

## **U.S. Right of Reply**

Plenary Session II  
Fundamental Freedoms I

As prepared by Ambassador Michael Kozak  
U.S. Head of Delegation  
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The United States exercises its right of reply to statements made during Plenary Session II concerning the media landscape, safety of journalists, law enforcement practices, and electoral environment in the United States.

Freedom of expression (FOE) is a right enshrined in the First Amendment to the U.S. Constitution. The U.S. judicial system safeguards FOE with among the strongest legal protections in the world. We believe that respecting FOE fosters societies that are more informed, resilient, stable, and tolerant. We also believe that a free press is a pillar of democracy. As President Biden said on World Press Freedom Day, a free press “allows our government and our society to be self-critical and self-correcting. It educates, illuminates, exposes, and uncovers. It serves as a guardian of truth.” The U.S. stands with journalists at home and around the world against those who seek to silence or harm them. President Biden has stressed that “no journalist – American or not – should have to risk their lives and livelihoods in pursuit of th[e] truth.” We condemn attacks on journalists in the United States and perpetrators are held accountable for violating U.S. laws through our criminal justice system, regardless of whether they are private citizens or members of law enforcement.

With regard to the comment about the need for the U.S. government to address the problem of disinformation and hate speech: we readily acknowledge that the United States is experiencing a time of polarization and that globally we are seeing a troubling rise in hate speech and disinformation. It is incumbent upon governments, media outlets, and members of society to model respect, welcome diversity of belief, and build respectful societies based on open dialogue and debate. Governments should speak out strongly against offensive and hateful speech – as the U.S. government continues to do at the highest levels. The U.S. also promotes the responsible use of trustworthy artificial intelligence (AI) in line with democratic principles and respect for human rights. The Biden Administration has made clear that AI must not compromise people’s rights or safety, and that companies also have a fundamental responsibility to ensure that their AI systems are trustworthy and equitable. To make the most of AI’s potential and manage its risks, the Administration is encouraging this industry to uphold the highest standard to ensure that innovation does not come at the expense of people’s rights and safety.

The United States remains steadfast in the view that we must robustly protect FOE because the cost of stripping away individual rights is far greater than the cost of tolerating hateful words. FOE under the U.S. Constitution rests on a fundamental belief that there is a “marketplace of ideas” from which the truth will emerge. Hateful expression is not defeated by legal prohibitions and prosecutions but fails because of its own inherent lack of merit. We

continue to believe that using legal prohibitions and prosecutions to control the information ecosystem will neither unite societies nor defeat hate or intolerance. On the contrary, such actions may introduce new dangers. When a government steps in to unilaterally determine the acceptability of ideas, it wields an immense power that can be abused to restrict civic space and undermine human rights, including by spreading state-sponsored propaganda and silencing dissenting voices. We need only look at OSCE participating states like Russia and Belarus to understand how dangerous this abuse of power can be.

Content that promotes an ideology or belief alone does not typically constitute a violation of U.S. law and is generally protected. The U.S. Supreme Court has defined protections of FOE under the U.S. Constitution broadly, identifying few narrowly defined exceptions, including speech that incites imminent lawlessness. U.S. law does not impose an obligation on media companies to remove, restrict, or otherwise regulate content that is protected by the First Amendment. With respect to private Internet companies specifically, they may, and do, choose voluntarily to remove websites and social media accounts with contents that violate their own user service agreements. Questions of whether particular online content violates U.S. law is addressed through civil or criminal legal processes with the attendant constitutional safeguards and protections. Of course, our strong belief in FOE does not mean that we sit idly by when hateful expression turns into discrimination or violence. Our network of civil rights laws deters and punishes discrimination and hate crimes. We deploy our full investigative resources and aggressively pursue those involved in these criminal activities.

Concerning disinformation in particular, the U.S. takes a holistic approach to identifying, tracking, and countering it. We are raising awareness among vulnerable audiences, increasing societal resilience, championing media, and closely monitoring and analyzing the latest tools and techniques used by those leading disinformation campaigns. One of our best defenses against disinformation is a free and transparent news media environment, which is why the United States actively engages with our allies and partners to strengthen independent media at home and across the globe. We welcomed ODIHR's election monitoring mission to observe our midterm elections last year and we take seriously their recommendations.

Regarding the comment that the United States has failed to address racism and excessive use of force by law enforcement, we wish say the following; The United States is committed to holding accountable officials who, acting under color of law, wilfully deprive a person of a right or privilege protected by the U.S. Constitution or the laws of the United States. The Justice Department is using every tool in our arsenal to challenge acts of hate and discrimination, including white supremacist-fueled violence. Since January 2021, we have charged more than 90 defendants in over 80 cases and secured more than 70 convictions of defendants.

- We are currently prosecuting the man who killed 10 Black people in a racist mass shooting in Buffalo, New York. We obtained a conviction of a Montana man for shootings intended to rid his town of LGBTQ people and won guilty verdicts against the three men who murdered Ahmaud Arbery just because he was Black.

- We secured a 25-year prison sentence for the man who attacked an Asian-American family with a knife at a Sam's Club in Midland, Texas, because he blamed them for the COVID-19 pandemic. We also obtained a guilty verdict against the man who killed 11 worshippers at the Tree of Life Synagogue in Pennsylvania.
- The Department obtained convictions of those police officers responsible for the death of George Floyd. In 2022, a federal court sentenced officer Derek Chauvin to 21 years in prison for his role in the murder of Mr. Floyd. Significantly, those convictions were not only against the officer who knelt on Mr. Floyd's neck but also against those officers who refused to intervene to protect Mr. Floyd and who deliberately failed to get him timely medical attention. These convictions send a clear message to police departments across the country that they must use only reasonable force and that they have a proactive duty to protect the constitutional rights of all Americans.
- From 2017 to 2020, for example, the Department obtained convictions of 200 defendants, including police officers, for wilfully violating constitutionally protected rights while acting under color of law. These defendants were primarily law enforcement officers, including police officers, sheriff's deputies, and correctional officers.

But prosecutions alone will not stop the spread of hate. That's why the Department is also hard at work addressing non-criminal acts of bias inside our schools, workplaces, and in our neighborhoods. We are also addressing the need for hate crime prevention through education and awareness. This multi-part strategy is critical to eliminating hate—root and branch. To deter and confront hate crimes and other bias incidents, the Justice Department:

- The Department has undertaken several additional pattern-or-practice investigations of excessive force and policing that discriminates against African-American people and has pursued effective remedies in jurisdictions in Baltimore, Maryland; New Orleans, Louisiana; Seattle, Washington; Los Angeles, California; and Newark, New Jersey.
- Hired the Department's first Language Access Coordinator.
- Issued guidance with the Department of Health and Human Services to raise awareness of hate crimes during the pandemic.
- Is releasing \$10 million in grants to create state-run hate crime reporting hotlines and to support community-based approaches.
- Launched a new community outreach program across the United States, in every United States Attorney's Office, to improve identification and reporting of hate crimes and hate incidents, by building engagements and trust between communities and law enforcement.
- Launched a hate crimes identification training for state and local law enforcement officers along with regional trainings for law enforcement on assessing and managing hate crime and domestic extremist violence threats.

- The Bureau of Justice Assistance (BJA) is awarding funding to communities to enhance their ability to prevent and effectively respond to hate crimes through programs including the Matthew Shepard and James Byrd, Jr. Hate Crimes Program, and the Community Based Approaches to Prevent and Address Hate Crime Program.
- In FY 2021, the Office for Victims of Crime awarded \$2 million under the “Services to Support Victims of Hate Crime and Strengthen Communities” solicitation, which was sub-awarded to 12 organizations throughout the country to implement field generated projects to address hate crimes in their communities.