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Race-Hate Crimes [3]



U. S. Department of Justice

Office of the Deputy Attorney General

DRAFT

Washington, D.C. 20530

September 1997

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9/12/97 (4:15 pm)

MEMORANDUM FOR THE ATTORNEY GENERAL

THROUGH:

FROM:

SUBJECT: Hate Crime Initiative

I. INTRODUCTION

Earlier this year, you directed me to develop a Department initiative to address the problem of hate crime. In order to address this issue in a comprehensive manner, I have chaired a Working Group drawn from interested components across the Department, including the Office of the Deputy Attorney General, the Office of the Associate Attorney General, the Criminal Division, the Civil Rights Division, the Community Relations Service, the Office of Victims of Crime, the Violence Against Women Office, the Office of Public Affairs, the Justice Management Division, the Office of Policy Development, the Executive Office for United States Attorneys, the United States Attorneys Offices, the Office of Inter-governmental Affairs, the Office of Community Oriented Policing Services, the Office of Legislative Affairs, the Office of Justice Programs, and the Federal Bureau of Investigation. Attached is a list of participants from each of these various components (Tab XX).

This memo sets forth for your consideration and approval a number of specific recommendations that together will constitute the Department's Hate Crime Initiative. After briefly providing an overview of the problem and Working Group's approach to addressing it, the memo sets forth specific recommendations in four of the five areas considered. The memo also proposes a draft implementation plan and internal structure for carrying out the initiative. The memo does not address, however, legislative proposals considered by the Working Group. These proposals, including primarily consideration of amendments to 18 U.S.C. §245, will be addressed in a separate memo under a separate cover.

The White House has expressed strong interest in the progress of the Working Group, particularly because of the upcoming White House Hate Crime Conference, scheduled for November 10, 1997. The White House is planning to make the Department's Hate Crime Initiative a centerpiece of the Conference, and the President may wish to announce portions of the Department's final initiative in his remarks at the Conference.

As discussed in more detail below, the centerpiece of the Department's proposed initiative is the formation of a local hate crime working group in each federal judicial district under the leadership of or with the participation of each U.S. Attorney's Office. As envisioned, the working group would consist of federal, state, and local law enforcement, as well as local community leaders and educators. Generally modelled on the working groups organized under the auspices of the AVCI, these local groups would be the primary mechanism for evaluating and addressing the hate crime problem of the local community.

The problems posed by hate crime are difficult, but we believe that an initiative along the lines described below -- an initiative that creates a true partnership among law enforcement and community leaders -- can make a substantial contribution.

II. OVERVIEW

A. The problem of hate crime

Hate crimes are acts of violence or threats of violence against persons, as well as damage to property, that are motivated by bias against the victim's group status.¹ Such

¹There is no consensus as to what groups are properly the subject of hate crime legislation. The federal statutes addressing hate crimes reflect this lack of consensus. For example, the Hate Crimes Statistics Act, 28 U.S.C. 534, defines hate crimes to include crimes that manifest evidence of prejudice based on "race, religion, sexual orientation, or ethnicity." Section 245, the primary criminal civil rights statute, applies only when the interference with federally protected activities is motivated by discrimination on the basis of race, color, religion, or national origin. In contrast, the Fair Housing Act, which prohibits housing related violence motivated by bias, has a much broader coverage, as it includes race, color, religion, sex, handicap, familial status, and national origin. And the sentencing enhancement provision, §3A1.1, defines hate crimes to include race, color, religion, national origin, ethnicity, gender, disability or sexual orientation. State laws vary as well.

crime can be particularly devastating not only because of the significant cost to the victims of the crime, but also because of the polarizing effect that such crime often has on a community.

Evidence -- both anecdotal and statistical -- suggests that hate crime is a serious problem in our country. Moreover, there is reason to believe that the available evidence understates the problem. At the federal level, hate crime statistics are compiled by the FBI under the Uniform Crime Report (UCR) Program. Reporting is voluntary, with only 60% of the 16,000 law enforcement agencies participating in the UCR Program submitting hate crime data. Of that 60%, only XXXX% report any hate crime within their jurisdiction, while others report only a handful of crimes. Experts in the field agree that many hate crimes are not captured through this system.

The problem of underreporting is not just limited to law enforcement agencies. Victims of bias-motivated attacks often fail to report such crimes. There are a number of reasons why victims of hate crime may fail to report, including lack of confidence in local authorities, fear of reprisal (such as deportation or being "outed" by other individuals), or simply wanting to avoid the humiliation of recounting the event.

This combination of victim and law enforcement underreporting severely hampers our ability to estimate the overall level of hate crime and any trends related to it. Obtaining accurate information on the incidence of hate crime is a step necessary to understanding the full scope of the problem and effectively deploying resources to combat it.

Of course, the primary responsibility for addressing hate crime is currently -- and will certainly remain -- at the state level. Nonetheless, because of the federal government's resources, its experience in handling complex civil rights investigations and prosecutions, and the need to have investigators and prosecutors available when a state is unable or unwilling to move aggressively against hate crime, the federal government will continue to have an important role.

The primary mechanism for federal involvement is through the

The Working Group has wrestled with some of the definitional issues in the context of proposals to amend 18 U.S.C. §245; particularly in light of the variation among state laws and the intergovernmental approach we propose, however, the Working Group did not feel it would be productive to develop a single definition of hate crimes for all purposes.

four principal federal criminal civil rights statutes.² None of these statutes outlaws violence simply because that violence is motivated by racial or other group animus. Instead, each statute requires that such violence accompany interference with specified federal rights or federally protected activities. This statutory framework is not entirely satisfactory, and, indeed, significant gaps in coverage remain.

B. The Working Group's approach to addressing hate crime

The Working Group determined that the organizing principles of the Department's Hate Crime Initiative should

²Section 3631 of Title 42, U.S.C., the criminal portion of the Fair Housing Act of 1968, prohibits housing-related violence on the basis of race, color, religion, sex, handicap, familial status, or national origin. The violence usually prosecuted under this section includes cross-burnings, firebombings, arsons, gunshots, rock-throwing, and vandalism.

For racial violence cases that do not involve housing, 18 U.S.C. §245 is the primary criminal civil rights statute. Section 245 prohibits the use of force or threats of force against individuals because of their race, color, religion or national origin, and because those individuals are engaged in certain specified activities. Thus, for example, section 245 protects from interference based on racial or other prohibited animus the right to enroll in public school or college; the right to participate in and enjoy any benefit, service, program, facility or activity provided or administered by the state or any subdivision of the state; the right to apply for or enjoy employment by any private employer or state or local agency; the right to serve as a juror in state court; the right to travel in or use a facility of interstate commerce; and the right to enjoy the goods or services of any place of public accommodation.

Attacks on religious property and obstructions of persons who are enjoying the free exercise of their religious beliefs are covered by 18 U.S.C. §247. For example, the statute covers racially motivated church burnings and bombings, as well as acts of desecration motivated by religious animus when the defendant has travelled in interstate commerce or has used a facility or instrumentality of interstate commerce.

Finally, when there is evidence of a conspiracy to deprive a victim of federal rights, 18 U.S.C. §241 may apply. The language of §241 is broad, prohibiting a conspiracy to injure or threaten "any person . . . in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States."

involve a coordinated effort, with cooperation among federal, state and local law enforcement, as well as community leaders, and should draw on local people to craft solutions that are tailored to the particular problems of the local community.

With these principles in mind, the Working Group identified five principal areas of focus, each of which was the responsibility of a separate sub-group: Legislative Initiatives (chaired by Bill Yeomans of CRT); Data Collection and Analysis (chaired by Stuart Ishimaru of CRT); Community Outreach (chaired by Byron Wong of CRS); Prosecution and Enforcement (chaired by Ricky Roberts of CRT); and Coordination (chaired by Dana Hyde of ODAG). Each sub-group considered a range of options designed to address a particular aspect of the hate crime problem, and then developed a set of options and recommendations to bring to the full Working Group. The Working Group then considered the recommendations of the sub-groups and worked to ensure that the recommendations were properly coordinated.

The efforts of the Working Group were also coordinated with groups outside the Department. Several of the sub-groups, for example, met with representatives from the Anti-Defamation League (ADL) and other representatives from community groups with an interest in hate crime. In addition, under the leadership of OPD, the Department has worked closely with the Department of Education (DOEd) to develop an effective hate crime program.

The Working Group has also taken care to coordinate its efforts with those who are planning the White House's Conference on Hate Crimes.

C. The FBI Civil Rights Plan

Late last year, the FBI proposed a three-year plan to enhance enforcement of federal civil rights statutes. The plan called for, among other things, an increase in field agents devoted to civil rights investigations, the reorganization of the FBI Civil Rights Unit into a Color of Law Unit and a separate Hate Crimes Unit, and the creation of a Civil Rights Analytical Center to collect data and analyze trends in hate violence. The plan was approved by the Director and presented to you in a meeting with the Director on November 1, 1996.

As part of its plan, the FBI worked with the Civil Rights Division and Executive Office of U.S. Attorneys to develop ideas for improving enforcement and coordination. These discussions were ongoing when the Hate Crimes Working Group formed in May of this year. The FBI, Civil Rights Division, and Executive Office for U.S. Attorneys have all been integrally involved with the Working Group since its inception. Our proposal to you builds on the efforts of these components in developing a coordinated approach to the problem of hate crime.

III. Prosecution and Enforcement

A. Objective

At the outset, the Working Group recognized the limited nature of federal jurisdiction in this area and the need for a localized response. Our goals were (1) to develop models for a community-based hate crime working group, and (2) to identify ways to improve federal enforcement of hate crime.

B. Discussion

In determining how best to structure these local groups, the Working Group considered several general approaches. Some in the group thought it important to define carefully who should participate in the local groups, how the groups should function, and what the groups should try to accomplish. Others felt that, although the Department should be available to provide support and guidance, the initiative needed to remain sufficiently flexible to allow individual USAs to tailor their local groups to the needs, resources, and personalities of the District. The final Working Group proposal attempts to establish a sufficiently definite structure to ensure that the Hate Crime Initiative has an impact while leaving sufficient flexibility to allow local tailoring to local problems.

The Working Group thought it important to make clear from the outset the four principal goals of the local groups: First, and most important, to ensure effective law enforcement by drawing on the resources of federal, state, and local law enforcement, as well as community leaders, in a coordinated fashion. Second, to use community outreach to help ensure effective reporting, investigation, prosecution, and, ultimately, prevention of hate crime. Effective community outreach is also an integral part of ensuring a coordinated response to a particular hate crime incident. Third, to expand hate crime education and training. And finally, to improve data collection.

The Working Group also recognized that law enforcement training and education is a critical part of hate crime enforcement. Because the overwhelming majority of law enforcement officers responding to hate crime violence are state and local police officers, the Working Group carefully considered how to coordinate and expand hate crime law enforcement training and education not only at the federal level, but at the state and local level as well.

A number of different agencies and components within the Department conduct hate crime training programs. For example, the FBI, in addition to incorporating training on the investigation of hate crime into its basic training of new agents, has added a specialized hate crime course for state and

local law enforcement officers at the National Academy for State, Local and International Law Enforcement Officers. The OVC conducts bias crimes training for law enforcement and victim assistance professionals. And the U.S. Department of Treasury, Federal Law Enforcement Training Center (FLETC), in conjunction with CRS, has developed a "train-the-trainer" program designed to help law enforcement agencies in reporting, investigating, and prosecuting bias crimes. The reach of these programs, however, is limited by both resources and the extent of federal jurisdiction.

As part of its survey of law enforcement training efforts, the Working Group spoke to representatives of the National Association of Attorneys General's (NAAG) Civil Rights Committee and state and local law enforcement agencies. Based on these discussions, the Working Group concluded that (1) there is a serious lack of training at the state and local level, and (2) there is a need for model curricula that can be tailored to meet the needs of individual communities across the country. Recommendations along these lines are discussed below.

C. Recommendations

(1) Create Local Working Groups

As noted above, the centerpiece of the Department's initiative is the formation in each district of a working group consisting of federal, state, and local law enforcement, as well as local community leaders, to develop a comprehensive approach to hate crimes.

Under the Working Group's proposal, each U.S. Attorney's Office will designate a senior AUSA to be the hate crime coordinator. That hate crime coordinator, in conjunction with the United States Attorney, will ensure that there is a local hate crime working group in each district. A few districts have such a plan currently under development. In other districts, the USA may be able to join an existing local hate crime working group. Other districts may be able to expand another working group such as one created under the AVCI. In many districts, however, this initiative will require the creation of a new working group.

Membership in the local groups should not be limited to law enforcement. Although there may be meetings or sub-groups that are limited to law enforcement because they will involve discussions of cases or law enforcement strategies, we believe that effective participation by community leaders is a necessary component of the strategy.

At initial meetings, each local group will be asked to assess the nature and scope of any hate crime problem in the

district. With this assessment in hand, the local group will then develop a local hate crime strategy to achieve the goals outlined above.

Beyond these requirements, each USA will have flexibility to implement the Hate Crime Initiative and tailor it to the local community. We believe, however, that support and coordination by Main Justice will be essential to the USAs' success in this process.

(2) Develop "Best Practices" and Other Resource Models

Main Justice would support the local working groups in a number of ways. As part of the rollout of the initiative, the Department would host a conference for the hate crime coordinators from each of the districts. The conference will focus on enforcement strategies, strategies for assembling and operating a working group, available Department resources, and other issues that will be important as the hate crimes initiative is implemented. At some point, either in the initial conference or at a follow-up conference, representatives from state and local law enforcement (NAAG, NDAA, IACP, etc.) and from national community groups (ADL, etc.) will also be invited to share ideas and perspectives on how best to address this problem. (The Working Group is also consulting both constituencies as it designs the initiative itself.)

As part of the guidance from Main Justice, we hope to distribute a set of "best practices" to help the USAs structure their local groups. Several districts, including in particular Delaware, Sacramento, and DC, have successful hate crime initiatives up and running. Descriptions of these groups will be circulated to the field. In addition, the conference is likely to generate valuable ideas, and the experience of the various Districts will no doubt help us to refine the process on an ongoing basis. The Department will designate a senior officer to serve as the internal hate crime coordinator (discussed infra, p. XX) who will make sure that these lessons and examples are communicated to the field. Through the coordinator and the national working group he or she will chair, the Department will also ensure that the other elements of the initiative, described in more detail below, are effectively coordinated and publicized in order to support the local groups.

We have drafted and attached at TAB XX a draft memo from you to the United States Attorneys. The memo provides an overview of the initiative.

(3) Modify the "Backstop" Policy

One of the primary tenets of the Federal Criminal Civil Rights Enforcement Program is that primary authority for criminal

law enforcement resides with state governments, but that certain criminal conduct may require eventual federal action to fully vindicate any federal interests or protect federal rights. This is known as the "Backstop Policy." This policy presumes that state authorities should be allowed to proceed ahead of any federal prosecution, unless there is some evidence of bad faith on the part of local authorities or an agreement by local authorities that the federal authorities should proceed first.³

The Working Group recommends that the Backstop Policy be modified to encourage the Civil Rights Division and the United States Attorneys Offices to engage local law enforcement immediately after "sensitive" civil rights incidents to determine whether a more expansive federal role -- including the possibility of the federal government taking the lead in investigation and enforcement -- would be appropriate. Although this procedure has already been followed on occasion, this recommendation would implement it in all "sensitive" cases. "Sensitive" cases are those that have received substantial public attention, including cases such as the beating of Rodney King, the killing of Yankel Rosenbaum, and the police shooting in St. Petersburg.

The Working Group recommends modification of the policy in part because the cases mentioned above presented problems for federal investigation and prosecution that arose (at least in part) because the Backstop Policy was followed. It is important to note, however, that the modification of the policy would not mandate that federal investigation and prosecution become the norm. Instead, in "sensitive" cases, the modified policy would replace the presumption in favor of state prosecution with a balanced consideration that may at times support federal (or joint) action rather than state action. The Working Group believes that this modification will enhance the possibility of bringing federal resources to bear at an early stage in certain important or high-profile cases to the benefit of any eventual prosecution.

(4) Develop Model Hate Crime Curricula

In order to encourage police academies nationwide to include hate crime as part of their basic training, the Group proposes that DOJ, in partnership with NAAG and others, develop and

³The Department's Petite Policy allows the Department to prosecute the defendant after a failed or inadequate state prosecution. Before such a prosecution may be brought, (1) there must be a substantial federal interest, (2) that substantial federal interest must remain unvindicated after the state prosecution, and (3) there must be evidence sufficient to obtain a conviction.

distribute model hate crime curricula.

Preliminary efforts to implement this proposal are already underway. In July, representatives from the FBI, CRS, OVC, NAAG, FLETC, the International Association of Directors of Law Enforcement Standards and Training (IADLEST), and others met in Washington for two days to examine existing works and discuss criteria for effective hate crime training curricula. The group plans to meet again in early October, by which time they hope to have a draft curriculum for discussion and distribution. Once these products are developed, the Group proposes the Department distribute them to each State's Police Officers Standards and Training (POST) committee, which is responsible for establishing training standards and guidelines. Attached for your review is a listing of DOJ and other officials participating in this effort. (Tab XX).

(5) Develop a Prosecutors' Manual

The National Institute of Justice (NIJ) is currently conducting a survey of 800 district attorneys offices to identify the policies and practices prosecutors use in hate crimes cases. The report, *Prosecutorial Response to Bias-motivated Crimes*, is expected to be available in October, 1997.

As a follow-up to that study, the Group proposes that BJA work together with CRS, the FBI, NAAG and others, to develop a resource guide for State and local prosecutors. Efforts to develop the manual are already underway. Description of efforts to be added.

IV. DATA COLLECTION AND ANALYSIS

A. Objective

The Working Group focussed on the problem of under-reporting by law enforcement agencies. The goal is to improve the quality of data about hate crime, either through the Hate Crimes Statistics Act ("HCSA" or "Act") and the UCR Program, or through alternative means.

B. Discussion

The Hate Crime Statistics Act does not specify any particular method of data collection. Following enactment of the statute, the Attorney General delegated his duties under the Act to the Director of the FBI. The Director in turn assigned responsibility for the Act to the FBI's UCR Program.

Early on, UCR staff met with representatives of state and local law enforcement agencies as well as private organizations to elicit ideas on how to gather and maintain hate crime

information. As a result of those contacts, UCR staff considered two alternative approaches to collecting hate crime data. The first approach called for a nationwide, in-depth sampling of suspected bias-motivated incidents. This approach would have required approximately 800 participating law enforcement agencies to identify and track cases where bias motivation is suspected through the investigatory and prosecutory processes, and to report their findings to the FBI.

This approach suffered from a number of drawbacks. First, it was expensive, with the federal contribution estimated at more than \$12 million annually. Second, it did not allow for a statistical breakdown of information on a local, state, or regional basis.

The other approach considered -- and the one ultimately adopted -- called for incorporating hate crime data into the already existing UCR Program. Under the UCR Program, local law enforcement jurisdictions report aggregate hate crime data to the FBI on a quarterly basis. Eleven crimes are included on the UCR reporting form, including murder, non-negligent manslaughter, rape, assault, intimidation, arson, and destruction, damage or vandalism of property. Participation by local jurisdictions is voluntary, and no federal funds are specifically authorized for hate crime reporting.

Because of quality problems with the existing hate crime data, some have suggested that we abandon the current system of data collection. The Working Group considered this option, but rejected it for a number of reasons.

First, there are a number of collateral benefits of the present system. Because the UCR report tracks hate crime on a jurisdiction-by-jurisdiction basis, it is easy to identify those cities or towns that are either failing to report or reporting an unbelievably low number of crimes. Representatives of the Anti-Defamation League informed us that they often use the evidence of under-reporting in the UCR report as a basis for meeting with local law enforcement to urge them to improve their reporting. Of those agencies that do report hate crime data, many have instituted training for police officers to learn how to identify and respond to bias crimes. Thus, the request of each jurisdiction to track hate crime has in itself increased awareness of the issue. Finally, the collection of data through local jurisdictions often enables victim advocacy and services groups to seek local funding for services rendered on behalf of victims of hate and bias crimes.

Second, there is reason to believe that hate crime reporting will improve as local jurisdictions move from a "tally" system, known as the "Summary Reporting System" (SRS), to a "unit-record" system, known as the "National Incident Based Reporting System"

(NIBRS). Under NIBRS, hate crime data is collected for all crimes, not just the eleven crimes enumerated in the HCSA, and relationships between data elements, such as victim, offender and location, can be analyzed. Unlike the current system, NIBRS has the capacity to "flag" criminal incidents as motivated by bias. Ten states are currently certified to submit NIBRS data to the FBI, and nearly half the states are in some phase of testing NIBRS. It will be years, however, before NIBRS is fully implemented.

Finally, the evidence shows that hate crime reporting under the UCR system -- while still inadequate -- has improved since its inception in 1991. That year, only 2,215 of 16,000 participating agencies in 33 states reported hate crime statistics. In 1995, that number rose to more than 9,500 agencies in 46 states.

In short, the UCR Program is an established system that is relatively inexpensive and has the potential to produce a disaggregated national picture of the hate crime problem. Rather than abandoning the UCR method, the Working Group examined various methods to supplement the UCR findings. Although each data collection method has its own infirmities, a combination of methods may help to improve the quality and quantity of hate crime information. Outlined below are a series of recommendations designed to bolster and complement the current system. Of course, the local hate crime task forces will have among their goals improving reporting within their jurisdictions.

C. Actions and Recommendations

(1) Support Existing HCSA Implementation through the UCR and NIBRS System

BJS has submitted, and the Department has approved, a budget enhancement of \$35 million for FY 1999 to provide for further implementation of the NIBRS system. The enhancement will assist 35 large law enforcement agencies in converting to the NIBRS format and will also provide for preparation of a series of analyses of different types of crime, including hate crime. The enhancement is currently being reviewed by the Office of Management and Budget (OMB).

(2) Add Hate Crime Questions to the National Crime Victimization Survey (NCVS)

The NCVS is an annual survey conducted by the Bureau of Justice Statistics (BJS) to measure levels of crime through a national sampling of victims of crime. At present, it does not include questions about hate crime. Adding hate crimes to NCVS will provide a national estimate of the overall extent of hate crimes. It will not, however, provide guidance on where the

event occurred or the nature or specific circumstances of the crime.

Under existing plans BJS will include questions related to hate crime as part of its annual survey of victims of personal crimes and vandalism. The survey will inquire whether the victim believes the incident was bias-motivated and why.

In 1998, BJS is instituting an extension of the NCVS to eleven cities, and BJS and the COPs Office have committed to adding hate crime-related questions to that supplement. Beginning in 1999, hate crime inquiries will be a part of the annual survey, conducted each Spring.

(3) Research Impediments to Hate Crime Data Collection and Methods to Improve

Developing a solution to the seemingly intractable problem of under-reporting requires an in-depth examination of the issue. There are a number of reasons why local law enforcement agencies often fail to collect and/or report bias-motivated crimes. Often the problem is simply a lack of training and awareness. In other instances the problem may be attributed to the social stigma attached to episodes of bias and prejudice. Whatever the reason, the Group has concluded that more study is needed before we can fully understand the phenomenon.

Thus, as part of its Hate Crime Statistics Improvement Program and in accordance with the recommendation of the Citizen's Commission on Civil Rights report, BJS has allotted \$100,000 for FY 1998 to fund a study on the impediments to hate crime data collection and methods to improve reporting. BJS recently issued a solicitation for the study, which is aimed at "improving the accuracy and geographic coverage of hate crime statistics, producing accurate trend data on hate crime, and developing 'best practices' models." Applications are being accepted and the contract will be awarded sometime in November of this year. The study is expected to be completed one year after the contract is awarded.

(4) Encouraging Hate Crime Reporting through Federal Funding

The Department administers a number of grant programs, primarily under the auspices of the Office of Justice Programs (OJP). The Group recommends the Department examine ways in which we can encourage grant recipients to report hate crime information. For example, the Office for Victims of Crime (OVC) has been working with the Department of Health and Human Services (HHS) and the Violence Against Women Grants Office (VAWGO) to redesign annual reporting forms for recipients of federal funds. OVC has proposed adding questions to these forms regarding the

extent to which fund recipients serve victims of "bias-motivated" crimes. A number of our programs lend themselves to this type of effort.

The Group considered, but did not recommend, requiring grant recipients to provide this information in order to receive federal funding. Tying federal funding to hate crime reporting is likely to raise 10th Amendment concerns, be politically difficult, and may in certain circumstances require statutory authorization.

(5) Bolster Reporting through the Local Working Groups

As discussed, the data collection problem is multi-faceted. Not only do law enforcement agencies fail to track and report hate crime statistics, but many victims fail to report hate crime incidents to authorities. Each local working group will be asked to examine both of these issues and develop ways to address them. Once the local working groups are established, the Group recommends using them as a source of anecdotal information about the incidence of hate crime nationwide and trends in certain regions.

V. COMMUNITY OUTREACH

A. Objective

The Working Group addressed the question what initiatives can and should be undertaken by the Department to bolster hate crime awareness, prevention, and healing within local communities. Specifically, we focussed on three topics: (1) youth programs (2) prison programs, and (3) public outreach.

B. Discussion

The number of young hate crime offenders prompted the Working Group, led by Katrina Weinig of OPD, to reach out to the Department of Education for their assistance.⁴ In June, members of the Working Group met with Department of Education officials to explore possible joint initiatives on youth hate crimes. In the aftermath of that meeting the Department formed an inter-departmental working group with DOed to carry out joint initiatives in this area. The goals of the DOJ/DOed working group are to (1) gather information about the incidence of hate

⁴ There are only a handful of very limited studies that attempt to quantify the percentage of hate crimes committed by young offenders. The consensus among experts in this area seems to be that there is substantial youth involvement in hate crimes, although the precise number is unknown.

crime at schools and among youth, (2) increase awareness of hate crime within the educational community, (3) develop preventive strategies to address the problem.

The Working Group also examined other ways in which the Department can increase hate crime awareness and reporting. It focussed particularly on how we can use existing resources within the Office of Justice Programs and elsewhere in the Department to meet our objectives. Outlined below are the Group's recommendations in each of these areas.

C. Recommendations

Youth Programs

(1) Elevate Awareness of Hate-Based Violence Within the Education Community

OPD is working with the Deputation of Education to draft a letter from you and Secretary Riley to send to each of the nation's school districts, encouraging teachers to set aside time in November for classroom discussion or other activities related to bias and discrimination. The purpose of the letter would be to (1) elevate awareness of hate crimes within the educational community; (2) encourage teachers to address issues of bias, discrimination and tolerance in the classroom through discussions, research projects, speakers, youth forums and other age-appropriate mechanisms; and (3) inform teachers of existing bias-training curricula, websites and other teaching resources.

The letter itself will be accompanied by (1) a hate crimes fact sheet (to be drafted by CRS); (2) a resource bibliography of anti-bias curricula and websites, including "how-to" information for teachers to obtain such resources (to be compiled by CRS, DOEd and EDC); and (3) a teacher's guide, setting forth five or six specific suggestions for age-appropriate classroom activities or discussions for teachers to use at the elementary-, middle- and secondary-school levels (to be compiled by EDC, DOEd and OJJDP). It is anticipated that a draft of the materials will be available for your review by the end of September.

(2) Gather Statistical Information on the Occurrence of Hate-Based Violence in Public Schools

OPD is also working with the Department of Education to develop proposals to include hate crime questions in statistical surveys currently conducted by the Department of Education. As previously stated, there are no reliable national statistics on the incidence of hate crimes committed by children and young adults, although nearly all agree that the number is substantial. The Bureau of Justice Statistics is working with DOEd's National Center for Education Statistics to design a national survey by

which DOed can gather statistical information on the occurrence of hate-based violence in public schools.

(3) Develop Alternative Sentencing Approaches for Juvenile Justice Courts

Despite the problem of youth hate crime, there are surprisingly few hate crime specific programs within the juvenile justice system. In XX, the Office of Juvenile Justice and Delinquency Programs (OJJDP) awarded a grant to the Educational Development Center (EDC) to survey the field and develop a hate crime curriculum for middle schools. As part of its survey, EDC examined hate crime programs related to the juvenile court system. EDC discovered that there is very little activity in this area. Moreover, those programs that have been developed suffer from a number of programmatic problems.

The Group feels this is an important area in need of further development. Depending upon the funding availability of OJJDP, the Group proposes that OJJDP initiate a working group to develop, test, and implement alternative sentencing options for juvenile justice courts. The working group should consist, among others, the National Council of Family and Juvenile Court Judges (NCJFCJ), the American Probation and Parole Association (APPA), the State Justice Institute (SJI), the National District Attorneys Association (NDAA), and various components of the Department. The goal of the effort will be to develop approaches that can be funded and tested on a nationwide basis.

Prison Programs

(1) Study and Develop a Conflict Resolution Training Program for Inmates

The demographics of the Federal prison population have changed drastically within the last ten years. With this changing population, the numbers of inmates identified as members of predominately race-based gangs have increased, as have racial tensions within the prison system. There is concern that prisons are breeding grounds for hate crime committed by inmates after their release. Incarceration also offers an opportunity to rehabilitate inmates whose hate crimes resulted in their incarceration. Although conflict resolution training is provided to prison officials and guards, there are currently no training programs geared toward the inmate population. Similarly, there is no effort underway to address racist attitudes of inmates prior to their release to the community.

The Group proposes that CRS work with the Federal Bureau of Prisons (BOP) to study the feasibility of developing a conflict resolution training program for inmates prior to and after their release. [Add BOP information. Look at (1) other BOP programs,

such as tolerance training and/or (2) grants to develop such programs]

Public Outreach

(1) Public Service Announcements

The use of mass media to promote citizen involvement in preventing crime and drug abuse is an established component of criminal justice policy. The best known example of a public service campaign funded and administered by the Department is the National Citizen's Crime Prevention Campaign' "McGruff--Take a Bite Out of Crime," produced by the Advertising Council.

The Group recommends creating a public service campaign designed to increase public awareness about hate crime, encourage the reporting of hate crime, and prevent hate crime incidents. Public service announcements could be supported by brochures, posters, and action kits, and coordinated by a working group from the Justice Management Division, Public Affairs Office, and Office of Justice Programs.

(2) AG/DAG Meetings with Local Working Groups

In places where the Attorney General already plans to travel, the Group recommends including in her schedule meetings with the local hate crimes working groups. These meetings should include both a public and private component. As proposed, the bulk of each meeting would include a private dialogue between the Attorney General and the working group, whose members will include representatives from local civil rights organizations, community groups, law enforcement organizations, etc. The goals of the meetings would be to (1) provide a forum for groups to offer their input on the hate crimes initiative, (2) demonstrate the Department's commitment to the issue, (3) energize the local community to take an active role in fighting hate crimes, and (4) raise public awareness of the issue.

(3) Response to Specific Incidents

The Group recommends the Attorney General and other Department officials publicly speak out in the aftermath of serious, known acts of hate violence. Before the Department makes any statement concerning an alleged hate crime, however, it is important that we are certain there is no issue affecting the authenticity of the crime, its victims, or hate motivation. In instances of a community-wide disturbance, the Group recommends the Attorney General travel to the affected community.

(4) Hate Crime Internet Site

Numerous components of the Department are involved in a wide

range of activities related to bias crime. Accordingly, the Group proposes the Department develop a specialized site on the DOJ webpage dedicated to hate crime. The site would be a "one-stop shopping site" for DOJ anti-hate crime programs and activities, training, publications and other resources. The site could also be linked to other federal agencies, such as the Department of Education, and/or watch guard groups with hate crime resources, such as the Anti-Defamation League.

(5) Speeches by Department Officials

Various Department officials, including the Attorney General, the Deputy Attorney General, the Associate Attorney General and the Assistant Attorney General of the Civil Rights Division can and should speak about the problem of hate crime. Maintaining a master calendar of all events, meetings, conferences, symposiums, and other functions sponsored by the various civil rights, community, law enforcement and intergovernmental organizations with whom the Department interacts would greatly facilitate this effort. The Department could also take advantage of these opportunities to address the problem of hate crime through written materials. The Office of Justice Programs already maintains a calendar of state and local activities that could serve as the basis for a more comprehensive listing. The Group recommends the hate crime coordinator designate a component to compile and maintain the master hate crimes calendar.

(6) Articles and Letters on Hate Crime

Very effective resources available to the Department are the many newsletters and publications issued by law enforcement and intergovernmental organizations, as well as our own publications. Articles by high-level Department officials on the problem of hate crime and the creation of the local working groups would help increase awareness and generate local support. The Group recommends that the Department identify key publications and draft articles or announcements regarding the Department's Hate Crime Initiative for publication. The hate crime coordinator will oversee this effort.

(7) White House Conference on Hate Crime

The President's Conference, scheduled for November 11, 1997, will provide a unique opportunity to emphasize the significance of this issue. A number of Department officials will participate in the conference, and the Attorney General is currently scheduled to speak at the morning session. As previously discussed, the substance of the conference will center around the Group's recommendations and proposals, embodied in this memorandum.

VI. COORDINATION

A. Objective

The Working Group sought to ensure that all aspects of the Hate Crime Initiative would be properly coordinated and that the initiative would be "institutionalized" within the Department.

B. Discussion and Recommendations

Ongoing coordination is essential for the success of the Hate Crime Initiative for at least three reasons. First, an effective hate crime strategy requires a sustained commitment, rather than a one-time push. Coordination will help to ensure that the Department's efforts continue long after the present Hate Crime Working Group disbands. Second, as noted above, one of the principles underlying the Hate Crime Initiative is that hate crime requires a comprehensive and coordinated approach that draws on a wide variety of resources. Coordination will help to ensure that the initiative draws on all available sources of expertise that the efforts and initiatives of different elements of the effort are understood by, and mutually supportive of, the others. Third, dealing with hate crimes will require substantial contact and coordination with other federal agencies and with outside groups. Some form of internal coordination is necessary to facilitate contact with these outside entities and ensure a coordinated response.

The Working Group recommends the creation of a permanent Hate Crimes Working Group under the direction of a senior hate crime coordinator located in ODAG. The creation of central point of contact will facilitate the exchange of information internally and externally. Locating this coordinator in the DAG's office will ensure that the issue remains a high priority initiative for the Department. In addition, the Working Group believes that the DAG's office is ideally situated to ensure the internal coordination that is necessary for success. The Working Group should include representatives from all Departmental components involved in the current working group, as well as other interested federal agencies such as Education and HUD. We might also consider including representatives from state and local groups such as NAAG and NDAA.

VII. IMPLEMENTATION

TO BE ADDED

DRAFT

MEMORANDUM FOR ALL UNITED STATES ATTORNEYS

FROM: THE ATTORNEY GENERAL

SUBJECT: Implementation of
National Anti-Hate Crime Initiative

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 investigative and prosecutive activity against hate crime has been conducted over time by dedicated state and local law enforcement officials. In some communities, their ability to be effective in stemming hate crime has been compromised by inadequate data collection and reporting standards. Others lack the resources, and in some cases the jurisdiction, to conduct proactive investigations and develop cases against hate groups members who engage in organized criminal activity. As a result, increasingly communities have called upon the federal government to assist.

Last year, I asked the Civil Rights Division, the Federal Bureau of Investigation (FBI), and the Executive Office for United States Attorneys (EOUSA) to work together to develop a coordinated national strategy for combating hate crime more effectively. Earlier this year, that effort was expanded to include other components from across the Department, including the Deputy Attorney General's Office, the Criminal Division, the United States Attorneys, the Office of Victims of Crime, the Office of Justice Programs (OJP), the Bureau of Justice Statistics, the Community Relations Service (CRS), the Violence Against Women Office, the Office of Intergovernmental Affairs, and others. The efforts of this group will complement the President's racial reconciliation outreach initiative and the White House hate crime conference scheduled for this fall.

In my June meeting with the Attorney General's Advisory Committee, we described this hate crime initiative in a preliminary way. The purpose of this memorandum is to provide you with a more detailed discussion of the initiative.

The organizing principles of the Department's efforts have been twofold: First, the recognition that addressing problems of hate crime requires a coordinated effort, with cooperation among federal, state and local law enforcement, as well as community

leaders; and second, although hate crime is a national problem that requires national attention, it requires an approach that draws on local people to craft solutions that are tailored to the particular problems of the local community.

Reflecting this need for a coordinated local response, the centerpiece of the Department's initiative is the formation in each district of a working group consisting of federal, state, and local law enforcement, as well as local community leaders, to develop a comprehensive approach to hate crime. These local groups will be the primary mechanism for evaluating and addressing the hate crime problem of the local community.

The local groups will be asked to address the problem of hate crime with four goals in mind. First, to ensure effective law enforcement by drawing on the resources of federal, state, and local law enforcement, as well as community leaders, in a coordinated fashion. Second, to use community outreach to help ensure effective reporting, investigation, prosecution, and, ultimately, prevention of hate crime. Effective community outreach is also an integral part of ensuring a coordinated response to a particular hate crime incident. Third, to aggressively expand hate crime education and training. The training and education contemplated by the initiative will include a wide range of programs, including the training of federal, state, and local law enforcement in hate crime enforcement, classroom-based education programs targeted at young people, and others. And finally, to improve data collection. There is a consensus that hate crimes are vastly underreported. Only by getting accurate statistics on hate crime can we understand the full scope of the problem and effectively deploy our resources to combat it.

This is an ambitious agenda. But you should know that we are not asking you and your local working groups to accomplish this alone. Rather, the local working groups are one important component in a broader Department-wide initiative. I and other members of the Department will be speaking often about hate crime in the months ahead to help to focus attention on the importance of addressing this problem.

In addition, there are Department initiatives underway and resources available that will complement the efforts of your working groups. For example, the FBI, the Civil Rights Division, and EOUSA have been working on an initiative for improving criminal civil rights enforcement generally. It involves conducting more aggressive FBI field office outreach to local law enforcement and community groups in order to increase detection and reporting of civil rights crimes; improving the training, experience and expertise of civil rights agents; increasing proactive measures; producing faster and better coordinated prosecutive decisions, and sharpening data collection and trend

analysis. In order to support these efforts, the Department has specifically requested budget authority to increase significantly the number of FBI agents devoted to the investigation of civil rights complaints, including hate crime.

Moreover, through the FBI, OJP, CRS, and others, the Department has now and is currently developing a wealth of educational and training materials, as well as grant opportunities, to aid in the fight against hate crime.

In order to ensure that all of these activities are coordinated effectively, and to make sure that you are all aware of the available resources, I have designated [XXXXXX] in the Deputy Attorney General's Office to be the Department's hate crime coordinator. [XXXXXX] will be getting more details to you on these various resources.

To kick off this initiative, the Department is planning to host a Conference for the hate crime coordinators from each of the Districts. The Conference will focus on enforcement strategies, available Department resources, and other issues that will be important as the hate crime initiative is implemented.

The most immediate task, therefore, is for each of you to designate a senior Assistant United States Attorney to be a Hate Crime Coordinator to serve as a contact in your office. You may designate your Civil Rights Point of Contact, or any other appropriate person, to fulfill this role. Please send in the name of this person to [XXXXXX] by [DATE].

The problems posed by hate crime are difficult, but not intractable. I am confident that, working together in a true partnership of federal, state and local law enforcement, we can make a substantial contribution toward reducing its devastating impact on our communities. I am grateful for your cooperation in this most critical endeavor.

Attachment

**PRESIDENT CLINTON ANNOUNCES NEW LAW ENFORCEMENT
AND EDUCATIONAL INITIATIVES TO COMBAT HATE CRIMES
November 10, 1997**

President Clinton today convened a White House Conference on Hate Crimes to call national attention to the problem of hate crimes, highlight effective law enforcement and educational strategies, and announce new federal initiatives to prevent and punish hate crimes. The initiatives focus on: expanding federal hate crimes legislation; ensuring effective and coordinated enforcement of hate crimes laws; promoting improved collection of data on hate crimes; and educating the public -- especially youth -- about the harm caused by hate crimes.

Expanding Federal Hate Crimes Law

The President announced his support for new federal legislation, which will soon be introduced by Senators Kennedy and Specter, to expand the principal federal hate crimes statute. The current statute prohibits any use of force that is based on a person's race, color, religion, or national origin and that is intended to interfere with certain specified federally protected activities. The proposed legislation would make illegal any act of force based on these prohibited characteristics and leading to bodily injury, even if the act did not interfere with federally protected activities. Further, the proposed legislation would prohibit any hate crime causing bodily injury that is based on sexual orientation, gender, or disability, as long as there is a connection with interstate commerce.

Ensuring Effective and Coordinated Enforcement of Hate Crimes Law

Creating a Network of Local Hate Crime Working Groups. The President announced that each U.S. Attorney in the United States will establish a local hate crimes working group in his or her district. These working groups -- essentially federal-state-local partnerships -- will include representation from the U.S. Attorney's office, the FBI, state and local law enforcement and prosecutors' offices, educators, and community groups. The groups will ensure close coordination on hate crimes investigations and prosecutions among responsible law enforcement agencies; promote training of police, investigators, and prosecutors in identifying and dealing with hate crimes; encourage victims to report hate crimes; and educate the public about the harm they cause. A National Hate Crimes Working Group, located at the Department of Justice in Washington, D.C., will coordinate the work of all working groups across the country and distribute, on an ongoing basis, information on promising practices.

Additional FBI Agents and Federal Prosecutors for Hate Crimes Enforcement. The President announced that the Justice Department will add upwards of 50 FBI agents and federal prosecutors to enforcing hate crimes laws. This addition will more than double the number of

federal agents and prosecutors currently assigned to this work.

Hate Crimes Training for Law Enforcement. The President announced the development of a model training curriculum on hate crimes for investigators and other law enforcement officials. In addition to using these materials to train federal law enforcement agents and prosecutors, the Justice Department will make these materials available to local and state law enforcement training centers.

Make ‘em Pay Initiative. The President announced an initiative to assist victims of housing-related hate crimes to seek monetary remedies from the perpetrators. The Department of Housing and Urban Development will act to increase the size of penalties payable by perpetrators of housing-related hate crimes, and HUD and the Department of Justice will assist the victims of such crimes to bring actions to collect these penalties.

Improving Data on Hate Crimes

The President announced plans to add questions about hate crimes to the National Crime Victimization Survey, an annual survey conducted by the Department of Justice’s Bureau of Justice Statistics to measure levels of crime through a national sampling of victims of crime. This measure will bring hate crimes into line with other crimes for purposes of data collection. Expanded questioning regarding hate crimes will also be a part of a pilot project to take place next spring to improve the NCVS.

Educating Our Children About Hate Crimes

The President announced that the Departments of Justice and Education will distribute to every school district in the country a manual for educators that encourages schools to confront hate-motivated behavior among students; promotes development of comprehensive responses to prejudice and violence; and makes educators aware of resources that can be used for this purpose. The President also announced the creation of a new Department of Justice website, “Hateful Acts Hurt Kids,” addressing prejudice, discrimination, and related issues in an interactive, graphic format designed for children in kindergarten through fifth grade, as well as their parents and teachers.

**WHITE HOUSE CONFERENCE ON HATE CRIMES
QUESTIONS AND ANSWERS
NOVEMBER 10, 1997**

Q: What is a hate crime?

A: As a general matter, a hate crime is a crime committed against a person or property that is motivated by bias against the victim's race, color, religion, gender, national origin, sexual orientation, disability, or familial status. However, it is important to understand that hate crimes are defined by various federal and state criminal statutes, and these statutory definitions differ in their particulars from jurisdiction to jurisdiction. The principal federal hate crimes statute, for example, is currently limited to crimes committed because of the victim's race, color, religion or national origin; it does not include crimes committed because of the victim's gender, sexual orientation, or disability.

Q: What policies did the President announce at the Hate Crimes Conference?

A: The President announced several initiatives to ensure effective law enforcement, including the creation of working groups in every U.S. Attorney's district in the country to improve coordination among local, state, and federal prosecutors; the addition of new FBI agents and prosecutors to work on enforcement of hate crimes laws; the development of model curriculum for training law enforcement officers to deal with hate crimes; and the establishment of a new program at the Department of Housing and Urban Development to ensure that perpetrators of housing-related hate crimes pay money damages to their victims. The President also announced support for expanding the principal federal hate crimes statute to prohibit hate crimes based on gender, sexual orientation, and disability.

Q: What specific changes to current federal law is the President supporting?

A: The President announced his support for new federal legislation, which will soon be introduced by Senators Kennedy and Specter, to expand the principal federal hate crimes statute. The current statute prohibits any use of force that is based on a person's race, color, religion, or national origin and that is intended to interfere with certain specified federally protected activities. The proposed legislation would make illegal any act of force based on these prohibited characteristics and leading to bodily injury, even if the act did not interfere with federally protected activities. Further, the proposed legislation would prohibit any hate crime causing bodily injury that is based on sexual orientation, gender, or disability, as long as there is a connection with interstate commerce.

Q: How many hate crimes are there each year? Are hate crimes increasing?

A: In 1991, there were 4,558 reported incidents of hate crimes; in 1995, there were 7,947 reported incidents of hate crimes; and in 1996, there were 8,759 reported incidents. But these statistics almost certainly under-report hate crimes to a significant extent, and the rise in the number of reported incidents may be due to improvements in reporting, rather than to increases in crime. There are two reasons for thinking that current statistics under-report hate crime. First and most important, submission of hate crimes data to the FBI is voluntary, and many law enforcement agencies do not submit data at all or submit incomplete data. In addition, many victims of hate crimes fail to report the incidents because of fear, humiliation, or language difficulties. For example, 60% of the victims of anti-gay incidents who reported their incidents to private tracking groups did not report the incidents to the police, in many cases because of a fear of mistreatment or unwanted exposure.

Q: Is the Hate Crimes Conference part of the Race Initiative?

A: The Hate Crimes Conference addresses many of the ideas that the President will consider as part of the Race Initiative -- in particular, the enormous harms caused by intolerance and prejudice. The Hate Crimes Conference, however, addresses not only racial differences, but also differences in religious beliefs, sexual orientation, gender, and disability. Members of the President's Initiative on Race are actively participating in the Hate Crimes Conference as well as at some of the 50 or so satellite sites across the country.

Q: What is the Administration doing about hate on the Internet?

A: It is important to distinguish between hate crime and hate speech. Speech on the Internet is protected by the Constitution. The Clinton Administration is not regulating the Internet. However, there are many organizations such as the Anti-Defamation League that are working in cooperation with software companies such as America Online to develop programs for use by parents to be able to protect their children by filtering out hate sites.

Q: Didn't the Clinton Administration overreact to the church arson problem?

A: No. President Clinton established the National Church Arson Task Force (NCAFT) in June 1996 to oversee the investigation and prosecution of arsons at houses of worship around the country because federal authorities noticed an increase in the number of arsons reported toward the end of 1995, especially at African American churches in the South. Since January 1995, there have been 240 arrests and over 100 convictions, though not all the incidents were racially motivated. The Clinton Administration identified a serious crime problem and responded swiftly to it, ensuring close coordination among law enforcement agencies and effective prosecutions.

Q: Why isn't the President increasing penalties for hate crimes?

A: The Clinton Administration has already increased penalties for hate crimes in the Sentencing Enhancement Act, passed as part of the 1994 crime bill, which authorizes the imposition of enhanced sentences for federal crimes found to have been motivated by race, color, religion, national origin, sexual orientation, gender, or disability. The Act became effective in November 1995.

Proposed Legislation

Q: Why is this legislation needed?

A: The legislation is needed for two compelling reasons. First, the problem of hate crimes based on sexual orientation, disability, and gender are serious, and are currently not covered under federal law. Second, the Department of Justice has been hindered in its efforts to prosecute racial hate crimes because of the need to show that the victim was engaged in a federally protected activity such as enrolling in or attending any public school or college. This amendment will ensure that all Americans are protected under federal law from any hate crimes causing serious bodily injury.

Q: Why is federal hate crimes legislation necessary at all? Shouldn't this really be a matter for local prosecutors?

A: The federal government has an important supporting role to play in prosecuting hate crimes. As a matter of longstanding practice, federal officials defer to state prosecutors to make the initial determination whether to bring a hate crimes case. But the problem of hate crimes is serious enough to warrant providing the federal government with authority to act if local prosecutors fail to respond adequately. And the proposed legislation will ensure that the federal government has this necessary authority.

Q: Won't this expansion of the new federal hate crimes statute require extra resources?

A: Any new criminal law requires new resources to enforce it, and this one is no exception. The Administration will work to ensure that its new responsibilities are carried out as efficiently as possible.

Q: Doesn't providing protections based on sexual orientation legitimize the gay lifestyle?

A: No. Whatever their views about homosexuality or about providing antidiscrimination protections to gays and lesbians, all people of good will should agree that people should not be subject to physical attack based on their sexual orientation. People in this country have a fundamental right to be safe and to live without fear of violence. This statute

ensures that people will receive this protection.

Q: Won't the addition of gender to the federal hate crimes legislation federalize all rapes?

A: No. The bill does not make every rape a federal crime. In addition to the violent act, there must be evidence of bias toward the victim because of the victim's gender and a showing that the offense implicates interstate commerce. Prosecutors may be able to prove these elements in some rapes: for example, in the case of a serial rapist who travels from state to state, and whose conduct, including language used and mutilation, suggests a gender bias. But most rape cases will not be covered under the proposed federal hate crimes statute. The Department of Justice will develop internal guidance on this issue to ensure that federal prosecutors do not use the statute inappropriately.

November 6, 1997

MEMORANDUM FOR THE PRESIDENT

FROM: BRUCE REED
MARIA ECHAVESTE

SUBJECT: WHITE HOUSE CONFERENCE ON HATE CRIMES

On November 10, you will host the White House Conference on Hate Crimes at George Washington University. This memorandum outlines the structure of the conference, as well as the policy initiatives that we recommend you announce there.

Purpose and Structure of the Conference

The White House Conference on Hate Crimes is designed to call national attention to the problem of hate crimes and to highlight effective law enforcement and educational strategies to address this problem.

Breakfast in the East Room. The Conference will begin with a breakfast in the East Room for the approximately 350 participants. The Attorney General will introduce you, and you will make brief welcoming remarks.

Morning Session. The morning session will begin with welcoming remarks by Stephen Trachtenberg, President of George Washington University. The Vice-President will then speak briefly. The following people will introduce you and the Vice President:

- Chuenec Sampson, student, Duke University, North Carolina. As an African-American high school student in Crown Heights, NY, Ms. Sampson became a peer trainer with the Anti-Defamation League ("ADL"). She helped start the *Students Against Violence Everywhere* ("SAVE") while in high school. Ms. Sampson continues to work with children in low-income areas.
- William Johnson, retired police officer, Boston Police Department. Mr. Johnson has worked extensively in the hate crimes unit in Boston, and recently won an award for his involvement.

During your remarks, you will announce several new law enforcement and prevention initiatives, including a proposal to expand the principal federal hate crimes statute. These initiatives are detailed later in this memorandum.

Following your remarks, you will moderate a panel discussion with the Attorney General, the Secretary of Education, and seven other participants. Each of the seven participants listed below will give brief opening remarks:

- Peter Berendt, Principal, Mamaroneck Avenue Elementary School, Mamaroneck, New York. Following a series of hate crimes in the community, Mr. Berendt convened the *E Pluribus Committee* to address the diversity issues facing the school community. His school currently is engaged in a comprehensive diversity awareness program.
- Tammie Schnitzer, Billings, Montana. Ms. Schnitzer is a Jewish woman who was the victim of an anti-Semitic hate crime in Billings, Montana. In response, Ms. Schnitzer successfully encouraged Jews and non-Jews alike to display menorahs in the windows of their homes. Ms. Schnitzer's efforts were the subject of a television movie, *Not in This Town*.
- Hon. Sheila Kuehl, President Pro Tempore, California State Assembly. Ms. Kuehl is the first openly gay or lesbian member of the California State Assembly and the author of legislation to prohibit discrimination against gay and lesbian students in California public schools. Ms. Kuehl also has been an outspoken advocate condemning violence against women.
- Raymond Delos Reyes, sophomore, Franklin High School, Seattle, Washington. Mr. Reyes has worked with the ADL's Children of the Dreams program and is a member of a peer mediation training program at his high school.
- Samuel Billy Kyles, Pastor, Monumental Baptist Church, Memphis, Tennessee. Mr. Kyles is an outspoken advocate of civil rights and plays an important role in the religious community's efforts to erase hate crimes. Mr. Kyles is a member of Ecumenical Minister's Task Force. He also was a close friend of Dr. Martin Luther King and was with Dr. King during the last hours of his life.
- Arturo Venegas, Jr., Chief of Police, Sacramento Police Department. Mr. Venegas helped to develop the Sacramento Police Department's model program to deal with hate crimes in the community.
- Grant Woods, Arizona Attorney General. Mr. Woods was a strong advocate for one of the first and strongest hate crime bills in the country and was the most visible Republican proponent of the Martin Luther King Holiday.

Afternoon Session. The afternoon session will consist of seven breakout sessions of approximately fifty participants each. Each of these sessions will address a different aspect of the hate crimes issue and will be moderated by a Cabinet Secretary or senior government official. The topics and moderators of the breakout sessions are:

1. Hate Crimes in Schools (K-12): Prevention and Response (Secretary Riley);
2. Hate Crimes on Campus: Prevention and Response (Franklin Raines);
3. Law Enforcement Response to Hate Crimes (Attorney General Reno);
4. Understanding the Problem: Improving Hate Crime Statistics (Deputy Attorney General Holder);
5. Hate Crimes in Public and Private Housing (Secretary Cuomo);
6. Community Responses to Hate Crimes (Secretary Glickman); and
7. Counteracting Organized Hate (Secretary Slater).

Following the breakout sessions, the Attorney General will host a panel, consisting of the six other moderators of the breakout groups. This panel discussion will highlight the issues and ideas that surfaced during the breakout sessions. Following the panel discussion, the Attorney General will make concluding remarks.

Satellite Sites. People at approximately 45 satellite sites across the country will view your remarks and the morning panel discussion. The satellite hosts have planned customized programs for the afternoon to complement the morning program. Some members of your Race Advisory Board are participating in the programs occurring at the satellite sites.

Policy Announcements to be Made at the Conference

We recommend that you make the following policy announcements, which focus on the expansion of the federal hate crimes legislation, the improvement of law enforcement mechanisms to fight hate crimes, and the dissemination of educational materials on this issue.

Legislation. You can announce the Administration's support for legislation to expand the principal federal hate crimes statute. The law currently prohibits hate crimes only on the basis of race, color, religion, or national origin. Your proposed amendment would extend the law to prohibit hate crimes based on gender, sexual orientation, and disability. (To satisfy constitutional concerns, the law would require proof of interstate commerce in this new class of cases.) Senator Kennedy and Senator Spector are expected to introduce this legislation shortly after the Conference.

There is some concern that extension of the statute to gender-motivated hate crimes--which might lead to the inclusion of all rapes and sexual assaults--would greatly expand the number of cases requiring investigation by federal agents. In order to address this concern, the Administration supports several limiting principles that would reduce the number of cases actually investigated and prosecuted by the federal government. Guidance to federal investigators and prosecutors, for example, might suggest investigation and prosecution of gender-motivated hate crimes only in cases that appear to involve the most egregious evidence of gender-based bias. In addition to rebutting charges that the proposed amendment would lead to the federalization of much "ordinary" crime, such guidance also would greatly reduce the cost associated with federal enforcement. (Given the low probability that this amendment will pass

this year -- as well as a fair degree of confidence that, if necessary, DOJ can enforce it with existing resources -- DOJ is not requesting any funds in 1999 to implement this legislation.)

Enforcement. We also recommend that you announce a package of law enforcement proposals, including:

- Creation of a Network of Local Hate Crime Working Groups. Under this proposal, each U.S. Attorney would either establish a local hate crime working group in his or her district, or if such a body already exists, actively participate in the group. These working groups--essentially federal-state-local partnerships-- would include representation from the U.S. Attorney's office, the FBI, state and local law enforcement, state and local prosecutors' offices, and advocacy groups. In addition to addressing law enforcement strategies, the groups would seek to educate the public about hate crimes. A National Hate Crimes Working Group, located at the Main Justice, would coordinate the work of all the working groups across the country. As part of this coordinating function, the National Hate Crimes Working Group would distribute, on an ongoing basis, information on promising practices.
- Additional FBI Agents for Hate Crimes Enforcement. This proposal involves assigning over 40 FBI agents and prosecutors to the task of hate crimes enforcement. OMB and Justice are currently discussing whether Justice needs additional monetary resources to effect this policy. (The cost of the agents and prosecutors is approximately \$4 million; DOJ has asked for about \$13 million in FY99 for hate crimes/civil rights activities.) We plan to try to avoid this budgetary issue by simply saying that the amount of additional resources required, if any, will be settled in the normal budget process.
- Hate Crimes Training for Law Enforcement. DOJ has developed a model law enforcement training curriculum on hate crimes that can be incorporated into programs at local and state law enforcement training centers. This curriculum includes three course segments -- one for law enforcement officers, one for investigators, and one for others in the law enforcement field. You can direct DOJ to make this curriculum available for use across the country in 30 days.
- Make 'em Pay Initiative. HUD has developed an initiative to assist victims of hate crimes and discrimination in housing to seek monetary damages from the perpetrators. HUD has created a unit that will bring civil suits on behalf of residents of public and private housing who have suffered hate crimes and other discrimination. This initiative will require no new money.
- Improved Reporting of Hate Crimes Statistics. The National Crime Victimization Survey is an annual survey conducted by the Department of Justice's Bureau of Justice Statistics to measure levels of crime through a national sampling of victims of crime. At present, it

does not include questions about hate crimes. Beginning in 1998, the Department of Justice will include questions related to hate crime in NCVS. The survey will inquire whether the victim believes the incident was bias-motivated and why. (The Government currently does attempt to gather hate crimes statistics, but by a notably less effective mechanism.) Expanded questioning regarding hate crimes will also be a part of a pilot project to take place next spring to improve the NCVS.

Education. You can also announce two new educational initiatives. First, the Departments of Justice and Education have proposed a manual for educators on preventing youth hate crime that encourages schools to confront hate-motivated behavior among students; promotes development of comprehensive, programmatic responses to prejudice and violence; and makes educators aware of resources that can be used for this purpose. The Departments intend to send this resource guide to every school in the country. Second, the Department of Justice has created a new website, "Hateful Acts Hurt Kids," addressing prejudice, discrimination, and related issues in an interactive, graphic format designed for children in kindergarten through fifth grade, as well as their parents and teachers. This site will be available for viewing at the Conference.

HATE CRIME: AN OVERVIEW

Definition

Hate crimes are variously defined in federal and state laws as acts (or threats) of force directed against people or property because of a particular characteristic of the victim, such as the victims' race, ethnicity, religion, gender, disability, or sexual orientation. Hate crimes are also acts of violence against the group of people who share the characteristic, and they often have devastating and lasting psychological and emotional effects. Hate crimes can exacerbate tensions between different groups in the community and with law enforcement.

Level of Hate Crime

Data on the level of hate crimes by public and private sources are incomplete, but reflect a serious national problem that may be getting worse. Fewer than half of the states require data collection, and even where collection is mandatory, complete reporting is rare. Data are underreported because the most likely targets of hate crime are often the least likely to report incidents to the police because of fear of an insensitive or hostile response. Some jurisdictions may also be reticent to compile hate crime data because acknowledging such activity may exacerbate racial tensions in the community and embarrass the community.

- **FBI Hate Crimes Statistics:** The FBI began reporting hate crime statistics in 1991, based on race, ethnicity, religion, and sexual orientation, pursuant to the Hate Crimes Statistics Act of 1990 (disability was added to the categories in 1994). Data are collected voluntarily by local jurisdictions and reported to the FBI. In 1991, the FBI reported 4,755 crimes, collected from 2,771 agencies. The latest FBI report reflects an increase in 1995 to:
 - 7,947 incidents, reported by 9,584 agencies across the country.
 - 4,831 based on race
 - 2,988 against African-Americans
 - 1,226 against Whites
 - 355 against Asian/Pacific Islanders
 - 814 based ethnicity or national origin
 - 516 against Hispanics
 - 1,277 based on religion
 - 1,058 against Jews
 - 1,019 based on sexual orientation
- **Church Burnings:** The National Church Arson Task Force reported over 500 arsons, bombings and attempted bombings at houses of worship since January 1995. Some 37% of these involved churches attended by African-Americans.
- **Private Statistics:** Several private organizations also track hate crimes. The information from these groups varies from the FBI data because many incidents are

not reported to the police, and several of the organizations report verbal harassment as hate crime incidents even though they are not considered crimes in most states. Outlined below are highlights of some of the more recent surveys by private organizations.

- **Cross Burnings:** Klanwatch documented 51 cases of cross-burnings in the United States in 1996, up from 29 in 1995. The targets of the incidents included black families, interracial couples, and gays.
- **Anti-Semitic Incidents:** The Anti Defamation League reported 1,722 incidents in 1996, a decline for the second straight year. The data showed a rise in vandalism and a decline in acts of harassment.
- **Sexual Orientation:** The National Coalition of Anti-Violence Programs cited 2,529 incidents of hate crime based on sexual orientation in 1996, up 134 incidents from 1995.
- **Asian Americans:** The National Asian Pacific American Legal Consortium reported 534 incidents against Asian Pacific Americans in 1996, an increase of 17% from 1995.

Offenders

According to a 1993 Northeastern University study, almost 58 percent of offenders committed their crimes for the "thrill." Offenders were predominantly white teenage males; 91% did not know the person they were attacking; and a majority of these attacks were spontaneous, and not the result of a planned incident. A second category, "reactive" hate crimes, accounted for 41% of incidents. Offenders perceive themselves as protecting their neighborhood, their workplace, or their college campus from outsiders. Most such offenders were white males, often acting alone, who did not know their victims. The third category are committed by offenders who perceive themselves to be on a mission, and who are likely to join a hate group and commit violent acts.

Characteristics of Hate Crimes

A review of hate crimes data reveals certain characteristics:

- Hate crimes involve a higher level of assaults against persons than crimes generally. 45-55% of bias crimes are personal assaults, whereas only ten percent of overall crimes are assaults.
- Hate crimes are more violent than crimes generally. Assaults causing physical injury occur in 74% of bias crimes, versus 29% of non-bias crimes. Hospitalization is required in 30% of bias crimes versus only 7% of non-bias

crimes.

- Attacks are often preceded by a series of confrontations and incidents that escalate in severity.
- Hate crimes are more likely than other criminal activity to be committed by groups of perpetrators.
- Most crimes against persons are committed by someone the victim knows; hate crimes, however, are more likely to be committed by strangers.
- The majority of hate crimes are committed by young males against persons of other races. It is estimated that about one-half of all hate crimes are committed by persons younger than 20.
- Only a small minority of offenders are members of a hate group, but the involvement of hate groups is still significant. Members of such groups have been involved in some of the most violent crimes. Moreover, the encouragement of violence against minority groups can provide the justification for hate crimes.

Hate Crime Statutes in the States

Thirty-eight states and the District of Columbia have enacted laws that address bias-motivated violence and intimidation. These laws generally fall into three categories: prohibiting specified intimidating actions; prohibiting behavior motivated by certain types of bias; and enhancing penalties for criminal acts motivated by certain types of bias. Twenty one states criminalize interference with religious worship.

Federal Investigations and Prosecutions

There are several Federal statutes providing jurisdiction to prosecute hate crimes. The federal criminal civil rights statutes provide for prosecution of conspiracies to interfere with federally protected rights (18 U.S.C. 241), the use of force or threat of force to injure or intimidate someone in the enjoyment of specific rights (such as voting, employment, education, use of public facilities)(18 U.S.C. 245), and criminal housing interference (42 U.S.C. 3631). In addition, the Church Arson Protection Act of 1996 amended the criminal civil rights statutes to facilitate prosecutions of racially motivated arsons and other acts of desecration against houses of worship (18 U.S.C. 247). Federal prosecutors can also seek enhanced penalties against persons who commit federal criminal offenses motivated by bias.

PRESIDENT CLINTON: GETTING TOUGH ON HATE CRIMES

President to Announce Significant New Law Enforcement and Prevention Initiatives

"Hate crimes ... leave deep scars not only on the victims, but on our larger community. They weaken the sense that we are one people with common values and a common future. They tear us apart when we should be moving closer together. They are acts of violence against America itself..."

"As part of our preparation for the new century, it is time for us to mount an all-out assault on hate crimes, to punish them swiftly and severely, and to do more to prevent them from happening in the first place. We must begin with a deeper understanding of the problem itself."

President Clinton, Radio Address to the Nation, June 7, 1997

THE WHITE HOUSE CONFERENCE ON HATE CRIMES

November 10, 1997

On November 10, 1997, the President will convene the first-ever White House Conference on Hate Crimes, a day-long event to be held at The George Washington University. At the Conference, the President will announce significant law enforcement and prevention initiatives to get tough on hate crimes. The Conference will examine the positive actions that communities are taking and outline the steps we all can take to prevent hate crimes.

A hate crime is the embodiment of intolerance -- an act of violence against a person or property based on the victim's race, color, gender, national origin, religion, sexual orientation or disability. Every year, thousands of Americans are victims of hate crimes -- and it is suspected that many more go unreported. Teenagers and young adults account for a significant proportion of the country's hate crimes -- both as perpetrators and victims. Every time one of these crimes is committed it creates tension and fear, and tears at the fabric of community life.

The Conference is an important element of the President's Initiative on Race and of his vision for One America. Members of the President's Advisory Board on Race will participate in the Conference at satellite locations.

CONFERENCE PARTICIPANTS

The President, Vice President, Attorney General and Secretary of Education will be joined by other members of the Cabinet, Members of Congress, selected state and local officials, and approximately 350 leaders from the law enforcement, civil rights, anti-violence, youth, education, and religious communities.

Hate crimes survivors will also attend. Participants will include representatives from all 50 states. Thousands more will participate at over 50 satellite-linked events across the country.

CONFERENCE SCHEDULE AND LOCATION

The President will host a breakfast for Conference participants at the White House and will make an opening address at the Conference. After his remarks, the President will chair a panel discussion in which the Attorney General, the Secretary of Education, and several other distinguished Americans will join.

In the afternoon, members of the Cabinet and other senior Administration officials will chair a number of concurrent working sessions to examine various aspects of the hate crimes issue. Afterward, the Attorney General will chair a closing panel to discuss ideas and themes from the working sessions. Participants will attend a closing reception at the United States Holocaust Museum.

The Conference will be held at the Cloyd Heck Marvin Center at the George Washington University, 800 21st Street, NW, Washington, DC, and is by invitation only. The President's remarks will begin at approximately 11:30 a.m. The closing panel and remarks by the Attorney General will commence at approximately 4:15 p.m. The event is open press, except for the working sessions beginning at 2:30 p.m., which are closed press. Press inquiries should be directed to (202) 456-7150.

FOR MORE INFORMATION

Contact the White House Conference on Hate Crimes at (202) 456-6350.

HATE CRIME LAWS

NOTE: Overall, for 1996, there was 8,759 reported incidents of hate crimes. There were 11,039 reported victims of hate crimes. This is 10.2% increase from 1995. In 1996, race made up 63% of bias motivated crimes, sexual orientation made up 12%, ethnicity made up 11% and religion made up 14%.

APPENDIX E**COMPARISON OF FBI HATE CRIME STATISTICS 1991-1996**

	1991	1992	1993	1994	1995	1996
Participating Agencies	2,771	6,181	6,551	7,356	9,584	11,355
Total Hate Crime Incidents Reported	4,558	6,623	7,587	5,932	7,947	8,759
Number of States, including DC	32	42	47	44	46	49
Percentage of U.S. Population Agencies Represent	N/A	51	58	58	75	84

OFFENDERS' REPORTED MOTIVATIONS IN PERCENTAGES OF OFFENSES

	1991	1992	1993	1994	1995	1996
Racial Bias	62.3	60.7	62.4	59.8	60.7	63.13
Anti-Black	35.5	34.7	37.1	36.6	37.6	

	1991	1992	1993	1994	1995	1996
Anti-White	18.7	20.3	19.4	17	15.4	
Religious Bias	19.3	17.5	17.1	17.9	16.1	13.9
Anti-Semitic	16.7	15.4	15.1	15.1	13.3	
Anti-Semitic as Percentage of Religious Bias	86.4	87.5	88.1	86.2	82.9	
Ethnicity	9.5	10.1	9.2	10.8	10.2	11.0
Sexual Orientation	8.9	11.6	11.3	11.5	12.8	11.8

RACE OF SUSPECTED OFFENDERS AS PERCENTAGE OF TOTAL KNOWN OFFENDERS

	1991	1992	1993	1994	1995
White	36.8	50.6	51	57	59.2
Black	16.9	40.6	33.6	29.7	26.7
Race Not Reported or Unknown	43.3	3.9	8.1	7.1	7.3

INCIDENTS, OFFENSES, VICTIMS AND OFFENDERS BASED UPON RACIAL BIAS.

1996	INCIDENTS	VICTIMS	OFFENDERS
Anti-White	1,106	1, 445	1, 783
Anti-Black	3,674	4, 600	3, 701
Anti-American Indian/Alaskan Native	51	71	56
Anti-Asian/Pacific Islander	355	544	374
Anti-Multi Racial Group	210	334	208
Total	5, 396	6, 994	6, 122

INCIDENTS, OFFENSES, VICTIMS AND OFFENDERS BASED UPON RELIGIOUS BIAS.

1996	INCIDENTS	VICTIMS	OFFENDERS
Anti-Jewish	1109	1209	371
Anti-Catholic	35	38	17
Anti-Protestant	75	81	44
Anti-Islamic	27	33	16
Anti-Other Religious Group	129	145	64

1996	INCIDENTS	VICTIMS	OFFENDERS
Anti-Multi Cultural Religious Group	24	27	11
Anti-Atheist/Agnostic	2	2	0
Total	1401	1535	523

INCIDENTS, OFFENSES, VICTIMS AND OFFENDERS BASED UPON ETHNIC/NATIONAL ORIGIN BIAS.

1996	INCIDENTS	VICTIMS	OFFENDERS
Anti-Hispanic	564	728	734
Anti-Other Ethnicity/National Origin	376	479	361
Total	940	1,207	1,095

INCIDENTS, OFFENSES, VICTIMS AND OFFENDERS BASED UPON SEXUAL ORIENTATION.

1996	INCIDENTS	VICTIMS	OFFENDERS
Anti-Male Homosexual	757	940	925
Anti-Female Homosexual	150	192	150
Anti-Homosexual	84	99	93
Anti-Heterosexual	15	38	4
Anti-Bisexual	10	12	8

1996	INCIDENTS	VICTIMS	OFFENDERS
Total	1,016	1,281	1,180

THE WHITE HOUSE CONFERENCE ON HATE CRIMES
MONDAY, NOVEMBER 10, 1997

- 9:00 - 10:00 a.m. **Breakfast -- The White House**
Remarks by the Attorney General and the President
- 11:30 - 12:00 **Welcoming Remarks -- Stephen J. Trachtenberg**
President of The George Washington University
- Remarks by William Johnston, Boston Police Department (Ret.)
- Remarks by the Vice President
- Remarks by Chuenee Sampson, Duke University
- Remarks by the President
- 12:00 - 1:30 **Panel Discussion**
The President
The Attorney General
The Secretary of Education
Peter Berendt, Principal, Mamaroneck Avenue Elementary School, NY
Honorable Sheila Kuehl, California State Assembly
Reverend Samuel Billy Kyles, Memphis, Tennessee
Raymond Delos Reyes, Franklin High School, Seattle, WA
Tammie Schnitzer, Billings, MT
Chief Arturo Venegas, Jr., Sacramento Police Department, CA
Honorable Grant Woods, Attorney General, State of Arizona
- 1:30 - 2:15 **Lunch and Information Resource Fair***
Colonial Commons Ballroom
Lunch is underwritten by a gift to the George Washington
University by USA Network
- 2:30 - 4:00 **Discussion Groups -- Fourth Floor**
1. Hate Crimes in Schools (K-12): Prevention and Response (Secretary Riley);
2. Hate Crimes on Campus: Prevention and Response (Director Raines);
3. Law Enforcement Response to Hate Crimes (Attorney General Reno);
4. Understanding the Problem: Improving Hate Crime Statistics (Deputy
Attorney General Holder)
5. Hate Crimes in Public and Private Housing (Secretary Cuomo);
6. Community Responses to Hate Crimes (Secretary Glickman); and
7. Counteracting Organized Hate (Secretary Slater).

4:15 - 5:15 Closing Panel
The Attorney General
The Secretary of Agriculture
The Secretary of Housing and Urban Development
The Secretary of Transportation
The Secretary of Education
The Director, Office of Management and Budget
The Deputy Attorney General

6:00 - 7:30 Reception
Sponsored by The White House
and The United States Holocaust Memorial Museum
Host Committee for Reception:
American Jewish Committee, Anti-Defamation League,
Arab American Institute, Asian Pacific American Legal Consortium,
Consortium of Citizens with Disabilities, Fund for a Feminist Majority,
Human Rights Campaign, Justice for All,
National Association for the Advancement of Colored People,
The National Conference, National Congress of American Indians,
National Council of La Raza, National Gay and Lesbian Task Force,
National Italian American Foundation, National Urban League,
NOW Legal Defense and Education Fund

*Note: The materials distributed by conference participants do not necessarily reflect the opinions, findings or recommendations, nor do they necessarily represent the official position or policies, of the U. S. Government.

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Race-hate crimes

TO CLARA KILIAN
FYI - AS

WHITE HOUSE CONFERENCE ON HATE CRIMES
Monday, November 10, 1997
Briefing for the Staff of the President's Initiative on Race

AGENDA
Tuesday, October 21, 1997

- I. Outline of program and events**
- II. Contemplated policy announcements**
- III. Workshops**
- IV. Selection of participants and outreach**
- V. Satellite broadcasts**
- VI. Communications / Press issues**

Richard Socarides, Office of Public Liaison -- 456-1611 (fax 456-6682)

Mary Smith, Domestic Policy Council -- 456-5571 (fax 456-7431)

For internal use only:

<p style="text-align: center;">THE WHITE HOUSE CONFERENCE ON HATE CRIMES November 10, 1997</p>

Q. What did the President announce in the Saturday radio address?

A. The President announced that he will host the White House Conference on Hate Crimes on November 10, 1997 (at the White House). The Conference will bring together a diverse group of Americans in an effort to find solutions to this problem. The President also announced that the Attorney General, in preparation for the Conference, has already begun to conduct a thorough review of the laws concerning hate crimes and the ways in which the federal government can make a difference. Her report will help build a plan of action to fight hate crimes.

Q. Is this a part of the President's Race Initiative?

A. The Hate Crimes Conference is separate. The Conference, while encompassing issues related to race, also involves other non-race based groups, such as gays and lesbians, the disabled, women, etc. Thus, while the White House Conference on Hate Crimes will take place at a time while the President is stressing themes of unity, the Conference will address issues beyond race.

Q. What are the goals of the Conference?

A. While examining the tragic impact hate crimes have on our society, the Conference will work to emphasize positive actions individuals and communities can take to help prevent hate crimes and to promote unity and an appreciation for our great diversity as a nation. The White House Conference on Hate Crimes will:

- promote unity by educating the public about the threat hate crimes pose to the fundamental principals of fairness and equal justice upon which our nation was founded, and by fostering a greater appreciation for the rich diversity of America;
- demonstrate the Administration's commitment to preventing hate crimes and highlight the current and future actions we are taking to achieve this goal;
- serve as an opportunity to examine and document the best practices to combat hate crimes, devise strategies, and prepare a report to aid communities in the fight against hate crimes.

Topics will include a discussion of crimes motivated by intolerance related to race, religion, ethnicity, gender, sexual orientation/identity, disability; law enforcement efforts and best practices; community, educational and private initiatives; and help available for the victims.

Q. Who will be invited to participate?

A. Approximately 100 participants from all walks of life and from every region of the country, including:

- victims and their families
- community advocates
- public policy experts
- law enforcement professionals
- state and local government officials
- Members of Congress
- religious leaders
- Senior Administration officials from the White House and DOJ

FOR MORE INFORMATION: White House Office of Public Liaison -- Hate Crimes Conference Information number -- 202-456-5530

socarides 6-1611

HATE CRIMES – Q's and A's

Q: What is a hate crime?

A: As a general matter, a hate crime is a crime that is committed because of some characteristic of the victim, such as the victim's race, color, gender, religion, national origin, sexual orientation, disability, or familial status. However, it is important to understand that hate crimes are defined by federal and state criminal statutes, and these statutory definitions differ in their particulars from jurisdiction to jurisdiction. The principal federal hate crimes statute, for example, includes only those crimes committed because of the victim's race, color, religion or national origin, it does not include crimes committed because of the victim's gender, sexual orientation, or disability.

Q: Is the President supporting an expansion of the definition of a hate crime? Is he supporting changes to current federal law?

A: The President has called a conference on hate crimes for November 10, 1997. One of the issues that will be considered at the conference is whether the statutory definitions of federal hate crimes should be expanded.

Q: Is the Oklahoma City bombing case a hate crime? Is the McVeigh trial the reason why the President is speaking out now about hate crimes?

A: It would be inappropriate for us to say much at this point about the Oklahoma City bombing case, since Mr. McVeigh's trial is still in the penalty phase.

Q: Is the bombing of an abortion clinic a hate crime?

A: It depends on the circumstances. If the bombing is motivated by the perpetrator's gender-based bias, then the crime could violate a hate crimes statute if the statute defines hate crimes to include this type of conduct when it is motivated by gender bias. The principal federal hate crimes statute currently does not prohibit conduct motivated by gender-based bias.

Q: Why are hate crimes statistics unreliable? Why don't we know whether the number of hate crimes committed is going up or down?

A: Hate crimes statistics are unreliable because hate crimes are under-reported. There are several reasons why this happens. First, hate crimes reporting by state and local law enforcement agencies is voluntary under current federal law. Second, many of the most likely targets of hate crimes also are the least likely to report incidents to the police. For example, 60% of the victims of anti-gay incidents who reported their incidents to private tracking groups did not report the incidents to the police, in many cases because of a fear of mistreatment or unwanted exposure. Third, state and local jurisdictions often have disincentives to classify and compile statistics relating to hate crimes. Tracking hate crimes requires law enforcement agencies to do additional investigative work to determine the motivation behind crimes. In addition, many local political leaders believe that it would exacerbate racial tensions or harm their jurisdictions' reputations to acknowledge that crimes committed in their cities or towns were motivated by bias. The bottom line, however, is that the number of hate crimes actually reported to the FBI has gone up over the past several years — in 1995, the number was 7,947, reported by a total of 9,584 state and local jurisdictions.

HATE CRIMES -- BACKGROUND PAPER

Federal Hate Crimes Statutes

- There are four major federal hate crimes statutes:
 - 18 U.S.C. 245, the principal federal hate crimes statute, prohibits the use of force or threats of force based on race, color, religion or national origin to interfere with a person's exercise of any federally protected right enumerated in the statute, including enrolling in or attending public school or college, participating in any program or activity administered by a state or local government, working or applying for employment, serving as a juror in state court, traveling interstate, and using places of public accommodation.
 - Section 245 has significant limitations: (1) the statute does not prohibit conduct that is based on gender, sexual preference, or disability, and (2) it does not apply unless the victim is engaged in one of the enumerated federally protected rights at the time of the offense.
 - 42 U.S.C. 3631, enacted in 1968 as part of the Fair Housing Act, prohibits interference with certain federally protected housing rights based on race, color, religion, national origin, gender, disability, or familial status.
 - Section 3631 applies only to housing related matters.
 - The Hate Crimes Statistics Act directs the Attorney General to collect statistics on crimes based on race, color, religion, national origin, disability, and sexual orientation.
 - The Act contains no requirement that jurisdictions report hate crimes, nor does it provide funding as an incentive to encourage reporting by state and local jurisdictions. As a result, statistics collected pursuant to the Act are incomplete.
 - In addition, the Act does not require the collection of gender-based hate crimes.
 - The Sentencing Enhancement Act, passed as part of the 1994 crime bill, authorizes the imposition of enhanced sentences for federal crimes found to have been motivated by race, color, religion, national origin, sexual orientation, gender, or disability. The Act became effective in November 1995 and is just beginning to be used.

Hate Crimes Statistics

- Hate crimes statistics are maintained by the FBI, by some state and local law enforcement agencies, and by several private organizations. The number of hate crimes reported to law enforcement officials has increased over the past several years, but because of under-reporting and other factors it remains uncertain whether the total number of hate crimes committed in the United States is going up or down. In any event, the numbers are large.
- The FBI has released reports on hate crimes statistics, based on reporting from state and local law enforcement agencies, each year since 1991. In 1991, 2771 state and local agencies reported a total of 4755 bias motivated crimes to the FBI. In 1995, 9584 state and local agencies reported a total of 7947 such crimes to the FBI. The fact that many jurisdictions, including several large jurisdictions, tell the FBI that they have no hate crimes to report leads many to conclude that the FBI's statistics present an incomplete picture of the national situation.
- Several private groups track hate crimes. Some track all types of hate crimes, while others focus their efforts on tracking hate crimes against certain constituencies, such as gays and lesbians, Jews, Arab-Americans, Muslim-Americans, Asian-Americans, etc. Statistics kept by these groups tend to differ significantly from statistics kept by the FBI. First, some victims of hate crimes report their experiences to a group but not to the FBI. Second, several of the groups count incidents of verbal harassment as hate crimes even though such incidents do not constitute crimes in most states.
- All of the reporting systems are plagued by under-reporting, for which there are several reasons.
 - First, many of the most likely targets of hate crimes also are the least likely to report incidents to the police. For example, 60% of the victims of anti-gay incidents who reported their incidents to private groups did not report the incidents to the police, in many cases because of a fear of mistreatment or unwanted exposure. Similarly, many hate crimes victims in immigrant communities do not report incidents to the police because they fear reprisals or deportation.
 - Second, state and local jurisdictions often have disincentives to classify and compile statistics relating to hate crimes. Tracking hate crimes requires law enforcement agencies to do additional investigative work to determine the motivation behind crimes. In addition, many local political leaders believe that it would exacerbate racial tensions or harm their jurisdictions' reputations to acknowledge that crimes committed in their cities or towns were motivated by bias.

THE WHITE HOUSE

Office of the Press Secretary

Embargoed For Release
Until 10:06 A.M. EDT
Saturday, June 7, 1997

RADIO ADDRESS BY THE PRESIDENT
TO THE NATION ON HATE CRIMES

THE PRESIDENT: Good morning. This morning I want to talk about one of America's greatest challenges and greatest opportunities -- conquering the forces of hatred and division that still exist in our society so that we can move forward into the 21st century as one America.

We are clearly the world's most diverse democracy, bound together across all of our differences by a belief in the basic dignity of every human being's life and liberty and the right of every American who lives by our laws and lives up to his or her responsibilities to share in the full promise of the greatest nation on Earth.

Especially as we move into a new century with its global economic and its global society, our rich diversity is a powerful strength, if we respect it. We are clearly stronger as a nation when we use the full talents of all of our people, regardless of race or religious faith, national origin or sexual orientation, gender or disability. Much of America's story is really the stories of wave after wave of citizens struggling over our full history for full equality of opportunity and dignified treatment.

We stand today in sharp contrast to the racial, ethnic, tribal and religious conflicts which continue to claim so many lives all around the world. But we have still not purged ourselves of all bigotry and intolerance. We still have our ugly words and awful violence, our burned churches and bombed buildings.

In a predominantly white suburb of Atlanta, Georgia last month, an African American couple was greeted with racial epithets as they moved into their new home. Just a week later, their home was sprayed with gunfire in the middle of the night. In a recent incident right here in Washington, D.C., three men accosted a gay man in a park, forced him at gunpoint to go under a bridge and beat him viciously while using anti-gay epithets. Last fall in Los Angeles, a Jewish student's dormitory room was bombed with a quarter stick of dynamite and a swastika was drawn near the door.

Such hate crimes, committed solely because the victims have a different skin color or a different faith or are gays or lesbians, leave deep scars not only on the victims, but on our larger community. They weaken the sense that we are one people with common values and a common future. They tear us apart when we should be

moving closer together. They are acts of violence against America itself. And even a small number of Americans who harbor and act upon hatred and intolerance can do enormous damage to our efforts to bind together our increasingly diverse society into one nation realizing its full promise.

As part of our preparation for the new century, it is time for us to mount an all-out assault on hate crimes, to punish them swiftly and severely, and to do more to prevent them from happening in the first place. We must begin with a deeper understanding of the problem itself.

That is why I'm convening a special White House conference on hate crimes this November 10th. We'll bring to the White House victims of hate crimes and their families to understand why the impact of these acts runs so much deeper than the crimes themselves. We'll bring together law enforcement experts and leading officials from Congress and the Justice Department to take a serious look at the existing laws against hate crime and consider ways to improve enforcement and to strengthen them. We'll bring together community and religious leaders to talk about solutions that are already making a real difference in communities all across our nation.

In preparation for the conference, Attorney General Reno has begun a thorough review of the laws concerning hate crimes and the ways in which the federal government can make a difference to help us to build a more vigorous plan of action. But, of course, the fight against hatred and intolerance must be waged not just through our laws, but in our hearts as well.

A newborn child today does not know how to hate or stereotype another human being; that behavior must be learned. And intolerance does not generally begin with criminal acts. Instead, it begins with quiet acts of indignity: the bigoted remark, the African American who is followed around the grocery store by a suspicious clerk, the gay or lesbian who is denied a job, the Hispanic or Asian who is targeted because of unfair stereotypes. To truly move forward as one community, it is just not enough to prevent acts of violence to our bodies, we must prevent acts of violence to our spirits.

By convening the very first White House Conference on Hate Crimes this November, America can confront the dark forces of division that still exist. We can shine the bright light of justice, humanity and harmony on them. We'll take a serious look at the laws and remedies that can make a difference in preventing hate crimes. We'll have the frank and open dialogue we need to build one America across all difference and diversity. And, together, we will move closer to the day when acts of hatred are no longer a stain on our community or our conscience; closer to the day when we can redeem for ourselves and show to the world the 220-year-old promise of our founders, that we are "One nation under God, indivisible, with liberty and justice for all."

Thanks for listening.