

Testimony of  
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before

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I am very proud to appear today in support of H.R. 1592 The Local Law Enforcement Hate Crimes Prevention Act of 2007. I will use my time to address some broad issues of the characteristics and impact of hate crimes on our society and thus the need for this important Federal Legislation.

### **Background**

I have been conducting research on various aspects of hate crimes for more than 20 years and have published two books and numerous reports, journal articles and book chapters. I co-authored the first national report on hate crime mandated by the 1990 Hate Crime Statistics Act, Hate Crimes 1990: A Resource Book published by the FBI in 1993. I also co-authored Hate Crime the Rising Tide of Bigotry and Bloodshed with Jack Levin in 1993 and Hate Crime Revisited : Americas War on Those Who Are Different in 2002.

In addition I have co-authored a number of U.S. Department of Justice reports dealing with the collection of hate crime statistics including Improving The Quality and Accuracy of Bias Crime Statistics Nationally in 2000 and Bridging the Information Disconnect in National Bias Crime Reporting in 2002. Both of these reports were done for the U.S. Department of Justice, Bureau of Justice Statistics and recommended ways to improve the accuracy of hate crime statistics.

In addition I have trained thousands of law enforcement officers across the country in how to identify and investigate hate crimes. In working with law enforcement officers I have come to understand how difficult many of these cases are to investigate and how this bill would assist local law enforcement in the investigation of these very serious crimes.

### **Nature and Magnitude of Problem**

The terms “hate crime” and “bias crime,” coined during the 1980s, refer to behavior prohibited by law in which the perpetrator’s actions are motivated by bias against a particular group. Acts of violence motivated by bigotry and hatred have occurred throughout history including major acts of genocide such as the Holocaust during World War II, and the many acts of “ethnic cleansing” we have seen across the globe historically and today. Despite this lengthy history, it is only during the last three decades that this behavior has been defined as a hate crime in America and internationally and constructed as a social problem which required additional public policy and legislation.

This legislation that we consider here today can significantly improve the lives of victims of hate violence by providing significant federal assistance in the form of grants to local law enforcement and by directing the collection of additional information on hate crimes motivated by gender and gender identity as well as those crimes by and on juveniles. In 1990 when the first federal legislation was passed requiring data collection then President Bush declared “The Hate Crime Statistics Act is an important further step toward the protection of all Americans' civil rights. Our administration will work with Congress to determine whether new law enforcement measures are needed to bring hatemongers out of hiding and into the light of justice. And at the same time, by collecting and publicizing this information, we can shore up our first line of defense against the erosion of civil rights by alerting the cops on the beat” (Bush 1990). H.R. 1592 significantly extends and supplements this landmark legislation.

In 2005, a total of 7,160 hate crime incidents were reported to the FBI. Similar to other data on crimes reported to the police the 2005 figures represent an undercount of the actual number of hate crimes because many victims of hate violence do not feel comfortable going to the police to report crimes. The underreporting problem is even worse in the most recent 2005 data since two of the largest Cities in the United States New York and Phoenix failed to submit any data to the report for that year. I believe the legislation we are discussing here today would begin to reverse this problem of jurisdictions not participating in the FBI’s hate crime reporting system by reemphasizing the Federal Government’s commitment to protecting victims of hate violence and by providing grants as incentives to local agencies.

Though limited to those crimes that are reported to the police, national hate crime statistics provide a critical measure of the prevalence and distribution of hate crimes throughout the county. Between 1995 and 2005, the FBI reports the total number of hate motivated crimes reported in the national statistics remained relatively constant ranging from a low of 7,160 (2005) to highs of 9,730 (2001), see Appendix 1 which presents FBI statistics compiled by the Anti-defamation League (ADL) for the past 15 years. The relatively stable level of reported hate crime is more troubling when compared to other national estimates of violent and property crime (including the FBI's UCR Program) which have reported dramatic decreases in all types of crimes over the same period (FBI, 2005b).

The one group that experienced an increase in hate violence in 2005 were Hispanics. In a report in which virtually every other category of hate motivated crime decreased, reported crimes against Hispanic victims increased markedly - from 475 in 2004 to 522 in 2005. Even in face of substantial disincentives for Latino community members to report hate violence, the FBI has documented a disturbing increase in these crimes.

While we know that all hate crimes are not included in the FBI's statistics, it is useful to note that a review of the data from the past 10 years reveals remarkable stability in the categories across this period. Racial bias continues to be the most frequent bias motivation with 56.0% of the hate crimes in 2005 racially motivated. Approximately similar proportions of the remaining hate crimes in 2005 were motivated by other biases, religious bias, sexual orientation bias and ethnicity and national origin bias.

In addition to information about the type of victim, the national hate crime statistics provide useful information about the type of underlying crime that has been reported. In 2005, 30.2 percent of all hate crime victimizations involved destruction of property or vandalism, 30.3 percent involved actions intended to intimidate the victim, 18.7 percent were simple assaults, and 12.7 percent aggravated assaults. These figures indicate that in 2005 almost two thirds of all hate crimes reported nationally involved attempts to intimidate or physically harm the victim.

While some may seek to minimize the impact of hate motivated acts of intimidation, thinking they are minor crimes, these are among the most frightening of all hate crimes. As an example, if an African-American family moves into a white neighborhood and they begin to be harassed the entire family can be severely traumatized. Families in the past have had threatening phone calls, lead to threatening letters and e-mails, lead to threats to hurt family members, lead to physical damage to their property and often leading to a physical attack on a member of the family. Some have written of this process of threats and intimidation as acts of “domestic terrorism” and that is just how many victims of act of intimidation feel, terrorized.

Some have suggested that hate crime laws prohibit speech, this is not the case. These statutes, including the one we are discussing today, require a crime of violence in order to qualify for federal assistance in a local hate crime prosecution. It is important to note that hate crime statutes do not designate protected groups, they protect anyone who

is attacked on the basis of their race or other characteristic. For example, in 2005, 828 incidents or 11.5% of all incidents were anti- white. In order for this kind of legislation to be effective it is essential that these statutes protect all members of our society equally.

While the number of hate crimes reported is rather small compared to other crime categories, the impact of these crimes is very great. It has long been known that these crimes are about messages and as such each crime is intended to send a message to all members of the target group that they are not welcome in the community, workplace or college campus (Levin and McDevitt 1993). As such, each hate crime affects many more people than the individual crime victim. These crimes can tear a community apart and pit neighbors against one another. Most importantly, these crimes threaten the very diversity that makes this Country great. If members of certain groups are afraid to move into or drive through a particular community for fear of attack, America is weaker for it. H.R. 1592 is a vital next step in sending the message that Americans will not tolerate hate motivated violence to be perpetrated on members of our society.

### **Impact on Victims**

Research suggests that the effects of hate crimes are in fact unique and may produce a more serious emotional, psychological, and behavioral impact on victims when compared to similar crimes lacking a hate motivation. Victims of hate crimes often experience unusually high levels of fear and may demonstrate post-attack behavioral changes, including avoidance or high risk situations or desire for retaliation. In addition,

hate crime victims possess an increased risk for experiencing symptoms of depression or Post Traumatic Stress Disorder (Barnes & Ephross, 1994).

There are a number of reasons cited for this more serious impact. First victims have generally done nothing to initiate the attack or harassment. Victims in hate crimes are generally chosen because they are members of a particular group (or perceived to be members) not because of anything they have done. As a criminologist, we know that random acts of violence such as these are the most terrifying for victims. An additional element of these crimes involves the interchangeability of victims. Since victims are chosen based on membership not behavior, any member of the group is equally likely to be a target. If an African American family moves into an all white neighborhood, it does not matter which family has moved in, the offenders will attack any family regardless of what they have or have not done, simple because they are African American.

In a study I led in 2001 we found differences in victims' psychological reactions to being assaulted, depending on whether the attack was hate motivated or not. The study examined data on hate motivated assault victims and a comparison group of non-hate motivated assault victims. Results of the survey demonstrate that victims of hate crimes experienced increased fear and indicated a greater likelihood of experiencing intrusive thoughts, even controlling for the type and severity of crime. Effects experienced by victims of hate crime were more intense and lasted longer than those of the non-hate victims in the sample.

Overall, the victimization which occurs as result of hate crimes is unique in the fact that it is two-fold in nature and targets core identity issues. Like any crime, hate crime victims experience an initial or primary violation. However, hate crime victims may also experience a secondary form of victimization which can include stigmatization and even denial of resources based on their status. Like other victims of crime, victims of hate crime may ask “why me,” question their perception of the world as a fair and equitable place, and even question their own worth. However, unlike other victims, the responses experienced by victims of hate motivated crimes when they do in fact report the incident to the police may result in an increased feeling of stigmatization or an increased feeling of future vulnerability (Berrill & Herek, 1990; Garnets et al., 1990).

It has also been noted by law enforcement officials and advocates that hate crime offenders do not specialize or target one particular group. Individuals who attack victims because of one characteristic (e.g., race) do not embrace others who they also view as different (e.g., gay men). While hate crime offenders may not specialize, it is the case that many victim groups experience unique consequences as a result of their victimization.

### *Race*

Race has long been one of the difficult issues facing American society, so it is not surprising that as indicated above, crimes motivated by racial hatred are the most common category of hate crimes reported to the police. Furthermore, along with ethnicity and religion, race represents one of the original and most consistently protected statuses under hate crime legalization and initiatives. However, there currently exists



little research that examines in depth the effects of hate crime on victims of racially motivated violence.

Consistent with studies of hate crime in general, a defining characteristic of racially motivated hate crime appears to be the potential vulnerability expressed by victims. In a study of Black and White college students, Craig (1999) examined reactions to portrayals of hate motivated assault, general assault, and non-violent control scenes. Black participants rated the likelihood that they would find themselves in a situation such as the hate motivated assault significantly higher than White participants did. Additionally, Blacks were more likely than White participants to express suggestions that the victim of the hate crime should seek revenge (Craig, 1999).

It is important to recognize the continued existence of racism and the role social belief systems play in the occurrence of hate crimes. In a qualitative study of the responses of White students to the occurrence of a campus based hate crime, participants indicated they should not personally be held liable, because of their being White, for radicalized hatred targeted towards other racial groups (Jackson II & Heckman, 2002). However, the role of race relations in hate motivated crime goes beyond the extreme racist beliefs of a few. According to Perry (2002):

Racially motivated violence is not an aberration associated with a lunatic or extremist fringe. It is a normative means of asserting racial identity relative to the victimized other; it is a natural extension—or enactment—of the racism that allocates privilege along racial lines (p.89).

Hate crime, and racialized violence in particular, targets core identity issues.

Accordingly, it is important to understand the greater social and cultural context within

which such crimes occur. This understanding can facilitate more effective assistance to victims of crime targeted on the basis of their race.

### *Religion*

In 2005, according to federal hate crime statistics, 15.7 percent of hate crime incidents were motivated by hatred based on religious affiliation. Of such religiously motivated incidents, 68.5 percent were anti-Jewish, 11.1 percent anti-Islamic, 4.6 percent anti-Catholic, approximately and 4.4 percent anti-Protestant.

From the earliest versions of hate crime legislation, religion has been included as a protected status, largely a result of the work of social advocacy organizations, particularly of the ADL. Representing one of the most longstanding anti-hate violence groups, the ADL has been documenting and publishing data on anti-Semitic and other forms of hate violence since 1979 (Jenness & Grattet, 2001). Currently, the vast majority of states have laws addressing crimes motivated by religious hatred, and 21 states and Washington, DC, have legislation specifically criminalizing interference with religious worship (ADL, 2006). According to audit results of the ADL, anti-Semitic incidents have declined in 2006 but the proportion of incidents occurring in schools and on college campuses has increased (ADL, 2006). One aspect of anti-religious hate crimes is the location of the acts of criminal violence. A majority of anti-religious hate crimes are targeted at property such as synagogues, churches, mosques, or cemeteries. It has been suggested that since it may be hard to identify potential victims as members of a particular religion it is relatively easy to attack a symbol of that religion such as a mosque, synagogue, or church (Levin & McDevitt, 1993).

Hate crimes perpetrated against Arabs and/or Muslims have increased dramatically following the events of September 11, 2001. Hate crimes motivated by anti-Islamic sentiment increased from 34 in 2000 to 546 in 2001—a 1,554 percent increase during this time period. Hate crimes based on national origin (other than Hispanic) increased from 429 in 2000 to 1,752 in 2001—a 308 percent increase. While such crimes have fluctuated sharply since 2002, the number of anti-Islamic hate crimes remains much higher than the pre-September 11, 2001 levels. Analysis indicates that anti-Arab or anti-Islamic hate crimes increase sharply and dramatically in response to global events. In addition, however, there is no doubt that law enforcement officials are now better trained and more aware of the possibility of these post-9/11 "backlash" crimes - and are, therefore, in an improved position to identify, report, and respond to these crimes more effectively. I have no doubt that the same dynamic will occur with gender, gender identity, and juvenile hate crime under this legislation's new data collection mandate.

### *Sexual Orientation and Gender Identity*

There were 1,171 hate crime incidents targeting sexual orientation reported to law enforcement agencies in 2005, representing 14 percent of total hate crime incidents reported (FBI, 2006). According to the ADL, 31 states and the District of Columbia have hate crime laws that specifically include sexual orientation as a protected status, and 16 of those (50%) collect data relating to anti-homosexual hate crime (ADL, 2005b). The majority (60.9%) of incidents targeting sexual orientation that were reported by law

enforcement to the FBI were anti-male homosexual, 15.4 percent were anti-female homosexual, 19.5 percent were anti-homosexual, 2 percent were anti-heterosexual.

Research suggests that hate motivated crimes result in a severe set of consequences for members of the gay, lesbian, bisexual, and transgender (GLBT) community. Hate crime survivors had higher levels of depression, anxiety, anger, and post-traumatic stress symptoms than victims of non-hate crimes and non-victims (Herek et al., 1997; Herek et al., 1999). In addition, although many hate crimes were committed by only one perpetrator, hate crimes against gay individuals were more likely than non-hate crimes to involve two or more offenders (Herek et al., 2002), increasing the likelihood of serious injury. Research has also shown that violent hate motivated attacks against gay males are often more excessive and brutal than those against other groups (see Willis, 2004). In addition a recent report by the National Coalition of Anti Violence Programs identified a large proportion of the anti-GLBT assaults involved sexual assault or rape (NCAVP, 2006)

Perhaps more than for members of other groups, gender identity issues can be very complex for GLBT individuals, making victimization potentially more severe and complicated. Because anti-gay sentiment is still relatively acceptable in American society—we can see it from church pulpits, in statewide elections, and in a wide variety of media outlets—an individual identifying him or herself as GLBT, may alienate even the people closest to him or her. Despite this, hiding one's identity produces negative consequences and can make it more difficult to live ones life. Research has shown that

those persons who are committed to their gay identity and do not try hide it from others typically experience stronger psychological adjustment (see Garnets et al., 2003). Ironically, those who do identify themselves publicly as gay are increasingly likely to be victimized (Herek et al., 1997). Thus, embracing a gay identity may act simultaneously as a psychological buffer as well as a risk factor.

Lastly, the reluctance to report hate crime victimization is an essential factor to understand in working with victims of anti-homosexual hate crime. For example, Herek et al. (1999) found that victims targeted on the basis of sexual orientation were significantly less likely to report crime to the police. Victims may fear the insensitive or hostile response by police, as well as being “outed” as a result of reporting a hate crime (Kuehnle & Sullivan, 2003). Transgender victims appear to be among the most challenging of the GLBT victims. Presently there is so little understanding of this group and so much misinformation that they stand as a group that offenders feel they can attack without fear of reprisal. In addition, when victims do attempt to report to law enforcement they often find that these officials are either unable or unwilling to take the report and commence an investigation.

The concept of gender identity is an emerging issue in the academic literature. Research has demonstrated that hate crimes motivated by gender identity issues are among the most misunderstood and ignored hate crimes (Jenness, 2002). Often these crimes are ignored because the victim and law enforcement officials are not sure how to interpret the attacks. This bill will provide an opportunity to collect information on these

challenging incidents and will serve as a basis for deepening our understanding of how we might best protect these victims.

### *Disability*

A group which has, until recently, often been ignored in the development and implementation of hate crime policy and legislation is that of disabled individuals. Hate crimes targeting disabled individuals are now legally proscribed in 31 states and Washington, DC (ADL, 2005b). Disabled individuals represent one of the largest minority populations in the United States, and victimization against the disabled is both prevalent and seemingly on the rise. Furthermore, this group is often disregarded in social, legal, and policy arenas. Both data collection efforts as well as law enforcement training procedures have infrequently addressed the disabled population. In fact in the most recent FBI hate crime statistics only 53 anti-disability hate crimes were reported, totally 0.6 percents of all hate crimes. Violence experienced by disabled individuals is often perpetrated in private and thus may be more veiled than other forms of group targeted violence.

Another important difference to recognize is that, unlike other hate crimes in which the perpetrator is generally a stranger or a group of strangers (Berek, 1990; Downey & Stage, 1999; Levin & McDevitt, 1993), the perpetrators of crime against disabled individuals are often known to the victim and many times may be a person on whom the disabled individual must depend (Waxman, 1991). Accordingly, attempts to assist this population must pay particular attention to the group's uniqueness as well as to

the fact that disabled victims represent a population that has often been overlooked and often only peripherally linked to hate crime initiatives.

### *Gender*

Like sexual orientation, gender is often a controversial status category in discussions of hate crime. Gender was not included as a protected category under the original Hate Crime Statistics Act; it was added as a protected category in the Hate Crimes Sentencing Enhancement Act of 1994 (HCSEA), but it is largely overlooked. According to McPhail (2002), “the inclusion [of gender] remains more symbolic than realized as it is rarely invoked and remains controversial” (p.130). Despite passage of the HCSEA, the FBI still does not collect data on gender. Additionally, only 28 states and the District of Columbia have statutory provisions addressing hate crimes committed out of gender hatred (ADL, 2005b), and some of those laws appear to be relatively ineffective. For example, to prove a hate crime motivated by gender, some statutes require that the perpetrator must verbally denigrate women as a class, and in other states at least two restraining orders must have been filed against the perpetrator by two different women for hate crime charges to be filed (McPhail, 2002).

One of the main arguments used by opponents of gender’s inclusion as a protected category is that crimes against women are typically committed by people known to the women, ostensibly violating the interchangeability criterion of hate crime. However, hate crimes do not require that the offender and victim be complete strangers, only that the offense be committed at least in part because of the victim’s actual or perceived membership of a group. For gender motivated hate crimes, the challenge is

identifying when acts of violence against women are motivated by specific hatred of women as a class or are more broadly caused by existing power differences between men and women commonly found throughout American society.

One of the most challenging aspects of dealing with the issue of gender based hate crime is the lack of data about these incidents. H. R. 1592 will take a major step towards dealing with this issue. By including gender and gender identity as categories for reporting by local law enforcement, this bill will provide for the collection of data that will allow us to understand the dimensions and impact of these acts of violence in ways that we have never before had available to us.

### **Hate Crime Offenders and Offender Typology**

As discussed previously, hate crime offenses differ significantly in their defining characteristics from other crimes not motivated by hatred. For example, the FBI has identified as an indicator of hate or bias crimes that these offenses tend to be excessively brutal where often the force used is far beyond what is necessary to subdue a victim. Furthermore, hate crimes are generally perpetrated on strangers in acts that can often appear to be random, senseless, or irrational. As discussed above, victims are selected based on their group affiliation, not personal attributes. Finally, hate crimes are perpetrated by multiple offenders more often than is the case in non-hate crimes (Levin & McDevitt, 2002).

Hate crime perpetrators may be somewhat distinct in comparison to other criminals. For example, in a study of undergraduate perceptions of hate crime victims and perpetrators, participants viewed perpetrators of hate motivated crime as being more



culpable than perpetrators of non-hate crime (Rayburn et al., 2003). Further, in a survey of law enforcement, the majority of hate crime investigators indicated that they viewed hate motivated incidents as more serious than similar crimes not motivated by hatred (McDevitt et al., 2000).

In a review of 169 hate crime cases investigated by the Boston Police Department, thrill hate crimes were found to be the most frequently motivation, distinguishing well over half of all hate incidents. Thrill crimes are characterized by a desire for excitement and may be typified by an immature desire for power. Thrill offenses are often perpetrated by groups of teenage or young adult offenders, with offenses occurring on the victim's "turf." In comparison to other perpetrators, there is often less of a commitment to hatred in such offenders (McDevitt et al., 2002). In many of these cases, young men looking for excitement or thrills decide to attack someone who they perceive as different. Based on messages they have received from our culture, these young criminals do not think anyone will care if they attack a member of one of these target groups.

Defensive hate crimes represent the next most common type. These crimes are committed when perpetrators attack victims believing that the perpetrator is protecting valuable resources or defending his or her neighborhood, workplace or college campus. As with thrill offenses, defensive crimes are often perpetrated by groups of teenagers or young adults, but in contrast, most defensive hate crimes occur in the offender's neighborhood not the victim's. It is the offender's "turf" being defended. A common

example of defensive hate crimes involves harassment suffered by a Black family who moves into an all White neighborhood (McDevitt et al., 2002).

The third most common hate crime motivation is that of retaliation. Retaliatory offenses occur in reaction to a perceived hate crime. Here, it is not important whether in fact an assault occurred, only that the offender believes it took place. Retaliatory offenders are likely to act out individually, often seeking out a victim to target in the victim's own territory. Victims are selected because they are perceived to be a member of a group even if they had no involvement in the original precipitating incident.

Finally, the least common, but potentially most critical motivation for hate crime offenders is that of mission offenders. Mission offenders perceive themselves to be crusaders whose lives are completely committed to hatred and bigotry. Mission offenders may operate in groups (in affiliation with an organized hate group) or alone (such as in the example of Timothy McVeigh) (McDevitt et al., 2002). While mission offenders are not actually involved in many hate crimes, they are involved in many of the most serious hate crimes. These offenders are typically very difficult to identify particularly by local law enforcement. They often cross state lines to attempt to instigate hate motivated violence. This legislation would significantly improve local law enforcement's ability to identify, investigate and ultimately prosecute these most serious hate crime offenders.

Overall, typologies categorize perpetrator motivation and can assist law enforcement and other agencies to better detect hate motivated crime when it occurs. In

fact, the FBI incorporates the McDevitt et al. (2002) typology in its agent training curriculum. These typologies also provide guidance for more empirically based research addressing the etiology of hate crimes and intricacies that may exist among diverse perpetrators. Ultimately, a better understanding of motivation for hate crime will lead to stronger policy and prevention strategies.

### *Juvenile Involvement Hate Crime*

Much research has pointed to the number of juveniles involved in hate crimes. An analysis I participated in with other colleagues determined from National Incident Based Reporting System (NIBRS) data that 29% of the identified offenders in the national sample were under 18 years of age. An additional 26% were between 18 and 24 years of age resulting in fully 55% of the identified hate crime offenders being juveniles or young adults (Nolan, Mencken and McDevitt 2005). As with most crimes juveniles are disproportionately represented in hate crimes and part of the reason for this is their lack of experience and fear of the increasing diversity of our society. This legislation will advance our understanding of juvenile involvement in hate crimes, which the data cited above indicates is substantial, by increasing the amount of information available about hate crimes committed by or upon juveniles.

### **Role of Law Enforcement**

It has long been known that one key to effectively addressing hate crimes is the role played by local law enforcement. Most hate crimes that come to official attention are first reported to the local police or sheriff's office. Supporting the work of these crucial

agencies is paramount if we are to deal with hate violence in a comprehensive manner. This legislation provides tools to local law enforcement to assist them in the investigation and prosecution of hate crimes. This is critically important assistance because of the unique challenges posed in the investigation of hate crimes. Our previous work on reporting of hate crimes identified that since hate crimes are relatively rare events, having expertise to draw from when an officer encounters a crime that she or he thinks might be hate motivated is essential to properly investigating and prosecuting a particular incident (McDevitt et al 2002). Since victims will often deny that bias was the motivation for the crime, responding officers must be trained on what questions to ask to properly identify if an attack is hate motivated. Questions such as the existence of prior threats and harassment, the excessive brutality of the attack, the language used in the attack can be important elements of the crime that could indicate that it was hate motivated. These indicators have been developed and circulated by the FBI who in the early 1990s trained a large number of local law enforcement agencies in techniques of identifying and investigating hate crimes. This legislation makes access to the FBI for this kind of expertise even more available. Additionally, these crimes do require additional investigatory time. The police must develop additional evidence of the bias motivation of the offender and this takes additional time and resources. The funding made available through HR 1592 will be highly valuable to law enforcement allowing them to spend the time that is necessary to solve these important crimes.

### **Hate Crime Reporting and Statistics**

Over the last two decades significant efforts have been made to enhance the quality of information about the existence and prevalence hate crimes in the United States. With the passage of the Hate Crime Statistics Act (HCSA) in 1990, the Attorney General charged the FBI to establish the first national hate crime data collection and reporting program. Utilizing the FBI's existing Uniform Crime Reporting (UCR) Program, local, county, and state law enforcement agencies began to submit information about hate crime incidents to the FBI. Incorporating the new hate crime data collection effort into the UCR program was a critical decision, as the UCR program has been an accepted method of national data collection for over 70 years. Today more than 17,000 local, county, and state law enforcement agencies participate in the UCR program. Despite these advantages, hate crime data collection and reporting have remained challenges for many agencies.

The number of agencies participating in the national hate crime data collection program has grown considerably since the program's initial years. In 1991, 2,771 law enforcement agencies participated in the national data collection program by submitting statistics on the number of hate motivated crimes that come to the attention of their agency; by 2004, that number had grown to nearly 13,000 agencies. Even with this remarkable growth still only three-fourths of those agencies that participated in the general UCR program also participated in the national bias crime data collection program. As a result, the national statistics on hate crime are missing information from many police agencies across the country.

Despite the growth in the total number of agencies participating in the hate crime reporting program, many major cities report no hate crimes or surprisingly low numbers of hate crimes. Today nearly 85 percent of participating agencies report no hate crimes according to the most recent FBI report. While reporting zero hate crimes may accurately reflect the number of hate crimes in many jurisdictions, scholars suggest that some agencies, particularly in larger, more diverse communities, are not fully and accurately collecting information on and reporting hate crime (McDevitt et al., 2003). For example, in 2005 two states reported 0 hate crimes (Alabama and Mississippi). Similarly in 2005 , a number of major cities failed to participate in the data collection program, including New York City and Phoenix mentioned above. In total 5 Cities with populations over 250,000 failed to participate in the national reporting program and 20 cities between 100,000 and 250,000 population failed to participate in the program. The passage of this legislation with its opportunity to acquire federal grants should provide a strong incentive to local communities to participate in the important national crime reporting program.

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## **Bibliography**

Anti-Defamation League. (2006). Anti-Semitic Attacks in the US Decline in 2006 Despite Year marked by Violence attacks [http://www.adl.org/PresRele/ASUS\\_12/4993-12](http://www.adl.org/PresRele/ASUS_12/4993-12)

- Anti-Defamation League. (2005b). Anti Defamation League state hate crime statutory provisions.[http://www.adl.org/learn/hate\\_crime\\_laws/state\\_hate\\_crime\\_statutory\\_provisions\\_chart.pdf](http://www.adl.org/learn/hate_crime_laws/state_hate_crime_statutory_provisions_chart.pdf).
- Anti-Defamation League. (2001). How children learn and unlearn prejudice: responding to hate-motivated behavior in schools.  
<http://www.adl.org/ctboh/Responding1.asp>
- Apprendi v. New Jersey*. (2000). 530 U.S. 466.
- Barnes, A. & Ephross, P.H. (1994). The impact of hate violence on victims: emotional and behavioral responses to attacks. *Social Work*, 39(3), 247-251.
- Berk, R.A. (1990). Thinking about hate-motivated crime. *Journal of Interpersonal Violence*, 5(3), 334-349.
- Berrill, K. & Herek, G. M. (1990). Primary and secondary victimization in anti-gay hate crimes: official response and public policy. *Journal of Interpersonal Violence*, 5(3), 401-413.
- Boeckmann, R. J. & Liew, J. (2002). Hate speech: Asian American students' justice judgments and psychological responses. *Journal of Social Issues*, 58(2), 363-381.
- Bush, G "Remarks on Signing the Hate Crime Statistics Act" April 23 1990.  
<http://bushlibrary.tamu.edu/research/papers/1990/90042302.html>
- Bureau of Justice Assistance. (1999). *A Policymaker's Guide to Hate Crimes*. Washington D.C: U.S. Department of Justice.
- Cogan, J.C. (2002). Hate crime as a crime category worthy of policy attention. *American Behavioral Scientist*, 46(1), 173-185.
- Craig, K. M. (1999). Retaliation, fear, or rage: an investigation of African American and White reactions to racist hate crimes. *Journal of Interpersonal Violence*, 14(2), 138-151.
- Downey, J.P. & Stage, F.K. (1999). Hate crimes and violence on college and university campuses. *Journal of College Student Development*, 40(1), 3-9.
- Federal Bureau of Investigation. (2006).*Hate Crime Statistics, 2005*, Washington, DC: U.S. Department of Justice.
- Federal Bureau of Investigation. (2005b).*Crime in the United States, 2004*, Washington, DC: U.S. Department of Justice.

- Federal Bureau of Investigation. (1999). *Hate Crime Data Collection Guidelines: Uniform Crime Reporting*, Washington, DC: U.S. Department of Justice.
- Franklin, K. (2000). Antigay behaviors among young adults: prevalence, patterns, and motivators in a noncriminal population. *Journal of Interpersonal Violence*, 15(4), 339-362.
- Garnets, L., Herek, G. M., & Levy, B. (1990). Violence and victimization of lesbians and gay men: mental health consequences. *Journal of Interpersonal Violence*, 5(3), 366-383.
- Garnets, L.D., Herek, G.M., & Levy, B. (2003). Violence and victimization of lesbians and gay men: mental health consequences, in *Psychological Perspectives on Lesbian, Gay, and Bisexual Experiences*, 2<sup>nd</sup> ed., Garnets, L.D. & Kimmel, D.C. (eds.). New York: Columbia University Press.
- Grattet, R., & Jenness, V. (2001). Examining the boundaries of hate crime law: disabilities and the “dilemma of difference” *The Journal of Criminal Law and Criminology*, 91(3), 653-698.
- Herek, G.M., & Berrill, K.T. (1990). Documenting the victimization of lesbian and gay men. *Journal of Interpersonal Violence*, 5 (3), 301-315.
- Herek, G.M., Cogan, J.C., & Gillis, J.R. (2002). Victim experiences in hate crimes based on sexual orientation. *Journal of Social Issues*, 58(2), 319-339.
- Herek, G. M., Gillis, J. R., & Cogan, J. C. (1999). Psychological sequelae of hate-crime victimization among lesbians, gay, and bisexual adults. *Journal of Counseling and Clinical Psychology*, 67(6), 945-951.
- Herek, G. M., Gillis, J. R., Cogan, J. C., & Glunt, E. K. (1997). Hate crime victimization among lesbian, gay, and bisexual adults: prevalence, psychological correlates and methodological issues. *Journal of Interpersonal Violence*, 12(2), 195-215.
- Jackson II, R. L. & Heckman, S. M. (2002). Perceptions of White identity and White liability: an analysis of White student responses to a college campus racial hate crime. *Journal of Communication*, 52(2), 434-450.
- Jacobs, J.B., & Potter, K.A. (1997). Hate crimes: a critical perspective. *Crime and Justice*, 22, 1-50.
- Jenness, V. (2001). The hate crime cannon and beyond: a critical assessment. *Law and Critique*, 12(3), 279-308.



- Jenness, V. (2002). Engendering Hate Crime Policy: Gender the "Dilemma of Difference" and the Creation of Legal Subjects *Journal of Hate Studies* V:73 73-97.
- Jenness, V. & Grattet, R. (2001). *Making Hate A Crime: From Social Movement to Law Enforcement*. New York: Russell Sage Foundation.
- Kuenle, K. & Sullivan, A. (2003). Gay and lesbian victimization: reporting factors in domestic violence and bias incidents. *Criminal Justice and Behavior*, 30(1), 85-96.
- Levin, B. (2002). From slavery to hate crime laws: the emergence of race and status-based protection in American criminal law. *Journal of Social Issues*, 58(2), 227-245.
- Levin, J. & McDevitt, J. (2002). *Hate Crime Revisited: America's War on Those Who Are Different*. Boulder, CO: Westview Press.
- Levin, J. & McDevitt, J. (1993). *Hate Crimes: The Rising Tide of Bigotry and Bloodshed*. New York: Plenum.
- McDevitt, J., Balboni, J., Garcia, L., & Gu, J. (2001). Consequences for victims: a comparison of bias and non bias motivated assaults. *American Behavioral Scientist*, 45(4), 697-713.
- McDevitt, J., Balboni, J.M., Bennett, S., Weiss, J.C., Orchowsky, S., Walbolt, L. (2000). *Improving the Quality and Accuracy of Bias Crime Statistics Nationally: An Assessment of the First Ten Years of Bias Crime Data Collection*. Washington DC: Bureau of Justice Statistics, U.S. Department of Justice.
- McDevitt, J. Cronin, S. Balboni, J., Farrell, A., Nolan, J. and Weiss, J. (2003). *Bridging the Information Disconnect in Bias Crime Reporting*. Washington DC: Bureau of Justice Statistics, U.S. Department of Justice.
- McDevitt, J., Levin, J., & Bennett, S. (2002). Hate crime offenders: an expanded typology. *Journal of Social Issues*, 58(2), 303-317.
- McPhail, B.A. (2002). Gender-bias hate crimes: a review. *Trauma, Violence, & Abuse*, 3(2), 125-143.
- Nielsen, L. B. (2002). Subtle, pervasive, harmful: Racist and sexist remarks in public as hate speech. *Journal of Social Issues*, 58(2), 265-280.
- National Coalition of Anti-Violence Programs (2006). *Anti-Lesbian, Gay, Bisexual and Transgender Violence in 2005. Annual Report* New York 2006

- Nolan III, J.J., Akiyama, Y., & Berhanu, S. (2002). The Hate Crime Statistics Act of 1990: developing a method for measuring the occurrence of hate violence. *American Behavioral Scientist*, 46(1), 136-153.
- Nolan III, J.J., Menken, C., McDevitt, J. NIBRS Hate Crimes 1995-2005 Juvenile Victims and Offenders Washington D.C. Office of Juvenile Justice and Delinquency Prevention, U.S. Department of Justice 2005
- Perry, B. (2002). Defending the color line; Racially and ethnically motivated hate crime *American Behavioral Scientist*, 46(1), 72-92.
- R.A.V. v. City of St. Paul, Minnesota*. (1992). 505 U.S. 377.
- Rayburn, N.R., Mendoza, M., & Davidson, G.C. (2003). Bystanders' perceptions of perpetrators and victims of hate crime: An investigation using the person perception paradigm. *Journal of Interpersonal Violence*, (9), 1055-1074.
- Shively, Michael. *Study of Literature and Legislation on Hate Crime in America*, United States Department of Justice, National Institute of Justice, June 2005.
- Waxman, B. F. (1991). Hatred: The unacknowledged dimension in violence against disabled people. *Sexuality and Disability*, 9(3), 185-199.
- Willis, D.G. (2004). Hate crimes against gay males: an overview. *Issues in Mental Health Nursing*, 25(2), 115-132.
- Wisconsin v. Mitchell*. (1993). 505 U.S. 476.

Appendix 1

Comparison of FBI Hate Crime Statistics 1991-2005												
	2005	2004	2003	2002	2001	2000	1999	1998	1997	1996	1995	1994
<b>Participating Agencies</b>	12,417	12,711	11,909	12,073	11,987	11,690	12,122	10,730	11,211	11,354	9,584	7,356
<b>Total Hate Crime Incidents Reported</b>	7,163	7,649	7,489	7,462	9,730	8,063	7,876	7,755	8,049	8,759	7,947	5,932
<b>Number of States, including D.C.</b>	50	50	50	50	50	49	49	47	49	50	46	44
<b>Percentage of U.S. Population Agencies Represented</b>	82.7%	86.6%	82.8%	85.7%	85.0%	84.2%	85.0%	80.0%	83.0%	84.0%	75.0%	58.0%

Offenders Motivations												
	2005	2004	2003	2002	2001	2000	1999	1998	1997	1996	1995	1994
<b>Racial Bias</b>	3,919/ 54.7	4,402/ 57.5	3,844/ 51.3	3,642/ 48.8	4,367/44.9	4,337/53.8	4,295/54.5	4,321/55.7	4,710/58.5	5,396/61.6	4,831/60.8	3,545/59.8
<i>Anti-Black</i>	2,630/ 36.7	2,731/35.7	2,548/ 34.0	2,486/33.3	2,899/30	3,884/35.8	2,486/33.3	2,901/37.4	3,120/38.8	3,674/41.9	2,988/37.6	2,174/36.6
<i>Anti-White</i>	828/ 11.6	829/10.8	830/ 11.1	719/9.6	891/9.1	875/10.9	781/9.9	792/10.2	993/12.3	1,106/12.6	1,277/16.1	1,010/17
<i>Anti-Asian / Pacific Islander</i>	199/ 2.8	217/2.8	231/3.1	217/2.9	280/2.9	281/3.5	298/3.8	293/3.8	347/4.3	355/4.1	355/4.5	211/3.6
<b>Religious Bias</b>	1,227/ 17.1	1,374/18.0	1,343/ 17.9	1,426/19.1	1,828/18.8	1,472/18.3	1,411/17.9	1,390/17.9	1,385/17.2	1,401/15.9	1,277/16.1	1,062/17.9
<i>Anti-Semitic</i>	848/ 11.8	954/12.5	927/ 12.4	931/12.5	1,043/10.7	1,109/13.8	1,109/14.1	1,081/13.9	1,087/13.5	1,109/12.7	1,058/13.3	915/15.4
<i>Anti-Semitic as Percentage of Religious Bias</i>	69	69	69	65	57	75	79	78	79	79	83	86
<i>Anti-Islamic</i>	128/ 1.8	156/2.0	149/2.0	155/2.1	481/4.9	28/0.35	32/0.40	21/0.27	28/0.35	27/0.30	29/0.36	17/0.29

<b><u>Ethnicity / National Origin</u></b>	944/ 13.2	972/12.7	1026/ 13.7	1,102/14.8	2,098/21.6	911/11.3	829/10.5	754/9.7	836/10.4	940/10.7	814/10.2	638/10.8
<i>Anti-Hispanic</i>	522/ 7.3	475/6.2	426/5.7	480/6.4	597/6.1	557/6.9	466/5.9	754/9.7	491/6.1	564/6.4	516/6.5	337/5.7
<b><u>Sexual Orientation</u></b>	1,017/ 14.2	1,197/15.6	1,239/ 16.5	1,244/16.7	1,393/14.3	1,299/16.1	1,317/16.7	1,206/16.2	1,102/13.7	1,016/11.6	1,019/12.8	685/11.5
<b><u>Disability</u></b>	53/ 0.74	57/0.74	33/0.44	45/0.59	35/0.36	36/0.45	19/0.24	25/0.32	12/0.15	NA	NA	NA

Compiled by the Anti-Defamation League's Washington Office from information collected by the FBI

More information about ADL's resources on response to hate violence can be found at the League's Website: [www.adl.org](http://www.adl.org)

