

The Honorable Loretta E. Lynch
Attorney General
U.S. Department of Justice
Washington, D.C. 20530

October 11, 2016

Dear Attorney General Lynch:

I write to you as one member of the U.S. Commission on Civil Rights, and not on behalf of the Commission as a whole. I am writing in regard to the Department of Justice's enforcement of 18 U.S.C. § 247.

Senators Ted Cruz and Mike Lee have recently exchanged correspondence with you regarding the enforcement of the FACE Act and 18 U.S.C. § 247 in regard to houses of worship.¹ Your agency's June 29, 2016 response to Senators Cruz and Lee states that since January 2009, DOJ has brought 27 cases under Section 247. I have several follow-up questions regarding DOJ's enforcement of 18 U.S.C. § 247. I would appreciate it if you would provide the following information:

- 1) Please list all 27 enforcement actions brought under Section 247 since January 2009. Please include the following information:
 - a. What was the house of worship or religious real property involved in each enforcement action?
 - b. What were the circumstances surrounding each incident?
 - c. What was the resolution of each enforcement action?
- 2) There have been highly publicized incidents that did not result in a Section 247 enforcement action, such as gay rights activists' obstruction of access to the Los Angeles Temple of the Church of Jesus Christ of Latter-Day Saints (LDS). What criteria does DOJ use to determine whether to bring a Section 247 enforcement action?
- 3) In addition to the incident mentioned above in which gay rights activists obstructed access to an LDS temple, there were a number of other incidents following the passage of Proposition 8 in which houses of worship were vandalized or entrance to them was obstructed. For example:

“After Prop 8 passed, crowds of same-sex marriage activists congregated for protests at Mormon houses of worship throughout the nation. One video shows same-sex marriage activists massed outside the Mormon temple in New York City crying “fascist church” repeatedly. Another video appears to show angry activists rattling the gates of the temple in Los Angeles and chanting “shame on

¹ Letter from Senators Ted Cruz and Mike Lee to Attorney General Loretta Lynch, Sept. 27, 2016, [http://www.cruz.senate.gov/files/documents/Letters/20160927_FACE%20ActReply\(Cruz-Lee\).pdf](http://www.cruz.senate.gov/files/documents/Letters/20160927_FACE%20ActReply(Cruz-Lee).pdf).

- you.” Images from various protests show signs like “Mormon Scum,” “Get your filthy church off me,” and “Keep your hate in Salt Lake.””²
- a. Did DOJ investigate whether Section 247 was violated in the course of these publicized protests, and if so, did it consider whether to bring charges against the individuals involved?
 - b. Please provide any records that mention or discuss protests or acts of vandalism directed toward a church or other house of worship because of the church’s reputed opposition to same-sex marriage or gay rights.
- 4) An organization called “Bash Back!” described as “a network of radical, anarchist queer projects ... [formed] to facilitate a convergence of radical trans and gay activists from around the country”³, organized a protest at Mount Hope Church, an evangelical church in Lansing, Michigan. This protest involved “several members of the group entering the church dressed like churchgoers and disrupting a Sunday morning service by throwing pro-gay pamphlets, shouting “it’s ok to be gay,” unfurling a pro-gay banner and two members of the group kissing near the pulpit.”⁴ Members of the group also protested outside near the entrances and disrupted traffic.⁵ These protestors “dressed in black with hooded attire and ... covered their faces with bandanas.”⁶ Bash Back! affiliates also claimed responsibility for vandalizing an LDS church in Olympia, Washington, and disrupting Sunday services at a church in Boston.⁷

Mount Hope Church sued Bash Back! and Bash Back! Lansing under the FACE Act, in which suit it was represented by a religious liberty organization called Alliance Defense Fund (now known as Alliance Defending Freedom).⁸ Judge Robert Holmes Bell of the Western District of Michigan permanently enjoined Bash Back! and Bash Back! Lansing from “disrupting a religious service anywhere in the United States”, “conducting a protest on the private property of any place of worship in the United States”, “blocking, impeding, or making unreasonably difficult ingress or egress onto property ... at any place of worship in the United States”, and “destroying property at any place of worship in the United States.”⁹

² Thomas M. Messner, The Price of Prop. 8, The Heritage Foundation, Oct. 22, 2009, http://www.heritage.org/research/reports/2009/10/the-price-of-prop-8#_ftn105.

³ https://en.wikipedia.org/wiki/Bash_Back!#cite_note-Bash_Back-30.

⁴ Neal McNamara, Bash Back retains lawyer in protest suit, Lansing CityPulse, June 8, 2009, <http://lansingcitypulse.com/article-3061-bash-back-retains-lawyer-in-protest-suit.html>.

⁵ Complaint, Mt. Hope Church v. Bash Back!, Case No. 1:09-CV-427, May 13, 2009 (W.D. Mich.), at 45-47, <http://www.portlandmercury.com/images/editorial/20112303/bash%20back%20lawsuit.pdf>.

⁶ Id. at 38.

⁷ Id. at 67-68.

⁸ Complaint, Mt. Hope Church v. Bash Back!, Case No. 1:09-CV-427, May 13, 2009 (W.D. Mich.), <http://www.portlandmercury.com/images/editorial/20112303/bash%20back%20lawsuit.pdf>.

⁹ Order Granting Default Judgment and Permanent Injunction Against Bash Back! and Bash Back! Lansing, Mt. Hope Church v. Bash Back!, Case No. 1:09-CV-427, July 11, 2011 (W.D. Mich.), <http://www.adfmedia.org/files/BashBackOrder.pdf>.

All three of the aforementioned Bash Back! protests appear to violate Section 247. Did DOJ consider bringing a Section 247 action against Bash Back! or any of its affiliates involved in these protests? Please provide any records:

- a. related to the Bash Back! protests;
- b. any discussion of bringing a Section 247 action against Bash Back! and/or any of its affiliates; and
- c. any records of any discussion of the FACE Act suit brought against Bash Back! by Mount Hope Church and the Alliance Defense Fund (now Alliance Defending Freedom).

- 5) Last year, David Lopez Jackson was charged with two counts of arson for setting fire to two churches in the St. Louis area, and was suspected of having set fire to five other churches.¹⁰ Did DOJ charge him with violating Section 247? If not, why not?

Thank you for your assistance.

Sincerely,



Peter Kirsanow
Commissioner

¹⁰ 7 St. Louis churches set on fire in 2 weeks, USA Today, Oct. 22, 2015, <http://www.usatoday.com/story/news/nation-now/2015/10/22/st-louis-church-fires/74403650/>; Lindsey Bever and Elahe Izadi, *Suspect arrested for arson following string of St. Louis church fires*, Wash. Post, Oct. 30, 2015, https://www.washingtonpost.com/news/post-nation/wp/2015/10/30/suspect-arrested-for-arson-following-string-of-st-louis-church-fires/?utm_term=.67852a40f6eb/.