIR closely mirror those of the SPLC, which documented a 30 percent increase in the number of hate groups from 2014 to 2018.[9] Anti-immigrant and anti-Muslim hate groups have seen particularly strong growth in these years.

Hate groups often disseminate lies, conspiracy theories and other propaganda that demonizes African Americans, Muslims, Jews, immigrants, LGBTQ people, and other groups. The SPLC has also found through nationwide teacher surveys that bias incidents and the harassment of children of color have spiked sharply in schools in the past three years.[10]

Philanthropy is not immune to this climate of hate. By adeptly using the tax code to provide a veneer of legitimacy and respectability, hate groups in recent years have raised millions of dollars to fund their rallies, websites, recruitment and indoctrination efforts, and other activities. The New Century Foundation, for example, a self-styled white nationalist think tank that promotes pseudo-scientific studies that purport to show the inferiority of African Americans, raised more than $2 million in tax-deductible donations since 2007.[11] Jared Taylor, its founder, said in an interview with the Associated Press that he isn't raising money to enrich himself or his group. Instead, he said: "We hold it in trust for the white race. We take this seriously. This is not something we do for fun or profit. This is our duty to our people." The Connecticut-based VDare Foundation, a white nationalist organization that serves to promote the work of white supremacists, antisemites, and others on the radical right, raised nearly $4.8 million between 2007 and 2015.[12]

These groups are not alone. Of the 1,020 hate groups the SPLC identified as operating across America in 2018, 87 have 501(c)(3) designations — making them eligible to raise significant funds, which are subsidized by the IRS.[13] In light of the total number of nonprofits in the U.S., the number of hate groups with tax-exempt status is minuscule.[14] Their influence on public life, however, is massive.

It should be noted that not all hate groups are violent. However, vilifying or demonizing groups of people on the basis of their immutable characteristics, such as race or ethnicity, can, and often does, inspire hate violence even when the group itself does not engage in or promote violent activity. A growing body of academic and independent research demonstrates a clear correlation between hate rhetoric and actual physical acts of violence against targeted communities. The University of Warwick, for example, recently found that with spikes in anti-refugee sentiment on German social media, attacks on refugees became disproportionately more likely.[15] Similarly, researchers at the Dangerous Speech Project found that there are particular kinds of rhetoric that increase the risk that an audience will condone or participate in violence against members of another group.[16]

For example, Dylann Roof was indoctrinated into white supremacist ideology before he massacred nine black members of the Emanuel African Methodist Church (Mother Emanuel Church) in Charleston, South Carolina, in 2015. Roof was not a member of any hate group. But, according to his own manifesto, his act of terror was inspired by the ideology of the white nationalist group Council of Conservative Citizens (CCC).[17] The CCC has no track record of its leaders or members engaging in violence, but its ideas and rhetoric—specifically its fabricated claims about "black-on-white crime"—led Roof to explore other racist materials online, leading to his radicalization and eventual attack on a prayer service, an act he hoped would ignite a race war.[18]

In another example, the previously mentioned Richard Spencer, founder of the National Policy Institute, organized a white nationalist protest in

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Charlottesville, Virginia, that inspired the "Unite the Right" rally in the same city two months later — which he also helped organize and where he was scheduled to speak.[19] That day, a man inspired by the rhetoric of hate groups and with a history of racist and antisemitic behavior plowed his car into a crowd of people, killing anti-racist counter-demonstrator Heather Heyer, a 32-year-old paralegal, and injuring 19 others.

In August 2019, a young white man targeted Latinos when he attacked a Walmart in El Paso, Texas, with an AK-47, killing 22 people. Minutes before the attack, a manifesto, apparently written by the killer, was posted online. In it, he wrote that the attack was "a response to the Hispanic invasion of Texas." His language was similar to that used by white nationalists as well as anti-immigrant hate groups like the Federation for Immigration Reform (FAIR) and Center for Immigration Studies (CIS).[20] These examples are not outliers. A recent study found that 54 percent of all mass shootings since 2015 were motivated by hate (racism, religious hatred, or misogyny) — up from 17 percent in the preceding three decades.[21]

The vast majority of DAF funding to hate groups stems from commercially backed charities such as Schwab Charitable Fund, Vanguard Charitable, and Fidelity Charitable Gift Fund.[22] However, community foundations are equally at risk of having donors recommend grants to hate groups from their DAFs. Unlike commercial providers of DAFs, community foundations are distinct in the philanthropic space because as place-based institutions, they contribute directly to the building and functioning of a healthful democratic society. Since the first community foundation was established in the United States over 100 years ago, they have built resources for their communities, inspired trust in their stakeholders, provided bold leadership for community change, and been beacons of hope for those they serve.[23] However, when a community foundation knowingly or unknowingly provides financial support to entities that discriminate, vilify, harass, or threaten certain groups of people based on their immutable characteristics, they harm not only the targeted groups directly, but also betray the very values of community foundations themselves and thereby the health and wellbeing of society at large.

Due to their "big-tent" approach to philanthropy — supporting a variety of causes and needs in geographically and politically bound spaces — community foundations have the potential to transcend the polarization and fragmentation that has otherwise come to characterize the contemporary public sphere. At the same time, there's an important difference between providing a big tent for diverse ideas and dialogue and what can be perceived as the status quo of philanthropy's "pretense to neutrality." That is, given the enormous growth of DAFs over the last decade, in which donors effectively use established charities as pass-through entities, many foundations simply operate as charitable platforms in their management of DAF monies rather than actively steering resources in a particular direction.[24]

Hence, it is common to find the puzzling phenomenon of foundations donating to traditional charitable causes such as health, human services, education, animal welfare, and social justice causes on the one hand, while at the same time providing financial support to groups promoting bias and hate. For that reason, leading figures from the sector argue that philanthropy has to shed the idea that it should be "neutral" at all costs. Instead, philanthropy should recognize that taking no action in this climate of hate is an action in itself, and for that reason, it should play an active role in supporting diversity, equity, and inclusion efforts. •

II. ARE DONOR-ADVISED FUNDS THE PROBLEM?

Donor-Advised Funds play an increasingly powerful role in philanthropy. They allow donors to make a non-revocable charitable contribution to a public charity (such as a community foundation, though increasingly non-traditional providers such as Fidelity Charitable Gift Fund, Schwab Charitable Fund, and others) for which the donor receives an immediate tax benefit.[25] The public charity invests the money, and the donor is able to recommend contributions to charitable organizations from the fund over time. DAFs are marketed both as charitable savings accounts or — because DAFs have comparatively modest overhead costs — as a cheaper and easier alternative to a private foundation. They are used primarily by individuals, though several institutional foundations and corporations use DAFs as their preferred giving vehicle. In 2018, there were 728,563 DAFs across the country — a growth of 55 percent over the previous year. Donors contributed $37.12 billion and used them to recommend $23.42 billion in grants to qualified charities. Charitable assets held by DAFs totaled $121.42 billion, up from $112.1 billion in 2017.[26]

The rapid expansion of DAFs has changed the landscape of traditional philanthropy by decentering the role foundations have played in shaping the funding of civil society activity and allowing smaller, less experienced charitable actors to influence the public space in ways that were previously impossible or unlikely.[27] Among the range of emerging problems identified in this new philanthropic landscape is the use of DAF dollars to promote non-active charitable work. While traditional philanthropy might fund broad public interest services and activities such as public education, medical research, or the arts, DAFs now allow donors to direct funding toward narrow, ideologically driven organizations that operate under a 501(c)(3) status. Given that recent research by journalists, think tanks, and advocacy organizations has shown the way in which DAFs have been used to fund hate activity, stakeholders in philanthropy are

The overwhelming consensus among stakeholders was that DAFs in and of themselves are not the problem, but that there are a number of problems surrounding them.

seeking ways to prevent their platforms from being exploited by extremist groups that leverage DAFs for their powerful tax benefits, anonymity, and wealth preserving characteristics. During the first session of the symposium, conveners asked stakeholders from the private, philanthropic, and academic sectors: "Are DAFs the problem?"

The overwhelming consensus among stakeholders was that DAFs in and of themselves are not the problem, but that there are a number of problems surrounding them. Among the most important concerns were the way DAFs enable consolidation of wealth (due to the lack of regulated payout rates) and provide a screen of anonymity for donors.[28] And although there was recognition among leaders in community foundations, nonprofits, and even commercially backed DAF sponsors that DAFs have radically changed the landscape of philanthropy in the last decade, most experts agree that efforts to aggressively regulate them are destined to fail and would cause more harm than good to the charitable sector as a whole. On the positive side, others noted that DAFs have contributed to the democratization of institutional charity, allowing people who are not wealthy to become philanthropists.

Nonetheless, stakeholders and experts agree that DAFs play a unique role in exacerbating the problem of hate-funding in philanthropy itself. For some foundations, the problem may seem relatively small in that funding may come in a small amount and by only a few donors, thus amounting to a minuscule percentage of a charity's overall giving. That said, participants agreed that even if the number of contributions to hate groups is relatively small, it contributes to the normalization of problematic and possibly dangerous activity and rhetoric. Stakeholders seemed to fully support not funding hate. In one instance, the president of a major metropolitan community foundation, responsible for the management of more than $3 billion in charitable assets, was adamant that even if it were "only one dollar being funneled through their name to a

hate group" they would take every measure possible to prevent it. The attending community foundations were committed to aggressively tackling the issue of DAF-supported hate-funding through any and all means possible, as funding hate directly contravenes their organizations' values.

As stewards of local public interests, participating community foundations called for a shift in what they described as "philanthropy's pretense to neutrality," arguing that they "could no longer act like the Switzerland of the philanthropic world." There was general agreement that the philanthropic community could not in good faith operate as a simple conduit for the transfer of private wealth to an ambiguously defined notion of public interest without making an explicit, mission-driven commitment to combating inequity, injustice, and social polarization. Participants noted that the Business Roundtable had just days before the symposium explicitly changed its "Statement on the Purpose of a Corporation" to emphasize that the core mission of a business should be to serve stakeholders *and* communities, not just shareholders.[29] Indeed, in the context of disrupting hate-funding, many major corporations such as iTunes, PayPal, and AmazonSmile have already taken measures to screen out hate from their platforms.[30] Against that background, practitioners argued, philanthropy should not shy away from its role in actively serving and influencing the whole of society — as opposed to simply serving donor interests.

While the commitment to mission-driven values and goals was shared by nearly all participants, the concrete actions necessary to implement such a vision for philanthropy's use of DAFs were more difficult to identify. The core of the problem rests with the customary practice of DAF distribution, in which the donor directs the sponsoring charity or foundation to steer funds toward a particular organization or sector. Although the donor receives the tax benefit at the time of donation to the DAF-sponsoring charity, and although that sponsoring charity then becomes the owner and steward of donated monies, it remains standard practice that DAF account managers overwhelmingly direct funding according to donor suggestions.[31]

The question of managing donor relationships if and when a donor suggests an end use that is at odds with the sponsoring charity's mission remains one of the more intractable problems in philanthropy. Should an executive or account manager at a sponsoring charity simply reject the donation? What if the board and the executive are not in agreement, as

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was the case with the Inland Northwest Community Foundation in 2017 (see page 11 for a description of this case). Is it the role of the sponsoring charity to educate and inform the donor about the kinds of activities undertaken by the organization they aim to support? While stakeholders identified a number of answers to these questions based on their own practices, there does not seem to be a one-size-fits-all solution within reach for the sector, leaving each charity the daunting task of tailoring its own policies and practices.

In addition, some legal and regulatory boundaries surrounding the use of DAFs are still opaque. One major concern is the legal question of variance power, or the extent to which a sponsoring charity is allowed to restrict, modify, or redirect the funds of a particular donor. In the case of DAFs, precedent and practice do not always align with the letter of the law. Technically and legally speaking, once the donation is made to the sponsoring charity, it becomes the property of the charity — not the property of the donor or their intended or suggested recipient.[32] In practice, however, donor recommendations are typically honored. In one closely watched case, Fidelity is being sued by a donor for alleged mismanagement of a $100 million DAF.[33] Charities and foundations have long had to negotiate the proper use of their variance powers; yet, the rapidly growing DAF space has opened a number of new questions. Community foundations consulted for this white paper reported continuing fear of legal liability among executive and board members if they redirect, reject, or otherwise modify a donor's request. Practitioners across the sector expressed the urgent need for greater clarity on their ability to exercise variance power in their management of DAFs.

A DONOR RECOMMENDS A GRANT TO A WHITE NATIONALIST ORGANIZATION

After an accomplished career in law and higher education, Mark Hurtubise served from 2005 to 2017 as the president & CEO of the Inland Northwest Community Foundation (Since then, INWCF has been renamed Innovia Foundation).[34] INWCF serves 20 counties — 10 in Eastern Washington and 10 in North Idaho. The service area is about the size of Illinois.[35]

In December 2016, a donor requested that a grant be directed to VDARE — a white nationalist organization listed as a hate group by the SPLC — from his DAF. The community foundation had previously awarded grants to VDARE.[36] However, because of a recent Associated Press article on VDARE's beliefs, further in-depth analysis was initiated by INWCF. After his due diligence research found VDARE's clear support for white nationalism,[37] Hurtubise urged the foundation's board to refuse to process the grant. Besides providing the board with written VDARE quotes spelling out its hate doctrines and Washington state statutes regarding the duties of nonprofit directors, he further argued that the foundation should not fund groups promoting white nationalism through three main points:

1. The INWCF's Donor-Advised Discretionary Endowment Fund Agreement, which was signed by the donor, clearly stated that the donor's function regarding grants was advisory only; INWCF would not be bound by any advice offered by a donor, and its board of directors at all times retained the authority and responsibility for directing distributions from the fund. Therefore, INWCF could legally deny the grant request.

2. Hurtubise had requested advice by phone from the Council of Foundations (COF), the largest membership organization of community foundations in the country. A COF attorney commented that while the act of making the grant itself may be legally permissible, sometimes the grant may cause an objective outsider to believe that the foundation itself espouses that cause. In other words, because the DAF is a component fund of the foundation, it's not the donor's name that will be associated with the grant but rather the foundation's, and the board should be aware of the implications.

3. Hurtubise referenced the COF's *10 Ways for Community Foundations to Consider Diversity and Inclusive Practices*.[38] The guide states: "Public trust is earned arduously and lost easily. As public, donor-service organizations, community foundations must be attuned to public perception. Indeed, all foundations quickly learn that effectiveness and impact on communities often start with positive public perception. … Alternatively, public skepticism or poor perceptions can stop even well-conceived programs in their tracks."

Despite Hurtubise's objections the board approved the VDARE grant. The foundation's IRS Form 990 for the tax year ending June 30, 2018, a publicly available document, indicates the foundation is still awarding grants to VDARE.[39] (The Innovia Foundation was provided an advance copy of this case study and did not respond to a request for comment.)

Since resigning his position in June 2017, Hurtubise has become an advocate for greater awareness of hate-funding within the philanthropic sector and how foundation boards and leaders should prepare to ensure they do not promote active or passive racism through their grantmaking.[40]

A central concern raised by all stakeholders is the issue of anonymity. Because a DAF is in and of itself a charitable vehicle, when a DAF donor contributes to a fund, they are not necessarily identified in the public and private records of where the donation ultimately arrives. Rather, it is the sponsoring DAF organization that is identified as the origin of the donation. This is the case even though the donor receives the tax benefit at the time of the contribution to the DAF.[41] With standard charities or nonprofits, if a donor provides a financial contribution, that donor understands that they lose control over the way their funding is managed or used. Thus, with DAFs, both elements — surrender of control and transparency — are avoided. The structure of the DAF creates a scenario in which a donor contributes to an account that is legally and logistically managed by an external agency but in practice and reality remains in the control of the donor. In this way, a donor can direct a contribution anonymously to a 501(c)(3) organization while ensuring that the original source of the contribution remains hidden from public view. The public sees only an untraceable DAF account serving as a buffer and intermediary between anonymous donors and 501(c)(3)s. This structure allows donors to give anonymously to nonprofits that promote hate — while only the name of the sponsoring charity is listed in public records.

The philanthropic and charitable sector has traditionally advocated self-regulation by developing self-governance and industry standards that avoid federal or state interference.[42] While some stakeholders and critics urge regulatory intervention, the legislative track record on DAF reform is poor. In 2014, for example, former U.S. Rep. Dave Camp (R-MI) suggested placing a five-year limit on undistributed DAF monies as part of a larger tax reform bill, but the proposal never reached the floor for debate.[43] Even more modest regulations to close loopholes and incentivize charities to pay out funds at higher rates have been met with silence from legislators.[44] Likewise, the 2019 California State Assembly Bill 1712, which calls for greater transparency in the management of DAF accounts, is fraught with debate among nonprofits and community foundations that otherwise see eye to eye on most issues regarding the public administration of tax-subsidized resources.[45]

Instead of calling for regulation at the state or federal levels, stakeholders have argued that community foundations and commercial-backed DAF sponsors should implement standards and practices that mitigate the challenges that DAFs present to philanthropy. In terms of wealth accumulation, foundations should encourage donors toward active charity by setting optimal payout rates and discourage the transfer of DAF funds to other charitable shelters such as family foundations. Participants also argued that the practice of anonymous transfers should be avoided and discouraged. All of these goals can be realized, it was held, by simply encouraging donors to align their giving practices with the direct charitable activities of community foundations and other traditional grant-giving entities. In this way, donors can participate in philanthropic practices that directly benefit the public good rather than either warehousing wealth or directing funding toward special interest issues or non-active charity.

The overriding conclusion of stakeholders regarding DAFs and the problem of hate-funding, polarization, and anti-social special interest practices was that community foundations have a moral and ethical imperative to be the stewards and exemplars of public philanthropy. Indeed, community foundations are place-based institutions with direct connections to the societies and neighborhoods in which they reside. In this way, they represent one of the few remaining "big tent" civil society institutions in an American public sphere that comprises a wide variety of voices, opinions, and causes. By operating as effective stewards of DAFs, they are not simply participating in deliberate acts of wealth transfer but building long-lasting and impactful partnerships in local communities, thereby strengthening society at large. •

III. INTERNET GOVERNANCE AS A MODEL FOR PHILANTHROPY

In many ways the tech industry, especially social media companies and internet service providers, mirrors the philanthropic sector — especially public charities such as community foundations and DAF providers. For example, they both interface with public and private interests in a similar fashion in that they are private institutions while simultaneously exerting a strong influence in the public space. Both sectors also claim to function as neutral platforms that serve their users and clients needs, and both have significant concerns about managing the line between dangerous hate speech and free speech. And, both sectors are grappling with the rise of hate in general.

In recent years, the tech industry has taken steps to address hate on their platforms, and there are important lessons that philanthropy can learn from these efforts. For that reason, the symposium hosted key advocates involved in the discussion about online hate speech and violent extremism. Specifically, it brought together First Amendment experts, financial access advocates, and leading figures involved in campaigns to help the tech sector adopt anti-hate policies. Participants in the symposium agreed that, like the tech sector, philanthropy can best address the issue of hate by adopting comprehensive and concrete anti-hate policies that are transparent to their donors and the wider public.

The problem of hate speech in the digital space is nearly as old as the space itself. Until recently, internet companies — from social media giants like Facebook to online payment vendors like PayPal — have generally used First Amendment arguments to justify a lack of strong policies and procedures for banishing the purveyors of hate from their platforms.[46] Tech companies, however, are private entities and the First Amendment does not apply to the policies of a private corporation but rather to actions taken by government. Some companies have claimed to operate as neutral platforms, simply providing a space for their users to engage, and have abstained from direct content production, moderation, or regulation.

While an open internet creates immense social value and provides opportunities for people to connect in ways that were simply unimaginable a decade ago, it has also proven that it does not favor *equal* speech. The open internet, for all its good,

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has been used by a highly vocal minority to engage in hateful activities and promote violence in violation of the fragile public trust that it provides. Hate groups and individual extremists regularly exploit online platforms to organize, fund, incubate, and normalize racism, sexism, xenophobia, and religious bigotry. The proliferation of dangerous hate speech online chills the speech of targeted groups, and it both threatens and causes real harm to people's safety and freedom. This reality has led to significant challenges around content management and platform governance.[47]

While several civil rights organizations have long pressured social media platforms and internet companies to address online hate, it took the tragic events surrounding the 2017 "Unite the Right" rally in Charlottesville, Virginia, for companies to realize that the "no action" approach inherent in relying merely on free speech arguments is an action in itself.[48] That day showed beyond a doubt that hateful rhetoric online can easily turn into deadly violence in real life. Since then, many tech companies have realized that they need to play a more active role in ensuring their platforms are not used to spread hate and promote violence. While some companies made progress, many others have failed.[49] As a result, civil society stakeholders and civil rights organizations began to take aggressive action and explore sector-wide solutions.

The SPLC and the Center for American Progress, joined by Color of Change, Free Press, the National

When hate groups that espouse and advance racism, sexism, xenophobia, and religious bigotry receive millions of dollars from charitable institutions, whether directly or indirectly, philanthropies are, in effect, funding hate.

Hispanic Media Coalition, and the Lawyers' Committee for Civil Rights Under Law, formed a broad-based coalition of civil rights, anti-hate and open-internet organizations.[50] This coalition, called Change the Terms, is dedicated to helping companies significantly decrease hateful activities online while maintaining a commitment to an open internet. After nearly a year of gathering stakeholder input from civil society, the technology sector, and policy circles, the coalition launched a set of model policies — comprehensive, legally grounded corporate policies and standards for social media platforms, payment service providers, and other internet-based services. Additional outreach to build momentum was done after the public launch and has led to new and heightened levels of coordination between coalition members, individuals, groups most often affected by online hate, and internet companies.

To preempt concerns that were likely to arise, particularly around free speech, the coalition communicated in advance with good faith critics in the community, such as the American Civil Liberties Union and the Electronic Frontier Foundation, to convey that online hate is itself a threat to the free speech of others. In addition to threatening people's safety and freedom, it discourages the online speech of targeted groups and curbs democratic participation. Moreover, the coalition communicated about why the First Amendment does not apply to the policies of a private company and that, even if it did, it

should be remembered that the First Amendment does not protect *all* speech. The coalition very carefully crafted its definition of hateful activity to cover types of speech that courts have said are not protected as free speech: incitement to violence, intimidation, harassment, threats, and defamation.[51] This dialogue with free speech advocates helped sharpen final policy documents and led the coalition to create a document that outlined and answered potential contentions. This document was then released in parallel with the policies themselves.[52]

The model policies provided numerous benefits. For one, they immediately provided structure, transparency, and accountability to online content moderation. They set a benchmark to measure the progress of major tech companies and provide a guide for newer companies that may be wrestling with these issues for the first time. For advocacy groups and coalition members, the policies helped them organize and speak with a united front. Prior to the model policies, some large companies used the lack of a unified voice among civil rights and advocacy groups to drag their feet and even to play different groups against each other to impede progress. However, with a standardized policy model, groups gained the power to push internet companies to respond to their terms and enact policy changes. Another benefit that emerged was that the policies educated the public and served as a starting point for larger, societal conversations about addressing hate.

The March 2019 terrorist attack against two mosques in Christchurch, New Zealand, that killed 51 people and injured dozens more was a stark reminder of the urgency of the problem.[53] The shooter livestreamed his violence on social media platforms. After the massacre, the New Zealand and French governments brought together governments and tech companies to commit to eliminating terrorist and violent extremist content online in what became known as the Christchurch Call. The call recognizes that a free, open, and secure internet offers extraordinary benefits to society. However, no one has the right to create and share terrorist and violent extremist content online. To that end, it outlines collective, voluntary commitments from governments and online service providers to take concrete steps in addressing this crisis.[54]

The Christchurch Call and Change the Terms both represent powerful, cross-sector approaches to accelerate the tech industry's efforts to reform its own policies and procedures — while ensuring a free internet that respects diverse opinions. Similarly,

stakeholders in philanthropy should be encouraged to work closely with civil society and government to identify ways to combat the online hate and extremism that has infiltrated their industry. Straddling the intersection of public and private, the philanthropic sector — like tech companies — functions as a powerful platform for hate. Just like the tech industry cannot hide behind arguments of free speech, philanthropy cannot viably claim to adhere to a position of neutrality. When hate groups that espouse and advance racism, sexism, xenophobia, and religious bigotry receive millions of dollars from charitable institutions, whether directly or indirectly, philanthropies are, in effect, funding hate. Therefore, philanthropic foundations and charities, like their tech counterparts, can and must adopt anti-hate policies that protect them from the accusation that they are, in fact, contributing to hate rhetoric and the violence it spawns.

Although the overlaps between the tech and philanthropic sectors are significant, there are also some important differences. This is particularly the case regarding the unique relationship foundations have to their donors, the organizations they help support, and the public. Public charities are public entities in that they are subsidized by the public, but they are also indebted to their donors through donor interests and donor intent. Additionally, whereas tech companies are top heavy in their sector (once the top four, namely Google, Amazon, Facebook, and Apple adopt a practice, the rest of the sector often falls into line), the philanthropic space is much more segmented and fractured. Community foundations, for example are local, institutionally connected, committed to local community interests, and organized through a variety of affiliation networks. In contrast, national DAF providers miss the local connection and often serve mainly as financial service providers to their donors. On the other side of the spectrum, many private family foundations have a narrower set of stakeholders and interests, and for that reason are less accountable to public oversight than public charities. It is therefore unrealistic and impractical to imagine a sector-wide shift occurring in a relatively short period. It's much more likely that a sector-wide shift will take place in phases, with community foundations leading the way for larger reforms by publicly adopting policies that model the way philanthropy should operate.

The work of Change the Terms in carefully defining every aspect of the model policies — paying special attention to the unique role of tech companies

and their services — should serve as an example for the philanthropic sector as it is taking on this work. It is critical that philanthropy carefully define sector-wide model policies to curb hate funding while being mindful of the unique and diverse role of foundations in our society. Policies should pay particular attention to addressing issues of donor intent and free speech, as well as overarching principles about the role of philanthropic institutions in society. Change the Terms also provides an example for the philanthropic sector of how to create a dialogue mechanism and encourage sector reporting. •

It is critical that philanthropy carefully define sector-wide model policies to curb hate funding while being mindful of the unique and diverse role of foundations in our society.

IV. TOWARD A SHARED FRAMEWORK — BEST PRACTICES ON SCREENING HATE GROUPS

In light of the current political climate, a number of foundations and philanthropic actors have sought to tackle the problems of inequity and social polarization by directing funding to advocacy, organizing, and educational programs fighting these dangerous trends.[55] However, as current research shows, it is not enough for philanthropy to support these efforts through dollars alone. The sector also must take measures to combat hate within its own ranks. Indeed, a growing number of foundations, funding collaboratives, workplace giving programs, corporate giving entities, and other organizations in the philanthropic sector have individually developed more extensive policies and practices to ensure that their giving is both in compliance with the law and aligned with their mission and values statements.[56] While participants all recognized the urgency of the problem, called for immediate action to address it, and understood the importance of sector-wide change, the question remains with regard to how to implement systems to screen out hate groups from DAF portfolios. Despite the challenges, several key areas of consensus and constraint emerged in the discussion that can help stakeholders identify concrete steps to implement systems that prevent hate groups from exploiting their platforms.

As has been mentioned throughout this paper, participants again repeated the unique role that community foundations play in serving as vanguards in the effort to screen out nonprofits that promote hate and discrimination. Through the course of the conversation, it became clear that foundations would need to approach the problem in a tiered and phased approach, recognizing that the problem requires long-term capacity-building solutions. It was recommended that the most immediate step all foundations can take is to begin instituting a conversation among staff, executive teams, and governing boards. These discussions can and should take the form of task forces composed of members from various levels of the organization who review how the issue affects the foundation and what corrective measures can be implemented to shield it from being indirectly used by hate groups.

Unfortunately, many participants and stakeholders have raised the issue that even beginning a

At a bare minimum, screening practices and policies should be implemented against organizations and activities that contribute to a climate of fear and risk for vulnerable and targeted communities, as the role of hate propaganda in fueling violence is well documented.

conversation around hate groups can be controversial within some organizations due to its presumed political nature. However, it is best for stakeholders to recognize that while there may be a legitimate degree of difference on what constitutes anti-social and polarizing activity, at a core level community foundations should understand the problem of hate within a public safety context. At a bare minimum, screening practices and policies should be implemented against organizations and activities that contribute to a climate of fear and risk for vulnerable and targeted communities, as the role of hate propaganda in fueling violence is well documented.

The second step in the process of screening for hate groups and one that can also be accomplished with relative ease is to review a foundation's existing policy and programming ecosystem on Diversity, Equity, and Inclusion (DEI) and build anti-hate due diligence structures therein. The central argument here is that foundations are already predisposed to adopt anti-hate policies and may have more available internal resources than they recognize. As one participant argued during the session, "we simply should not grant money to organizations that promote ideas for which a staff member would get fired for within our own organizations." Indeed, it should be expected that at a basic level, most foundations are well within reach of adopting policies that explicitly align their DAF agreements with their own institutions' HR and DEI practices.

GUIDESTAR'S EXPERIENCE LISTING HATE GROUPS

GuideStar is a respected organization that gathers, organizes, and distributes information about U.S nonprofits in order to advance transparency in the philanthropic sector. Its role in the sector is undisputed as a key hub of information about nonprofit organizations. It relies on data from tax documents, external reviews, opinions, and other sources of data to offer visitors to its website a multidimensional view of nonprofits.[57]

At the urging of some its users, GuideStar in early 2017 started using the SPLC's hate group list. Specifically, it used the SPLC's data on hate groups to add a flag to the records of 46 nonprofits – out of 1,676,746 active nonprofit groups GuideStar tracked that year.[58] The purpose of the flag was to inform site users that these groups had been designated as hate groups by the SPLC. As a result of GuideStar's decision, GuideStar's staff and leadership were subjected to harassment and threats from supporters of SPLC-designated hate groups and GuideStar ultimately removed the SPLC data from its website.[59] As part of these attacks, GuideStar faced two lawsuits. One lawsuit was filed by Liberty Counsel, an SPLC-designated hate group, which was dismissed by the district court – a decision that was upheld on appeal.[60] The other lawsuit was filed by D. James Kennedy Ministries, another SPLC designated hategroup, against Amazon, the SPLC, and GuideStar. The Plaintiff dropped GuideStar as a defendant early in the litigation, and a motion to dismiss the other defendants was granted by the district court and is currently on appeal.

It should be noted that a growing number of community foundations and other grantmaking organizations have implemented policies to screen out hate without any significant backlash from hate groups. However, GuideStar's experience offers important lessons for nonprofits that screen out or are considering to screening out hate. The use of harassment, intimidation, and threats directed at GuideStar's staff and leadership shows that groups that promote hate do not hesitate to intimidate and threaten those who seek to inform the public about their less-than-charitable activities. While such behavior in public life is a larger societal concern not unique to the philanthropic sector, the fact is that foundations need to be mindful of the potential effect of policies such as flagging nonprofit groups that promote hate and discrimination. Community foundations, in particular, need to be mindful of security, considering their public role in civic life.

Organizations can take specific steps to protect the staff, donors, and community members using its spaces and services. A good first step is to learn from existing resources. Religious organizations such as mosques and synagogues, as well as social justice organizations, have long faced opposition attacks and have learned that preparation for these kinds of attacks must be a key part of organizational capacity-building and planning.[61] However, since there is no one-size-fits-all solution, the steps listed here are suggestions. Any security measures and protocols will need to be specific to the organization. Appendix D contains additional security resources that may be of use to organizations considering screening out hate.

First, organizations should consider an assessment of their physical security needs. This might include the installation of surveillance systems with cameras in visible positions, alarm signage, and alarm systems with panic buttons. It might also include the implementation of an access control policy – for example, the creation of a layer of security between public-facing areas (i.e., a waiting area, conference room, or meeting space) and staff offices.

Other preventative measures could include not publicizing the email addresses and phone numbers of employees on the organization's website. Organizations could instead have all general email and phone inquiries go to a centralized phone number or inbox (i.e., info@organization.org). This makes intercepting threatening emails and calls easier and decreases the risk of threats to individual employees. Organizations might also find it valuable to train staff in responding to threats (i.e., phone protocol, email protocol, and evacuation plans).

Finally, threats are not always physical. As GuideStar sadly experienced, they could come in the form of lawsuits and coordinated public relations attacks that can easily be interpreted as intimidating. Preparation for these kinds of attacks is equally important. Having in place a crisis management and communication plan, in addition to a physical security plan, is a good first step.

After aligning DAF agreements in accordance with existing DEI and anti-discrimination policies found in most every organization, foundations can take measures to explicitly endorse anti-hate policies and programs. The most immediate way for a foundation to move in this direction is to become a signatory to the Amalgamated Foundation's Hate is Not Charitable campaign and thereby make its commitment to anti-hate part of its overall mission and values statement. The Hate is Not Charitable campaign argues that using tax-deductible dollars to support hate groups undermines a shared value of democracy inherent to the logic of promoting the public interest, and it calls on both providers of DAFs as well as donors of conscience to take a stance against hate funding.[62] As of December 2019, more than 80 organizations, funding collaboratives, private foundations, and individual donors have signed on in support.

A preliminary review shows that the policies and practices within the philanthropic sector vary but may be broadly divided into two areas. The first set of policies do not strictly prohibit funding from a DAF to a hate group but require the foundation or clearinghouse to notify the donor about the nature of the organization to which they are requesting that funds be directed. Several large community foundations, as well as organizations that serve the philanthropic sector, take this approach.[63] Some note that most donors are simply unaware of the nature of the group to which they are donating. This mechanism, preferred by some in the industry for its discreet approach allows foundations to turn a difficult subject into an educational and relationship-building opportunity with donors. GuideStar, an organization that gathers, organizes, and distributes information about U.S nonprofits in order to advance transparency in the philanthropic sector, implemented a version of such a policy when it started publicly flagging SPLC-designated hate groups in 2017.[64] Unfortunately, this modest effort resulted in a campaign of hate and intimidation as well as spurious attempts at litigation by hate groups.[65] (For more information, see case study on page 17). Since then, however, many community foundations have implemented similar policies without any significant backlash from hate groups.

A second group of policies have been adopted by organizations that have tied their grantmaking due diligence policies to the values they adhere to as a community foundation and for that reason prohibit DAF grants to organizations that engage in hateful activities. This model is also similar to

the one followed by corporate entities and corporate philanthropy. A growing number of community foundations, as well as the signatories of the Hate is Not Charitable campaign, follow this model. Amalgamated Foundation's own policy states in part:

> [t]he Foundation prohibits any support of organizations engaged in "hateful activities" defined to mean activities that incite or engage in violence, intimidation, harassment, threats, or defamation targeting an individual or group based on their actual or perceived race, color, religion, national origin, ethnicity, immigration status, gender, gender identity, sexual orientation, or disability. These activities are contrary to the Foundation's mission and its charitable status. Amalgamated Foundation will not accept funds from donors or make contributions to grantees that the Foundation believes, in its sole discretion, intend to support or engage in hateful activities, whether online or offline. … As part of its review, the Foundation may consult resources such as Southern Poverty Law Center, Change the Terms, Color of Change, and GLAAD, to identify and update information regarding potentially hateful activities.[66]

The East Bay Community Foundation (EBCF), which includes social justice and community empowerment among the core components of its mission and vision, has also adopted explicit anti-hate policies. EBCF's "Grant Due Diligence Policy" prohibits:

> [g]rants to any organization then listed on the Southern Poverty Law Center's Hate Group map, as that list may be titled or revised from time to time; Grants to any organization that engages in discriminatory practices against a protected class, protected by applicable law.[67]

During the symposium, several foundations talked about taking the courageous step to turn away funding from — and sever ties with — powerful donors that wish to fund anti-social causes, even in a climate where DAFs constitute the majority of their charitable capacity.

The practice of suspending DAF contributions to certain charities, however, is not limited to non-commercial providers of DAFs, such as community foundations. In fact, commercial providers have done this exact thing. Most recently, both Fidelity and Schwab Charitable, two of the

By asking a foundation to notify a donor about the problematic nature of one of its intended grantees, a charity can turn a difficult subject into an educational and relationship-building opportunity.

country's largest commercial providers of DAFs, recently banned contributions to the National Rifle Association (NRA).[68] This ban came after the City of San Francisco passed a resolution on September 3, 2019, that labeled the NRA a "terrorist organization" and called for companies to limit their engagement with the organization, and after regulators in Washington, D.C., and New York opened an investigation into whether the NRA abused the nonprofit status of a charity it controlled.[69]

Of course, due diligence is a routine part of all grantmaking activities. All grantmakers check, for example, whether the IRS has awarded an organization nonprofit status. The problem with relying only on the IRS to determine if an organization is charitable is that nonprofit status can be easily abused, especially since the agency started relying on assurances from small non-profit organizations rather than the submission of actual documents in 2014.[70] In the fall of 2019, during a hearing of the House Ways and Means Oversight Subcommittee, some lawmakers argued to strip hate groups of their tax-exempt status.[71] To be clear, denying or removing tax-exempt status from a group espousing hate does not necessarily violate free speech protections, as it would not seek to bar these groups. Instead, it would merely ensure that groups promoting hate and discrimination would not be recognized as charitable and therefore not be subsidized by U.S. taxpayers.

In fact, denying tax-exempt status to groups promoting hate is not without precedent. In 1983, the IRS revoked Bob Jones University's nonprofit status over its prohibition on interracial dating. That same year, the neo-Nazi group National Alliance was denied a tax exemption because its materials advocated for the violent removal of nonwhites and Jews from society.[72] In 1991, the IRS denied

tax-exempt status to the Nationalist Movement, a group advocating social, political, and economic change to counteract minority "tyranny" while exalting "freedom as the highest virtue, America as the superlative nation, Christianity as the consummate religion, social justice as the noblest pursuit, English as the premier language, the White race as the supreme civilizer, work as the foremost standard and communism as the paramount foe." This decision was upheld by the United States Tax Court in 1994. In its decision, the court noted that "tax exemption is a privilege derived from legislative grace, not a constitutional right." The U.S. Tax Court also noted it followed the Supreme Court's clear rejection of the notion that "First Amendment rights are somehow not fully realized unless they are subsidized by the State."[73] And, in 2000, the Nationalist Foundation, a group favoring "Americans of northern European descent" was denied tax exempt status. However, despite this abundance of precedent, one has to be careful in allowing the government to have the sole authority to define what is hateful. A system where the government, without substantive input from a broad coalition of civil society groups, philanthropy, and academia, has the power to strip groups of tax-exempt status because of their views — no matter how abhorrent — and could easily be weaponized against groups based on where they fall on the political or ideological spectrum.

Further due diligence by grantmakers is often done by checking whether intended grantees' websites have a "dot-org" domain name, under the false but widespread assumption that "dot-org" groups are necessarily registered as nonprofits.[74] Grantmakers also vet potential grantees to ensure they do not appear on money-laundering or international terrorist watchlists, such as FBI, INTERPOL, and the Office of Foreign Assets and Control. To ease the work of vetting against multiple watchlists, some grantmakers rely on third-party commercial databases that combine these watchlists with their own research. There are problems with both methods.

To start with, dot-org is an open domain, available to anyone willing to pay a minimum annual registration fee. In fact, 49 percent of SPLC-designated hate groups — including neo-Nazi, anti-LGBTQ, anti-Muslim, and anti-immigrant groups — have a dot-org website, regardless of their tax-exempt status.[75] Third-party commercial databases are equally problematic. One example of such a database is World-Check. It is used by the banking

and financial services industries. It is also used by, and actively markets to, the charitable sector.[76] World-Check is often criticized by civil rights organizations, advocates, and experts on international terrorism for bias and misinformation that can result in the blacklisting and de-platforming of legitimate charitable groups.[77] The commercial nature of World-Check, its lack of coordination with civil society organizations, its use of unsubstantiated data, and its lack of transparency make it a highly problematic tool to screen out hate.[78] Despite the numerous problems with the product, World-Check is still used widely in the philanthropic sector and is integrated into a number of grant management software programs.

Adding new steps in due diligence processes will take up more time and staff capacity — two things in short supply at most foundations. Indeed, most stakeholders acknowledged the fact that their organizations simply lacked the human resources and in-house subject area expertise to implement comprehensive due diligence and vetting processes to screen out hate. For these reasons, nearly all participants agreed that while comprehensive due diligence *policies* are needed, there is also a need for advocacy organizations, academia, and philanthropy to work together to develop easy-to-use due diligence *tools* for screening out hate at a sector-wide level.

If these three sectors — academia, advocacy organizations, and philanthropy — work together to develop tools and model policies, it will circumvent several difficulties and dangers that could occur if any of these groups were to develop these in isolation of each other. For example, if philanthropy were to develop a tool or policies without input from advocacy organizations and academia, it would run the risk of missing important nuances or regulating hate arbitrarily. Because of the siloed nature and extensive time commitment required of academic research, scholars working in isolation from philanthropy or civil society could run the risk of using data that is outdated and therefore of limited value. Furthermore, because academic research tends to be heavily dependent on funding, it could run the risk of not being sustainable over time. Finally, if advocacy organizations alone provide guidance or recommendations for the sectors, it may create a public relations risk for philanthropic organizations wishing to adopt these recommendations. As the GuideStar experience has shown, this could also lead to fringe groups and their supporters launching harassment and intimidation campaigns.

Given the well-resourced and institutionally connected networks that create and disseminate hate-filled propaganda in our society, it is only logical that civil society, academia, and philanthropy equally join forces over the long term to manage the threat that hate presents to our democracy.

The nature of a verification list was also subject to productive discussion. Participants and stakeholders acknowledged that a list was simply one of many tools that should be available to foundations for their own analyses — but not one that would provide a mere checklist to escape accountability. Likewise, it was argued that a list should be considered only as a starting place for a wider conversation on anti-hate policies and programming in a foundation and that the overall goal of a foundation should be to increase its capacity in this space through continued education and resourcing. Participants also recognized that foundations would naturally have different approaches to the use and development of such tools. That is, while some might consider a list as an endpoint in a long conversation about equity and social justice, others might consider it just the beginning. Ultimately, consensus was arrived upon at the notion that such a tool or system is needed and that foundations should strive for collaboration and coordination but not uniformity.

While it is critical for individual community foundations to take on this work, there was consensus that a sector-wide dialogue and collaboration on developing best practices for community foundations need to take place. In this regard the role of affinity groups such as United Philanthropy Forum, the National Committee for Responsive Philanthropy, and the Council of Foundations were identified as institutions that could begin modeling best practices and setting nonbinding standards for the sector. In particular, it was argued that a special role should be played by the National Standards for Community Foundations, the accreditation program developed by the Council of Foundations.[79] While debates over self-regulation, oversight, and due diligence in philanthropy are expected to continue, there was a deep consensus on the urgent need to develop a shared framework to allow community foundations to be better equipped to address hate funding in their grantmaking. •

V. RECOMMENDATIONS

Philanthropy is at a crossroads. With the growth of bias, discrimination, and violent hate crimes and white supremacist terror attacks affecting our communities, philanthropy has a responsibility to address hate both in society and in the sector itself. Community foundations, due to their "big tent" local nature and civic missions, occupy a unique space in society, allowing them to transcend much of the polarized and fragmented nature of public life today. And while community foundations regularly combat social inequity, revelations that their charitable platforms have been used by special interest networks to funnel money to hate groups has resulted in more demands that the philanthropic sector take measures to insulate itself. As thought leaders in philanthropy have argued, even if the actual dollar amounts to hate groups from community foundations remain small in the context of the sector's enormous contribution to the public good, those funds nonetheless contribute to the normalization of hate speech and activity. More importantly, hate-funding directly undermines the civic mission of community foundations by going against their values and harms the safety of the communities they represent.

Accordingly, community foundations should reassert their role as vanguards in establishing reforms that will curtail hate-funding and steward the public discussion on philanthropy and the public good. They can do so by shedding the myth that they operate as value-free, neutral platforms. Just like the tech industry — long reliant on *free speech* arguments — is moving toward a recognition of the importance of *equal speech*, community foundations should not rely on the argument of neutrality to justify a lack of action addressing hate-funding. Rather, they should recognize that hate speech and activity are actually a public safety issue, not one about entertaining multiple and diverse political voices. The sector should recognize that there is a bright line between organizations that are inclusive of diverse voices and those that seek to deny individuals and groups the right to equally participate in society by spreading false, discriminatory propaganda and hatred related to immutable characteristics of whole populations and communities. Foundations can demonstrate their commitment to public safety by being fully transparent to their donors, the charities they

support, and the public about their values, their policies, and their contractual agreements.

Because the questions facing philanthropy are not unique, the sector should engage in shared-learning models and screening from related and parallel sectors such as social media, banking, the media, and internet service providers. A first step is to continue to convene with leaders at Change the Terms to explore how its model policies can be modified to apply to the philanthropic sector.

To move this sector in the right direction, foundations should **support the *Hate is Not Charitable* campaign** by encouraging private and public foundations to sign on as part of a larger coordinated campaign to raise awareness about the issue. Thereafter, foundations should work in close coordination with civil society and academia to sponsor public and private roundtables and discussions about sector reform. There is an opportunity for membership organizations and philanthropic affinity groups to influence the sector by developing model policies and standards that go beyond simply reacting to crises caused by hate and instead work toward addressing hate proactively. **Foundations can begin this process by expanding their existing DEI policies and programming initiatives to explicitly condemn hate activity.** Most foundations also have robust anti-discrimination policies in their HR ecosystems, providing another base upon which to build anti-hate infrastructures within their organizations.

As it pertains to DAFs, community foundations and commercial sponsors **should develop and implement standards and practices that align their donor agreements with the hate-free and anti-discrimination policies that govern other areas of their organizations' activities.** This measure would provide a first phase in the long-term process of developing screening practices to root out hate groups from philanthropy altogether. Another immediate step in developing anti-hate due diligence procedures is to move beyond the culture of simply relying upon the IRS status of an organization to confirm its charitable status. In addition to well-documented problems with IRS verification systems, such as lax oversight, allowing a government agency to unilaterally determine the standard for acceptable civil society activity could set a dangerous precedent.

Instead of government regulation, advocacy organizations, academia, and philanthropy have an opportunity to work together to provide guidance to the sector.

The sector should make particular efforts to support the growing but largely under-resourced research community — composed of think tanks, scholars, and independent journalists — exploring the impact of DAFs on the philanthropic landscape. The current state of reporting and research is largely piecemeal and ad hoc in nature. Philanthropic organizations can and should help fund university research centers focused on DAFs as well as support advocacy and journalistic initiatives aimed at identifying the role of hate in the sector.

Strengthening due diligence practices necessarily requires increased capacity and expertise that foundations must build out over the long term. Just as the industry has continually grown to comply with regulations, achieve compliance standards, and implement risk prevention systems around issues such as money laundering and terrorist finance, so too should it implement systems that provide robust screening systems against hate groups. **Therefore, industry leaders in philanthropy should support the development of resources and tools such as university research collaborations, software products, and public education materials to help foundations and their stakeholders mitigate the problem of hate-funding.**

It should be noted, however, that even if screening systems and due diligence processes are adopted by foundations, the question of variance power — a charity's discretionary judgment to redirect a donor's funds — remains unclear to many in the industry. While there is a long trail of legal and industry precedent when it comes to the adjustment of donor funds in traditional charities (often due to outdated mandates or institutional change), the way variance power applies to DAFs is still being explored by sector actors and experts. **Because preventing and stopping hate-funding in philanthropy will likely trigger questions about donor intent, leaders in the sector should immediately convene research and public education initiatives to clarify the current state of practice on variance powers and DAFs.**

In closing, philanthropy must do more than simply condemn hate. It must take the next step and confront it. In the words of Sharon Alpert, CEO of the Nathan Cummings Foundation, "Under our watch, no one should be able to argue credibly that white supremacy and white nationalism aren't threats to our democracy, our economic security, and the health and vitality of the social fabric of our communities."

We hope this white paper will help the sector take steps to protect philanthropy and civil society from the scourge of hate and bigotry. •

APPENDIX A

SUGGESTED READINGS AND FURTHER RESOURCES

General
- Amalgamated Foundation. Hate is Not Charitable, 2019.
- CAIR. "Hijacked by Hate: American Philanthropy and the Islamophobia Network," May, 2019.
- Democracy Fund. "As Hate Attacks Rise, Philanthropy Can Take Steps to Curb Them," by Tom Glaisyer and Nadia Firozvi. December 13, 2019
- The Nathan Cummings Foundation. "How Philanthropy can Curb the Rise of Hate," Sharon Alpert. April 29, 2019
- NPR. "Mainstream Charities are Unwittingly Funding Anti-Muslim Hate Groups," May 7, 2019.
- Sludge Report. DAFs and Hate-Funding Series, 2019

Donor Advised Funds
- Institute for Policy Studies. *Warehousing Wealth: Donor-Advised Charity Funds Sequestering Billions in the Face of Growing Inequality,* July 2018.
- The Urban Institute. "Discerning the True Policy Debate over Donor Advised Funds," October, 2015.
- Hurtubise, Mark. "The Problem with Donor Advised Funds and a Solution, in Stanford Social Innovation Review. https://ssir.org/articles/entry/the_problem_with_donor_advised_fund-sand_a_solution
- The Chronicle of Philanthropy, "Working with Donor-Advised Funds: The Basics," May 01, 2018.
- Non-Profit Law Blog, Neo Law Group. "California AB 1712: Donor Advised Funds," January 18, 2020.

Hate Speech Online
- Change the Terms. "Frequently Asked Questions," 2018.
- The Christchurch Call, "The Call," 2019.
- The Center for American Progress, "Curbing Hate Online: What Companies Should Do Now," October 25, 2018.
- The Southern Poverty Law Center. "It Took Charlottesville for Silicon Valley to Stand Up to Hate," August 19, 2017.
- Wired. "Tech Companies Have the Tools to Confront White Supremacy," August 14, 2017.

On Best Practices on Screening Hate Groups
- East Bay Community Foundation, "Grant Due Diligence Policy" [sample policy]
- New America Foundation. "Building U.S. Resilience to Political Violence," December, 2019.
- Northern California Grantmakers. "Funding Hate: A Philanthropists Guide to Prevention," [Webinar: James Head, Eric Ward, Anna Fink, Abbas Barzegar], December 6, 2019.
- The Chronicle of Philanthropy. "Federal Court Says GuideStar Was Within Legal Bounds to Add 'Hate Group' Labels," January 24, 2019.
- The Southern Poverty Law Center. "SPLC Hate Map."
- Spotify. "Spotify Announces New Hate Content and Hateful Content Public Policy," May 10, 2018.

DEFINITIONS AND FREQUENTLY ASKED QUESTIONS

What is a hate group?

The Southern Poverty Law Center defines a hate group as an organization that — based on its official statements or principles, the statements of its leaders, or its activities — has beliefs or practices that attack or malign an entire class of people, typically for their immutable characteristics. We do not list individuals as hate groups, only organizations.

The organizations on the SPLC group list vilify others because of their race, religion, ethnicity, sexual orientation, or gender identity — prejudices that strike at the heart of our democratic values and fracture society along its most fragile fault lines.

The FBI uses similar criteria in its definition of a hate crime:

> *[A] criminal offense against a person or property motivated in whole or in part by an offender's bias against a race, religion, disability, sexual orientation, ethnicity, gender, or gender identity.*

We define a "group" as an entity that has a process through which followers identify themselves as being part of the group. This may involve donating, paying membership dues or participating in activities such as meetings and rallies. Individual chapters of a larger organization are each counted separately, because the number indicates reach and organizing activity. There are currently 1,020 hate groups operating in the United States.

What are hate activities?

As defined in the model terms of service of Change the Terms, "hateful activity" means "activities that incite or engage in violence, intimidation, harassment, threats, or defamation targeting an individual or group based on their actual or perceived race, color, religion, national origin, ethnicity, immigration status, gender, gender identity, sexual orientation, or disability."

What is the Islamophobia Network?

CAIR defines the Islamophobia Network as a decentralized and close-knit family of organizations and individuals that share an ideology of extreme anti-Muslim animus and that work with one another to negatively influence public opinion and government policy about Muslims and Islam.

What is the SPLC's hate map?

Each year since 1990, the SPLC has published an annual census of hate groups operating within the United States. The number is a barometer, albeit only one, of the level of hate activity in the country. Other indicators of hateful ideas include the reach of hate websites, for example. The hate map, which depicts the groups' approximate locations, is the result of a year of monitoring by analysts and researchers and is typically published every February. It represents activity by hate groups during the previous year.

Tracking hate group activity and membership is extremely difficult. Some groups do everything they can to obscure their activities, while others grossly over-represent their operations. The SPLC uses a variety of methodologies to determine the activities of groups and individuals. These include reviewing hate group publications and reports by citizens, law enforcement, field sources and the news media, and conducting our own investigations.

Why does the SPLC compile a list of hate groups?

Hate groups tear at the fabric of our society and instill fear in entire communities. American history is rife with prejudice against groups and individuals because of their race, religion, disability, sexual orientation, or other characteristics. As a nation, we have made a lot of progress, but our history of white supremacy lingers in institutional racism, stereotyping, and unequal treatment of people of color and others. Hate also plays a particular role in crime and thus the existence and location of hate groups is important to law enforcement. The U.S. Department of Justice warns that hate crimes, more than any other crime, can trigger community conflict, civil disturbances, and even riots. For all their "patriotic" rhetoric, hate groups and their imitators are really trying to divide us; their views are fundamentally anti-democratic and should be exposed and countered.

How do I read the hate map?

The SPLC hate map depicts the approximate

locations of hate group chapters. The location of a chapter in no way implies that local government officials or residents endorse the beliefs of the group. Quite often, they don't know it is there. The hate map is also available in text format sorted by state and by ideology.

What does "statewide" mean?

Some hate groups have chapters that meet in different cities across a state. And, in some cases, these groups have not designated a specific location as their headquarters. When this occurs, the SPLC lists the chapter as statewide and indicates on the hate map how many statewide chapters there are per state.

How often does the SPLC publish its hate map?

The SPLC produces a nationwide hate group list and map on an annual basis, normally in the spring. The map includes groups that showed activity during the previous calendar year. Some groups may only exist for a few months during the calendar year and others may disappear or change location after the hate map is published.

How does the SPLC categorize hate groups?

The SPLC lists hate groups under the following categories: Ku Klux Klan, neo-Nazi, white nationalist, racist skinhead, Christian Identity, neo-Confederate, black nationalist, anti-immigrant, anti-LGBTQ and anti-Muslim. General Hate category consists of hate music, Holocaust denial, and Radical Traditional Catholicism, among others. An "Other" category includes groups espousing a variety of hateful ideologies. Some groups do not fall neatly into one sector, and many embrace racism and antisemitism as core components.

Does violence play a role in designating hate group?

Vilifying or demonizing groups of people on the basis of their immutable characteristics, such as race or ethnicity, often inspires or is a precursor to violence. But violence itself is not a requirement for being listed as a hate group. Because a group's ideology can inspire hate violence even when the group itself does not engage in violent activity, the SPLC concentrates its analysis on ideology. An example is Dylann Roof's racist Charleston massacre at Mother Emanuel church in 2015. Roof was not a member of any hate group, but his act was inspired by the ideology of the white nationalist group Council of Conservative Citizens (CCC), among other hate group websites. The CCC has no track record of leaders or members engaging in violence, but its ideas can clearly prompt hate violence.

Conversely, there are some violent groups that are not hate groups. For example, we do not list racist prison gangs as hate groups, because their goals are primarily criminal, not ideological.

Can organizations operating in the mainstream be hate groups?

Yes. In fact, it's even more important to call out groups that demonize others while having a foothold in the mainstream. It's easy to recognize a person in a white sheet for what they are. It's the wolf in sheep's clothing that's harder to identify.

Why is there no specific category for antisemitism?

Antisemitism is a central tenet of belief for most white hate groups, though other people are also anathema to these organizations. Many of the groups we list are antisemitic, including neo-Nazis, racist skinheads, Christian Identity adherents, Klan groups, many white nationalist groups, and others such as Radical Traditional Catholics. Black separatist hate groups are also often antisemitic.

What does the SPLC consider an anti-immigrant hate group?

Anti-immigrant hate groups are the most extreme of the hundreds of nativist groups that have proliferated since the late 1990s, when anti-immigrant xenophobia began to rise to levels not seen in the United States since the 1920s. Most white hate groups are also anti-immigrant, but anti-immigrant hate groups target only that population, usually arguing that immigrants of color are unable to assimilate, have a lower intellectual capacity than white people, bring disease or are inherently more criminal. Although many groups legitimately criticize American immigration policies, anti-immigrant hate groups go much further by pushing racist propaganda and ideas about non-white immigrants.

What does the SPLC consider an anti-LGBTQ hate group?

The SPLC lists organizations such as the Family Research Council as anti-LGBTQ hate groups because they use dehumanizing language and pseudoscientific falsehoods to portray LGBTQ people as, for example, sick, evil, perverted, and a danger to children and society — or to suggest that LGBTQ people are more likely to be pedophiles and sexual predators. Some anti-LGBTQ hate groups support the criminalization of homosexuality in the

United States and abroad, often marshaling the same debunked myths and demonizing claims in their efforts.

A major misconception — one that is deliberately promoted by anti-LGBTQ hate groups in order to accuse the SPLC of being "anti-Christian" — is that the SPLC considers opposition to same-sex marriage or the belief that homosexuality is a sin as the sole basis for the hate group label. This is false. There are many organizations and hundreds of churches and other religious establishments that oppose same-sex marriage or oppose homosexuality on strictly Biblical grounds that the SPLC does not list as hate groups.

Does the SPLC list any anti-white hate groups?

The SPLC has listed black separatist groups since the late 1990s. Most prominent are the Nation of Islam and the New Black Panther Party, which has no relationship to the Black Panther Party of the 1960s and 1970s. The organizations hold beliefs whose tenets include racially based hatred of white people. Other black nationalist groups believe black people are the true Israelites and many espouse virulently antisemitic and anti-LGBTQ beliefs.

What is a black separatist hate group?

Black separatist groups have always been a reaction to white racism. These groups are typified by their antisemitic, anti-LGBTQ, anti-white rhetoric and conspiracy theories. They should not be confused with mainstream black activist groups such as Black Lives Matter and others that work to eliminate systemic racism in American society and its institutions.

Why doesn't the SPLC list Black Lives Matter?

While its critics claim that Black Lives Matter's very name is anti-white, this criticism misses the point. Black lives matter because black lives have been marginalized for far too long. As BLM puts it, the movement stands for "the simple proposition that 'black lives *also* matter.'"

The SPLC has heard nothing from the founders and leaders of the Black Lives Matter movement that is in any way comparable to the racism espoused by, for example, the leaders of the New Black Panther Party — and nothing at all to suggest that the bulk of the demonstrators hold supremacist or black separatist views. Indeed, people of all races have marched in solidarity with African Americans during BLM marches.

Why doesn't the SPLC list Islamist terrorist groups like ISIS?

The SPLC lists only domestic hate groups — those based in and focused on organizing in the United States. We do, however, list several U.S.-based groups that are ideologically similar to groups like ISIS. They are usually listed as hate groups because of their vilification of Jews and LGBTQ people.

Why doesn't the SPLC list antifa as a hate group?

The SPLC condemns violence in all its forms, including the violent acts of far-left street movements like antifa (short for anti-fascist). But the propensity for violence, though present in many hate groups, is not among the criteria for listing. Also, antifa groups do not promote hatred based on race, religion, ethnicity, sexual orientation or gender identity (see criteria above).

Does the SPLC list any far-left hate groups?

The SPLC's goal is to identify all U.S.-based groups that meet its definition of a hate group regardless of whether one would think of the group as being on the left or the right. One can always debate whether a group should be considered "left" or "right." The Nation of Islam, which we list for its antisemitism and vilification of white people, is a case in point. Another example is Jamaat al-Muslimeen — a Muslim group that is listed because of its vilification of Jews and the LGBTQ community. But, as a general matter, prejudice on the basis of factors such as race is more prevalent on the far right than it is on the far left.

This does not mean that extremism and violence on the far left are not concerns. But groups that engage in anti-fascist violence such as antifa groups, for example, differ from hate groups in that they are not typically organized around bigotry against people based on the characteristics listed above. •

APPENDIX C

SECURITY AND PREPARING FOR ATTACKS
A good source for institutions on comprehensive preparation for possible attacks is RoadMap Consulting's report *Weathering the Storms*.[80] It recommends a 5-step process for organizations that are vulnerable to being targeted by opponents.

1. Assess the Threats: Prioritize your areas of need by assessing the threats to which you may be vulnerable, based on your programs, structure, opposition research, and past experience.

2. Reduce Risks: Tighten up practices related to governance, archiving, digital security, finance, volunteer training, and personnel. For c3/c4 affiliated groups, strengthen administrative systems for tracking lobbying and electoral advocacy activities to ensure compliance with regulations and funder requirements.

3. Manage a Crisis Before It Happens: Create a team and clear internal protocols for crisis management. Raise awareness of staff, board and volunteers by reviewing the threats and response plan.

4. Organize Your Communications: Prepare crisis messaging that addresses threats and affirms your core values and goals, as well as your decision-making and implementation processes for message dissemination. Identify and train messengers, including allies who can validate your organization with key audiences.

5. Refresh Your Practice: Ensure preparedness practices are maintained with an annual "fire drill" to review threat scenarios; regularly tune up systems; and screen and orient new people as they join staff, volunteer and board positions.

In addition to the report, RoadMap compiled checklists and *Must Read Resources*. A selection of that list is copied here, with permission. Note that there is no one-size-fits-all solution. Any security policies developed and adopted by organizations will need to be tailored to each institution.

Recordkeeping and Confidentiality
- "Top 12 Best Practices" by RoadMap
- "Keeping Track: A Guide to Recordkeeping for Advocacy Charities" by Alliance for Justice
- "Sample Confidentiality Agreements" by National Council on Nonprofits
- "Tips for Funders Preparing for the Possibility of a Politically Motivated Attack" by Alliance for Justice

General Security Measures
- "Common Sense Security" by Political Research Associates
- "Readiness Assessment": Part one of RoadMap's Digital Security Checklist
- Digital Security checklists from iEcology

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