

HATE



CRIMINALS

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...from the Director

Violent crime victimization is an ongoing concern for many citizens. This can stem from news accounts or the reports of acquaintances about things that have happened to them. Much is known about interpersonal violence and its effect on victims. In the past two decades violent crimes motivated by bias toward a victim because of that person's race, disability, religion, national origin or ancestry, age, gender, or sexual orientation have received increasing attention. News accounts of a number of highly publicized cases led to the enactment of hate crime laws to distinguish between bias-motivated crimes and other types of violence. Not only do such crimes have a debilitating effect on victims but also on members within the affected groups.

This report reviews the history of hate crimes and the laws that have been enacted to address them. Also discussed are the identification and processing of these crimes. The report concludes with some recommendations for law enforcement agencies, prosecutors, and victim service providers. It is our hope that this report will stimulate discussion about improving the identification and prosecution of these crimes and better assisting victims.

Glen Kercher

Crime Victims' Institute



MISSION STATEMENT

The mission of the Crime Victims' Institute is to

- conduct research to examine the impact of crime on victims of all ages in order to promote a better understanding of victimization
- improve services to victims
- assist victims of crime by giving them a voice
- inform victim-related policymaking at the state and local levels.

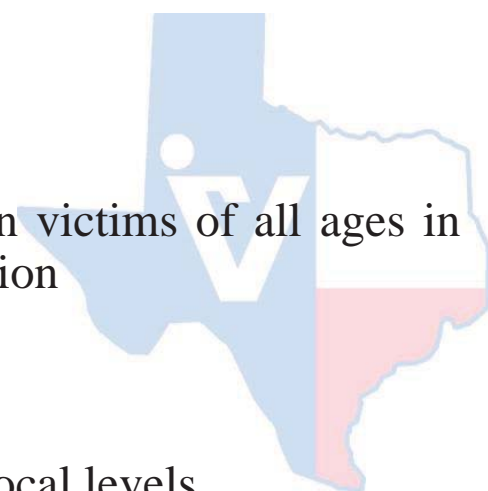


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In a nation characterized by increasing diversity, the enactment of laws promoting tolerance among its peoples is inevitable. The growth of minority groups, the influx of immigrant peoples, the establishment of various religious denominations, and the emergence of alternative lifestyles and sexual preferences have all contributed to the displacement of what has previously been considered normal by predominant groups. Although there is no evidence that resistance by biased groups or individuals against what they perceive as “unnatural” or “abnormal” has been widespread, the highly publicized cases of violence against targeted minorities have caused concern among policy-makers.

Despite the fact that hate crimes have existed throughout the history of the United States, laws addressing hate crimes are relatively new as a result of social movement surrounding “triggering events.” In particular, the attack on Robert Byrd, Jr., a 49-year old black man who was dragged behind a pick-up truck by three Caucasian male members of a white supremacist group in Jasper, Texas and the assault on Matthew Shepard outside a known gay establishment by two strangers who kidnapped, pistol-whipped, and tied him to a fence in Wyoming have brought hate crimes to the forefront of media attention (Saucier, Brown, Mitchell, & Cawman, 2006; Lee, Vue, Seklecki, & Ma, 2007; Cormier, 2003; Gentile, 2007). More recently, public outcry was triggered by media coverage of the racially motivated attack of David Ritcheson, a Texas Latino teenager, by two White teens who beat him unconscious and sodomized him with an umbrella pole. Advocacy groups, lobbyists, policy makers and the general public admired the victim’s courage in testifying before Congress about the impact of the hate crime incident before he committed suicide on July 1, 2007 by jumping from the deck of a resort cruise ship.

These and other publicized cases showing the seriousness of bigoted violence spurred the enactment of hate crime laws in various states around the nation. In Texas, the death of James Byrd, Jr. caused legislators to enact the James Byrd, Jr. Hate Crimes Act of 2001 (the “Byrd Act”) that amended an earlier 1993 law by specifically defining the groups that are protected under the bias crime statute. The 1993 Texas Hate Crime Act merely stated that if the defendant commits an offense under the Texas Penal Code against a victim who was intentionally selected “primarily because of the defendant’s bias or prejudice against a person or group,” the penalty is increased by one offense level. The law did not define which persons or groups were protected.

In contrast, the Byrd Act, codified as Article 42.014 of the Texas Code of Criminal Procedure, clarified the groups protected under the hate crime law. Article 42.014 states that in any trial under Title 5, or Section 28.02, 28.03, or 28.08 of the Texas Penal Code, “if the judge or the jury determines beyond a reasonable doubt that the defendant intentionally selected the victim because of the defendant’s bias or prejudice against a group identified by race, color, disability, religion, national origin or ancestry, age, gender, or sexual preference,” the fact finder shall make an affirmative finding of fact and enter such finding on the record. Under Section 12.47 of the Texas Penal Code, if the court makes such a finding under Article 42.014, the punishment for the offense is increased to the penalty for the next highest category of the offense. However, two exceptions to the rule exist. If the offense charged is a Class A misdemeanor, the punishment is increased only to a minimum of 180 days in jail rather than the next highest category. Also, if the offense charged is a first-degree felony (a non-capital

offense), the penalty is not increased to the next highest category. Otherwise, the non-capital offense would be transformed to a capital offense, punishable by life imprisonment or death.

More than a decade has passed since the enactment of the federal hate crime law and the counterpart Texas Hate Crime statutes. Critics of hate crime laws argue that such legislation is unnecessary particularly in Texas where they argue that hate crime is declining (Reynolds, 2001). In particular, the Uniform Crime Reports show that the total number of reported Texas hate crime incidents in 2006 was 245, representing a 7.2% decrease from the 2005 figure of 264. The figures from 2005-2006 also show a decline in the following: 18.4% decrease in number of reported victims (from 266 in 2005 to 217 in 2006); 11.6% decline in reported offenders (from 327 in 2005 to 289 in 2006); and 8.6% decrease in reported offenses (from 278 in 2005 to 254 in 2006). In addition, various actors in the criminal justice system experience difficulties when investigating, dealing with, and prosecuting hate crimes (Cronin, McDevitt, Farrell, Nolan III, 2007; Bell, 2002). The myriad of issues surrounding such bias crimes have contributed to the growing confusion among criminal justice agencies as to how to deal appropriately with such types of offenses. This paper will examine the legal context surrounding hate crime laws; explore contemporary issues in hate crime investigation and prosecution; and propose policy and law reform in hate crime laws and related statutes.

Comparative Hate Crime Statistics

In 1990, Congress enacted the Hate Crime Statistics Act to monitor the nationwide incidence of bias crime. The federal law authorizes the Attorney General to collect data about crimes based on race, religion, disability, sexual orientation, or ethnicity. Pursuant to this mandate, the Attorney General directed the Federal Bureau of Investigation (FBI) to collect hate crimes data as part of the Uniform Crime Reporting (UCR) system. Participation by states in this FBI-initiated data collection is purely voluntary.

Under the UCR, hate crimes can be classified as crimes against person, property, and society. However, the data show that only 4 specific bias crimes account for almost 92% of total hate crimes, namely, aggregated assault, simple assault, intimidation, and vandalism. From 1999 to 2006, based on the total number of hate offenses reported by various state law enforcement agencies, Texas hate crime counts fluctuated from 6th to 9th in total rank nationwide. Also, during the 8-year period, the total number of reported hate offenses in Texas was generally smaller than that of California, New Jersey, New York, Massachusetts, and Michigan. In comparison with the above 5 states that have the most hate crime offenses, Texas maintains a higher or the highest percentage of hate offenses against person (Figure 1) at the state level. Also, Texas has the highest percentage of hate-motivated aggregated assaults (Figure 2) and simple assaults (Figure 3). However, Texas has either the lower or the lowest percentage of bias-motivated intimidation (Figure 4) and vandalism (Figure 5). From the UCR figures, it can be concluded that Texas has a higher percentage of bias-motivated aggregated and simple assaults among all reported hate offenses. More significant are the figures showing that from 2004 to 2006, hate crimes against person and simple assaults are continually increasing. Another important finding is that Texas hate crimes are concentrated more on violent behavior against persons in comparison with other states such as New York and New Jersey.

Thus, some scholars suggest that the statistics show a more tolerant attitude in Texas because of a 6% drop in hate crime incidents in Texas in 2006 compared with a 7% national increase (Horswell, 2007) However, considering the above comparative analysis of the structure of hate crimes, as well as the possible under-reporting of hate crime victimization by Latino immigrants, the Texas hate crime statistics should not be viewed too optimistically.

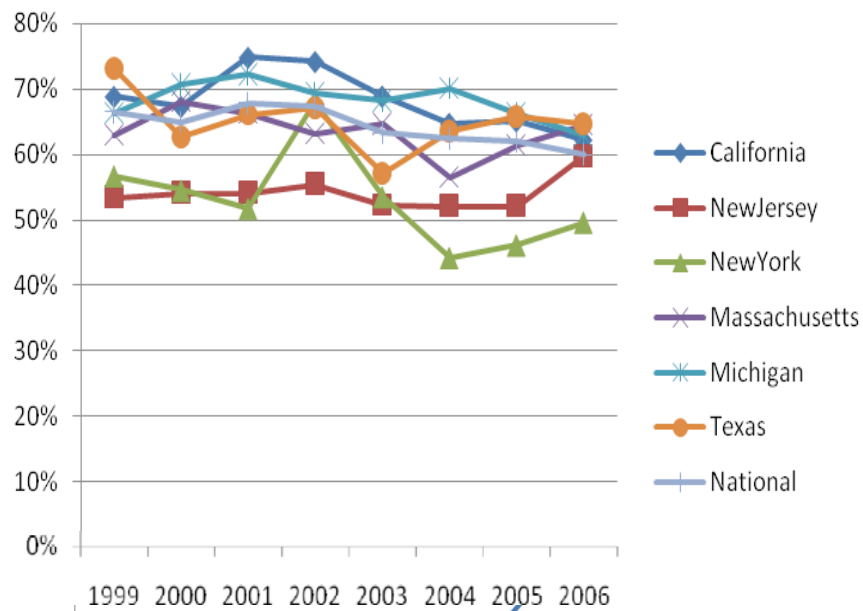


Figure 1.
Percent of Hate Crimes
Against Persons
(1996 - 2006)

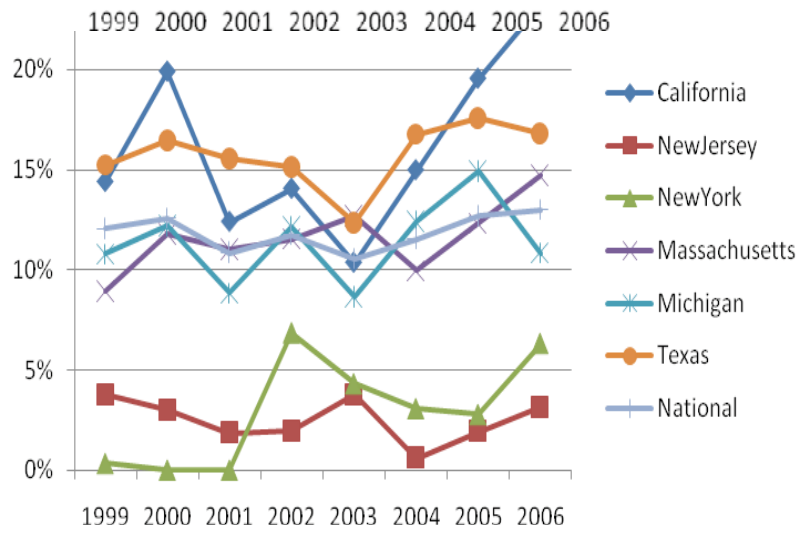


Figure 2.
Percent of Hate Motivated Ag-
gravated Assault
(1996 - 2006)

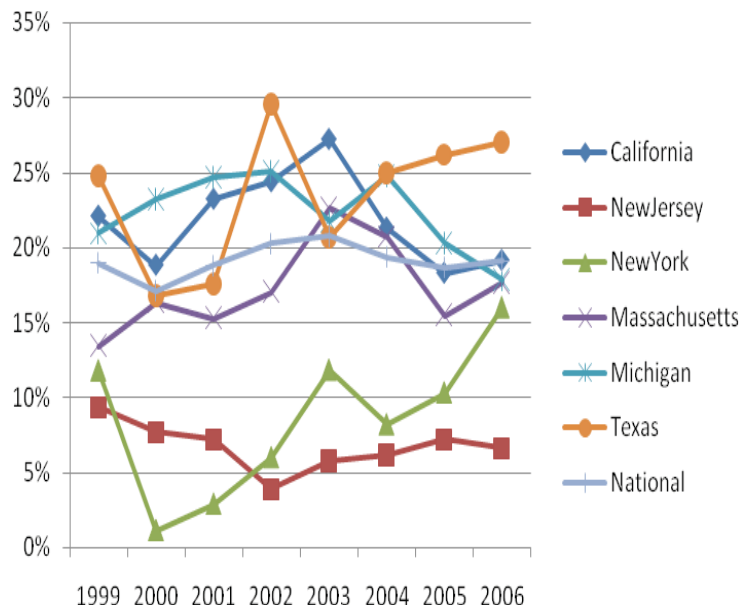


Figure 3.
Percent of Hate Motivated
Simple Assault
(1996 - 2006)

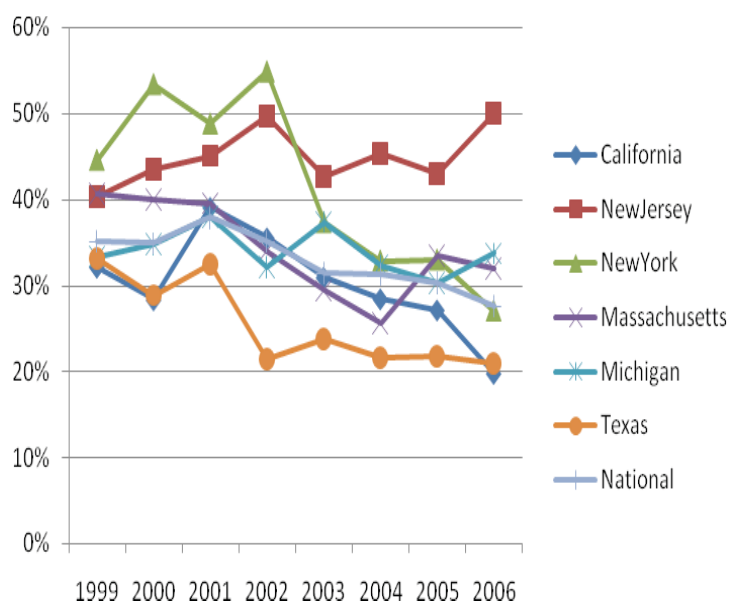


Figure 4.
Percent of Bias Motivated
Intimidation
(1996 - 2006)

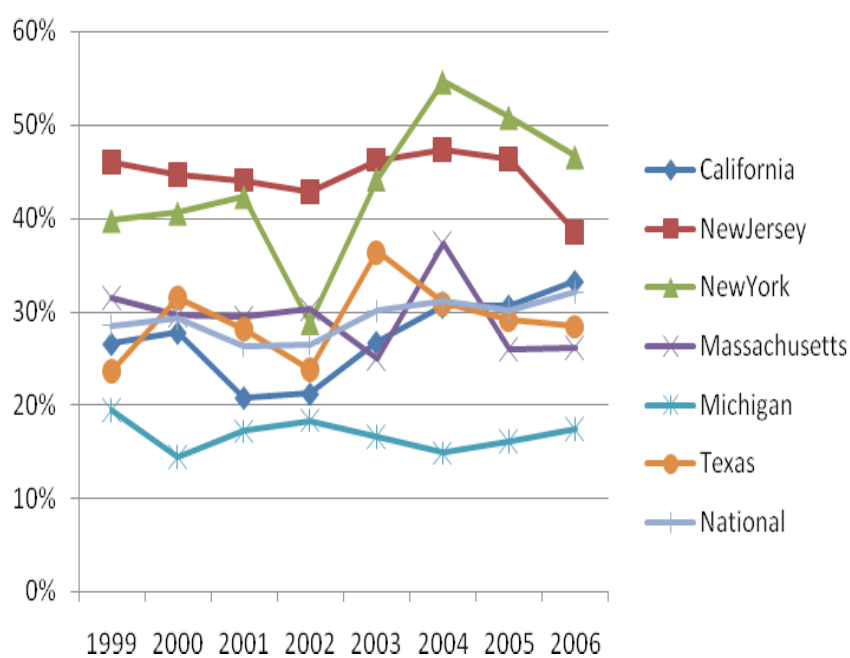


Figure 5.
Percent of Hate Motivated
Vandalism
(1996 - 2006)

Offender Profiles

In 2006, 289 offenders were involved in hate crime incidents in Texas. The majority of offenders were white (51%), followed by black (13.9%); Asian/Pacific Islander (1.2%); and multi-racial groups (0.4%) (Texas Department of Public Safety, 2006). Moreover, the race of 33.5% of the offenders were unknown. In an effort to explain the behavior of bias-crime offenders, scholars have categorized these offenders into four classes: thrill seekers, defensive offenders, mission offenders and retaliatory offenders (Levin & McDevitt, 1993; McDevitt, Levin, & Bennett, 2002).

Thrill seekers are usually groups of young adults who commit the crimes as an exercise of power and to gain acceptance or status among their peers (Byers, Crider, & Biggers, 1999). Thrill seekers commit isolated acts of vandalism or destruction against another group or individual who are perceived as different or inferior. According to scholars, since bias or hatred of the victim is not deeply rooted in thrill seekers, these types of offenders may be deterred from committing future bias crimes if there is strong social support to deflect violence (i.e., education programs on diversity) and if there is social condemnation of such acts (Byers, et al. 1999; Gordon, 1997; Greene, Glaser, & Rich, 1998; Levin & McDevitt, 1993; McDevitt et al., 2002).

Defensive offenders commit bias crimes to defend their turf (schools, work, neighborhood) against outsiders who are perceived as threats or intruders (Greene et al., 1998; Gordon, 1997; Levin, 1999). They believe that outsiders or intruders are not entitled to the same rights, privileges and way of life that they currently enjoy. Defensive offenders usually do not belong to any organized hate group but may seek assistance of hate groups to carry out their crimes. Defensive offenders usually have no criminal history but commit bias crimes to “send a message” to the victims that they are not welcome.

Mission offenders are totally committed to their prejudice such that it becomes a goal to rid the world of their targeted victims (Levin & McDevitt, 1993). Mission offenders usually suffer from psychological and mental illness and perceive their victims as evil, subhuman and/or animals. Mission offenders may either join an organized hate group such as the Ku Klux Klan or the National Alliance, or they may act alone, as Timothy McVeigh did when he bombed the Murrow Federal Building in Oklahoma City (Borgeson & Valeri, 2007; Blejwas, Griggs, & Potok, 2005).

Retaliatory offenders act in response to an actual or perceived hate crime committed against their group or individuals who belong to their group (Levin, 1999). These offenders

act out of revenge after they perceive that members of another group have attacked someone of their own kind. In retaliatory hate crimes, the truth of the original incident is often irrelevant and retaliatory hate offenders may sometimes act on mere rumors and before they verified the accuracy of the original rumors.

The above classification of hate crime offenders facilitates investigation and prosecution by law enforcement and prosecutors who can thus determine motive and gather evidence for a hate crime prosecution. On the other hand, community members are provided with a better understanding of the mechanics of hate crime incidents. One scholar has argued, for instance, that community response to hate crimes against recent immigrants depends on several factors: “history of tolerance in the community; local leaders do not benefit from the conflict, a minority group is not perceived as a threat to a majority of the residents, and interdependence develops between majority and minority groups” (Levin & Rabrenovic, 2004; Rabrenovic, 2007).

The influx of Somalian immigrants since 2001 to Lewiston, Maine is an example of a positive community response to hate crime incidents against perceived outsiders (Rabrenovic, 2007). Since the 1960’s, Lewiston was experiencing an economic recession due to the relocation of most of its workforce to neighboring towns after factories closed (Nadeau, 2003). Somali immigrants revived the local economy by creating businesses and providing consumer activity (Rabrenovic, 2007). However, the mayor of Lewiston wrote a letter to the Somali immigrants discouraging them from moving to the community stating that, “the Somali community must exercise some discipline and reduce the stress on our limited finances and generosity” (Mayor Raymond’s Letter, 2002). The letter was sent to local newspapers that subsequently issued statements in favor of the recent immigrants. Hate groups such as the National Alliance and the World Church of the Creator sought to take advantage of the publicity by sending recruiters to town and organizing hate rallies against the immigrants. To counteract these scheduled rallies of these hate groups, the community-initiated diversity coalition, Many and One Coalition, organized a pro-diversity rally that generated the support of more than 4,000 people.

Legal Context of Hate Crimes

Hate Crime Legislation

Hate crime legislation at the federal or state level takes on four specific forms: (1) statutes defining hate crimes as substantive offenses, (2) sentence enhancement, (3) statistics collection, and (4) civil remedies.

Substantive Offenses. A defendant who intentionally chooses a victim due to bias or prejudice is charged with a substantive or criminal offense. At the federal level, Congress enacted the Civil Rights Act of 1968 to protect bias victims while they are exercising federally protected activities such as,

1. enrolling in or attending a public school;
2. participating in or enjoying any state administered service or program;
3. applying for or enjoying employment, or using a labor organization or employment agency regardless of whether privately or publicly run;
4. serving or attending any state or federal court;
5. enjoying goods and services of any facility that serves the public; and enjoying

the goods, services and facilities of any establishment that provides lodging to transient guests, or of any facility which serves the public and which is principally engaged in selling food or beverages for consumption on the premises, or of any gasoline station, or of any place of exhibition or entertainment or of any other establishment which serves the public.

The Civil Rights Act of 1968 provides that any person who uses force or threats to willfully injure, intimidate or interfere with any person participating in these federally protected activities because of race, color, religion or national origin shall be fined or imprisoned. The penalty of imprisonment varies from a maximum of one year if no bodily injury results from the crime and up to ten years if weapons, explosives, or fire is used, or if their use is attempted or threatened. The 1968 Act, however, did not cover crimes motivated by bias against a person's gender, sexual orientation, or disability.

Sentence Enhancement Offenses. These statutes increase the penalty that may be imposed on the offender if it can be proven beyond reasonable doubt that he or she was motivated by hate or bias. At the federal level, an example is the Hate Crimes Sentencing Enhancement Act enacted as a part of the Violent Crime Control and Law Enforcement Act of 1994. The 1994 Act requires the United States Sentencing Commission to “promulgate guidelines or amend existing guidelines to provide sentencing enhancement of not less than three offense levels for offenses that the finder of fact at trial determines beyond a reasonable doubt are hate crimes.” The statute defines hate crimes as an offense where the defendant intentionally selects a victim or targets property “because of the actual or perceived race, color, religion, national origin, ethnicity, gender, disability, or sexual orientation of any person.” Acting under authority of the 1994 Act, the Sentencing Commission amended the Federal Sentencing Guidelines to enhance punishment for bias-motivated crimes. At the state level, the Texas Byrd Act of 2001 can be classified as a sentence enhancement statute.

Civil Action Statutes. A third form of hate crime legislation authorizes civil actions against hate crime offenders. At the federal level, Congress passed the Violence Against Women Act in 1994, allowing the filing of a civil action against an offender who commits sexual assault and other gender-motivated crimes. However, the Supreme Court invalidated this civil remedy in *United States v. Morrison* (529 U.S. 598, 2000), where it ruled that Congress lacked the authority to pass this law under either the Commerce Clause or the Fourteenth Amendment. Since the Supreme Court ruling in 2000, Congress has not enacted any law authorizing federal civil action against a defendant in a gender-motivated assault. Thus, a victim seeking civil remedies against defendants in gender-biased crimes must resort to applicable state laws. Washington, for example, allows “any person deeming himself or herself injured by any [discrimination because of race, creed, color, national origin, sex, or the presence of any sensory, mental, or physical disability]” to file a civil action in any appropriate court to “enjoin further violations, or to recover the actual damages sustained by the person, or both, together with the cost of suit including reasonable attorneys’ fees.”

Collecting Statistical Information Statutes. These laws require government agencies to collect data about criminal activity motivated by bias. At the federal level, Congress passed the Hate Crime Statistics Act of 1990 (HCSA), to monitor the incidence of hate crimes nationwide. In 1994, the Violent Crime Control and Law Enforcement Act modified the HCSA to include collection of data for crimes based on bias against disability, gender and sexual orientation. At present, participation in this nationwide data collection is voluntary among state law enforcement agencies.

An analysis of the hate crime statutes of different states show that there are variations in the groups protected, the remedies available to hate crime victims, the requirement

for collection of hate crime statistics and the training mandated for law enforcement (Figure 6). Only four states (California, Connecticut, Louisiana, and Minnesota) have comprehensive hate crime statutes that include criminal penalties, institution of civil actions as an appropriate legal remedy, mandatory data collection and training for law enforcement. Nineteen states do not provide the remedy of instituting civil actions in their hate crime laws (Alabama, Alaska, Arizona, Delaware, Hawaii, Indiana, Kansas, Kentucky, Maryland, Mississippi, Montana, New Hampshire, New Mexico, North Dakota, New York, South Carolina, Utah, West Virginia, and Wyoming). Twenty three states have no mandatory data collection of hate crime statistics (Alabama, Alaska, Arkansas, Colorado, Delaware, Georgia, Indiana, Kansas, Mississippi, Missouri, Montana, New Hampshire, New York, North Carolina, North Dakota, Ohio, South Carolina, South Dakota, Tennessee, Utah, Vermont, Wisconsin, and Wyoming). Finally, only 14 states have a hate crime law that requires training for law enforcement officers (Arizona, California, Connecticut, Illinois, Iowa, Kentucky, Louisiana, Massachusetts, Minnesota, New Jersey, New Mexico, Oregon, Rhode Island, and Washington).

Figure 6. Comparative Hate Crime Laws in Various States (ADL, 2008)

	AL	AK	AZ	AR	CA	CO	CT	DC	DE	FL	GA	HI	ID	IL	IN	IA	KS	KY	LA	ME	MD	MA	MI	MN	MS	MO
Bias-Motivated Violence and Intimidation -- Criminal Penalty *1	✓	✓	✓		✓	✓	✓	✓	✓	✓		✓	✓	✓		✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Civil Action				✓	✓	✓	✓	✓		✓	✓		✓	✓		✓			✓	✓		✓	✓	✓		✓
Race, Religion, Ethnicity	✓	✓	✓		✓	✓	✓	✓	✓	✓		✓	✓	✓		✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Sexual Orientation			✓		✓	✓	✓	✓	✓	✓		✓		✓		✓	✓	✓	✓	✓	✓	✓		✓		✓
Gender		✓	✓		✓		✓	✓				✓		✓		✓			✓	✓			✓	✓	✓	✓
Disability	✓	✓	✓		✓	✓	✓	✓	✓	✓		✓		✓		✓	✓		✓	✓		✓		✓		✓
Other *2					✓	✓	✓	✓		✓		✓				✓	✓		✓	✓	✓			✓		✓
Institutional Vandalism	✓		✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓		✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Data Collection *3			✓		✓		✓	✓		✓		✓	✓	✓		✓		✓	✓	✓	✓	✓	✓	✓		
Training for Law Enforcement Personnel *4			✓		✓		✓						✓		✓		✓	✓				✓		✓		

	MT	NE	NV	NH	NJ	NM	NY	NC	ND	OH	OK	OR	PA	RI	SC	SD	TN	TX	UT	VT	VA	WA	WV	WI	WY
Bias-Motivated Violence and Intimidation -- Criminal Penalty *1	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓		✓	✓	✓	✓	✓	✓	✓	✓	✓	
Civil Action		✓	✓		✓			✓		✓	✓	✓	✓	✓		✓	✓	✓		✓	✓	✓		✓	
Race, Religion, Ethnicity	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓		✓	✓	✓		✓	✓	✓	✓	✓	
Sexual Orientation		✓	✓	✓	✓	✓	✓					✓		✓			✓	✓		✓		✓		✓	
Gender		✓		✓	✓	✓	✓	✓	✓					✓			✓	✓		✓		✓	✓		
Disability		✓	✓	✓	✓	✓	✓				✓			✓			✓	✓		✓		✓		✓	
Other *2		✓				✓	✓													✓			✓		
Institutional Vandalism	✓	✓	✓		✓	✓	✓	✓		✓	✓	✓	✓	✓	✓	✓	✓	✓			✓	✓		✓	
Data Collection *3		✓	✓		✓	✓					✓	✓	✓	✓				✓			✓	✓	✓		
Training for Law Enforcement Personnel *4					✓	✓						✓		✓								✓			

*1. The following states also have statutes criminalizing interference with religious worship: AR, CA, DC, FL, ID, MD, MA, MI, MN, MS, MO, NV, NM, NY, NC, OK, RI, SC, SD, TN, VA, WV.

*2. "Other" includes political affiliation (CA, DC, IA, LA, WV), age (CA, DC, FL, IA, HI, KS, LA, ME, MN, NE, NM, NY, VT) and transgender/gender identity (CA, CO, CT, DC, HI, MD, MN, MO, NM, VT).

*3. States with data collection statutes which include sexual orientation are AZ, CA, CT, DC, FL, HI, IL, IA, MD, MI, MN, NV, NM, OR, TX and WA; those which include gender are AZ, CA, DC, HI, IL, IA, MI, MN, NJ, RI, TX, and WA.

*4. Some other states have administrative regulations mandating such training.

Constitutional Challenges at the Federal Courts

In federal courts, constitutional challenges to hate crime statutes have been brought under the First Amendment Freedom of Speech, the Fourteenth Amendment Equal Protection and Due Process Clause, and the Commerce Clause.

First Amendment of the Constitution. This amendment protects freedom of speech, which includes symbolic conduct or non-criminal conduct performed to express a message. The government is prohibited from regulating speech unless it has a compelling reason to do so and the law is necessary to achieve those interests. Critics argue that hate crime statutes punish thoughts in violation of the First Amendment (Corry, Jr., 2000). The Supreme Court addressed these issues when it distinguished between pure thoughts and speech (including symbolic non-criminal conduct) that are protected under the First Amendment and criminal conduct motivated by thought and speech that may be subject to hate crime statutes.

In *R.A.V. v. St. Paul* (505 U.S. 377 [1992]), several teenagers were convicted under a St. Paul ordinance for burning a cross in an African-American family's yard. The ordinance criminalized any display on public or private property of "a symbol, object, appellation, characterization or graffiti, including, but not limited to, a burning cross or Nazi swastika, which one knows or has reasonable grounds to know arouses anger, alarm or resentment in others on the basis of race, color, creed, religion or gender." The defendants challenged the ordinance on First Amendment grounds. The Supreme Court ruled that the ordinance was unconstitutional because it prohibited speech solely based on its content or message. Also, the ordinance criminalized "fighting words" based only on race, color, creed, religion, and gender.

Because the city ordinance prohibited only certain ideas and messages, it was discriminatory. The city tried to argue that the ordinance was necessary to achieve a compelling state interest. The Court, however, held that the ordinance was unnecessary since there were other content-neutral alternatives that could accomplish the same compelling interests. Thus, the city could have enacted an ordinance banning all “fighting words”, instead of only limiting the ordinance to “fighting words” that suggested racial, gender or religious intolerance.

While pure thought or speech cannot be regulated or criminalized, biased speech that is manifested through criminal conduct can be penalized under hate crime statutes. In *Wisconsin v. Mitchell* (508 U.S. 476 [1993]), the Supreme Court ruled that the Wisconsin hate crime statute did not violate the First Amendment. Here, a group of African-Americans were discussing a scene from the movie “Mississippi Burning,” that involved a white man who beat up a young black boy while the latter prayed. Mitchell provoked the group to attack a white boy who was then walking across the street. The group assaulted the boy, placing him in a coma for four days. Mitchell was convicted for aggravated battery, an offense that carried a penalty of two years imprisonment. However, under the Wisconsin hate statute, Mitchell could serve up to seven years imprisonment because the jury found that Mitchell intentionally chose the victim due to the latter’s race. The Supreme Court held that a person’s abstract thoughts, however offensive, may not be punished unless those thoughts are manifested in the form of criminal conduct. Hence, the Wisconsin statute did not violate the First Amendment.

Fourteenth Amendment of the Constitution. This amendment prohibits States from passing or enforcing any law that abridges the privileges or immunities of U. S. citizens; deprives any person of life, liberty, or property, without due process of law; or denies any person within the U.S. equal protection of the laws. Section 5 grants Congress the power to enact laws to enforce the Fourteenth Amendment. Critics of hate crime laws argue that Congress does not have the power to enact such laws under Section 5 of the Fourteenth Amendment. The federal courts addressed this issue in the following cases.

In *United States v. Bledsoe* (728 F.2d. 1094 [8th Cir., 1984]), the defendant and his friends regularly harassed victims who they perceived as homosexual at a park in Kansas City, Missouri. In this case, the defendant attacked Steven Harvey, a black male, in the park restroom with a bat, crushing the victim’s skull and killing him. Bledsoe then told his friends that he killed a “black faggot.” Bledsoe was convicted and sentenced to life imprisonment under 18 U.S.C.A. § 245(b) for racially motivated interference with Harvey’s federal right to enjoy the privileges and facilities of the state park. Bledsoe argued that the statute was unconstitutional since his actions were private, and not State sanctioned and thus, could not be prohibited under the Fourteenth Amendment. The Eighth Circuit ruled that Congress can regulate purely private actions under the Fourteenth Amendment. Thus, 18 U.S.C.A. § 245(b) was constitutional because Congress had not exceeded the scope of its powers.

Another issue raised against hate crime laws is that it violates the Due Process Clause of the Fourteenth Amendment. In *Apprendi v. New Jersey* (530 U.S. 466 [2000]), the Supreme Court ruled that a New Jersey sentencing enhancement statute was unconstitutional because it deprived a defendant the right to have all relevant facts determined by a jury beyond reasonable doubt. In this case, Apprendi shot several bullets into the home of an African-American family in Vineland, New Jersey, a community that was previously occupied only by Caucasian families. Apprendi admitted his guilt to law enforcement, stating that he did not want African-Americans in his neighborhood, although he later retracted this statement. The New Jersey hate crime statute enhanced the impossible penalty on a criminal defendant by ten to twenty years imprisonment if the trial judge found by a preponderance of the evidence, that the individual “in committing the crime acted with the purpose to intimidate an individual or group of individuals because of race, color, gender, handicap, sexual orientation or ethnicity.”

The trial judge found that, under the hate crime law, Apprendi was subject to an enhanced penalty and sentenced him to twelve years in prison. The Supreme Court held that, under the Sixth and Fourteenth Amendments, any evidence that may increase a criminal penalty beyond the prescribed statutory maximum must be presented to a jury and proven beyond a reasonable doubt. The statute allowed the sentencing judge to determine a criminal penalty at a lower standard of preponderance of evidence. Hence, the Court held that it was unconstitutional.

Judicial Interpretation of Bias Motivation by State Courts

A central issue in prosecuting hate crimes is the determination of a defendant's motives. Under various hate crime laws, the defendant must commit the crime "because of" a prohibited bias or prejudice against the victim. State courts were faced with the dilemma of how to interpret the phrase "because of" particularly when the defendant was motivated by other factors aside from the prejudice or bias against the victim. State courts have interpreted the phrase "because of" to mean that (1) the bias merely contributed to the defendant's criminal conduct (Washington state); (2) the bias was a substantial factor in contributing to the defendant's criminal conduct (California and Texas); or (3) the bias was the sole reason behind the defendant's criminal conduct.

In *In re M.S.* (896 P.2D. 1365 [Cal., 1995]), the California Supreme Court ruled that the phrase "because of" means that "the bias motivation must be a cause in fact of the offense, whether or not other causes also exist." The court stated that in many instances, concurrent and multiple motives contribute to a defendant's criminal conduct. Thus, it would be difficult to interpret California hate crime law as requiring that the defendant's bias towards the victim be the sole factor for the crime. Instead, the court applied the "substantial factor" test to interpret the phrase "because of" in its hate crimes law. The substantial factor test was reiterated and expanded by the court in *People v. Superior Court* (896 P.2d. 1387 [Cal., 1995]). The court ruled that the "bias motivation must have been a cause in fact of the offense, and when multiple concurrent causes exist, the bias motivation must have been a substantial factor in bringing about the offense."

In Texas, the defendant's motive must be a substantial factor in contributing to the crime. The Fourth and Thirteenth Districts of the Texas Court of Appeals clarified that the defendant must have intentionally selected the victim primarily because of the defendant's bias or prejudice.

In *Jaynes v. State of Texas* (216 S.W. 3d. 839 [Tex. Court of App., 13th Dist., 2006]), defendant, a Caucasian male, made racist comments against Jones, an African American while they were at a bar in Victoria, Texas. Jones approached the defendant to question the comments; shortly thereafter, the defendant and Jones engaged in an altercation outside of the bar. During the fight, the defendant pulled a knife on the victim and directed racial comments to Jones before, during, and after the fight. The defendant was charged with aggravated assault with a deadly weapon, enhanced by a hate-crime allegation. A jury found the defendant guilty of the offense and found that the defendant selected Jones because of a bias or prejudice against Jones. The trial court sentenced the appellant to twenty years' imprisonment. The defendant filed a motion for directed verdict and a motion for new trial; both motions were denied. Thus, the defendant appealed. On the issue of how to determine bias or motivation required by the hate crimes statute, the Texas court ruled that the State has to prove that the defendant intentionally select the victim "primarily because of the defendant's bias or prejudice." The term "because of" means that there must be a causal link between the crime and the proven bias or prejudice. By requiring the State to prove a causal link, the statutes prevent prosecution of

offenses committed by a person who entertains bias or prejudice but whose bias or prejudice was not a primary motivating factor in the offense charged.

The phrase “because of” was previously interpreted by the Texas Court of Appeals in the case of *Martinez v. State of Texas* (980 S.W. 2d. 662 [Texas Crt of App., 4th Dist., 1998]). The court also clarified two other issues in relation to hate crime laws: whether circumstantial evidence of bias or prejudice may be admitted and whether the victim must be an actual member of the group against which the defendant is biased. In this case, the victim, a two-year old male child, was found lying dead, face down on the top bunk of his bed. An autopsy revealed that the cause of death was blunt abdominal trauma. Martinez, the live-in partner of the victim’s mother, later provided a written statement to police investigators stating that he may have accidentally hurt Johnny on the ladder when he put Johnny to bed on the top bunk. Martinez was indicted for capital murder of a child under six years of age. The jury entered a verdict of guilty on the lesser offense of serious bodily injury to a child based on reckless conduct. The trial judge entered a finding pursuant to the Texas Hate Crimes Act that Martinez committed the offense because of bias or prejudice based on sex and race. Hence, the trial judge enhanced the applicable punishment range to that of a second degree felony, and so instructed the jury. The jury assessed punishment at the maximum penalty of 20 years’ imprisonment and imposed a \$10,000 fine.

The court clarified that the hate crime law does not require evidence of bias or prejudice during the commission of the crime. Circumstantial evidence, consisting of previous racial slurs against the victim, may be admitted to prove the defendant’s biased or prejudicial motive. The court held that “the circumstantial evidence must be relevant and reliable to prevent enhancement of punishment for crimes committed by a person who entertains a bias or prejudice, but whose bias was not the primary motivation for the criminal conduct.” Although there was no eyewitness who could testify that the defendant used racist remarks during the crime, the court admitted evidence of the defendant’s prior prejudicial statements against African-Americans. The court admitted testimony of the victim’s mother that Martinez consistently physically abused and disliked the victim because of the color of his skin. The mother testified that the defendant often scared the victim and would poke the victim’s dark birthmark over one eye. Also, the mother testified that the defendant referred to the victim as “chingga boy,” “nigger baby,” or “little black kid.” The court also ruled that was irrelevant whether the victim was actually a member of the group against whom the defendant was thought to be prejudiced. Although the victim was not African-American, it was enough that the defendant was biased against the victim because of his belief that the victim belonged to said race. The court interpreted the statute to mean that the defendant must have acted against the victim’s “perceived race or color.” It is enough that the defendant believed that the victim was a member of the group against which the defendant was biased.

Contemporary Issues in Hate Crime Investigation and Prosecution

Police Response to Bias Crimes

Law enforcement, especially line officers, play an important role in hate crime law implementation especially in documenting hate crimes and developing expertise to deal with hate crimes. At the federal level, the Hate Crime Statistics Act of 1990 (HCSA) and Violent Crime Control and Law Enforcement Act of 1994 (VCCLEA), required the FBI to collect

data on hate crimes based on race, religion, sexual orientation, ethnicity, or disability from state law enforcement agencies and to publish an annual summary of the findings. Various federal agencies and advocacy groups developed several models to assist law enforcement in identifying and responding to hate crimes.

The FBI, for example, issued the Hate Crime Data Collection Guidelines and Training Guide for Hate Crime Data Collection. Also, the Justice Department's Office for Victims of Crime (OVC) funded a project to develop a comprehensive hate crime training curriculum and has released the National Bias Crimes Training for Law Enforcement and Victim Assistance Professionals. The Anti-Defamation League (ADL), one of the most active national anti-hate crime organization, also helped to develop a model curriculum for the Federal Law Enforcement Training Center to use in training federal, state, and local police officials in detecting hate crimes (Archer, 1996). A further development occurred in 2007 when the U.S. Senate passed House Resolution No. 1592, the Local Law Enforcement Hate Crimes Prevention Act (or Matthew Shepard Act). If it becomes law, it will have a significant impact on law enforcement at all levels because it guarantees the funding and resources needed by law enforcement to solve bias-motivated crimes. All the efforts mentioned above should generate more accurate detection of hate crimes among law enforcement officers and foster greater participation in collecting hate crime statistics.

Although training is an extremely important element in combating hate crime (Haider-Markel, 2002), the adequacy of hate crime provisions and level of law enforcement training on hate crimes varies across states. According to a 2008 study conducted by the ADL of hate crime laws in different states, California, Connecticut, Louisiana, and Minnesota have the most comprehensive laws because of provisions on criminal penalties, civil actions, victim status, data collection, and training for law enforcement. In contrast to 18 other states, Texas hate crime statutes do not extend protection to hate crime victims with "other status" not covered by its law such as transgender, political affiliation, and age. More importantly, Texas hate crime law does not provide for law enforcement training in comparison with 14 other states (Figure 6). California law, for example, provides a detailed description and training requirement for law enforcement to identify, report, and respond to hate crime (Cal Pen Code § 13519.6).

Despite the lack of training requirements for law enforcement under Texas hate crime laws, the Texas Commission on Law Enforcement Officer Standards and Education (TCLEOSE) requires the inclusion of the Texas Penal Code 12.47 as part of the basic curriculum for peace officers. However, Texas Penal Code 12.47 is only marginally related to police action on hate crime and does not offer much practical guidance on how to identify hate crimes. The absence of provisions on police training in the Texas hate crime law has not deterred police departments, especially in big cities, to gradually and autonomously improve their response to hate crimes, through formulating programs such as hate crime response tips, hate crime hotline services, and community forums on hate crime (Heimlich, 1998). Some law enforcement officials have developed their own procedures for dealing with these crimes. However, enforcement of these guidelines is completely discretionary and officers are allowed considerable discretion to determine a crime's classification based on the circumstances surrounding it.

Another problem with hate crime detection in law enforcement is the lack of monitoring of training conditions in smaller cities and rural areas in Texas. Even in the bigger cities, the extent to which police officers enforce hate crime laws is very diverse. Law enforcement officers in San Antonio, for example, have long been criticized by civil rights advocates for not prioritizing hate crimes in comparison with other cities such as Houston, Dallas, and Ft. Worth (Hoppe, 1999). Thus, the sparse police training polices made by some local law enforcement agencies are largely not institutionalized, even though some state representatives and senators tried to improve the police training program right after the Jasper incident.

Institutional willingness and support of hate crime data collection is another issue in hate crime investigation. Although Texas along with 27 other states have hate crime laws requiring data collection and reporting, some police departments are not willing to or do not have the organizational capacity to do the work necessary for identifying an incident as bias motivated and then reporting it to the proper authority that collects this type of information. Houston, for example, was listed as one of a number of major cities that reported a surprisingly low numbers of hate crimes (n = 14; FBI, 2005). Due to the incompleteness and unreliability of the data, attempts to identify the problem with measureable data are often thwarted. Accessibility to data on some disadvantaged group, such as persons with a disability, is extremely limited. In Texas, less than 1% of hate crimes are hate crimes against disabled residents. (Escamilla, 2002).

Aside from data collection, law enforcement officers face other obstacles in developing hate crime handling expertise, especially in terms of victim contact and investigation. During the process of investigating and prosecuting hate crimes, there is a serious imbalance in how law enforcement personnel, the reporting victims, and other related groups perceive whether hate crimes have occurred. One study shows that police officers categorized bias crimes differently based on their own interpretation of the law, their department's policies, and the victim's perception, as well as the facts of the case. Police sometimes classified certain offenses as hate crimes although the victim did not view them as bias motivated. More often, however, police are reluctant to label a reported offense as a hate crime even when a victim claims it was. Noticeably, this imbalance varies under different institutional and spatial context.

According to the National Crime Victimization Survey (NCVS), only 19.2% of the hate crime incidents reported by victims were determined by local authorities to be bias-related (Harlow, 2005). However, examination of the police response in New York from 1996-2005 shows that the Hate Crime Task Force of the New York Police Department (HCTF) confirmed as hate crimes almost 91% of victim reports (Levin & Amster, 2007). This may be largely due to the fact that the HCTF was properly equipped with the skills and training to respond to and investigate hate crimes. Thus, police training programs and general education programs are both important. Police need specific training to better understand the plight of victims of hate crimes, the correct definition of hate crimes, and appropriate crime scene investigative skills. This information may help to prevent secondary victimization by persons of alternative sexual orientation and those victims whose reports are invalidated as hate crimes.

In summary, adequate funding is needed to improve law enforcement responses to hate crimes. This funding is needed to adequately train and support officers for enforcement of hate crime laws. The experiences of other states and nations in addressing hate crimes can be instructive. For example, in the UK, in order to combat hate crime, local police received assistance to improve their strategy and tactics from an Independent Advisory Committee, a group formed by disadvantaged individuals who were hate crime victims (Dittman, 2003). In New York, NYPD has a specialized force to handle hate crime data collection and investigation--- the HCTF (Levin, & Amster, 2007). In California, the hate crime statute has a very full-scaled law enforcement training law on hate crimes. This law requires that all law enforcement officers as well as those in the training academies receive specific training on hate crimes that includes (California Penal Code § 13519.6).

1. Indicators of hate crimes;
2. The impact of these crimes on the victim, the victim's family, and the community, and the assistance and compensation available to victims;
3. Knowledge of the laws dealing with hate crimes and the legal rights of, and the remedies available to, victims of hate crimes;

4. Law enforcement procedures, reporting, and documentation of hate crimes;
5. Techniques and methods to handle incidents of hate crimes in a non-combative manner;
6. Multi-mission criminal extremism, which means the nexus of certain hate crimes, antigovernment extremist crimes;
7. The special problems inherent in some categories of hate crimes, including gender-bias crimes, disability-bias crimes, including those committed against homeless persons with disabilities, anti-immigrant crimes, and anti-Arab and anti-Islamic crimes, and techniques and methods to handle these special problems;
8. Reparation for, and response to, possible future anti-Arab/Middle Eastern and anti-Islamic hate crime waves, and any other future hate crime waves that the Attorney General determines are likely.

The law also requires that each agency establish a protocol that personnel are required to follow. That protocol must include the following:

1. Preventing and preparing for likely hate crimes by, among other things, establishing contact with persons and communities who are likely targets, and forming and cooperating with community hate crime prevention and response networks;
2. Responding to reports of hate crimes, including reports of hate crimes committed under the color of authority;
3. Accessing assistance, by, among other things, activating the Department of Justice hate crime rapid response protocol when necessary;
4. Providing victim assistance and follow-up, including community follow-up;
5. Reporting procedures.

Prosecutorial Discretion

Successful prosecution of hate crime law also depends on the state's ability to establish bias or prejudice. For prosecutors, establishing motive to prove a hate crime presents an additional burden that need not be resorted to if an alternative charge would bring about the same penalty.

Some studies show that prosecutors do not have sufficient knowledge of gender-bias hate crimes and rarely charge violence against women as gender-bias crimes (McPhail & DiNitto, 2005). Also, prosecutors consider the strategic advantage of charging the offense as a hate or bias crime. Since they desire to either obtain a plea bargain from the defendant or win the case, they have to assess whether or not characterizing the offense as a hate crime will make the case more complex or involve more risks. The decision to charge the hate crime becomes a tactical strategy. If the case becomes more complex due to the difficulty of proving motive (hate or bias) of the offender or if it becomes riskier for purposes of trial due to the possibility of dividing the jury, the prosecutor will not charge the offense as a hate crime. Thus, prosecutors aim to obtain "the lowest burden for the highest level of punishment" when they decide to charge hate or bias crimes (McPhail & Jenness, 2005).

Other factors considered important by prosecutors are: maintaining credibility with the jury; status of the defendant and statements uttered before, during or after the crime (Albonetti, 1987; Schmidt & Stuary, 1989); whether the offender and victim are from two different groups

based on religion, race, or other status category (Rauma, 1984; Schmidt & Steury, 1989; Nagel & Hagan, 1983); whether the offender had mixed motives or bias was the sole motive for the crime; the typicality of the crime in comparison with what the prosecutors consider as true hate or bias crimes (Worrall, Ross & McCord, 2006; Hirschel & Hutchinson, 2001); the seriousness of the crime (Blumberg, 1967; Mather, 1973; Neubauer, 1974; Albonetti, 1987); and a cost benefit analysis. On the other hand, prosecutors stated that they do not consider the following factors as influential to their decisions to charge hate crimes: enhancing their conviction rates; electoral politics; community attitudes; pressure from targeted groups; media pressure or media exposure; victim and family pressures; personal hate crime attitudes; personal religious views; personal identities and experiences (such as being a female or male prosecutor or a white or black prosecutor) ” (McPhail & Jenness, 2005).

Like law enforcement personnel, prosecutors should similarly be given appropriate training on how to handle hate crime prosecution and how to deal with victims of hate crimes. They must be informed that in some instances, successful prosecution of the case may not be as important to the victim and the group to which the victim belongs as the long term message that trial of the case may send to hate crime offenders. Prosecutors may also need to undergo sensitivity training to handle hate crime victims during the course of the trial. They must also be educated on the existence of support services and resources that the victim may avail of.

Victim Issues

Investigation, prosecution, and handling of hate crime cases also present major issues for the victim or surviving family members of the incidents. Studies show that hate crime victims are prone to isolation, loss of faith and identity, self-blaming, ignorance, police mistrust, deciding whether to report, frustration, and post-victimization coping behaviors. Studies also suggest that hate crimes are more likely than any other kind of crime to be seriously injurious or lethal, and have many psychological and social repercussions that are extremely destructive to the victim, the victim’s family, and the victim’s community (Garcia, & McDevitt, 1999). The harm is mainly generated from three resources, the severe underreporting of victimization, additional negative psychological impact on the victim, and community disorganization through victim coping behavior and incident publicity. According to a recent NIBRS data analysis on hate crime on the state level, the researcher found that compared with non-bias crime, hate crimes are more likely to be associated with drug and alcohol abuse (Messner, McHugh, & Felson, 2004). In other words, hate crime offenders fit the versatility model instead of the professional model. Motivated by prejudice, perpetrators might use a broad range of tools to attack victims, from mere words to deadly weapons.

Service providers, researchers, and activists have all noted that hate crimes are less likely than other crimes to be reported to law enforcement authorities, especially when the victim is an illegal immigrant or a sexual minority. While the National Crime Victimization Survey shows that only 40% of all hate crimes are reported, other research shows that non-reporting among gay and lesbian hate crime victims are as high as 90% (Berrill & Herek, 1992). The latter research illustrates that the primary reason is victims’ fear of secondary victimization due to the discrimination and mistreatment by police authorities or negative consequences as a result of having one’s sexual orientation publicly revealed. The inaccurate data due to underreporting not only severely distorts the real hate crime picture, but also sends a misleading message to policy makers and law enforcers. From the point of view of the victim, several reasons can justify the underreporting besides police hostility and disclosure of victim’s sexual minority status, such as potential exportation of victims as illegal immigrants,

revenge by the perpetrator and the supporting group, the potential publicity of the victimization in the community or society, the insufficient severity of the hate crime, and the small likelihood that perpetrators would be punished.

Extant research on the psychological impact of hate crime victims is mostly concentrated on those belonging to sexual minorities. Theoretical and empirical studies suggest that victims of antigay bias crimes suffer a heightened and prolonged psychological distress after the crime. Another empirical study found that hate crime victims suffered significantly higher levels of psychological distress than did victims of non-hate crimes during a five-year period. Specifically, recent hate crime victims displayed significantly more symptoms of depression, anger, anxiety, and post-traumatic stress. Gay and lesbian hate crime survivors manifested significantly more fear of crime, greater perceived vulnerability, less belief in the benevolence of people, lower sense of mastery, and more attributions of their personal setbacks to sexual prejudice than did nonbias crime victims and nonvictims. This difference might be due in part to slower recovery among bias crime victims (Herek, Gillis & Cogan, 1999). Due to the limitations imposed by the applicable hate crime laws, victims feel that the burden of proof is on them. Isolation and the inherent victimization are also reinforced by a lack of awareness, and lack of access to victim services. Victims of hate activity have suffered a violation to their security and self-identity. Victims often blame themselves, and feel guilty or humiliated. Also, hate crime offenders often target places of worship and group identity. These attacks on sacred spiritual symbols affect individual victims more profoundly than other acts of vandalism.

Another problem arises due the victim's perceived rejection by and lack of expected support from the community. First, failure to implement hate crime laws results in great frustration for victims. In his testimony before the U.S. Congress in 2007, hate crime victim David Ritcheson said: "it is very frustrating to me that neither the state of Texas nor the federal government was able to utilize hate crime laws on the books today in the prosecution of my attackers, despite the obvious bias motivation of the crime. I am upset that neither the Justice Department nor the FBI was able to assist or get involved in the investigation of my case because "the crime did not fit the existing hate crime laws" (House Judiciary Committee Subcommittee on Crime, Terrorism, and Homeland Security, 2007) Second, hate crimes create a secondary long-term crisis that profoundly alters victims' relationships to their communities due to the publicity given to these crimes. Ritcheson, for example, stated before his suicide that he disliked being known as "the kid" who was attacked by skinheads.

Beyond the physical and emotional trauma to the victim, the impact of hate crimes is far reaching and encompasses other members of the community. On one hand, the hate crime victim often engages in some coping behavior to avoid future victimization, such as reducing communication with other people, staying at home as much as possible, or moving out of the neighborhood or even the country (Barnes & Ephross, 1994). Second, hate crime, especially hate violence, is often made public through media and victim-related persons. It actually sends a message to all the people with certain disadvantages in the community that they are not safe if they are visible. Thus, even when one does not personally know the victim, hate crimes can threaten the illusion of invulnerability that is so important in one's daily life. The realization that one's "community" may be targeted because of its immutable or prominent characteristics slowly erodes feelings of safety and security. Hate incidents can also heighten the isolation and vulnerability of the victim's group and cause stress and friction for all members of the community.

Despite the severe impact of these crimes on victims, Texas law, Section (b) *Texas Code of Criminal Procedure* 42.014, only focuses on the offender. The code provides that the sentencing judge can order an offender to attend an educational program to improve tolerance

and acceptance of others. Accordingly, the Windham School District (WSD) in the Texas Department of Criminal Justice (TDCJ), provides a Cognitive Intervention Program to 12,872 hate crime offenders' so as to improve their behavior during incarceration and after release. Also, Perspectives and Solutions, a tolerance program, is currently offered at four facilities. However, the law does not specifically address programs to help victims cope with the after-effects of the crime. Neither does the law require the establishment of some hate crime victim support group or state agency that focuses solely on helping the victims of hate crimes.

In Texas, there are several organizations for crime victims in general, including advocacy groups, the Victim Services Division of TDCJ, the Crime Victims' Institute, and victim service organizations agencies across the state. Assistance to hate crime victims generally includes three aspects: legal assistance, medical/psychological therapy, and monetary assistance. The Texas Crime Victim Compensation Act (Texas Code of Criminal Procedure, Chapter 56) provides certain benefits for victims of violent crime. Innocent victims of violent crime, including victims of sexual assault and drunk drivers may apply for money to help with medical bills, loss of income, child care, counseling, or financial costs related to the death of a family member. Some programs, such as Granbury Police Dept. Victim Assistance Program, help with expenses that may not be covered by insurance or other sources. Thus, some hate crime victims may benefit from such compensation. Beginning in 1996, Montrose Counseling Center (Houston) began to serve all types of hate crime survivors through individual, couples, group counseling, and case management. Therapy services center around the trauma of being targeted for a hate crime, focusing on the individual's reactions to the crime. Case management services include assistance with filing for Crime Victims Compensation, assistance throughout legal procedures (including reporting the crime, if the person chooses to), client advocacy, information/referral and education.

Recommendations

Law Enforcement

Identification of Hate Crimes. A crucial phase in assisting victims of a hate crime is the officer's identification of the crime as bias motivated. Police officers in Texas need to be trained to apply a broad and over-inclusive definition of bias crime, identify witnesses, and gather evidence surrounding the incident. Toward this end, departments should develop a checklist of indicators for hate crimes that can be used by patrol officers to determine whether or not a bias motivated crime has occurred. Since line officers are not highly trained to classify hate crimes, an over-inclusive approach when determining possible bias or prejudice will ensure that hate crimes are not prematurely ruled out at the initial phase. California and Florida use such checklists (Cronin, McDevitt, Farrell, & Nolan III, 2007). The Los Angeles County District Attorney's Office, for example, has designed field identification cards that police officers use as a checklist when responding to possible hate-motivated crimes. The Texas Department of Public Safety has issued a hate crime incident report form (Appendix A-UCR-23) but a cursory examination shows that some indicators of bias are not included such as: age of victim, use of verbal harassment and slurs by the perpetrator, use of threatening email, and indications of an organized hate group. Massachusetts has a Hate Crime Reporting Form that collects such indications (Appendix B). Also, the Office of the State Attorney for the 15th Judicial Circuit (Palm Beach County), Florida, has developed specific procedures that law enforcers can use to respond to hate crime. Obviously, sufficient funding is required to

implement this kind of training.

In addition to broad screening by patrol officers a second phase in the identification and investigation process should consist of a reviewing unit or officers who are highly trained in bias crime classification. The reviewers can then effectively filter out and accurately classify hate crimes that have initially been investigated by line officers. Several studies show that the police departments that implemented both the first level over-inclusive classification by line officers and the second level review by officers or units that are highly trained in handling hate crimes were the most effective in accurately classifying bias crimes (Cronin, McDevitt, Farrell, & Nolan III, 2007; Levin, & Amster, 2007). The experience of the New York, Police Department in handling hate crime investigation is exemplary. The NYPD's specialized task force, the HCTF, has proven effective in handling hate crime data collection and investigation (Levin, & Amster, 2007).

Legislation. As has been done in California, legislation might be considered that specifically addresses law enforcement training in identifying and responding to hate crimes. That legislation should include a list of issues to be addressed by each department in establishing an agency protocol in this regard.

Local Task Force. Another approach that has been helpful for other types of crimes would be to establish multi-agency and multi-jurisdictional task forces to enlist the cooperation of local, state and federal law enforcement, prosecutors and advocacy as well as support groups. Other law enforcement agencies have successfully implemented this approach. Sacramento, California, for example, has established a multi-agency task force to investigate hate crimes in the city. The San Diego, California, Police Chief's and Sheriff's Associations also worked with the District Attorney and the City Attorney to develop a regional hate crimes policy protocol adopted by different local criminal justice agencies (i. e., California Highway Patrol, ten local law enforcement agencies, two university police departments, county marshal's office, county correctional facility, county probation, district attorney city attorney and the U.S. Attorney's Office). Cook County, Illinois District Attorney's Office has established a Hate Crime Prosecution Council while New Brunswick, New Jersey has a multi-jurisdictional hate crime task force composed of the Bias Crime/Community Relations Unit of the prosecutors' office and the New Brunswick Police Department (American Prosecutors Research Institute, 2000).

Prosecutors

Prosecutors would benefit from appropriate training on handling hate crime prosecution and how to work compassionately with victims of hate crimes. They should consider that in some instances, successful prosecution of the case may not be as important to the victim and the group to which the victim belongs as the long term message that trial of the case may send to hate crime offenders. Prosecutors also need training on hate crimes and their effects on victims. Understanding what a victim is going through is humanitarian and may assist in prosecution of the offenders.

Victim Services

Hate crime victim services may often be inadequate to assist victims, especially when considering the severity of the impact of hate crimes. The effects of hate crimes may be similar to that of victims of sexual assault in that they affect core aspects of the victims' identity and

community affiliation. Professionals need to be particularly skillful at recognizing the needs of those who are on the periphery of societal acceptance and traumatized by the ways they are targeted by some members of the community. The scope of hate/bias crime is such that many of these tragic occurrences can happen simultaneously. Under such circumstances, the trauma can escalate out of control, and victim service professionals may be challenged in their efforts to advocate and assist effectively. Therefore, communities should consider developing a coordinated plan to identify which resources are necessary and available to respond to instances of simultaneous bias crime victimization. Such a plan might identify the lead agency or committee to direct assistance to victims.

References

- Albonetti, C. (1987). Prosecutorial discretion: the effects of uncertainty. *Law & Society Review*, 21(2), 291-314.
- American Prosecutors Research Institute, (2000). A local prosecutors guide for responding to hate crimes. Alexandria, VA: American Prosecutors Research Institute.
- Anti-Defamation League, 2007, Hate Crime Victim Testifies Before House Judiciary Committee. Retrieved July 30, 2008, from http://www.adl.org/Civil_Rights/Ritcheson.asp
- Apprendi v. New Jersey*, 530 U.S. 466 (2000).
- Archer, C. W. (1996 March 19). Criminal Justice Information Services Division, Federal Bureau of Investigation, U.S. Department of Justice (Testimony before the Senate Committee on the Judiciary).
- Bell, J. (2002). Deciding when hate is a crime: the First Amendment, police detectives, and the identification of hate crime. *Rutgers Race & Law Review*, 4, 33-77.
- Barnes, A., & Ephross, P. (1994). The impact of hate violence on victims: emotional and behavioral response to attacks. *Social Work* 39(3):247-51.
- Berrill, K.T., & Herek, G.M. (1992). Primary and secondary victimization in anti-gay hate crimes. In G. Herek & K. Berrill (Eds.), *Hate crimes* (pp. 289-305). Thousand Oaks, CA: Sage.
- Blejwas, A., Griggs, A., & Potok, M. (2005). Terror from the right. *Intelligence Report*, 118: 33-46.
- Blumberg, A. (1967). The practice of law as a confidence game: organizational cooptation of profession. *Law & Society Review*, 1, 15-48.
- Borgeson, K., & Valeri, R. (2007). The enemy of my enemy is my friend. *American Behavioral Scientist*, 51(2): 182-195.
- Boyd, E. A., Berk, R. A. & Hamner, K. M.. (1996). "Motivated by Hatred or Prejudice: Categorization of Hate-Motivated Crimes in Two Police Divisions." *Law & Society Review* 30:819-50.
- Byers, B., Crider, B. & Biggers, G. (1999). Bias crime motivation. *Journal of Contemporary Criminal Justice*, 15(1): 78-96.
- California Penal Code, § 13519.6.
- Corry, Jr., R. (2000). Burn this article: it is evidence in your thought crime prosecution. *Texas Review of Law and Politics* 4(2): 461-488.
- Cormier, K. (2003). Increase the peace means increase the penalty: the impact of the James Byrd, Jr. hate crimes act in Texas. *Texas Tech L. Rev.* 34: 343-375.
- Cronin, S., McDevitt, J., Farrell, A., & Nolan III, J. (2007). Bias crime reporting: organizational responses to ambiguity, certainty, and infrequency in eight police departments. *American Behavioral Scientist* 51(2): 213-231.
- Dittman, R. J. (2003). Policing hate crime. From victim to challenger: A transgendered perspective. *The Journal of Community and Criminal Justice* 50(3): 282-288.
- Escamilla, A. (2002 autumn). The Current State of Crime Victims with Disability. *The Victim's Informer*.
- Franklin, K.. (1999). "Consequences of Hate Crime Statutes: Directions for Critical Research." Presented at the Hate Crime Measurement Conference, Albany, NY.
- Garcia, L., & McDevitt, J. (1999). The psychological and behavioral effects of bias and nonbias motivated assault. Washington, DC: U.S. Department of Justice, National Institute of Justice.
- Gentile, M. (2007). Eighth annual review of gender and sexuality law: Constitutional law chapter: Hate crime regulation and challenges, *Geo. J. Gender & L.*, 8: 185-201.
- Gordon, D. (1997, September). Hate crimes strike changing suburbs. *Chicago Reporter*, p. 1.
- Greene, D., Glaser, J. & Rich, A. (1998). From lynching to gay bashing: the elusive connection between economic conditions and hate crime. *Journal of Personality and Social Psychology*, 75: 82-92.
- Harlow, C. (2005). Hate crime reported by victims and police. Bureau of Justice Statistics Special Report. NCJ 209911.
- Haider-Markel, D. P. (2002). Regulating hate: state and local influences on hate crime law enforcement. *State Politics and Policy Quarterly* 2(2): 126-160.
- Heimlich, J. (1998 September 14). Hate Crimes and Punishment. *Austin Chronicle*.
- Herek, G.M., Gillis, J. R., & Cogan, J. C. (1999). Psychological sequelae of hate crime victimization among lesbian, gay, and bisexual adults. *Journal of Consulting and Clinical Psychology*, 67(6): 945-951.

- Hirschel, D. & Hutchinson, I. (2001). The relative effects of offense, offender, and victim variables on the decision to prosecute domestic violence cases. *Violence Against Women*, 7, 46-59.
- Hoppe, C., (1999). "Hate Crime Statistics Don't Tell Story, Experts Say." Dallas Morning News, November 8. Horswell, C. (2007). Hate crime statistics show tolerance in Texas, Houston. Houston Chronicle.
- House Judiciary Committee Subcommittee on Crime, Terrorism, and Homeland Security. (2007 April). Statement of Mr. David Ritcheson. Hearing on H.R. 1592, the "Local Law Enforcement Hate Crimes Prevention Act of 2007".
- In re M.S.*, 896 P.2D. 1365 (Cal. 1995).
- Jaynes v. State of Texas*, 216 S.W. 3d. 839 (Tex. Crt App. 13th Dist. 2006).
- Lee, Y., Vue, S., Seklecki, R., & Ma, Y., (2007). How did asian americans respond to negative stereotypes and hate crimes? *American Behavioral Scientist*, 51(2): 271-293.
- Levin, B. & Amster, S. (2007). Making hate history: hate crime and policing in America's most diverse city. *American Behavioral Scientist* 51(2): 319-348.
- Levin, J. & McDevitt, J. (1993). Hate Crimes. The Rising Tide of Bigotry and Bloodshed. New York: Plenum Press.
- Levin, B. (1999). Hate crimes: Worse by definition. *Journal of Contemporary Criminal Justice*, 15 (1): 6-21.
- Levin, J. & Rabrenovic, G. (2004). Why we hate. Amherst, NY: Prometheus.
- Martin, S. E. 1995. A Cross-Burning is Not Just An Arson': Police Social Constriction of Hate Crimes in Baltimore County." *Criminology* 33:303-26.
- Martin, S. E. 1996. "Investigating Hate Crimes: Case Characteristics and Law Enforcement Responses." *Justice Quarterly* 13:455-80.
- Martinez v. State of Texas*, 980 S.W. 2d. 662 (Tex. Crt of App. 4th Dist. 1998).
- Mather, L. (1973). Some determinants of the method of case disposition: decision making by public defenders in Los Angeles. *Law and Society Review*, 8, 187-232.
- Mayor Raymond's letter to the Somali community. (2002, October 2). Portland Press Herald/Maine Sunday Telegram. Retrieved 8 July 2008, from <http://pressherald.maintoday.com/news/immigration/021005raymondletter.shtml>
- Messner S., McHugh, S., & Felson R. (2004). Distinctive characteristics of assaults motivated by bias. *Criminology* 42: 585-618.
- McDevitt, J., Levin, J., & Bennett, S, (2002). Hate crime offenders: an expanded typology. *Journal of Social Issues* 58(2): 303-317 .
- McPhail, B. & DiNitto, D. (2005). Prosecutorial perspectives on gender-bias hate crimes. *Violence Against Women* 11(9): 1162-1185.
- McPhail, B. & Jenness, V. (2005). To charge or not to charge?- that is the question: the pursuit of strategic advantage in prosecutorial decision making surrounding hate crime. *Journal of Hate Studies*, 4, 89-119.
- Nadeau, P. (2003, April). The Somalis of Lewiston: Community impacts of rapid immigrant movement into a small homogenous Maine city. Paper presented at New Immigrants in Urban New England workshop, Center for the Study of Race and Ethnicity, Brown University, Providence, RI.
- Nagel, H. & Hagan, J. (1983). Gender and crime: offense patterns and criminal court sanctions. In M. Tonry & N. Morris (eds.). *Crime and Justice: An Annual Review of Research*, 4, 91-144. Chicago: University of Chicago Press.
- Neubauer, D. (1974) . After the arrest: the charging decision in prairie city. *Law & Society Review*, 8, 495-524.
- People v. Superior Court*, 896 P.2d. 1387 (Cal., 1995).
- Rabrenovic, G. (2007). Responding to Hate Violence: New Challenges and Solutions. *American Behavioral Scientist* 51(2): 143-148.
- Rabrenovic, G. (2007). When hate comes to town: community response to violence against immigrants. *American Behavioral Scientist* 51(2): 349-360.
- Rauma, D. (1984). Going for the gold: prosecutorial decision making in cases of wife assault. *Social Science Research*, 13, 321-351.
- R.A.V. v. St. Paul*, 505 U.S. 377 (1992).
- Reynolds, M. (2001). Hate Crime Laws And The Reversion To Medieval Society. *Veritas*. Winter, 2001, 1-6.
- Saucier, D., Brown, T., Mitchell, R., & Cawman, A. (2006). Effect of victim characteristics on attitudes toward hate crimes. *J. Interpers Violence*, 21 (7): 890-909.
- Schmidt, J. & Steury, E. (1989). Prosecutorial discretion in filing charges in domestic violence cases. *Criminology*, 27, 487-510.
- Texas Hate Crime Report 1999-2006. Texas Department of Public Safety, Hate Crime Statistics, UCR
- Texas Code of Criminal Procedure 42.014 (b).
- Texas Code of Criminal Procedure, Chapter 56.
- United States v. Bledsoe*, 728 F.2d. 1094 (8th Cir. 1984).
- United States v. Morrison*, 529 U.S. 598 (2000).
- Wisconsin v. Mitchell*, 508 U.S. 476 (1993).
- Worrall, J., Ross, J., & McCord, E . (2006). Modeling prosecutors charging decisions in domestic violence cases. *Crime & Delinquency*, 52(3), 472-503.

Appendix A
Texas Department of Public Safety
Hate Crime Incident Report (UCR-23)

HATE CRIME INCIDENT REPORT													
Initial <input type="checkbox"/>	Adjustment <input type="checkbox"/>	ORI <input style="width: 20px;" type="text"/>								Date of Incident			
									MONTH / DAY / YEAR <input style="width: 20px;" type="text"/> / <input style="width: 20px;" type="text"/> / <input style="width: 20px;" type="text"/>				
Incident No. <input style="width: 20px;" type="text"/>						Page <input style="width: 20px;" type="text"/> of <input style="width: 20px;" type="text"/> of Same Incident							
UCR Offense						Offense Code							
# 1	UCR Code <input style="width: 20px;" type="text"/>	# of victims <input style="width: 20px;" type="text"/>	# 4	UCR Code <input style="width: 20px;" type="text"/>	# of victims <input style="width: 20px;" type="text"/>	01 Murder	07 Motor Vehicle Theft						
# 2	UCR Code <input style="width: 20px;" type="text"/>	# of victims <input style="width: 20px;" type="text"/>	# 5	UCR Code <input style="width: 20px;" type="text"/>	# of victims <input style="width: 20px;" type="text"/>	02 Forcible Rape	08 Arson						
# 3	UCR Code <input style="width: 20px;" type="text"/>	# of victims <input style="width: 20px;" type="text"/>	# 6	UCR Code <input style="width: 20px;" type="text"/>	# of victims <input style="width: 20px;" type="text"/>	03 Robbery	09 Simple Assault						
						04 Aggravated Assault	10 Intimidation						
						05 Burglary	11 Destruction/Damage/ Vandalism						
						06 Larceny-Theft							
Location (Check one for Offense #1)													
01 <input type="checkbox"/>	Air/Bus/Train Terminal	14 <input type="checkbox"/>	Hotel/Motel/etc.	Enter Location Code if Different From Offense #1 # 2 <input style="width: 20px;" type="text"/> <input style="width: 20px;" type="text"/> # 3 <input style="width: 20px;" type="text"/> <input style="width: 20px;" type="text"/> # 4 <input style="width: 20px;" type="text"/> <input style="width: 20px;" type="text"/> # 5 <input style="width: 20px;" type="text"/> <input style="width: 20px;" type="text"/> # 6 <input style="width: 20px;" type="text"/> <input style="width: 20px;" type="text"/>									
02 <input type="checkbox"/>	Bank/Savings and Loan	15 <input type="checkbox"/>	Jail/Prison										
03 <input type="checkbox"/>	Bar/Night Club	16 <input type="checkbox"/>	Lake/Waterway										
04 <input type="checkbox"/>	Church/Synagogue/Temple	17 <input type="checkbox"/>	Liquor Store										
05 <input type="checkbox"/>	Commercial/Office Building	18 <input type="checkbox"/>	Parking Lot/Garage										
06 <input type="checkbox"/>	Construction Site	19 <input type="checkbox"/>	Rental Storage Facility										
07 <input type="checkbox"/>	Convenience Store	20 <input type="checkbox"/>	Residence/Home										
08 <input type="checkbox"/>	Department/Discount Store	21 <input type="checkbox"/>	Restaurant										
09 <input type="checkbox"/>	Drug Store/Dr.'s Office/Hospital	22 <input type="checkbox"/>	School/College										
10 <input type="checkbox"/>	Field/Woods	23 <input type="checkbox"/>	Service/Gas Station										
11 <input type="checkbox"/>	Government/Public Building	24 <input type="checkbox"/>	Specialty Store (TV, Fur, etc.)										
12 <input type="checkbox"/>	Grocery/Supermarket	25 <input type="checkbox"/>	Other/Unknown										
13 <input type="checkbox"/>	Highway/Road/Alley/Street												
Bias Motivation (Check one for Offense #1)													
Racial				Religious				Disability					
11 <input type="checkbox"/>	Anti-White	21 <input type="checkbox"/>	Anti-Jewish	51 <input type="checkbox"/>	Anti-Physical Disability	Enter Bias Motivation Code if Different from Offense #1 # 2 <input style="width: 20px;" type="text"/> <input style="width: 20px;" type="text"/> # 3 <input style="width: 20px;" type="text"/> <input style="width: 20px;" type="text"/> # 4 <input style="width: 20px;" type="text"/> <input style="width: 20px;" type="text"/> # 5 <input style="width: 20px;" type="text"/> <input style="width: 20px;" type="text"/> # 6 <input style="width: 20px;" type="text"/> <input style="width: 20px;" type="text"/>							
12 <input type="checkbox"/>	Anti-Black	22 <input type="checkbox"/>	Anti-Catholic	52 <input type="checkbox"/>	Anti-Mental Disability								
13 <input type="checkbox"/>	Anti-American Indian/ Alaskan Native	23 <input type="checkbox"/>	Anti-Protestant										
14 <input type="checkbox"/>	Anti-Asian/Pacific Islander	24 <input type="checkbox"/>	Anti-Islamic (Moslem)										
15 <input type="checkbox"/>	Anti-Multi-Racial Group	25 <input type="checkbox"/>	Anti-Other Religion										
		26 <input type="checkbox"/>	Anti-Multi-Religious Group										
		27 <input type="checkbox"/>	Anti-Atheism/Agnosticism/etc.										
Ethnicity/National Origin				Sexual									
31 <input type="checkbox"/>	Anti-Arab	41 <input type="checkbox"/>	Anti-Male Homosexual (Gay)										
32 <input type="checkbox"/>	Anti-Hispanic	42 <input type="checkbox"/>	Anti-Female Homosexual (Lesbian)										
33 <input type="checkbox"/>	Anti-Other Ethnicity/National Origin	43 <input type="checkbox"/>	Anti-Homosexual (Gay and Lesbian)										
		44 <input type="checkbox"/>	Anti-Heterosexual										
		45 <input type="checkbox"/>	Anti-Bisexual										
Victim Type: For each offense code listed above, check all applicable victim types.													
Victim Type:	Offense Code #1	Offense Code #2	Offense Code #3	Offense Code #4	Offense Code #5	Offense Code #6	Offense Code #1	Offense Code #2	Offense Code #3	Offense Code #4	Offense Code #5	Offense Code #6	
1 Individual *	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	5 Religious Organization	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
2 Business	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	6 Society/Public	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
3 Financial Institution	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	7 Other	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
4 Government	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	8 Unknown	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Total # of Victims <input style="width: 20px;" type="text"/>													
* Indicate the total number of individual victims involved in the incident. <input style="width: 20px;" type="text"/>													
Number of Offenders <input style="width: 20px;" type="text"/> (Use "00" for "Unknown")													
Suspected Offenders' Race as a Group (Check one)													
1 <input type="checkbox"/>	White	3 <input type="checkbox"/>	American Indian/Alaskan Native	5 <input type="checkbox"/>	Multi-Racial Group								
2 <input type="checkbox"/>	Black	4 <input type="checkbox"/>	Asian/Pacific Islander	6 <input type="checkbox"/>	Unknown								

**INSTRUCTIONS FOR PREPARING
HATE CRIME INCIDENT REPORT**

GENERAL

This report is separate from and in addition to the routine Summary UCR submission and the Hierarchy Rule does not apply. Also, in the Summary UCR system, the offenses of Intimidation and Destruction/Damage/Vandalism of Property are reported only when arrests occur. On this form, all are to be reported when they have been determined to have occurred and are bias-motivated, regardless of whether arrests have taken place. Refer to the Hate Crime Reporting Guidelines for additional information, clarification, and explanation.

SUMMARY PAGE

1. At the end of each month, a single Summary Page, along with an individual Incident Report for each hate-motivated incident identified during the month (if any), should be jointly submitted. If none occurred, submit only the Summary Page or check "no" in the appropriate box on the Return A UCR-15.
2. The Summary Page should be used to identify your agency, to state the number of hate-related incidents being reported for the month, and to delete any incidents previously reported which were determined during the reporting period not to be hate related.

HATE CRIME INCIDENT REPORT

3. The Incident Report should be used to report initially a hate-related incident or to adjust information in a previously reported incident.
4. Provide an identifying incident number which preferably will be your "case" or "file" number.
5. Provide codes for all offenses within the incident determined to be hate related and the number of victims for each such offense. In multiple offense incidents, report only those offenses determined to be hate related. Should more than six offenses be involved in one incident, use additional Incident Reports and make appropriate entries in the "page of
6. Provide the most appropriate location for each hate-related offense.
7. Provide the nature of the hate/bias motivation for each hate-related offense.
8. Provide the victim type for each offense identified within the hate-related incident.
9. Where the victim type is an "individual," indicate the total number of individual victims (persons) involved in the incident irrespective of the number of offenses in which they were involved.
10. Provide the number of offenders, if known, or report that such is unknown.
11. Provide the suspected offenders' race, if known. If there was more than one offender, provide the race of the group as a whole.

**Appendix B
Massachusetts Hate Crime Reporting Form**

Massachusetts Hate Crime Reporting Form

Agency Name:				ORI:		Case #				
Date most recent incident:				Time (military format)						
Revision of previously submitted incident? Y/N				If YES, original case #						
Location of incident (use codes on back): _____										
Target of the hate crime (circle all that apply)	¹ Person	² Priv. Prop.	³ Public Prop.	⁴ Religious Facility	⁵ Other, describe					
Bias Indicators (circle all that apply)	¹ Spray painted symbols/signs		² Verbal harassment	³ Dam. to prop	⁴ Mail	⁵ Other, describe				
Indicators of organized Hate Group? (describe in narrative) Y/N										
Prior incidents to this victim/at this location? (describe in narrative) Y/N										
Weapon(s) used? (circle all that apply)	¹ Gun	² Knife	³ Stick /club	⁴ Rocks /bricks	⁵ Hands /feet	⁶ Other, describe	⁷ None			
Specific Bias Type -- CRIME WAS ANTI-___: [Circle all that apply]										
Race/Ethnicity	Religious	Sexual	Handicap	Gender						
¹¹ Anti-Black	²¹ Anti-Semitic	⁴¹ Anti-Gay(male)	⁵¹ Anti-Mental	⁶¹ Anti-Male						
¹² Anti-White	²² Anti-Catholic	⁴² Anti-Lesbian	⁵² Anti-Physical	⁶² Anti-Female						
¹³ Anti-Asian	²³ Anti-Protestant	⁴⁹ Other _____	⁵³ Anti-AIDS							
¹⁴ Anti-Hispanic	²⁴ Anti-Islamic		⁵⁹ Other _____							
¹⁵ Anti-Arab	²⁹ Other: _____									
¹⁹ Other _____										
Information about the Victim(s) and Offender(s)										
Victim	Age	Race	Sex	Inj	Perp	Age	Race	Sex	Arrest made	Court order/injunction
#1			M/F		#1			M/F	Y/N	Y/N
#2			M/F		#2			M/F	Y/N	Y/N
#3			M/F		#3			M/F	Y/N	Y/N
If other victims, TOTAL number: _____					If other preps, TOTAL number _____					
Criminal Offenses that occurred during the Hate Crime (check all that apply)										
¹ Vandalism	² Damage Rel. Obj	³ Harassment	⁴ Disorderly Person	⁵ Trespass						
⁶ Threats	⁷ Property Damage	⁸ Weapons Offense	⁹ Sex. Offense	¹⁰ Arson						
¹¹ Simple Assault	¹² Larceny/theft	¹³ Burglary	¹⁴ Agg. Assault	¹⁵ Robbery						
¹⁶ Rape	¹⁷ Manslaughter	¹⁸ Murder	¹⁹ Gen. Civil Rights							
Narrative: (attach additional sheets as necessary)										
If Nothing To Report (ZERO REPORT), for the Month of: _____, 199__										
Filled out by: _____					Chief's signature: _____					

Revised 10/94

Instructions and Definitions

Hate crimes are any crime principally motivated by hatred of another because of race, religion, ethnicity, sexual orientation, handicap status, or gender. *All hate crimes would still be crimes even if the bias motivation were absent.* They have the added element of choosing a victim because of bias against the victim. Any criminal action motivated by bias should be recorded on the Hate Crime Reporting Form.

Situation

- Agency:** The name of the organization submitting the form.
- Agency Case #:** The case number assigned by the reporting agency.
- Date most recent inc:** The date the incident occurred (to closest day) or the most recent incident if one of a series.
- Time:** Time of the event (to nearest hour or minute) using a 24 hour notation.
- Revision of prev. report** If this is a revised report, indicate here, and note the original case number (if different)
- Location**

1-air/bus/train term.	2-bank/saving&loan	3-Bar/night club	4-church/synagogue/temple
5-commercial/office bldg	6-construction site	7-convenience store	8-department/discount store
9-drug store/doctor's office/hospital		10-field/woods/park	11-government/public bldg
12-grocery/supermarket	13-highway/road/alley	14-hotel/motel	15-jail/prison
16-lake/waterway	17-liquor store	18-parking lot/garage	19-rental storage facility
20- residence/home	21-restaurant	22-school/college	23-service/gas station
24-specialty store	25-other/unknown		
- Target of incident:** Check principal target.
- Bias Indicators:** Check all that apply.
- Organized Hate Group:** Check Yes if any of the following apply: printed literature, patches or uniforms used, or other indicators of an organized group present. Describe in narrative
- Prior incidents** If other bias crimes have occurred to this victim or at this location, indicate the total number.
- Weapon(s) Used:** Check all that apply.
- Crime Motivation:** Check apparent motivation(s), that is, was crime motivated by racial, religious, or other bias. Check all that apply.
- Victim(s) and Offender(s)*
- Age:** Code to nearest year or use best estimate.
- Race/Ethnicity:** Use the following codes W (white), B (black), H (Hispanic, Latin American, or Spanish Surname), A (Asian: including Chinese, Japanese, Korean, Vietnamese, Cambodian, Other Southeast Asian, or Pacific Islander), O (Other: any other not classifiable) U (unknown).
- Sex:** Circle code letter: M (male) F (female)
- Physical Injury:** Code the most serious category. Use the following codes:

1. Apparent broken bones	2. Possible internal injuries	3. Severe lacerations
4. Other major injuries	5. Other minor injuries	6. None visible
- Arrest/Summons:** Check if arrest made or summons sought.
- Court Order:** Check if court or injunction sought or issued.
- Other crimes committed:** Check all that apply.
- Narrative:** Use this to provide clarifying details or explanations. Attach additional sheets as necessary

Zero Reporting:

If your agency had NO Hate Crimes in this month, indicate the month and year which had zero hate crimes; sign, date, and submit form

Signature and date: Agency head should SIGN the report, and the date of the report filled out

This Hate Crime reporting form should be submitted along with any other routine UCR submissions to:

: Crime Reporting Unit
 Massachusetts State Police
 470 Worcester Road
 Framingham, MA 01701

To view additional research publications relating to victims of crime please visit the Crime Victims' Institute website at:

www.crimevictimsinstitute.org

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