



International Association of
Chiefs of Police

44 Canal Center Plaza, Suite 200
Alexandria, VA 22314-2357
Phone: 703-836-6767; 1-800-THE IACP
Fax: 703-836-4543
Web: www.theiacp.org

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February 26, 2016

The Honorable Diane Feinstein
United States Senate
331 Hart Senate Office Building
Washington, D.C. 20510

Dear Senator Feinstein:

On behalf of the International Association of Chiefs of Police (IACP), I am writing to express our strong support for the legislation you authored that would provide a legislative fix to the federal threats statute codified at 18 U.S.C. § 875(c).

As you are aware, in June 2015, the Supreme Court issued a decision in *Elonis v. United States*, a case in which the defendant argued that he could not be convicted for making threats to commit domestic violence under a federal statute criminalizing such threats, without proof that he specifically intended to threaten. The Court, in its decision, did not decide the required level of intent for prosecuting threats under 18 U.S.C. § 875(c).

Instead, under the *Elonis* decision, the Court left ambiguous what mental state is required on the part of the defendant to prosecute threats under 18 U.S.C. § 875(c). This confusion will make it more difficult to prosecute abusers for making threats directed at their victims, especially via constantly evolving social media and other electronic contexts.

As a result of this uncertainty, prosecutors and courts, may be reluctant to charge threats under 18 U.S.C. § 875(c). Without Congressional clarification, the current ambiguity surrounding the threats statute may permit many to intimidate victims, without consequence.

This legislation, would subject a person to a maximum of five years in prison and/or fines if he/she threatens to kidnap or injure another person and he “intended, had knowledge, or recklessly disregarded the risk, that the communication would be reasonably interpreted as a threat.”

In addition, the amendment to the threats statute would provide more clarity to prosecutors and courts, and ensure that intentional, knowing, and reckless threats to another person would each be covered under the law.

This legislation will aid in facilitating the proper and effective prosecution of dangerous and threatening individuals. This legislative fix will also help law enforcement and prosecutors to thwart threatening behavior before it metastasizes into violence.

On behalf of our nation's law enforcement executives, we applaud you for introducing this important legislation. The IACP looks forward to working with you to ensure enactment of this legislation.

Thank you again for your efforts on this issue.

Sincerely,

A handwritten signature in black ink, appearing to read "T. Cunningham". The signature is fluid and cursive, with the first letter of each word being capitalized and prominent.

Terrence Cunningham
President
International Association of Chiefs of Police