



UNITED STATES
DEPARTMENT OF JUSTICE

Hate Crime Training
*Core Curriculum for
Patrol Officers,
Detectives &
Command Officers*

Developed in partnership by:

**International Association of Directors of
Law Enforcement Standards and Training**

National Association of Attorneys General

U.S. Department of Justice

U.S. Department of the Treasury



Office of the Attorney General
Washington, D. C. 20530

I am deeply concerned about the problem of hate crime in the United States. It is a concern shared by the President and by Americans throughout the country. We as a nation have largely overcome a difficult chapter in our history, and we enjoy an unparalleled level of freedom from hatred and bigotry. But pockets of bias-related violence and intimidation remain and threaten the progress we have made. Hate crime has no place in civilized society.

The primary responsibility for hate crime investigation begins with dedicated state and local law enforcement officials. In some communities, these officials may need additional training to develop the specialized skills necessary for the identification, reporting, investigation and prosecution of hate crimes.

As part of a comprehensive initiative by the Department of Justice to address hate crime, I asked the Community Relations Service and the Federal Bureau of Investigation's Hate Crimes Unit to work with Federal, State and local law enforcement agencies to develop a model hate crime training curriculum. I wanted to identify the best policies, procedures, practices, techniques and materials available to train law enforcement officers, and create model curricula with an equitable balance of instruction on law enforcement, victim assistance and community relations. To this end we joined with the National Association of Attorneys General, the International Association of Directors of Law Enforcement Standards and Training, the Department of Treasury's Federal Law Enforcement Training Center, the Department of Justice's Office for Victims of Crime, and the Federal Bureau of Investigation's National Training Academy and Uniform Crime Reporting Division. This remarkable partnership produced four new training curricula for patrol officers, detectives, policy-level officers, and a mixed audience of all three levels. I thank these State and local agencies for their valued participation. These courses have been extensively field tested, reviewed by national law enforcement organizations, and are ready to be taught in law enforcement departments and academies.

The problems posed by hate crime are difficult, but not insurmountable. I am confident that through a true partnership of Federal, State and local law enforcement and civil rights organizations, we can make a substantial contribution towards reducing hate crime's devastating impact on our communities. I am grateful for your assistance in this most critical endeavor.


Janet Reno

A total of four hate crime curriculums have been developed and are available from the U.S. Department of Justice. The curriculums are:

- **Patrol and Responding Officers (Vol. 1, October 1998)**
- **Detectives and Investigators (Vol. 2, October 1998)**
- **Core Curriculum for Patrol Officers, Detectives, and Command Officers (Vol. 3, October 1998)**
- **Command Officers (Vol. 4, November 1998)**

The training curriculums can be obtained by calling the Bureau of Justice Assistance Clearinghouse, Office of Justice Programs, at 1-800-688-4252, or by writing the Clearinghouse at P.O. Box 6000, Rockville, MD 20849-6000.

Acknowledgments

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The U.S. Department of Justice gratefully acknowledges the contributions of the professionals who served as members of the National Working Group on State and Local Law Enforcement Hate Crimes Training Curricula. It was their time and commitment that made it possible to design and develop the four new model curricula. The members who served on the Department's National Working Group are:

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* The participation of the National Association of Attorneys General (NAAG) in this joint effort should not be interpreted to mean that NAAG, or any State attorney general's office, requires any State or local law enforcement academy, agency, or department to make use of this curriculum for training.

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Introduction and Guide for Administrators and Instructors[‡]

Bias crimes seriously threaten our democratic society, which is built on the strength of its diversity. These crimes represent a particularly heinous form of physical and/or verbal violence, in which thousands of Americans are victimized each year because of their skin color, ethnicity, religion, gender, or sexual orientation. Growing concern exists around the country, in communities large and small, urban, suburban, and rural, about the prevalence of bias crimes. Crimes such as these, striking at the heart of our country's democratic principles, threaten the very foundation of our society. Swift and effective investigation, prosecution, and response to the victims of these crimes is critical for developing and maintaining respect for and appreciation of the growing diversity of our country's citizens.

This training package builds on best efforts and practices to date, identified jointly by the U.S. Department of Justice (including the Federal Bureau of Investigation), the National Association of Attorneys General, the U.S. Department of the Treasury, and the International Association of Directors of Law Enforcement Standards and Training, with assistance from a national panel of law enforcement and victim assistance experts.

This training manual utilizes and adapts written lesson plans and materials from the following four sources:

- (1) *The National Bias Crimes Training for Law Enforcement and Victim Assistance Professionals*, by the Education Development Center, Inc., and the Massachusetts Criminal Justice Training Council, funded by the U.S. Department of Justice, Office for Victims of Crime;

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[‡] This curriculum is a result of a joint effort by the U.S. Department of Justice, the National Association of Attorneys General, the U.S. Department of the Treasury, and the International Association of Directors of Law Enforcement Standards and Training. It is a model training built on a compilation of the best efforts and practices in this area to date.


- (2) *The Hate/Bias Crimes Train-the-Trainer Program: Small Town and Rural Training Services*, by the Federal Law Enforcement Training Center (FLETC) National Center for State, Local, and International Law Enforcement Training;
- (3) The New Jersey Bias Crime Training Program of the Office of Bias Crimes and Community Relations in the New Jersey Division of Criminal Justice, Office of the Attorney General; and
- (4) The Law Enforcement Civil Rights Training Program of the Civil Rights/Civil Liberties Division of the Massachusetts Office of the Attorney General.

This curriculum is based on best policies, procedures, practices, and materials currently being used to address bias crimes; existing research on bias crimes and offenders; and the effects of these crimes on individuals and communities. The curriculum was field tested to ensure that it was user-friendly and relevant to law enforcement professionals. The results are reflected in the approach and materials presented in the guide.

Purpose of the Training

NOTE: In this training program, the terms “bias” and “hate” are used interchangeably.

Professionals in law enforcement feel a growing desire to respond more effectively to the victims of bias crimes and to work more effectively.

 **Note to the Instructor:** This training package was designed to be used as an 8-hour program. Some departments or agencies may not have the ability to provide 8 hours of training time for staff on any one day. It can also be used for a 4-hour program. Each session can be presented separately, but it is highly recommended that all sessions be provided sequentially.

If you do not have an 8-hour training block available, it is recommended that you concentrate on core component issues which are identified with an asterisk (*) to facilitate individualized use of the curriculum in local settings.

Key Features of the Training Approach

The following characteristics are central to the design of the training:

Comprehensive Approach

This curriculum was developed to address the range of issues relevant to bias crimes: deterrence and prevention; the needs of victims and communities; and investigation, reporting, and prosecution of these crimes in the criminal justice system.

The curriculum was also developed in a modular format to enable local jurisdictions to adapt and customize their own training based on their own needs and time constraints. The sessions of the curriculum have been developed sequentially. Occasionally one session is a prerequisite for another session.

Sequential Plan

Note to the Instructor: The order of topics is shown on the sample agenda provided. It is strongly suggested that this order be followed even if you have to give the training in nine separate sessions.

The curriculum follows a deliberate sequence to build progressive skills among participants. The training begins by consolidating a knowledge base and building a shared understanding among participants. The training asks participants to think about how they can apply what they have learned to their local settings.

Note to the Instructor: If the sessions cannot be delivered all together, it is important to preserve the sequence of the sessions whenever possible.

Interactive Style

Teaching with the Socratic Method involves asking questions that will elicit learning for the students where the instructor guides the discussion (i.e., induction).

The curriculum is designed to take into account the characteristics of adult learners. Participants respond best and learn most in a forum that fosters discussion and interactive learning. Therefore,

the training is designed to promote discussion and interaction. Activities have been developed and selected to provide the greatest opportunities for skill-building in the most comfortable manner. **Sample questions and possible answers are included in the training material.** Instructors are encouraged to use these or create their own.

Law enforcement professionals collectively bring a broad base of knowledge and experience to the training. Several activities in the curriculum provide an opportunity for law enforcement professionals to solve problems together.

Case Studies

Most of the cases used in the curriculum are adapted from, or are a compilation of, actual criminal cases from law enforcement departments and prosecutor's offices. Names and addresses have been changed to preserve anonymity. Cases were specially selected to illustrate various aspects of bias crime and provide authenticity to enhance group discussions. In adapting this curriculum for local use, instructors may change the type of victimization, locales, and names used in the cases to reflect their region. Instructors might create their own examples.

Organization of the Curriculum

Each session is organized as follows:

- **Session Letter and Title:** Refers to the sequence and order within the whole training and to the content focus.
- **Time:** Specifies the amount of time allotted for that session.
- **Cases/videos:** Specific cases (included) and videos (to be obtained) that need to be previewed in preparation for leading the session.
- **Objectives:** Spells out the anticipated learning outcomes. These are often expressed in a section as a PWBAT (participant will be able to) statement.
- **Overview of Session:** This chart shows, at a glance, the content, method, materials, and suggested time allotted for each part of the session.
- **Terms Used in This Session:** Defines terminology relevant to the session.
- **Note to the Instructor:** Presents the content for that session, describes the methodology (i.e., presentation, activity, case discussion), and includes as needed a discussion framework and key questions, directions for conducting activities, and other information that will be useful to instructors as they conduct the training or review the key topics.
- **Transparencies and Handouts:** Presents in each session hard copy pages, marked and coded, that can be copied onto overhead transparency sheets. Often a more expanded version of the text of a transparency will appear in the instructor's notes to the session. Transparencies and handouts are numbered to correspond to the sessions.

Introduction

Transparencies may also be reproduced as handouts.

- **Resources:** The Resource Appendix offers resources, organized by subject, to support the information in the curriculum.

A participant's handbook is to be developed by the instructor for the participants. All transparencies, handouts, appendixes, case studies, and relevant State and Federal statutes should be included in the participant's handbook.

Preparations for Sponsoring and Conducting the Training

Cosponsoring the Training

It is recommended that this training be jointly sponsored by a local prosecutor's office, a State's Office of the Attorney General, or a United States Attorney's Office.

Recruitment of Instructors

Instructors for the training can be recruited from any of the following organizations:

- Local police department, sheriff's department, or other law enforcement agency
- Federal Bureau of Investigation
- Community Relations Service of the U.S. Department of Justice
- Office for Victims of Crime of the U.S. Department of Justice
- United States Attorney's Office
- State Attorney General's Office
- County Prosecuting Attorney's Office
- Legal advocacy organization
- National victim organizations
- State victim assistance agency
- Victim advocacy organizations
- Mental health organizations
- Community-based agencies
- Universities with programs in criminal justice
- Community-based/civil rights organizations

Instructors should have the following background:


- Diversity training
- Awareness and understanding of the impact of bias crimes and the need to respond to them
- Experience in conducting training with law enforcement professionals

Instructors also should be representative of the community and diverse in background, gender, and professional affiliation. See the Resources Appendix for names, addresses, and telephone numbers of specific national organizations to assist in finding local instructors.

Recruitment of Participants

Ideally, the training group should comprise 40 to 60 participants, though effectively more than twice as many can be trained.


Planning for Individual Sessions

 **Note to the Instructor:** Make sure that you have copies of your State's bias crime laws. It is suggested that the laws be put on transparencies in large print with enough space for the presenter to mark up during the presentation.

Planning for the Legal Issues, Legislation, and Statutes Session

Session D addresses legal issues and provides relevant Federal laws; instructors must include their State's bias crime criminal, civil, and reporting laws. These laws should be printed on transparencies and on the appropriate handouts. This session includes cases which should be reviewed prior to the session by the instructor in light of the relevant State statutes. In the interest of time, instructors may choose to use only the cases which best suit the experience level of the audience. However, these cases should be discussed in sequence whenever possible, because they grow progressively more complex and more legally ambiguous.

Ordering Videos


 **Note to the Instructor:** To ensure that the videos are current you may want to contact the producers listed or national civil rights organizations for information on the latest editions.

The video segments for the curriculum have been selected by a focus group of experts in the area of bias crimes from the fields of law enforcement, victim assistance, and curriculum development. The videos were selected from a pool of videos that were screened and rated on the relevance of their content, the quality of production, and the timeliness of events portrayed. The videos should be ordered three to four weeks in advance of the training. The location where you can purchase or rent each one is included within the session.

Adapting the Curriculum to Meet Local Needs

Most sessions can be adapted to the individual community. The following sessions allow for a great deal of local adaptation:

- | | |
|------------------|---|
| <i>Session D</i> | Legal Issues, Legislation, and Statutes <ul style="list-style-type: none">• Presentation reviewing your State's bias crime laws |
| <i>Session H</i> | Community Strategies and Relationships <ul style="list-style-type: none">• Exercises relating to community relations |
| <i>Session I</i> | Case Studies <ul style="list-style-type: none">• Discussion of bias case issues |

 **Note to the Instructor:** You are encouraged to adapt all the sessions to conform to the needs of your community. The cases, illustrations, and activities can easily be redesigned to reflect your community's demographics and issues relating to bias crimes.

Sample Agenda

NATIONAL LAW ENFORCEMENT BIAS CRIMES TRAINING FOR MULTILEVEL STATE AND LOCAL LAW ENFORCEMENT PROFESSIONALS

8:30 a.m. – 8:55 a.m.	<i>Session A</i>	Introduction and Overview of Bias Crimes: Defining the Challenge
8:55 a.m. – 9:45 a.m.	<i>Session B</i>	History and Nature of Bias Crimes
9:45 a.m. – 10:30 a.m.	<i>Session C</i>	Identifying the Crime: Definitions of Bias Crimes, Bias Crime Indicators, and Offender Typology
10:30 a.m. – 10:45 a.m.		Break
10:45 a.m. – 12:05 p.m.	<i>Session D</i>	Legal Issues, Legislation, and Statutes
12:05 p.m. – 12:45 p.m.		Lunch
12:45 p.m. – 1:20 p.m.	<i>Session E</i>	Guidelines for an Effective Response
1:20 p.m. – 1:35 p.m.		Break
1:35 p.m. – 2:20 p.m.	<i>Session F</i>	Investigative Strategies and Collection and Preservation of Evidence
2:20 p.m. – 3:00 p.m.	<i>Session G</i>	Victim Trauma
3:00 p.m. – 3:45 p.m.	<i>Session H</i>	Community Strategies and Relationships
3:45 p.m. – 5:00 p.m.	<i>Session I</i>	Case Studies
5:00 p.m.		Adjourn

Sessions and Titles

- Session A* Introduction and Overview of Bias Crimes: Defining the Challenge
- Session B* History and Nature of Bias Crimes
- Session C* Identifying the Crime: Definitions of Bias Crimes, Bias Crime Indicators, and Offender Typology
- Session D* Legal Issues, Legislation, and Statutes
- Session E* Guidelines for an Effective Response
- Session F* Investigative Strategies and Collection and Preservation of Evidence
- Session G* Victim Trauma
- Session H* Community Strategies and Relationships
- Session I* Case Studies

Overview of Sessions: At a Glance

Session A

Introduction and Overview of Bias Crimes: Defining the Challenge

Overview	Time	Materials/Equipment
Formal Introductions and Participant Introductions*	5 min.	None
Presentation: Overview of Bias Crime*	20 min.	Transparencies, overhead projector, screen
TOTAL TIME	25 min.	*Core component

Session B

History and Nature of Bias Crimes

Overview	Time	Materials/Equipment
Introduction and Video	20 min.	Video ("The Shadow of Hate"), VCR, monitor
Activity: Large Group Discussion or Small Group Exercise	20 min.	Flip charts, masking tape, markers, easels
Presentation: Introduction to History and Nature of Bias Crimes*	10 min.	Transparencies, overhead projector, screen
TOTAL TIME	50 min.	*Core component

Session C

Identifying the Crime: Definition of Bias Crimes, Bias Crime Indicators, and Offender Typology

Overview	Time	Materials/Equipment
Presentation: Definition of Bias Crimes*	25 min.	Transparencies, overhead projector, screen, handouts
Presentation: Bias Crime Indicators*	10 min.	Transparencies, overhead projector, screen, handouts
Presentation: Offender Typology*	10 min.	Handouts
TOTAL TIME	45 min.	*Core component

Session D**Legal Issues, Legislation, and Statutes**

Overview	Time	Materials/Equipment
Presentation: Introduction to Federal and State Laws*	5 min.	Transparencies, overhead projector, screen, handouts
Presentation: State Laws and Special Legal Issues*	35 min.	Transparencies, overhead projector, screen, handouts
Presentation: Federal Criminal Civil Rights Laws and Federal Hate Crime Statistics Act*	10 min.	Transparencies, overhead projector, screen, handouts
Activity: Criminal Law Case Application and Discussion	10 min.	Transparencies, overhead projector, screen, cases
Presentation: Reconciling Bias Crimes and the First Amendment*	10 min.	None
Activity: First Amendment and Bias Crimes Application*	10 min.	Transparencies, overhead projector, screen, cases
Optional Activity: Drafting Civil Rights Injunctions	(15 min.)	Transparencies, overhead projector, screen, flip chart, markers, easel
TOTAL TIME	1 hour, 20 min.	*Core component

Session E**Guidelines for an Effective Response**

Overview	Time	Materials/Equipment
Presentation: Introduction and Preliminary Investigation*	5 min.	Transparency, overhead projector, screen
Presentation: Effective Response*	25 min.	Transparencies, overhead projector, screen
Presentation: Common Law Enforcement Mistakes*	5 min.	None
TOTAL TIME	35 min.	*Core component

Introduction

Session F
Investigative Strategies and
Collection and Preservation of Evidence

Overview	Time	Materials/Equipment
Presentation: Investigative Strategies*	25 min.	Transparencies, overhead projector, screen
Presentation: Collecting and Preserving Evidence*	20 min.	Transparencies, overhead projector, screen
TOTAL TIME	45 min.	*Core component

Session G
Victim Trauma

Overview	Time	Materials/Equipment
Presentation: Overview of Victim Trauma*	5 min.	Transparencies, overhead projector, screen, masking tape, flip chart, markers, easel
Activity: Analysis of Video Segments	20 min.	Handouts, video ("Hate Crimes"), VCR, monitor, transparencies, overhead projector, screen, flip chart, markers, easel
Presentation: Unique Features of Bias Crime and Their Impact on Bias Crime Victims*	15 min.	Transparencies, overhead projector, screen
TOTAL TIME	40 min.	*Core component

Session H
Community Strategies and Relationships

Overview	Time	Materials/Equipment
Presentation: Community Leaders and Community Groups	10 min.	Transparencies, overhead projector, screen, masking tape, flip chart, markers, easel
Presentation: Community Impact of Bias Crimes	5 min.	Transparency, overhead projector, screen, masking tape, flip chart, markers, easel
Presentation: Community Relations and Community Relations Skills	30 min.	Transparencies, overhead projector, screen, masking tape, flip chart, markers, easel
TOTAL TIME	45 min.	<i>*Core component</i>

Session I
Case Studies

Overview	Time	Materials/Equipment
Case Studies Discussion	1 hour, 15 min.	Cases provided in text. (Panel Expert members should read them ahead of time.)
TOTAL TIME	1 hour 15 min.	

Session A

Introduction and Overview of Bias Crimes: Defining the Challenge[‡]

Time: 25 minutes

Cases/videos: None

Objectives

By the end of this session, participants will be able to:

- Explain the purpose of the training
- Identify training program goals and objectives
- Understand the commitment of the department or agency to effective bias crime identification, response, and investigation
- Discuss the seriousness of bias crimes in terms of their impact on the individual and the community
- Explain why bias crimes demand a special response from law enforcement and victim service professionals

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Transparency A.1 "Program Goals"

[‡]This session adapts material from EDC's *National Bias Crimes Training for Law Enforcement and Victim Assistance Professionals* and the Massachusetts Office of Attorney General's Law Enforcement Civil Rights Training Program, by Massachusetts Assistant Attorney General Richard W. Cole.

Overview of Session: At a Glance

Overview	Time	Materials/Equipment
Formal Introductions and Participant Introductions*	5 min.	None
Presentation: Overview of Bias Crime*	20 min.	Transparencies, overhead projector, screen
TOTAL TIME	25 min.	*Core component

I. Formal Introductions and Participant Introductions (5 minutes)

The chief law enforcement official of the department, agency, or training academy being trained should welcome the trainers, thank the sponsoring agencies, and introduce the lead trainer and other visiting instructors. It is critical to the ultimate success of the training that this official state the importance of the training for the department, agency, or academy, so that it is better able to prevent and address bias crimes in the community or State.

The lead trainer should thank the chief law enforcement official for his or her support of the training and then present the purpose of the training: **to enhance professional capacity in responding to bias crimes.**

Emphasize that instructors are serving as trainers because of their commitment to assisting law enforcement professionals in performing their difficult job **better**, and **more safely**.

Note to the Instructor: This emphasis may be inappropriate if the training instructors are the regular department or agency trainers.

Review the schedule for the day and direct participants to their participant's manual which should be used as a resource during and after the training. Emphasize that this is an interactive program and to hold a successful training, the participants need to offer their expertise and ideas.

II. Presentation: Overview of Bias Crime (20 minutes)

This program is designed to:

- Enhance participants' ability to identify, respond to, deter and investigate hate crimes
- Strengthen the capacity of local, State and Federal prosecutors to successfully prosecute bias crimes perpetrators
- Enable participants to work more effectively within their departments and agencies, and with their broader communities to deter and address bias crimes
- Help participants improve interagency communication and coordination in combating hate crimes
- Provide participants with additional tools for assisting victims of hate crimes in the diverse populations residing in their communities (i.e., racial, ethnic, new immigrant communities, linguistic minority communities)
- Help participants to protect themselves and their agencies from civil or personal liability

Law enforcement and policing has been involved in or associated with hate/bias crimes and civil rights in the United States in six ways:

(1) As protector of others' civil rights

- Ask participants to give examples.
- In the early 1970s, during court-ordered desegregation of Boston public schools, law enforcement protected the safety of black school children from a group of whites who were angered by blacks being bused into their neighborhoods.
- At the University of Mississippi in 1961, where James Meredith sought admission as a student, a riot situation ensued. Law enforcement protected the life of James Meredith.

(2) **As enforcer of civil rights**

- ☛ Ask participants to give examples.

Through investigation and prosecution of those perpetrating bias crimes or who deny others their civil rights.

- **Hate crimes by individuals.**
- **Hate crimes by organized hate groups.** When members of the Ku Klux Klan/skinhead or white supremacist organizations engage in racial or religious targeting of victims.

(3) **As owners of your own rights**

- ☛ Ask participants to give examples.

- As private citizens, law enforcement professionals have ownership of their own civil rights, and may bring claims if their civil rights have been violated.
- When law enforcement professionals challenge discipline imposed on them or challenge the failure to promote by their department or agency, 42 U.S.C. § 1983, a Federal civil rights statute, has been used to assert claims of damages and to obtain injunctive relief. This Federal civil rights legislation passed after the civil war to protect blacks' constitutional rights.

(4) **As a trigger or catalyst for riots/civil disturbance**

NOTE: Law enforcement misconduct (as perceived by the community) has been a major contributing factor to many of the major civil rights disturbances in the U.S.

- ☛ Ask participants to speculate why this is so. Ask participants how the communities in their jurisdiction feel about law enforcement. How do they know?
- Week-long Watts riots (August 11, 1965).

- Triggered after Marquette and Ronald Frye were stopped by police for speeding in a car (and suspected of intoxication). When two police officers attempted to arrest them, their mother intervened. Ronald Frye became excited and resisted arrest. One officer drew his gun and ordered the three into the police car. An agitated crowd surrounded them. Backup officers arrived with drawn shotguns. A crowd of engaged onlookers became rioters.
- The riot resulted from long pent-up rage against police practices including unaddressed frictions and the belief in the black community that they had not received their fair share of police protection.
- Riots in Los Angeles after jury verdict in State criminal prosecution in 1992 which exonerated police officers relating to force used on Rodney King during March 1991 arrest.

(5) At times in history, as an instrument of others political agenda

☛ Ask the participants how this might happen today. (Klan marches, anti-government demonstrations, etc.)

- In labor disputes during the period of 1865–1915, police served as violent strikebreakers. Police often served as private security for factory owners to crush worker movements for better wages and working conditions.

(6) As rights violator or when subject to lawsuits based on allegations of law enforcement misconduct or civil rights violations

☛ Ask the participants what individual law enforcement officers can do if this happens in their department or agency. How can the individual officer address the conduct of fellow officers safely?

- As Justice Brandeis stated: “If government becomes lawbreaker, it breeds contempt for laws; it invites every man to become a law unto himself, it invites anarchy.”

Note to the Instructor: Inform participants that in this program we will focus on two of these areas: 1) law enforcement as protectors and enforcers of civil rights through prevention efforts and 2) effective response and investigation of bias/hate crimes. The other four areas are touched upon in this training program.

A. Relationship of Hate Crimes, Harassment, Discrimination, and Bias and Prejudice

Bias, prejudice, discrimination, harassment, and hate crimes—although each has different meanings, they are related to each other.

☛ Ask for the definition of *bias/prejudice*. Rigid and unfavorable beliefs about all members of a particular racial, religious, ethnic group, etc. Where a person does not consider a member of the group as an individual, based on his or her intrinsic character or quality, but categorizes all in a group as thinking and behaving in the same way. Where a person stereotypes everyone in a group.

☛ Ask what is *discrimination*. When a person acts out of bias or prejudice, he or she engages in **discrimination**.

NOTE: Discrimination, harassment, and hate crimes have a common thread: bias and prejudice are their motives.

One type of discrimination is differential treatment of a female law enforcement officer in assignments based on a stereotype of women and belief as to how they can perform certain law enforcement functions.

☛ Ask participants what is *harassment*. It is a form of discrimination. **It can be conduct of a physical nature or merely words** that cause, for example, a pervasively hostile or intimidating work environment. Courts have held that **sexual harassment** is a form of discrimination (gender or sexual orientation discrimination).

☛ Ask participants what is a *hate crime*. Hate crimes are violent or threatening forms of discrimination or harassment directed at a person because of his or her status or membership in a group.

A person claiming to be discriminated against or sexually or racially harassed in employment, housing or in places of public accommodation may have a civil legal remedy by filing a complaint with a State or Federal antidiscrimination agency or in a court.

Harassment and discrimination can also involve **violation of criminal laws** requiring involvement of law enforcement and prosecutors. Examples include:

- Sexual assault in the work setting can be an extreme form of sexual harassment.
- Physically retaliating against person for lodging a discrimination complaint based on race can constitute a criminal offense.

B. Definition of Bias Crimes

- As defined by the Federal Hate Crimes Statistics Act, for Federal data collection purposes, bias crimes are crimes motivated by “hatred against a victim based on his or her race, religion, sexual orientation, ethnicity, or national origin.”
- But each State defines bias crime differently. A comprehensive review of State laws can be found in the appendix to Session D, Legal Issues, Legislation, and Statutes.
- Federal laws and State statutes protect individuals from bias crimes and provide a basis for prosecution.

Transparency A.2
“Overview of Bias Crimes”

NOTE! In some ways, bias crimes are similar to other crimes with which the participants regularly come into contact. Many of the skills the participants currently employ as law enforcement professionals will serve them well when they respond to bias crimes.

C. The Nature of Bias Crimes

- Constitutional protections are guaranteed to all Americans, yet, some are victimized, sometimes subtly and at other times very overtly, for no reason other than the color of their skin, the religion they profess, the heritage of their parents, or their sexual orientation. It is most unsettling to the victims

because there is nothing they can do to alter the situation, nor is there anything that they should be expected to change.

- Not only is the individual who is personally touched by these offenses victimized, but often members of the victim's group residing in the community feel threatened or similarly victimized because they share the same characteristic as the victim.
- Law enforcement professionals must be particularly skillful in responding in a way that does not exacerbate the trauma of the victim and the community. Victims of hate crimes often suffer serious and long-lasting traumatic stress that can be made worse by an inappropriate response.

D. Bias Crimes: Unique Challenges to Professionals

- **Bias crimes may have a more devastating affect** than other crimes because they have a unique psychological impact on the victim.
- **Bias crimes are considered "message crimes"** crimes that send a message of fear and terror based on a foundation of bigotry.
- **Bias crimes have an impact on the victim's community.** As a result, a seemingly insignificant incident can exacerbate existing tension within the community with the potential for polarization, reprisals and escalating violence.
- Therefore, **bias crimes demand a special response from law enforcement professionals.**

E. Key Points of Bias Crime Enforcement

☛ Ask participants what they think victims of hate and bias crimes want from law enforcement. Ask participants what they would want if they were the victims.

- **Victims are not asking for special treatment** from law enforcement officials but a professional response by them.
- **Victims are not seeking special rights,** but ability to live daily lives without fear of attack or harassment; for example, the right to leave or enter their homes safely; the right to use public streets or accommodations without being intimidated or assaulted. **These are not special rights, but rights we all believe are basic in our democratic system.**

- **Bias crime laws protect everyone.** For example, most hate crime laws prohibit physical attacks or threats because of a person's race. Those laws protect the civil rights of a black from attack from a white, an Asian-American from a black, or a white from an Asian-American. These laws are race neutral.
- It is true that **some racial and national origin groups historically and at present are more often victimized** by bias crimes, and so these laws are more often used to protect members of these groups. But that is far different from what certain critics of hate crimes laws say: that they only protect certain groups and not others.

F. Next Steps for Professionals

- Law enforcement professionals should be motivated by a desire to protect and serve victims of hate crimes and facilitate the administration of justice.
- Reviews of the literature and the practice in the field indicate several elements are critical for a more effective response.

☛ Ask participants what steps they think might lead to improved law enforcement responses to hate crimes. Answers may include the following:

- Greater understanding of the law
- Greater understanding of the roles and responsibilities of law enforcement and victim assistance professionals
- Improved understanding of diversity
- Improved data collection and documentation
- Improved community relations

Transparency A.3
"Steps To Improve
Law Enforcement
Response"

NOTE! Our goal is to help you determine what more you can do to respond effectively to bias crimes. To begin, let us take a look at the history of bias crimes, its nature and causes.

☛ Ask if there are any questions before the next session.

TRANSPARENCIES

A.1 Program Goals

A.2 Overview of Bias Crimes

**A.3 Steps To Improve Law
Enforcement Response**

PROGRAM GOALS

- **Enhance your ability to identify, respond to, deter, and investigate hate crimes**
- **Strengthen prosecutors capacity to successfully prosecute**
- **Enable you to work more effectively in your department or agency and in the community**
- **Improve interagency communication and coordination**
- **Provide you with additional tools for assisting victims of hate crimes**
- **Help to protect you and your agency from civil or personal liability**

OVERVIEW OF BIAS CRIMES

- **Federal laws and State statutes protect individuals from bias crimes and provide a basis for prosecution.**
- **Bias crimes present unique challenges to law enforcement.**
- **Bias crimes can have a more devastating affect than other crimes on the victim and the victim's community.**
- **Federal Hate Crimes Statistics Act of 1990 provides a more comprehensive source of bias crime incident data.**
- **Our goal is to help you determine what more you can do to respond effectively to bias crimes.**

STEPS TO IMPROVE LAW ENFORCEMENT RESPONSE

- **Greater understanding of the law**
- **Greater understanding of the roles and responsibilities of law enforcement**
- **Improved assistance to victims**
- **Improved understanding of diversity**
- **Improved data collection and documentation**
- **Improved community relations**

Session B

History and Nature of Bias Crimes[‡]

Time: 50 minutes

Video: "The Shadow of Hate"

Objectives

By the end of this session, participants will be able to:

- Describe the growth and evolution of hate crimes in America
- Describe the nature and some of the causes of hate crimes
- Become aware of national statistics on hate crimes

Transparency B.1
"Session Objectives"

Overview of Session: At a Glance

Overview	Time	Materials/Equipment
Introduction and Video	20 min.	Video ("The Shadow of Hate"), VCR, monitor
Activity: Large Group Discussion or Small Group Exercise	20 min.	Flip charts, masking tape, markers, easel
Presentation: Introduction to History and Nature of Bias Crimes*	10 min.	Transparencies, overhead projector, screen
TOTAL TIME	50 min.	*Core component

[‡]This session is an adaptation of the New Jersey Division of Criminal Justice, Office of Attorney General's Bias Crime Training Program.

I. Introduction and Video (20 minutes)

Note to the Instructor: Tell the class they are about to view a video, “The Shadow of Hate,” and give a brief overview. (The video depicts the history of hate in America from colonial times to the present.)

Show the video, “The Shadow of Hate.” (Use the 20-minute version. If you do not have the 20-minute version, use the first 20 minutes of the 40-minute version.) (Make sure you have two copies of the video in case one does not function properly.)

II. Activity: Large Group Discussion or Small Group Exercise (20 minutes)

Note to the Instructor: Alternate activities: Engage all participants in a large group discussion of the video (see below for this exercise) or separate the participants into small groups for a small group exercise as described below.

A. Large Group Discussion (20 minutes) (Alternate Activity)

Questions to generate general participant dialogue regarding film:

- ☛ Which story or stories resonated with you and why?
- ☛ Were there any surprises (or information of which you had not been aware)?
- ☛ Are there similar stories about other groups which are not depicted in the film? (Have participants provide brief stories.)
- ☛ What does the film tell you about the sources of hate or the forms hate can take?
- ☛ How can you apply or use the lessons you learned from the film in your role as a law enforcement officer?

**B. Small Group Discussion and Exercise (20 minutes)
(Alternate activity)**

- **Small Group Analysis (5 minutes)**

Divide class into teams and instruct each team to select a spokesperson. Inform the class that each team will be responsible for four questions based on the video, and that they will have 5 minutes to complete this task.

- **Small Group Exercise (15 minutes)**

After the small group discussion, Team #1 will ask Team #2 a question and tally the score on the board (1 point for a correct answer; 0 points for an incorrect answer). Team #3 then asks Team #4 another question, and the rounds proceed in turn. The winning team gets a prize. (Candy is a good choice.)

Have a volunteer record the responses of the small group on a flip chart and tape them on the walls or have the responses typed for later distribution.

Examples of questions for small group exercise:

- What are the forms of government-sanctioned bias or hate depicted in the film?
- What different forms did hate or prejudice take in the film (i.e., mob action, loss of life, taking of property, etc.)?
- What are the causes of intolerance in U.S. history as depicted in the video?
- What different groups in the video were subject to bias or prejudice?

III. Presentation: Introduction to History and Nature of Bias Crimes (10 minutes)

A. Introduction

Today individual rights, inherent to all human beings and supported and protected by law enforcement, have been repeatedly upheld and reinforced at the national and State levels. Yet, we continue to see increases in cross burning, Jewish cemetery desecrations, beatings of gay men and racially motivated violence; all examples of what is popularly referred to as “hate crime.”

B. What Is the Problem?

State and national leaders have stated that bias-motivated hate crimes will not be tolerated. Nationally, educational programs devoted to teaching tolerance and valuing differences have been initiated. Yet hate crimes persist.

Evidence of this hatred was echoed across America in 1996:

- Twelve bias-related murders were reported nationwide in 1996.
- Sixty-three percent of all bias crimes were racially motivated.
- Fourteen percent of all bias crimes were based on religious bias. Seventy-nine percent of such incidents were anti-Jewish.
- Gays and lesbians were also a frequent target of violent bias crimes. Twelve percent resulted from sexual orientation bias.
- Eleven percent resulted from ethnicity/national origin bias.
- Six percent of the hate crimes reported in 1996 were anti-Hispanic.
- In 1996, anti-black bias constituted about forty-two percent of all incidents nationally. Anti-white bias constituted about thirteen percent of all incidents nationally, and anti-Asian, Pacific Islanders, was about four percent.
- In 1996, as compared to 1995, bias crime against African Americans, American Indians, Hispanics, Jews, gays, and lesbians all increased. Incidents against Asians remained the same, and incidents decreased for whites.

Transparency B.2
“What Is the Problem?”

- Additionally, it is widely held that hate crimes are seriously under-reported by victims. If this is true, then these statistics are but a reflection of a much larger problem.

C. Why All This Hate?

☛ Ask the class for a few responses and see how the responses compare with the transparency.

Transparency B.3
“Why All This Hate?”

There are no easy answers to this dilemma.

However, fear and alienation play an important role. Several studies indicate the increase of hate violence in our communities can be attributed to:

1. A growing pattern of economic prejudice built upon the stereotype that minorities are making economic gains which threaten the economic and social well-being of others;
2. The unprecedented numbers of Latin American and Asian immigrants have drastically changed many neighborhoods which are unprepared for the social, economic, political, and criminal justice system consequences of multicultural living; the racial divisions in our country; the higher visibility of gay men, often identified as “easy targets” who are unable to fight back, combined with the increasing national fear about AIDS; and
3. The increasing lack of social preparedness of most young people when plunged into a multi-cultural school environment.

D. Who Commits Hate Crimes?

📎 **Note to the Instructor:** Before displaying the transparency, briefly ask for responses from the class as to who commits hate crimes.

- Hate offenses are directed against members of a particular group simply because of their membership in the group.
- Most hate/bias crimes do not involve organized hate groups, whose members are dedicated to the goal of achieving racial purity.

Transparency B.4
“Who Commits Hate Crimes?”

- Hate/bias crimes are more often committed under ordinary circumstances by otherwise unremarkable types.

E. Who Keeps Track?

Reporting is not mandatory in most States and the report only reflects a partial picture. Identify some States which have reported few, if any bias crimes before displaying transparency. Bring copies of the reports for students to peruse during the break.

Transparency B.5 "Who Keeps Track?"

- FBI Uniform Crime Reporting (UCR) Section.
- National Incident Based Reporting System (NIBRS) from the Bureau of Justice Assistance, will supplement and may replace the UCR reporting system and will more accurately and comprehensively record information on the nature of offenses and offenders, and in identifying crime trends.
- Anti-Defamation League of B'nai B'rith has been tracking all reported incidents since the group started tracking hate groups and anti-Semitic incidents in 1979.
- Klanwatch (a project of the Southern Poverty Law Center) is a national watchdog organization devoted to fighting white supremacist terrorism through civil litigation.

F. Reported Cases Offer Partial Picture

Monitoring the number of incidents from year to year offers a deceptively easy and somewhat inaccurate way of gauging the extent and future of bias-related violence.

Transparency B.6 "Partial Picture"

- Not all hate crimes are reported by victims
- Not all States report bias crimes completely
- Reporting is sometimes inaccurate

G. Causal Factors of Increased Hate Violence

**Transparency B.7
"Causal Factors"**

• Ask the participants to identify some causes for the increase in bias motivated crimes.

- **Shift to a service economy:** The National Institute Against Prejudice and Violence (NIAPV) estimates that 85% of the entrants to the workforce will be immigrants, minorities, and women over the next decade. The nation's workforce also is changing in regard to what occupational skills will be needed.
- **Persistence of negative stereotypes:** In the political and social arena exploiting inter-group conflict helps to set a problematic atmosphere.
- **Demographic changes:** In the last decade, the white population grew by 6%. During this same period the Black population increased by 13.2%, the Asian population by 107%, and the Hispanic population by 53%. Even excluding those immigrants granted amnesty, almost six million immigrants came to the United States.

**Transparency B.8
"Demographic
Changes
(1980-1990)"**

TRANSPARENCIES

- B.1 Session Objectives**
- B.2 What Is the Problem?**
- B.3 Why All This Hate?**
- B.4 Who Commits Hate Crimes?**
- B.5 Who Keeps Track?**
- B.6 Partial Picture**
- B.7 Causal Factors**
- B.8 Demographic Changes
(1980–1990)**

SESSION OBJECTIVES

- **Address the growth and evolution of hate**
- **Discuss the nature and causes of hate crimes**
- **Provide demographic data**

WHAT IS THE PROBLEM?

- **12 bias murders nationwide reported in 1996**
- **63% racially motivated**
- **Gays and lesbians targeted**
- **Bias crime increasing**
- **Under-reporting**

WHY ALL THIS HATE?

- **Economics and stereotypes**
- **Racial divisions**
- **Higher visibility of gay men**
- **Lack of social preparedness**
- **Immigrants**

WHO COMMITS HATE CRIMES?

- **Not usually organized groups**
- **Ordinary persons**
- **Ordinary circumstances**

WHO KEEPS TRACK?

- **FBI Uniform Crime Reporting Section**
- **National Incident Based Reporting System (NIBRS)**
- **Anti-Defamation League**
- **Klanwatch**

PARTIAL PICTURE

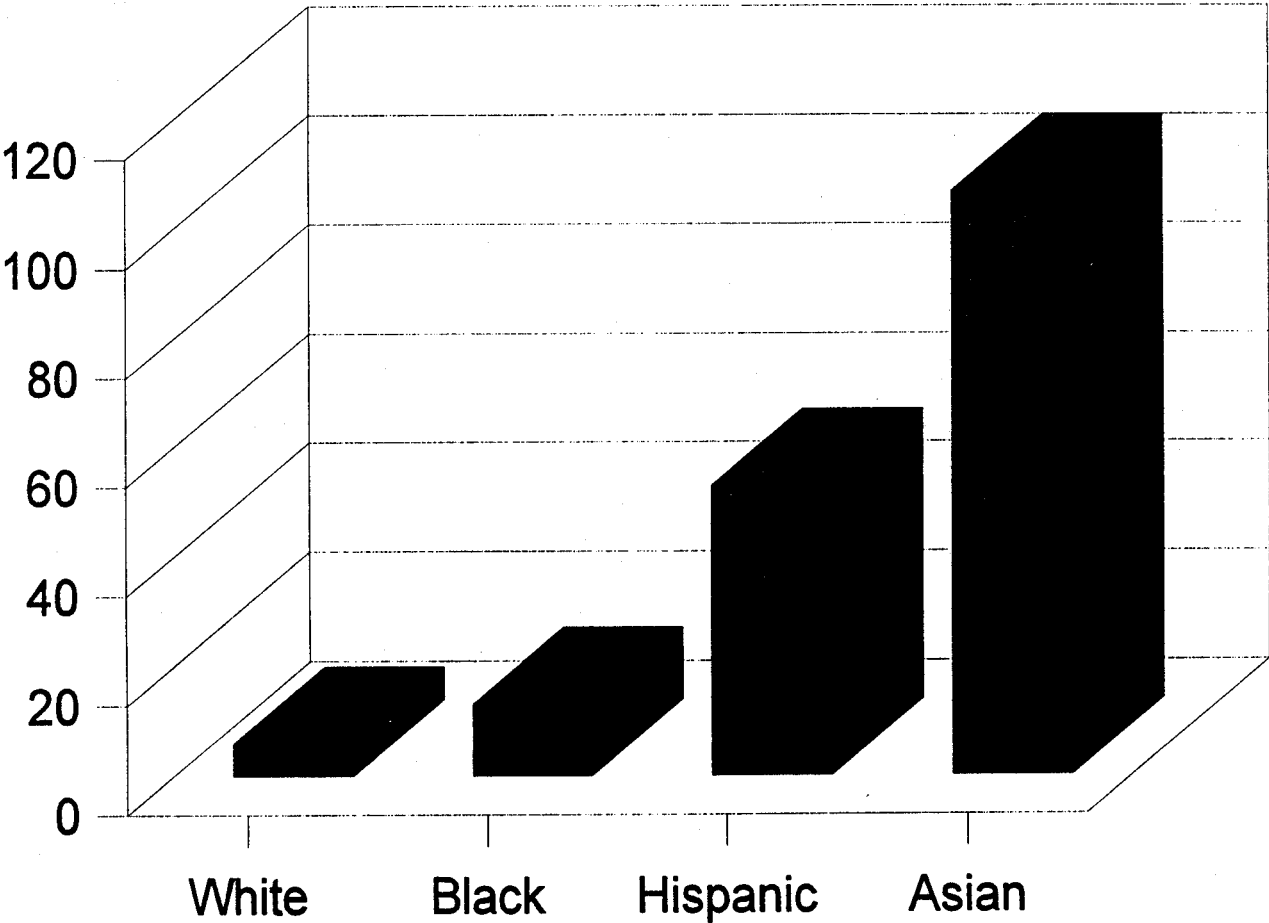
- **All crimes not reported**
- **All States do not participate**
- **Many departments and agencies do not report**
- **Inaccurate reporting**

CAUSAL FACTORS

- **Shift to service economy**
- **Negative stereotypes**
- **Demographic changes**

DEMOGRAPHIC CHANGES (1980-1990)

Last Decade



*Depicts increase of the white population by 6%, the black population by 13.2%, the Hispanic population by 53%, and the Asian population by 107%, in the past decade.

Appendix B.1: References for Session B

Anti-Defamation League of B'nai B'rith (1988). *Extremist Groups in the United States: A Curriculum Guide*. (ISBN-088464-034-5) Washington, DC: Library of Congress.

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Federal Law Enforcement Training Center (1992). *Hate/Bias Crimes Workshop: Resource Guide*. Artesia, NM.

Klanwatch Project of the Southern Poverty Law Center (1989). *Hate Violence and White Supremacy: A Decade Review 1980-1990*. Montgomery, AL.

Lieberman, Michael (1988). *Hate Crimes: Policies and Procedures for Law Enforcement Agencies*. Anti-Defamation League of B'nai B'rith.

Levin, Brian (1993). *Hate Crimes Rise But Numbers Tell Only Part of the Story*. CSERV Bulletin Volume II, Number I, Journal of the Center for the Study of Ethnic and Racial Violence.

National Bias Crimes Training. Educational Development Center. *Major Events of the Civil Rights Movement: Timeline*. Newton, MA. 1994.

Appendix B.2: Resource for Session B

Video:

“The Shadow of Hate”

VHS, V-1198-1, 40 minutes

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Teaching Tolerance

(A division of Southern Poverty Law Center)

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Appendix B.3: Definitions for Session B

To ensure accurate identification and uniform reporting of hate crimes, the FBI and Uniform Crime Reports have adopted the following definitions:

Bias: A preformed negative opinion or attitude toward a group or person based on their race, color, religion, gender, handicap, sexual orientation, or ethnicity.

Bias/Hate Crime: A criminal offense committed against a person or property which is motivated, in whole or in part, by the offender's bias against a race, color, religion, gender, handicap, sexual orientation, or ethnicity, or where a person is targeted or selected because of his or her status or group characteristic (i.e., race) or affiliation (i.e., religion). Also known as "hate crime."

Bias Incident: Any suspected or confirmed incident, which may or may not violate the civil or criminal civil rights laws, which occurs to a person, private property, or public property on the basis of race, color, religion, gender, disability, sexual orientation, ethnicity, or national origin. An offense is bias-based if the motive for the commission of the offense or unlawful act pertains to race, color, religion, gender, handicap, sexual orientation, or ethnicity.

Bisexual: (adjective) of or relating to persons who experience sexual attraction toward, and responsiveness to, both males and females; (noun) a bisexual person.

Confirmed Bias Incident: (Same as "bias incident," except that the bias-based motive is confirmed, not merely suspected.)

Ethnicity/National Origin Bias: A preformed negative opinion or attitude toward a group of persons of the same race or national origin who share common or similar traits, languages, customs, and traditions (i.e., Arabs, Hispanics).

Gang: A group of people that forms an ongoing, mutual allegiance in response to various social needs and engages in criminal activities and actions harmful to public health, safety, and morals. Gangs do not have an organized vertical hierarchy or chain of command; i.e., skinheads.

Gay: (adjective) of or relating to males who experience a sexual attraction toward, and responsiveness to, other males; (noun) a homosexual male.

Gender: Sex of individual.

Gender Bias: A preformed negative opinion or attitude toward a group or persons based on their gender.

Handicapped: A physical disability, infirmity, malformation, or disfigurement which is caused by bodily injury, birth defect, or illness, including epilepsy, and which shall include but not be limited to any degree of paralysis, amputation, lack of physical coordination, blindness or visual impediment, deafness or hearing impediment, muteness or speech impediment, or form any mental psychological or developmental disability. Handicapped shall also mean suffering from AIDS or HIV infection.

Handicapped Bias: A preformed negative opinion or attitude toward a group or persons suffering from physical disability, infirmity, malformation, or disfigurement which is caused by bodily injury, birth defect, or illness, including epilepsy, and which shall include but not be limited to any degree of paralysis, amputation, lack of physical coordination, blindness or visual impediment, deafness or hearing impediment, muteness or speech impediment, or form any mental psychological or developmental disability.

Heterosexual: (adjective) of or relating to persons who experience a sexual attraction toward, and responsiveness to, members of the opposite sex; (noun) a heterosexual person.

Homosexual: (adjective) of or relating to persons who experience a sexual attraction toward, and responsiveness to, members of their own sex; (noun) a homosexual person.

Lesbian: (adjective) of or relating to females who experience a sexual attraction toward, and responsiveness to, other females; (noun) a homosexual female.

Organized (Hate) Group: An organization whose primary purpose is to promote animosity, hostility, and malice against persons belonging to a race, color, religion, gender, handicap, sexual orientation, or ethnicity group which differs from that of the members of its own organization. Such groups have an organized hierarchy and chain of command; i.e., the Ku Klux Klan, the American Nazi Party.

Racial Bias: A preformed negative opinion or attitude toward a group of persons who possess common physical characteristics (i.e., color of skin, eyes and/or hair, facial features, etc.) genetically transmitted by descent and heredity which distinguish them as a distinct division of humankind (i.e., Asians, blacks, whites).

Religious Bias: A preformed negative opinion or attitude toward a group of persons who share the same religious beliefs regarding the origin and purpose of the universe and the existence or nonexistence of a supreme being (i.e., Catholics, Jews, Protestants, atheists).

Session B

Responding Officer: The first law enforcement officer on the scene of an alleged bias incident. This officer may have witnessed the incident taking place, may have been called to the scene by the victim or a witness, or may have received the assignment from a superior officer or dispatcher. This officer is responsible for determining whether a “Suspected Bias Incident” has occurred.

Sexual Orientation Bias: A preformed negative opinion or attitude toward a group of persons based on their sexual attraction toward, and responsiveness to, members of their own sex or members of the opposite sex, (i.e., gays, lesbians, heterosexuals).

Suspected Bias Incident: (Same as “bias incident,” except that the bias-based motive is suspected, but not confirmed.)

Note to the Instructor: Students should be made aware that the hate crime data to be collected by the FBI are only that mandated by the Hate Crime Statistics Act of 1990. The Hate Crime Statistics Act of 1990 is also covered in Session D.

Session C

Identifying the Crime: Definition of Bias Crimes, Bias Crime Indicators, and Offender Typology[‡]

Time: 45 minutes

Cases/videos: None

Objectives

By the end of this session, participants will be able to:

- Define what a bias or hate crime is
- Define the term “bias crime indicator”
- Describe the purpose of bias indicators and how they are employed
- Identify considerations for the recognition and effective use of bias indicators
- Given a case example, determine whether bias indicators are present, and if so, which ones they are
- Understand the types of various hate crime offenders
- Describe the purpose of identifying offender typology

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[‡]This session was reprinted with some modifications from EDC's *National Bias Crimes Training for Law Enforcement and Victim Assistance Professionals*.

Overview of Session: At a Glance

Overview	Time	Materials/Equipment
Presentation: Definition of Bias Crime*	25 min.	Transparencies, overhead projector, screen, handouts
Presentation: Bias Crime Indicators*	10 min.	Transparencies, overhead projector, screen, handouts
Presentation: Offender Typology*	10 min.	Handouts
TOTAL TIME	45 min.	*Core component

I. Presentation: Definition of Bias Crime (25 minutes)

A. Definition of Hate Crimes

- For reporting and data collection purposes, the Federal Hate Crime Statistics Act, 28 U.S.C., § 534, defines a hate crime as a crime that manifests evidence of prejudice based on **race, religion, disability, sexual orientation or ethnicity.**
- State laws may include more or different protected categories than the Hate Crime Statistics Act.
- Some State laws define bias crimes as a criminal act motivated by hate, bias, prejudice or hostility.
- The majority of States, however, define it as a criminal act where a person is selected “because” of their race, national origin, religion, etc.
- The most comprehensive definition of a bias crime is: **Where a person is targeted or selected because of his or her actual or perceived difference** in status (i.e., race, national origin), affiliation (e.g. religion), or membership in a particular group. This definition would include:
 - **When hatred or bias is a motivating factor** for crime *or* for causing an incident to become more violent or serious, or
 - **When a perpetrator targets a person because he believes that members of that group are more vulnerable targets** for criminal conduct.

Transparency C.1
“Definition of Bias Crime”

- Bias crimes are based on motives distinct from conventional criminal acts.
- **Bias crime can occur if a victim is targeted because he or she is perceived to be different** (perceived to be gay, a foreigner, newly-arrived immigrant, even if not true).
- There are **two simple practical guidelines** or tests for assessing whether there is a bias crime:
 1. **Would the incident have occurred if the perpetrator and the victim were from the same group?**
 2. **Would the incident have escalated or become so violent if the persons involved were not from different groups?**

B. Introduction to Bias Crime Indicators

Note to the Instructor: It is important to point out that the presence of a bias indicator(s) does not mean that a bias crime has occurred.

Bias indicators are:

- The clues that law enforcement professionals look for in determining if a case should be investigated as a bias crime
- The guidelines to shape the investigative process

**Handouts C.1A &
C.1B
"Bias Crime
Indicators"**

Ultimately the determination that a crime is a bias crime will be based on the facts of the case. Bias indicators suggest a possibility, not a legal certainty.

Bias crime indicators assist law enforcement in confirming that a particular crime was, in fact, motivated by the offender(s) bias. The identification and subsequent confirmation/verification of the bias motivation must be made for four primary reasons.

1. **Successful Prosecutions (civil and criminal)**
2. **Proper Law Enforcement Responses to Victims and Communities**
3. **Development of Effective Bias Crime Prevention Programs and Strategies**

4. Accurate Data Collection in order to better inform the following:
- a) Research
 - b) Legislation
 - c) Public Policy

C. Definition of a Bias Crime Indicator

Objective facts, circumstances or patterns attending a criminal act(s) which, standing alone or in conjunction with other facts or circumstances, suggest that the offenders actions were motivated in whole, or in part, by any form of bias.

Transparency C.2 "Definition of a Bias Crime Indicator"

—*Massachusetts Model Protocol for Bias Crime Investigation*

(Source: Holmes, W. 1992. *Hate Crime Reporting: Obstacles, Facilitators, and Strategies*. Boston: Statistical Analysis Center, Massachusetts Committee on Criminal Justice, 67–68.)

Note to the Instructor: Ask participants to identify bias crime indicators. Invite participants to volunteer bias crime indicators from their own experience or those that are evident to them when hearing about an incident on television or hearing about it on the news. Spend a few minutes soliciting responses.

Then review bias crime indicators with the participants, referring participants to Handouts C.1A and C.1B, "Bias Crime Indicators," and give them several minutes to review the handouts.

The indicators (listed below) are not inclusive, nor does the presence of one confirm the presence of bias. (Source: Holmes, W. 1992. *Hate Crime Reporting: Obstacles, Facilitators, and Strategies*. Boston: Statistical Analysis Center, Massachusetts Committee on Criminal Justice, 67–68.) All cases should be investigated and evaluated on an individual basis. The following factors may indicate the possibility of a bias motivation.

Transparency C.3 "Bias Crime Indicators"

D. Bias Crime Indicators

Racial, Ethnic, Gender, and Cultural Differences

- Racial, religious, ethnic/national origin, handicap, or sexual orientation group of victim differs from that of offender.
- Victim is a member of a group which is overwhelmingly outnumbered by members of another group in the area where the incident occurred.
- Victim was engaged in activities promoting his/her group.
- Incident coincided with a holiday or date of particular significance to the victim's group.
- Victim, although not a member of the targeted group, is a member of an advocacy group that supports the victim group, or the victim was in the company of a member of the targeted group.
- Historically, animosity exists between the victim's group and the suspect's group.

Comments, Written Statements, Gestures

- Bias-related comments, written statements, or gestures were made by the offender.

Drawings, Markings, Symbols, and Graffiti

- Bias-related drawings, markings, symbols, or graffiti were left at the scene of the incident.
- Bias indicators need not establish that the predominant purpose of an offender's actions was motivated by hatred or bias. It is sufficient for classification of an incident as a bias crime that an offender was acting out of hatred or bias, together with other motives, or that a bias motive was a contributing factor, in whole or in part, in the commission of a criminal act.

Organized Hate Groups

- Objects or items that represent the work of organized hate groups were left (i.e., white hoods, burning crosses), or an organized hate group claimed responsibility for the incident.
- There were indications that a hate group was involved. For example, a hate group claimed responsibility for the crime or was active in the neighborhood.

Previous Existence of Bias Crime/Incidents

- Victim was visiting a location where previous bias crimes had been committed against members of the victim's group.
- Several incidents occurred in the same area, and the victims were members of the same group.
- Victim has received previous harassing mail or phone calls or has been the victim of verbal abuse based on his/her affiliation with a targeted group.

Victim/Witness Perception

- Victims or witnesses perceive that the incident was motivated by bias.

Motive of Suspect

- Suspect was previously involved in a similar incident or is a member of, or associates with members of, an organized hate group.
- The victim was in the company of, or married to, a member of a targeted group.
- The victim was perceived by the offender as violating or breaking from traditional conventions or working in nontraditional employment.
- The offender has a history of previous crimes with a similar modus operandi, and there has been multiple victims of the same [citizenship, race, religion, ethnic/national origin, handicap, sexual orientation, or gender].

Location of Incident

- The victim was in or near an area or place commonly associated with or frequented by a particular [citizenship, race, religion, ethnic/national origin, handicap, sexual orientation, or gender] (i.e., a gay bar).
- Incident occurs at or near a house of worship, religious cemetery, the home of a minority family located in a predominately white neighborhood or a gay bar.

Lack of Other Motives

- No clear economic or other motive for the incident exists.

NOTE! The presence of one or more bias indicators suggests that a bias crime may have occurred but does not positively identify a crime or incident as being motivated by bias. A determination of whether a crime is a hate crime can only occur after a thorough investigation.

II. Presentation: Bias Crime Indicators (10 minutes)

(Source: U.S. Department of Justice, Federal Bureau of Investigation. 1990. *Hate Crime Data Collection Guidelines*. Washington, DC: U.S. Government Printing Office.)

A. Indicator Cautions

Necessity of Case-by-Case Assessment of the

Evidence: A small percentage of crimes motivated by bias may not exhibit any of the listed bias crime indicators. Conversely, some crimes that exhibit bias indicators may not be motivated by bias. Therefore reporting agencies must closely examine each case for evidence that clearly indicates that the motivation for the crime was bias-related.

Transparency C.4 "Indicator Cautions"

• Ask participants why documenting these indicators is important. Answer: It aids in making a case in court.

Misleading Facts: Agencies must be alert to misleading facts. For example, the offender used an epithet to refer to the victim's race, but the offender and the victim were of the same race.

Feigned Facts and Hoaxes: Agencies must be alert to evidence left by the offenders which is meant to give the false impression that the incident was motivated by bias. For example, students of a religious school vandalize their own school, leaving antireligious statements and symbols on the walls, in the hope that they will be excused from attending class. Even when a hoax is suspected, law enforcement must be especially careful not to announce this publicly. Bias crimes can attract intense community interest and sensational publicity. Stating that the incident may have been faked will often appear to be "blaming the victim," leading to a setback in law enforcement/community relations. On the other hand, if a solid investigation proves no bias was involved, law enforcement should rely on the strength of that evidence to convince a judge, jury, and the general public.

Offender's Mistaken Perception: Even if the offender was mistaken in his/her belief that the victim was a member of a racial, religious, ethnic/national origin, or sexual orientation group, the offense is still a hate crime as long as the offender was motivated by bias against that group. For example, a middle-aged, non-gay man walking by a bar frequented by gays was attacked by six teenagers who mistakenly believed the victim had left the bar and was gay. Although the offenders were wrong on both counts, the offense is a bias crime because it was motivated by the offenders' anti-gay bias.

Changes in Findings of Bias: If, after an initial incident report was submitted, a contrary finding regarding bias occurs, the national file must be updated with the new finding. For example, if an initial finding of no bias was later changed to racial bias or a finding of racial bias was later changed to religious bias, the change should be reported to the FBI's UCR Section.

Possible/Desired Responses: Although elements for distinguishing bias crimes from bias incidents vary among States, it is acceptable to identify a case as a possible incident.

B. Closing Comments on Bias Indicators

Some closing comments about bias indicators that will be useful to participants in investigating potential bias crimes and working with victims follow:

- Often law enforcement professionals **may overlook bias crimes when written or verbal bias language is not present, and when other indicators may be less obvious.**
- The same holds true with bias crime homicide victims. Frequently, in these cases there are no witnesses to the murder and no one is able to report any language-based bias indicators; **this challenges law enforcement to search for other, less obvious indicators.**
- Often when a robbery occurs the motive can appear to be economic. However, if robbery is not mentioned or attempted until well into the victim/offender encounter, it is highly possible that bias indicators may be present. The same principle holds true for sexual assault cases. Law enforcement should look for them.
- **Remember that the victim does not always understand that he or she may have been victimized by a bias-motivated attack.** Often the victims search for other reasons to explain the attack because their group membership represents an aspect of themselves which is not generally

possible to change; they will forever be identified as a member of that group and therefore vulnerable to attack. The same theory can apply to witnesses as well particularly if they are members of the same group as the victim.

- At times it may be difficult to determine whether an incident was motivated by bias when **mixed motivations** are present. For example, in a neighbor-to-neighbor dispute where neighbors are members of different racial groups, a conflict over a property line may degenerate into racial name-calling and threats. Whether bias motivation was one of the motivating reasons for the dispute must be made in consideration of all the facts. (For example, the nature of the relationship prior to the dispute arising, how the neighbor treated other members of the neighbors racial group, etc.)
- It is not essential to determine whether the victim is actually a member of a targeted group, when identifying bias indicators. **The issue of concern is the offender's motive based on his/her perception of who the victim is.**
- Keep in mind that **bias indicators are factors** that should be considered in determining the presence of a bias crime. They do not, in themselves, confirm that any incident was a hate offense. Rather, **they indicate further investigation into motive is necessary.**

NOTE! Bias indicators have been identified and it has been demonstrated why they are important. Accurate, careful documentation and collection of all the evidence of a bias crime is essential to prosecute successfully.

The following is a suggested two-tier procedure for handling hate crime verification within your agency. (Source: Federal Bureau of Investigation, *Training Guide for Hate Crime Data Collection*.) It includes:

1. The officer on the scene of an alleged bias crime making an initial determination that bias motivation is "suspected"; and
2. A second officer or unit with more expertise in bias matters making the final determination of whether a hate crime has actually occurred.

III. Presentation: Offender Typology (10 minutes)

Jack Levin and Jack McDevitt of Northeastern University identified three types of offenders in their book on bias crime, *The Rising Tide of Bigotry and Bloodshed*: thrill-seeking offenders, reactive offenders, and mission offenders. (Source: Levin, Jack and McDevitt, Jack. 1993. *The Rising Tide of Bigotry and Bloodshed*. New York: Plenum.) These are not necessarily pure categories, and since offenders can progress from one type to another, the lines between the categories may at times be blurred.

Knowing offender typology helps law enforcement:

- Identify suspects
- Locate offenders
- Gain insight into the perpetrator's perception of the victim's vulnerability
- Gain insight into the offender's motivation
- Determine the probability of escalation
- Anticipate the community response

Transparency C.5
"Why Identify
Offender Typology"

A. Bias Crime Offender Typology

1. Thrill-Seeking Offenders

Offender Characteristics

- Generally, groups of teenagers
- Not generally associated with an organized hate group

Transparency C.6
"Bias Crime Offender
Typology"

Precipitating Events

- Generally, none

Transparency C.7
"Thrill-Seeking
Offenders"

Motivation

- To gain a psychological or social thrill
- To be accepted by peers
- To gain "bragging" rights

Victim


- Almost any member of a vulnerable group
- Members of groups perceived as inferior by offender

Location

- Generally outside of offender "turf"
- Offenders seek out areas frequented by members of targeted group(s)

Additional Characteristics

- Since attacks are random, it is often difficult to identify the offender
- Attacks often involve desecration and vandalism, although they can involve more violent crimes
- Hatred of victim is relatively superficial; offenders may be deterred from repeating the crimes if there is strong societal response condemning the behavior
- Often each group member's participation is limited to a specific aspect of the crime, enabling each offender to avoid acknowledgment of or accountability for the seriousness of the crime

 **Note to the Instructor:** Refer participants to Handout C.2, "Case Studies of Typical Offenders."

2. Reactive Offenders

Offender Characteristics

- Have a sense of entitlement regarding their rights, privileges, way of life that does not extend to the victim

Transparency C.8
"Reactive
Offenders"

- Usually have no prior history of criminal behavior or overt bigotry; not generally associated with an organized hate group, although they may call on an organized hate group to assist in mitigating the perceived threat

Precipitating Events

- Offenders perceive a threat to their way of life, community, place of work, or privilege

Motivation

- To protect/defend against the perceived threat constituted by the presence of “outsiders”
- To use fear and intimidation to “send a message” that will repel the “outsiders”

Victim

- Particular individual or group of individuals who are perceived to constitute the threat
- Most often, victims are people of color

Location

- Typically occur in offender’s own neighborhood, school, or place of work

Additional Characteristics

- If the threat is perceived to subside, the criminal behavior also subsides
- Offenders feel little if any guilt because they perceive their behavior as a justifiable response to their feeling of violation at the mere presence of the victim

3. Mission Offenders

**Transparency C.9
"Mission
Offenders"**

Offender Characteristics

- Often psychotic, suffering from mental illness that may cause hallucinations, impaired ability to reason, and withdrawal from other people
- Perceives victim groups as evil, subhuman, and/or animal

Precipitating Events

- None

Motivation

- Believes he/she has been instructed by a higher order (God, the Fuhrer, the Imperial Wizard, etc.) to rid the world of this evil
- Believes he/she must get even for the misfortunes he/she has suffered and perceives a conspiracy of some kind being perpetrated by the groups he/she has targeted
- Has a sense of urgency about his/her mission; believes he/she must act before it is too late

Victim

- The category of people he/she perceives as responsible for his/her frustrations
- All members of the despised group are targeted for elimination

Location

- Areas where members of the target group are likely to be found

Additional Characteristics

- This is the rarest kind of bias crime
- Crimes are of a violent nature; the mission often ends in the offender's suicide

B. Organized Hate Groups

1. Group Characteristics

**Transparency C.10
"Organized Hate
Groups (1)"**

- Range from loosely structured local groups to highly structured international groups
- Many leaders of these groups tend to project a mainstream image rather than a fringe, extremist image
- The significant organized hate groups are technologically sophisticated
- Skinheads, although often not official members of organized hate groups, often support or are loosely affiliated with these groups, taking inspiration and direction from them
- Organized hate groups focus on issues of concern to middle America as a method for cloaking and marketing their hate philosophy (i.e., government interference, cheating, etc.)
- Members of these groups believe in the inevitability of a global war between the races
- Examples include White Aryan Resistance, Ku Klux Klan, neo-Nazis

2. History of Organized Hate Groups

Members of hate groups come from all races. The law enforcement officer needs to be aware of these groups and their common characteristics.

☛ Ask participants why this might be helpful.

- Organized hate groups are not a new phenomenon.
- Hate groups characteristically grow in numbers and membership during periods of increased immigration, such as the 1920s.
 - Periods when disenfranchised groups have attempted to increase their political and economic power, such as Reconstruction and the Civil Rights Movement
 - Periods of economic instability when people seek scapegoats to blame for unemployment, such as the 1930s and the late 1980s

- At times, organized hate groups have been powerful forces in American political life. Many have sought dominance through violence and intimidation. Others have achieved significant political victories in electoral politics.
- Organized hate groups have a tendency to become fragmented, breaking up because of internal dissension. Groups often take names similar to that used by other hate groups. This should not be taken to imply any actual connection. Right now, there are many small groups that use the term “skins” in their name.

**Transparency C.11
“Organized Hate
Groups (2)”**

3. Structure of Contemporary Hate Groups

- It has been estimated that there are no fewer than 20,000, and possibly no more than 50,000, members of White Supremacist groups in the United States. These groups fall into a number of often overlapping categories, including Ku Klux Klan groups, neo-Nazi groups, Christian Identity groups, and “skinhead” gangs.

Hate Group Ideology

- Explicitly racist, considers people of color to be subhuman. Homophobia recently has been added to their agenda.
- Often blame the Federal government, an international Jewish conspiracy, and communism for most of this country’s problems. Some groups include apocalyptic Christianity in their ideology and believe we are in, or approaching, a period of violence and social turmoil which will precede the Second Coming of Christ.

Strategy

- The major organized hate groups often take a more sophisticated approach to spreading their message, using venues such as cable TV and computer bulletin boards.
- Some are consciously attempting to display a more mainstream image and run for office (often under the banner of a major political party). However, there is always the potential for violence. For example, during the 1980s, a small number of white

supremacists formed a paramilitary organization called The Order which was implicated in a number of bombings and murders, including that of Alan Berg, a Jewish radio talk show host.

- Many of these militant white supremacist groups have relocated to the Pacific Northwest where members have engaged in a number of armed confrontations with Federal authorities.

Skinheads

- It has been estimated that only 15 percent of bias crimes are committed by organized hate groups. Much of this violence is perpetrated by “skinheads.” The stereotypical skinhead has a shaved head and wears Doc Marten shoes or work boots, suspenders, and jeans. However, so do many other young people who are not involved in hate group activity. Conversely, many racist “skinheads” do not shave their heads.
- Skinhead groups are small, loosely-organized gangs of adolescents and young adults. Most skinheads are male, although young women are involved in both skinhead activity and hate violence.
- Skinhead violence is typically perpetrated by small groups of skinheads who attack persons of color or other targets using fists, boots, bats, and knives. Some of these attacks have been fatal. Most are unplanned, however some skinheads have been implicated in organized violence involving bombs and firearms and carefully selected targets such as gay bars or the offices of civil rights organizations.

TRANSPARENCIES AND HANDOUTS

- C.1** **Definition of Bias Crime**
- C.2** **Definition of a Bias Crime Indicator**
- C.3** **Bias Crime Indicators**
- C.4** **Indicator Cautions**
- C.5** **Why Identify Offender Typology**
- C.6** **Bias Crime Offender Typology**
- C.7** **Thrill-Seeking Offenders**
- C.8** **Reactive Offenders**
- C.9** **Mission Offenders**
- C.10** **Organized Hate Groups (1)**
- C.11** **Organized Hate Groups (2)**

Handout C.1A & C.1B
Bias Crime Indicators

Handout C.2 Case Studies of Typical Offenders

DEFINITION OF BIAS CRIME

The Federal Hate Crime Statistics Act, 28 U.S.C. § 534, defines a hate crime as a crime that manifests evidence of prejudice based on race, religion, disability, sexual orientation, or ethnicity.

DEFINITION OF A BIAS CRIME INDICATOR

Objective facts, circumstances, or patterns attending a criminal act(s) which, standing alone or in conjunction with other facts or circumstances, suggest that the offender's actions were motivated in whole or in part by any form of bias.

***—Massachusetts Model
Protocol for Bias Crime
Investigation***

BIAS CRIME INDICATORS

- **Racial, ethnic, gender, and cultural differences of perpetrator and victim**
- **Comments, written statements, gestures**
- **Drawings, markings, symbols, and graffiti**
- **Involvement of organized hate groups or its members**
- **Previous existence of bias crimes/incidents**
- **Victim/witness perception**
- **Location of incident**
- **Lack of other motives**

INDICATOR CAUTIONS

- **Need for case-by-case assessment of the facts**
- **Misleading facts**
- **Feigned facts and hoaxes**
- **Offender's mistaken perception**
- **Changes in findings of bias**

WHY IDENTIFY OFFENDER TYPOLOGY

- **Identify suspects**
- **Locate offenders**
- **Provide insight into the perpetrator's perception of victim's vulnerability**
- **Provide insight into the offender's motivation**
- **Determine the probability of escalation**
- **Anticipate the community response**

BIAS CRIME OFFENDER TYPOLOGY

- **Thrill Seeker**
- **Reactive Offender**
- **Mission Offender**
 - **Organized Hate Groups**

THRILL-SEEKING OFFENDERS

Offender Characteristics

- **Generally, groups of teenagers**
- **Not generally associated with an organized hate group**

Precipitating Events

- **Generally, none**

Motivation

- **To gain a psychological or social thrill**
- **To be accepted by peers**
- **To gain “bragging” rights**

Victim

- **Almost any member of a vulnerable group**
- **Members of groups perceived as inferior by offender**

Location

- **Generally outside of offender “turf”**
- **Offenders seek out areas frequented by targeted group(s)**

Additional Characteristics

- **Since attacks are random, it is often difficult to identify the offender**
- **Attacks often involve desecration and vandalism, although they can involve more violent crimes**
- **Hatred of victim is relatively superficial; offenders may be deterred from repeating the crimes if there is a strong societal response condemning the behavior**
- **Each group member’s participation may be limited to a specific aspect of the crime, enabling each offender to avoid acknowledgment of or accountability for the seriousness of the crime**

REACTIVE OFFENDERS

Offender Characteristics

- Have a sense of entitlement regarding their rights, privileges, way of life that does not extend to the victim
- Usually have no prior history of criminal behavior or overt bigotry; not generally associated with an organized hate group, although they may call on an organized hate group to assist in mitigating the perceived threat

Precipitating Events

- Offenders perceive a threat to their way of life, community, place of work, or privilege

Motivation

- To protect/defend against the perceived threat constituted by the presence of "outsiders"
- To use fear and intimidation to "send a message" that will repel the "outsiders"

Victim

- Particular individual or group of individuals who are perceived to constitute the threat
- Most often, victims are people of color

Location

- Typically occur in offender's own neighborhood, school, or place of work

Additional Characteristics

- If the threat is perceived to subside, the criminal behavior also subsides
- Offenders feel little if any guilt because they perceive their behavior as a justifiable response to their feeling of violation at the mere presence of the victim

MISSION OFFENDERS

Offender Characteristics

- **Often psychotic, suffering from mental illness that may cause hallucinations, impaired ability to reason, and withdrawal from other people**
- **Perceives victim groups as evil, subhuman, and/or animal**

Precipitating Events

- **None**

Motivation

- **Believes he/she has been instructed by a higher order (God, the Fuhrer, the Imperial Wizard, etc.) to rid the world of this evil**
- **Believes he/she must get even for the misfortunes he/she has suffered and perceives a conspiracy of some kind being perpetrated by the groups he/she has targeted**
- **Has a sense of urgency about his/her mission; believes he/she must act before it is too late**

Victim

- **The category of people he/she perceives as responsible for his/her frustrations**
- **All members of the despised group are targeted for elimination**

Location

- **Areas where members of the target group are likely to be found**

Additional Characteristics

- **This is the rarest kind of bias crime**
- **Crimes are of a violent nature; the mission often ends in the offender's suicide**

ORGANIZED HATE GROUPS (1)

Group Characteristics

- **Loosely structured local groups to highly structured international groups**
- **Leaders tend to project a mainstream image**
- **Skinheads, although usually not official members, often are loosely affiliated with these groups**
- **Focus on issues of concern to middle America as a cover for their aims**
- **Examples include White Aryan Resistance, Ku Klux Klan, neo-Nazis**

ORGANIZED HATE GROUPS (2)

History of Organized Hate Groups

- Not a new phenomenon; hate groups grow in response to:
 - periods of increased immigration
 - attempts by disenfranchised groups to increase political and economic power
 - periods of economic instability
- Have a tendency to break up because of internal dissension. Groups often take names similar to other hate groups.

Structure of Contemporary Hate Groups

- Estimated at no fewer than 20,000; possibly no more than 50,000 members of white supremacist groups in the United States

Hate Group Ideology

- Explicitly racist, considering people of color to be subhuman; homophobia recently added to their agenda
- Often blame the government, communism, and/or ethnic and racial "conspiracies" for most of this country's problems

Strategy

- Often use technological venues such as cable TV and computer bulletin boards
- Some attempt to display a more mainstream political image, run for office; potential for violence is always present

Skinheads

- Estimated that only 15 percent of bias crimes are committed by organized hate groups; much of this violence is perpetrated by "skinheads"
- Groups are small, loosely organized gangs of mostly male adolescents and young adults

BIAS CRIME INDICATORS

Racial, Ethnic, Gender, and Cultural Differences

- Racial, religious, ethnic/national origin, handicap, or sexual orientation group of victim differs from that of offender.
- Victim is a member of a group which is overwhelmingly outnumbered by members of another group in the area where the incident occurred.
- Victim was engaged in activities promoting his/her group.
- Incident coincided with a holiday or date of particular significance to the victim's group.
- Victim, although not a member of the targeted group, is a member of an advocacy group that supports the victim group, or the victim was in the company of a member of the targeted group.
- Historically, animosity exists between the victim's group and the suspect's group.

Comments, Written Statements, Gestures

- Bias-related comments, written statements, or gestures were made by the offender.

Drawings, Markings, Symbols, and Graffiti

- Bias-related drawings, markings, symbols, or graffiti were left at the scene of the incident.
- Bias indicators need not establish that the predominant purpose of an offender's actions was motivated by hatred or bias. It is sufficient for classification of an incident as a bias crime that an offender was acting out of hatred or bias, together with other motives, or that a bias motive was a contributing factor, in whole or in part, in the commission of a criminal act.

Organized Hate Groups

- Objects or items that represent the work of organized hate groups were left (i.e., white hoods, burning crosses), or an organized hate group claimed responsibility for the incident.
- There were indications that a hate group was involved. For example, a hate group claimed responsibility for the crime or was active in the neighborhood.

(Continued)

BIAS CRIME INDICATORS (continued)

Previous Existence of Bias Crime/Incidents

- Victim was visiting a location where previous bias crimes had been committed against members of the victim's group.
- Several incidents occurred in the same area, and the victims were members of the same group.
- Victim has received previous harassing mail or phone calls or has been the victim of verbal abuse based on his/her affiliation with a targeted group.

Victim/Witness Perception

- Victims or witnesses perceive that the incident was motivated by bias.

Motive of Suspect

- Suspect was previously involved in a similar incident or is a member of, or associates with members of, an organized hate group.
- The victim was in the company of, or married to, a member of a targeted group.
- The victim was perceived by the offender as violating or breaking from traditional conventions or working in nontraditional employment.
- The offender has a history of previous crimes with a similar modus operandi, and there has been multiple victims of the same [citizenship, race, religion, ethnic/national origin, handicap, sexual orientation, or gender].

Location of Incident

- The victim was in or near an area or place commonly associated with or frequented by a particular [citizenship, race, religion, ethnic/national origin, handicap, sexual orientation, or gender] (i.e., a gay bar).
- Incident occurs at or near a house of worship, religious cemetery, the home of a minority family located in a predominately white neighborhood, or a gay bar.

Lack of Other Motives

- No clear economic or other motive for the incident exists.

NOTE: The presence of one or more bias indicators suggest that a bias crime may have occurred but does not positively identify a crime or incident as being motivated by bias.

(Source: Holmes, W. 1992. *Hate Crime Reporting: Obstacles, Facilitators, and Strategies*. Boston: Statistical Analysis Center, Massachusetts Committee on Criminal Justice, 67-68.)

CASE STUDIES OF TYPICAL OFFENDERS

Case Study: Thrill-Seeking Offenders

- Two alienated white youths looking for excitement went on a spree of destruction and defacement that resulted in attacks on 23 properties in three different communities. They defaced walls, driveways, and automobiles with slurs against Jews, African Americans, Greeks, and even skinheads. After their arrest the men claimed that they hadn't intended to hurt anyone, that it only happened because they were drunk.

Case Study: Reactive Offenders

- In Jersey City, New Jersey, an East Indian chemist was severely beaten with an iron bar in his own apartment by a racist who resented the presence of "Hindus" in his neighborhood.
- In Wheaton, Maryland, two young white men unable to find work stopped their car and chased two African-American women who were walking from their apartment to a pay phone. One woman ran toward a house and was rescued by the occupant, who heard one of the assailants warn, "If you knock on that door again, I'll kill you." The other woman tried to escape into the woods, where she fell. The attackers beat her head and face, ripped off her blouse, and doused her with lighter fluid. As they attempted to light the fluid, police cars arrived at the scene. Both men escaped but were later apprehended. They were charged with attempted murder, assault with intent to murder, assault with intent to maim, kidnaping, and (under a 1988 bias crimes statute) attempting to injure a person for racial reasons.

Case Study: Mission Offenders

- Marc Lepine entered the engineering school at the University of Montreal with the intent to "get even" with women, especially feminist women, whom he perceived as having ruined his life. He walked into a classroom, directed the men to leave and the women to move to one side of the room, saying, "I want the women. You're all a bunch of feminists. I hate feminists." He opened fire and killed 14 women between the classroom, the hallways, and the cafeteria, and then took his own life.

Session D

Legal Issues, Legislation, and Statutes[‡]

Time: 1 hour, 20 minutes

Cases/videos: Cases

NOTE: It is strongly suggested that an attorney present or co-present this section of the training since it would be more appropriate for an attorney to review the law and legal interpretations.

Objectives

By the end of this session, participants will be able to:


- Explain why law enforcement professionals need to know the law relating to bias crimes
- Be aware of relevant Federal laws and the investigative jurisdiction of the Federal Bureau of Investigation
- Understand their State's bias crime State statute(s)
- Analyze cases to determine if they may be prosecuted as bias crimes, and if so, under which statutes
- Describe general criteria for determining jurisdictional responsibility for bias crimes
- Understand what types of hate crimes in the State are not subject to that State's hate crime statutes
- Discuss the issue of gender-based crime as a bias crime

This session was adapted with permission of Education Development Center, Inc., from *National Bias Crimes Training for Law Enforcement and Victim Assistance Professionals*, by Karen A. McLaughlin, Kelly Brilliant, and Cynthia Lang of Education Development Center, Inc., in partnership with the Massachusetts Criminal Justice Training Council. Copyright © 1995 by Education Development Center, Inc. Funding for the manual was provided through a grant from the U.S. Department of Justice, Office for Victims of Crime, and the Bureau of Justice Assistance.

[‡]This session is an adaptation of the EDC's *National Bias Crimes Training for Law Enforcement and Victim Assistance Professionals*, and the Massachusetts Office of the Attorney General's Law Enforcement Civil Rights Training Program, by Massachusetts Assistant Attorney General Richard W. Cole.

Overview of Session: At a Glance

Overview	Time	Materials/Equipment
Presentation: Introduction to Federal and State Laws*	5 min.	Transparencies, overhead projector, screen, handouts
Presentation: State Laws and Special Legal Issues*	35 min.	Transparencies, overhead projector, screen, handouts
Presentation: Federal Criminal Civil Rights Laws and Federal Hate Crime Statistics Act*	10 min.	Transparencies, overhead projector, screen, handouts
Activity: Criminal Law Case Application and Discussion	10 min.	Transparencies, overhead projector, screen, cases
Presentation: Reconciling Bias Crimes and the First Amendment*	10 min.	None
Activity: First Amendment and Bias Crimes Application*	10 min.	Transparencies, overhead projector, screen, cases
Optional Activity: Drafting Civil Rights Injunctions	(15 min.)	Transparencies, overhead projector, screen, flip chart, markers, easel
TOTAL TIME	1 hour, 20 min.	*Core component

 **Note to the Instructor:** A local, State, or Federal prosecutor or other attorney familiar with the criminal civil rights laws and their application should teach this session.

I. **Presentation: Introduction to Federal and State Laws** **(5 minutes)**

☛ Ask participants why law enforcement needs to know about State and Federal hate crime laws.

- Law enforcement officers need to be knowledgeable about the laws for making arrests, conducting investigations, establishing intent, assisting prosecutors, and assisting and referring victims.
- Law enforcement officers need to know that the **FBI is mandated** by Congress to **conduct investigations of allegations of civil rights violations** in accordance with Federal criminal codes.

- There are Federal and State laws that provide criminal and civil causes of action to protect victims of bias crime.
- **Federal and State laws may be used in charging bias crime offenders.**
- **Bias crime legislation** intended to punish acts of hate violence can be either **Federal** (dealing with violations of constitutional or federally-protected rights) or **State** (violations of a particular State law). (Source: McDevitt, J. and Levin, J. 1993. *Hate Crimes: The Rising Tide of Bloodshed & Bigotry*. New York: Plenum Publishers, 180.)
- **Federal bias crime statutes** protect citizens only when there is an intent to interfere with one of their **federally protected rights, as provided in a Federal statute or the United States Constitution.**
- **Bias crimes which are not subject to the State's hate crime statutes (i.e., law which does not include sexual orientation or disability as protected categories) should nevertheless be recognized, investigated and reported as bias crimes.** These crimes may be prosecuted under the State's general criminal statutes.
- It is critical for departments and agencies to establish mechanisms for staying current on case law as well as national and State legislative trends.
- There may also be remedies under civil law for bias crimes. Damages and injunctive relief may be granted to victims in civil cases.

A. Introduction to State Laws

- Nearly all States have enacted laws targeted specifically at criminal acts of bias.
- **The largest number of criminal hate crime prosecutions occur as the result of violations of State law.**
- Many States also provide a separate civil cause of action that often includes injunctive relief, compensatory and punitive damages, attorney's fees, and/or enhanced penalties.
- The majority of the laws protect against race, religion, and national origin bias.
- Although gays and lesbians are the victims of much bias crime, many State hate crime statutes (and the Federal statutes) do not offer protection for bias directed toward gays and lesbians. In those States general criminal statutes are applied against perpetrators of such acts. In some States (as well as under Federal law), there may be sentence enhancements for bias crimes, including against individuals based on sexual orientation.

- Some States, however, have expanded their bias crime laws to include protection against crimes motivated by bias because of sexual orientation, gender, disability, and/or age.

B. Types of State Criminal Statutes

The majority of States have laws under one of several categories listed below.

Transparency D.1 "Categories of State Criminal Statutes"

Criminal Penalty Laws generally:

- Criminalize certain acts committed due to prejudice
- Provide enhanced penalties
- Include several types of criminal statutes
 - **Institutional vandalism.** These laws prohibit vandalism and defacement of a variety of locations and institutions including houses of worship, cemeteries, schools, public monuments, and community centers.
 - **Bias-motivated violence and intimidation.** These laws make it illegal to intimidate, harass, trespass on the property of or assault an individual because of the person's race, religion, natural origin, and, in some States gender, sexual orientation, etc.
 - **Interference with religious worship.** These laws prohibit acts which disrupt an ongoing religious service; they also prohibit stealing a scroll, a religious vestment, or other object normally used in a religious service.

Cross Burning Laws. Prohibit cross burning or the burning of other symbols

Mask Wearing Laws. Ban the wearing of hoods, robes, masks, or other disguises in public, except during holidays and parades

Paramilitary Training Laws. Prohibit military-style training camps, such as those sometimes run by racist organizations.

Civil Cause of Action Laws. Civil remedies may include injunctive relief, compensatory and punitive damages and attorney's fees. These forms of relief may have significant deterrent effect and should encourage victims to bring civil law suits.

Parental Liability Laws. Make parents financially liable for their children's crimes.

Data Collection Laws. Require State and/or local law enforcement agencies to gather and sometimes disseminate statistics on the incidence of bias crimes

Police/Law Enforcement Training Laws. Require law enforcement personnel to receive training in identifying, reporting, and investigating bias-motivated crimes

(Source: Adapted from Berrill, Kevin. 1992. *Countering Anti-Gay Violence Through Legislation*. Washington, DC: The National Gay and Lesbian Task Force Policy Institute.)

C. State Statutes

There are different models of State criminal and civil statutes.

Note to the Instructor: Trainers should review "State Bias Crimes Statutory Provisions compiled by the Anti-Defamation League as updated and modified by the Massachusetts Office of the Attorney General, in October 1997," which is attached as an appendix to this session. This checklist of State statutes is provided to aid trainers in understanding the differences in State statutes and to be used as a reference for comparison of their State statutes with national trends. (Source: Anti-Defamation League, *Hate Crimes Laws: A Comprehensive Guide*, New York, New York, 1997, used and adapted with permission.)

D. Jurisdictional Issues

Note to the Instructor: Explain the jurisdictional issues relating to Federal, State, and local issues. Then briefly explain the various law enforcement roles and responsibilities in your State.

- For violations of Federal law, the prosecutor with jurisdiction over the crime is the United States attorney in each district as well as the U.S. Justice Department's Civil Rights Division Criminal Section. For violations of State law the local prosecutor (county, State, or district attorney) has jurisdiction.

- There are many factors used to determine whether a case will be prosecuted under Federal or State law, such as age of the offenders and length of potential sentences.
- In some States the State attorney general may have jurisdiction in criminal as well as civil rights cases. The U.S. Department of Justice may also have jurisdiction over some civil cases.

II. Presentation: State Laws and Special Legal Issues (35 minutes)

Note to the Instructor: Insert your State's particular criminal, civil, and bias crime reporting statute(s) here in the text of the curriculum. For each of your State's Criminal, Civil, and Bias Crime Reporting Statute(s), put a copy of the relevant State laws on a transparency (make sure the font is large enough to be readable), and use it in the session. As you explain the law, use a pointer or a magic marker to circle or underline relevant passages.

In the appendix to this session, see "Massachusetts Laws: Criminal and Civil Bias Crime Statutes," which is provided as an example of such State statutes.

Review the actual language of the laws. (Try to make the language understandable to a non-lawyer.)


Special legal issues to address:

- **Identify and list each essential element of each State criminal statute relevant to bias crimes.** Define each element in lay terms, and discuss the impact of case law on the application of each statute, to the extent that information would be relevant to a law enforcement officer in his or her role and responsibilities.
- **Describe how courts have or are likely to interpret your State statutes, their provisions and the legal standards to be applied.**

**Transparency D.2
"Your State's
Criminal and Bias
Crime Reporting
Statute(s) and
Elements"**

Examples of special legal issues to address with participants may include:

- What does willful mean under your statute?
- Is specific intent required?
- Does the bias need to be the **sole**, the **predominant**, or a motivating factor to satisfy the statute?
- What are secured rights under your statute?
- Does the statute apply to a case with mixed motives?
- Does the statute apply to an attack by a white person on another white, for associating with a black person?
- Does the statute require proof of “bias” or “prejudice” or only need to show that the victim was targeted **because of** his or her status or affiliation (i.e., race)?
 - If “**because of**” statute, person could be prosecuted under hate crime statute for selecting an Asian-American for robbery and attack because he believes for example, that Asian-Americans residing in that community carry a lot of money with them, or for targeting a gay victim because he believes such a victim would be more vulnerable to attack.
- Describe what is necessary to prove force or threat of force under the law.
- What is the amount of force necessary to violate the statute?
- Describe what is necessary to prove a joint venture or conspiracy under the statute.
- Describe how the penalties are applied under the law, and if it is a penalty enhancement statute, how these provisions are applied.

 **Note to the Instructor:** If your statute includes gender as a protected category, you should address issues related to gender bias crimes.

A. Gender Violence: Issues and Legal Trends

(The following sections on gender violence and legislation were adapted from Copeland, Lois and Wolfe, Leslie R. 1991. *Violence Against Women as Bias-Motivated Hate Crime: Defining the Issues*. The Center for Women’s Policy Study, 8–15.)

Crimes motivated by gender bias are not now included in many anti-bias crime laws at either the Federal or State levels. There is, however, a trend toward including gender in bias crime legislation as a protected category.

NOTE: Twenty-five States and the District of Columbia presently include gender as a protected category in their bias crime laws.

Some domestic violence and sexual assault cases may be able to be proven to be bias crimes.

- Large numbers of women are murdered and abused every day in ways that suggest bias crime from the lack of provocation, lack of apparent motive, severity of attack, existence of mutilation, and obvious intention to terrorize.
- While women are often victims of violence for the same reason as men (robbery, burglary, larceny, motor vehicle theft), women are also victims of violence simply because they are women.

Bias-motivated violence against women and its similarity to characteristics of all other types of hate violence include:

- **Absence of other motive.**
- **Excessive violence/lack of provocation.** Many crimes against women involve the excessive violence, including mutilation, that characterizes bias-motivated crimes. The ultimate example of hate violence against women is that perpetrated by serial murderers, who usually mutilate their victims, frequently binding, raping, and torturing them before they murder them. Three of the four women students murdered in August 1990 at the University of Florida in Gainesville were mutilated.
- **Denial of basic secured rights.** Restricting a victim's right and freedom to associate (forbidding contact with friends or family), the right to intrastate travel and use of places of public accommodation, movement outside of the home, the right to personal security and bodily integrity (physical abuse), and often a threat of retaliation if the victim seeks law enforcement assistance or abuse-prevention orders.
- **Community impact.** The murders in Gainesville, Florida, traumatized the entire university community and left women terrorized, fearful, and intimidated as bias crimes are intended to do.
- **Intimidation of an entire group.** Violence against one woman affects all women. Virtually all women, whether or not they have been victims of violence themselves, have been intimidated by the pervasiveness of hate violence.

**Transparency D.3
"Gender Bias
Characteristics"**

The guidelines for identifying an act of violence as a bias crime can also be applied to spouse or partner abuse.

The following criteria assists law enforcement officials in determining whether an act should be classified or treated as a gender-related hate crime:

**Transparency D.4
"Gender-based Hate
Crimes Criteria"**

- Offender and victim are of a different gender
- Offender makes abusive or derogatory references based on gender
- Offender states hatred for a gender as a class
- Victims are multiple and all of the same gender
- Pattern of similar types of verbal, physical, and sexual abuse, and control and domination of victims of the same gender

• Ask participants why having information on the issue of gender-based crime as possibly having a bias motivation is useful. The answers may include:

- May provide additional prosecution options
- May assist in discovering offender history
- May assist in responding to the victim
- May affect the number of repeat offenders

Note to the Instructor: As an optional activity, you may choose to lead a further discussion on gender bias.

B. Gender Bias Discussion Points

- Some people and organizations feel that gender based crime is a distinct type of victimization *and should not* be included as a form of bias crime.
- Some state that gender motivated hate crime is a bias crime where the offender is looking for any member of that gender to commit the crime upon. This addresses victim *interchangeability* which some see as the essential characteristic of a hate crime. Interchangeability refers to the idea that the victim could have been any one of a particular race, sexual orientation, gender, etc.

- Some say all gender-based crimes are hate crimes; women are assaulted because they are women.
- The need to remedy gender based discrimination is already recognized in civil anti-discrimination laws; there seems to be no persuasive reason to draw a line at the criminal threshold only for gender based discrimination. (Criminal law already recognizes race, religion, ethnicity.)

III. Presentation: Federal Criminal Civil Rights Laws and Federal Hate Crimes Statistics Act (10 minutes)

Many criminal acts of bias are prosecutable under Federal criminal civil rights statutes. The FBI has jurisdiction to investigate these criminal acts, and many of these investigations are conducted jointly with State and local law enforcement authorities.

A. Applicability of the Federal Statutes

- Federal remedies only protect victims who are threatened or attacked for exercising a federally protected right, described below (including riding public transportation, eating in a restaurant, renting an apartment, buying a home).
- Most Federal statutes apply only to acts motivated by racial or religious prejudice. This excludes a number of bias crime categories from prosecution and civil relief, such as sexual orientation.
- If in doubt, contact the FBI or U.S. Department of Justice, Civil Rights Division, Criminal Section.

B. Federal Criminal Statutes

Note to the Instructor: Review each of the statutes. Refer participants to Transparency D.5, "Federal Criminal Civil Rights Statutes."

Congress has enacted laws that provide both criminal and civil remedies to victims of bias-motivated crimes. Four principal Federal criminal statutes concern violence by private individuals motivated by race or religion:

**Transparency D.5
"Federal Criminal
Civil Rights Statutes"**

18 U.S.C. Section 241: Conspiracy Against Rights

- Broadly prohibits conspiracies to injure any person in the free exercise of rights protected by the Constitution or laws of the United States.
- Statute has been applied to a variety of Federal rights, including the right to own property, make contracts, enjoy the use of public accommodations, the right to vote, and the right to occupy a home without regard to *race*.
- This is always a felony.

18 U.S.C. Section 245: Interference with Federally Protected Activities

- Enacted in 1968 in response to violent attacks on civil rights workers in the South.
- A second provision prohibits intentional interference with enrollment in a public school or college using facilities administered by State or local authorities, interstate travel by common carrier, use of restaurants, lodging, gas stations, public entertainment facilities, and other establishments serving the public, State jury service, and interference with employment (whether public or private), where the interference is motivated by discrimination on the basis of *race, color, religion, or national origin*.
- Prohibits intentional interference, by force or threat of force, with certain specified constitutional rights, including voting and election activities, participation in programs administered or financed by the United States, Federal employment, and jury service. This section does not require proof of racial motive.
- Also protects individuals who are helping others enjoy the free exercise of these rights.

18 U.S.C. Section 247: Damage to Religious Property/Obstruction of Religious Activity

- Prohibits damaging or destroying religious property because of the religious nature of that property, or attempting to do so.
- Also prohibits intentional obstruction by force or threat of force of any person in the free exercise of religious beliefs.
- Requires connection with interstate commerce, unless involves racially or ethnically motivated interference.

42 U.S.C. Section 3631: Willful Interference with Civil Rights Under the Fair Housing Act

- Prohibits interference by force or threat of force with any person in selling, purchasing, renting, financing, occupying, or contracting for any dwelling due to that person's *race, color, religion, sex, handicap, familial status, or national origin*.
- Commonly includes cross burnings, arson, vandalism, assaults, and threats.

C. Penalties: Sentencing Enhancements

If a perpetrator commits any Federal crime and chooses the victim on the basis of *race, religion, national origin, ethnicity, gender, disability, or sexual orientation*, evidence of this bias can be used to impose a longer prison sentence. Therefore it is essential that the investigator gather all evidence of bias because it may become relevant.

D. Other Issues

Dual Prosecutions: It is possible to federally prosecute a crime after a local or State prosecution has ended unsuccessfully with an acquittal or dismissal of charges by a judge, or when perpetrators are convicted but receive a grossly inadequate sentence.

Juveniles: Can be federally prosecuted but there is a preference for State or local prosecutions especially if younger juveniles are involved or when only juveniles (no adults) are involved in the crime.

Mixed Motives: Can be prosecuted if bias is a "substantial motivating factor" (does not need to be the sole cause).

Federal Grand Jury: Can compel testimony (particularly from friends and associates of the suspect) and can often be instrumental in helping to solve a crime.

E. Federal Hate Crime Statistics Act, 28 U.S.C. § 534

The act states that the Attorney General shall acquire data, for each calendar year, about crimes that manifest evidence of prejudice based on race, religion, disability, sexual orientation, or ethnicity.

- The act signed into law in 1990, and was amended in 1994 and 1996.
- The effectiveness of the law depends on its implementation by and support of State and local law enforcement officials.
- This statute helps identify the geographic location and the nature and type of bias crimes occurring in the United States.
- The Attorney General has delegated responsibilities under the act to the Director of the FBI.
- The FBI's Uniform Crime Reports (UCR) Section has been assigned the task of developing the procedures for, and managing the implementation of, the collection of hate crime data.
- Your department or law enforcement agency should report all bias crimes in its jurisdiction to the appropriate Federal and State reporting agencies. The standardized reporting form should be used.

**IV. Activity: Criminal Law Case Application and Discussion
(10 minutes)**

(The cases and questions used in this session were reprinted with permission of Assistant Attorney General Richard W. Cole, Massachusetts Attorney General's Office.)

Note to the Instructor: Refer participants to Transparency D.6, "Criminal Case Illustration #1," and read the first part of Case #1 aloud. Discuss this case or the following case(s) with the entire group. There are a total of two cases; use only the case which best suits your audience. (You may want to cover the transparency so that you are only looking at the case which you are currently discussing.)

CASE #1 illustrates that many cases have mixed motives. Even when hate language is used, bias motivation may not be the catalyst or cause for the incident. Hate language at times can be incidental to and result from anger, rather than bias or prejudice against the victim's group.

A white and an Asian-American family are neighbors. Both have lived in their adjoining houses for three years without any problems. One Saturday, the father of the Asian-American family cuts down an oak tree located on the property of the white neighbor's house, mistakenly believing it is on his side of the property line. The father of the white family observes this, runs out, yells racial epithets, and punches the Asian-American man in the face.

Transparency D.6
"Criminal Case
Illustration #1"

- *Are there bias indicators present? (Yes) What are they? (Different races, use of racial epithets)*
- *What do you believe was the motivating factor(s) for this incident? Was there more than one? (Cutting down of tree, possible underlying bias against Asian-Americans)*
- *How to determine if bias motive involved. (Investigator needs to determine perpetrator's attitude toward neighbors and the nature of their relationship prior to this dispute. Were they social friends or did they exchange few words over the years? Did perpetrator ever express unhappiness with having Asian-American neighbors?)*
- *Does this conduct constitute a violation of any State or Federal criminal law or criminal civil rights law? Which ones?*
- *Assuming that you conclude there are mixed motives that led to the incident or contributed to its seriousness (i.e., the tree cutting and anti-Asian bias) does that make a difference as to whether or not one can prosecute under your hate crime statute?*
 - *Does bias motivation need to be the sole or primary motivation for conduct, or can it be one of the motivating factors in order to prosecute under your State statute?*
 - *Could a person be prosecuted under your State's statute if you conclude the incident became more violent because of bias, even though the catalyst for the initial dispute was based on race-neutral factors?*
 - *Would you still consider it as a bias crime under the Hate Crime Reporting Act?*

Same scenario as above, except assume that the Asian-American family just moved into the house the week before, and has had no contact with their neighbors.

- *Are there bias indicators present? (Yes) What are they? (Different races, use of racial epithets, recently moved into neighborhood.)*

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- *What do you believe was the motivating factor(s) for this incident? (Racial differences and tree cutting) Was there more than one? (Yes, but racial difference was probably the predominant motive.)*
- *Would it change your conclusion if the white man was friendly with another Asian-American family residing on the street or in the neighborhood? (This may indicate anti-Asian bias was not involved, or was not the primary motive.)*
- *Does this conduct constitute a violation of any criminal laws? Which ones?*
- *Does the fact that the Asian family just moved into their house in any way change your analysis of the motivation of the white man? (Yes, more likely anti-Asian bias was a factor.)*

CASE #2 attempts to identify the investigative steps needed to properly assess whether a civil rights or hate crime occurred versus a situation in which the couple was randomly selected. The case requires discussion of statutory elements to determine if they are applicable when no direct physical confrontation or violence is involved. It is also important to have participants not only identify relevant criminal civil rights statutes but also the general criminal laws which govern this situation.

An interracial couple is living in a deserted area of your town, or on a dead-end street in your city. On two occasions, in the dark of night, three high-school youths throw numerous eggs at their house. The family is home, but the youths run away before the family members are able to go outside to confront the perpetrators. Also assume that this couple has spoken out publicly about bias and prejudice in the town, and, in fact, has published an article in the local newspaper about what they believe is rampant racism in the town.

Transparency D.7 "Criminal Case Illustration #2"

- *What information would you want to know before determining whether or not this was a hate crime? (For example, did any of the youth know who lived in the home?)*
- *Was this house selected randomly? What facts would lead you to conclude that it was not a random attack?*
 - *This couple lived in a deserted area.*
 - *They had been targeted on two other separate occasions.*
 - *Were any other houses also egged? Egged twice? If so, were there reasons why the other houses were also egged?*

- *Does the time of year this occurred matter (i.e., Halloween versus another period during the year)? (Possibly)*
- *Assuming these youths are later identified, would you want to communicate with others (school officials and neighbors) to determine if any of the youths has engaged in similar conduct? (Yes)*
- *Is it relevant to your investigation to learn the attitudes of these youths regarding interracial couples and whether they have made openly biased statements in the past? (Yes)*
- *How does one go about determining the motivation of these youths—whether the victims were targeted because they were an interracial couple, because of their outspoken views, or for some other reason? (For example, find out if statement reflecting motive or biased attitude has been made by any of the youth to their family, friends, or school personnel prior to or after the incident. Law enforcement should attempt to elicit expressions of bias during their interrogation of the suspects.)*
- *For purposes of the investigation, would it matter what the emotional reaction of the family was to these egging attacks? (Yes) Why? (Whether the victims subjectively experienced the incident as threatening or intimidating may be a necessary element of the crime. It may also determine the nature of the law enforcement response to the victims.)*
- *Since there was no direct physical confrontation or violence against a person, would this case still constitute a violation of a criminal civil rights law? (For example, a law which prohibits intentionally damaging property to intimidate a person because of his or her race, associating with a person of another race, or for advocating certain views.)*
- *Would this conduct constitute intimidation or coercion? Would that make a difference in terms of the applicability of your State's criminal civil rights statute?*
- *Under your State statute does it matter if the perpetrators believed the couple was an interracial couple and this turned out not to be true?*

Assume that you are able to develop evidence that these youths engaged in this conduct to intimidate the couple from speaking out in the future about racial bias and prejudice in your area.

- *Do any civil rights or other criminal statutes apply in that situation?*
- *For purposes of charging the youths, would it matter to you that these youths were honor students rather than known troublemakers?*
- *Are less serious charges appropriate based on the background or criminal record of the perpetrators? Could this lead to the wrong*

message being received by the community? (Yes. An effort needs to be made to detail reasons to public.)

- *What is the extent of the risk if the community believes law enforcement did not view the incident seriously? (For example, creates risk of vigilante-type retaliation if community believes law enforcement response inadequate; engenders distrust of law enforcement by victim community.)*

V. Presentation: Reconciling Bias Crimes and the First Amendment (10 minutes)

(Reprinted with permission of Assistant Attorney General Richard W. Cole, Massachusetts Attorney General's Office.)

The First Amendment to the United States Constitution states that:

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; **or abridging the freedom of speech, or of the press, or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.**

Note that the Fourteenth Amendment makes the First Amendment applicable to the States as well.

(1) Free speech goals of First Amendment

- So citizens can express their political beliefs and opposition to government, without government reprisal.
- Core value expressed by First Amendment is that society and government are better off when free exchange of political ideas and views is encouraged, not chilled.
- The government may not choose which political beliefs it finds acceptable or unacceptable.

(2) What constitutes speech? It may be written, oral, public or private. It may be used for political or commercial purposes.

(3) **The First Amendment protects speech, not conduct. Forms of speech include:**

- **Symbolic speech** to convey a message: includes picketing, boycotts, tee shirts with political statements, arm bands, flag burning (all deemed protected speech).
- **Anti-government (political) speech.** Anti-censorship protection for unpopular political speech.
- **Freedom not to speak.** not to pray in school or to salute flag.
- **Offensive speech** is generally protected.
- **Speech which reflects bias or prejudice.** Racist, anti-religious, sexist speech is generally protected even if it includes use of slurs or epithets (unless incidental to conduct or used when communicating ideas in a threatening, intimidating, or coercive manner).

(4) **Exceptions to First Amendment protections for speech:**

- **Threats of force.** (Language placing a person in reasonable fear of physical injury).
- **Slander, libel.**
- **Pornography/obscenity.**
- **Fighting words** (*Cohen v. California*) (1971), where speech is directed at a particular person or group of persons and is said in a manner which causes a hostile, physical reaction that tends to incite an immediate breach of the peace.
- **“Captive Audience Speech.”** It is constitutional, with appropriate limitations consistent with court decisions, to limit, by statute or ordinance, the picketing of private homes (*Carey v. Brown*) (1980).
- **Clear and present danger to public safety,** for example, falsely yelling fire in a theater or inciting others to immediate violent action.
- **National security.** Speech can constitute treason.
- **False and deceptive advertising.**
- **Where speech is incidental to conduct.** It is not the idea being expressed which is being punished, but the **intolerable mode of expressing the idea** the speaker wishes to convey. (*Wisconsin v. Mitchell*) (1993) (During beating, perpetrator says “I hate blacks.”)
- **Solicitation crime.** For example, asking person to murder wife for payment of ten thousand dollars.
- **Words used which tend to prove discriminatory motive.** Words expressing discriminatory motive are admissible to prove employment, housing, public accommodation, credit and other forms of discrimination.

Words expressing a discriminatory animus may serve as evidence of the prohibited conduct (for example, to prove reason for failure to promote) or may constitute the prohibited conduct itself.

- **Racial, religious and sexual harassment in schools and workplace.** Discriminatory language used to verbally harass another in a confined environment such as in a school setting or a place of employment may be admissible to prove unlawful harassment. For example, sexual harassment claim may be proved by evidence of unwelcome, offensive *verbal comments* of a sexual nature which creates an intimidating or hostile school or work environment.

NOTE: Speech may fall into more than one exception.

On most occasions speech that reflects a person's prejudice cannot be legally sanctioned by a court. But at times mere words may cause a reasonable person to feel threatened, intimidated, or coerced. ("I'm going to kill you because I hate Catholics.") In that case, a person is not punished for his or her beliefs or offensive thought, but for language deemed the equivalent of conduct.

Application of judgment and experience is needed to determine whether speech or writings constitute a criminal threat or assault.

- Fact patterns are not always clear, and reasonable discretion and reasoned judgment are crucial in determining whether a hate crime, giving rise to civil or criminal liability, has occurred. Prior to arresting or prosecuting a suspect for a bias crime for a written or verbal statement, law enforcement officials and prosecutors need to carefully examine the context in which it occurred.

VI. Activity: First Amendment and Bias Crimes Application (10 minutes)

(The cases and questions used in this session were reprinted with permission of Assistant Attorney General Richard W. Cole, Massachusetts Attorney General's Office.)

Note to the Instructor: Discuss the following cases with the entire group. There are a total of three cases. Try to solicit from the participants the factors that distinguish when writings or speech constitute a criminal threat in those cases from offensive but otherwise protected speech. (If there is not enough time, only review Cases #4 and #5.)

Case #3 identifies what would constitute offensive or hate speech which is protected by the First Amendment. (See also Case #4.) You should differentiate the facts of the case scenarios in Case #3 and #4 from words that may constitute a criminal violation (for example, a threat of bodily harm directed at a specific person or group of persons). (See Case #5.)

CASE #3: On a Saturday morning, a man stands in a section of your town or city common; he uses anti-Semitic epithets and makes offensive remarks (i.e., "All Jews should die." "It's a shame Hitler wasn't successful in exterminating the Jews.")

- *Does this constitute a violation of any State criminal law? (No)*
- *Do these remarks constitute a threat of harm?
Do they place those present in reasonable
fear of physical injury or damage? (No,
probably not)*
- *Were these remarks directed at any
individual? (No) Does that make a difference
in analyzing whether or not these remarks
constitute a violation of the criminal law? (Yes)*
- *Is this protected speech under the First Amendment to the U.S. Constitution or
under your State constitution? (Yes)*

**Transparency D.8
"First
Amendment/Criminal
Case Illustration #3"**

This man also hands out hate literature.

- *Would this in any way change your analysis of whether or not this constitutes a
crime? (No)*
- *Is this protected speech under the Federal and State constitutions? (Yes)*
- *Why? (Use of general language not directed at specific person. No likelihood of
acting imminently.)*

This man also self-identifies as a member of a neo-Nazi group.

- *Does that change your analysis of this problem? (No)*

Assume that this same man sets up a kiosk on the side of a Jewish religious parade; hundreds of Jews walk past the kiosk as the epithets are made.

- *Would that in any way change whether or not he violated the criminal law? (No)*
- *Would it change how you would handle the matter if you were at the scene at that time? (You may consider altering the parade route to separate parade participants and the man making the remarks or provide law enforcement barriers to create greater distance between participants and this man.)*

CASE #4 and CASE #5 illustrate that a change in the offender and victim, with all other facts remaining the same, may affect whether or not language constitutes a criminal offense (threat). Solicit the factors that lead to the determination and stress the importance of documenting such information in a law enforcement report.

CASE #4: An 11-year-old black girl sees a 6'5" 250-pound white male in full uniform exercising on the high school football field in the heart of a black neighborhood in your town or city. She walks up to him, stands inches away, and says in a loud voice, "This field is in a black neighborhood, white boy. Stay out of my neighborhood."

**Transparency D.9A
"First
Amendment/Criminal
Case Illustration
#4"**

- *Are there bias indicators present? (Yes) What are they? (Different races, use of epithets, statement based on racial differences, occurred in predominately black area.)*
- *Does this constitute a threat? Based on these facts, could the 250-pound white man in a football uniform reasonably believe that he is being threatened in this circumstance? (No, highly unlikely under these facts.)*
- *Can the girl be charged under any State criminal (hate crimes) law? (Highly unlikely.) Why not? (It is highly unlikely that this would constitute a threat or intimidation under the law.)*
- *What factors led you to conclude it was not a threat under State law? (In full football uniform, size, strength, age, gender difference, not able to carry out statement.)*
- *If she holds her fist up when she uses this language, would that change your conclusion? (No—same reasons as above.)*

- *Does this constitute a bias **incident** nevertheless? (Yes)*
- *What other evidence would you need to constitute a threat? (For example, other evidence that may have led the white man to have been reasonably placed in fear by the small girl. For example, whether or not she was holding a weapon at the time, whether others appeared to be participating with her in a joint venture.)*

CASE #5: A 6'5" white man sees an 11-year-old black girl walking on the football field at a high school in the heart of an all-white neighborhood. He walks up to her and, standing inches away, leans down and says in a powerful voice, "This field is in a white neighborhood, blackey. Get out of my neighborhood."

Transparency D.9B
"First
Amendment/Criminal
Case Illustration
#5"

- *Does this constitute a threat, creating reasonable fear of physical injury or damage? (Most likely yes, but check with a State or local prosecutor for the answer under your State laws.)*
- *What specific factors lead you to conclude that the language most likely constitutes a threat? (For example, words directed at a specific person, size, strength, age and gender differences, close physical proximity, tone of voice.)*
- *If he raised his fist when he used the language, would that support your conclusion? (Yes—it makes it even more likely that the language would be reasonably perceived as a threat.)*
- *Is this protected speech? (Most likely no.) Why not? (If it constitutes a criminal threat, it is not protected speech.)*
- *Are all the necessary elements met to charge under your State's criminal civil rights statute? (Review facts for each element for each relevant statute.)*
- *As a responding or investigating officer do you need to document all of these factors in your incident report? (Yes. Documentation is critical to prosecute successfully.)*

Conclusion: First Amendment and Bias Crimes

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Factors identified from the above case illustrations that support a conclusion that speech or writing can constitute a threat of violence, include:

- **Speech or writings being directed at a specific person.**
- **Direct action being taken against the victim.**
- **Language placing the victim in reasonable fear of physical injury or damage.**
- **The perpetrator's use of language occurring while standing in close proximity to the victim.**
- **The perpetrator's larger physical size or strength compared to the victim's, affecting how the victim perceived the words used.**
- **Significant differences in age or position between the perpetrator and victim.**
- **Perpetrator is male and victim is female.**
- **Whether the incident occurs in an open or confined location or setting (i.e., incident occurs in hallway of an apartment building or on a street where victim's only means of escape or avoidance is blocked by the perpetrator.)**
- **The tone of voice used by the perpetrator (For example, threatening, intimidating tone).**
- **The victim reasonably feeling threatened, intimidated or coerced because of the specific body language employed by the perpetrator during the time he spoke epithets of hate. (for example, hands rolled up into fists, arms raised, in fighting stance.)**
- **Prior incidents of threats.**

**Transparency D.10
"When Language
Constitutes a Criminal
Threat"**

State and Federal hate/bias crime laws provide additional tools for law enforcement and prosecutors to use in protecting the civil rights of our citizens. But law enforcement professionals **may be held liable** if they arrest someone for engaging in highly offensive speech that a court ultimately decides was constitutionally protected. A clear understanding of the law and a thorough, careful investigation of the alleged bias-motivated conduct should protect law enforcement officials from any **potential liability**. In addition, it is often helpful to consult a State or Federal prosecutor in case of ambiguity or uncertainty.

VII. Optional Activity: Drafting Civil Rights Injunctions (15 minutes)

The materials and cases used below are contained in the EDC's "National Bias Crimes Training for Law Enforcement and Victim Assistance Professionals." They were also adapted from the Massachusetts Office of Attorney General's "Law Enforcement Civil Rights Training Program," by Assistant Attorney General Richard W. Cole.

Note to the Instructor:

If this section is used, the time for other sections will have to be reduced.

If your State is among the majority of States that have no injunctive relief remedies, then do not spend time in this session.

If your State's civil rights law allows for an injunctive relief remedy, review with participants the **Advantages and Scope of Civil Rights Injunctions and Factors Law Enforcement Professionals Should Consider in Determining Whether To Pursue Injunctive Relief.**

A. Advantages of Civil Rights Injunctions in Addition to Criminal Prosecutions

- Availability of a lower standard of proof; preponderance of the evidence
- The speed in which a temporary restraining order can be obtained
- The inadequacy of criminal law to deal with some types of criminal violations
- The unlimited duration of a permanent injunction as compared to the specific and at times quite brief period in which controls are placed on the perpetrator as conditions of probation or through a stay away order pending trial
- The deterrent effect of a criminal sanction for violations of restraining orders or injunctions

Civil injunctions can be granted by a court to keep the accused away from and to not repeat conduct directed at the victim or any member of the victim's group. Allegations do not have to be proven beyond a reasonable doubt, the standard for proving a criminal offense. Instead, the prosecution need only convince the judge that the allegations are probably true (preponderance of evidence is the standard in civil cases).

B. Scope of Civil Rights Injunctions

- Scope of the injunction is often a key issue in injunction hearings before the court.
 - The court will want to provide protection to victim without *unreasonably* restricting activity of the defendant.
 - This represents a case-by-case balancing.
- An injunction can:
 - Protect actual victim as well as all other individuals from similar interference with secured rights.
 - Protect witnesses/family members.
 - Restrain perpetrators from going near the victim, her or his residence, neighborhood, place of employment, school, etc. (100 feet is the usual distance proposed, but up to 500 feet has been requested and granted in appropriate circumstances.)
 - Restrain individual from being in his or her "own backyard," if it is reasonable and necessary.
 - Prohibit communication with victim and witnesses, except through law enforcement or prosecutor's office.
 - Prohibit filing of frivolous civil or criminal complaints against the victim.
 - Require notification of Attorney General's office before the filing of any court action against the victim.
- An injunction criminalizes conduct otherwise lawful. For example:
 - Being present on certain streets or neighborhoods
 - Communicating with the victim or his or her family
- In some States, an injunction increases the exposure to higher criminal penalties for the same conduct.
- In some States, civil rights injunctions are applicable to juveniles.

C. Factors Law Enforcement Professionals Should Consider in Determining Whether to Pursue Injunctive Relief

- Seriousness of incident (No need to be criminal violation).
- Language used during incident. Words alone usually are not enough to constitute a violation of law.
 - First Amendment protected language vs. actual threats, or words which actually intimidate or coerce a person.
- Threats, intimidation, coercion, harassment involved (violence or actual threat of violence not necessary).
- Prior conduct against victim (pattern of conduct).
- Likelihood of future contact between parties.
- Relationship of the perpetrator and the victim, if any, before the incident.
- Did the offender target or select the victim because of his or her racial or religious status, ethnic background, gender, sexual orientation, or disability.
- Was the primary motivation for the actions based on bias.
- Does the offender have a history of prior bias motivated incidents against other victims (pattern of bias motivated conduct).
- Criminal record of the perpetrator.
- Likely impact of an injunction on future conduct.
- Is the perpetrator a member of a hate group and has he interfered with victim's rights in any way connected to that involvement with the group.
- Is there a criminal prosecution occurring for the same offense.
 - Likelihood of incarceration (injunction would likely be denied if offender is incarcerated, unless it is proven that a serious threat of violence will continue once the offender is released and incarceration is not for a lengthy period, or unless demonstrated threat would continue while in prison but very difficult burden of proof).
 - Length of potential incarceration (injunction outlives length of probation).
 - Date of trial (soon or in months).
 - Will the stay away order, as condition of bail, be sufficient deterrent, and protect victim and witnesses.
 - Potential negative impact of injunctive action on criminal prosecution.

- Will potential offender act in the future to threaten or intimidate others based on their status (but who were not the victims of this incident).
- Likelihood of success (general success rate has important deterrent effect against potential perpetrators).

D. Drafting Civil Rights Injunctions

CASE #6: The Torreses, a Hispanic family, move onto a street in a predominantly white area of your city or town. Their home is next to a large baseball field and playground. Shortly after they move in, they began experiencing harassment. On the second occasion, their car was tipped over; on another occasion, their car was vandalized.

- *Are there bias indicators present? (Yes)
What are they?*
 - *Hispanics living in predominately white area.*
 - *Hispanic family recently moved in.*
 - *Car being tipped over. (This is a subtle indicator. It is an unusual occurrence.)*
- *What steps can be taken to determine the identity of the perpetrators of these two separate incidents? (Canvas neighborhood, identify and interview individuals who use field, set up video camera to monitor house for further incidents.)*
- *What violations of criminal (civil rights) statutes may the conduct involve?*
- *What further information may you need to develop in your investigation in order to charge them under any of these statutes?*

**Transparencies
D.11 & D.12
"Civil Rights
Injunction: Case
Illustration #6"**

This harassment culminated in an incident that occurred two weeks ago. On that day, the Hispanic couple was driving on their street, followed by a Hispanic family who lived nearby. As they drove, they were accosted by a group of 15–20 white males and females. One of the white males, John C., yelled a racial comment at the Torreses. John C. then stood in front of the Torres' car, blocking its forward movement. He then began to strike the Hispanic couple's car with a tire iron. The Torreses then drove down the street and went to their friends' home (who are also Hispanic) and called the police.

- *What potential civil rights were denied by the actions of the youths?*
 - *The right to travel*
 - *The right to access to public accommodations which include access to the streets*
 - *Right to live in housing free of harassment*
- *What criminal (civil rights) statutes may be violated here?*
- *Is a civil injunctive order an available law enforcement tool in your State to deter future conduct by these youths? If so, what would you want a court to order these white youths to do or not to do? (For example, prohibit any form of future harassment or violence; approaching within a specified distance of the family, house and field, communicating with family or witnesses or encouraging or causing another person to engage in prohibited conduct.)*
 - *Can court orders be drafted to deter all the youths even if you are unable to identify all the youths who participated? (Yes, by obtaining an order against the named defendants as well as others participating or acting in concert with the named defendants, and then serving the other youth with the order.)*
 - *Can an order be issued that prohibits these individuals from also threatening, assaulting, coercing or intimidating any other Hispanic family located in your town or city or in your State? (Yes)*
 - *If so, do you have an active system in operation for being notified if one of the youths perpetrates a bias crime against another Hispanic family outside your city or town or in another section of your city or town?*
- *What steps would you take to try to deal with the racial tensions to reduce the likelihood of recurrence? (For example, community meetings, discussions with community groups and leaders, public statement that the conduct will not be tolerated.)*

Assume that two days after a court order was issued for the youths to stay away from that particular street and the park, one of the defendants showed up in the park across from the Torres' house. He then began yelling at the Hispanic family.

Session D

- *Would that constitute a violation of the order which you have drafted? (Yes)*
- *What are the potential penalties for the violation of the order?*
- *Would you have a right to arrest if you were informed of the violation of the order without the necessity of obtaining an arrest warrant?*
- *What would be the maximum penalty for violation of the injunctive order if a member of the Hispanic family was actually struck and injured by one of the youths?*
- *How would you write the law enforcement report in this case in order to assist in the prosecution of this individual for violation of the injunction? (Detail conduct, existence of order, and nature of violation for order.)*

Note to the Instructor: Break participants up into small groups. Ask the small groups to draft provisions in an injunction appropriate to the case. Encourage participants to be creative.

Reconvene entire group from small groups.

Ask for volunteers to write their draft injunctions on flip charts. Ask participants from the entire group to review and comment on the appropriate language in the injunctions. Caution participants that they should seek counsel from the appropriate prosecutorial jurisdiction (local county district attorney or State's attorney and/or State attorney general).

E. Closing Comments and Resources

Note to the Instructor: Refer participants to materials in their participant's handbook that provide resources to assist them in learning about relevant State and Federal statutes and emerging case law. A resource section is provided at the end of this session regarding legal resources.

You should prepare a legal resource section for your State. Massachusetts legal resources are provided as a guide.

F. Other Legal Issues to Address

Civil Suits Against Organized Hate Groups

A growing area of civil litigation is being pursued against hate groups. A landmark case was won in Oregon where a jury awarded \$10 million in punitive

damages to the estate of a black man who had been beaten to death by “skinheads.” The suit was filed against the murderers but also against Thomas Metzger, the president of the White Aryan Resistance Organization (WAR).

G. Bias Crimes: State Statutes

Gender

As of October 1997, gender is a protected category in penalty enhancement or independent bias crime statutes of the District of Columbia and the following 25 States: Alaska, Arizona, California, Connecticut, Idaho, Illinois, Indiana, Iowa, Louisiana, Maine, Massachusetts, Michigan, Minnesota, Mississippi, Montana, Nebraska, New Hampshire, New Jersey, North Dakota, Rhode Island, Utah, Vermont, Washington, West Virginia, and Wyoming.

Sexual Orientation

As of October 1997, sexual orientation is a protected category in penalty enhancement or independent bias crime statutes of the District of Columbia and the following 20 States: Arizona, California, Connecticut, Delaware, Florida, Illinois, Iowa, Louisiana, Maine, Massachusetts, Minnesota, Nebraska, Nevada, New Hampshire, New Jersey, Oregon, Rhode Island, Vermont, Washington, and Wisconsin.

Disability/Handicap

As of October 1997, disability or handicap is a protected category in penalty enhancement or independent bias crime statutes of the District of Columbia and the following 23 States: Alabama, Alaska, Arizona, California, Connecticut, Delaware, Illinois, Indiana, Iowa, Kansas, Louisiana, Maine, Massachusetts, Minnesota, Montana, Nebraska, Nevada, New Jersey, Oklahoma, Rhode Island, Vermont, Washington, and Wisconsin.

Age

As of October 1997, age is a protected category in penalty enhancement or independent bias crime statutes of the District of Columbia and the following 10 States: Alaska, Arizona, California, Iowa, Kansas, Louisiana, Minnesota, Montana, Nebraska, and Vermont.

Involvement in Civil Rights or Human Rights Activities

Montana includes the involvement in a civil rights or human rights activity as a protected category in a penalty enhancement statute and an independent bias crime statute.

Political Affiliation/Opinions

Political affiliation and/or opinions is a protected category in the penalty enhancement or independent bias crime statutes of the District of Columbia and the following four States: California, Iowa, South Carolina, and West Virginia.

Miscellaneous

Other protected categories include:

- Membership or service in, or the employment with an organization (LA)
- Service in the armed forces of the United States (VT)
- Position in a labor dispute (CA)
- Immigrants (status as non-legal citizens) (RI)

Hate Crime Injunctions

Eight States: California, Florida, Maine, Massachusetts, Michigan, New Jersey, Pennsylvania, and West Virginia authorize its State Attorney General to obtain civil rights injunctions to deter future incidents of bias-motivated conduct.

H. Federal Legislation

In September 1994, the President signed the Violent Crime Control Law Enforcement Act of 1994 (The Crime Bill). Title IV of the act entitled Violence Against Women, Section 40302, "establishes a Federal civil rights cause of action for victims of crimes of violence motivated by gender." The provision makes the offender liable for compensatory and punitive damages to the victim and authorizes injunctive and declaratory relief to protect the victim.

The term "crime of violence motivated by gender" is defined as one committed because of gender and due at least in part to an animus based on the victim's gender. The civil rights protection does not entitle a person to a use of action

for random acts of violence unrelated to gender or those that cannot be demonstrated by a preponderance of evidence.

Under this section, Federal and State courts have concurrent jurisdiction over actions involving gender-motivated violence. However, any civil action in a State court under the Violence Against Women Act of 1994 may not be removed to a U.S. district court.

(Source: *Inside the 1994 Crime Act*. Silver Spring, MD: CD Publications.)

TRANSPARENCIES AND HANDOUTS

- D.1 Categories of State Criminal Statutes**
- D.2 Your State's Criminal and Bias Crime Reporting Statute(s) and Elements**
- D.3 Gender Bias Characteristics**
- D.4 Gender-based Hate Crime Criteria**
- D.5 Federal Criminal Civil Rights Statutes**
- D.6 Criminal Case Illustration #1**
- D.7 Criminal Case Illustration #2**
- D.8 First Amendment/Criminal Case Illustration #3**
- D.9A First Amendment/Criminal Case Illustration #4**
- D.9B First Amendment/Criminal Case Illustration #5**
- D.10 When Language Constitutes a Criminal Threat**
- D.11 & D.12 Civil Rights Injunction: Case Illustration #6**
- Handout D.1 Types of State Criminal Statutes**
- Handout D.2 Federal Criminal Civil Rights Statutes**

CATEGORIES OF STATE CRIMINAL STATUTES

- **Criminal Penalty Laws**
- **Cross Burning Laws**
- **Mask Wearing Laws**
- **Paramilitary Training Laws**
- **Civil Cause of Action Laws**
- **Parental Liability Laws**
- **Data Collection Laws**
- **Law Enforcement Training Laws**

Transparency D.2

**YOUR STATE'S CRIMINAL
AND BIAS CRIME REPORTING STATUTE(S)
AND ELEMENTS**

GENDER BIAS CHARACTERISTICS

- **Absence of other motive**
- **Excessive violence/lack of provocation**
- **Denial of basic secured rights**
- **Community impact**
- **Intimidation of entire group**

GENDER-BASED HATE CRIME CRITERIA

- **Offender and victim are of a different gender**
- **Offender makes abusive or derogatory references based on gender**
- **Offender states hatred for a gender as a class**
- **Victims are multiple and all of the same gender**
- **Pattern of similar types of verbal, physical, and sexual abuse, and control and domination of victims of the same gender**

FEDERAL CRIMINAL CIVIL RIGHTS STATUTES

- **18 United States Code Section 241 “Conspiracy Against Rights”**
- **18 United States Code Section 245 “Federally Protected Activities”**
- **18 United States Code Section 247 “Church Arson Prevention Act of 1996”**
- **42 United States Code Section 3631 “Criminal Interference —Fair Housing Act”**

CRIMINAL CASE ILLUSTRATION #1

Case #1

- **A white and an Asian-American family are neighbors. Both have lived in their adjoining houses for three years without any problems. One Saturday, the father of the Asian-American family cuts down an oak tree located on the property of the white neighbor's house, mistakenly believing it is on his side of the property line. The father of the white family observes this, runs out, yells racial epithets, and punches the Asian-American man in the face.**
- **Same scenario as above, except that the Asian-American family just moved into the house the week before, and has had no contact with their neighbors.**
- **Assume that the Asian-American family just moved into the neighborhood. Within a day of this family moving in, the white man begins to yell racial epithets; the original tree-cutting incident then escalates into threats against the Asian-American family.**

CRIMINAL CASE ILLUSTRATION #2

Case #2

- **An interracial couple is living in a deserted area of your town, or on a dead-end street in your city. On two occasions, in the dark of night, three high school youths throw numerous eggs at their house. The family is home, but the youths run away before the family members are able to go outside to confront the perpetrators. Also assume that this couple has spoken out publicly about bias and prejudice in the town, and , in fact, has published an article in the local newspaper about what they believe is rampant racism in the town.**
- **Assume that you are able to develop evidence that these youths engaged in this conduct to intimidate the couple from speaking out in the future about racial bias and prejudice in your area.**

FIRST AMENDMENT/ CRIMINAL CASE ILLUSTRATION #3

Case #3

- **On a Saturday morning, a man stands in a section of your town or city common; he uses anti-Semitic epithets and makes offensive remarks. (For example, “All Jews should die.” “It’s a shame Hitler wasn’t successful in exterminating the Jews.”)**
- **This man also hands out hate literature.**
- **This man also self-identifies as a member of a neo-Nazi group.**
- **Assume that this same man sets up a kiosk on the side of a Jewish religious parade; hundreds of Jews walk past the kiosk as the epithets are made.**

**FIRST AMENDMENT/CRIMINAL CASE
ILLUSTRATION #4**

Case #4

- **An 11-year-old black girl sees a 6'5" 250-pound white male in full uniform exercising on the high school football field in the heart of a black neighborhood in your town or city. She walks up to him, stands inches away, leans up, and says in a loud voice, "This field is in a black neighborhood, white boy. Stay out of my neighborhood."**

**FIRST AMENDMENT/CRIMINAL CASE
ILLUSTRATION #5**

Case #5

- **A 6'5" white man sees an 11-year-old black girl walking on the football field at a high school in the heart of an all-white neighborhood. He walks up to her and, standing inches away, leans down and says in a powerful voice, "This field is in a white neighborhood, blackey. Get out of my neighborhood."**

WHEN LANGUAGE CONSTITUTES A CRIMINAL THREAT

- **Speech or writing directed at specific person**
- **Direct action being taken against the victim**
- **Language creating reasonable fear**
- **The perpetrator's larger physical size or strength**
- **Significant differences in age or position**
- **Perpetrator is male and victim is female**
- **Tone of voice**
- **Close physical proximity of perpetrator to victim**
- **Specific body language**
- **Incident occurs in confined location or setting**
- **Prior incidents of threats**

CIVIL RIGHTS INJUNCTION: CASE ILLUSTRATION #6

Case #6

- **The Torreses, a Hispanic family, move onto a street in a predominantly white area of your city or town. Their home is next to a large baseball field and playground.**
- **Shortly after they move in, they began experiencing harassment. On the second occasion, their car was tipped over; on another occasion, their car was vandalized.**
- **This harassment culminated in an incident that occurred two weeks ago. On that day, the Hispanic couple was driving on their street, followed by a Hispanic family who lived nearby.**

(Continued)

CIVIL RIGHTS INJUNCTION: CASE ILLUSTRATION #6

(continued)

- **As they drove, they were accosted by a group of 15–20 white males and females. One of the white males, John C., yelled a racial comment at the Torreses. John C. then stood in front of the Torres' car, blocking its forward movement. He then began to strike the Hispanic couple's car with a tire iron. The Torreses then drove down the street and went to their friends' home (who are also Hispanic) and called the police.**
- **Assume that two days after a court order was issued for the youths to stay away from that particular street and the park, one of the defendants showed up in the park across from the Torres' house. He then began yelling at the Hispanic family.**

TYPES OF STATE CRIMINAL STATUTES

Criminal Penalty Laws generally:

- Criminalize certain acts committed due to prejudice.
- Provide enhanced penalties.
- Include several types of criminal statutes.
 - *Institutional vandalism*. These laws prohibit vandalism and defacement of a variety of locations and institutions including houses of worship, cemeteries, schools, public monuments, and community centers.
 - *Bias-motivated violence and intimidation*. These laws make it illegal to intimidate, harass, trespass on the property of or assault an individual because of the person's race, religion, natural origin, and, in some States gender, sexual orientation, etc.
 - *Interference with religious worship*. These laws prohibit acts which disrupt an ongoing religious service; they also prohibit stealing a scroll, a religious vestment, or other object normally used in a religious service.

Cross Burning Laws

- Prohibit cross burning or the burning of other symbols.

Mask Wearing Laws

- Ban the wearing of hoods, robes, masks, or other disguises in public, except during holidays and parades.

Paramilitary Training Laws

- Prohibit military-style training camps, such as those sometimes run by racist organizations.

Civil Cause of Action Laws

- Civil remedies may include injunctive relief, compensatory and punitive damages and attorney's fees. These forms of relief may have significant deterrent effect and should encourage victims to bring civil law suits.

Parental Liability Laws

- Make parents financially liable for their children's crimes.

Data Collection Laws

- Require State and/or local law enforcement agencies to gather and sometimes disseminate statistics on the incidence of bias crimes.

Law Enforcement Training Laws

- Require law enforcement personnel to receive training in identifying, reporting, and investigating bias-motivated crimes.

FEDERAL CRIMINAL CIVIL RIGHTS STATUTES

Congress has enacted laws that provide both criminal and civil remedies to victims of bias-motivated crimes. Four principal Federal criminal statutes concern racial- and religious-motivated violence by private individuals:

18 U.S.C. Section 241: Conspiracy Against Rights

- Broadly prohibits conspiracies to injure, oppress, threaten or intimidate any person in the free exercise of rights protected by the Constitution or laws of the United States.
- Statute has been applied to a variety of Federal rights, including the right own property, make contracts, enjoy the use of public accommodations, the right to vote, and the right to occupy a home without regard to race.
- This is always a felony.

18 U.S.C. Section 245: Interference with Federally Protected Activities

- Enacted in 1968 in response to violent attacks on civil rights workers in the South.
- Prohibits intentional interference, by force or threat of force, with certain specified constitutional rights, including voting and election activities, participation in programs administered or financed by the United States, Federal employment, and jury service.
- A second provision prohibits intentional interference with enrollment in a public school or college, interstate travel by common carrier, use of restaurants, lodging, gas stations, public entertainment facilities, and other establishments serving the public, State jury service and interference with employment (whether public or private), where the interference is motivated by discrimination on the basis of race, color, religion, or national origin.
- Also protects individuals who are helping others enjoy the free exercise of these rights.

18 U.S.C. Section 247: Damage to Religious Property/Obstruction of Religious Activity

- Prohibits damaging or destroying religious property because of the religious nature of that property, or attempting to do so.
- Also prohibits intentional obstruction by force or threat of force of any person in the free exercise of religious beliefs.
- Requires connection with interstate commerce, unless involves racially or ethnically motivated interference.

(Continued)

FEDERAL CRIMINAL CIVIL RIGHTS STATUTES

(continued)

42 U.S.C. Section 3631: Willful Interference with Civil Rights Under the Fair Housing Act

- Prohibits interference by force or threat of force with any person in selling, purchasing, renting, financing, occupying, or contracting for any dwelling due to that person's **race, color, religion, sex, handicap, familial status, or national origin**.
- Commonly includes cross-burnings and threats.

Penalties—Sentencing Enhancements

- If a perpetrator commits any Federal crime and chooses the victim on the basis of **race, religion, national origin, ethnicity, gender, disability, or sexual orientation**, evidence of this bias can be used to impose a longer prison sentence.
- Therefore it is essential that the investigator gather all evidence of bias because it may become relevant.

Applicability of the Federal statutes

- Federal remedies only protect victims who are threatened or attacked for exercising a federally protected right including riding public transportation, eating in a restaurant, renting an apartment, buying a home.
- Most Federal statutes apply only to acts motivated by racial or religious prejudice. This excludes a number of bias crime categories from prosecution and civil relief, such as sexual orientation.
- If in doubt, contact the FBI or U.S. Department of Justice, Civil Rights Division, Criminal Section.

Other Issues

- **Dual Prosecutions:** It is possible to federally prosecute a crime after a local or State prosecution has ended unsuccessfully with an acquittal or dismissal of charges by a judge, or when perpetrators are convicted but receive a grossly inadequate sentence.

(Continued)

FEDERAL CRIMINAL CIVIL RIGHTS STATUTES

(continued)

- **Juveniles:** Can be federally prosecuted, but there is a preference for State or local prosecutions, especially if younger juveniles are involved or when only juveniles (no adults) are involved in the crime.
- **Mixed Motives:** Can be prosecuted if bias is a "substantial" motivating factor; does not need to be the sole cause.
- **Federal Grand Jury:** Can compel testimony (particularly from friends and associates of the suspect) and can often be instrumental in helping to solve a crime.

Federal Hate Crime Statistics Act, 28 U.S.C. § 534

The act states that the Attorney General shall acquire data, for each calendar year, about crimes that manifest evidence of prejudice based on race, religion, disability, sexual orientation, or ethnicity.

- Signed into law in 1990, and amended in 1994 and 1996.
- Effectiveness of the law depends on its implementation by and support of State and local law enforcement officials.
- This statute helps identify the geographic location and the nature and type of bias crimes occurring in the United States.
- The Attorney General has delegated responsibilities under the Act to the Director of the FBI.
- The FBI's Uniform Crime Reports (UCR) Section has been assigned the task of developing the procedures for, and managing the implementation of the collection of hate crime data.
- Your department or law enforcement agency should report all bias crimes in its jurisdiction to the appropriate Federal and State reporting agencies. The standardized reporting form should be used.

Session D

Appendix D.1: State Bias Crimes Statutory Provisions Compiled by the Anti-Defamation League, as Updated and Modified by the Massachusetts Office of the Attorney General In October 1997*

*By Massachusetts Assistant Attorneys General Richard W. Cole and Lael Chester, Massachusetts Office of Attorney General. Reprinted with their permission.

	AL	AK	AZ	AR	CA	CO	CT	DE	DC	FL	GA	HI	ID	IL
Penalty Enhancement Statute	✓	✓	✓		✓		✓	✓	✓	✓				✓
Race	✓	✓	✓		✓		✓	✓	✓	✓				✓
Sexual Orientation			✓		✓				✓	✓				✓
Gender		✓	✓		✓		✓		✓					✓
Religion	✓		✓		✓		✓	✓	✓	✓				✓
Other	✓	✓	✓		✓		✓	✓	✓					✓
Bias or Prejudice							✓		✓	✓				
Target or Select	✓				✓			✓						✓
Misdemeanor to Felony Only														
Increase for all Violations	✓	✓			✓		✓		✓	✓				✓
Institutional Vandalism	✓		✓	✓	✓	✓	✓			✓		✓	✓	✓
Felony			✓	✓	✓		✓			✓			✓	✓
Desecration of Religious Institutions	✓		✓	✓	✓	✓	✓		✓	✓	✓	✓	✓	✓
Felony			✓	✓	✓		✓			✓	✓		✓	✓
Cross-Burning				✓	✓		✓	✓	✓	✓	✓		✓	
Felony					✓		✓				✓		✓	
Mask-Wearing					✓		✓	✓	✓	✓	✓			
Felony							✓							
Independent Criminal Civil Rights Statutes without Protected Categories Specified							✓	✓						
Felony							✓							
Bias or Prejudice														
Target or Select							✓	✓						
Independent Criminal Civil Rights Statute with Protected Categories					✓	✓	✓	✓					✓	✓
Race					✓	✓	✓	✓					✓	✓
Sexual Orientation					✓		✓	✓						✓
Gender					✓		✓						✓	✓
Religion					✓	✓	✓	✓					✓	✓
Other					✓		✓	✓						✓

	AL	AK	AZ	AR	CA	CO	CT	DE	DC	FL	GA	HI	ID	IL
Felony					✓	✓	✓	✓					✓	✓
Bias or Prejudice					✓		✓							
Target or Select						✓							✓	✓
Civil Action				✓	✓		✓		✓	✓			✓	✓
Private				✓	✓		✓		✓	✓			✓	✓
Damages				✓	✓		✓		✓	✓			✓	✓
Injunction				✓	✓		✓		✓	✓			✓	✓
Attorney General					✓					✓				
Damages					✓					✓				
Injunction					✓					✓				
Violation of Injunction is Criminal Penalty					✓									
Data Collection			✓		✓		✓		✓				✓	✓
Training Law Personnel			✓		✓									✓

* NOTE: Unless States provided the Massachusetts Office of the Attorney General with specific information about how their courts have interpreted and applied their statutes, the designations of categories were based on a plain reading of the statute.

1. The following eight States authorize its State attorney general to obtain civil rights injunctions to deter future incidents of bias-motivated conduct: CA, FL, ME, MA, MI, NJ, PA, and WV.
2. The following five States have separate statutes declaring the legislature's findings, purpose, intent or policy behind the criminal sanctions of bias offenses: CA, ID, MN, RI, and WA.
3. Special programs required for hate crime defendants include sensitivity training (CA and IA) and diversity awareness program (MA).
4. The following 17 States criminalize interference with or disturbance or obstruction of religious worship: AR, CA, MD, MA, MI, MN, MS, NV, NM, NY, NC, OK, RI, SC, SD, VA, and WV.
5. The following five States do not have (1) an independent civil rights statute with protected categories, (2) an independent criminal civil rights statute without protected categories specified or (3) a penalty enhancement statute: AR, GA, HI, KY, and NM.
6. The District of Columbia and the following 25 States include gender as a protected category in penalty enhancement and/or independent criminal civil rights statutes: AK, AZ, CA, CT, ID, IL, IN, IA, LA, ME, MA, MI, MN, MS, MT, NE, NH, NJ, ND, RI, UT, VT, WA, WV, and WY.
7. The District of Columbia and the following 20 States include sexual orientation as a protected category in penalty enhancement and/or independent criminal civil rights statutes: AZ, CA, CT, DE, FL, IL, IA, LA, ME, MA, MN, NE, NV, NH, NJ, OR, RI, VT, WA, and WI.
8. The District of Columbia and the following 23 States include disability/handicap as a protected category in penalty enhancement and/or independent criminal civil rights statutes: AL, AK, AZ, CA, CT, DE, IL, IN, IA, KS, LA, ME, MA, MN, MT, NE, NV, NJ, OK, RI, VT, WA, and WI.
9. The District of Columbia and the following 10 States include age as a protected category in penalty enhancement and/or independent criminal civil rights statutes: AK, AZ, CA, IA, KS, LA, MN, MT, NE, and VT.
10. The District of Columbia and the following four States include political affiliation/opinions as a protected category in penalty enhancement and/or independent criminal civil rights statutes: CA, IA, SC, and WV.
11. Other protected categories in penalty enhancement or independent criminal civil rights statutes include: civil rights or human rights activities (MO); membership or service in, or the employment with an organization (LA); service in the armed forces of the United States (VT); position in a labor dispute (CA); and immigrants (RI).

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	IN	IA	KS	KY	LA	ME	MD	MA	MI	MN	MS	MO	MT	NE
Penalty Enhancement		✓	✓		✓	✓				✓	✓	✓	✓	✓
Race		✓	✓		✓	✓				✓	✓	✓	✓	✓
Sexual Orientation		✓			✓	✓				✓				✓
Gender		✓			✓	✓				✓	✓			✓
Religion		✓	✓		✓	✓				✓	✓	✓	✓	✓
Other		✓	✓		✓	✓				✓			✓	✓
Bias or Prejudice			✓									✓		
Target or Select		✓			✓	✓					✓		✓	✓
Misdemeanor to Felony Only														
Increase for all Violations		✓	✓		✓	✓					✓	✓	✓	✓
Institutional Vandalism	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	
Felony	✓	✓	✓		✓		✓	✓	✓	✓	✓	✓	✓	
Desecration of Religious Institutions	✓		✓	✓	✓	✓	✓	✓	✓		✓	✓	✓	
Felony	✓		✓		✓		✓	✓	✓		✓	✓	✓	
Cross-Burning									✓				✓	
Felony									✓				✓	
Mask-Wearing								✓						
Felony														
Independent Criminal Civil Rights Statute without Protected Categories Specified		✓						✓						
Felony		✓						✓						
Bias or Prejudice														
Target or Select		✓						✓					✓	
Independent Criminal Civil Right with Protected Categories	✓	✓	✓			✓	✓	✓	✓	✓			✓	
Race	✓	✓	✓			✓	✓	✓	✓	✓			✓	
Sexual Orientation		✓				✓		✓		✓				
Gender	✓	✓				✓		✓	✓	✓			✓	
Religion	✓	✓	✓			✓	✓	✓	✓	✓			✓	
Other	✓	✓				✓		✓		✓			✓	
Felony		✓					✓	✓	✓				✓	
Bias or Prejudice			✓											
Target or Select	✓	✓				✓	✓	✓	✓	✓			✓	
Civil Action		✓		✓		✓		✓	✓	✓		✓		✓
Private		✓		✓		✓		✓	✓	✓		✓		✓
Damages		✓		✓		✓		✓	✓	✓		✓		✓

	IN	IA	KS	KY	LA	ME	MD	MA	MI	MN	MS	MO	MT	NE
Injunction		✓		✓		✓		✓	✓			✓		
Attorney General						✓		✓	✓					
Damages									✓					
Injunction						✓		✓	✓					
Violations of Injunction is Criminal Penalty						✓		✓						
Data Collection		✓		✓	✓	✓	✓	✓	✓	✓				✓
Training Law Personnel		✓		✓	✓			✓		✓				

* NOTE: Unless States provided the Massachusetts Office of the Attorney General with specific information about how their courts have interpreted and applied their statutes, the designations of categories were based on a plain reading of the statute.

1. The following eight States authorize its State attorney general to obtain civil rights injunctions to deter future incidents of bias-motivated conduct: CA, FL, ME, MA, MI, NJ, PA and WV.
2. The following five States have separate statutes declaring the legislature's findings, purpose, intent or policy behind the criminal sanctions of bias offenses: CA, ID, MN, RI, and WA.
3. Special programs required for hate crime defendants include sensitivity training (CA and IA) and diversity awareness program (MA).
4. The following 17 States criminalize interference with or disturbance or obstruction of religious worship: AR, CA, MD, MA, MI, MN, MS, NV, NM, NY, NC, OK, RI, SC, SD, VA, and WV.
5. The following five States do not have (1) an independent civil rights statute with protected categories, (2) an independent criminal civil rights statute without protected categories specified or (3) a penalty enhancement statute: AR, GA, HI, KY, and NM.
6. The District of Columbia and the following 25 States include gender as a protected category in penalty enhancement and/or independent criminal civil rights statutes: AK, AZ, CA, CT, ID, IL, IN, IA, LA, ME, MA, MI, MN, MS, MT, NE, NH, NJ, ND, RI, UT, VT, WA, WV, and WY.
7. The District of Columbia and the following 20 States include sexual orientation as a protected category in penalty enhancement and/or independent criminal civil rights statutes: AZ, CA, CT, DE, FL, IL, IA, LA, ME, MA, MN, NE, NV, NH, NJ, OR, RI, VT, WA, and WI.
8. The District of Columbia and the following 23 States include disability/handicap as a protected category in penalty enhancement and/or independent criminal civil rights statutes: AL, AK, AZ, CA, CT, DE, IL, IN, IA, KS, LA, ME, MA, MN, MT, NE, NV, NJ, OK, RI, VT, WA, and WI.
9. The District of Columbia and the following 10 States include age as a protected category in penalty enhancement and/or independent criminal civil rights statutes: AK, AZ, CA, IA, KS, LA, MN, MT, NE, and VT.
10. The District of Columbia and the following four States include political affiliation/opinions as a protected category in penalty enhancement and/or independent criminal civil rights statutes: CA, IA, SC, and WV.
11. Other protected categories in penalty enhancement or independent criminal civil rights statutes include: civil rights or human rights activities (MO); membership or service in, or the employment with an organization (LA); service in the armed forces of the United States (VT); position in a labor dispute (CA); and immigrants (RI).

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	NV	NH	NJ	NM	NY	NC	ND	OH	OK	OR	PA	RI	SC	SD
Penalty Enhancement	✓	✓	✓			✓					✓	✓		
Race	✓	✓	✓			✓					✓	✓		
Sexual Orientation	✓	✓	✓									✓		
Gender		✓	✓									✓		
Religion	✓	✓	✓			✓					✓	✓		
Other	✓		✓									✓		
Bias or Prejudice		✓												
Target or Select	✓		✓			✓					✓	✓		
Misdemeanor to Felony Only												✓		
Increase for all Violations	✓	✓	✓			✓					✓			
Institutional Vandalism	✓		✓			✓		✓	✓	✓	✓	✓	✓	✓
Felony			✓			✓		✓				✓		✓
Desecration of Religious Institutions	✓		✓	✓		✓		✓	✓	✓	✓	✓	✓	
Felony			✓	✓		✓		✓	✓			✓		
Cross-Burning						✓						✓		✓
Felony						✓						✓		
Mask-Wearing						✓								
Felony						✓								
Independent Criminal Civil Rights Statutes without Protected Categories Specified			✓		✓		✓						✓	
Felony													✓	
Bias or Prejudice														
Target or Select			✓		✓		✓						✓	
Independent Criminal Civil Rights with Protected Categories	✓				✓	✓	✓	✓	✓	✓		✓	✓	✓
Race	✓				✓	✓	✓	✓	✓	✓		✓		✓
Sexual Orientation	✓									✓				
Gender							✓							
Religion	✓				✓	✓	✓	✓	✓	✓		✓		✓
Other	✓								✓			✓	✓	
Felony					✓					✓		✓		✓
Bias or Prejudice												✓		
Target or Select	✓				✓	✓	✓	✓	✓	✓			✓	✓
Civil Action	✓		✓		✓			✓		✓	✓	✓		✓
Private	✓		✓		✓			✓		✓	✓	✓		✓
Damages	✓		✓		✓			✓		✓	✓	✓		✓

	NV	NH	NJ	NM	NY	NC	ND	OH	OK	OR	PA	RI	SC	SD
Injunction			✓			✓				✓	✓	✓		
Attorney General			✓		✓						✓			
Damages			✓		✓									
Injunction			✓								✓			
Violations of Injunction is Criminal Penalty											✓			
Data Collection			✓						✓	✓	✓	✓		
Training Law Personnel			✓									✓		

* NOTE: Unless States provided the Massachusetts Office of the Attorney General with specific information about how their courts have interpreted and applied their statutes, the designations of categories were based on a plain reading of the statute

1. The following eight States authorize its State attorney general to obtain civil rights injunctions to deter future incidents of bias-motivated conduct: CA, FL, ME, MA, MI, NJ, PA, and WV.
2. The following five States have separate statutes declaring the legislature's findings, purpose, intent or policy behind the criminal sanctions of bias offenses: CA, ID, MN, RI, and WA.
3. Special programs required for hate crime defendants include sensitivity training (CA and IA) and diversity awareness program (MA).
4. The following 17 States criminalize interference with or disturbance or obstruction of religious worship: AR, CA, MD, MA, MI, MN, MS, NV, NM, NY, NC, OK, RI, SC, SD, VA, and WV.
5. The following five States do not have (1) an independent civil rights statute with protected categories, (2) an independent criminal civil rights statute without protected categories specified or (3) a penalty enhancement statute: AR, GA, HI, KY, and NM.
6. The District of Columbia and the following 25 States include gender as a protected category in penalty enhancement and/or independent criminal civil rights statutes: AK, AZ, CA, CT, ID, IL, IN, IA, LA, ME, MA, MI, MN, MS, MT, NE, NH, NJ, ND, RI, UT, VT, WA, WV, and WY.
7. The District of Columbia and the following 20 States include sexual orientation as a protected category in penalty enhancement and/or independent criminal civil rights statutes: AZ, CA, CT, DE, FL, IL, IA, LA, ME, MA, MN, NE, NV, NH, NJ, OR, RI, VT, WA, and WI.
8. The District of Columbia and the following 23 States include disability/handicap as a protected category in penalty enhancement and/or independent criminal civil rights statutes: AL, AK, AZ, CA, CT, DE, IL, IN, IA, KS, LA, ME, MA, MN, MT, NE, NV, NJ, OK, RI, VT, WA, and WI.
9. The District of Columbia and the following 10 States include age as a protected category in penalty enhancement and/or independent criminal civil rights statutes: AK, AZ, CA, IA, KS, LA, MN, MT, NE, and VT.
10. The District of Columbia and the following four States include political affiliation/opinions as a protected category in penalty enhancement and/or independent criminal civil rights statutes: CA, IA, SC, and WV.
11. Other protected categories in penalty enhancement or independent criminal civil rights statutes include: civil rights or human rights activities (MO); membership or service in, or the employment with an organization (LA); service in the armed forces of the United States (VT); position in a labor dispute (CA); and immigrants (RI).

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	TN	TX	UT	VT	VA	WA	WV	WI	WY					
Penalty Enhancement		✓	✓	✓	✓		✓	✓						
Race			✓	✓	✓		✓	✓						
Sexual Orientation				✓				✓						
Gender			✓	✓			✓							
Religion			✓	✓	✓		✓	✓						
Other			✓	✓			✓	✓						
Bias or Prejudice		✓		✓										
Target or Select			✓		✓		✓	✓						
Misdemeanor to Felony only														
Increase for all Violations		✓	✓	✓	✓		✓	✓						
Institutional Vandalism	✓	✓	✓		✓	✓		✓						
Felony	✓	✓	✓		✓	✓		✓						
Desecration of Religious Institutions	✓	✓			✓			✓						
Felony		✓			✓			✓						
Cross-Burning				✓	✓	✓								
Felony					✓	✓								
Mask-Wearing	✓				✓		✓	✓						
Felony					✓			✓						
Independent Criminal Civil Rights Statutes without Protected Categories Specified	✓													
Felony	✓													
Bias or Prejudice														
Target or Select	✓													
Independent Criminal Civil Rights with Protected Categories						✓	✓		✓					
Race						✓	✓		✓					
Sexual Orientation						✓								
Gender						✓	✓		✓					
Religion						✓	✓							
Other						✓	✓							
Felony						✓	✓							
Bias or Prejudice														
Target or Select						✓	✓		✓					
Civil Action	✓			✓	✓	✓		✓						
Private	✓			✓	✓	✓		✓						
Damages	✓			✓	✓	✓		✓						

	TN	TX	UT	VT	VA	WA	WV	WI	WY						
Injunction				✓	✓										
Attorney General							✓								
Damages							✓								
Injunction							✓								
Violations of Injunction is Criminal Penalty															
Data Collection		✓	✓		✓	✓	✓								
Training Law Personnel						✓									

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8. The District of Columbia and the following 23 States include disability/handicap as a protected category in penalty enhancement and/or independent criminal civil rights statutes: AL, AK, AZ, CA, CT, DE, IL, IN, IA, KS, LA, ME, MA, MN, MT, NE, NV, NJ, OK, RI, VT, WA, and WI.
9. The District of Columbia and the following 10 States include age as a protected category in penalty enhancement and/or independent criminal civil rights statutes: AK, AZ, CA, IA, KS, LA, MN, MT, NE, and VT.
10. The District of Columbia and the following four States include political affiliation/opinions as a protected category in penalty enhancement and/or independent criminal civil rights statutes: CA, IA, SC, and WV.
11. Other protected categories in penalty enhancement or independent criminal civil rights statutes include: civil rights or human rights activities (MO); membership or service in, or the employment with an organization (LA); service in the armed forces of the United States (VT); position in a labor dispute (CA); and immigrants (RI).

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Appendix D.2: Definitions of Categories Used in Appendix D.1*

*By Massachusetts Assistant Attorneys General Richard W. Cole and Lael Chester, Massachusetts Office of Attorney General. Reprinted with permission.

Penalty Enhancement

Statute increases the maximum penalty for a violation of another criminal offense when bias, prejudice and/or discrimination were present (i.e., statute increases the maximum penalty for an assault and battery from 1 year in the House of Correction to 2 years if the assault and battery was motivated by bias) *or* allows the judge to consider the bias as an aggravating circumstance when choosing a sentence. If the statute specifically states that the penalty will be enhanced when the underlying crime was motivated by the defendant's prejudice toward, or because of, the victim's race, gender, religion, or sexual orientation, the checks on the chart indicate those categories.

Race

May include color, ethnicity, creed, ancestry, national origin or nationality.

Sexual Orientation

May include homosexuality, bisexuality and/or heterosexuality.

Gender and Religion

Self-explanatory

Other

May include mental or physical disability, handicap, age, involvement in civil rights or human rights activities and/or political affiliation.

Bias or Prejudice

Indicates that under the bias crime statute a prosecutor must prove that the defendant acted against the victim with bias or prejudice.

Target or Select

Indicates that under the statute a prosecutor must only prove that the defendant targeted or selected the victim "because of" the victim's race, gender, religion, etc. The prosecutor does not need to prove that the defendant was actually prejudiced against the victim.

Misdemeanor to Felony Only

Penalty enhancement statute only increases a misdemeanor offense to a felony. The statute does not provide any increase in penalty for those convicted of an underlying felony offense.

Increase for All Violations

Penalty enhancement statute increases the penalty for those convicted of both a misdemeanor and felony offense.

Institutional Vandalism

Knowingly defacing, damaging, deforming or destroying the real or personal property of another person and/or public property such as monuments, schools and community centers.

Desecration of Religious Institutions

Includes buildings used for religious purposes (i.e., synagogues and churches) as well as items found in a cemetery (i.e., tombs, burial vaults, urns, memorials, headstones and vases).

Cross-Burning

Statute prohibits cross-burning.

Mask Wearing

Statute prohibits mask-wearing under certain circumstances and/or increases the penalty of a crime committed by a defendant wearing a mask.

Felony

Conviction of the bias crime statute could result in a felony conviction (rather than only a misdemeanor).

Independent Criminal Civil Rights Statute Without Protected Categories Specified

Statute provides a criminal conviction and penalty (independent of any other statute) for behavior that violates another person's rights under the constitution and/or laws of the State. Statute does not identify or list specific categories of victim groups protected by the law such as race, religion, gender, etc.

Independent Criminal Civil Rights Statute With Protected Categories

Statute provides a criminal conviction and penalty (independent of any other statute) for behavior that violates the rights of specific people. Statute identifies or lists specific categories of victim groups protected by the law such as race, religion, gender, etc. Under the explicit language of some State statutes, a defendant may be convicted even if the defendant mistakenly perceived the victim to belong to a protected category.

Civil Action

Statute provides a civil cause of action in bias crime cases.

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Private

Individual plaintiff (bias crime victim) may bring a suit for damages and/or civil injunctive relief.

Attorney General

The State's Attorney General may bring a suit on behalf of the State or victim for damages and/or civil injunctive relief.

Violation of Injunction is Criminal Penalty

Under State law, a violation of a civil injunction brought by either a private plaintiff or an Attorney General against the perpetrator of a bias crime results in a criminal conviction and penalty.

Data Collection

State required to collect and record data on bias crimes.

Training Law Personnel

State required to train law personnel on bias crime laws. Education may include sensitivity training and diversity awareness programs.

NOTE: Unless States provided the Massachusetts Office of the Attorney General with specific information about how their courts have interpreted and applied their statutes, the designations of categories were based on a plain reading of the statute.

CATEGORIES OF STATE CRIMINAL STATUTES

- **Criminal Penalty Laws**
- **Cross Burning Laws**
- **Mask Wearing Laws**
- **Paramilitary Training Laws**
- **Civil Cause of Action Laws**
- **Parental Liability Laws**
- **Data Collection Laws**
- **Law Enforcement Training Laws**

Transparency D.2

**YOUR STATE'S CRIMINAL
AND BIAS CRIME REPORTING STATUTE(S)
AND ELEMENTS**

**Appendix D.3: Bias Crimes Statutes and Related Provisions Nationwide
Compiled by the Massachusetts Office of the Attorney General
In October 1997***

State

- Independent General Civil Rights is a statute without Categories.
- Independent Criminal Civil Rights is a statute with Categories.

Alabama

- Ala. Code § 13A-5-13 (Penalty Enhancement) (1993)
- Ala. Code § 13A-11-12 (Institutional Vandalism, Desecration of Religious Institutions) (1977)

Alaska

- Alaska Stat. § 12.55.155 (Penalty Enhancement) (1996)

Arizona

- Ariz. Rev. Stat. Ann. § 13-1604 (Institutional Vandalism, Desecration of Religious Institutions) (1994)
- Ariz. Rev. Stat. Ann. § 13-1702 (Penalty Enhancement) (1997)
- Ariz. Rev. Stat. Ann. § 41-1750 (Data Collection) (1991)
- Ariz. Rev. Stat. Ann. § 41-1822 (Training Law Personnel) (1991)

Arkansas

- Ark. Code Ann. § 5-71-207 (Disturbing Religious Worship) (1975)
- Ark. Code Ann. § 5-71-215 (Institutional Vandalism and Desecration of Religious Institutions) (1993)
- Ark. Code Ann. § 16-123-105 (Civil Action, Private, Damages) (1995)
- Ark. Code Ann. § 16-123-106 (Civil Action, Private, Damages and Injunction) (1993)
- Ark. Code Ann. § 16-123-107 (Civil Action, Private, Damages and Injunction) (1995)

California

- Cal. Civil Code § 52 (Civil Action, Private and Attorney General, Damages and Injunction) (1994)
- Cal. Penal Code § 51.7 (Independent Criminal Civil Rights with Categories) (1994)
- Cal. Penal Code § 136.2 (Stay Away Order once criminal charges filed) (1996)
- Cal. Penal Code § 302 (Disturbing Religious Worship) (1994)
- Cal. Penal Code § 422.6 (Independent Criminal Civil Rights with Categories and Institutional Vandalism) (1994)
- Cal. Penal Code § 422.75 (Penalty Enhancement) (1995)
- Cal. Penal Code § 422.9 (Violation of Civil Injunction is a Criminal Penalty) (1987)
- Cal. Penal Code § 422.95 (Sensitivity Training) (1995)

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Cal. Penal Code § 594.3 (Institutional Vandalism and Desecration of Religious Institutions) (1983)
Cal. Penal Code § 11410 (Declaration of Purpose for Criminal Sanctions)
Cal. Penal Code § 11411 (Cross Burning) (1991)
Cal. Penal Code § 11412 (Obstructing Exercise of Religion) (1984)
Cal. Penal Code § 1170.75 (Penalty Enhancement) (1994)
Cal. Penal Code § 13519.6 (Data Collection and Training Law Personnel) (1992)

Colorado

Colo. Rev. Stat. § 18-9-113 (Institutional Vandalism and Desecration of Religious Institutions) (1991)
Colo. Rev. Stat. § 18-9-121 (Independent Criminal Civil Rights with Categories and Institutional Vandalism) (1988)

Connecticut

Conn. Gen. Stat. § 29-7m (Data Collection) (1987)
Conn. Gen. Stat. § 33-37 (Independent Criminal Civil Rights with Categories) (1949)
Conn. Gen. Stat. § 46a-58 (Independent Criminal Civil Rights with Categories, Cross Burning and Desecration of Religious Institutions) (1984)
Conn. Gen. Stat. § 46a-64 (Independent Criminal Civil Rights with Categories - Public Accommodation Discrimination) (1990)
Conn. Gen. Stat. § 46a-64c (Independent Criminal Civil Rights with Categories - Housing Discrimination) (1992)
Conn. Gen. Stat. § 52-571(a) (Civil Action, Private, Injunction) (1993)
Conn. Gen. Stat. § 52-571(c) (Civil Action, Private, Damages) (1995)
Conn. Gen. Stat. § 53-37(a) (Mask or Hood Wearing) (1982)
Conn. Gen. Stat. § 53-37(b) (Independent Criminal Civil Rights without Categories) (1993)
Conn. Gen. Stat. § 53a-40a (Penalty Enhancement) (1990)
Conn. Gen. Stat. § 53a-181b (Independent Criminal Civil Rights with Categories and Institutional Vandalism) (1990)
Conn. Gen. Stat. § 562-251b (Civil Action, Private, Damages) (1984)

Delaware

De. Code Ann. tit. 11, § 304 (Independent Criminal Civil Rights without Categories and Independent Criminal Civil Rights with Categories) (1997)
De. Code Ann. tit. 11, § 805 (Cross Burning) (1993)
De. Code Ann. tit. 11, § 1301(1)(g) (Mask Wearing) (1953)
De. Code Ann. tit. 11, § 4209(e)(1)(v) (Penalty Enhancement - Aggravating Circumstance in Death Penalty Statute) (1995)

District of Columbia

DC Code Ann. § 22-3112.2 (Cross-Burning and Desecration of Religious Institutions) (1983)
DC Code Ann. § 22-3112.3 (Mask Wearing) (1983)
DC Code Ann. § 22-4001 (Defines Bias-Related Crimes)
DC Code Ann. § 22-4002 (Data Collection) (1990)

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DC Code Ann. § 22-4003 (Penalty Enhancement) (1990)
DC Code Ann. § 22-4004 (Civil Action, Private, Damages and Injunction) (1990)

Florida

Fla. Stat. Ann. § 760.51 (Civil Action, Attorney General, Damages and Injunction) (1994)
Fla. Stat. Ann. § 775.085 (Penalty Enhancement and Civil Action, Private, Damages and Injunction) (1992)
Fla. Stat. Ann. § 775.0845 (Penalty Enhancement for Mask Wearing) (1995)
Fla. Stat. Ann. § 806.13 (Institutional Vandalism and Desecration of Religious Institutions) (1995)
Fla. Stat. Ann. § 876.17 (Cross Burning, Public Place) (1993)
Fla. Stat. Ann. § 876.18 (Cross Burning, Another's Property) (1993)
Fla. Stat. Ann. § 877.19 (Data Collection) (1996)

Georgia

Ga. Code Ann. § 16-7-26 (Desecration of Religious Institutions) (1968)
Ga. Code Ann. § 16-11-37(b)(1) (Cross Burning) (1974)
Ga. Code Ann. § 16-11-38 (Mask Wearing) (1968)

Hawaii

Haw. Rev. Stat. § 711-1107 (Institutional Vandalism and Desecration of Religious Institutions) (1993)

Idaho

Idaho Code § 18-2915 (Data Collection) (1995)
Idaho Code § 18-7301 (Independent Criminal Civil Rights with Categories) (1972)
Idaho Code § 18-7901 (Declaration of Purpose for Criminal Sanctions) (1983)
Idaho Code § 18-7902 (Independent Criminal Civil Rights with Categories, Desecration of Religious Institutions, Institutional Vandalism, Cross Burning) (1983)
Idaho Code § 18-7903 (Civil Action, Private, Damages and Injunction) (1983)

Illinois

20 Ill. Comp. Stat. 2605/55a(A)31 (Data Collection and Training Law Personnel) (1995)
720 Ill. Comp. Stat. 5/12-7.1 (Independent Criminal Civil Rights with Categories and Civil Action, Private, Damages and Injunction) (1996)
720 Ill. Comp. Stat. 5/21-1.2 (Institutional Vandalism and Desecration of Religious Institutions) (1994)
730 Ill. Comp. Stat. 5/5-5-3.2(a)(10) (Penalty Enhancement) (1996)

Indiana

Ind. Code Ann. § 22-9.5-10-1 (Independent Criminal Civil Rights with Categories - Fair Housing) (1993)
Ind. Code Ann. § 35-43-1-2 (Institutional Vandalism and Desecration of Religious Institutions) (1996)

Iowa

- Iowa Code § 692.15 (Data Collection) (1996)
 Iowa Code § 708.2C and 229A.2 (Independent Criminal Civil Rights with Categories) (1995)
 Iowa Code § 712.9 and 729A.2 (Penalty Enhancement) (1992)
 Iowa Code § 716.6A and 729A.2 (Penalty Enhancement) (1992)
 Iowa Code § 729.4 (Independent Criminal Civil Rights with Categories - Fair Employment Practices) (1987)
 Iowa Code § 729.5 (Independent Criminal Civil Rights without Categories, Institutional Vandalism) (1992)
 Iowa Code § 729A.1 (Independent Criminal Civil Rights with Categories) (1992)
 Iowa Code § 729A.4 (Training Law Personnel) (1992)
 Iowa Code § 729A.5 (Civil Action, Private, Damages and Injunction) (1992)

Kansas

- Kan. Stat. Ann. § 21-4003 (Independent Criminal Civil Rights with Categories) (1993)
 Kan. Stat. Ann. § 21-4111 (Institutional Vandalism and Desecration of Religious Institutions) (1994)
 Kan. Stat. Ann. § 21-4716 (Penalty Enhancement) (1994)

Kentucky

- Ky. Rev. Stat. Ann. § 15.331 (Training Law Personnel) (1992)
 Ky. Rev. Stat. Ann. § 17.1523 (Data Collection) (1992)
 Ky. Rev. Stat. Ann. § 344.450 (Civil Action, Private, Damages and Injunction) (1996)
 Ky. Rev. Stat. Ann. § 525.110 (Institutional Vandalism and Desecration of Religious Institutions) (1992)

Louisiana

- La. Rev. Stat. Ann. § 14:107.2 (Penalty Enhancement) (1997)
 La. Rev. Stat. Ann. § 14:225 (Institutional Vandalism and Desecration of Religious Institutions) (1984)
 La. Rev. Stat. Ann. § 15:1204.2(B)(4) and 1204.4 (Data Collection) (1997)
 La. Rev. Stat. Ann. § 40:2403(H) (Training Law Personnel) (1997)

Maine

- Me. Rev. Stat. Ann. tit. 5, § 4681 (Civil Action, Attorney General, Injunction; Violation of Injunction is a Criminal Penalty) (1995)
 Me. Rev. Stat. Ann. tit. 5, § 4682 (Civil Action, Private, Damages and Injunction, and Violation of Injunction is a Criminal Penalty) (1995)
 Me. Rev. Stat. Ann. tit. 17, § 2931 and tit. 5, § 4684A (Independent Criminal Civil Rights with Categories) (1987) and (1993)
 Me. Rev. Stat. Ann. tit. 17-A, § 507 (Institutional Vandalism and Desecration of Religious Institutions) (1976)
 Me. Rev. Stat. Ann. tit. 17-A, § 507A (Desecration of Religious Institutions - Cemetery/Burial Ground) (1987)
 Me. Rev. Stat. Ann. tit. 17-A, § 1151(8)(B) (Penalty Enhancement) (1995)
 Me. Rev. Stat. Ann. tit. 25, § 1544 (Data Collection) (1991)

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Maryland

Md. Code Ann. art. 27, § 470A (Independent Criminal Civil Rights with Categories, Institutional Vandalism and Desecration of Religious Institutions) (1994)

Md. Code Ann. art. 88B, § 9 (Data Collection) (1992)

Massachusetts

Mass. Gen. Laws Ann. ch. 12, § 11H (Civil Action (Attorney General, Injunction) (1982)

Mass. Gen. Laws Ann. ch. 12, § 11I (Civil Action (Private, Damages and Injunction) (1982)

Mass. Gen. Laws Ann. ch. 12, § 11J (Violation of Injunction is a Criminal Penalty) (1985)

Mass. Gen. Laws Ann. ch. 22C, §§ 33 to 35 (Data Collection) (1991)

Mass. Gen. Laws Ann. ch. 265, § 37 (Independent Criminal Civil Rights without Categories)(1979)

Mass. Gen. Laws Ann. ch. 265, § 39 (Independent Criminal Civil Rights with Categories and Diversity Awareness Program) (1997)

Mass. Gen. Laws Ann. ch. 266, § 98 (Institutional Vandalism and Desecration of Religious Institutions) (1960)

Mass. Gen. Laws Ann. ch. 266, § 116B (Training Law Personnel) (1991)

Mass. Gen. Laws Ann. ch. 266, § 127A (Institutional Vandalism and Desecration of Religious Institutions) (1989)

Mass. Gen. Laws Ann. ch. 268, § 34 (Mask Wearing) (1902)

Mass. Gen. Laws Ann. ch. 272, § 38 (Disturbing Religious Worship) (1970)

Mass. Gen. Laws Ann. ch. 272, § 98 (Independent Criminal Civil Rights with Categories - Public Accommodations Discrimination) (1970)

Michigan

Mich. Comp. Laws Ann. § 14.101 (Civil Action, Attorney General, Damages and Injunction) (1970)

Mich. Comp. Laws Ann. § 750.147b (Institutional Vandalism, Desecration of Religious Institutions, Cross Burning, Independent Criminal Civil Rights with Categories and Civil Action, Private, Damages and Injunction) (1989)

Mich. Comp. Laws Ann. § 752.525 (Disturbing Religious Worship) (1994)

Mich. Executive Order (Data Collection) (1996 and 1997)

Minnesota

Minn. Stat. Ann. § 363.12 (Declaration of Policy for Criminal Sanctions) (1993)

Minn. Stat. Ann. § 609.2231 (Independent Criminal Civil Rights with Categories) (1989)

Minn. Stat. Ann. § 609.28 (Disturbing Religious Worship) (1994)

Minn. Stat. Ann. § 609.595 (Institutional Vandalism) (1989)

Minn. Stat. Ann. § 609.749(3)(1) (Penalty Enhancement) (1995)

Minn. Stat. Ann. § 611A.79 (Civil Action, Private, Injunction and Damages) (1996)

Minn. Stat. Ann. § 626.5531 (Data Collection) (1997)

Minn. Stat. Ann. § 626.8451 (Training Law Enforcement) (1993)

Mississippi

Miss. Code Ann. § 97-17-39 (Institutional Vandalism and Desecration of Religious Institutions) (1993)

Miss. Code Ann. § 97-35-17 (Disturbing Religious Worship) (1993)

Miss. Code Ann. § 99-19-301 and § 99-19-307 (Penalty Enhancement) (1994)

Missouri

Mo. Ann. Stat. § 537.523 (Civil Action, Private, Damages and Injunction) (1988)

Mo. Ann. Stat. § 574.085 (Institutional Vandalism and Desecration of Religious Institutions) (1997)

Mo. Ann. Stat. § 574.090 (Penalty Enhancement) (1988)

Mo. Ann. Stat. § 574.093 (Penalty Enhancement) (1988)

Montana

Mont. Code Ann. § 45-5-221 (Independent Criminal Civil Rights with Categories, Institutional Vandalism, Cross Burning) (1989)

Mont. Code Ann. § 45-5-222 (Penalty Enhancement) (1989)

Mont. Code Ann. § 49-2-601 and § 49-2-602 (Independent Criminal Civil Rights with Categories - Housing Discrimination) (1993)

Nebraska

Neb. Stat. Ann. § 28-101 (Penalty Enhancement and Civil Action, Private, Damages) (1997)

Neb. L.B. 90, 1997 Legislative Session (Data Collection) (1997)

Nevada

Nev. Rev. Stat. Ann. § 41.690 (Civil Action, Private, Damages) (1995)

Nev. Rev. Stat. Ann. § 193.1675 (Penalty Enhancement) (1997)

Nev. Rev. Stat. Ann. § 201.270 (Disturbing Religious Worship) (1995)

Nev. Rev. Stat. Ann. § 206.125 (Institutional Vandalism and Desecration of Religious Institutions) (1995)

Nev. Rev. Stat. Ann. § 207.185 (Independent Criminal Civil Rights with Categories) (1995)

New Hampshire

N.H. Rev. Stat. Ann. § 651.6 (Penalty Enhancement) (1995)

New Jersey

N.J. Stat. Ann. § 2A:53A-21 (Civil Action, Private and Attorney General, Damages and Injunction) (1995)

N.J. Stat. Ann. § 2C:12-1(b)(6)(e) (Penalty Enhancement) (1995)

N.J. Stat. Ann. § 2C:33-4 (Penalty Enhancement) (1995)

N.J. Stat. Ann. § 2C:33-9 (Desecration of Religious Institutions) (1979)

N.J. Stat. Ann. § 2C:33-10 (Independent Criminal Civil Rights without Categories) (1995)

N.J. Stat. Ann. § 2C:33-11 (Institutional Vandalism and Desecration of Religious Institutions) (1995)

N.J. Stat. Ann. § 2C:44-3 (Penalty Enhancement) (1995)

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Attorney General Directive No. 1987-3 (Data Collection) (1987)
N.J. Bias Incident Investigation Standards (Training Law Personnel) (Sept. 1991)

New Mexico

N.M. Stat. Ann. § 30-13-1 (Disturbing Religious Worship) (1963)
N.M. Stat. Ann. § 30-15-4 (Desecration of Religious Institutions) (1965)

New York

N.Y. Civ. Rights Law § 40-c to -d (Independent Criminal Civil Rights without Categories and with Categories) (1981)
N.Y. Exec. Law 63 (Civil Action, Attorney General, Damages) (1993)
N.Y. Penal Law 240.21 (Disturbing Religious Worship) (1967)
N.Y. Penal Law 240.30 (Independent Criminal Civil Rights with Categories) (1992)

North Carolina

N.C. Gen. Stat. § 14-3 (Penalty Enhancement) (1993)
N.C. Gen. Stat. § 14-12.12 (Cross Burning) (1967)
N.C. Gen. Stat. §§ 14-12.13 and 14-12.14 (Mask Wearing) (1993)
N.C. Gen. Stat. § 14-49 (Institutional Vandalism, Desecration of Religious Institutions) (1993)
N.C. Gen. Stat. § 14-62.2 (Church Burning) (1997)
N.C. Gen. Stat. § 14-144 (Institutional Vandalism and Desecration of Religious Institutions) 1995)
N.C. Gen. Stat. § 14-199 (Obstructing Religious Worship) (1993)
N.C. Gen. Stat. § 14-401.14 (Independent Criminal Civil Rights with Categories) (1993)
N.C. Gen. Stat. § 15A-1340.16 (Penalty Enhancement) (1995)
N.C. Gen. Stat. § 15A-1340.16(d) (Penalty Enhancement) (1994)

North Dakota

N.D. Cent. Code § 12.1-14-04 (Independent Criminal Civil Rights with Categories) (1973)
N.D. Cent. Code § 12.1-14-05 (Independent Criminal Civil Rights without Categories) (1973)

Ohio

Ohio Rev. Code Ann. § 2307.70 (Civil Action, Private, Damages) (1990)
Ohio Rev. Code Ann. § 2909.05 (Institutional Vandalism and Desecration of Religious Institutions - burial) (1993)
Ohio Rev. Code Ann. § 2927.11 (Desecration of Religious Institutions) (1986)
Ohio Rev. Code Ann. § 2927.12 (Independent Criminal Civil Rights with Categories) (1987)

Oklahoma

Okla. Stat. Ann. tit. 21, § 850 (Independent Criminal Civil Rights with Categories, Institutional Vandalism and Data Collection) (1992)
Okla. Stat. Ann. tit. 21, § 915 (Disturbing Religious Worship) (1921)
Okla. Stat. Ann. tit. 21, § 1765 (Desecration of Religious Institutions) (1921)

Oregon

- Or. Rev. Stat. § 30.190 (Civil Action, Private, Damages and Injunction) (1983)
- Or. Rev. Stat. § 166.155 (Independent Criminal Civil Rights with Categories) (1989)
- Or. Rev. Stat. § 166.165 (Independent Criminal Civil Rights with Categories) (1989)
- Or. Rev. Stat. § 166.075 (Institutional Vandalism and Desecration of Religious Institutions) (1971)
- Or. Rev. Stat. § 181.550 (Data Collection) (1989)

Pennsylvania

- Pa. Cons. Stat., tit. 18, § 2710 (Penalty Enhancement) (1982)
- Pa. Cons. Stat., tit. 18, § 3307 (Institutional Vandalism and Desecration of Religious Institutions) (1994)
- Pa. Cons. Stat., tit. 18, § 5509 (Desecration of Religious Institutions) (1973)
- Pa. Cons. Stat., tit 42, § 8309 (Civil Action, Private, Damages and Injunction; Attorney General, Injunction; Violation of an Injunction is a Criminal Penalty) (1997)
- Pa. Cons. Stat., tit. 71, § 250 (Data Collection) (1987)

Rhode Island

- R.I. Gen. Laws § 9-1-35 (Civil Action, Private, Damages and Injunction) (1985)
- R.I. Gen. Laws § 11-5-13 (Penalty Enhancement) (1994)
- R.I. Gen. Laws § 11-11-1 (Disturbing Religious Worship) (1994)
- R.I. Gen. Laws § 11-42-3 (Independent Criminal Civil Rights with Categories) (1994)
- R.I. Gen. Laws § 11-44-31 (Institutional Vandalism and Desecration of Religious Institutions)(1986)
- R.I. Gen. Laws § 11-53-1 (Declaration of Purpose for Criminal Sanctions) (1994)
- R.I. Gen. Laws § 11-53-2 (Cross Burning) (1994)
- R.I. Gen. Laws § 11-53-3 (Independent Criminal Civil Rights with Categories) (1983)
- R.I. Gen. Laws § 42-28-46 (Data Collection) (1994)
- R.I. Gen. Laws § 42-28.2-8.1 (Training Law Personnel) (1993)

South Carolina

- S.C. Code Ann. § 16-5-10 (Independent Criminal Civil Rights without Categories) (1994)
- S.C. Code Ann. § 16-17-520 (Disturbing Religious Worship) (1962)
- S.C. Code Ann. § 16-17-560 (Independent Criminal Civil Rights with Categories - Political Rights/Opinions) (1994)
- S.C. Code Ann. § 16-17-600 (Desecration of Religious Institutions) (1994)

South Dakota

- S.D. Codified Laws Ann. § 22-19B-1 (Independent Criminal Civil Rights with Categories and Institutional Vandalism) (1993)
- S.D. Codified Laws Ann. § 22-19B-2 (Cross Burning) (1993)
- S.D. Codified Laws Ann. § 22-19B-3 (Civil Action, Private, Damages) (1993)
- S.D. Codified Laws Ann. § 22-27-1 (Disturbing Religious Worship) (1976)

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Tennessee

- Tenn. Code Ann. § 4-21-701 (Civil Action, Private, Damages) (1990)
- Tenn. Code Ann. § 39-17-309 (Independent Criminal Civil Rights without Categories, Institutional Vandalism, Mask Wearing) (1990)
- Tenn. Code Ann. § 39-17-311 (Desecration of Religious Institutions) (1989)

Texas

- Tex. Gov. Code Ann. § 411.046 (Data Collection) (1991)
- Tex. Penal Code Ann. § 12.47 and Tex. Code Crim. Proc. art. 42.014 (Penalty Enhancement 1993)
- Tex. Penal Code Ann. § 28.03 (Institutional Vandalism and Desecration of Religious Institutions) (1994)

Utah

- Utah Stat. Ann. § 76-3-203.3 (Penalty Enhancement) (1992)
- Utah Stat. Ann. § 76-6-106 (Institutional Vandalism) (1996)
- Utah Stat. Ann. § 76-6-107 (Institutional Vandalism) (1996)

Vermont

- Vt. Stat. Ann. tit. 13, § 1455 (Penalty Enhancement) (1990)
- Vt. Stat. Ann. tit. 13, § 1456 (Cross Burning) (1990)
- Vt. Stat. Ann. tit. 13, § 1457 (Civil Action, Private, Damages and Injunction) (1990)

Virginia

- Va. Code Ann. § 8.01-42-1 (Civil Action, Private, Damages and Injunction) (1988)
- Va. Code Ann. § 18.2-57 (Penalty Enhancement) (1997)
- Va. Code Ann. § 18.2-127 (Desecration of Religious Institutions) (1990)
- Va. Code Ann. § 18.2-138 (Institutional Vandalism) (1990)
- Va. Code Ann. § 18.2-422 (Mask Wearing) (1986)
- Va. Code Ann. § 18.2-423 (Cross Burning) (1983)
- Va. Code Ann. § 52-8.5 (Data Collection) (1988)

Washington

- Wash. Rev. Code Ann. § 9.61.160 (Threats to Bomb or Injure Religious Institutions and Public Property) (1977)
- Wash. Rev. Code Ann. § 9A.36.078 (Declaration of Findings/Policy for Criminal Sanctions)(1993)
- Wash. Rev. Code Ann. § 9A.36.080 (Independent Criminal Civil Rights with Categories, Institutional Vandalism and Cross Burning) (1993)
- Wash. Rev. Code Ann. § 9A.36.083 (Civil Action, Private, Damages) (1993)
- Wash. Rev. Code Ann. § 36.28A.030 (Data Collection) (1993)
- Wash. Rev. Code Ann. § 43.101.290 (Training Law Personnel) (1993)

West Virginia

- W.Va. Code § 5-11-20 (Civil Action, Attorney General, Injunction and Civil Penalties) (1998)
- W.Va. Code § 15-2-24(i) (Data Collection) (1977)

- W.Va. Code § 61-6-13 (Disturbing Religious Worship) (1993)
- W.Va. Code § 61-6-21 (Independent Criminal Civil Rights with Categories and Penalty Enhancement) (1993)
- W.Va. Code § 61-6-22 (Mask Wearing) (1993)

Wisconsin

- Wis. Stat. Ann. § 895.75 (Civil Action, Private, Damages) (1996)
- Wis. Stat. Ann. § 939.641 (Penalty Enhancement for Mask Wearing) (1996)
- Wis. Stat. Ann. § 939.645 (Penalty Enhancement) (1996)
- Wis. Stat. Ann. § 943.012 (Institutional Vandalism and Desecration of Religious Institutions) (1996)

Wyoming

- Wy. Stat. Ann. § 6-9-102 (Independent Criminal Civil Rights with Categories) (1982)

Appendix D.4: Massachusetts Laws: Criminal And Civil Bias Crime Statutes
(Provided as an example of State laws)

General Laws c. 265, § 37 Violations of constitutional rights; punishment
(Massachusetts Civil Rights Act)

No Person, whether or not acting under color of law, shall by force or threat of force, willfully injure, intimidate or interfere with, or attempt to injure, intimidate, or interfere with, or oppress or threaten any other person in the free exercise or enjoyment of any right or privilege secured to him by the constitution or laws of the Commonwealth or by the constitution or laws of the United States. Any person convicted of violating this provision shall be fined not more than one thousand dollars or imprisoned not more than one year or both; and if bodily injury results, shall be punished by a fine of not more than ten thousand dollars or by imprisonment for not more than ten years, or both.

Added by St. 1979, c. 801, § 1

If no bodily injury results, violation of this statute is a misdemeanor with a maximum one year imprisonment and no statutory right of arrest. It could, however be arrestable if a breach of the peace takes place in the officer's presence. With any form of bodily injury, a person is subject to 10 years imprisonment.

Elements of General Laws c. 265, § 37
Commonwealth must establish:

1. That a person (the defendant) by force or threat of force,
2. Willfully,
3. Injures, intimidates, or interferes with, or attempts to injure, intimidate, or interfere with, or oppresses or threatens,
4. Any person in the free exercise or enjoyment of any right or privilege secured by the constitution or laws of the United States or the Commonwealth.
5. For a felony, bodily injury results.

General Laws c. 265, § 39 Assault or battery for purpose of intimidation; penalties; diversity awareness program

(a) Whoever commits an assault or battery upon a person or damages the real or personal property of a person with the intent to intimidate such person because of such person's race, color, religion, national origin, sexual orientation, or disability shall be punished by a

fine of not more than five thousand dollars or by imprisonment in a house of correction for not more than two and one-half years, or by both such fine and imprisonment. The court may also order restitution to the victim in any amount up to three times the value of property damage sustained by the owners of such property. For the purposes of this section, the term "disability" shall have the same meaning as "handicap" as defined in subsection 17 of section one of chapter one hundred and fifty-one B; provided, however, that for purposes of this section, the term "disability" shall not include any condition primarily resulting from the use of alcohol or a controlled substance as defined in section one of chapter ninety-four C.

(b) Whoever commits a battery in violation of this section and which results in bodily injury shall be punished by a fine of not more than ten thousand dollars or by imprisonment in the state prison for not more than five years, or by both such fine and imprisonment. For purposes of this section, "bodily injury" shall mean substantial impairment of the physical condition, including, but not limited to, any burn, fracture of any bone, subdural hematoma, injury to any internal organ, or any injury which occurs as the result of repeated harm to any bodily function or organ, including human skin.

There shall be a surcharge of one hundred dollars on a fine assessed against a defendant convicted of a violation of this section; provided, however, that moneys from such a surcharge shall be delivered forthwith to the treasurer of the Commonwealth and deposited in the Diversity Awareness Education Trust Fund established under the provisions of section thirty-nine Q of chapter ten. In the case of convictions for multiple offenses, said surcharge shall be assessed for each such conviction.

A person convicted under the provisions of this section shall complete a diversity awareness program designed by the secretary of the executive office of public safety in consultation with the Massachusetts commission against discrimination and approved by the chief justice for administration and management of the trial court. A person so convicted shall complete such program prior to release from incarceration or prior to completion of the terms of probation, whichever is applicable.

Added by St. 1983, c. 165, § 1
Amended by St. 1996, c. 163, § 2.

Violation of this statute is a misdemeanor, unless bodily injury results (substantial impairment of the physical condition). When a misdemeanor offense, there is no statutory right of arrest for this offense. If, of course, the act is committed in the officer's presence and it constitutes a breach of the peace, it will be an arrestable offense.

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Elements of General Laws c. 265, § 39

Commonwealth must establish:

1. That whoever (the defendant) commits an assault or a battery upon a person OR damages the real or personal property of another,
2. For the purpose of intimidation,
3. And that intimidation was intended because of said victim's race, color, religion, national origin, sexual orientation, or disability,
4. If a battery is committed which results in bodily injury (substantial impairment of the physical condition), the defendant shall be punished by fine and imprisonment for not more than five years.
5. If no bodily injury results, the maximum imprisonment is two and a half years.

General Laws c. 12, § 11H Violations of constitutional rights; civil actions by attorney general; venue

Whenever any person or persons, whether or not acting under color of law, interfere by threats, intimidation or coercion, or attempt to interfere by threats, intimidation or coercion, with the exercise or enjoyment by any other person or persons of rights secured by the constitution or laws of the United States or the constitution or laws of the Commonwealth, the attorney general may bring a civil action for injunctive or other appropriate equitable relief in order to protect the peaceable exercise or enjoyment of the rights or rights secured. Said civil action shall be brought in the name of the Commonwealth and shall be instituted either in the superior court for the county in which the conduct occurred or in the superior court for the county in which the person whose conduct complained of resides or has his principal place of business.

Added by St. 1979, c. 801 § 1. Amended by St. 1982, c. 634, § 4

Elements of General Laws c. 12, § 11H

Commonwealth must establish:

1. That a person interfered or attempted to interfere by threats, intimidation, or coercion,
2. With another person's right(s) secured by the constitution or laws of the United States or the Commonwealth.

Appendix D.5: Massachusetts State and Local Resources (Provided as an example)

Massachusetts Resources Massachusetts (State) Agencies

Massachusetts Commission Against Discrimination (MCAD)

The Massachusetts Commission Against Discrimination (MCAD) is primary anti-discrimination law enforcement agency of the Commonwealth. The Commission has the authority to investigate complaints and take appropriate action in cases of illegal discrimination in the areas of employment, housing, public accommodations, and credit. It also has the authority to adopt rules and regulations and monitor and assist businesses and government in complying with the law. It was created by statute in 1946 and serves as a focal point of civil rights activity in the State.

Massachusetts Attorney General's Office (Civil Rights Division)

The Civil Rights Division enforces the Massachusetts Civil Rights Act through the use of civil rights injunctions against perpetrators of bias-motivated incidents. The Civil Rights Division also has statewide responsibility for the enforcement of the State's anti-discrimination laws and actively contributes to the protection of the public interest through community outreach and the provision of police, school, and community training programs and informational materials.

Local County District Attorney's Office

The local County District Attorney's Office prosecutes criminal violations committed within the jurisdiction. The district attorneys' offices work closely with local law enforcement departments and the State Police in the investigation of criminal civil rights complaints.

Local Agencies With Resources For Community Education and Assistance

Several organizations throughout Massachusetts have resources available as support materials for training in the area of civil rights. These materials include publications, videotapes, and pamphlets. In addition, these organizations are a good starting place for suggestions for trainers and other types of resource assistance in formulating educational programs appropriate for your own group or community needs.

The Anti-Defamation League of B'nai B'rith

The Anti-Defamation League of B'nai B'rith (ADL) in Boston is the only civil rights organizations that deals with anti-Semitism as its first priority. It is also at the forefront of efforts in Massachusetts to combat all bigotry motivated by race, religion, or national origin. In that context, the Anti-Defamation League has been involved in training for law enforcement and government officials. One of the many programming initiatives of ADL has been its nationally recognized public affairs program called "A World of Difference." Done in conjunction with

Channel 5, the Greater Boston Civil Rights Coalition, and Shawmut Bank, the "A World of Difference" campaign has produced an unprecedented amount of prime time television and educational materials aimed at combating prejudice and stereotyping. These materials are available to schools, law enforcement, and others at little or no cost.

Community Relations Service (CRS), U.S. Department of Justice

CRS was established by the Civil Rights Act of 1964 "to provide assistance to communities and persons therein in resolving disputes, disagreements, or difficulties relating to discriminatory practices based on race, color, or national origin..." The agency's primary responsibility is to help communities settle racial and ethnic conflict voluntarily through peaceful means employing the techniques of conciliation and mediation.

Massachusetts Department of Education

The Department of Education, through the Bureau of Transitional Bilingual Education, is involved in providing technical assistance and monitoring programs which support regulations pertaining to the civil rights of students and employees in the Massachusetts educational system. Currently, low English-proficient children, refugee children, immigrant children, bilingual children, and migrant children benefit from over 300 programs involving over 30,000 children in the Commonwealth. In addition to the central office in Quincy, the Department of Education has six other regional offices throughout Massachusetts which may be accessed by Massachusetts residents.

Massachusetts Office of Refugee Resettlement

Established by Executive Order 257, the Massachusetts Office of Refugee Resettlement (M.O.R.R.) is the designated State agency having responsibility for refugee affairs in the Commonwealth. M.O.R.R. coordinates and monitors services for refugees provided by other State agencies. M.O.R.R. acts as an advocate for the well-being of refugee individuals and communities throughout Massachusetts. It promotes the goals and process of refugee resettlement and seeks to enhance public understanding and receptivity regarding resettlement. Further, M.O.R.R. identifies and activates public and private resources on behalf of this humanitarian endeavor.

Appendix D.6: Massachusetts Telephone Directory of Resources
(Provided as an example)

Anti-Defamation League of B'nai B'rith	617-542-4977
Commission Against Discrimination, Massachusetts	617-727-3990
Commission on Civil Rights, United States	617-565-7220
Commonwealth of Massachusetts: Attorney General's Office, Civil Rights Division	617-727-2200
Department of Education	617-770-7400
Handicapped Affairs Office	617-727-7440
Labor Relations	617-727-3505
Refugee Resettlement	617-223-6180
United States Department of Education Civil Rights Division	617-223-9685
Equal Employment Opportunity Commission	617-565-3200

Session E

Guidelines for an Effective Response[‡]

Time: 35 minutes
Cases/videos: None

Objectives

By the end of this session, participants will be able to:

- Recognize the role of the first responder regarding the handling of a hate/bias crime indicators
- Identify the preliminary investigative steps to be taken upon arrival at the scene
- Recognize the elements of a hate/bias crime in order to document circumstances surrounding the incident
- Identify the special role of the officer with the victim

Overview of Session: At a Glance

Overview	Time	Materials/Equipment
Presentation: Introduction and Preliminary Investigation*	5 min.	Transparency, overhead projector, screen
Presentation: Effective Response*	25 min.	Transparencies, overhead projector, screen
Presentation: Common Law Enforcement Mistakes*	5 min.	None
TOTAL TIME	35 min.	<i>*Core component</i>

[‡]This session is adapted from the New Jersey Division of Criminal Justice, Office of Attorney General's "Bias Crimes Training Program," which is an adaptation of the FLETC "Hate/Bias Crimes Train-the-Trainer Program: Small Town and Rural Training Services."

I. Presentation: Introduction and Preliminary Investigation (5 minutes)

A. Initial Response to a Hate Crime

Transparency E.1
"Hate Crimes Are
Different"

- Hate crimes are crimes motivated by bias and prejudice.

Note to the Instructor: Ask the participants to contrast hate crimes in which motivation is an element of the crime with a typical assault in which motivation is not an element. For example, in a typical fight outside of a bar, the elements of the crime of assault do **not** include motivation. Prosecutors in this instance generally will only be concerned with motivation to the extent it is a minimizing or exacerbating circumstance. On the other hand, in an attack by several men on a patron who has left a gay bar, the bias motivation is an element (and usually the key element) that needs to be established to prove a hate crime.

- Hate crimes create an especially terrifying and traumatic effect on victims.

Note to the Instructor: Mention that hate crimes are often group attacks and that the level of violence is often out of proportion to what you would expect. Give examples of actual hate crimes which exhibit excessive violence. As the example of the assault on the patron of the gay bar, it is often the case that the perpetrators attack in groups.

- Hate crimes present a threat to community stability.
- Hate crimes often repeat themselves and escalate in severity if not stopped.
- Hate crimes can either improve or undermine law enforcement/community relations depending on how law enforcement responds.

Note to the Instructor: Stress that law enforcement officials are extremely unlikely to be criticized for providing a strong and forceful response to an alleged hate crime. Stress that in many small or mid-sized departments or agencies the responding officer may also be the investigating officer.

II. Presentation: Effective Response (25 minutes)

A. Basic Responsibilities of the Responding Officer

- Respond promptly.
- Apprehend the perpetrator and/or keep the incident from escalating.
 - ☛ Ask the class why the above points are particularly important in responding to hate crimes. Discuss the fact that the perpetrators of hate crimes often repeat and escalate their hate activity until they are stopped. Consequently, the prompt response may mean that a second hate crime is prevented.
- Notify supervisor of possible hate/bias incident.
- Preserve the crime scene by protecting and preserving any evidence such as literature, spray paint cans, threatening letters.
- Conduct a preliminary investigation. This may include interviewing neighbors of the victim. If there are witnesses at the scene obtain witness statements or, if this is not feasible, obtain the names, addresses, and phone numbers of the witnesses.
 - ☛ Ask why it is important in hate crime investigations to talk to neighbors. Emphasize the following three points in the discussion: (1) interviews with neighbors demonstrate the importance which your law enforcement department or agencies assigns to the investigation of hate crimes; (2) interviewing neighbors sends a strong general deterrent message to the community; and (3) because hate crimes are often committed by neighbors you may actually interview the perpetrator without knowing it beforehand.
- Stabilize the victim by providing physical and emotional first aid.

Transparencies
E.2A & E.2B
"Basic
Responsibilities"

☛ Ask participants why it is important to provide physical and emotional aid. Answer may be that victims of hate crimes often feel:

- Isolated
- Degraded
- Frightened/terrified
- Suspicious of others
- Powerless
- Depressed
- In denial

Transparency E.3
"Victims May Feel"

📎 **Note to the Instructor:** There are many ways to illustrate the unique terror created by hate crimes. Some of these ways include:

- (1) Describe the impact on victims from actual hate crime cases.
- (2) Show the overhead of the "KKK" brochure and ask the class what a black man might think if the brochure was tacked to his front door. ☛ Ask what kind of conduct the "KKK" historically has engaged in (burnings of homes, lynchings...). Focus on extremely specific fears that the victim might have.
- (3) ☛ Ask the class whether there are any symbols which if shown to them would create a similar fear of extreme violence or death. Discuss the fact that for most non-minorities there are no symbols that can create the terrifying fear that a burning cross, the letters "KKK," or a swastika can create in African Americans or Jews.

☛ Ask the class why victims of hate crimes might deny that a hate crime occurred even though it appears to you to be motivated by bias or prejudice:

Transparency E.4
"KKK"

- (1) Many victims of hate crimes are worried that by reporting hate crimes more attention will be brought upon them which will in turn lead to repetitive and more violent crimes.
- (2) Gay and lesbian victims of hate crimes may be reluctant to acknowledge their sexual orientation. In many States there is no legal protection for housing or employment discrimination against gays or lesbians based upon their sexual orientation.
- (3) Some minority groups, particularly immigrants from countries which have experienced civil unrest, are afraid of law enforcement officials.

• Ask the class for examples of immigrant groups which might have come from countries where law enforcement officials have committed violence or even atrocities toward their population. Discuss how an immigrant from such a country might feel about calling law enforcement departments or agencies to report a hate crime.

- **Maintain a non-critical and nonjudgmental attitude.**
- **Allow the victim to express his/her feelings.** Remember a hate crime may very well be one of the worst experiences of a person's life. The hate crime is a degrading experience which strips victims of their dignity. Some victims will go to considerable lengths to deny that a crime was motivated by bias or hate. Some victims, particularly gay or lesbian victims, will be concerned about maintaining their confidentiality. Your initial response will not only make a difference in the victim's process of healing but also will affect the victim's level of cooperation in any subsequent prosecution.
- **Be supportive through the process.** Make it known to the victim that the investigation of potential hate crimes is a priority. Victims need to be reassured that the prosecution of hate crimes is of critical importance to law enforcement departments.
- The responding officer should **provide the victim with information (including telephone numbers) about appropriate community organizations, advocacy groups, victim witness programs, and local Human Relations Commissions, which may provide legal assistance, counseling, and other support and assistance.**
- **Prepare and file the appropriate report.** Make sure to document all the relevant and important information in the report.

B. The Benefits of an Effective Initial Response to Hate Crimes

An effective initial response to an alleged hate crime will:

- Facilitate further investigation and the determination of whether or not the crime was motivated by hate or bias.
- Assist the victim in recovering from the trauma of the incident.
- Improve the credibility and standing of law enforcement within the affected minority community as well as the population at large.

III. Presentation: Common Law Enforcement Mistakes (5 minutes)

The most common mistakes which responding officers can make in the initial response to an alleged hate crime are:

**Transparency E.5
"Common Mistakes"**

- **Failure to properly identify bias indicators** or that the incident is a potential hate crime.
One of the most common mistakes is the failure to ask the appropriate followup question which would provide information indicating that an incident was a hate crime. For example, if you are called to the scene of a fight and you know that the crime scene is a block away from a gay bar you may want to ask the victim or witnesses what language was used during the incident.
 - **Failure to preserve and collect evidence** (including photographs of any graffiti, property damage, or any visible injuries suffered by the victim).
 - **Failure to adequately respond to scene.**
 - **Failure to ask appropriate questions.**
 - **Failure to attempt to obtain statements** which describe the incident and provide the exact language that was used by the perpetrator during the incident.
 - **Failure to document preliminary investigative steps.**
 - **Expressing to the victim an opinion that the hate or bias aspect of a crime is not important.**
- ☛ Ask the class what crime (other than a hate crime) is involved with a cross burning or with hate graffiti. Point out that these may be relatively minor crimes under State law. Discuss the importance of not minimizing the incident by stating that the crime involved is only a minor matter.
- Inadvertent or casual comments to the victim, press, or to community members **minimizing the seriousness of an alleged hate crime**, or denying, prior to concluding a thorough investigation, the possibility that an incident is a hate crime. (Such statements may adversely affect law enforcement/community relations and jeopardize any subsequent prosecution.)

TRANSPARENCIES

E.1 Hate Crimes Are Different

**E.2A &
E.2B Basic Responsibilities**

E.3 Victims May Feel

E.4 KKK

E.5 Common Mistakes

HATE CRIMES ARE DIFFERENT

- **Uniquely violent**
- **Victim trauma**
- **Threat to community stability**
- **Community relations problem
for law enforcement**

BASIC RESPONSIBILITIES

- **Respond promptly**
- **Apprehend perpetrator and keep incident from escalating**
- **Notify supervisor of possible hate crime**
- **Preserve crime scene**
- **Prepare and file thorough report**

(Continued)

BASIC RESPONSIBILITIES

(continued)

- **Conduct preliminary investigation**
- **Stabilize victim**
- **Maintain non-critical, nonjudgmental attitude**
- **Permit victim to express feelings**
- **Be supportive**
- **Refer victim to support programs and organizations**

VICTIMS MAY FEEL

- **Isolated**
- **Degraded**
- **Frightened/terrified**
- **Suspicious of others**
- **Powerless**
- **Depressed**
- **In a state of denial**

KKK



JOIN THE FIGHT TO SAVE YOUR
WHITE CHRISTIAN NATION
For Free Information Write:

WE'RE
BACK

Healin
Knights
of the
Ku Klux Klan

Healin
Knights
of the
Ku Klux Klan

COMMON MISTAKES

- **Failure to identify bias indicators or possible bias crime**
- **Failure to preserve or collect evidence**
- **Failure to adequately respond**
- **Failure to ask appropriate questions**
- **Failure to document**
- **Making statements which minimize the seriousness or possibility of hate crime**

Session F

Investigative Strategies and Collection and Preservation of Evidence[‡]

Time: 45 minutes
Cases/videos: None

Objectives

By the end of this session, participants will be able to:

- Identify strategies that facilitate the investigation of bias crimes: securing evidence, interviewing victims and witnesses cooperatively, and interrogating suspects
- Practice techniques for interviewing bias crime victims/witnesses
- Identify methods and strategies for proper bias crimes documentation and report writing

This session was adapted with permission of Education Development Center, Inc., from *National Bias Crimes Training for Law Enforcement and Victim Assistance Professionals*, by Karen A. McLaughlin, Kelly Brilliant, and Cynthia Lang of Education Development Center, Inc., in partnership with the Massachusetts Criminal Justice Training Council. Copyright © 1995 by Education Development Center, Inc. Funding for the manual was provided through a grant from the U.S. Department of Justice, Office for Victims of Crime, and the Bureau of Justice Assistance.

Overview of Session: At a Glance

Overview	Time	Materials/Equipment
Presentation: Investigative Strategies*	25 min.	Transparencies, overhead projector, screen
Presentation: Collecting and Preserving Evidence*	20 min.	Transparencies, overhead projector, screen
TOTAL TIME	45 min.	<i>*Core component</i>

[‡]This session was adapted from EDC's *National Bias Crimes Training for Law Enforcement and Victim Assistance Professionals*.

I. Presentation: Investigative Strategies (25 minutes)

A. Interviewing Victims and Witnesses of Bias Crimes

NOTE! The response at the scene of a hate crime can make or break the case.

Note to the Instructor: Explain to participants that we are going to draw on their law enforcement experience and expertise to identify techniques for enhancing the interviewing of bias crime victims and witnesses.

Explain that due to the unique impact of bias crimes on the victim(s), **which has been discussed in Session A and Session E**, law enforcement professionals need to take preliminary steps to make the victim as comfortable as possible before conducting an investigatory interview. The officer's actions will have a direct bearing on the victim's willingness to cooperate with the investigation. Victim assistance professionals can support victims in both recovery and cooperation in the investigation.

Keep in mind the following issues when interviewing the victim:

- Provide extra security for the victim if needed.
 - ☛ Ask the class why extra security may be needed. Stress that perpetrators of hate crimes often repeat and escalate their crimes until they are arrested.
 - ☛ Ask the class what extra steps can be taken to provide additional security:
 - Provide additional law enforcement protection (such as through more frequent patrols in a neighborhood).
 - In especially serious cases consider providing the victim with an alarm unit.
 - Conduct a home or business security audit. Sometimes simply checking whether locks work and whether the area around a building is lighted will do more to provide security than anything else.

B. Preliminary Steps in Interviewing the Victim

**Transparency F.1
“Preliminary Steps in
Interviewing the
Victim”**

- Tell the victim you are sorry the incident happened, and ask the victim for permission to speak to him/her. Telling the victim you are sorry the incident happened is very important. Many victims fear that law enforcement will not believe that the incident is important. By saying you are sorry the incident occurred you are validating the feelings (including fear) that the victim feels.
- **Assure the victim that he/she is safe now** with the law enforcement officer.
- **If the officer cannot communicate in the language of the victim, use an interpreter** or ask the victim to select a friend or family member to act as interpreter. Be mindful of cultural and privacy considerations that may prohibit a victim from using a younger member of the family as an interpreter, even if they are the only English-speaking member of the household. (In some cultures only the oldest male may designate the younger family member to serve as an interpreter.)
- **Do not attempt to diminish the impact of the crime in any way.**
- **Allow the victim to ventilate feelings about the crime** and validate his or her feelings by expressing your personal concern for the victim and what they have experienced. Share the victim’s outrage, and let the victim know that the law enforcement department takes these crimes seriously and will conduct a full investigation of the incident.
- **Inform the victim that he/she may experience a range of emotional responses** due to their victimization (i.e., anger, sadness, emotional numbness, etc.), and that these responses may manifest themselves immediately following or any time after the incident.
- **Be extremely sensitive to and respectful of the victim**, who may be particularly guarded due to cultural perceptions of law enforcement, or may desire to conceal or deny their affiliation with the group the offender(s) intended to harm.
- **Explain to the victim what is likely to happen during the course of the investigation**, and prepare him or her for any disappointing or frustrating circumstances (i.e., the suspect is released).
- **Protect the victim’s anonymity whenever possible.** Anonymity is a significant issue for many victims of bias crime. For example, many gay and lesbian bias crime victims are not openly gay due to family and

societal attitudes toward homosexuality. Discrimination against gays and lesbians in housing and employment is still legal in many States.

📎 **Note to the Instructor:** Explain that the basic skills the participants have learned from interviewing victims, witnesses, and suspects in other crime cases apply to bias crime cases as well. Explain that there are additional unique strategies for interviewing victims, witnesses, and suspects in bias crime cases.

C. Strategies for Conducting Effective Bias Crime Investigatory Interviews of Victims

Transparency F.2 "Strategies for Conducting Effective Bias Crime Investigatory Interviews of Victims"

☛ Ask the group to list three top tips or strategies for interviewing a victim of a bias crime, and why these tips are relevant to bias crimes.

- **Only one officer should conduct the interview.** Any other officers present should remain inconspicuous and not interfere with the interview.
 - **Allow the victim to tell the whole story in his/her own words.** Do not interrupt the story unnecessarily. This gives the victim time to relax and to develop a trusting relationship with the investigator.
 - **Do not ask a victim "Was this a bias crime?"** or in any way press for an admission that the crime was motivated by bias. The victim may not want to or may find it difficult to acknowledge the motivation of their victimization.
- ☛ Ask the class for different techniques on how to elicit information that will establish whether or not the incident was motivated by bias without asking the victim for his or her ultimate conclusion. For example, ask "Do you have any idea why this happened to you?" or say "People sometimes get attacked because of their (race, ethnicity, religion, sexual orientation). Was there anything in the incident that might point in that direction?"
- **Do not make assumptions about victims which they may consider inappropriate.** For example, do not make an assumption about the victims' sexual orientation and ask, "Are you gay?" Instead, ask the victims what they think motivated the attack and why they think they were victimized.

- **Do not allow personal value judgments of the victim's behavior, lifestyle, or culture to intrude on the professionalism of your investigation.** Do not blame the victim for the incident.
- **Do not question the victim's judgment in terms of his/her own safety.** What you may interpret as victims placing themselves in unsafe situations, they may interpret as exercising their rights.
- **In the case of bias crimes, language is often the key evidence. Have the victims recall to the best of their ability the exact words of the offender(s). The key evidence in most hate crime cases is the language used by the perpetrator or perpetrators during the attack.** Stress the importance of obtaining the exact words used by the perpetrator during your interview with the victim. Understand that many victims may be uncomfortable repeating the racial slurs or swear words used by the perpetrator.
- **Use appropriate terminology.** Do not use stereotyped or biased terms that can revictimize the victim, shut down communication, or otherwise impede the investigation. For example, you may inadvertently offend individuals by referring to their particular minority group in ways they find degrading or insulting. (If you are not sure of the appropriate terminology to use to describe a particular minority group, try to ask someone who does know. In addition, an immigrant from a particular country may be offended if he or she is described as Asian or European and not described as coming from his or her particular country of origin.)
- **Continuously update the victim on the status of the case** and what is being done by the law enforcement department. Victims of bias crimes are often particularly sensitive to law enforcement responsiveness to their needs. Victims from other cultures may need more direct involvement from law enforcement to overcome cultural and linguistic barriers.
- **Refer victim to individuals or organizations that can provide support and assistance.** These may include victim assistance agencies (court-affiliated or community-based), social service organizations, and clergy in the victim's religious denomination.

D. Interviewing Suspects

The primary goal in interviewing suspects is to obtain evidence that will establish the elements of the alleged crime. Remember that many suspects may mistakenly assume that others, including law enforcement, share their biased perceptions. Accordingly, sometimes law enforcement officers can simply encourage (of course, without the officer ever using hate language his or herself) suspects to talk

about their feelings toward a particular minority group and the suspect will express his or her bias motivations. In addition to the actual content of the statements given by suspects, law enforcement officers should look for literature, posters, bumper stickers, tattoos, or other words or symbols which would indicate the bias motivation of the suspect.

E. Strategies for Enhancing Witness Cooperation in Bias Crime Cases

The same strategies for interviewing victims in bias cases apply for interviewing witnesses as well. In addition, the following strategies enhance witness cooperation:

- **Canvas the entire community, utilizing interpreters as needed.** Appeal to community members' sense of civic responsibility and the chance for them to assist in ridding their community of these crimes. Canvassing the entire community sends a message to the community and potential offenders that the law enforcement department or agency does not tolerate such crimes. (Refer participants to information on the use of interpreters in the resources section of their participant manual).
- **Offer rewards** for information regarding the case.
- Remember that bias crime cases often involve individuals of different races and/or ethnicities from the witnesses of the incident. The stereotypes and biases of witnesses may consciously or subconsciously influence their perception of the incident. **Be aware that witnesses with the same prejudices and stereotypes of the offender(s) may present a distorted or inaccurate view of what occurred.** Be aware also that witnesses who want to deny to themselves and/or to others the existence of hatred in their community may provide inaccurate versions, as well.
- **Establish memorandums of understanding (MOUs)** with local civil rights groups that spell out referral policies, mutual support of call-in procedures, etc.

Transparency F.3 "Strategies for Enhancing Witness Cooperation"

II. Presentation: Collecting and Preserving Evidence (20 minutes)

Note to the Instructor: Draw on participants' law enforcement experience and expertise to identify techniques for enhancing the collection and preservation of evidence in potential bias crimes.

NOTE! The same techniques for collecting and preserving evidence utilized in other investigations should be used for the investigation of bias crimes.

A. Special Considerations for the Collection and Preservation of Evidence in Bias Crime Investigations

- **Language:** Law enforcement officers should pay particular attention to any words or phrases that may be bias related. Exact words and expressions should be documented as evidence.
NOTE: Language is often the most critical evidence in a hate crime prosecution.
- **Graffiti: Photographs of graffiti** consisting of racial, ethnic, religious, gender, or sexual orientation epithets and/or symbols **should be taken immediately following the incident.** This secures evidence and allows offensive language and/or symbols to be removed quickly before other community members are victimized. **Remember that graffiti aimed at particular minority groups is a message which constantly repeats itself to members of the affected minority community until the message is erased. Encourage the property owner, perhaps with the help of community groups, to remove the graffiti.**
- **Property Damage:** As with graffiti, take photographs of property damage following the reporting of the incident. The extent of property damage may affect whether the crime can be charged as a felony or misdemeanor.

**Transparency F.4
"Special Considerations
for the Collection and
Preservation of Evidence
in Bias Crime
Investigations"**

- **Personal Injuries:** Arrange for the photographing of the victim's visible physical injuries. This may serve as important evidence at the time of trial.
- **Threatening Letters:** If a threatening letter is received, advise the victim to:
 - Touch the letter as little as possible
 - Do not fax or copy the document (avoid contaminating fingerprint evidence)
 - Place the threatening letter in a paper (and not a plastic) bag so as to best preserve fingerprints
 - Arrange to have an officer promptly pick up the threatening letter assuring that the chain of evidence is maintained
- **Symbols:** It is important to recognize symbols (such as a swastika) or insignia (such as the letter KKK) which indicate bias or prejudice. These symbols may be found on graffiti, etched or painted into property or contained in threatening letters or phone calls. Some symbols, such as numbers (numerology) have been used as part of a message of hate. You may need to consult an expert to determine if a symbol or number has significance.
- **Coordination:** The overall effectiveness of law enforcement agencies responding to bias crimes can be enhanced through policies that promote interagency training, information exchange, and multi-agency law enforcement cooperation.
 - Agencies should develop cooperative relationships with county prosecutors and other concerned Federal, State, and local law enforcement agencies, as appropriate.
 - The investigation should be coordinated with other law enforcement agencies in the area to analyze patterns of bias crimes and to determine if an organized hate group is involved.

B. Importance of Standardized Law Enforcement Reporting and Documentation of Bias Crimes

Prompt preparation of thoroughly written reports of an investigation are important to the effectiveness of an investigation and critical to the success of a prosecutor.

**Transparency F.5
"The Importance of
Standardized Law
Enforcement
Reporting and
Documentation of
Bias Crimes"**

Standardized reporting and documentation:

- Assists in law enforcement's identification of conduct as a bias crime.
- Assists prosecutors in making charging decisions.
- Enhances likelihood of success of prosecution at trial. (When an incident report reflects bias indicators.) An investigating officer's report which contains a description of indicators of bias, and particularly which describes the language of hate used by a perpetrator, may be the most valuable source of information for a prosecutor in preparing a hate crime case.
- Improves the prosecution's ability to obtain a favorable plea bargain or to succeed at trial.
- Enables law enforcement professionals to analyze patterns and trends of bias crime in a community. For example, it may establish evidence linking a particular suspect to more than one hate crime.

• Ask the class why it is important to report both hate crimes and bias incidents. Discuss the fact that perpetrators of hate crimes often are repeat offenders—sometimes involved in hate crimes and other times involved in bias incidents. Maintaining a database on particular individuals may assist law enforcement officials and prosecutors in establishing a pattern of bias behavior that will enhance the ability to obtain convictions.

- Increases the reporting of these crimes by victims who might otherwise be reluctant to come forward.
- Demonstrates to the community that law enforcement professionals are committed to vigorously pursuing the offenders.
- Enhances community awareness of bias crimes, resulting in greater community efforts to reduce such crimes.

C. The Importance of Press and Community Relations

Hate crimes are often the focus of significant public and community attention. In dealing with the press and with community members the investigating officer (subject to department procedures concerning comments to the press) should firmly and forthrightly confirm that the department is investigating whether or not the alleged incident is a hate crime. Investigating officers should further state that his or her department considers the investigation and prosecution of hate crimes to be of paramount importance. These types of strong public statements:

- Demonstrate to the entire community the commitment of law enforcement to stopping hate crimes.
- Send a strong deterrent message to would be perpetrators. Remember that an inadvertent or casual comment minimizing the incident may cause a deterioration in the relations between law enforcement and the community and may undermine community cooperation with law enforcement and any subsequent prosecution.

• Ask the class how the community would likely react if after a cross burning the law enforcement officer is asked whether or not the incident was a hate crime and responds by saying "No comment." Stress that the "no comment" may be viewed by community members as uncaring, callous, or dismissive of what may seem to the community to be a crime of hate.

TRANSPARENCIES

- F.1 Preliminary Steps in Interviewing the Victim**
- F.2 Strategies for Conducting Effective Bias Crime Investigatory Interviews of Victims**
- F.3 Strategies for Enhancing Witness Cooperation**
- F.4 Special Considerations for the Collection and Preservation of Evidence in Bias Crime Investigations**
- F.5 The Importance of Standardized Law Enforcement Reporting and Documentation of Bias Crimes**

PRELIMINARY STEPS IN INTERVIEWING THE VICTIM

- **Provide extra security for the victim.**
- **Tell the victim that you are sorry the incident happened.**
- **Use interpreter, if language barriers present.**
- **Do not attempt to diminish the impact of the crime.**
- **Allow victim to ventilate feelings.**
- **Explain that law enforcement takes these crimes seriously.**
- **Inform the victim about emotional responses to victimization.**
- **Be sensitive and respectful to the victim.**
- **Explain what is likely to happen during the investigation.**
- **Protect the victim's anonymity whenever possible.**

STRATEGIES FOR CONDUCTING EFFECTIVE BIAS CRIME INVESTIGATORY INTERVIEWS OF VICTIMS

- **One officer conducts the interview.**
- **Allow victim to use own words.**
- **Do not ask “Was this a bias crime?”**
- **Do not make assumptions.**
- **Do not blame the victim.**
- **Do not question the victim’s judgment.**
- **Obtain exact words used by the offender(s).**
- **Do not use biased terms.**
- **Update the victim on case status.**
- **Refer victim for support and assistance.**

STRATEGIES FOR ENHANCING WITNESS COOPERATION

- **Canvas the entire community**
- **Utilize interpreter as needed**
- **Offer rewards for information**
- **Remember that biases of witnesses may influence their perceptions**
- **Be aware that witnesses may provide inaccurate accounts**

SPECIAL CONSIDERATIONS FOR THE COLLECTION AND PRESERVATION OF EVIDENCE IN BIAS CRIME INVESTIGATIONS

- **Language**
- **Graffiti**
- **Property Damage**
- **Personal Injuries**
- **Threatening Letters**
- **Symbols of Hate**
- **Coordination**

THE IMPORTANCE OF STANDARDIZED LAW ENFORCEMENT REPORTING AND DOCUMENTATION OF BIAS CRIMES

- **Identifies conduct as a bias crime**
- **Assists prosecutors in making charging decisions**
- **Enhances likelihood of success at trial**
- **Improves ability to obtain a favorable plea bargain**
- **Enables analysis of patterns and trends**
- **Increases reporting**
- **Demonstrates law enforcement commitment**
- **Enhances community awareness**

Session G

Victim Trauma[‡]

Time: 40 minutes

Video: "Hate Crimes," produced by Paul Mason,
Prime Time Live, October 28, 1993

Objectives

By the end of this session, participants will be able to:

- Identify elements of hate crime victim trauma
- Identify the unique features of bias crimes
- Understand the impact of this crime on bias crime victims
- Articulate the impact of hate crimes on the community

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Overview of Session: At a Glance

Overview	Time	Materials/Equipment
Presentation: Overview of Victim Trauma*	5 min.	Transparencies, overhead projector, screen, flip chart, markers, masking tape, easel
Activity: Analysis of Video Segments	20 min.	Handout, video ("Hate Crimes"), VCR, monitor, transparencies, overhead projector, screen, flip chart, markers, easel
Presentation: Unique Features of Bias Crimes and Their Impact on Bias Crime Victims*	15 min.	Transparencies, overhead projector, screen
TOTAL TIME	40 min.	<i>*Core component</i>

[‡]This session was reprinted with minor modifications from EDC's *National Bias Crimes Training for Law Enforcement and Victim Assistance Professionals*.

I. Presentation: Overview of Victim Trauma (5 minutes)

Victims of hate crimes often experience trauma. This session looks at trauma as it relates to victims of hate crimes.

Transparency G.1 "Session Objectives"

Participants, as professionals in law enforcement, have experience dealing with what victims experience following the crime. Bias crime victims experience many of the same difficulties and traumas as victims of other crimes, but bias crimes have a unique impact. Crime victims experience this crisis as a result of both primary and secondary injury or harm. This session looks at the considerations involved in responding to victims of bias crimes.

A. Crisis of Victimization

Ask participants to describe what the crisis of victimization is and how that relates to law enforcement addressing a hate crime.

Transparency G.2 "Crisis of Victimization"

Many victims experience a crisis as a result of their victimization. Morton Bard, author of *The Crime Victim's Book*, defines the crisis of victimization as "a sudden, arbitrary, unpredictable event that is threatening to the self and produces a disruption in the emotions and behaviors of the threatened person." Crime victims experience this crisis as a result of the primary and secondary injury or harm.

(Source: Bard, M. and D. Sangrey. 1986. *The Crime Victim's Book*. Brunner/Mazel, p. 37.)

B. Types of Victim Trauma/Injury

- Physical injury
- Financial loss
- Psychological trauma
 - Initial crisis
 - Psychological Trauma Stress Disorder (PTSD) long-term stress reactions

Transparency G.3 "Types of Victim Trauma"

Session G

☛ Ask the group to list reasons that a law enforcement officer might want to know about trauma of victims. Answers might include:

- To be able to recognize potential physical problems
- Understand how victim may act and react
- For officer safety
- For protection against possible lawsuits
- To provide more assistance in less time
- To be able to document evidence more readily

✎ **Note to the instructor:** If you do not have the video identified below or another video which focuses on a local victim(s) of hate crimes, present case studies to the group and ask for the same observations. (See appendix references for video alternatives.)

II. Activity: Analysis of Video Segments (20 minutes)

✎ **Note to the Instructor:** Have participants review Handout G.1, "Assessment of Victim's Physical, Emotional, and Financial Injury." This assessment list was prepared to be used in any victim case to understand the degree of victim trauma. Law enforcement are often asked to assist victims who experience trauma. The handout lists several questions that may help gauge trauma levels.

Participants should keep the types of victim trauma in mind when they view the video segment from *Prime Time Live* about a Florida victim of hate crime or show a similar video which relates to victim trauma (see, for example, the appendix to this section). Show video segment.

Have participants divide into small groups (6–8 participants) and complete the checklist on assessing victim injury (Handout G.1), based on the victim's case portrayed in the video.

After completing the checklist on assessing victim injury, reconvene participants to the larger group, and ask volunteers from the different groups to report to the larger group on each type of victim injury: physical, emotional/psychological (initial crisis, post-traumatic stress disorder), or financial.

As the assessment checklist shows, some aspects of victim harm are felt immediately, as a result of the incident or crime. Others are felt later, as a result of resuming daily life at home, in the community and at work, and negotiating the medical, legal, insurance, social service, and/or criminal justice systems.

A. Secondary injury is the victim's perceived rejection by and lack of expected support from the community

Secondary victimization can interfere with the progress of a case.

☛ Ask participants how this might happen in a hate crime case, and if there is anything the law enforcement department or agency can do to mitigate secondary victimization? Write their answers on the flip chart.

- Victim trauma may be exacerbated by the insensitivity of others. This is known as “secondary injury.”
- Most crime victims experience some type of secondary injury as they attempt to deal with the systems that provide physical or mental health care, process insurance claims to recover losses, or prosecute crime offenders. Hate crime victims may feel discounted by mental health providers, or the criminal justice system (as in “It was just an assault, not a hate crime.”)
- Bias crime victims may experience more severe secondary injury because some professionals who work within the system that serves victims may have the same prejudices and biases as the rest of society.
- As a result of personal bias and prejudice, professionals like other individuals may minimize the impact of the crime on the individual.
- Bias crime victims frequently feel betrayed and hopeless when they confront institutional prejudice.
- Secondary injury can also occur as victims of bias crimes interact with family, friends, and acquaintances, as well as the clergy, the media, educators, and others

☛ Ask participants for examples of secondary victimization from the video and examples from personal life experiences as well.

III. Presentation: Unique Features of Bias Crimes and Their Impact on Bias Crime Victims (15 minutes)

Note to the Instructor: Hate crime is unique, which calls for special considerations to be made by law enforcement.

Ask the group to list some of the unique aspects of hate crimes and write them on a flip chart or have small groups list them in a contest format.

In addition to the primary and secondary injury that victims face, there are unique features of bias crimes.

A. Unique Features of Bias Crimes

- Bias crime is more likely to be seriously injurious or lethal than any other personal injury crime.
- Bias crime, in part motivated by fear, often escalates when the members of the dominant culture think they are under attack. For example, this issue emerged during the 1991 Gulf War, when some Arab-Americans were harassed or even physically abused.
- Bias crimes are usually perpetrated in groups. (The notable exception is found in sex offenders who commit acts of sexual assault or other abuse out of a clear hatred of their victims.) Group-instigated crime has a significant impact on the victim for several reasons.
 - First, there is a diffusion of responsibility so that no one person must take the blame.
 - Second, the group seems to generate courage, particularly among those who fit the description of "cowardly."
 - Third, groups tend to exacerbate the viciousness of the crimes committed.
- The most egregious type of victim trauma of all hate crimes are mass murders and/or assaults. Hatred has been thought to be one of the primary motives in the following mass crimes:

Transparency G.4
"Unique Features of
Bias Crimes"

- In 1989, 300 children were playing when Patrick Purdy walked onto the Stockton, California, playground and fired 66 rounds in their midst. Five children died and 29 children and one teacher were wounded in less than two minutes. Many have thought it was Purdy's racial hatred that caused him to attack the school, where close to 70 percent of the student body and of Purdy's victims were of Southeast Asian origin.
 - On December 6, 1989, a young man walked into the Engineering School at École Polytechnique in Montreal, Canada, and started firing an automatic weapon. After separating male students from females, he fired on the women, killing 14 and wounding 13 others before killing himself. As the shooting occurred he expressed out loud his hatred of women.
- Bias crimes have also emerged in response to the AIDS epidemic. According to the Presidential Commission on the Human Immunodeficiency Epidemic, "The increasing violence against those perceived to carry HIV, so-called 'hate crimes' are a serious problem."
 - A large number of bias crimes seem to be aimed at individuals who are not only members of an identified group but who are perceived as infringing on another group's sovereignty. Northeastern Professor Jack McDevitt has analyzed 452 cases of bias crimes that occurred in Boston from 1983 to 1987 and found that 57 percent of the crimes were attacks on persons walking, driving through, or working in a neighborhood, or on a family moving into the area. (Source: McDevitt, J. and J. Levin. 1993. *Hate Crimes: The Rising Tide of Bloodshed & Bigotry*. New York: Plenum Publishers.)

(Source: Marlene A. Young, NOVA.1993. Victim Assistance: Frontiers and Fundamentals. Dubuque, Iowa: Kendall/Hunt Publishing Company, pp. 123-126.)

B. The Unique Impact of Bias Crimes

Bias crime impacts the victims and the community in a different way than other crimes. The reason we are talking about the issue is to look at ways law enforcement can address the special needs hate crimes create.

Transparency G.5
"The Unique Impact
of Bias Crimes"

Similar to all victims, bias crime victims often suffer from shock, disbelief, and denial. Their emotional turmoil is comprised of rage, terror, confusion, frustration, blame, and grief. These emotional reactions are compounded in several ways.

- One psychological defense many victims use is that a criminal chooses his or her target randomly and without purpose. In contrast, there is a purpose to bias crime, and that purpose adds **an extra dimension of fear for the victim.**
- Terror is exacerbated because **society has been slower to respond to bias crimes than to the random “stranger crime.” Bias crimes put all members of a certain group in fear.**
- There is an **extra dimension of devaluation** or diminishment of victims when they realize that they have been targeted because of their race, gender, sexual orientation, or other characteristic.
- Bias crime victims’ grief can be more intense than other reactions, arising in part because victims **lose their sense of community** or feel betrayed by the American system.

(Source: Marlene A. Young, NOVA.1993. Victim Assistance: Frontiers and Fundamentals. Dubuque, Iowa: Kendall/Hunt Publishing Company, pp. 126–127.)

☛ Ask participants to think about differences between being a victim of a crime and being the victim of a bias crime. Answers may include:

- Attack was because of who I am, (race, gender, sexual orientation, religion, etc.)
- A widespread belief that courts care less about this crime than they do about traditional crimes
- The attack may happen again to me or members of my family
- The victim now distrusts all persons who are like the attacker (race, religion, sexual orientation, etc.)

C. Bias Crimes: Victim and Community Impact

📎 **Note to the Instructor:** The impacts of hate crime are also unique on the victim.

☛ Ask the group to list different ways in which they are unique. Have a contest to see which group can come up with the most answers.

Bias crime victims may experience especially acute effects of primary and secondary victimization. The particular effects of primary victimization, resulting from the impact of the crime itself, are reviewed below:

D. Victim Impact

- Victims of bias crimes have been attacked for being different, for being misunderstood, and for being hated. **Because the basis for their attack is their identity, they may suffer a deep personal crisis.**
- Victims of bias crime may be **targeted due to a core characteristic of their identity** which is immutable. This may lead to increased vulnerability.
- **Victims may reject the aspect of themselves** that was the target for their attack.
- When a bias crime is committed against a member of a minority group, the **victim frequently perceives the offender as representative of the dominant culture** in society who may frequently stereotype the victim's culture.
- If their membership in a target group is readily visible, victims of bias crimes may **feel particularly vulnerable to a repeat attack**. This heightened sense of vulnerability may result in the feeling of hopelessness.
- Victims **may become afraid to associate with other members of the group** that has been targeted or may fear seeking needed services, believing that these actions increase their vulnerability.
- As a result of the victimization, bias crime victims **may respond by more strongly identifying with their group** or, conversely, by attempting to disassociate themselves or deny a significant aspect of their identity.
- Assumptions about **life/world view may be shattered**. For bias crime victims who are minorities this may be particularly devastating because their world view may have been very different than the dominant culture's world view.
- It is very difficult for the bias crime victim to resolve that the crime was motivated by hatred as opposed to another motive such as economic.

Transparency G.6 "Bias Crimes: Victim Impact"

E. Community Impact

**Transparency G.7
"Bias Crimes:
Community Impact"**

- When individuals are targets of hate because of their race, religion, ethnicity, gender, disability, or sexual orientation, their **victimization is projected outward to all members of their wider community.**
- **Other members of the same group feel victimized;** members of other commonly targeted groups are reminded of their vulnerability to similar attacks.
- Places of worship are often targeted by bias crime offenders; these attacks on sacred spiritual symbols **may harm more victims than other acts of vandalism,** by also harming other members of the community.

• Ask the group to list how hate crimes can impact the whole community. Ask how any of these can influence the law enforcement department. Some answers might be as follows:

- Cost millions of dollars annually
- Polarizes the community into a "we versus they"
- Impede community spirit, morale, growth
- Perpetrate racism in America
- Produce unnecessary tensions
- Create anger, fear, and outrage on the part of some victims
- Destroy property
- Lower property values (real estate value)
- Reduce time available for positive community programming
- Limit opportunities for positive social interaction
- Increase security needs at schools, churches, businesses, homes, and so forth.
- Require increased law enforcement and court attention
- Reduce community involvement

TRANSPARENCIES AND HANDOUT

G.1 Session Objectives

G.2 Crisis of Victimization

G.3 Types of Victim Trauma

G.4 Unique Features of Bias Crimes

G.5 The Unique Impact of Bias Crimes

G.6 Bias Crimes: Victim Impact

G.7 Bias Crimes: Community Impact

Handout G.1

**Assessment of Victims' Physical,
Emotional, and Financial Injury**

SESSION OBJECTIVES

- **Identify the elements of victim trauma**
- **Identify the unique features of bias crime**
- **Articulate the impact of a hate crime on the victim**
- **Articulate the impact of hate crime on the community**

CRISIS OF VICTIMIZATION

A sudden, arbitrary, unpredictable event that is threatening to the self and produces a disruption in the emotions and behaviors of the threatened person.

TYPES OF VICTIM TRAUMA/INJURY

- **Physical**
- **Financial**
- **Psychological**
 - **Initial crisis**
 - **PTSD (long term)**

UNIQUE FEATURES OF BIAS CRIMES

- **Serious or lethal injuries more likely**
- **Generated, in part, by fear, escalating when the dominant culture is under attack**
- **Usually perpetrated in groups which may**
 - **diffuse responsibility**
 - **become more daring**
 - **exacerbate the viciousness of the attack**
- **A large number of bias crimes are reactive**

THE UNIQUE IMPACT OF BIAS CRIMES

- **There may be additional fear for bias crime victims because they were chosen as a target for a specific purpose.**
- **Terror may be exacerbated because society may be slow to respond to bias crime.**
- **Grief may be more intense because victims may lose their sense of community or feel betrayed by the American system.**

BIAS CRIMES: VICTIM IMPACT

- **Because the basis for their attack is their identity, victims may experience a deep personal crisis.**
- **Stress and vulnerability may be heightened or prolonged.**
- **Victims may reject the aspect of themselves that was the target for their attack.**
- **Assumptions about life may be shattered.**
- **Hatred is less easy to explain or forgive than a crime motivated by economics, for example.**
- **Victims of bias crimes may feel vulnerable to a repeat attack.**

BIAS CRIMES: COMMUNITY IMPACT

- **The victimization of individuals who are targets of hate because of race, religion, ethnicity, gender, or sexual orientation is projected outward to all their community members.**
- **Members of commonly targeted groups are reminded of their vulnerability.**
- **Attacks on places of worship and their spiritual symbols may harm victims more than acts of vandalism. These attacks also harm other members of the community.**

ASSESSMENT OF VICTIMS' PHYSICAL, EMOTIONAL, AND FINANCIAL INJURY

Physical

- What is the degree of victim injury?
- What is the severity and impact of the injury?
- Will the injury create a long-term disability?
- Has the crime aggravated a previously existing physical or medical condition?
- Is the injury a visible one? Will there be permanent scarring or disfigurement?

Emotional

- Has the lack of a physical injury resulted in other people discounting the seriousness of the incident?
- What previous life experiences/victimization/oppression/ discrimination have a bearing on the recent victimization?
- What emotions are being experienced?
- Does the victim fear revictimization?
- Is the emotional stress interfering with basic life activities, such as eating, sleeping, and the ability to concentrate on the tasks at hand?
- What are the unique vulnerabilities of this victim and the degree of social support?
- What bearing does the offender's motivation have on emotional reaction?
- What factors relating to the commission of the crime exacerbate victim emotional reaction, such as the degree of degradation the victim experienced and the degree that this victimization affects all members of this class or community?

Financial

- What is the degree of financial loss?
- Has the crime interrupted the victim's ability to earn income? Is this jeopardizing the victim's financial security?
- Has the victim had expenses relating to child care, transportation, other costs associated with the crime?
- Does the victim have insurance that covers the loss or injury?
- Does the loss or damage of property pose immediate hardship, such as the need to find alternate housing or transportation?

Appendix G.1: References for Session G

The following videos can be recommended, which include victim interviews that detail the personal experiences of victims of bias crime:

- “Hate Crimes”
Produced by Paul Mason
Shown on *Prime Time Live* October 28, 1993
ABC Network News, NY
- “Hate Crimes: Training for Police Officers”
Anti-Defamation League
823 United Nations Plaza
New York, NY 10017
212-490-2525
November 25, 1990
Video segment: 12 minutes
Non-copyrighted
- “Fear That Doesn’t Fade,” produced by Lt. Dennis M. Robinson
Baltimore County Maryland Police Department
C. & P.T. Telephone Co.
Copyright 1989
Victim segment: 8 minutes
- “In Crime’s Wake,” produced by Trudi Baldwin and Linda Blume
N.Y. Victim Services Agency, 1992
Segment: “It Can Happen to Anyone,” 6 minutes

Session H

Community Strategies and Relationships[‡]

Time: 45 minutes

Cases/videos: None

Objectives

By the end of this session, participants will be able to:

- Recognize the benefits of and strategies for establishing good community relations
- Define and/or identify the effected community and actual or perceived community leaders
- Identify successful techniques for entering/handling various community situations (i.e., cultural and racial differences)
- Recognize the benefits of good law enforcement/community relations and disadvantages of bad relations
- Describe community/law enforcement relations mechanisms
- Identify department or agency resource directories used to make appropriate referrals
- Articulate characteristics of effective first officer response

Transparency H.1
“Session
Objectives”

[‡] This session is an adaptation of the FLETC's, *Hate/Bias Crimes Train-the-Trainer Program: Small Town and Rural Training Services*.

Overview of Session: At a Glance

Overview	Time	Materials/Equipment
Presentation: Community Leaders and Community Groups	10 min.	Transparencies, overhead projector, screen, masking tape, flip chart, markers, easel
Presentation: Community Impact of Bias Crimes	5 min.	Transparency, overhead projector, screen, masking tape, flip chart, markers, easel
Presentation: Community Relations and Community Relations Skills	30 min.	Transparencies, overhead projector, screen, masking tape, flip chart, markers, easel
TOTAL TIME	45 min.	<i>*Core component</i>

Note to the Instructor: The point of this section is to give the participants an appreciation of how community relations are useful in law enforcement's response to hate crimes. This session is very much "participant driven." You should guide the discussions (sometimes referred to as the "Socratic Method"). Some answers to each question posed in the text below are given so that you can "suggest" some replies. The participants' responses are of primary importance.

Tell the participants that this session will assist the participant in recognizing the benefits of law enforcement establishing good community relations in **addressing hate crimes**. The participants will be given an opportunity to share what their law enforcement department or agency is doing, and learn from other practitioners on how to improve their own policies, procedures, and practices.

NOTE! Addressing hate crime effectively cannot be done by law enforcement alone—there has to be functioning and positive law enforcement/community relations.

Poor law enforcement/community relations has been cited in every major civil disturbance in this country since the 1960's. The very best minds in policing today are encouraging law enforcement departments to rethink their roles as "professional crime fighters," and look toward community oriented policing. This session addresses some of the basics about law enforcement/community relations: proactive options a law enforcement department might consider, development of community-based resources that

can be used in addressing the needs of hate crime victims, and ways a law enforcement department can involve community leadership in addressing community-wide racial tensions caused by hate crimes.

Note to the Instructor: Remind the group that we have already defined what hate crimes are and have shown them as affecting the entire community. Tell the group that community relations is critical in addressing hate crimes. Explain that this session will demonstrate why community relations is an essential part of the law enforcement response to hate crimes.

This lesson will be an interactive experience in which participants will learn from each other. As topics are introduced, and a group consensus is reached, answers will be posted on flip charts on the walls.

I. Presentation: Community Leaders and Community Groups (10 minutes)

A. Definition of "Community" as It Applies to Individual Jurisdictions

Ask participants to describe their localities by the various communities that make it up. Some examples of participant response may be:

- Religious groupings
- Economic groupings
- Political groupings
- Racial groupings
- Vocational groupings
- Social groupings

Transparency H.2
"Communities"

B. Definition of "Community Leader"

Participants leaving this session should be able to articulate a means of identifying real and perceived community leadership.

Transparency H.3
"Community Leaders"

☛ Ask participants to list the “real” leaders from their jurisdictions by descriptive title. Some examples of participant response may be:

- Ministers, rabbis, imams, etc.
- Political leaders
- Teachers
- Social leaders
- Youth workers
- Chiefs of police
- Civil rights leaders
- Media leaders
- Business leaders

**Transparency H.4
“Typical Leaders”**

☛ Ask participants to list “perceived” leaders from their particular locations.

Have participants explain how these leaders were identified. Some examples of participant responses may be:

- By office/position
- By reputation
- By their actions
- By the media
- By other leaders
- By community consensus
- By parents

**Transparency H.5
“How Are Community
Leaders Identified”**

☛ Ask participants how community leaders might be useful in responding to a hate crime. Have them describe an incident and then explain why community leadership might have been helpful during it. Answers might include:

- To help calm citizens
- As a source of additional information
- As resource persons to assist hate crime victims
- As ethnic experts to assist law enforcement departments in understanding unique cultural/ethnic differences.

☛ Ask participants how community leaders can assist in addressing hate crimes. Some answers might be:

- As ethnic experts to assist in pre-incident training
- As on-site help (language, religion, etc) at the hate crime scene
- As a part of a community advisory board

☛ Ask participants how community leaders might be enlisted to assist in responding to hate crimes. Some answers might be:

- Through a departmental advisory board
- As part of a community oriented policing effort
- As part of a departments or agency's community relations office
- As a function of a formal Memorandum of Understanding with the department or agency
- As a result of initiated contact by a law enforcement officer

📎 **Note to the Instructor:** Community oriented policing may not be embraced by each law enforcement department or agency. Community relationships can be established in a variety of ways. The point of this section is to underscore the importance of law enforcement/ community cooperation in addressing hate crimes.

II. Presentation: Community Impact of Bias Crimes (5 minutes)

This section re-emphasizes that hate crimes are unique in how they impact the whole community.

**Transparency H.6
"Effects of Hate
Crimes"**

☛ Ask participants to identify the communities affected by a hate/bias crime and restate the effect of hate/bias crime on a community. Some examples of participant responses may be:

- Hate/Bias crime affects everybody.
- Victim feels fear, anger, intimidation, confusion, etc.
- Neighbors feel some of same.
- Community is embarrassed.
- Community may be polarized.

- Community spirit is diminished.
- Tensions overall are increased.
- Law enforcement attention is removed from other issues.
- Opportunities for social interaction are limited.
- Property values are reduced.
- Security needs at schools, homes, churches, etc., are increased.
- Community involvement is reduced.

Note to the Instructor: Review what the group has done up to this point. Tell participants that they have defined community leaders, communities, and the effects of hate/bias crimes.

Participants at this stage have:

- Agreed on a definition of community leader. Write the definition on the flip chart.
- Reached a consensus on the term community, as it applies to their jurisdictions. Examples provided by the participants should be posted on the wall.
- Described the effects of a hate/bias crime beyond just the victim. These responses should also be posted on the wall.

III. Presentation: Community Relations and Community Relations Skills (30 minutes)

NOTE! We have suggested that communities are impacted by hate crime. We have shown the value of involving community leaders proactively and in response to hate crime. The sections below deal with a brief review of specific skill areas that help in facilitating community involvement.

Note to the Instructor: Participants leaving the session should be able to identify successful techniques for entering/handling and responding to hate crimes, and recognize the benefits of good community relations and the disadvantages of bad relations.

☛ Ask participants to list and/or demonstrate techniques, approaches, and skills they would want demonstrated or utilized by the officers when responding to/handling hate crimes. Some examples of responses may be:

- Respect for diversity
- How to address cultural differences
- Immediate establishment of law enforcement presence
- Calming effect
- Conflict resolution skills
- Communication skills

**Transparency H.7
“Definition of
Community Relations
Skills”**

**Transparency H.8
“Community Relations
Skills”**

A. Community Relations

NOTE! We have discussed the advantages of community relations as they related to hate crime. We reviewed who community leaders are, and ways law enforcement can enlist their support to address hate crime.

📎 **Note to the Instructor:** This section is an overview of what community relations for law enforcement is, why they are advantageous, and how poor community relations can impede law enforcement.

Ask two participants to play the parts of a victim and a responding officer and have the officer demonstrate techniques, skills, and approaches. At the end of the demonstration, ask the large group what the officer did that they really liked. Note: Always accent the positive.

This discussion concerns community relations. The instructor should get a group consensus on just what community relations is. One definition might be:

**Transparency H.9
“Definition of
Community
Relations”**

Community relations are those policies, procedures, and practices in a law enforcement department or agency which demonstrate that the department or agency is a part of the community, not apart from the community.

B. Advantages of Good Community Relations/Disadvantages of Poor Community Relations

Ask participants to cite the advantages of good community relations. Some examples of responses may be:

- Increases safety of staff
- Increased community satisfaction with law enforcement
- Increases amount of information to law enforcement
- Increases amount of information to community
- Increase in officer level of job satisfaction
- Increases community involvement in criminal justice system
- Increase in community awareness of department or agency limits
- Increases positive law enforcement/community contact
- Decreases levels of fear in community

**Transparency H.10
"Advantages of
Good Community
Relations"**

Ask participants to cite the disadvantages of poor community relations. Some examples of participant responses may be:

- Compromise staff safety
- Compromise citizen safety
- Decreases amount of community involvement
- Decreases amount of information to law enforcement
- Limit law enforcement department or agency effectiveness
- Increase likelihood of lawsuits
- Create a we/they attitude toward the community
- Contribute to distrust of law enforcement determinations

**Transparency H.11
"Disadvantages of
Poor Community
Relations"**

Note to the Instructor: Review what the group has done so far: defined community relations, listed some community relations skills, cited advantages and disadvantages of good and poor community relations, and shared some ideas on how to enhance staff abilities.

Participants have now:

- Reached a group consensus on the concept of community relations. **This consensus should be tacked onto the wall.**
- Identified those qualities and skills desirable for officers to have in responding to various situations involving cultural and regional differences. **These skills should be posted.**
- Identified the advantages and disadvantages of good and poor community relations. **These should be posted.**

• Ask participants how their law enforcement department facilitates the continuous development of community relations skills. What does law enforcement do to increase, hone, or improve an officer's competence, professionalism, neutrality, and cultural awareness? (Some participants may have suggestions which have not been considered by others in the class.)

C. Community/Law Enforcement Relations Mechanisms

This section deals with programs that might facilitate law enforcement/community cooperation in addressing hate crimes. State and local law enforcement should be asked to participate in a statewide or local hate crimes working group which consists of Federal, State, and local prosecutors and law enforcement, as well as community and religious leaders to develop a comprehensive approach to hate crimes enforcement and prevention.

• Ask participants to reach a consensus on a definition of a community/law enforcement relations mechanism. These are programs or methods that law enforcement officials might employ to facilitate community cooperation in responding to hate crime. One definition might be:

**Transparency H.12
"Community/Law
Enforcement
Mechanism
Definition"**

A community/law enforcement relations mechanism is a cooperative endeavor undertaken by law enforcement and community members to address concerns affecting crime, disorder, or quality of life issues in a community.

☛ Ask participants to describe programs, efforts, or projects in their law enforcement departments which meet the definition agreed upon. Some examples of participant responses may be:

- Neighborhood Watch
- Drug Awareness Resource Education (D.A.R.E.®)
- Ride-Along
- Community assessments
- Cultural awareness/community involvement activities (city days, school celebrations, cleanup campaigns, cultural celebrations/events)
- Memorandums of Understanding

**Transparency H.13
“Examples of
Community/Law
Enforcement
Mechanisms”**

☛ **Note to the Instructor:** The concept of establishing MOUs between law enforcement and other groups may be new to some of the participants. Some discussion of the idea may be worthwhile here.

☛ Mention to participants that examples of possible organizations or groups to establish MOUs with would include:

- With other public agencies, as in social services, schools, offices of emergency, housing authority, sanitation, etc.
- With community groups, as in National Association for the Advancement of Colored People (NAACP), Latin United Latin American Council (LULAC), Knights of Columbus, Veterans of Foreign Wars (VFW), etc.
- With religious organizations
- With local citizen groups; i.e., tenant councils, Boy Scouts, Little League, etc.

NOTE! State and local law enforcement should be asked to participate in a statewide or local hate crimes working group which consists of Federal, State, and local prosecutors and law enforcement, as well as community and religious leaders to develop a comprehensive approach to hate crimes enforcement and prevention.

D. Using Department Resource Directories

Note to the Instructor: Participants should now have identified some mechanisms or means of law enforcement/community cooperation (community relations). This is an opportunity for participants to share ideas. Much learning is accomplished in these informal discussions. The answers should be posted on a flip chart.

☛ Ask participants to define what a law enforcement department or agency resource directory is. The answer should approximate the following:

A law enforcement department or agency resource directory is a listing of community based resources that might be called on to assist in a variety of events or crimes that require or can be positively addressed by law enforcement.

☛ Ask participants to describe what is contained in their resource directories. The answer may include the following:

- Community leaders
- Social service agencies
- Local churches, synagogues, temples, etc.
- Drug/alcohol treatment
- Federal agencies
- Interpreters/translators
- Medical assistance
- Self-help organizations
- Cultural organizations
- Civil rights organizations

☛ Ask participants to share their resource directory systems. Are the directories centralized? Do line officers have daily access to them? How are they updated? How are updates made known to the line officer? Do line officer have their own resource directories? How are entries to the directory made? Who makes entries?

☛ Ask for examples of how line officers can develop personal and departmental community resources. Ask participants to define the term “appropriate referral.” One definition may be:

An appropriate referral by a law enforcement officer is a referral which provides the public with an opportunity to resolve an issue or concern.

The discussion of referrals by law enforcement may also lead to discussions of the mission of the law enforcement department or agency, and the values of the law enforcement department or agency. The instructor can suggest that any mission statement of a department or agency should be based on the values of its members. This can be determined by use of a survey. (See *CRS Principles of Good Policing: Avoiding Violence Between Police and Citizens*).

☛ Ask participants why the law enforcement officer is responsible for making any referrals. The answers may include the following traditional roles of the law enforcement officer:

- Order maintenance
- Crime prevention
- Public education
- Delivery of service
- Enforcement of law

📎 **Note to the Instructor:** Participants should now have reached a consensus on what a resource directory is, what is included in such a directory, what an “appropriate referral” is, why an officer makes a referral based on the traditional roles of law enforcement, and have had a brief overview discussion on law enforcement department missions and values.

E. Cultural Awareness Principles and Methods

NOTE! The purpose of this section is to give a very brief overview of principles and methods for law enforcement to consider in dealing with diverse cultures. These methods and principles are common sense reminders to the audience on how to deal with diversity.

Law enforcement officers, by virtue of their constant requirement to interact with the population, need to be as culturally aware as possible.

☛ Ask participants why a law enforcement officer needs to be culturally aware; i.e., able to recognize and deal effectively with a culturally diverse population. Some of the reasons that law enforcement needs to be culturally aware might include:

- May enhance officer safety
- Could help officers' communicate more effectively
- Could make citizens feel more comfortable
- May assist an officer in explaining differences to citizens in conflict

Since it is not possible to know everything about every culture the law enforcement officer needs to have knowledge about how to find out information (methods) about diverse groups on an as needed basis.

☛ Ask the group if any person has ever been to a country other than the United States. Ask if they were aware of any differences between the people from these other countries and people in the United States, and to describe some of these differences. (This is a fun discussion and should only take a few minutes.)

☛ Now ask the participants how they discovered these differences. These are the methods of cultural awareness and include the following:

- By observing how people interact
- By interacting with other people
- By researching

Transparency H.14
"Methods of Cultural Awareness"

- By going to classes and orientations
- By asking questions

Note to the Instructor: It is important to stress that these are simple common sense practices that the law enforcement officer can hone on the job. These practices allow the officer to know the people he or she is dealing with at more useful levels.

The methods of cultural awareness are enhanced if the law enforcement officer is aware of the principles of cultural awareness. The principles of finding out information from other people are also common sense.

Transparency H.15 "Principles of Cultural Awareness"

☛ Ask participants if they can think of principles or attitudes they could demonstrate that might facilitate inter-cultural communication and learning.

☛ Ask the group to describe ways they might facilitate cultural learning or communication on the job. The answers might include the following:

- Being nonjudgmental
- Being respectful
- Being neutral
- Valuing diversity
- Recognizing differences

TRANSPARENCIES

- H.1 Session Objectives**
- H.2 Communities**
- H.3 Community Leaders**
- H.4 Typical Leaders**
- H.5 How Are Community Leaders Identified**
- H.6 Effects of Hate Crimes**
- H.7 Definition of Community Relations Skills**
- H.8 Community Relations Skills**
- H.9 Definition of Community Relations**
- H.10 Advantages of Good Community Relations**
- H.11 Disadvantages of Poor Community Relations**
- H.12 Community/Law Enforcement Mechanism Definition**
- H.13 Examples of Community/Law Enforcement Mechanisms**
- H.14 Methods of Cultural Awareness**
- H.15 Principles of Cultural Awareness**

SESSION OBJECTIVES

- **Describe the benefits of good community relations**
- **Articulate strategies for establishing such relationships between law enforcement and the community**
- **View the impact of hate crime from the community's perspective**
- **Describe principles and methods of cultural awareness**

COMMUNITIES

Communities are made up of people who are identified or identify themselves as part of a particular group. Examples of communities might include:

- **Religious groupings**
- **Economic groupings**
- **Vocational groupings**
- **Racial groupings**
- **Social groupings**
- **Political groupings**

COMMUNITY LEADERS

A community leader is defined as a person other people listen to, or seek advice from.

TYPICAL LEADERS

Typical leaders in a community might include:

- **Political leaders**
- **Ministers, rabbis, imams, etc.**
- **Teachers**
- **Social leaders**
- **Youth workers**
- **Chiefs of police**
- **Civil rights leaders**
- **Business leaders**

HOW ARE COMMUNITY LEADERS IDENTIFIED

- **By office/position**
- **By reputation**
- **By community consensus**
- **By parents**
- **By the media**
- **By their actions**
- **By other leaders**

EFFECTS OF HATE CRIMES

- **Hate crime affects everybody**
- **Victims and neighbors (negative emotions)**
- **Community is embarrassed**
- **Community can become polarized**
- **Community spirit is diminished**
- **Tensions are increased**
- **Law enforcement is more at risk**

DEFINITION OF COMMUNITY RELATIONS SKILLS

A community relations skill is a technique; body of knowledge; or practice that a law enforcement officer might employ to facilitate entering and handling community situations such as disputes involving racial, cultural, and other differences.

COMMUNITY RELATIONS SKILLS

- **Communication skills**
- **Conflict resolution skills**
- **Establishing a law enforcement presence**
- **Respect/understanding of cultural differences**
- **Creation and ongoing development of diverse community-based resource people and programs**

DEFINITION OF COMMUNITY RELATIONS

Those practices, policies, and procedures in a law enforcement department or agency which demonstrate that the law enforcement is a part of the community, not apart from the community.

ADVANTAGES OF GOOD COMMUNITY RELATIONS

- **Increased safety of staff**
- **Increased community satisfaction with law enforcement**
- **Increased information to law enforcement**
- **Increased officer satisfaction with the job**
- **Increased community involvement with the criminal justice system**
- **Increased awareness of law enforcement limits**
- **Increased positive law enforcement/community contact**
- **Decreased levels of fear in the community**
- **Trust of law enforcement investigative determinations**

DISADVANTAGES OF POOR COMMUNITY RELATIONS

- **Compromises safety of staff**
- **Compromises safety of citizens**
- **Decreases amount of community involvement**
- **Decreases amount of information to law enforcement**
- **Limits law enforcement effectiveness**
- **Increases likelihood of lawsuits**
- **Creates a we/they attitude toward the community**
- **Contributes to distrust of law enforcement determinations**

**COMMUNITY/LAW ENFORCEMENT
MECHANISM DEFINITION**

A cooperative endeavor undertaken by law enforcement and community members to address concerns affecting crime, disorder, or quality of life issues in a community.

EXAMPLES OF COMMUNITY/LAW ENFORCEMENT MECHANISMS

- **Neighborhood Watch**
- **Drug Awareness Resource Education (D.A.R.E.®)**
- **Ride-Along**
- **Community assessments**
- **Memorandums of Understanding**

METHODS OF CULTURAL AWARENESS

- **Observing**
- **Researching**
- **Attending classes**
- **Asking questions**

PRINCIPLES OF CULTURAL AWARENESS

- **Be nonjudgmental**
- **Be respectful**
- **Be neutral**
- **Value diversity**
- **Recognize differences**

Session I

Case Studies[‡]

Time: 1 hour, 15 minutes

Cases/videos: Eight cases provided

Objectives

By the end of this session, participants will be able to:

- Apply their State's bias crime laws to specific cases
- Understand the bias crime remedies that are available within their State
- Understand role of law enforcement officers, local prosecutors, Office of the Attorney General, U.S. Attorney's Office, advocacy groups, courts in relation to bias crimes
- Apply learning of prior sessions to specific cases (for example, bias indicators, victim typology, effective response and investigation, documentation and report writing, victim trauma issues, and community relations)

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Overview of Session: At a Glance

Overview	Time	Materials/Equipment
Case Studies Discussion	1 hour, 15 min.	Cases provided in text. (Expert Panel members should read them ahead of time.)
TOTAL TIME	1 hour, 15 min.	

[‡] This session is an adaptation of the EDC's *National Bias Crimes Training for Law Enforcement and Victim Assistance Professionals*, and the Massachusetts Office of the Attorney General's Law Enforcement Civil Rights Training Program, by Massachusetts Assistant Attorney General Richard W. Cole.

I. Case Studies Discussion (1 hour, 15 minutes)

Note to the Instructor: In this session, participants are provided with the opportunity to discuss the application of bias crime laws in their State and the roles and responsibilities of various law enforcement agencies and advocacy groups in bias crime prevention and enforcement. It should also serve to emphasize, review, and reenforce information from earlier sessions, including bias indicators, offender typology, documentation and report writing, victim issues, and community relations. This session may be presented in three different ways:

- Through facilitation by one or two trainers, who solicit participants' answers and dialogue;
- Through small group breakout discussions, where a leader from each small group reports their discussion and analysis to the large group;
- Through the use of an expert panel, where panel members discuss each case and interact and exchange ideas and comments with participants.

A. Planning for and Recruiting an Expert Panel

Note to the Instructor: This is a very efficient way to cover and review all the points made during the training sessions. Lead this panel and the participants through case studies (bias indicators, documenting evidence, responding to victims, community relations, legal issues) and as teaching points are made, make a special point of alluding to the lesson in which the point was covered.

For the expert panel, the ideal composition includes representatives from:

- The law enforcement agency being trained (who can speak to the policies, protocols and practices of the department regarding bias crime response and investigation)
- A law enforcement agency not participating in the training with significant bias crime investigative experience
- Local prosecutor's office
- The State Office of the Attorney General
- Victim assistance
- Community advocacy groups

Session I

Additional participants may include:

- A judge
- A victim

Note to the Instructor: The expert panel process is an opportunity to demonstrate community involvement in addressing questions related to hate crimes. The facilitator should explain to panel members before the training session begins the process in which the panel is going to review case studies, and their dialogue with training participants.

Expert panel members can be recruited using the same list used to recruit faculty. Panel members must be screened to ensure they are knowledgeable about hate crime prevention and enforcement and able to communicate effectively with an audience of law enforcement officials. Prior to the training session, the panel facilitator should review with expert panel members the cases, the questions each may be asked and the types of possible responses.

Note to the Instructor: After the expert panel has discussed a case, you should ask participants for questions and comments. After one case illustration, you should direct questions to the participants in addition to panel members.


Eight cases are provided in this session. **(In addition, you may select from either Criminal Case Illustration #1 or #2 from Session D.)** In the interest of time, you should choose to use only the cases that raise or illustrate issues of concern in your State or community and the cases which best suit the experience level of the audience. **Sample questions are provided to help engage participants.**

The expert panel is the best method of reviewing the teaching points of this training. If however this is not possible you can use participants as panel members, or split the participants into small groups and have them respond to case studies.

Potential issues that may arise when using an expert panel:

- A panel member may try to dominate the session. The facilitator should direct questions to others on the panel or to participants.
- A panel member inexperienced in working with law enforcement may alienate the participants. (Proper preparation of panel members should obviate this from occurring).

- A panel member may provide incorrect information, requiring correction by the facilitator.
- A participant may make comments which alienate a panel member who has been a victim or is from an advocacy group. The facilitator may need to respond to the comment.
- Panel members may be unresponsive to questions, and instead attempt to focus the discussion on their personal or political agenda. The facilitator must redirect the discussion when this occurs.

 **Note to the Instructor:** In order to focus the discussion and ask appropriate questions, the facilitator of the expert panel should be knowledgeable of:

- How to communicate effectively with law enforcement officials
- Laws relating to bias crimes
- Criminal justice system's response to bias crimes
- Resources available to effectively deal with bias crime cases and their victims

B. Case Studies

(The cases and questions used in this section are reprinted with permission of Assistant Attorney General Richard W. Cole, Massachusetts Attorney General's Office.)

CASE #1 reveals that there may be substantial ambiguity in whether or not a bias crime has been committed at the outset of the case. The importance of gathering more information and reviewing what bias indicators are present is the key to this case.

**Transparency I.1
"Case Illustration #1"**

A white youth drives his car across the front lawn of the home of an Asian-American couple who have just moved into the neighborhood. The youth says he simply lost control of the car. The Asian-American couple tell the law enforcement officer that they feel he deliberately did this because they were Asian-American.

- *Are there bias indicators present? (Yes) What are they? (Difference in races, recently moved into neighborhood, victim perception of bias)*
- *What is the role of the responding officer? (Identify witnesses, interview victim and witnesses, observe for tire tracks, identify exact location of car and path it was driven, photograph car location and property damage.)*
- *Are there any special issues the responding officer should be aware of? (Potential cultural and language barriers)*
- *Any special victim issues present? (Potential cultural or language barriers, reluctance to cooperate)*
- *Any barriers to victim cooperation possibly present? (language, culture, newly immigrated from a country where law enforcement officers are involved in wholesale abuses)*
- *If determined to be intentional, what is the likely offender typology? (reactive) Why?*
- *What steps would you take in terms of your investigation of this incident?*
 - *Would you attempt to determine whether or not other similar incidents have occurred in the neighborhood? (Yes)*
 - *Would you attempt to determine whether or not the youth had been engaged in other similar incidents (involving Asian-Americans or others)? (Yes) (Possible sources of information: criminal record, driving record, insurance records)*
 - *What if the Asian-American couple stated that they believed that they were victimized because they are Asian-American? Is that relevant? (Yes) In what way? (May be based on experience of other Asian-Americans residing in the neighborhood because they had been subject to other forms of harassment after they moved into neighborhood, or may be perception based on experiences unrelated to this incident or neighborhood.)*
 - *Would an analysis of the tire tracks and the angle or path the car was driven may be relevant to the judgment of whether the youth really lost control of his car? (Accident reconstruction may help determine if accidental or intentional.)*
- *Would it change your view of the case if this Asian-American couple was not the only Asian-American couple residing in the neighborhood or on that street? (Not necessarily, although information that other families have suffered through similar experiences may be relevant.)*

- *Assuming that you reached a conclusion that the Asian-American couple was targeted because of their racial status, what State (and Federal) criminal (civil rights) laws were violated? (Federal Statute—42 U.S.C. § 3631 (Fair Housing Act).)*
- *Assume that at the conclusion of the investigation you have insufficient evidence to prove it was anything but an accidental loss of control of the car. How would you go about communicating this information with the Asian-American couple in a way that they are most likely to be satisfied with your determination?*
 - *Should you ask them whether or not they have other information which might lead you to a different conclusion? (Yes)*
 - *Should you inform them of the nature of the investigation and information that you have obtained that led you to the conclusion? (Yes)*
 - *Should you communicate with any Asian-American advocacy group in your community to assist you in your relationship with the Asian-American couple? (Yes)*
 - *Is there a method in which the law enforcement officers can develop credibility within the Asian-American community prior to a bias incident occurring? (Yes, develop relationship prior to incident occurring.)*

CASE #2 illustrates that, merely because two different racial groups are involved and racial slurs are used, a bias crime hasn't necessarily occurred. One needs to investigate an incident carefully to make a reasonable determination of whether bias was a factor in the cause of or in the escalation of an incident. One way of asking the question is: Do you think these individuals would have behaved any differently if the victim and the perpetrators were from the same racial group? If the answer is yes, then you may have a significant bias indicator involved in the case.

At a high school football game, a group of black youths make sexual remarks to a Hispanic female youth, age 16. Several Hispanic male youths shout back at them, using racial slurs and threats. The two groups clash, and one Hispanic youth is stabbed.

Transparency I.2
"Case Illustration #2"

- *Are there bias indicators present? (Yes) What are they? (Difference in race, national origin, racial slurs.)*
- *Are there factors that indicate other motives were involved? (Yes)*
- *Do you believe an investigation would be able to determine that bias motivation was a factor in addition to the sexual remark made to the Hispanic female youth? (Possibly could learn about motive by looking at racial attitudes and history of conduct of individuals involved.)*
- *Is knowledge of the Hispanic youths' cultural background (as to their respect for Hispanic women) relevant in determining whether this was a bias crime? (Possibly)*
- *What State criminal and what State (and Federal) criminal civil rights charges would you make with regard to this incident? (Potential Federal Statute—18 U.S.C. § 245(b)(2)(A) (Public School).)*
- *What specific victim and broader school and community issues are involved in this case? (Racial tensions and misunderstandings.)*
- *How do you address them? (Law enforcement partnership with schools; law enforcement-youth meetings.)*

CASE #3 should address whether the criminal civil rights laws cover sexual orientation. It also requires analysis of whether any general criminal civil rights laws have been violated. It illustrates that investigators cannot automatically assume that bias is involved just because homosexuals or any other often-targeted group of individuals are the apparent victim of an incident. In this case, for instance, it may be that the individuals committed arson for insurance fraud purposes or other reasons.

William Reynolds and Jim Simond purchased and moved into a condominium. Reynolds and Simond are gay men. Some neighbors have called the law enforcement officers to complain about them showing affection towards each other in public.

One evening, approximately three weeks after the complaints by a neighbor, a fire occurred which caused an estimated \$10,000 to the Reynolds/Simond condo.

When the neighbors were questioned, they indicated that they were happy that this had happened and that Reynolds and Simond “had it coming.”

Transparency I.3
“Case Illustration #3”

- *Are bias indicators present? (Yes) What are they (sexual orientation, neighbors contacting law enforcement officers about display of affection and neighbor saying that owner "had it coming.")*
- *How might a responding officer question Reynolds and Simond to solicit all relevant information? (Open-ended questions, why believe anyone might set a fire.)*
- *What are the appropriate steps in this investigation?*
 - *Attempting to determine whether or not this constituted arson? (Yes) Why? (If accidental, not a crime.)*
 - *Seeking the assistance of an arson investigator? (Yes)*
 - *Neighbor interviews (Yes)*
- *What steps would you take to try to identify who the perpetrators were if you concluded that it did not constitute arson by the owners of the condominium? (Canvas neighborhood, look for individuals who had expressed hostility to men.)*
 - *Is there any indication of possible suspects? (Yes, neighbors who had called the law enforcement officers, or their children and the neighbor who said they "had it coming.")*
- *What facts or evidence would you need to determine whether or not it did constitute a criminal (civil rights) violation under State law?*
- *If your State does not include sexual orientation as a protected category under the law, should this be responded to and investigated as a bias crime? (Yes) Why? (If it was motivated by hate or bias, it is a bias crime even if conduct can't be prosecuted as a hate crime.)*
- *If determined that arson was the cause of the fire, what special victim issues are involved which could affect whether the law enforcement officers gain the cooperation of the victims for prosecution? (Concern that law enforcement officers maintain negative attitudes about homosexuals, possible fear of being identified as gay to employers, family, friends.)*

CASE #4 raises the need to address broader community relations issues as well as the specific victimization presented in this particular case.

Transparency I.4
“Case Illustration #4”

An African-American couple stopped at a traffic light at an intersection in the predominantly white area of town. A car driven by a white male, with a female passenger, stopped in the lane to the left of the African-American couple’s car.

The white female threw a rumpled tee shirt at the African-American male, whose window was open, which struck him in the face. The white female then got out and approached the African-American woman in the car, yelling, “Get your black ass out of the car, you black bitch.” The white female then punched the African-American woman several times through the open window and stated, “Get out and fight me. This is my neighborhood; this isn’t the black section of town.” The African-American woman got out of the car and stood in the street while the white female continued to make racial remarks. As the African-American male tried to open his door to assist his companion, the white male then got out of his car and kicked the passenger door of the African-American couple’s car. He then retrieved a car jack from his car and struck the rear of the African-American couple’s car, causing several dents. As the African-American man tried to get his companion back into the car, the white male then swung the jack at him and the African-American woman twice, narrowly missing them. The African-American couple got into their car and fled.

- *What bias indicators are present? (Differences in race, epithets and racial remarks, occurred in white area of town, highly violent type conduct.)*
- *Does this constitute a State (and Federal) criminal (civil rights) violation? Of what statute? (Possible Federal Statute—18 U.S.C. § 245(b)(2)(B) (Using Street-State Facility.)*
 - *Would it make a difference if the victims were white and the perpetrators were black, in terms of the application of your criminal civil rights statute? (No)*
- *What general criminal statutes may also be violated?*
- *Would you attempt to determine whether or not the white couple has been engaged in any other bias-motivated incident or crime? (Yes) Would that make a difference in terms of the charges brought? (Yes)*
- *What is the likely offender typology? (Reactive offender)*
- *If possible, would you obtain a civil injunctive order to prohibit them from engaging in similar conduct against whites in the future? (Yes, the egregiousness of the conduct and the lack of provocation reflect likelihood of repetition against other African-Americans.)*

- *What is likely to be the reaction of the victims/the African-American community to this incident? (Community-wide racial tensions may occur or be exacerbated.)*
- *What proactive steps could be taken in order to try to avoid this incident's escalation into a broader racial conflict between whites and blacks in your community?*
- *Is there a role for law enforcement officers, advocacy groups, and victim assistance professionals to work with the community to try to:*
 - *Ensure against the repetition of similar incidents? (Yes)*
 - *Help the white and black communities avoid a violent reaction to the incident? (Yes)*
- *What message would you want law enforcement officers to send to the white and black communities about the treatment of such civil rights violations? (This behavior will not be tolerated and the full force of the law will be applied to punish this behavior.)*

CASE #5 should elicit discussion as to the applicable criminal civil rights statutes when buildings used for religious purposes are defaced. It also raises the problem regarding the occasional tension between victims' desire to remove hate symbols and hate graffiti as soon as possible versus the investigative need of law enforcement to preserve the evidence.

Transparency I.5
"Case Illustration #5"

On a weekday evening, two youths write anti-Jewish graffiti on a synagogue, which includes a statement, "You will all die."

- *What criminal (civil rights) statutes may be applicable in this situation?*
- *In reviewing the elements of those criminal statutes, do you have enough information at this point to charge them (assuming you identify the perpetrators)?*
- *What other facts may you need to learn in order to be able to charge under those statutes?*
- *What steps would you take in terms of the preservation of evidence in this case? (Photographing of graffiti and analysis of type of paint or marker, etc., used by perpetrators.)*

- *How would you respond to the rabbi's request that the graffiti be painted over or removed immediately before you are able to have the graffiti analyzed or photographed? (Recognize the desire to eliminate these visible expressions of hate on a house of worship, but indicate that if the graffiti is removed prematurely, law enforcement may never be able to identify or prosecute perpetrators. State that law enforcement will make every effort to complete this portion of the investigation immediately.)*

Assume that the reporter from the local newspaper sees you on the scene seconds after you arrive and asks you whether or not this constitutes a hate crime. *How do you respond?*

At times, criminal justice professionals are placed in the very difficult position of being asked to comment on a situation in which the wrong response may polarize a community or escalate a situation. If a comment must be made, it is best to simply state that the incident is viewed very seriously, but that any statement about motive would be premature until a thorough investigation is completed.

In CASE #6, although the individuals involved are from different racial groups and derogatory racial remarks were used, it does not necessarily result in the conclusion that the incident involved a bias crime or was motivated by prejudice.

A white male and an Hispanic male were both driving in a crowded supermarket parking lot. They both attempted to park in an open space near the front door and became situated in such a way that neither was able to occupy the space.

Neither would yield to the other and an argument ensued. Both subjects left their respective vehicles and a confrontation developed into a fistfight in which the white male threw the first punch. During the fight, the white male made several racially derogatory remarks.

Transparency I.6
"Case Illustration #6"

- *Are there bias indicators present? (Yes) What are they? (Race, national origin difference, racial remarks.)*
 - *Are the racial remarks central or incidental to the dispute? (Appear to be incidental)*

- *Is there evidence to indicate this incident was motivated by prejudice? (Possibly, in part)*
- *Would this incident have occurred if the two individuals were from the same racial group? (Probably, though an investigation of the criminal history and racial attitudes of the white driver may help determine if national origin bias played a role in the incident.)*
- *Does this conduct constitute a criminal (civil rights) violation? (Possibly, depending on facts developed in investigation and whether bias motivation is required to be sole motive to violate criminal civil rights laws.)*
- *Does it make a difference in the application of your State hate crimes statute if the victim was a white male and the offender Hispanic? (No)*
- *Should this be reported as a bias crime? (Depends if bias determined to be a motivating factor.)*

CASE #7 illustrates that recent news events may have an impact on motivating an individual to engage in bias-motivated crimes. Targeting a person because of their ethnic background or national origin is also a basis for a bias crime violation.

The complainant, a middle-aged, Arab taxi driver, picked up a young, white couple and drove them to a local hotel. The couple were both intoxicated and soon after entering the taxi began to make offensive remarks regarding the Middle East. The couple

Transparency I.7
“Case Illustration #7”

became louder and more verbally offensive and made several ethnically abusive remarks. Upon exiting the taxi, the white male threw the money for the fare at the driver; as the car pulled away, the male suspect kicked the rear fender, causing a large dent. As he was kicking the taxi, he yelled, “Give *that* to Saddam Hussein.”

- *Does targeting a person because of ethnic background constitute a violation of any criminal (civil rights) statute? (Yes)*
- *What State (and Federal) criminal (civil rights) statutes would be potentially violated, and why? (Possible Federal Statute—18 U.S.C. § 245(b)(2)(C) (Employment).)*
- *Could one conclude that this incident was also motivated by differences in religion, not just ethnic background? (No direct indication in the facts presented, be it may have been a factor.)*

CASE #8 illustrates that civil rights violations may be committed based on motivation against a specific target group, whether or not a victim actually is a member of the targeted group.

At approximately 10:30 p.m. an 18-year-old male was walking alone a couple of blocks from his street. The complainant stated that as he walked he noticed two males following him. The two males began to make sexually oriented, anti-gay remarks. The complainant turned and responded that he was not gay and continued walking to avoid a confrontation. The two males continued following the complainant and whistling. At one point, one of the suspects grabbed the complainant and a scuffle ensued. One of the suspects struck the complainant in the face with a skateboard and knocked out several teeth.

**Transparency I.8
"Case Illustration #8"**

- *In terms of the application of your State's criminal civil rights statute(s), does it make a difference whether or not the victim was gay versus perceived to be gay by the perpetrators?*
- *In analyzing this case, does the fact that the victim told the individuals he was not gay make a difference in analyzing the facts to determine the motivation for the attack?*
 - *Would it make a difference if the victim was walking in an area where it's known that gay men and lesbians either congregate or reside? (Yes) Would this change or support the conclusions you reach regarding whether or not this constituted a bias crime? (Support)*
- *What information would you try to derive from your investigation? (Similar incidents at or near this location, criminal record of perpetrators, bodily injuries suffered by the victim.)*
 - *Would you attempt to determine whether or not these two offenders had been previously involved in any incident involving gay persons? (Yes)*
- *Even if the complainant was not gay, for purposes of the Hate Crime Reporting Act, would you classify this incident as a bias crime? (Yes)*

TRANSPARENCIES

I.1 Case Illustration #1

I.2 Case Illustration #2

I.3 Case Illustration #3

I.4 Case Illustration #4

I.5 Case Illustration #5

I.6 Case Illustration #6

I.7 Case Illustration #7

I.8 Case Illustration #8

CASE ILLUSTRATION #1

Case #1

- **A white youth drives his car across the front lawn of the home of an Asian-American couple who have just moved into the neighborhood. The youth says he simply lost control of the car. The Asian-American couple tell the law enforcement officer that they feel he deliberately did this because they were Asian-American.**

CASE ILLUSTRATION #2

Case #2

- **At a high school football game, a group of black youths make sexual remarks to a Hispanic female youth, age 16. Several Hispanic male youths shout back at them, using racial slurs and threats. The two groups clash, and one Hispanic youth is stabbed.**

CASE ILLUSTRATION #3

Case #3

- **William Reynolds and Jim Simond purchased and moved into a condominium. Reynolds and Simond are gay men. Some neighbors have called the law enforcement officers to complain about them showing affection towards each other in public. One evening, approximately three weeks after the complaints by a neighbor, a fire occurred which caused an estimated \$10,000 to the Reynolds/Simond condo. When the neighbors were questioned, they indicated that they were happy that this had happened and that Reynolds and Simond “had it coming.”**

CASE ILLUSTRATION #4

Case #4

- **An African-American couple stopped at a traffic light at an intersection in the predominantly white area of town. A car driven by a white male, with a female passenger, stopped in the lane to the left of the African-American couple's car. The white female threw a rumped tee shirt at the African-American male, whose window was open, which struck him in the face. The white female then got out and approached the African-American woman in the car, yelling, "Get your black ass out of the car, you black bitch." The white female then punched the African-American woman several times through the open window and stated, "Get out and fight me. This is my neighborhood; this isn't the black section of town."**

(Continued)

CASE ILLUSTRATION #4

(continued)

The African-American woman got out of the car and stood in the street while the white female continued to make racial remarks. As the African-American male tried to open his door to assist his companion, the white male then got out of his car and kicked the passenger door of the African-American couple's car. He then retrieved a car jack from his car and struck the rear of the African-American couple's car, causing several dents. As the African-American man tried to get his companion back into the car, the white male then swung the jack at him and the African-American woman twice, narrowly missing them. The African-American couple got into their car and fled.

CASE ILLUSTRATION #5

Case #5

- **On a weekday evening, two youths write anti-Jewish graffiti on a synagogue, which includes a statement, “You will all die.”**
- **Assume that the reporter from the local newspaper sees you on the scene seconds after you arrive and asks you whether or not this constitutes a hate crime. How do you respond?**

CASE ILLUSTRATION #6

Case #6

- **A white male and an Hispanic male were both driving in a crowded supermarket parking lot. They both attempted to park in an open space near the front door and became situated in such a way that neither was able to occupy the space. Neither would yield to the other and an argument ensued. Both subjects left their respective vehicles and a confrontation developed into a fistfight in which the white male threw the first punch. During the fight, the white male made several racially derogatory remarks.**

CASE ILLUSTRATION #7

Case #7

- **The complainant, a middle-aged, Arab taxi driver, picked up a young, white couple and drove them to a local hotel. The couple were both intoxicated and soon after entering the taxi began to make offensive remarks regarding the Middle East. The couple became louder and more verbally offensive and made several ethnically abusive remarks. Upon exiting the taxi, the white male threw the money for the fare at the driver; as the car pulled away, the male suspect kicked the rear fender, causing a large dent. As he was kicking the taxi, he yelled, "Give *that* to Saddam Hussein."**

CASE ILLUSTRATION #8

Case #8

- **At approximately 10:30 p.m. an 18-year-old male was walking alone a couple of blocks from his street. The complainant stated that as he walked he noticed two males following him. The two males began to make sexually oriented, anti-gay remarks. The complainant turned and responded that he was not gay and continued walking to avoid a confrontation. The two males continued following the complainant and whistling. At one point, one of the suspects grabbed the complainant and a scuffle ensued. One of the suspects struck the complainant in the face with a skateboard and knocked out several teeth.**

Resource Appendix

Hate Crime Training Programs

Hate/Bias Crime Training Program: Small Town and Rural Training Services, National Center for State, Local, and International Training (FLETC), the Federal Law Enforcement Training Center, U.S. Department of Treasury

Program Description: The HBCTP is a train-the-trainer program. Experienced law enforcement trainers are instructed how to improve the effectiveness of their agencies in reporting, investigating, and prosecuting hate/bias crimes. Participants return to their respective jurisdictions with all the necessary training aids to set up in-service training on hate/bias crimes. The student trainer is provided with a program guide, student handouts, lesson plans, instructional aids, suggested practical exercises, and a list of available resources. The ultimate goal is to educate law enforcement to be more aware of hate/bias-motivated crimes. Increased awareness will result in more effective service to the community. Graduates of this program are eligible to become Small Town and Rural (STAR) Training Services instructors. For information contact FLETC, Glynco, GA 31524, telephone number (912) 267-2100 or toll free (800) 743-5382 or FAX (912) 267-2894.

Educational Development Center, Inc., National Bias Crimes Training for Law Enforcement and Victim Assistance Professionals

This curriculum was developed to train instructors to train about bias crimes for a combined audience of law enforcement and victim assistance professionals. It was developed under a federally funded project through the U.S. Department of Justice, Office for Victims of Crime (OVC). The Training curriculum, a two-and-a-half day program, was developed to strengthen the knowledge and skills of an integrated audience of law enforcement and victim assistance professionals. The training provides a forum where professionals from these two fields can learn from one another. The student trainers are provided both an instructors' and a participants' manual, which includes lesson plans, instructional aids, suggested practical exercises and case studies. For information contact Bias Crime Project, Educational Development Center, Inc., 55 Chapel Street, Newton, MA 02458, telephone number (800) 225-4276 or (617) 969-7100, Ext. 2421.

Federal and State Enforcement Agencies

Federal Legal Resources

Civil Rights Division
U.S. Department of Justice
Office of the Assistant Attorney General
Room 5643
P.O. Box 65808
Washington, DC 20035-5808
(202) 514-2151

This division is responsible for enforcing Federal civil rights laws which prohibit discrimination on the basis of race, color, religion, or national origin in the areas of voting, education employment and housing, in the use of public facilities and public accommodations, and in the administration of federally assisted programs. The Civil Rights Division also has the obligation to enforce specific Federal criminal statutes including those concerning willful deprivation of constitutional rights while acting under color of law through conspiracy and violent interference with federally protected activities.

Criminal Section
Civil Rights Division
U.S. Department of Justice
P.O. Box 66018
Washington, DC 20035-6018
(202) 514-3204

The Criminal Section of the Civil Rights Division has the obligation to enforce Federal criminal civil rights (hate crime) statutes, among other prosecutorial responsibilities.

Hate Crime Monitoring: Federal Agencies

Criminal Justice Information Services Division
Federal Bureau of Investigation
U.S. Department of Justice
Clarksburg, WV 26306
(304) 625-2700

State Legal Resources

National Association of Attorneys General

750 First Street NE., Suite 1100

Washington, DC 20002

(202) 326-6000

National District Attorneys Association

99 Canal Center Plaza, Suite 510

Alexandria, VA 22314

(703) 549-9222

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James T. Foley Courthouse
445 Broadway
Albany, NY 12207
(518) 465-7551

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415 Silver Avenue SW.
Albuquerque, NM 87102
(505) 224-2000

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101 East Sixth Avenue
Anchorage, AK 99501
(907) 258-5322

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2635 Century Parkway NE.
Atlanta, GA 30345
(404) 679-9000

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7142 Ambassador Road
Baltimore, MD 21244-2754
(410) 265-8080

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Room 1400
2121 Eighth Avenue North
Birmingham, AL 35203
(205) 326-6166

Boston

Suite 600
One Center Plaza
Boston, MA 02108
(617) 742-5533

Buffalo

One FBI Plaza
Buffalo, NY 14202-2698
(716) 856-7800

Charlotte

Suite 900, Wachovia Building
400 South Tryon Street
Charlotte, NC 28285
(704) 377-9200

Chicago

Room 905
Everett McKinley Dirksen, FOB
219 South Dearborn Street
Chicago, IL 60604
(312) 431-1333

Cincinnati

Room 9000
550 Main Street
Cincinnati, OH 45273-8501
(513) 522-4310

Cleveland

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1240 East Ninth Street
Cleveland, OH 44199-9912
(216) 522-1400

Resource Appendix

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1835 Assembly Street
Columbia, SC 29201
(803) 254-3011

Dallas

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1801 North Lamar
Dallas, TX 75202
(214) 720-2200

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Denver, CO 80294
(303) 629-7171

Detroit

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477 Michigan Avenue
Detroit, MI 48226
(313) 965-2323

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El Paso, TX 79901-7020
(915) 533-7451

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Indianapolis, IN 46204
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100 West Capitol Street
Jackson, MS 39269
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7820 Arlington Expressway
Jacksonville, FL 32211
(904) 721-1211

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811 Grand Avenue
Kansas City, MO 64106
(816) 221-6100

Knoxville

Suite 600, John J. Duncan FOB
710 Locust Street
Knoxville, TN 37902
(423) 544-0751

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John Lawrence Bailey Building
700 East Charleston Boulevard
Las Vegas, NV 89104
(702) 385-1281

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10825 Financial Centre Parkway
Little Rock, AR 72211-3552
(501) 221-9100

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11000 Wilshire Boulevard
Los Angeles, CA 90024
(310) 477-6565

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600 Martin Luther King Jr. Place
Louisville, KY 40202
(502) 583-3941

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225 North Humphreys Boulevard
Memphis, TN 38120-2107
(901) 747-4300

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North Miami Beach, FL 33169
(305) 944-9101

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Milwaukee, WI 53202-6627
(414) 276-4684

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111 Washington Avenue South
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One Gateway Center, 22nd Floor
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(973) 622-5613

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150 Court Street
New Haven, CT 06510
(203) 777-6311

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1250 Poydras Street
New Orleans, LA 70113-1829
(504) 522-4671

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150 Corporate Boulevard
Norfolk, VA 23502
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(412) 471-2000

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(503) 224-4181

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Richmond, VA 23228
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Sacramento, CA 95841-4205
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L. Douglas Abram Federal Building
1520 Market Street
St. Louis, MO 63103
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257 East, 200 South
Salt Lake City, UT 84111
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U.S. Post Office and
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615 East Houston Street
San Antonio, TX 78205
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9797 Aero Drive
San Diego, CA 92123-1800
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Madison, WI 53707-7857
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State Capitol Building
Cheyenne, WY 82002
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Victim Assistance

(Federal)

United States Department of Justice
Office for Victims of Crime (OVC)
810 Seventh Street NW.
Washington, DC 20531
(202) 307-5947

Community Assistance Organizations

Community Relations Service (CRS)
U. S. Department of Justice
Headquarters, Bicentennial Building
600 E Street NW., Suite 2000
Washington, DC 20530
Tel: (202) 305-2935
Fax: (202) 305-3009

The Community Relations Service (CRS), an arm of the U.S. Department of Justice, is a specialized Federal conciliation service available to State and local officials to help resolve and prevent racial and ethnic conflict, violence, and civil disorders. When governors, mayors, police chiefs, and school superintendents need help to defuse racial crises, they turn to CRS. CRS helps local officials and residents tailor locally defined resolutions when conflict and violence threaten community stability and well-being. CRS conciliators assist in identifying the sources of violence and conflict and utilizing specialized crisis management and violence reduction techniques which work best for each community. CRS has no law enforcement authority and does not impose solutions, investigate or prosecute cases, or assign blame or fault. CRS conciliators are required by law to conduct their activities in confidence, without publicity, and are prohibited from disclosing confidential information.

In 1997, CRS was involved in 135 hate crime cases that caused or intensified community racial and ethnic tensions. As authorized by the Civil Rights Act of 1964, CRS became involved only in those cases in which the criminal offender was motivated by the victim's race, color, or national origin. Of all hate crime incidents reported to the U.S. Department of Justice's FBI in 1996, 72 percent were motivated by the victim's race, color, or national origin.