

Responding to

HATE CRIME

A Multidisciplinary
Curriculum

for
Law Enforcement and
Victim Assistance
Professionals

National Center for Hate Crime Prevention
Education Development Center, Inc.

United States Department of Justice, Office for Victims of Crime

EDC

Office for Victims of Crime
OVC
Advocating for the Fair
Treatment of Crime Victims

Responding to Hate Crime: A Multidisciplinary Curriculum

For Law Enforcement
and
Victim Assistance Professionals



National Center for Hate Crime Prevention
Education Development Center, Inc.

Funded by the United States Department of Justice, Office for Victims of Crime

For more information on using this curriculum or for assistance with the issue of hate crime, please call or write:

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Guide to Using This Curriculum

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

This training package builds on the best efforts and practices to date, identified by national experts in law enforcement, victim assistance, and hate crime prevention and response. This curriculum differs from others in that it is intended for a multi-disciplinary training audience, including law enforcement officers, victim advocates, and community-based organizations. It was field-tested to ensure its relevance to both victim assistance and law enforcement professionals and its user-friendliness. The results are reflected in the approach and materials presented here in this curriculum.

Purpose of the Training

Professionals in the fields of both law enforcement and victim assistance feel a growing desire to better respond to victims of bias crime and to work together more effectively. With the increased national awareness of the need to recognize and respond to these crimes, and with the growing number of states enacting hate crime legislation, professionals in these fields express a need for up-to-date training that is multidisciplinary in nature.

Responding to Hate Crime: A Multidisciplinary Curriculum was developed to meet this need. Its focus is capacity building, and its purpose is to strengthen the knowledge and skills of individual professionals in law enforcement and victim assistance. Specifically, it is designed to do the following:

- Provide law enforcement officials with up-to-date information and strategies to use in identifying bias crimes and in taking appropriate actions to deter and investigate these crimes
- Provide victim assistance professionals with up-to-date information and strategies to use in assisting bias crime victims
- Strengthen the capacity of professionals in both fields to contribute to successful investigation and prosecution of bias crime, and contribute to changing the community norms that presently foster a tolerance to and indifference towards these crimes
- Provide professionals in both fields with the perspectives and strategies to work more effectively within their own departments and agencies, with one another, and within their communities

Key Features of the Training Approach

Responding to Hate Crime: A Multidisciplinary Curriculum is a six-session training program. Several characteristics central to its design are important to understand.

Integrated Audience

The curriculum is designed for an integrated audience of law enforcement and victim assistance professionals. Since a major training goal is to provide a forum where professionals from these two fields can learn from one another, most of the sessions are structured either for the entire audience, or smaller integrated groups of representatives from each field. The pilot test showed that a major benefit for participants is the chance to interact and learn, side by side, with professionals from their own and one another's fields.

Comprehensive Approach

This curriculum was developed to address the range of issues relevant to bias crime: deterrence and prevention, the needs of victims and the community, and the ability of the criminal justice system to investigate, report, and prosecute these crimes. It was also developed in a modular format to enable local jurisdictions to adapt and customize their own trainings based on their particular needs and time constraints.

Interactive Style

The curriculum is designed to take into account the characteristics of adult learners. Participants respond best and learn most in a forum that fosters discussion and interactive learning. Therefore, the training is designed to promote discussion and interaction. Activities have been developed and selected to provide the greatest opportunities for skill building in the most comfortable manner.

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

Case Studies

The cases used in this curriculum are adapted from actual criminal cases gathered from police departments and prosecutor's offices. Names and addresses have been changed to preserve anonymity. Cases were specially selected to illustrate various aspects of bias crime and provide authenticity to enhance group discussions. In adapting this curriculum for local use, instructors may change the type of victimization, locales, and/or names used in the cases to reflect their regions.

Organization of the Curriculum

Each session is organized as follows:

- **Overview:** Shows, at a glance, the content, method, and suggested time allotted to each part of the session
- **Objectives:** Details the anticipated learning outcomes of each session
- **Time:** Specifies the amount of time required for the session
- **Videos:** Lists videos to be obtained and previewed before leading the session, where applicable
- **Notes to the Instructor:** Highlights important points that instructors should make, and provides special instructions for implementing each session or activity
- **Instructor's Notes:** Presents the content for the session, describes the methodology (e.g., presentation, activity, case discussion), and includes a discussion framework and key questions, directions for conducting activities, and any other background information that will be useful to instructors as they conduct the training or review key topics
- **Transparencies and Handouts:** Presents in each session hard copy pages, marked and coded, that can be copied onto overhead transparency sheets or for distribution as handouts; often, a more expanded version of a transparency's text will appear in the Instructor's Notes

To assist instructors, the curriculum uses a series of icons to show when videos, transparencies, handouts, case studies, and flipcharts will be used during the course of each session. These icons are as follows:



Flipchart



Video



Transparency



Handout



Case study

Preparations for Sponsoring and Conducting the Training

Cosponsoring the Training

It is recommended that this training be jointly sponsored by a law enforcement agency and victim service agency.

Recruitment of Instructors

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

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

Instructors should have the following background:

- Diversity training
- Awareness and understanding of the impact of bias crime and the need for effective responses
- Experience in conducting training with law enforcement and/or victim assistance professionals

Instructors should also be representative of the community and should be diverse in terms of cultural background, gender, and professional affiliation.

Recruitment of Participants

Participants from law enforcement and victim services may be recruited from the same list of agencies and departments utilized for recruiting instructors. Participants should be balanced in terms of:

- cultural background and gender
- professional affiliation
- level of experience

Planning for Individual Sessions

Planning for Session B: Victim Impact

This session incorporates a presentation from an actual victim of a bias crime. The purpose of the presentation is as follows:

- To demonstrate the impact of a bias crime on the victim
- To make the trauma experienced by the victim real to participants
- To reinforce the fact that bias crimes occur within the local community

The instructor may be able to recruit a victim from the following agencies or departments:

- Police department
- Prosecutor's office
- Victim service agency
- Advocacy organization

The following are important issues to address before recruiting a victim:

- Victim's need for confidentiality and/or privacy
- Status of the victim's case in court
- Time frame of the victim's trauma (i.e., was this a recent attack?)
- Need for an interpreter/translator
- Access and logistic arrangements (e.g., the victim may be physically challenged and/or in need of an access ramp to the training facility)

The victim should be given ample notice that he or she will be speaking to a group and addressing the following issues:

- The victim's personal experience as a victim
- The impact the bias crime had on the victim—physical, emotional, financial, or otherwise
- The response of the criminal justice system
- The response of other professionals, friends, and family
- The victim's recommendations for improving the response to bias crime

By bringing along a support person, the victim may feel more comfortable in the presentation.

Planning for Session D: Bias Crime and the Law

For this session, you will need obtain copies of your state's criminal, civil, and reporting laws covering bias crime. You should then create transparencies highlighting the primary elements of these laws. You may also wish to develop handouts that contain full or partial text of the laws.

This session includes six cases that should be reviewed prior to the session by the instructor in light of the relevant state statutes. Each case is followed by a list of questions for instructors to review with participants. Suggested answers are provided

for most of these questions. However, some of the answers depend upon individual state laws. Therefore, instructors should review the questions and prepare state-specific answers to those questions that require them.

In the interest of time, instructors may choose to use only those cases that best suit the experience level of the audience. However, the cases should be discussed in sequence whenever possible, because they grow progressively more complex and more legally ambiguous.



Ordering Videos

The video segments for the curriculum were selected by experts in the area of bias crime from the fields of law enforcement, victim assistance, and curriculum development. The videos chosen were selected from a pool of videos that were screened and rated on the relevance of their content, the quality of production, and the timeliness of events portrayed.

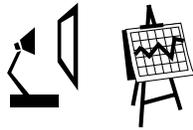
Videos should be ordered at least four to six weeks in advance of the training. Information on purchasing or renting videos is included in each session, where applicable.

OVERVIEW OF SESSIONS: AT A GLANCE

Session A: Introduction and Overview: Defining and Recognizing Bias Crime

Overview	Time
Activity: Introductions	10 minutes
Presentation: Overview of Bias Crime	20 minutes
Presentation: Introduction to Bias Crime Indicators	15 minutes
Activity: Application to a Case	25 minutes
Closing Comments	5 minutes
TOTAL TIME	1 hour, 15 minutes

Equipment: Overhead projector; screen; flipchart



Session B: Victim Impact

Overview	Time
Presentation: Overview of Victim Trauma	5 minutes
Activity: Analysis of Video Segments	20 minutes
Presentation: Unique Features of Bias Crime and Its Impact on Bias Crime Victims	15 minutes
Victim Presentation and Discussion	20 minutes
TOTAL TIME	60 minutes

Equipment: Overhead projector; screen; flipchart; VCR; monitor



Session C: Bias Crime Offenders

Overview	Time
Presentation: Offender Typology	30 minutes
Presentation: Organized Hate Groups	15 minutes
Activity: Analysis of Three Video Segments	45 minutes
TOTAL TIME	90 minutes

Equipment: Overhead projector; screen; flipchart; VCR; monitor



Session D: Bias Crime and the Law

Overview	Time
Presentation: Introduction to Federal and State Laws	30 minutes
Activity: Criminal Law Case Application and Discussion	30 minutes
Optional Activity: Drafting Civil Rights Injunctions	20 minutes
Presentation: Emerging Legal Issues	10 minutes
TOTAL TIME	90 minutes

Equipment: Overhead projector; screen



Session E: Roles of Law Enforcement and Victim Assistance Professionals

Overview	Time
Activity: Discussion of Roles, Responsibilities, and Unique Challenges in Responding to Bias Crimes	20 minutes
Presentation: Investigative Strategies	25 minutes
Presentation: Advocacy on Behalf of Victims and Their Families	15 minutes
TOTAL TIME	60 minutes

Equipment: Flipchart; markers; overhead projector; screen



Session F: Cultural Issues and Community Strategies for Dealing with Bias Crime

Overview	Time
Presentation: Defining Culture and Why It Matters in Dealing with Bias Crime	15 minutes
Activity: Culture and Heritage	15 minutes
Presentation: Implications of Culture and Diversity for Bias Crime	20 minutes
Presentation: Community Impact and Outreach	10 minutes
TOTAL TIME	60 minutes

Equipment: Overhead projector; screen; flipchart



A

Introduction and Overview: Defining and Recognizing Bias Crime

Overview of the Session: At a Glance

Activity: Introductions	10 minutes
Presentation: Overview of Bias Crime	20 minutes
Presentation: Introduction to Bias Crime Indicators	15 minutes
Activity: Application to a Case	25 minutes
Closing Comments	5 minutes
TOTAL TIME	1 hour, 15 minutes

Objectives

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

- Discuss the seriousness of bias crime in terms of its impact on the individual and the community
- Explain why bias crime requires a special response from law enforcement and victim service professionals
- Understand the scope of the problem and the limitations of existing data
- Define the term “bias crime indicator”
- Describe the purpose of bias indicators and how they are used
- Evaluate a case example to determine which bias indicators are present

Materials and Equipment



Time: 1 hour, 15 minutes



Handouts: Bias Crime Indicators; The Case of Steven Thompkins and Henry Briggs



Transparencies: Key Points on Bias Crimes; Hate Crimes and Agencies Reporting (1992–1998); Bias Motivation Trends (1992–1998); Definition of a Bias Crime Indicator; Indicator Cautions



Video (optional): “Responding to Hate Crimes: A Roll Call Training Video for Police Officers,” International Association of Chiefs of Police



Equipment: Overhead projector; screen; flipchart

Instructor's Notes

I. Activity: Introductions (10 minutes)

Deliver welcoming remarks, *introduce* sponsoring agencies and any visiting guest speakers, and *present* the purpose of the training: to enhance professional capacity in responding to bias crime.

Invite participants to turn to their fellow participants and introduce themselves. *Ask* them to discuss briefly with one another how they would define a bias crime and to give an example of a bias incident or crime they have dealt with either personally or professionally. *Invite* a few volunteers to share their experiences with the group.

Note to Instructor

The terms “bias crime” and “hate crime” are used interchangeably throughout this curriculum.

The major idea to convey in the beginning of this session is that bias crime—because of its very nature, its impact on victims and the community, and the inherent difficulties in identifying and prosecuting these crimes—demands a special response on the part of law enforcement and victim assistance professionals. The goal of this curriculum is to help professionals in both fields understand the complex issues inherent in these tragic incidents and become better equipped to respond effectively.

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

This is a short lecture presentation, to convey key points. Use Transparency A1, “Key Points on Bias Crime,” as an outline for your presentation.



KEY POINTS ON BIAS CRIME

Overview of Bias Crime

- The Federal Hate Crime Statistics Act defines bias crime as crime “motivated, in whole or in part, by hatred against a victim based on his or her race, religion, sexual orientation, ethnicity, national origin, or disability.”
- Constitutional protections are guaranteed to all Americans, yet some individuals are victimized, sometimes subtly and at other times very overtly, for no reason other than the color of their skin, the religion they profess, the heritage of their parents, or their sexual orientation. It is most unsettling to the victims because there is nothing they can do to alter the situation, nor is there anything they should be expected to change.
- Not only is the individual who is personally touched by these offenses victimized, but the entire class of individuals residing in the community is affected as well.
- Federal laws and state statutes protect individuals from bias crime and provide a basis for prosecution of offenders.

Bias Crimes: Unique Challenges to Professionals

- Because of their unique psychological impact on the victim, bias crimes can have a more devastating effect than other crimes—on both the victim and the victim’s community.
- Bias crimes are considered “message crimes”—crimes that send a message of fear and terror, based on a foundation of bigotry.
- Bias crimes have an impact on the victim’s community. As a result, a seemingly insignificant incident can exacerbate existing tension within the community, with the potential for reprisals and escalating violence.
- Therefore, bias crimes demand a special response from law enforcement and victim assistance professionals. Victims of bias crime often suffer serious and long-lasting traumatic stress that can be made worse by an inappropriate response.

Note to Instructor

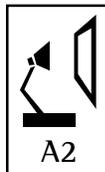
The definition of hate crime used here is from the Hate Crime Statistics Act.

Explain to participants that federal and state laws define hate crime differently and include different protected categories.

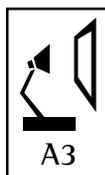
*A comprehensive review of the legal issues regarding the definition of hate crime can be found in **Session D, Bias Crime and the Law.***

Scope of Bias Crime¹

- Prior to 1990, no comprehensive source of bias crime incidence data existed in the United States, due in part to differences in defining, reporting, and compiling incidents of bias crime in different states.
- To remedy this lack of reporting, the federal government enacted the Hate Crime Statistics Act in 1990.
- Currently, state law enforcement agencies and police departments collect and document bias crimes in different ways. Gradually, agencies have become better about documenting and reporting bias crimes; the latest FBI report lauds the efforts of state and local law enforcement agencies in helping to create a more thorough and comprehensive data set.
- From 1992–1998, an average of over 8,000 hate crimes were reported to the FBI each year. Transparency A2 shows the data for each year, as well as the number of law enforcement agencies reporting.
- Of the reported hate crimes from 1992–1998, 61 percent were motivated by racial bias, 17 percent by religious bias, 12 percent by sexual orientation bias, and 10 percent by ethnicity/national origin bias. Bias crimes against people with disabilities accounted for less than 1 percent of hate crimes in 1997 and 1998, the first years for which this data was collected.²
- Advocacy groups have also done exemplary work in documenting bias crimes and incidents (e.g., the Anti-Defamation League, National Urban League, National Gay and Lesbian Task Force, American-Arab Anti-Discrimination Committee, Committee Against Anti-Asian Violence, Asian Law Caucus, Japanese American Citizens League, National Institute Against Prejudice



A2



A3

and Violence, and others). These data supplement the FBI data and also indicate that many hate crimes are not reported to law enforcement and/or are not prosecuted as hate crimes.

- Although some data problems do exist and it is currently impossible to say with certainty what the incidence of bias crime is nationally, it is important to remember that these crimes have a significant impact in several areas:

- the victim
- the community
- our democratic society, civil rights, and protections

These crimes threaten the well-being of our society. Although the attacks may vary widely in their severity, the impact on the broader community is profound.

Note to Instructor

Explain to participants that because reporting is voluntary and because many hate crimes are either unrecognized by law enforcement or unreported by victims, the number of reported hate crimes is probably much lower than the actual number of hate crimes. However, hate crime data is still useful in that it documents the existence of hate crime, enables professionals and policymakers to examine trends, and helps identify which groups are most likely to be victimized. This is also a good opportunity to encourage participants to improve their local practices of recognizing and reporting hate crimes and to collect good local data that will enable them to address the problem in their communities.

III. Presentation: Introduction to Bias Crime Indicators (15 minutes)

Explain what bias indicators are:

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

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

Explain to participants that bias crime indicators assist law enforcement in confirming that a particular crime was in fact motivated by the offender's bias. The identification and confirmation of prejudice motivation must be made for five primary reasons:³

1. Successful prosecution
2. Proper law enforcement and victim assistance response to victims and communities
3. Development of effective prevention programs and strategies
4. Accurate data collection to inform research, legislation, and public policy
5. Victim and community awareness and understanding

Review the formal definition of bias indicators, using Transparency A4, “Definition of a Bias Crime Indicator.”



DEFINITION OF A BIAS CRIME INDICATOR

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

—Massachusetts Model Protocol for Bias Crime Investigation

Note to Instructor



An optional activity: A new video entitled “Responding to Hate Crimes: A Roll Call Training Video for Police Officers,” was recently developed with funding from the Bureau of Justice Assistance (BJA), U.S. Department of Justice. The video has an excellent 8-minute segment on hate crime indicators. The International Association for Chiefs of Police (IACP) created a brochure to accompany the video. You may wish to **show** the video during this session and **distribute** copies of the brochure. For information about the video, contact the BJA at (800) 688-4252. To order the brochure, call the National Criminal Justice Reference Service at (800) 851-3420, or **download** it from the IACP web site at <www.theiacp.org>.



Distribute Handout A1, “Bias Crime Indicators,” and give participants several minutes to review the handout. *Remind* participants that the indicators (on the handout and listed below) are not inclusive, nor does the presence of one confirm the presence of bias. All cases should be investigated and evaluated on an individual basis. The following factors may indicate the *possibility* of a bias motivation.

Explain that bias indicators need not establish that the predominant motivation for an offender’s actions was hatred or bias. An incident can be classified as a bias crime if the offender was acting out of hatred or bias, together with other motives, or if a bias motive was a contributing factor, in whole or in part, in the commission of a criminal act.



BIAS CRIME INDICATORS⁴

Racial, Ethnic, Gender, and/or Cultural Differences

- The race, religion, ethnicity/national origin, disability status, gender, or sexual orientation of victim differs from that of the offender.
- The victim is a member of a group that is overwhelmingly outnumbered by members of another group in the area where the incident occurred.
- The victim was engaged in activities promoting his or her group.
- The incident coincided with a holiday or date of particular significance to the victim’s group.
- The victim, although not a member of the targeted group, is a member of an advocacy group that supports the victim’s group, or the victim was in the company of a member of the targeted group.

(continued)



- Historically, animosity exists between the victim's group and the offender's group.

Comments, Written Statements, or Gestures

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

Drawings, Markings, Symbols, or Graffiti

- Bias-related drawings, markings, symbols, or graffiti were left at the scene of the incident.

Organized Hate Groups

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

Previous Bias Crimes or Incidents

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

Victim/Witness Perception

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

Motive of Offender

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

(continued)



Location of Incident

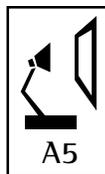
- The victim was in or near an area or place commonly associated with or frequented by members of a particular race, religion, ethnicity/national origin, disability, sexual orientation, or gender (e.g., a gay bar).
- The incident occurred at or near a house of worship, religious cemetery, or home or establishment of a group considered a minority or “outsider” in a given neighborhood (e.g., a Korean store in an African American neighborhood, a gay bar, or an African American home in a predominately Irish American neighborhood).

Lack of Other Motives

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

Invite participants to volunteer examples from their own experience that illustrate bias crime indicators.

Use Transparency A5, “Indicator Cautions.”



INDICATOR CAUTIONS⁵

Need for Case-by-Case Assessment of the Evidence

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

Misleading Facts

Agencies must be alert to misleading facts. For example, if the offender used an epithet to refer to the victim’s race, that might indicate bias; however, if the offender and the victim were of the same race, that same action doesn’t necessarily suggest bias.

Feigned Facts and Hoaxes

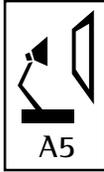
Agencies must be alert to evidence left by the offenders that is meant to give the false impression that the incident was motivated by bias. For example, students of a religious school might vandalize their own school, leaving anti-religious statements and symbols on its walls, in the hope that they will be excused from attending class. However, even when a hoax is suspected, police must be especially careful not to announce this publicly.

Bias crimes can attract intense community interest and sensational publicity. Stating that the incident may have been faked will often appear to be “blaming the victim,” leading to a setback in police-community relations. On the other hand, if a solid investigation

(continued)

Note to Instructor

Remind participants that the presence of one or more bias indicators suggests that a bias crime may have occurred but does not positively identify a crime or incident as being motivated by bias.



proves no bias was involved, police should rely on the strength of that evidence to convince a judge, jury, and the general public.

Offender's Mistaken Perception

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

Changes in Findings of Bias

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

IV. Activity: Application to a Case (25 minutes)

Explain that participants are now going to break into pairs and identify the bias indicators in a case entitled "The Case of Steven Thompkins and Henry Briggs" (Handout A2). Explain that this case was specifically developed as a composite of many of the problems faced by law enforcement and victim assistance professionals when responding to bias crimes.

Distribute Handout A2, "The Case of Steven Thompkins and Henry Briggs."

Instruct participants to read the case study, and then, in pairs, use the questions that follow to discuss their responses.

Ask for volunteers to describe the bias indicators they and their partners have identified. After several minutes, pose the questions that follow the case to solicit any bias indicators that have not been identified. *Write* the responses on a flipchart.





A2

THE CASE OF STEVEN THOMPCKINS AND HENRY BRIGGS



The Incident

Two men are walking together outside a restaurant in a small community with a large gay population. A group of five white, teenage males approaches them, and one of the teenagers in the group, distinguished from the others by his short crewcut, signals by raising his *right* arm. The group responds to the signal by bombarding the two men with rocks and bottles that had been concealed inside their jackets. One of the men is hit above the eye and cut by the broken glass of a bottle. Seeing the open wound on the man's face, the teenager who initiated the assault yells to the group, "Watch out, he probably has AIDS." The teenagers disperse. Hearing the commotion, the owner of the restaurant calls the police.

Law Enforcement: First Response and Bias Indicators

Responding patrol officer Jack McCarron arrives at the scene and immediately calls an ambulance for the wounded man. The officer requests that the other victim and the restaurant owner remain at the scene for questioning. The victims are identified as Steven Thompkins and Henry Briggs.

Officer McCarron asks Mr. Briggs, the remaining victim, and the restaurant owner to describe the offenders in as much detail as they can recall. Henry Briggs, visibly shaken, tells the officer that he can barely remember a thing about the group. The restaurant owner tells the police officer that several of his customers have been the victims of similar incidents in this neighborhood: "These kids come over from Lakedale [a nearby town] just to stir up trouble." The officer takes down this information as part of his report and gets into his patrol car. As he is about to leave Henry Briggs rushes up to him, saying, "Wait, I do remember something else. When the punk with the short crewcut raised his arm, I saw a tattoo. I don't know what it was—it looked like some sort of skull to me." Officer McCarron responds, "Thanks, lots of kids have tattoos these days. I'll be in touch with you."

Questions:

1. *According to your knowledge and the definition of bias crime, might this incident be motivated by bias? What are the bias indicators?*

Possible/Desired Responses:

Yes, the crime is motivated by bias. Bias indicators include the following:

- Assault by a group of teenagers who are not residents of the area
- Assault by a group of teenagers in a predominantly gay community
- The lead offender's comment, "Watch out, he probably has AIDS," which may be a reference to the victim's presumed sexual orientation

(continued)



- The restaurant owner's remark that several similar incidents have occurred in this area
 - The skull tattoo on the arm of the lead offender, which may be an insignia of an organized hate group
2. *If you believe the incident might be motivated by bias, what form of bias is being perpetrated by the teenagers? Would the form of bias be different if the situation and words spoken by the teenager were exactly the same but the men leaving the restaurant were African American?*

Possible/Desired Responses:

The form of bias is bias against an individual's sexual orientation (note the offender's reference to AIDS). The form of bias would be the same if the men were African American, unless the offenders also made references to the victims' race.

3. *With the information presented thus far, can this situation be identified as a possible bias crime or bias incident? What would distinguish it as one or the other?*

Possible/Desired Responses:

Although elements for distinguishing bias crimes from bias incidents vary among states, it is acceptable to identify this case as a possible incident.

V. Closing Comments (5 minutes)

Explain that you want to provide some closing comments about bias indicators that will be useful to participants in investigating potential bias crimes and working with victims. *Present* the following information relative to bias indicators:

- Often, law enforcement and victim service professionals overlook bias crimes when written or verbal bias language is not present and when other indicators may be less obvious.
- The same holds true with bias crime homicide victims. Frequently in these cases there are no witnesses to the murder, and no one is able to report any language-based bias indicators; this challenges police to search for other, less obvious indicators.
- When a robbery occurs, the motive can appear to be economic. However, if robbery is not mentioned or attempted until well into the encounter, it is highly possible that bias may be the primary motivation for the crime. The same principle holds true for sexual assault cases.

Session A. Introduction and Overview: Defining and Recognizing Bias Crime

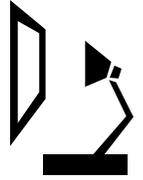
- Remember that the victim does not always understand that he or she may have been victimized in a bias-motivated attack. Victims often search for other reasons to explain an attack because their group membership represents an aspect of themselves that is not generally possible to change; they will forever be identified as a member of that group and therefore vulnerable to attack. The same issue can apply to witnesses as well.
- It is not essential to determine whether the victim is actually a member of a targeted group when identifying bias indicators. The issue of concern is the offender's motive based on his or her *perception* of who the victim is.
- Keep in mind that bias indicators are factors that should be considered in determining the presence of a bias crime. They do not, in themselves, confirm that any incident was a hate offense.

Next Steps for Professionals

- Both victim assistance and law enforcement professionals are motivated by a desire to protect and serve victims and facilitate the administration of justice.
- Several elements are critical in both fields for a more effective response:
 - improved data collection and documentation
 - improved cultural awareness and understanding of diversity
 - greater efforts at outreach to the victims
 - improved community relations
 - greater understanding of the law
 - greater understanding of the roles and responsibilities in each field
- Our goal is to help you determine what more you can do to respond effectively to bias crimes.

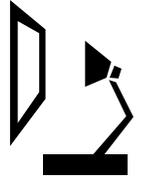
References

- ¹ Adapted from U.S. Department of Justice, Federal Bureau of Investigation (1996). *Training guide for hate crime data collection*. Washington, D.C.: U.S. Government Printing Office.
- ² Federal hate crime data can be found at the FBI website at <www.fbi.gov/ucr.htm>.
- ³ Adapted from U.S. Department of Justice (1998). *National hate crimes training curriculum: Multilevel state and local law enforcement professionals*. Washington, D.C.: U.S. Department of Justice.
- ⁴ Holmes, W. (1992). *Hate crime reporting: Obstacles, facilitators, and strategies*. Boston: Statistical Analysis Center, Massachusetts Committee on Criminal Justice.
- ⁵ U.S. Department of Justice, Federal Bureau of Investigation (1990). *Hate crime data collection guidelines*. Washington, D.C.: U.S. Government Printing Office.

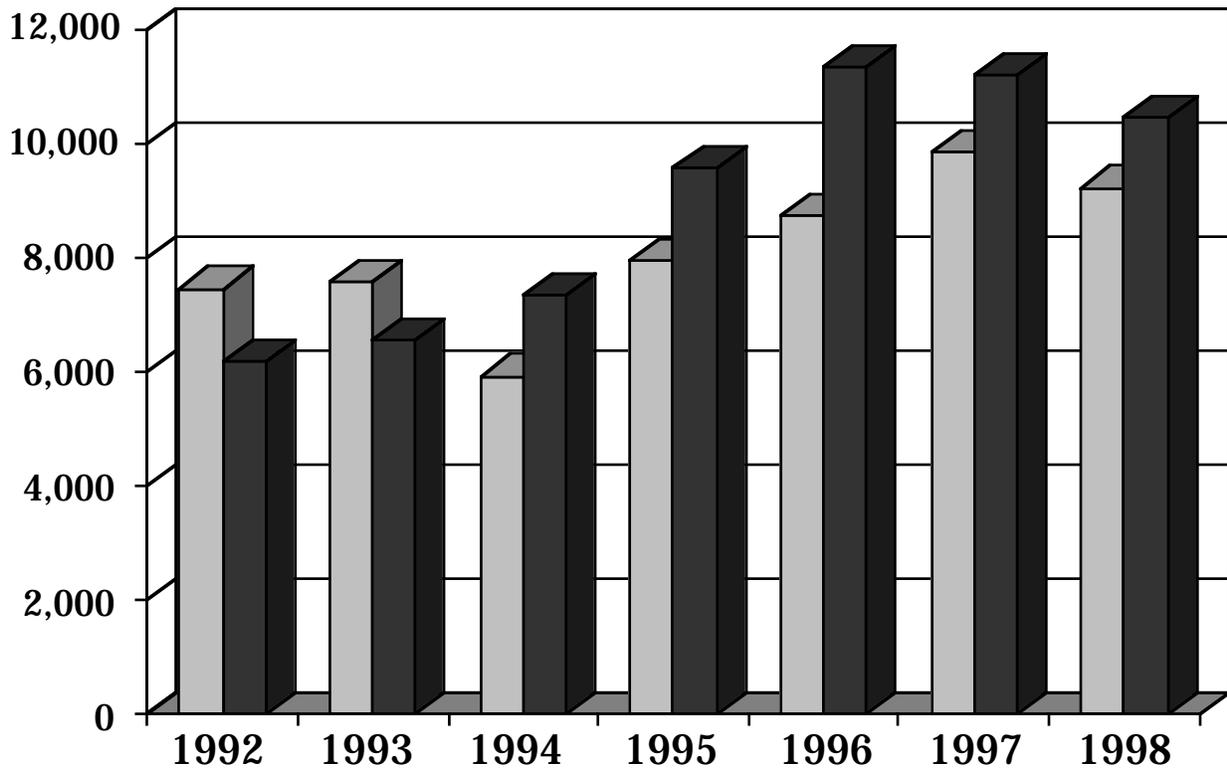


KEY POINTS ON BIAS CRIME

- Bias crimes are “crimes motivated, in whole or in part, by hatred against a victim based on his or her race, religion, sexual orientation, ethnicity, national origin, or disability.”
(Federal Hate Crime Statistics Act definition)
- Federal laws and state statutes protect individuals from bias crime and provide a basis for prosecution of offenders.
- Because of their unique psychological impact on the victim, bias crimes can have a more devastating effect than other crimes—on both the victim and the victim’s community.
- Before the passage of the Hate Crime Statistics Act in 1990, no comprehensive source of bias crime incident data existed in the United States, due in part to differences in defining, reporting, and compiling incidents of bias crime in different states.

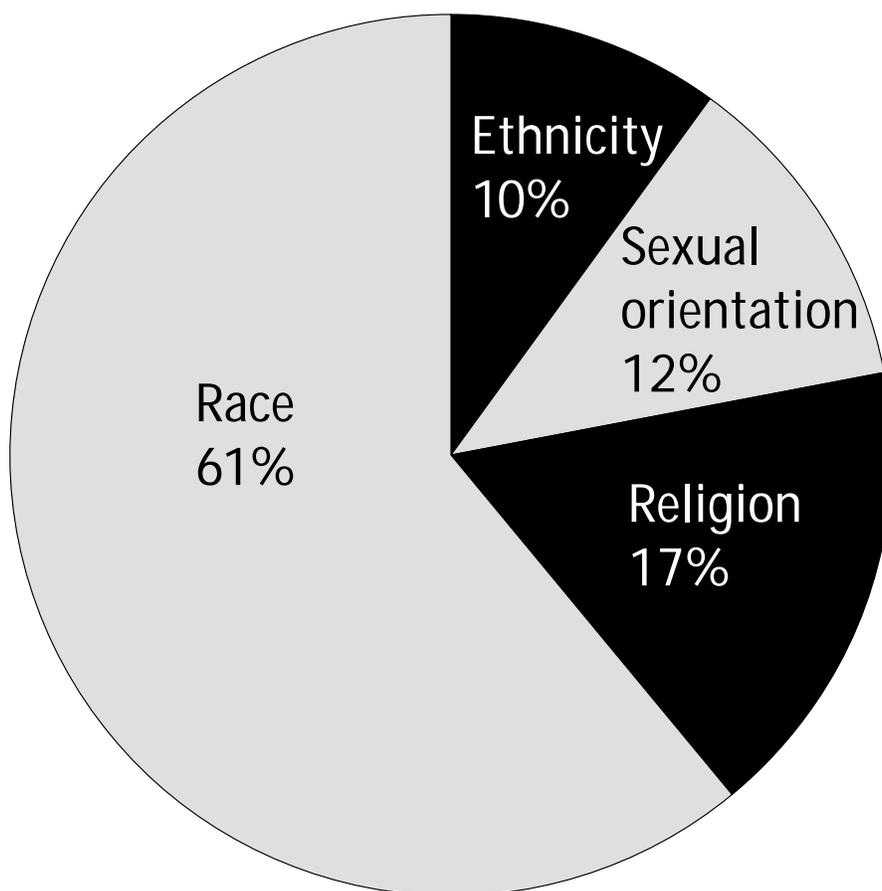


HATE CRIMES AND AGENCIES REPORTING (1992-1998)

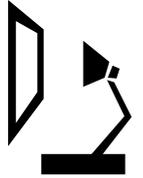




BIAS MOTIVATION TRENDS (1992–1998)



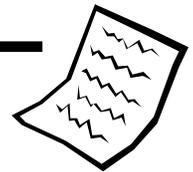
Note: Disability represents fewer than 1%.



DEFINITION OF A BIAS CRIME INDICATOR

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

– *Massachusetts Model Protocol
for Bias Crime Investigation*



Bias Crime Indicators

Racial, Ethnic, Gender, and/or Cultural Differences

- The race, religion, ethnicity/national origin, disability status, gender, or sexual orientation of victim differs from that of the offender.
- The victim is a member of a group that is overwhelmingly outnumbered by members of another group in the area where the incident occurred.
- The victim was engaged in activities promoting his or her group.
- The incident coincided with a holiday or date of particular significance to the victim's group.
- The victim, although not a member of the targeted group, is a member of an advocacy group that supports the victim's group, or the victim was in the company of a member of the targeted group.
- Historically, animosity exists between the victim's group and the offender's group.

Comments, Written Statements, or Gestures

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

Drawings, Markings, Symbols, or Graffiti

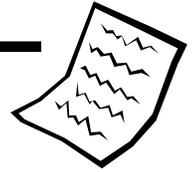
- Bias-related drawings, markings, symbols, or graffiti were left at the scene of the incident.

Organized Hate Groups

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

Previous Bias Crimes or Incidents

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



Bias Crime Indicators (con't.)

Victim/Witness Perception

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

Motive of Offender

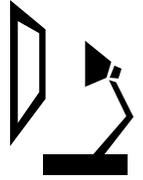
- Offender was previously involved in a similar incident or is a member of, or associates with members of, an organized hate group.
- The victim was in the company of or married to a member of a targeted group.
- The victim was perceived by the offender as violating or breaking from traditional conventions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

Location of Incident

- The victim was in or near an area or place commonly associated with or frequented by members of a particular race, religion, ethnicity/national origin, disability, sexual orientation, or gender (e.g., a gay bar).
- The incident occurred at or near a house of worship, religious cemetery, or a home or establishment of a group considered a minority or “outsider” in a given neighborhood (e.g., a Korean store in an African American neighborhood, a gay bar, or an African American home in a predominately Irish American neighborhood).

Lack of Other Motives

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

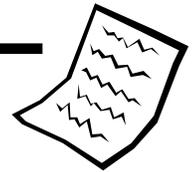


INDICATOR CAUTIONS

- Need for Case-by-Case Assessment of the Evidence
- Misleading Facts
- Feigned Facts and Hoaxes
- Offender's Mistaken Perception
- Changes in Findings of Bias



THE CASE OF STEVEN THOMPKINS AND HENRY BRIGGS



The Incident

Two men are walking together outside a restaurant in a small community with a large gay population. A group of five white, teenage males approaches them, and one of the teenagers in the group, distinguished from the others by his short crewcut, signals by raising his right arm. The group responds to the signal by bombarding the two men with rocks and bottles that had been concealed inside their jackets. One of the men is hit above the eye and cut by the broken glass of a bottle. Seeing the open wound on the man's face, the teenager who initiated the assault yells to the group, "Watch out, he probably has AIDS." The teenagers disperse. Hearing the commotion, the owner of the restaurant calls the police.

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Questions

1. *According to your knowledge and the definition of bias crime, might this incident be motivated by bias? What are the bias indicators?*
2. *If you believe the incident might be motivated by bias, what form of bias is being perpetrated by the teenagers? Would the form of bias be different if the situation and words spoken by the teenager were exactly the same but the men leaving the restaurant were African American?*
3. *With the information presented thus far, can this situation be identified as a possible bias crime or bias incident? What would distinguish it as one or the other?*

B Victim Impact

Overview of the Session: At a Glance

Presentation: Overview of Victim Trauma	5 minutes
Activity: Analysis of Video Segments	20 minutes
Presentation: Unique Features of Bias Crime and Its Impact on Bias Crime Victims	15 minutes
Victim Presentation and Discussion	20 minutes
TOTAL TIME	60 minutes

Objectives

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

- Identify elements of victim trauma
- Identify the unique features of bias crime
- Understand the impact of bias crime on victims

Materials and Equipment



Time: 60 minutes



Videos: “Understanding Why,” *Prime Time Live*, October 28, 1993, available for purchase from the Federal Document Clearinghouse at (800) 225-5222 (be sure to allow at least four to six weeks for delivery)

“Hate on Trial,” *60 Minutes II*, October 12, 1999, CBS Network, (800) 934-NEWS, or CBS Video, 19 Gregory Drive, So. Burlington, VT 05403; (800) 542-5621



Handouts: Assessment of Victims’ Physical, Emotional, and Financial Injuries



Transparencies: Secondary Injury; Unique Features of Bias Crime; Bias Crime: Victim Impact; Bias Crime: Community Impact; The Ripple Effect of Bias Crime



Equipment: Overhead projector; screen; flipchart, VCR; monitor

Instructor's Notes

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

Bias crime victims experience many of the same difficulties and traumas as victims of other crimes, but bias crimes also have a unique impact.

Crisis of Victimization

Many victims experience a crisis as a result of their victimization. Morton Bard, author of the *Crime Victim's Book*, defines the crisis of victimization as “a sudden, arbitrary, unpredictable event that is threatening to the self and produces a disruption in the emotions and behaviors of the threatened person.”¹ Crime victims experience this crisis as a result of the primary and secondary injury or harm.

Types of Victim Trauma or Injury

- Physical injury
- Psychological trauma
 - initial crisis
 - long-term stress reactions
- Financial loss
- Secondary victimization by society and its institutions

Note to Instructor

Explain that the video to be shown is an actual portrayal of a hate crime victim and the reenactment of a hate crime. It is very graphic and involves serious physical and psychological injury. **Explain** that participants may have trouble viewing the film and may wish to leave the room if they believe it will be particularly disturbing. It may be helpful to have victim assistance professionals available after this session to assist anyone who has strong reactions to the video.

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

Pre-screen and *select* one of the two recommended videos listed at the beginning of this section, both of which portray hate crime victims. *Ask* participants to keep the types of victim trauma in mind when they view the video segment.



Show video segment.



Distribute Handout B1, “Assessment of Victims’ Physical, Emotional, and Financial Injuries.” *Explain* that this assessment list was prepared to be used with victims of any type of crime to understand the degree of victim trauma.

Ask participants to divide into small groups to complete Handout B1, based on the victim portrayed in the video.

After they have completed the checklist, *reconvene* all participants to the larger group. *Ask* participants from three different groups to report to the larger group on one type of victim injury:

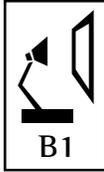
- physical
- emotional, or
- financial



Record their answers on a flipchart.

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

Use Transparency B1, “Secondary Injury.”



SECONDARY INJURY IS THE VICTIM’S PERCEIVED REJECTION BY AND LACK OF EXPECTED SUPPORT FROM THE COMMUNITY.

- Victim trauma may be exacerbated by the insensitivity of others. This is known as “secondary injury.”
- Most crime victims experience some type of secondary injury as they attempt to deal with the systems that provide physical or mental health care, process insurance claims to recover losses, or adjudicate offenders.
- Bias crime victims may experience more severe secondary injury because professionals who work within the system that serves the victim tend to have the same prejudices and biases as the rest of society.
- As a result of personal bias and prejudice, professionals—like other individuals—may minimize the impact of the crime on the individual.
- Bias crime victims frequently feel betrayed and hopeless when they confront institutional prejudice.
- Secondary injury can also occur as victims of bias crime interact with family, friends, and acquaintances, as well as the clergy, the media, and others.



Ask participants for examples of secondary injury to the victim portrayed in the video. *Record* their answers on a flipchart.

III. Presentation: Unique Features of Bias Crimes and Their Impact on Bias Crime Victims (15 minutes)

Use Transparency B2, “Unique Features of Bias Crime,” to describe key points.

Explain that, in addition to the primary and secondary injuries that victims face, there are unique features of bias crime that are important to understand.



UNIQUE FEATURES OF BIAS CRIME²

- Bias crime is more likely to be seriously injurious or lethal than any other assaultive crime.
- Bias crime, in part motivated by fear, often escalates when the members of the dominant culture think they are under attack; for example, a number of Arab-Americans were harassed or even physically assaulted during the 1991 Gulf War.

(continued)



- Bias crimes are usually perpetrated in groups. Group-instigated crime has a significant impact on the victim for several reasons:
 - There is a diffusion of responsibility among offenders.
 - Crimes committed by groups tend to be especially vicious, which can exacerbate the physical and emotional trauma to the victim.
- A large number of bias crimes seem to be aimed at individuals who are not only members of an identified group but also perceived as infringing on another group's "territory." Northeastern Professor Jack McDevitt analyzed 452 cases of bias crime that occurred in Boston from 1983 to 1987 and found that 57 percent of the crimes were attacks on persons walking, driving through, or working in a neighborhood, or on families moving into the area.³

Similar to all crime victims, bias crime victims often suffer from shock, disbelief, and denial. Their emotional turmoil is comprised of rage, terror, confusion, frustration, blame, and grief. These emotional reactions are compounded because the victims are chosen due to a characteristic of their identity. Bias crime victims may experience especially acute effects of primary and secondary victimization. The particular effects of primary victimization, resulting from the impact of the crime itself, are reviewed below.

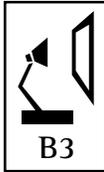
Use Transparency B3, "Bias Crime: Victim Impact," and *describe* the key points.



BIAS CRIME: VICTIM IMPACT

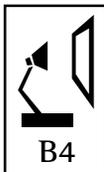
- Victims of bias crime are attacked for being "different," for being misunderstood, and for being hated. Because the basis for their attack is their identity, they may suffer a deep personal crisis.
- Victims of bias crime are targeted due to a core, immutable characteristic of their identity. This may lead to a feeling of increased vulnerability because they are attacked for something that they cannot change.
- Trauma may be compounded because of the nature of the attack and its root in hatred or prejudice. It is very difficult for a bias crime victim to resolve that the crime was motivated by hatred as opposed to another motive, such as an economic one. Research shows that people who are physically or psychologically attacked for reasons of prejudice suffer more than people who are victims of similar attacks not motivated by prejudice.^{4,5}
- If their membership in a target group is readily visible, victims of bias crimes may feel particularly vulnerable to a repeat attack. This heightened sense of vulnerability may result in the feeling of hopelessness. They may become afraid to associate with other members of the group that has been targeted or may fear seeking needed services, believing that these actions increase their vulnerability.

(continued)



- Bias crime victims' grief can be more intense than other reactions, arising in part because victims lose their sense of community or feel betrayed by the American system.
- Victims of bias crimes who are minorities may feel the crime has been diminished because of societal stereotyping, prejudice, or institutional indifference.
- As a result of the victimization, bias crime victims may respond by more strongly identifying with their group—or, conversely, by attempting to disassociate themselves or deny a significant aspect of their identity.
- Assumptions about life and worldview may be shattered. For bias crime victims who are members of a minority culture, this may be particularly devastating because their worldview may have been very different from the dominant culture's worldview.

Bias crime affects more than the individual victims. Use Transparency B4, "Bias Crime: Community Impact," to discuss the effects of bias crime on the community.



BIAS CRIME: COMMUNITY IMPACT

- When individuals are targets of hate because of their race, religion, national origin, ethnicity, gender, disability, or sexual orientation, their victimization is projected outward to all members of their community.
- Other members of the same group feel victimized, and members of other commonly targeted groups are reminded of their vulnerability to similar attacks. All members of the targeted group suffer injury and intimidation.
- Places of worship are often targeted by bias crime offenders; these attacks on sacred spiritual symbols, which may harm victims more than other acts of vandalism, also harm other members of the community.
- Hate crimes are highly likely to exacerbate racial or other intergroup tensions. They may create civil disturbances, even riots, and result in retaliatory hate crimes.

Use Transparency B5, "The Ripple Effect of Bias Crime," to discuss the chain-reaction of impact that can ensue from a single hate crime.



The Ripple Effect of Bias Crime

The effects of hate crimes are far-reaching. As message crimes, hate crimes affect society on many levels and in many different ways, creating a chain reaction that ultimately serves as fertile ground for further prejudice, social unrest, hate crime, and fear. Possible effects of hate crimes are as follows:

- The immediate victims suffer serious physical injury, psychological trauma, and/or financial loss.
- The specific group that has been targeted receives a message that all of its members are potentially at risk.
- Other groups commonly targeted for hate crimes receive a frightening reminder of their potential victimization by individuals who view them as “different.”
- The community in which the crime occurred suffers the stigma of hatred as well as a potential increase in intergroup tensions and escalation of hate activity.
- The social order—in the affected community and beyond—is disrupted, often resulting in civil unrest, retaliatory violence, and copycat incidents.
- The civil rights of all individuals are at risk, especially if hate crimes are not properly and swiftly addressed.

IV. Victim Presentation and Discussion (20 minutes)

It is most compelling if a victim of bias crime is recruited for the training to make a presentation about his or her personal experience as a victim of bias crime (see page 5 for more information on recruiting a victim to present). The presentation should include the following:

- The victim’s personal experience as a victim
- The impact of the bias crime on the victim
- The response of the criminal justice system to the victim
- The response of other professionals, institutions, and friends and family members to the victim
- The victim’s recommendations, if any, to improve the response to bias crime victimization

After the presentation, *ask* participants if they have any questions or reactions. After a brief time for questions, *thank* the victim for his or her willingness to present.



If it is not possible to recruit a victim to make a presentation, *use* any of the following videos, which include victim interviews.

- “The Truth About Hate: Teen Files Series”
March 1999
AIMS Multimedia Orders
9710 DeSoto Avenue
Chatsworth, CA 91311
(800) 367-2467, ext. 349
<http://www.aims-multimedia.com/>
Public Performance licensed video: \$142.45
Private Home Use licensed video: \$29.95

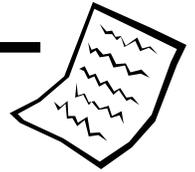
- “Hate Crimes: Training for Police Officers”
November 25, 1990
Anti-Defamation League
Materials Library
22-D Hollywood Avenue
Ho-Ho-Kus, NJ 07423
(800) 343-5540
Video segment: 12 minutes
- “Roy Smith’s America”
March 3, 1998
20/20
ABC Network
(800) CALL-ABC

After viewing the victim segment(s), *discuss* the video. After a few minutes of discussion, *ask* for volunteers to answer the following questions:

- *What types of victim trauma were involved?*
- *What unique aspects of victimization were involved?*
- *What changes, if any, would you make in response to the victim?*
- *What was the impact of the crime on the community?*

References

- ¹ Bard, M. and Sangrey, D. (1986). *The crime victim’s book*. Brunner/Mazel.
- ² Young, M.A., NOVA (1993). *Victim assistance: Frontiers and fundamentals*. Dubuque, IA: Kendall/Hunt Publishing Company.
- ³ McDevitt, J. and Levin, J. (1993). *Hate crimes: The rising tide of bigotry and bloodshed*. New York: Plenum Publishers.
- ⁴ Hutson, H. R., Anglin D., Stratton, G., Moore, J. Hate crime violence and its emergency department management. *Ann Emerg Med* (June 1997). 29:786–791.
- ⁵ The Prejudice Institute (1997). *Factsheet on ethnoviolence*. Baltimore: The Prejudice Institute.



Assessment of Victims' Physical, Emotional, and Financial Injuries

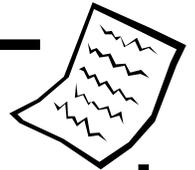
Physical

- What is the degree of victim injury?
- What is the severity and impact of the injury?
- Will the injury create a long-term disability?
- Has the crime aggravated a previously existing physical or medical condition?
- Is the injury a visible one? Will there be permanent scarring or disfigurement?

Emotional

- Has the lack of a physical injury resulted in other people discounting the seriousness of the incident?
- What previous life experiences with victimization, oppression, or discrimination, if any, have a bearing on the recent victimization?
- What emotions are being experienced?
- Does the victim fear revictimization?

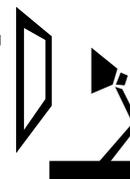
Handout B1 (cont'd)



- Is emotional stress interfering with basic life activities, such as eating, sleeping, and ability to concentrate on the task at hand?
- What are the unique vulnerabilities of this victim? What degree of social support exists?
- What bearing does the offender's motivation have on the victim's emotional reaction?
- What factors relating to the commission of the crime exacerbate the victim emotional reaction, such as the degree of degradation the victim experienced and the degree that this victimization affects all members of this class or community?

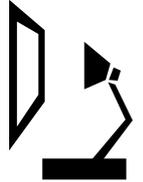
Financial

- What is the degree of financial loss?
- Has the crime interrupted the victim's ability to earn income? Is this jeopardizing the victim's financial security?
- Has the victim had expenses relating to child care, transportation, or other costs associated with the crime?
- Does the victim have insurance that covers the loss or injury?
- Does the loss or damage of property pose immediate hardship, such as the need to find alternate housing or transportation?



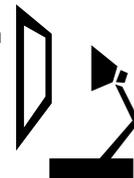
SECONDARY INJURY

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



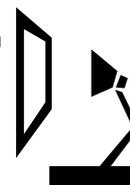
UNIQUE FEATURES OF BIAS CRIME

- More likely to be seriously injurious or lethal than other assaultive crimes
- Often escalates when members of dominant culture think they are under attack
- Usually perpetrated in groups, which may
 - diffuse offenders' responsibility
 - exacerbate trauma to victim
 - exacerbate the viciousness of the attack
- Aimed at individuals perceived as infringing on another group's "territory"



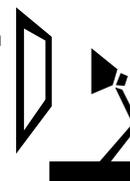
BIAS CRIME: VICTIM IMPACT

- Because the basis for the attack is their identity, victims may experience a deep personal crisis.
- Stress and feelings of vulnerability may be heightened or prolonged because the victims have been attacked for something they cannot change.
- Trauma may be compounded because hate crime victims experience violence *and* hatred.
- Victims of bias crime may feel particularly vulnerable to a repeat attack. They may become afraid to associate with other members of a group that has been targeted or fail to seek needed services.



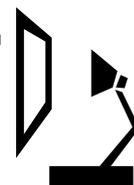
BIAS CRIME: VICTIM IMPACT (cont'd)

- Victims' grief may in part stem from losing their sense of community or feeling betrayed by society.
- Victims may feel the crime has been diminished because of societal stereotyping, prejudice, or institutional indifference.
- Victims may respond by identifying more strongly with their group.
or
They may reject the aspect of themselves that was the target for their attack.
- Assumptions about life and worldview may be shattered.

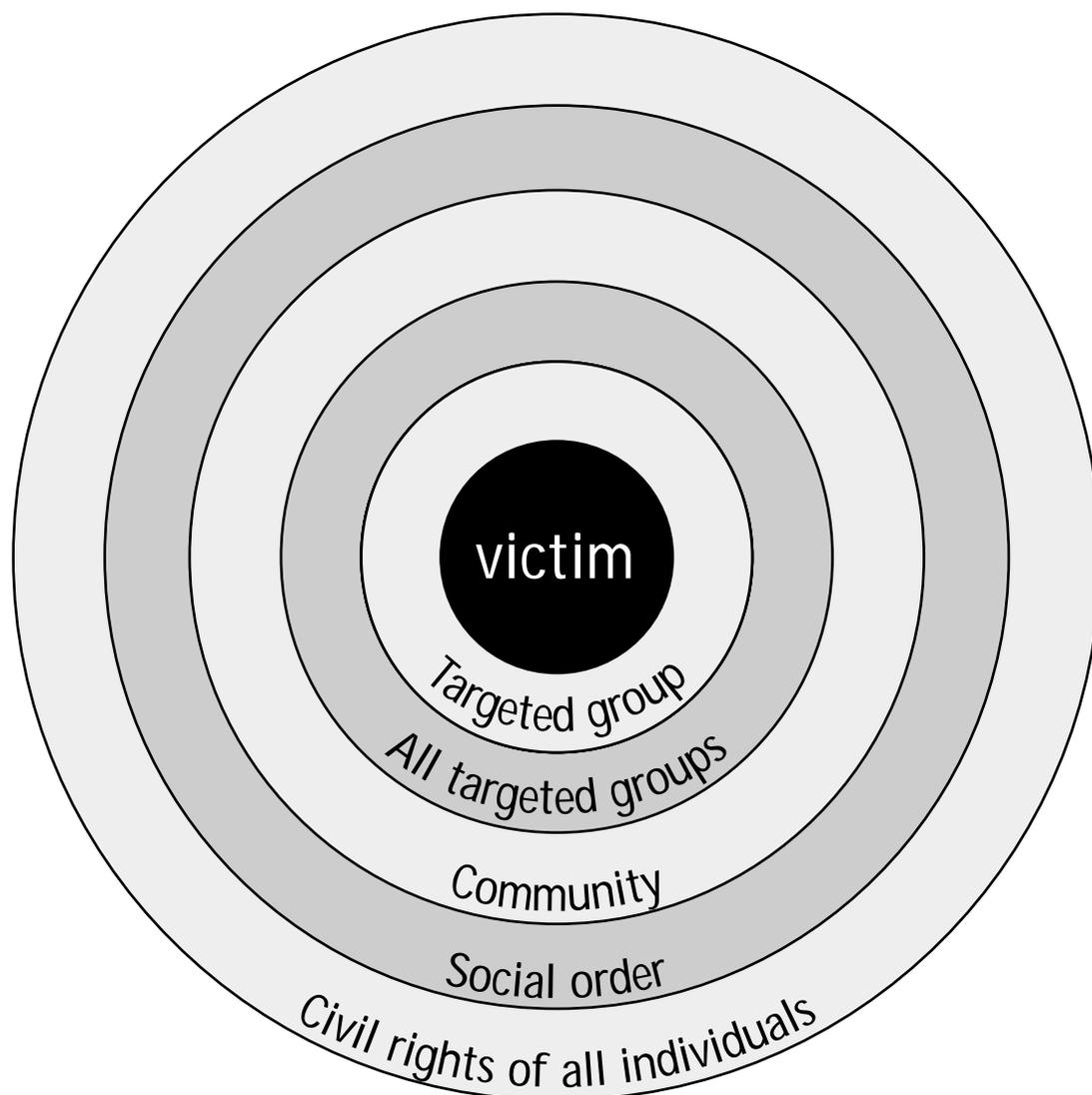


BIAS CRIME: COMMUNITY IMPACT

- Victimization of individuals because of race, religion, sexual orientation, etc. is projected outward to all members of that community.
- Members of other commonly targeted groups are reminded of their vulnerability.
- Attacks on places of worship and their spiritual symbols may harm victims and the community more than other acts of vandalism.
- Hate crimes are highly likely to exacerbate intergroup tensions. They may create civil disturbances, even riots, and result in retaliatory attacks.



THE RIPPLE EFFECT OF BIAS CRIME



C Bias Crime Offenders

Overview of the Session: At a Glance

Presentation: Offender Typology	30 minutes
Presentation: Organized Hate Groups	15 minutes
Activity: Analysis of Three Video Segments	45 minutes
TOTAL TIME	90 minutes

Objectives

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

- Describe the characteristics of three types of bias crime offenders
- Give examples of retaliatory hate crimes and discuss the importance of appropriate responses
- Describe the characteristics of organized hate groups
- Identify offender typology, given a case example

Materials and Equipment



Time: 90 minutes



Videos: “That Old Gang of Mine” (interview with Eric, former skinhead), 1990
 “On Hate Street,” *48 Hours*, CBS, 1992
 “Licensed to Kill,” Arthur Dong, Deepfocus Productions, 1997
 (See page 56 for ordering information.)



Handouts: Thrill-Seeking Offenders; Case Studies of Typical Offenders; Reactive Offenders; Mission Offenders; Offender Typology Video Observation Form



Transparencies: Important of Understanding Offender Typology; Retaliatory Hate Crimes; Organized Hate Groups



Equipment: Overhead projector; screen; VCR; monitor

Instructor's Notes

1. Presentation: Offender Typology (30 minutes)

Explain the following:

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

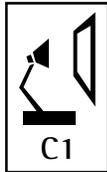
Use Transparency C1, "Importance of Understanding Offender Typology."



Note to Instructor

The offender typology presented in this session is designed to help professionals understand the different motivations and characteristics of "typical" hate crime offenders and the implications for responding to hate violence. It is not intended to overgeneralize or to presume that perpetrators will necessarily fit into one category.

Explain to participants that this typology is evolving as research on hate crime offenders continues. The terms, such as "thrill-seeking" or "mission," are the ones originally used by Jack Levin and Jack McDevitt in their seminal book on hate crime.¹ Other hate crime experts may use different terms for the same typology. To encourage discussion, you may wish to **ask** participants for their ideas about the typology and its relevance to perpetrators they have encountered.



IMPORTANCE OF UNDERSTANDING OFFENDER TYPOLOGY

Knowing offender typology helps law enforcement do the following:

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

Distribute Handout C1, "Thrill-Seeking Offenders."



THRILL-SEEKING OFFENDERS

Offender Characteristics

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

Precipitating Events

- Generally, none

Motivation

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

Victim

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

Location

- Generally outside of offenders' "turf"
- Area(s) frequented by members of targeted group(s)

Additional Characteristics

- Most common type of hate crime; represents approximately 60 percent of all cases
- Since attacks are random, it is often difficult to identify the offenders
- Attacks often involve desecration and vandalism, although they can also involve more violent crimes
- Hatred of victim is relatively superficial; offenders may be deterred from repeating the crime if there is strong societal response condemning the behavior
- Each group member's participation may be limited to a specific aspect of the crime, enabling each offender to avoid acknowledgment of or accountability for the seriousness of the crime

Distribute Handout C2, “Case Studies of Typical Offenders.”

Note: This handout will be used to explore all three offender types.



CASE STUDIES OF TYPICAL OFFENDERS



Thrill-Seeking Offenders

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

Encourage one participant to provide a case example of a thrill-seeking bias crime from his or her jurisdiction or state.

Distribute Handout C3, “Reactive Offenders.”



REACTIVE OFFENDERS

Offender Characteristics

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

Precipitating Events

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

Motivation

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

Victim(s)

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

Location

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

(continued)



Additional Characteristics

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

Refer participants back to Handout C2, “Case Studies of Typical Offenders.”



Reactive Offenders

In Jersey City, New Jersey, an East Indian chemist was severely beaten with an iron bar in his own apartment by a racist who resented the presence of “Hindus” in his neighborhood.



In Wheaton, Maryland, two young white men unable to find work stopped their car and chased two African American women, who were walking from their apartment to a pay phone. One woman ran toward a house and was rescued by the occupant, who heard one of the assailants warn, “If you knock on that door again, I’ll kill you.” The other woman tried to escape into the woods, where she fell. The attackers beat her head and face, ripped off her blouse, and doused her with lighter fluid. As they attempted to light the fluid, police cars arrived at the scene. Both men escaped but were later apprehended. They were charged with attempted murder, assault with intent to murder, assault with intent to maim, kidnapping, and (under a 1988 bias crime statute) attempting to injure a person for racial reasons.

Encourage one participant to provide a case example of a reactive bias crime from his or her jurisdiction or state.

Distribute Handout C4, “Mission Offenders.”



MISSION OFFENDERS

Offender Characteristics

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

Precipitating Events

- None

Motivation

- Believe they have been instructed by a higher order (God, the Fuhrer, the Imperial Wizard, etc.) to rid the world of this evil
- Believe they must get even for the misfortunes they have suffered and

(continued)



perceive a conspiracy of some kind being perpetrated by the groups they have targeted

- Have a sense of urgency about the mission; believe they must act before it is too late

Victim

- Any or all members of the category of people they perceive as responsible for their frustrations

Location

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

Additional Characteristics

- The rarest kind of bias crime
- Crimes are of a violent nature; the mission may end in the offender's suicide



Note to Instructor

Clarify for participants that the category of retaliatory hate crimes does not encompass all forms of retaliation or revenge. It refers specifically to hate crimes in which a victim is selected at random because of his or her race, religion, ethnicity, gender, sexual orientation, etc.

In concluding the discussion of the offender typology, ask participants what bearing the typology and motivation of the offender has on the impact on the victim and on the community as a whole. Would participants anticipate different effects depending on the motivation? Does it matter?

Refer participants back to Handout C2, "Case Studies of Typical Offenders."



Mission Offenders

Marc Lepine entered the engineering school at the University of Montreal with the intent of "getting even" with women, especially feminist women, whom he perceived as having ruined his life. He walked into a classroom, directed the men to leave, and ordered the women to move to one side of the room, saying, "I want the women. You're all a bunch of feminists. I hate feminists."

He opened fire and killed 14 women between the classroom, the hallways, and the cafeteria, and then took his own life.



Encourage one participant to provide a case example of a mission bias crime from his or her jurisdiction or state.

Retaliatory Hate Crime

Ongoing analysis of offender research and hate crime cases has revealed that it may be necessary to add “retaliatory” as a category to the hate crime typology.² Retaliatory hate crimes are those motivated by revenge for a specific incident perceived to be rooted in discrimination or hatred.



Use Transparency C2, “Retaliatory Hate Crime,” to review the major points that characterize retaliatory hate crime, using the cases below as an illustration.

Two well-known cases illustrate retaliatory hate crime:

- During the 1992 riots in Los Angeles, following the acquittal of Los Angeles police officers in the videotaped beating of Rodney King, a group of young black males dragged white truck driver Reginald Denny from the cab of his truck and severely beat him within an inch of his life. This attack has been described as a retaliatory hate crime that occurred in response to the police brutality against Rodney King, and to widespread public perception that the justice system had failed to protect King’s civil rights.
- In 1991, a Jewish scholar named Yankel Rosenbaum was randomly selected and killed during an uprising in the Crown Heights section of Brooklyn, New York. The precipitating event for the unrest was the death of a young black child who was accidentally killed by an Orthodox Jewish driver. Rumors spread throughout the black community that a Hasidic-owned ambulance company had refused to treat the black children injured in the accident and instead had attended to the Jewish passengers. The police reported that they had ordered the ambulance to remove the Jewish driver from the scene to protect him from the angry crowd. Fueled by the rumors, black youths marched through the streets shouting, “Kill the Jews.” Rosenbaum, a visiting scholar from Australia who had nothing to do with the accident, was killed amidst several days of racial hostilities.

These two painful events from our history illustrate the complex nature of retaliatory hate crime. In both examples, the victim was selected merely because of his race and in retaliation for other bias incidents. Both occurred within a context of racial unrest fueled by perceptions of discrimination. And both demonstrate the devastation that can occur if the public perceives that acts of discrimination or hatred are not met with an appropriate response from law enforcement and the justice system.

II. Presentation: Organized Hate Groups (15 minutes)

Use Transparency C3, “Organized Hate Groups.”



ORGANIZED HATE GROUPS

Group Characteristics

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

History of Organized Hate Groups

- Organized hate groups are not a new phenomenon.
- Hate groups characteristically grow in numbers and membership during:
 - periods of increased immigration, such as the 1920s
 - periods when disenfranchised groups have attempted to increase their political and economic power, such as Reconstruction and the Civil Rights Movement
 - periods of economic instability, when people seek scapegoats to blame for unemployment, such as the 1930s and the late 1980s
- At times, organized hate groups have been powerful forces in American political life. Many have sought dominance through violence and intimidation. Others have achieved significant political victories in electoral politics.
- Organized hate groups have a tendency to become fragmented, breaking up because of internal dissension. Groups often take names similar to those used by other hate groups, which should not imply an actual connection; for example, there are many small groups that use the term “skins” in their name.

Structure of Contemporary Hate Groups

- It has been estimated that there are currently no fewer than 20,000 and

(continued)



possibly no more than 50,000, members of white supremacist groups in the United States. These groups fall into a number of often overlapping categories, including Ku Klux Klan groups, neo-Nazi groups, Christian Identity groups, and “skinhead” gangs.

Hate Group Ideology

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

Strategy

- The major organized hate groups often take a more sophisticated approach to spreading their message, using such venues as cable TV, the World Wide Web, and computer bulletin boards.
- Some are consciously attempting to display a more mainstream image and run for office (often under the banner of a major political party). However, there is always the potential for violence. For example, during the 1980s, a small number of white supremacists formed a paramilitary organization called The Order, which was implicated in a number of bombings and murders, including that of Alan Berg, a Jewish radio talk show host.
- Many of the militant white supremacist groups have relocated to congregate in certain geographical areas, such as the Pacific Northwest, where members have engaged in a number of armed confrontations with federal authorities.

Skinheads

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

III. Activity: Analysis of Three Video Segments (45 minutes)



Tell participants that they are about to watch several videos and that their challenge is to categorize the offender based on the typology. *Instruct* participants to take notes as they watch the videos so that they will be prepared to share both their categorization of the offender and the reasoning behind their choices. *Distribute* Handout C5, “Offender Typology Video Observation Form.”



Videos recommended for this activity are listed below. Instructors are advised to *order* the videos 4 to 6 weeks in advance of the training. Be sure to *screen* the videos and *select* those segments that best fit the course and the time available.

- “That Old Gang of Mine” (interview with Eric, former skinhead); The Bureau for At-Risk Youth; 135 Dupont Street; P.O. Box 760; Plainview, NY 11803; Phone: (800) 999-6884, ext. 262. *Price: \$125*
- “Licensed to Kill,” Arthur Dong; Deepfocus Productions, Inc.; P.O. Box 39548; Los Angeles, CA 90039-0548
Phone: (323) 662-6575; FAX: 323/662-6577
E-mail: AdongLA@aol.com
<http://www.filmmag.com/community/adong/>
77-minute full length theatrical version: \$295
53-minute special edited version: \$245
A comprehensive study guide accompanies the video.
- “On Hate Street,” *48 Hours*, CBS; February 26, 1992
CBS Network Television: (800) 934-NEWS

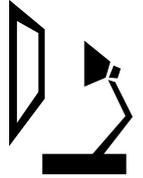
Show the three video segments. *Ask* participants to note their observations on the form.

Facilitate a discussion at the conclusion of each video segment, using the following questions to focus the discussion:

- *Can you identify the typology of the offender(s) in the videos?*
- *What might cause the offender to move into another type of offender category?*
- *Have you had any experience with any of the offender types portrayed in the videos?*

References

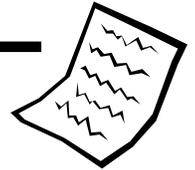
- ¹ Levin, J. and McDevitt, J. (1993). *Hate crime: The rising tide of bigotry and bloodshed*. New York: Plenum Publishers.
- ² McDevitt, J. (1998). National Center for Hate Crime Prevention Advisory Council Meeting.



IMPORTANCE OF UNDERSTANDING OFFENDER TYPOLOGY

Knowing offender typology helps law enforcement:

- identify suspects
- locate offenders
- gain insight into the victim's perception of his or her vulnerability
- gain insight into the offender's motivation
- determine the probability of escalation
- anticipate community response



Thrill-Seeking Offenders

Offender Characteristics

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

Precipitating Events

- Generally, none

Motivation

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

Victim

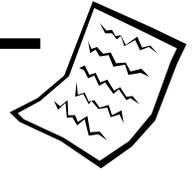
- Almost any member of a vulnerable group
- Members of groups perceived as inferior by offenders

Location

- Generally outside of offender’s “turf”
- Area(s) frequented by targeted group(s)

Additional Characteristics

- Most common type of hate crime; represents approximately 60 percent of all cases
- Since attacks are random, it is often difficult to identify the offenders
- Attacks often involve desecration and vandalism, although they can also involve more violent crimes
- Hatred of victim is relatively superficial; offenders may be deterred from repeating the crime if there is a strong societal response condemning the behavior
- Each group member’s participation may be limited to a specific aspect of the crime, enabling each offender to avoid acknowledgment of or accountability for the seriousness of the crime



Case Studies of Typical Offenders

Thrill-Seeking Offenders

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

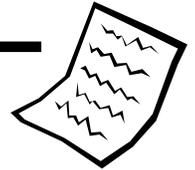
Reactive Offenders

In Jersey City, New Jersey, an East Indian chemist was severely beaten with an iron bar in his own apartment by a racist who resented the presence of "Hindus" in his neighborhood.

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Mission Offenders

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



Reactive Offenders

Offender Characteristics

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

Precipitating Events

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

Motivation

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

Victim(s)

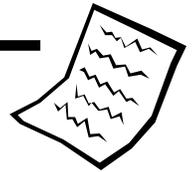
- Particular individual or group of individuals who are perceived to constitute the threat
- Most often, people of color

Location

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

Additional Characteristics

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



Mission Offenders

Offender Characteristics

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

Precipitating Events:

- None

Motivation

- Believes they have been instructed by a higher order (God, the Fuhrer, the Imperial Wizard, etc.) to rid the world of this evil
- Believe they must get even for the misfortunes they have suffered and perceive a conspiracy of some kind being perpetrated by the targeted groups
- Have a sense of urgency about the mission; believe they must act before it is too late

Victim

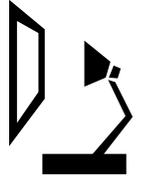
- Any or all members of the category of people they perceive as responsible for their frustrations

Location

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

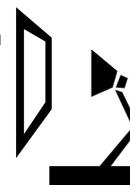
Additional Characteristics

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



RETALIATORY HATE CRIME

- Motivated by revenge for another incident or crime, especially incidents perceived to be rooted in prejudice
- May involve large-group activity or rioting
- Demonstrate what can happen if hate crimes do not receive an appropriate response from law enforcement, the justice system, and the community

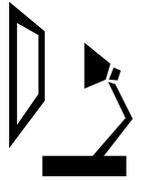


ORGANIZED HATE GROUPS

Group Characteristics

- Range from loosely structured local groups to highly structured international groups
- Leaders tend to project a mainstream image
- Technologically sophisticated
- Skinheads loosely affiliated with these groups, although usually are not official members
- Focus on issues of concern to middle America as a cover for their aims
- Believe in the inevitability of a global war between the races
- Examples include White Aryan Resistance, the Ku Klux Klan, and neo-Nazis

(continued)



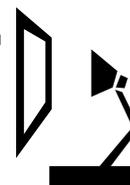
ORGANIZED HATE GROUPS (cont'd)

History of Organized Hate Groups

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

Structure of Contemporary Hate Groups

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



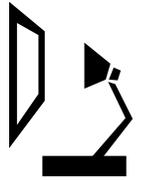
ORGANIZED HATE GROUPS (cont'd)

Hate Group Ideology

- Explicitly racist, considering people of color to be subhuman; homophobia recently added to their agenda
- Often blame the government, communism, and/or ethnic and racial “conspiracies” for most of this country’s problems
- Some include apocalyptic Christianity in their ideology

Strategy

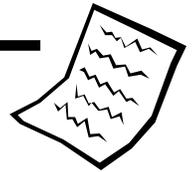
- Often use technological venues, such as cable TV, the World Wide Web, and computer bulletin boards
- Some attempt to display a more mainstream political image and might run for office, but the potential for violence is always present
- Congregate in large numbers in certain geographical areas (e.g., Pacific Northwest)



ORGANIZED HATE GROUPS (cont'd)

Skinheads

- Groups are small, loosely organized gangs of mostly male adolescents and young adults
- Most attacks are unplanned; however, skinheads have been implicated in organized violence



Offender Typology Video Observation Form

Title	Description	Typology	Indicators
Video #1			
Video #2			
Video #3			

Bias Crime and the Law

Overview of the Session: At a Glance

Presentation: Introduction to Federal and State Laws	30 minutes
Activity: Criminal Law Case Application and Discussion	30 minutes
Optional Activity: Drafting Civil Rights Injunctions	20 minutes
Presentation: Emerging Legal Issues	10 minutes
TOTAL TIME	90 minutes

Objectives

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

- Explain why law enforcement and victim assistance professionals need to know the laws relating to bias crime
- Understand the relevant federal laws
- Understand the range of bias-related state statutes
- Understand their state's bias crime laws
- Analyze cases to determine if they may be prosecuted as bias crimes and, if so, under which statutes
- Describe emerging bias crime-related legislative trends

Materials and Equipment



Time: 90 minutes



Handouts: Appendix B: State Bias Crime Statutory Provisions; Appendix C: Bias Crime Statutes and Related Provisions Nationwide; Federal Criminal Statutes; Federal Civil Statutes; Reconciling Bias Crime and the First Amendment



Transparencies: Importance of Bias Crime Laws; Categories of State Bias Crime Laws; Your State's Criminal, Civil, and Data Reporting Statutes; Federal Criminal Statutes; Federal Civil Statutes; Federal Hate Crime Statistics Act; Criminal Case Illustrations; Civil Injunction: Case Illustration; Characteristics of Gender-Based Crimes; Gender as Hate Crime: The Law; Legal Criteria for Determining Gender-Based Hate Crimes



Equipment: Overhead projector; screen

Instructor's Notes

1. Presentation: Introduction to Federal and State Laws (30 minutes)



Note to Instructor

*A local, state, or federal prosecutor or other attorney familiar with criminal civil rights law should teach this session. It is also critical to **research** and **identify** any relevant changes in federal and state law that may have occurred since this curriculum was drafted, and **amend** the lesson as necessary.*

Explain the following:

- Law enforcement professionals need to be knowledgeable about the law to make arrests, conduct investigations, establish intent, assist prosecutors, and assist and refer victims.
- Victim service providers need to be equally knowledgeable about the law to inform victims of their legal options, assist and advocate for them in the court system, and support police investigations and prosecution.
- It is critical for departments and agencies to establish mechanisms for staying current on case law and national and state legislative trends.
- There are federal and state laws that provide criminal and civil causes of action to protect victims of bias crime.
- Even if a bias crime case cannot be criminally prosecuted, there may be remedies under civil law. Provision for damages and injunctive relief may be granted to victims in successfully prosecuted civil cases. Civil remedies can be pursued even if there is a successful criminal prosecution.

Jurisdictional Issues

Explain the following jurisdictional issues related to federal, state, and local hate crimes:

- Generally, federal criminal statutes are intended to supplement state criminal laws. The prosecutor with jurisdiction over the crime is either the United States attorney for violations of federal law or the state or local prosecutor (state attorney general, district attorney, state's attorney, or city attorney) for violations of state law.
- In some states, the state attorney general may have jurisdiction in criminal as well as civil cases. The U.S. Department of Justice may also have jurisdiction over some civil cases.



Note to Instructor

*The following transparency stresses that hate crime laws play multiple roles in the criminal justice system. This is a good opportunity to **stress** to participants that hate crime laws protect **all** citizens, not just those in certain "groups."*

Explain to participants that bias crime laws serve multiple societal purposes, and *review* the points in Transparency D1, “Importance of Bias Crime Laws.”



IMPORTANCE OF BIAS CRIME LAWS

- Provide a means for enforcement
- Aid in deterrence
- Send zero tolerance message to perpetrators and community
- Protect vulnerable groups/individuals from harm
- Send message to victims that these crimes will be dealt with aggressively
- Set societal norms
- Express the collective belief that our country is stronger when we protect all citizens
- Maintain social order¹

Ask participants if they can identify other reasons for bias crime legislation.

Overview of State Laws

Explain the following:

- Nearly all states have enacted legislation targeted specifically at criminal acts of bias.
- The largest number of criminal prosecutions occur as a result of violations of state law, rather than federal.
- Many states also provide a separate civil cause of action remedy that often includes injunctive relief, compensatory and punitive damages, attorney’s fees, and/or enhanced penalties.
- The majority of the laws protect against racial, religious, ethnic, and national origin bias.
- Some states, however, have expanded their bias crime laws to include protection against bias related to sexual orientation, gender, disability, age, and/or political affiliation.

Explain that, in addition to criminal penalty laws for bias-motivated crimes, most states have additional laws that may apply to bias crime cases. *Review* the different types of laws by using Transparency D2, “Categories of State Bias Crime Laws.”



CATEGORIES OF STATE BIAS CRIME LAWS

The majority of states have laws under one or more of the following categories:²

Criminal Penalty Laws

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

Cross-Burning Laws

- Prohibit cross burning or the burning of other symbols

Mask-Wearing Laws

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

Paramilitary Training Laws

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

Civil Cause of Action Laws

- Civil remedies may include injunctive relief, compensatory and punitive damages, and attorney’s fees (these forms of relief may have a significant deterrent effect and should encourage victims to bring civil lawsuits)

Parental Liability Laws

- Make parents financially liable for their children’s crimes

Data Collection Laws

- Require state and/or local police agencies to gather and sometimes disseminate statistics on the incidence of bias crime

Police Training Laws

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



Explain that there are different models of state criminal and civil statutes. For instructors' and participants' reference, statutory information for each state is provided in Appendices B and C in this curriculum. You may wish to *reproduce* these pages and *distribute* them as handouts. They are useful for understanding the differences in state statutes and comparing individual states with national trends.



Note to Instructor

Insert your state's particular criminal, civil, and bias crime reporting statute(s) here in the text of the curriculum. **Create** Transparency D3, "Your State's Criminal, Civil, and Data Reporting Statutes," and **use** it in the session.

Review the actual language of your state's laws. *Special legal issues to address include the following:*

- *Identify* and *review* each essential element of your state's criminal statutes relevant to bias crime. *Define* each element in lay terms and *discuss* the impact of case law on the application of each statute, which will make the information relevant to law enforcement and victim assistance professionals.
- If possible, *describe* how courts have interpreted—or are likely to interpret—your state statutes, their provisions, and the legal standards to be applied.

Specific legal questions to address with participants may include the following:

- Does bias need to be the *sole*, the *predominant*, or a *motivating* factor?
- What specific bias motivations are covered by your state's statutes (e.g., race, religion, ethnicity, national origin, sexual orientation, disability, gender, etc.)?
- Does the statute apply to a case with mixed motives?
- Does the statute require proof of bias or prejudice, or do you only need to show that the victim was targeted because of his or her status or affiliation? (For example, with a "because of" statute, the perpetrator could be prosecuted under hate crime law for selecting an Asian American for robbery and attack because he believes that Asian Americans carry a lot of money with them, or for targeting a gay victim because he believes such a victim would be more vulnerable to attack.)
- What is necessary to provide force or threat of force under the statute?
- What amount of force is necessary to violate the statute?
- What is necessary to prove a joint venture or conspiracy under the statute?
- How are the penalties applied under the statute?

Overview of Federal Civil Rights Laws

Many criminal acts of bias can be prosecuted under federal criminal civil rights statutes. The FBI has jurisdiction to investigate these criminal acts, and investigations are frequently conducted in collaboration with state and local law enforcement agencies.

Explain the limitations of the federal civil rights statutes:

- Currently, federal remedies only protect victims who are threatened or attacked while they are exercising a federally protected right, such as riding public transportation, eating in a restaurant, renting an apartment, or buying a home.
- Most federal statutes apply only to acts motivated by racial or religious prejudice. This excludes a number of bias crime categories from prosecution and civil relief.
- Legislation pending in Congress would expand federal jurisdiction over hate crime cases. (See below for more information on pending legislation.)



Overview of Federal Criminal Statutes

Distribute Handout D1, “Federal Criminal Statutes” and use Transparency D4 to review the main concepts.



FEDERAL CRIMINAL STATUTES

Congress has enacted laws that provide both criminal and civil remedies to victims of bias-motivated crime. Four principal federal criminal statutes concern race-, skin color-, religion-, and national origin-related violence by private individuals:

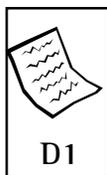
18 USC Section 241: Conspiracy Against Rights of Citizens

- Broadly prohibits conspiracies to injure any person who is exercising rights protected by the Constitution or laws of the United States.
- Has been applied to a variety of federal rights, including the right to hold property, the right to enjoy public accommodations, and the right to occupy a home free from racially motivated violence.

18 USC Section 245: Forcible Interference with Civil Rights/Federally Protected Activities

- Enacted in 1968 in response to violent attacks on civil rights workers in the South.
- Prohibits intentional interference, by force or threat of force, with certain specified constitutional rights, where the interference is motivated by race, color, religion, or national origin. Activities protected under this law include the following:
 - Enrollment in a public school or college
 - Participation in programs administered or financed by any state
 - Federal and state employment and jury service
 - Interstate travel by common carrier
 - Use of restaurants, lodging, gas stations, public entertainment facilities, and other establishments serving the public

(continued)



18 USC Section 247: Damage to Religious Property/Obstruction of Religious Activity (Church Arson Prevention Act)

- Prohibits damaging or destroying religious property because of its religious nature.
- Prohibits intentionally defacing, damaging, or destroying religious property because of the race, color, or ethnic characteristics of any individual associated with that property.
- Prohibits interference with religious exercise, without regard to race, if a connection with interstate commerce can be shown.

42 USC Section 3631: Willful Interference with Civil Rights Under the Fair Housing Act

- Prohibits forcible interference with any person in selling, purchasing, renting, financing, occupying, or contracting for any dwelling due to that person's race, color, religion, gender, national origin, disability or family status.

A fifth federal criminal statute governs civil rights violations under "color of law":

18 USC Section 242: Deprivation of Rights Under Color of Law

- Prohibits willful deprivation of constitutional and federal statutory rights, but only those deprived by reason of race, color, or ethnicity.
- Most frequently used to prosecute violent misconduct by law enforcement officials, but can be used against other officials or anyone purporting to be an official while committing such acts as sexual assault or deprivation of due process.

The federal government also has authority to enhance penalties for federal crimes motivated by bias:

Hate Crimes Sentencing Enhancement Act (Section 280003 of Public Law 103-322)

- Enacted into law as part of the Violent Crime Control and Law Enforcement Act of 1994.
- If a perpetrator commits any federal crime and chooses the victim on the basis of race, religion, national origin, ethnicity, gender, disability, or sexual orientation, this evidence can be used to impose enhanced penalties.
- This is the first federal hate crime legislation to include gender, disability, and sexual orientation as protected categories.
- Jurisdiction, however, is limited to federal crimes.



Overview of Federal Civil Statutes

Use Transparency D5 and *distribute* Handout D2, “Federal Civil Statutes.”



FEDERAL CIVIL STATUTES

Several federal statutes provide civil redress for victims of bias-motivated violence by private individuals:

42 USC Sections 1981 and 1982: Civil Actions Under the Civil Rights Act of 1866

Both sections of this statute originated in Section 1 of the Civil Rights Act of 1866, enacted by Congress shortly after ratification of the Thirteenth Amendment, which prohibited slavery.

- Section 1981 states that “all persons within the jurisdiction of the United States shall have the same right in every State and Territory to make and enforce contracts, to sue, be parties, give evidence, and to the full and equal benefit of all laws and proceedings for the security of persons and property as is enjoyed by white citizens, and shall be subject to punishment, pains, penalties, taxes, licenses, and exactions of every kind, and to no other.”
- Section 1982 ensures equal rights for citizens in terms of personal property. Damage awards under both sections often include compensatory damages for emotional distress or humiliation. Injunctive relief is also available under Section 1981.

42 USC Section 1985 (3): Conspiracy to Deprive Any Person or Class of Persons of Equal Protection of the Laws

- Enacted by Congress as part of the Ku Klux Klan Act to provide redress for victims of Klan offenses during Reconstruction.
- Imposes civil liability on anyone who conspires to deprive another individual or class of people of “the equal protection of the laws or of equal privileges and immunities under the laws.” Compensatory and punitive damages can be awarded under this section.

42 USC Section 3617: Interference, Coercion, or Intimidation in Violation of the Fair Housing Act

- Created a statutory civil cause of action for anyone coerced, threatened, intimidated, or interfered with for exercising rights granted under Sections 3603, 3604, 3605, or 3606 of the Fair Housing Act. Restricts punitive damages to \$1,000.

42 USC Section 13981: Violence Against Women Act of 1994

- Establishes a federal civil rights cause of action for victims of crimes of violence motivated by gender.
- Makes the offender liable for compensatory damages to the victim and authorizes injunctive and declaratory relief to protect the victim.

Use Transparency D6, “Federal Hate Crime Statistics Act.”



FEDERAL HATE CRIME STATISTICS ACT

28 USC Section 534: Federal Hate Crime Statistics Act

- Signed into law in April 1990; amended in 1994 and 1996.
- Requires the U.S. Attorney General to collect data and publish an annual summary on crimes that manifest prejudice based on race, religion, sexual orientation, ethnicity, or disability.
- The Attorney General has delegated responsibilities under the Act to the director of the FBI. The FBI’s Uniform Crime Reports Section develops the procedures for and manages the implementation of the collection of hate crime data.
- This statute helps identify the geographical location and the nature and types of bias crime occurring in the United States.
- The effectiveness of the law depends on its implementation by and support from state and local law enforcement officials. Your department or law enforcement agency should report all bias crimes to the appropriate state and federal reporting agencies, using the standardized reporting form.



D3

Note to Instructor

The issue of free speech and its relevance to hate crime law is widely debated in both public and legal forums. Depending on your audience and the time available, you may wish to review this information on freedom of speech issues and their relevance to bias crimes. Cases 1–3 present issues that are applicable to a discussion of free speech protections. This section is also provided as Handout D3, “Reconciling Bias Crime and the First Amendment.”

RECONCILING BIAS CRIME AND THE FIRST AMENDMENT³

The First Amendment to the United States Constitution states:

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

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

1. Free speech goals of the First Amendment:

- Citizens may express their political beliefs and opposition to government without government reprisal.
- Society and government are better off when free exchange of political ideas and views is encouraged rather than chilled.
- The government may not choose which political beliefs it finds acceptable or unacceptable.

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

(continued)



3. The First Amendment protects speech, not conduct. Forms of speech include the following:

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

4. Exceptions to First Amendment protections for speech include the following:

- **Threats of force**, i.e., language placing a person in reasonable fear of physical injury
- **Slander or libel**
- **Pornography/obscenity**
- **Fighting words**, where speech is directed at a particular person or group of persons and is said in a manner that causes a hostile, physical reaction that tends to incite an immediate breach of the peace
- **“Captive audience speech,”** i.e., it is constitutional, with appropriate limitations consistent with court decisions, to limit, by statute or ordinance, the picketing of private homes (*Carey v Brown*, 1980)
- **Clear and present danger to public safety**, e.g., falsely yelling “Fire!” in a theater or inciting others to immediate violent action
- **National security**, i.e., speech that can constitute treason
- **False and deceptive advertising**
- **Where speech is incidental to conduct**, i.e., it is not the idea being expressed that is being punished, but the intolerable mode of expressing the idea the speaker wishes to convey (e.g., during a beating, the perpetrator says, “I hate blacks.”) (*Wisconsin v. Mitchell*, 1993)
- **Solicitation crime**, e.g., asking a person to murder one’s spouse for payment of \$10,000.
- **Words used that tend to prove discriminatory motive**, i.e., words expressing discriminatory motive are admissible to prove employment,

(continued)



D3

housing, public accommodation, credit, and other forms of discrimination; words expressing a discriminatory animus may serve as evidence of the prohibited conduct (for example, to prove reason for failure to promote) or may constitute the prohibited conduct itself

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

Note: Speech may fall into more than one category of exception.

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

Application of judgment and experience is needed to determine whether speech or writings constitute a criminal threat. Fact patterns are not always clear, and reasonable discretion and reasoned judgment are crucial in determining whether a bias crime, giving rise to civil or criminal liability, has occurred. Prior to arresting or prosecuting a suspect for a bias crime for a written or verbal statement, law enforcement officials and prosecutors need to carefully examine the context in which the statement was made.

II. Activity: Criminal Law Case Application and Discussion (30 minutes)

(The cases in this session were reprinted with permission of Assistant Attorney General Richard Cole, Massachusetts Attorney General's Office, Civil Rights Division.)



Refer participants to Transparency D7, "Criminal Case Illustrations," and read the first part of Case 1 aloud. Discuss this case and the following cases with the entire group. There are six cases; if you run out of time, use only the cases that best suit your audience.

Case 1 attempts to identify what constitutes offensive or "hate speech" protected by the First Amendment, and what differentiates it from words that may constitute a criminal violation (e.g., a threat of bodily harm directed at a specific person or group of persons).

Case 1



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

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

This man also hands out hate literature.

- *Would this in any way change your analysis of whether this constitutes a crime? (No)*
- *Is this protected speech under the federal and state constitutions? (Yes)*

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

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

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

- *Would that in any way change whether he violated criminal law? (No)*
- *Would it change how you would handle the matter if you were at the scene at that time? (You may consider altering the parade route to separate parade participants and the man making the remarks, or provide police barriers to create greater distance between the participants and this man.)*

Case #2 and Case #3 illustrate that a change of a single fact—in this case, the size differential between the perpetrator and victim—may affect whether language constitutes a criminal offense (threat).

Case 2

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



- *Are there bias indicators present? (Yes) What are they? (Different races, use of epithets, statement based on racial differences, incident occurred in predominately black neighborhood)*
- *Can the girl be charged under any state criminal (hate crime) law? (No) Why not? (Legally, the incident does not constitute a threat or intimidation)*
- *Does the incident constitute a threat? (No; based on these facts, the 250-pound white man would not reasonably believe that he was at risk of physical injury in this circumstance)*
- *What other evidence would you need for the incident to constitute a threat? (Other evidence that may have led the white man to be reasonably placed in fear by the small girl, e.g., whether or not she was holding a weapon at the time, whether others appeared to be participating with her in a joint venture, etc.)*
- *Does this constitute a bias incident? (Yes)*

Note to Instructor

The answers to some of the questions in Cases 3, 4, and 5 depend upon the details of your state's relevant statutes. Review the questions in advance and be prepared with the correct answers.

Case 3

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



- *Does this constitute a threat, creating reasonable fear of physical injury or damage? (Yes)*
- *What specific factors led you to conclude that the language constitutes a threat? (Words directed at a specific person; size, strength, age, and gender differences; close physical proximity; tone of voice)*
- *Are all the necessary elements met to charge under your state's criminal civil rights statute? (Review facts of each element for each relevant statute)*

Case 4 illustrates that many cases have mixed motives. Even when hate language is used, bias motivation may not be the catalyst or cause for the incident. Hate language at times can be incidental to—and result from—anger, rather than bias or prejudice against the victim’s group.

Case 4



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

- *Are there bias indicators present? (Yes) What are they? (Different races, use of racial epithets)*
- *What do you believe was the motivating factor for this incident? (Cutting down the tree) Were there more than one? (Possibly underlying bias against Asian Americans)*
- *Does this conduct constitute a violation of any state or federal criminal law? (Yes) Which ones? (Review relevant state statute[s])*
- *How do you determine if a bias motive is involved? (Investigator needs to determine the perpetrator’s attitude toward neighbors and the nature of the relationship prior to this dispute. For example, were they social friends, or did they exchange few words over the years? Did the perpetrator ever express unhappiness over having Asian American neighbors?)*
- *Assuming that you conclude there are mixed motives that led to the incident or contributed to its seriousness (e.g., the tree cutting and anti-Asian bias), does that make a difference as to whether one can prosecute under your state’s hate crime statute?*
 - *Does bias motivation need to be the sole or primary motivation for conduct, or can it be one of the motivating factors in order to prosecute under your state’s statute?*
 - *Could a person be prosecuted under your state’s statute if you conclude that the incident became more violent because of bias, even though the catalyst for the initial dispute was based on race-neutral factors?*
 - *Would you still list it as a bias crime under the Hate Crime Statistics Act?*

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

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

(continued)

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

Case 5 attempts to identify the investigative steps needed to properly assess whether a civil rights violation or hate crime occurred versus a situation in which the couple was randomly selected. The case requires discussion of statutory elements to determine if they are applicable when no direct physical confrontation or violence is involved. It is also important to have participants *identify* not only the relevant criminal civil rights statutes but also the general criminal laws that govern this situation.

Case 5



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

- *What information would you want to know before determining whether this was a hate crime? (e.g., did any of the youths know who lived in the home? Were other houses also egged? Egged twice?)*
- *Was this house selected randomly? What facts would lead you to conclude that it was not a random attack? (The couple lived in a deserted area; they had been targeted on two separate occasions.)*
- *Does the time of year this occurred matter (e.g., Halloween versus another period during the year)? (Possibly)*
- *Assuming these youths are later identified, with whom would you want to communicate to determine if any of the youths has engaged in similar conduct? (School officials, neighbors)*

(continued)

- *What else would you want to learn about these youths? (Their attitudes toward interracial couples and whether they have made openly biased statements)*
- *How does one go about determining the potential motivation of these youths (i.e., was it that the victims were an interracial couple, or because of their outspoken views, or for some other reason)? (Find out if any of the youths had made statements to friends, family, or school personnel indicating a biased attitude or motive either before or after the incident. Law enforcement should attempt to elicit expressions of bias during interrogation of the suspects.)*
- *For purposes of the investigation, would it matter what the emotional reaction of the family was to these egging attacks? (Yes) Why? (The victims' experience of the incident as threatening or intimidating may be a necessary element of the crime. It may also determine the nature of the law enforcement response to the victims.)*
- *Since there was no direct physical confrontation or violence against a person, would this case still constitute a violation of a criminal civil rights law (e.g., a law that prohibits intentionally damaging property to intimidate a person because of his or her race for associating with a person of another race, or for advocating certain views)? (Review statutes to answer this and the following questions.)*
- *Would this conduct constitute intimidation or coercion? Would that make a difference in terms of the applicability of the criminal civil rights statute?*
- *Under your state's statute, does it matter if the perpetrators believed the couple was an interracial couple and this turned out not to be true?*

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

- *Do any civil rights or other criminal statutes apply in that situation?*
- *For purposes of charging the youths, would it matter to you that these youths were honor students rather than known troublemakers?*
 - *Are less serious charges appropriate based on the background of the perpetrators? Could this lead to the wrong message being received by the community? (Yes, an effort needs to be made to detail reasons to the public.)*
 - *What are the risks if the community then perceived that the police did not take the incident seriously? (e.g., it creates the risk of vigilante-type retaliation if members of the community believe the police response was inadequate; engenders distrust of police by the targeted community)*

Case 6 should elicit discussion as to the applicable criminal civil rights statutes when buildings used for religious purposes are defaced. It also raises the problem regarding the occasional tension between victims' desires to remove hate symbols and hate graffiti as soon as possible versus the investigative need of the police to preserve the evidence.



Note to Instructor

Explain to participants that, at times, criminal justice professionals are placed in the very difficult position of being asked to comment on a situation in which the wrong response may polarize a community or escalate a situation. If a comment must be made, it is best to simply state that the incident is viewed very seriously, but that any statement about motive would be premature until a thorough investigation is completed.

Case 6



On Easter Sunday, two youths write anti-Catholic graffiti on a church, which includes threats against the parishioners such as, "You will all die."

- *What criminal (civil rights) statutes may be applicable in this situation? (Review state statutes to answer this and the following questions.)*
- *In reviewing the elements of those criminal statutes, do you have enough information at this point to charge the youths (assuming you identify the perpetrators)?*
- *What other facts do you need to learn in order to be able to charge under those statutes?*
- *What steps would you take to preserve evidence in this case? (Photograph graffiti and analyze the type of paint or marker used by the perpetrators)*
- *How do you deal with the priest's request that the graffiti be painted over immediately—before you are able to photograph the evidence? (Recognize the desire to eliminate these visible expressions of hatred on a house of worship, but indicate that if the graffiti is removed prematurely, the police may never be able to identify or prosecute the perpetrators. Assure the priest that the police will make every effort to complete this portion of the investigation immediately.)*

Assume that the reporter from the local newspaper sees you on the scene seconds after you arrive and asks you whether this constitutes a hate crime. How do you respond?

III. Optional Activity: Drafting Civil Rights Injunctions (20 minutes)



Note to Instructor

If your state is among the majority of states that have no injunctive relief remedies, then **devote** this time to a discussion of any cases in the previous section that were not covered. If your state civil rights law allows for an injunctive relief remedy, **create** a transparency outlining the relevant state statute(s) and **discuss** it with participants.

Review with the participants the information below.

Advantages of Civil Rights Injunctions

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

Civil injunctions can be granted by the court to keep the accused away from the victims. Allegations do not have to be proven beyond a reasonable doubt, the standard for proving a criminal offense. Instead, the prosecution need only convince the judge that the allegations are probably true (preponderance of evidence is the standard in civil cases).

Scope of Civil Rights Injunctions

- The scope of the injunction is often a key issue in injunction hearings before the court:
 - The court will want to provide protection to the victim without *unreasonably* restricting activity of the defendant.
 - This represents a case-by-case balancing.
- An injunction can do the following:
 - Protect the actual victim and other individuals from similar interference with secured rights
 - Protect witnesses/family members
 - Restrain perpetrators from going near the victim, her or his residence, neighborhood, place of employment, school, etc. (100 feet is the usual distance proposed, but up to 500 feet has been requested and granted in appropriate circumstances)
 - Restrain individual from being in “own backyard,” if it is reasonable and necessary
 - Prohibit communication with victim and witnesses, except through law enforcement or prosecutor’s office
 - Prohibit filing of frivolous civil or criminal complaints against the victim
 - Require notification of Attorney General’s office before the filing of any court action against the victim

- An injunction prohibits otherwise lawful conduct, for example:
 - Being present on certain streets or neighborhoods
 - Communicating with the victim or his or her family
- In some states, an injunction increases the exposure to higher criminal penalties for the same conduct
- In some states, civil rights injunctions are applicable to juveniles

Factors to Consider in Determining Whether to Pursue Injunctive Relief

- Seriousness of incident (does not need to be a criminal violation)
- Language used during incident; words alone are usually not enough to constitute a violation of law
 - First Amendment-protected language versus actual threats, or words that intimidate or coerce a person
- Threats, intimidation, coercion, or harassment involved (violence or actual threat of violence not necessary)
- Prior conduct against victim (pattern of conduct)
- Likelihood of future contact between parties
- Relationship of the perpetrator and victim, if any, before the incident
- Whether the offender targeted or selected the victim because of his or her race, religion, ethnic background, gender, sexual orientation, or disability status
- Whether the primary motivation for the action(s) was based on bias
- Whether the offender has a history of prior bias-motivated incidents against other victims (pattern of bias-motivated conduct)
- Criminal record of the perpetrator
- Likely impact of an injunction on future conduct
- Whether the perpetrator is a member of a hate group and has interfered with victim's rights in any way connected to involvement with that group
- Whether a criminal prosecution is occurring for the same offense; issues to consider include the following:
 - Likelihood of incarceration (injunction would probably be denied if offender is incarcerated, unless it is proven that a serious threat of violence will continue once the offender is released and incarceration is not for a lengthy period, or unless demonstrated threat would continue while in prison—but this carries a very difficult burden of proof)
 - Length of potential incarceration (injunction outlives length of probation)
 - Date of trial (soon or in months)

- Whether the stay-away order, as a condition of bail, will be a sufficient deterrent and protect the victim and witnesses
- Potential negative impact of injunctive action on criminal prosecution
- Whether the potential offender may act in the future to threaten or intimidate others (who were not the victims of this incident) based on their status
- Likelihood of success (general success rate has important deterrent effect against potential perpetrators)

Drafting Civil Rights Injunctions

Use Transparency D8, “Civil Injunction: Case Illustration.”



CIVIL INJUNCTION: CASE ILLUSTRATION



Case 7

The Torreses, a Hispanic family, move onto a street in a predominately white area of your city or town. Their home is next to a large baseball field and playground. Shortly after they move in, they begin experiencing harassment. On one occasion, their car is tipped over; on another, their car is vandalized.

- *Are bias indicators present? (Yes) What are they? (Hispanics living in predominately white area, Hispanic family recently moved in, car tipped over—unusual occurrence [important factor])*
- *What steps do you take to determine the identity of the perpetrators of these two separate incidents? (Canvas the neighborhood, identify and interview individuals who use the field, perhaps set up video camera to monitor the house for further incidents)*
- *What violations of criminal (civil rights) statutes may the conduct involve? (42 USC Section 3631, forcible interference with occupying a dwelling)*
- *What other facts do you need to learn in order to charge perpetrators under any of these statutes? (Prior incidents against)*

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

- *What potential civil rights were denied by the actions of the youths? (The right to travel; the right to access to public accommodation, which includes access to the streets; the right to live in housing free of ethnic harassment)*

(continued)



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

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

- *Would that constitute a violation of the order you have drafted? (Yes)*
- *What are the potential penalties for violation of this order?*
- *If you were informed of the violation of the order, would you have a right to arrest without needing to obtain an arrest warrant?*
- *What would you explain to the victim about the maximum penalty for violating your injunctive order if a member of the Hispanic family were actually struck by one of the youths?*
- *How would you write the police report in this case in order to assist in the prosecution of this individual for violation of the injunction? (Detail conduct, existence of order, nature of the violation of the order).*



Divide participants into small groups and *ask* each group to draft injunctions appropriate to this case. *Encourage* participants to be creative.



Note to Instructor

If time allows, this hands-on activity is an excellent learning tool for participants.

When the activity is completed, *convene* entire group. *Ask* volunteers to write their draft injunctions on a flipchart. *Ask* participants from the entire group to review and comment on the appropriate language in the injunctions. *Caution* participants that they should seek counsel from the appropriate prosecutorial jurisdiction (local county district attorney or state's attorney and/or state attorney general).

IV. Presentation: Emerging Legal Issues (10 minutes)

Constitutionality

Explain that the constitutionality of some federal and state bias crime laws and municipal ordinances have been challenged in the courts:

- In 1992, the Supreme Court reviewed *R.A.V. v St. Paul*, in which an adolescent was accused of burning a cross in the yard of the only African American family in a neighborhood. He was charged with a misdemeanor for violating a city ordinance that bans the display of a swastika, burning cross, or any symbol that “arouses anger, alarm, or resentment in others on the basis of race, color, creed, religion, or gender.” The Supreme Court struck down the St. Paul ordinance on the basis that it violated the First Amendment’s guarantee of free speech. As a result of this ruling, some hate crime statutes that criminalize bias-motivated speech may not survive constitutional challenges.
- In its 1993 review of *Wisconsin v Mitchell*, the Court unanimously upheld a Wisconsin statute that provides for enhanced penalties for hate-motivated crimes. In this case, the defendant, an African American youth, incited a group of friends who had just watched the film *Mississippi Burning* to “move on some white people.” The group subsequently assaulted a 14-year-old white teenager. The defendant was sentenced to two years in prison for aggravated battery and had two additional years added to his sentence because the crime was racially motivated. The Court’s ruling in this case provides an important protection for penalty-enhancement statutes for hate crimes.



Note to Instructor

Wisconsin v Mitchell does not preclude states from deciding that penalty-enhancement laws violate their own state constitutions’ free speech provisions. Thus far, four such challenges have been presented, but state courts in Oregon, Wisconsin, Washington, and Ohio have upheld the constitutionality of their respective hate crime penalty-enhancement statutes.⁴


Note to Instructor

Before teaching this section, **research** the status of the Hate Crime Prevention Act, and **amend** the text as necessary.

Hate Crime Prevention Act

Legislation pending in Congress would expand federal jurisdiction over hate crime cases. The Hate Crime Prevention Act, a bill offered in both Houses of Congress for the past several sessions, would amend 18 U.S.C. 245 in two ways: (1) by adding sexual orientation, gender, and disability to the list of protected categories (race, religion, and ethnicity/national origin), and (2) by removing current restrictions that enable prosecution only if the victim was attacked because he or she was engaged in a federally protected activity.

Civil Suits Against Organized Hate Groups

A growing number of civil suits are being pursued against organized hate groups. In a landmark case in Oregon, a jury awarded \$10 million in punitive damages to the estate of a black man who had been beaten to death by skinheads. The suit was filed against both the murderers and Thomas Metzger, the president of the White Aryan Resistance organization (WAR).

Gender Violence as Hate Crime⁵

Despite the similar characteristics of gender-based bias crimes and other bias crimes, crimes motivated by gender bias have not been included in most anti-bias crime legislation at either the federal or state levels. There is, however, a trend toward including gender in bias crime legislation as a protected category. In 1990, only 7 of the 31 states with hate crime statutes included gender.⁶ As of January 1999, 20 states plus the District of Columbia include gender as a protected category in their hate crime laws.

Discuss the inclusion of gender as a protected category under bias crime law and the consideration of domestic violence and sexual assault cases as gender-based bias crimes. *Cover* the following points:

- While women are often the victims of violence for the same reasons as men (i.e., the reasons that prompt robbery, burglary, larceny, motor vehicle theft, etc.), women are also victims of violence simply because they are women.
- Attacks against women often suggest bias crime—from their lack of provocation and/or lack of apparent motive, the severity of the attack, the existence of mutilation, and the obvious intention to terrorize.
- The guidelines for identifying an act of violence as a bias crime can also be applied to spouse or partner abuse.
- Suggestions that violence against women as women should be defined as bias-motivated hate crime and included in anti-bias crime legislation have met with some resistance. Concerns have been raised about the efficacy of including gender in bias crime legislation, about the usefulness of defining rape, battery, and murder of women as bias-motivated hate crimes, and about the legitimacy of fashioning civil rights remedies for such crimes.

Use Transparency D9, “Characteristics of Gender-Based Crimes,” and *review* the major points.



CHARACTERISTICS OF GENDER-BASED CRIMES

Bias-motivated violence against women has characteristics similar to all other types of hate violence, including the following:

- *Absence of other dominant motive*
- *Excessive violence/lack of provocation:* Many crimes against women involve the excessive violence, including mutilation, that characterizes bias-motivated crime. The ultimate example of hate violence against women is that perpetrated by serial murderers, who usually mutilate their victims, frequently binding, raping, and torturing them before they murder them. Three of the four women students murdered in August 1990 at the University of Florida in Gainesville were mutilated.
- *Community impact:* The murders in Gainesville, Florida, traumatized the entire university community and left women terrorized, fearful, and intimidated—as bias crimes are intended to do.
- *Long-term harm:* Bias crimes are significantly different from other violent acts because of the motivation that provokes them and their long-term impact. Not only do bias crimes victimize entire groups, but their individual victims may suffer more serious harm than do other crime victims. Bias crime victims are more likely to be attacked by multiple perpetrators and suffer long-term psychological harm than are victims of other crimes.⁷ The subordination of women and its attendant violence have long-term effects on women’s psychological and physical health.
- *Intimidation of an entire group:* Violence against one woman affects all women. Virtually all women, whether or not they have been victims of violence themselves, have been intimidated by the pervasiveness of hate violence.

Use Transparency D10, “Gender Violence as Hate Crime: The Law.”



GENDER VIOLENCE AS HATE CRIME: THE LAW

- As of January 2000, 20 states and the District of Columbia included gender as a protected category under their hate crime statutes.
- The proposed Hate Crime Prevention Act, first offered in Congress in 1997 and again in subsequent Congressional sessions, would add gender-motivated crime as a protected bias crime category (along with other new additions including crimes motivated by disability and sexual orientation).

(continued)



- The federal Violence Against Women Act of 1994 (42 USC 13981) allows individuals to file federal civil lawsuits in gender-based violence cases. This law, a comprehensive piece of legislation addressing the increasing problem of violence against women, asserts that “all persons within the United States shall have the right to be free from crimes of violence motivated by gender.” The gender-bias provision of the law makes the offender liable for compensatory and punitive damage to the victim, and authorizes injunctive and declaratory relief to protect the victim.
- The federal Hate Crime Sentencing Enhancement Act includes gender in its definition of bias crime.
- The federal Hate Crime Statistics Act does not include gender among its reporting requirements, and the FBI does not collect gender-based hate crime data as part of its activities under this act. It does, however, collect data on violent crimes against women within the Uniform Crime Reporting System.

Use Transparency D11, “Legal Criteria for Determining Gender-Related Bias Crimes.”⁸



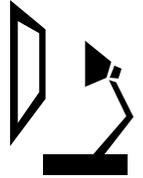
CRITERIA FOR DETERMINING GENDER-RELATED BIAS CRIMES

The following criteria can assist law enforcement officials in determining whether an act should be treated as a gender-related bias crime:

- Offender and victim are of different genders
- Offender makes abusive or derogatory remarks based on gender
- Offender articulates hatred for the gender as a group
- Offender has multiple victims, and all of the same gender
- A pattern of verbal, physical, and sexual abuse, control, or domination of victims of the same gender can be established

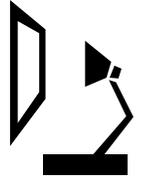
References

- ¹ Levin, J. and McDevitt, J. (Dec. 1998–Jan. 1999). Backlash to hate crime laws. *CAHRO News*. San Francisco, CA: California Association of Human Relations Organizations (CAHRO).
- ² Adapted from Berrill, K. (1992). *Countering anti-gay violence through legislation*. Washington, DC: The National Gay and Lesbian Task Force Policy Institute.
- ³ Reprinted with permission of Assistant Attorney General Richard W. Cole, Massachusetts Attorney General’s Office, Civil Rights Division.
- ⁴ Anti-Defamation League (1999). *1999 hate crimes laws*. New York: Anti-Defamation League.
- ⁵ Adapted from Copeland, L. and Wolfe, L. R. (1991). *Violence against women as bias-motivated hate crime: Defining the issues*. The Center for Women’s Policy Study.
- ⁶ Anti-Defamation League (1999). *1999 hate crimes laws*. New York: Anti-Defamation League.
- ⁷ Klanwatch (1989, November 20). *Special report: Outlawing hate crime*. Montgomery, AL: Southern Poverty Law Center.
- ⁸ Adapted from U.S. Department of Justice (1998). *National hate crimes training curriculum: Multilevel state and local law enforcement professionals*. Washington, DC: U.S. Department of Justice.



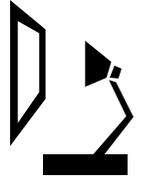
IMPORTANCE OF BIAS CRIME LAWS

- Provide a means for enforcement
- Aid in deterrence
- Send zero tolerance message to perpetrators and community
- Protect vulnerable groups and/or individuals from harm
- Send message to victims that these crimes will be dealt with aggressively
- Set societal norms
- Express the collective belief that our country is stronger when we protect all citizens
- Maintain social order

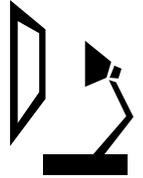


CATEGORIES OF STATE BIAS CRIME LAWS

1. Criminal Penalty Laws
2. Cross-Burning Laws
3. Mask-Wearing Laws
4. Paramilitary Training Laws
5. Civil Cause of Action Laws
6. Parental Liability Laws
7. Data Collection Laws
8. Police Training Laws

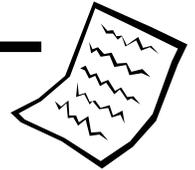


YOUR STATE'S CRIMINAL, CIVIL, AND DATA REPORTING STATUTES



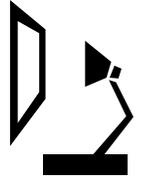
FEDERAL CRIMINAL STATUTES

- ◆ **18 USC Section 241**
Conspiracy Against Rights of Citizens
- ◆ **18 USC Section 245**
Forcible Interference with Civil Rights/
Federally Protected Activities
- ◆ **18 USC Sections 247**
Damage to Religious Property/Obstruction of
Religious Activity
- ◆ **42 USC Section 3631**
Willful Interference with Civil Rights Under
the Fair Housing Act
- ◆ **18 USC Section 242**
Deprivation of Rights Under Color of Law
- ◆ **Hate Crimes Sentencing Enhancement Act
(Section 280003 of Public Law 103-322)**



Federal Criminal Statutes

- ◆ **18 USC Section 241: Conspiracy Against Rights** broadly prohibits conspiracies to injure any person who is exercising rights or privileges protected by the Constitution or laws of the United States. The statute has been applied to a variety of federal rights, including the right not to be deprived of life without due process of the law, the right to vote in a federal election, and the right to occupy a housing free of racially motivated violence.
- ◆ **18 USC Section 245: Forcible Interference with Civil Rights/Federally Protected Activities** was enacted in 1968 in response to violent attacks on civil rights workers in the South. It prohibits intentional interference, by force or threat of force, with certain specified constitutional rights where interference is motivated by discrimination on the basis of race, color, religion, or national origin. Activities protected under this law include:
 - enrollment in a public school or college
 - participation in programs administered or financed by the United States or by a state
 - federal and state employment and jury service
 - interstate travel by common carrier
 - use of restaurants, lodging, gas stations, public entertainment facilities, and other establishments serving the public
- ◆ **18 USC Sections 247 and 248: Damage to Religious Property/Obstruction of Religious Activity** prohibits damaging or destroying religious property because of the religious nature of that property, or attempting to do so. Also prohibits intentionally defacing, damaging, or destroying religious property because of the race, color, or ethnic characteristics of any individual associated with that property.
- ◆ **42 USC Section 3631: Willful Interference with Civil Rights Under the Fair Housing Act** prohibits forcible interference with any person in selling, purchasing, renting, financing, occupying, or contracting for any dwelling due to that person's race, color, religion, sex, or national origin.
- ◆ **18 USC Section 242: Deprivation of Rights Under Color of Law** prohibits willful deprivation of constitutional and federal statutory rights, but only those deprived by reason of race, color, or ethnicity. It is most frequently used to prosecute violent misconduct by law enforcement officials, but it can be employed against other officials.
- ◆ **Section 280003 of Public Law 103-22: Hate Crimes Sentencing Enhancement Act** allows for the imposition of enhanced penalties if a perpetrator commits any Federal crime and chooses the victim on the basis of race, religion, national origin, ethnicity, gender, disability, or sexual orientation.



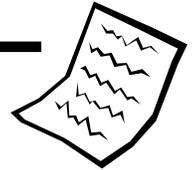
FEDERAL CIVIL STATUTES

- ◆ **42 USC Sections 1981 and 1982**
Civil Actions Under the Civil Rights Act of 1866

- ◆ **42 USC Section 1985 (3)**
Conspiracy to Deprive Any Person or Class of Persons of Equal Protection of the Laws

- ◆ **42 USC Section 3617**
Interference, Coercion, or Intimidation in Violation of the Fair Housing Act

- ◆ **42 USC Section 13981**
Violence Against Women Act



Federal Civil Statutes

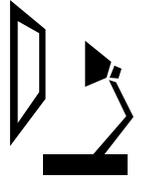
- ◆ **42 USC Sections 1981 and 1982: Civil Actions Under The Civil Rights Act of 1866**

Both sections of this statute originated in Section 1 of the Civil Rights Act of 1866 enacted by Congress shortly after ratification of the 13th Amendment which prohibited slavery.

Section 1981 states that “all persons within the jurisdiction of the United States shall have the same right in every State and Territory to make and enforce contracts, to sue, be parties, give evidence, and to the full and equal benefit of all laws and proceedings for the security of persons and property as is enjoyed by white citizens, and shall be subject to punishment, pains, penalties, taxes, licenses, and exactions of every kind, and to no other.” Injunctive relief is also available.

Section 1982 ensures equal rights for citizens in terms of personal property. Damage awards under both sections often include compensatory damages for emotional distress or humiliation.

- ◆ **42 USC Section 1985 (3): Conspiracy to Deprive any Person or Class of Persons of Equal Protection of the Laws** was enacted by Congress as part of the Ku Klux Klan Act to provide redress for victims of Klan offenses during Reconstruction. This law imposes civil liability on anyone who conspires to deprive another individual or class of people of “the equal protection of the laws or of equal privileges and immunities under the laws.” Compensatory and punitive damages can be awarded under this section.
- ◆ **42 USC Section 3617: Interference, Coercion, or Intimidation in Violation of the Fair Housing Act** created a statutory civil cause of action for anyone coerced, threatened, intimidated, or interfered with for exercising rights granted under Sections 3603, 3604, 3605, or 3606 of the Fair Housing Act. This statute restricts punitive damages to \$1,000.
- ◆ **42 USC Section 13981: Violence Against Women Act of 1994** establishes a Federal civil rights cause of action for victims of crimes of violence motivated by gender. The statute makes the offender liable for compensatory damages to the victim and authorizes injunctive and declaratory relief to protect the victim.

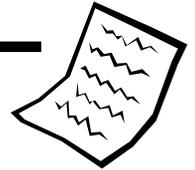


FEDERAL HATE CRIME STATISTICS ACT

28 USC Section 534

- Signed into law in April 1990; amended in 1994 and 1996.
- Requires the U.S. Attorney General to collect data and publish an annual summary on crimes that manifest prejudice based on race, religion, sexual orientation, ethnicity, or disability.
- Data collection responsibilities were delegated to the FBI's Uniform Crime Reports Section.
- Helps identify the geographical location and the nature and types of bias crimes occurring in the U.S.
- Effectiveness of the law depends upon its implementation by and support from state and local law enforcement officials.

Reconciling Bias Crime and the First Amendment



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The First Amendment to the United States Constitution states:

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

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

1. Free speech goals of the First Amendment:

- Citizens may express their political beliefs and opposition to government without government reprisal.
- Society and government are better off when free exchange of political ideas and views is encouraged rather than chilled.
- The government may not choose which political beliefs it finds acceptable or unacceptable.

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

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

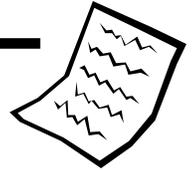
- Symbolic speech to convey a message, e.g., picketing, boycotts, T-shirts with political statements, arm bands, and flag burning (all deemed protected speech)
- Anti-government (political) speech; anti-censorship protection for unpopular political speech
- Freedom not to speak, pray, or salute the flag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

4. Exceptions to First Amendment protections for speech include the following:

- **Threats of force**, i.e., language placing a person in reasonable fear of injury
- **Slander or libel**
- **Pornography/obscenity**
- **Fighting words**, where speech is directed at a particular person or group of persons and is said in a manner that causes a hostile, physical reaction that tends to incite an immediate breach of the peace

(continued)

Reconciling Bias Crime and the First Amendment (cont'd)

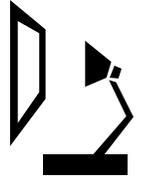


- **“Captive audience speech,”** i.e., it is constitutional, with appropriate limitations consistent with court decisions, to limit, by statute or ordinance, the picketing of private homes (*Carey v Brown*, 1980)
- **Clear and present danger to public safety,** e.g., falsely yelling “Fire!” in a theater or inciting others to immediate violent action
- **National security,** i.e., speech that can constitute treason
- **False and deceptive advertising**
- **Where speech is incidental to conduct,** i.e., it is not the idea being expressed that is being punished, but the intolerable mode of expressing the idea the speaker wishes to convey (e.g., during a beating, the perpetrator says, “I hate blacks.”) (*Wisconsin v. Mitchell*, 1993)
- **Solicitation crime,** e.g., asking a person to murder one’s spouse for payment
- **Words used that tend to prove discriminatory motive,** i.e., words expressing discriminatory motive are admissible to prove employment, housing, public accommodation, credit, and other forms of discrimination; words expressing a discriminatory animus may serve as evidence of the prohibited conduct (for example, to prove reason for failure to promote) or may constitute the prohibited conduct itself
- **Racial, religious, or sexual harassment in schools and workplace,** i.e., discriminatory language used to verbally harass another in a confined environment, such as a school setting or place of employment, may be admissible to prove unlawful harassment; for example, a sexual harassment claim may be proven by evidence of unwelcome, offensive *verbal comments* of a sexual nature that creates an intimidating or hostile school or work environment

Note: Speech may fall into more than one category of exception.

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

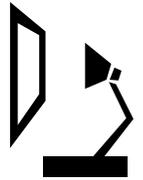
Application of judgment and experience is needed to determine whether speech or writings constitute a criminal threat. Fact patterns are not always clear, and reasonable discretion and reasoned judgment are crucial in determining whether a bias crime, giving rise to civil or criminal liability, has occurred. Prior to arresting or prosecuting a suspect for a bias crime for a written or verbal statement, law enforcement officials and prosecutors need to carefully examine the context in which the statement was made.



CRIMINAL CASE ILLUSTRATIONS

Case 1

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



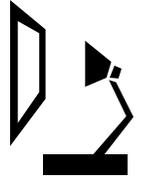
CRIMINAL CASE ILLUSTRATIONS (cont'd)

Case 2

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

Case 3

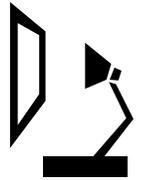
- A 6'5" white man sees an 11-year-old black girl walking on the football field at a high school in the heart of an all-white neighborhood. He walks up to her and, standing inches away, leans down and says in a powerful voice, "This is a white neighborhood, blackey. Get out of my neighborhood."



CRIMINAL CASE ILLUSTRATIONS (cont'd)

Case 4

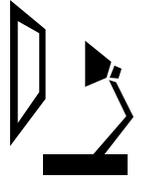
- A white and an Asian American family are neighbors. Both have lived in their adjoining houses for three years without any problems. One Saturday, the father of the Asian American family cuts down an oak tree located on the property of the white neighbor's house, mistakenly believing it is on his side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



CRIMINAL CASE ILLUSTRATIONS (cont'd)

Case 5

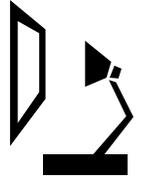
- An interracial couple lives in a deserted area or on a dead-end street in your town or city. On two occasions, in the dark of night, three high school youths throw numerous eggs at their house. The family is home, but the youths run away before the family members are able to go outside to confront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



CRIMINAL CASE ILLUSTRATIONS (cont'd)

Case 6

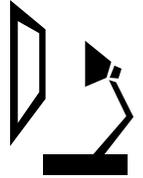
- On Easter Sunday, two youths write anti-Catholic graffiti on a church, which includes threats against the parishioners such as, “You will all die.”
- Assume that the reporter from the local newspaper sees you on the scene seconds after you arrive and asks you whether or not this constitutes a hate crime. How do you respond?



CIVIL INJUNCTION: CASE ILLUSTRATION

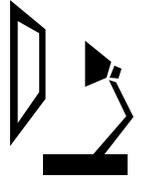
Case 7

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



CIVIL INJUNCTION: CASE ILLUSTRATION (cont'd)

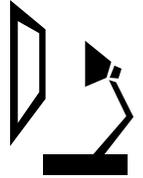
- As they drove, they were accosted by a group of 15–20 white males and females. One of the white males, John C., yelled a racial comment at the Torreses. John C. then stood in front of the Torreses' car, blocking its forward movement, and began to strike their car with a tire iron. The Torreses drove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



CHARACTERISTICS OF GENDER-BASED CRIMES

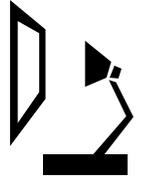
Similar to other types of bias crime, including:

- Absence of other dominant motive
- Excessive violence/lack of provocation
- Community impact
- Long-term harm
- Intimidation of an entire group



GENDER AS HATE CRIME: THE LAW

- Gender is a protected category in 20 states' bias crime statutes
- Proposed Hate Crime Prevention Act would include gender
- The Violence Against Women Act of 1994 provides a federal civil remedy for some victims of gender-related bias crime
- Federal Hate Crime Sentencing Enhancement Act includes gender as a protected category
- Federal Hate Crime Statistics Act currently excludes gender from reporting requirements



LEGAL CRITERIA FOR DETERMINING GENDER-BASED HATE CRIMES

- Offender and victim are of different genders
- Offender makes abusive or derogatory remarks based on gender
- Offender states hatred for the gender as a group
- Offender has multiple victims, all of the same gender
- A pattern of verbal, physical, and sexual abuse, control, or domination of victims of the same gender can be established

Roles of Law Enforcement and Victim Assistance Professionals

Overview of the Session: At a Glance

Activity: Discussion of Roles, Responsibilities, and Unique Challenges in Responding to Bias Crimes	20 minutes
Presentation: Investigative Strategies	25 minutes
Presentation: Advocacy on Behalf of Victims and Their Families	15 minutes
TOTAL TIME	60 minutes

Objectives

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

- Identify the respective roles and responsibilities of law enforcement and victim assistance professionals when responding to bias crimes
- Identify strategies that facilitate the investigation of bias crimes: securing evidence, interviewing victims and witnesses effectively, and interrogating suspects
- Describe essential steps in advocating for bias crime victims

Materials and Equipment



Time: 60 minutes



Handouts: Important Issues to Address When Assisting Bias Crime Victims



Transparencies: Special Considerations When Interviewing Bias Crime Victims; Conducting Effective Victim Interviews; Enhancing Witness Cooperation; Collecting and Preserving Evidence in Bias Crime Investigations; Important Issues to Address When Assisting Bias Crime Victims



Equipment: Flipchart; markers; overhead projector; screen

Instructor's Notes

1. Activity: Discussion of the Roles, Responsibilities, and Unique Challenges in Responding to Bias Crimes (20 minutes)

First, *ask* for volunteers to identify the roles and responsibilities of **law enforcement professionals** in responding to bias crimes.



Record their answers on a flipchart. *Provide* and *explain* other roles and responsibilities that have not been mentioned by participants. Police officers are responsible for the following:

- Identifying a crime as potentially motivated by bias
- Providing support and assistance to bias crime victims
- Conducting thorough investigations of all alleged bias incidents
- Documenting bias crime incidents and preparing quarterly statistical reports for the Federal Bureau of Investigation's Uniform Crime Reports Section
- Contacting and maintaining involvement with the district attorneys responsible for prosecuting these cases
- Interviewing victims and witnesses
- Collecting and preserving evidence
- Interrogating suspects
- Maintaining contact with and referring victims to other support agencies, including victim assistance programs
- Providing bias crime response training to other police officers and other police departments
- Maintaining good community relations through the use of police community liaisons, community policing, and general support to the community

Note to Instructor

This exercise is designed to help law enforcement and victim assistance professionals examine and clarify their roles and responsibilities in responding to bias crime.

It is also designed to help them become more familiar with one another's roles. If time allows, you may wish to have participants brainstorm in small groups before conducting the large-group exercise.

Remove the flipchart page(s) and *hang* it visibly in the front of the room. Then, *ask* for volunteers to identify the responsibilities of **victim assistance professionals** in responding to bias crimes. *Record* their answers on a flipchart. *Provide* and *explain* other responsibilities that have not been mentioned by participants. These should include the following:

- Providing emergency care to victims
- Providing food to victims, and referring them to shelter when necessary

Session E. Roles of Law Enforcement and Victim Assistance Professionals

- Providing safety services, such as helping victims install new locks or replace broken windows
- Providing emergency financial assistance, such as money for phone calls, food, or shelter
- Providing on-the-scene comforting words and gestures, and making home visits shortly after the incident
- Counseling victims immediately following the incident, and providing follow-up counseling after the incident
 - Advocating for victims to ensure they do not lose pay from employers for time spent in recovery and court
 - Facilitating the expedient return of stolen property retained by police departments as case evidence
 - Assisting victims in preparing their victim impact statements
 - Referring victims to other resources, such as legal, psychological, and social services, civil rights and advocacy organizations, and the local religious alliance
 - Assisting victims in filling out claims for compensation, restitution, and/or witness fee assistance
 - Providing court-related services, such as witness reception, court orientation, notification, witness alert, transportation, child care, and escorts to court
 - Providing general advocacy services, such as public education, legislative advocacy, and training of police, prosecutors, and other human service providers



Ask participants to provide examples of common challenges they face in responding to bias crime cases. *Record* their answers on a flipchart, indicating if the example is a challenge experienced primarily by law enforcement professionals, victim assistance professionals, or both.

II. Presentation: Investigative Strategies (25 minutes)

Interviewing Victims and Witnesses

Use Transparency E1, "Special Considerations When Interviewing Bias Crime Victims."



SPECIAL CONSIDERATIONS WHEN INTERVIEWING BIAS CRIME VICTIMS

Take the following preliminary steps before interviewing a bias crime victim:

- Provide extra security for the victim, if needed, and assure the victim that he or she is safe.
- Tell the victim that you are sorry the incident happened, and ask the victim for permission to speak to him or her. This is very important, because many victims fear that law enforcement officials will not believe the incident happened or understand how traumatic it was. By saying you are sorry, you validate the victim's feelings.
- Allow the victim to ventilate feelings about the crime, and validate those feelings by expressing your personal concern for the victim and what he or she has experienced. Share the victim's outrage, and let the victim know that the police department takes these crimes seriously and will conduct a full investigation of the incident.
- If the officer cannot communicate in the language of the victim, arrange for a translator or ask the victim to select a friend or family member to act as interpreter. (Be mindful of cultural and privacy considerations that may prohibit a victim from using a younger member of the family, or a family member of a different gender, as a translator, even if that person is the only English-speaking member of the household.)
- Be extremely sensitive to and respectful of the victim, who may be particularly guarded due to cultural perceptions of law enforcement, or may desire to conceal or deny his or her affiliation with the group the offender(s) intended to harm.
- Inform the victim that he or she may experience a range of emotional responses due to the victimization (e.g., anger, sadness, emotional numbness, etc.), and that these responses may manifest themselves immediately following or any time after the incident.

(continued)



Note to Instructor

Explain that the group is now going to draw on participants' law enforcement and victim assistance experience to identify techniques for enhancing the interviewing of bias crime victims and witnesses. The officers' actions will have a direct bearing on the victim's willingness to cooperate with the investigation. The victim assistance professionals can both support victims in recovery and encourage their cooperation in the investigation.



- Do not attempt to diminish the impact of the crime in any way.
- Explain to the victim what is likely to happen during the course of the investigation, and prepare him or her for any disappointing or frustrating circumstances (e.g., the release of the suspect).
- Protect the victim's anonymity whenever possible. Anonymity is a significant issue for many victims of bias crime; for example, many gay and lesbian bias crime victims are not openly gay, due to family and societal attitudes toward homosexuality.

Use Transparency E2, "Conducting Effective Victim Interviews."



CONDUCTING EFFECTIVE VICTIM INTERVIEWS

- Only one officer should conduct the interview. Any other officers present should remain inconspicuous and not interfere with the interview.
- Allow the victim to tell the whole story in his or her own words. Do not distract the individual or interrupt the story unnecessarily.
- Language is often the key evidence in bias crimes. Have victims recall to the best of their ability the exact words of the offender(s).
- Do not ask a victim, "Was this a bias crime?" or in any way press for an admission that the crime was motivated by bias. The victim may not want to acknowledge the bias motivation of the crime. Instead, ask, "Do you have any idea why this happened to you?" or say, "People sometimes get attacked because of their [race, ethnicity, religion, sexual orientation, etc.]. Was there anything in the incident that might point in that direction?"
- Do not make assumptions about the victim that may be inappropriate, such as assuming the victim's sexual orientation. For example, do not ask, "Are you gay?" Instead, ask victims what they think motivated the attack and why they think they were victimized.

(continued)



Note to Instructor

Explain that the basic skills participants have learned for interviewing victims, witnesses, and suspects in other criminal cases apply to bias crime cases as well.

Explain that there are additional considerations when interviewing victims, witnesses, and suspects in bias crime cases.



- If the victim identifies the crime as motivated by bias, acknowledge that attacks motivated by prejudice can be especially devastating.
- Do not allow personal value judgments of the victim's behavior, lifestyle, or culture to intrude. Do not blame the victim for the incident. If the victim blames him or herself for the incident, gently respond that the incident was not the victim's fault.
- Do not question the victim's judgment in terms of his or her own safety. What you may interpret as victims placing themselves in unsafe situations, they may interpret as exercising their rights.
- Use appropriate terminology. Do not use stereotyped or biased terms that can revictimize the victim, shut down communication, or otherwise impede the investigation.
- Ask the victim if he or she has been victimized in prior incidents.
- Continually update the victim on the status of the case and what is being done by the police department. Victims of bias crime are often particularly sensitive to law enforcement's responsiveness to their needs. Victims from other cultures may need more direct involvement from law enforcement to overcome cultural and linguistic barriers.
- Refer the victim to individuals or organizations that can provide support and assistance. These may include victim assistance agencies, social service organizations, and clergy in the victim's religious denomination.

Explain that the same strategies for interviewing victims in bias crime cases also apply to interviewing witnesses. In addition, there are other strategies you can use to enhance witness cooperation. Use Transparency E3, "Enhancing Witness Cooperation."



ENHANCING WITNESS COOPERATION

- Canvas the entire community, using interpreters as needed. Appeal to community members' sense of civic responsibility and the chance for them to assist in ridding their community of these crimes. Canvassing the entire community sends a message to the community and potential offenders that the police department does not tolerate such crimes.
- Offer rewards for information regarding the case.
- Remember that bias crimes often involve individuals of races and/or ethnicities different from the witnesses of the incident. The stereotypes and biases of witnesses may consciously or subconsciously influence their perceptions of the incident.

(continued)



- Be aware that witnesses with the same prejudices and stereotypes of the offender(s) may present a distorted or inaccurate view of what occurred. Witnesses who want to deny the existence of hatred in their community may also provide inaccurate versions.
- Establish memoranda of understanding (MOUs) with local civil rights groups that spell out referral policies, mutual support of call-in procedures, etc.

Collecting and Preserving Evidence¹

Explain that the group is now going to draw on the combined expertise of law enforcement and victim assistance professionals to identify techniques for enhancing the collection and preservation of evidence in potential bias crimes. The same techniques for collecting and preserving evidence used in other investigations should be used for the investigation of bias crimes. *Use* Transparency E4, “Collecting and Preserving Evidence in Bias Crime Investigations.”



COLLECTING AND PRESERVING EVIDENCE IN BIAS CRIME INVESTIGATIONS

- *Language:* Law enforcement officers should pay particular attention to any words or phrases that may be bias-related. Exact words and expressions should be documented as evidence. Note: Language is often the most critical evidence in a hate crime prosecution.
- *Graffiti:* Photographs of graffiti consisting of racial, ethnic, religious, gender-related, or sexual orientation-related epithets and/or symbols should be taken immediately following the incident. This secures evidence and allows offensive language and symbols to be removed quickly before other community members are victimized by them.
- *Property damage:* As with graffiti, photographs of property damage should be taken immediately following reporting of the incident. The extent of property damage may affect whether the crime can be charged as a felony or misdemeanor.
- *Personal injuries:* Arrange to have the victim’s visible physical injuries photographed. This may serve as important evidence at the time of trial. Ask the victim what would make her or him the most comfortable, e.g., having a police officer of the same gender gathering this type of evidence.
- *Symbols:* It is important to become familiar with and recognize symbols or insignias (such as a swastika or the letters KKK) that

(continued)



indicate bias. These symbols may be found in graffiti, etched or painted into property, or contained in threatening letters or phone calls. Numbers and numerology have also been used as part of hate messages. You may need to consult an expert to determine if a number or symbol has significance.

- **Threatening letters:** If a threatening letter is received, advise the victim to preserve potential fingerprint evidence:
 - Touch the letter as little as possible
 - Avoid faxing or copying the letter
 - Place the letter in a paper, not plastic, bag
 - Arrange to have an officer pick up the letter to ensure that the chain of evidence is maintained
- **Coordination:** The overall effectiveness of law enforcement agencies' response to bias crime can be enhanced through policies that promote interagency training, information exchange, and multiagency law enforcement cooperation. For example,
 - Agencies should develop cooperative relationships with county prosecutors and other concerned federal, state, and local law enforcement agencies, as appropriate.
 - The investigation should be coordinated with other law enforcement agencies in the area to analyze bias crime patterns and to determine whether an organized hate group is involved.

III. Presentation: Advocacy on Behalf of Victims and Their Families (15 minutes)



Distribute Handout E1, "Important Issues to Address When Assisting Bias Crime Victims," and *use* Transparency E5 to discuss what professionals can do to address victim impact.



IMPORTANT ISSUES TO ADDRESS WHEN ASSISTING BIAS CRIME VICTIMS

- Address the victim's physical injuries (if applicable).
- Acknowledge the unique impact of crimes motivated by hatred or prejudice. In addition to acknowledging the physical, emotional, and financial impact of hate crime, victims need professionals to address directly the prejudice motivating the offender. Professionals should address the victim's feelings of objectification and degradation and acknowledge that these issues are particularly difficult for the victims of bias crime to discuss.
- Acknowledge that the perpetrator may commit other crimes against the victim, especially in retaliatory and reactive hate crimes.

(continued)



Note to Instructor

*Bias crimes impact victims in many ways. The impact on individual victims, their families, and their communities is discussed in more detail in **Session B, Victim Impact**. The following section is designed primarily for victim assistance professionals but is also essential training for law enforcement officials.*

*Guidelines for addressing cultural concerns related to victim advocacy and counseling are presented in **Session F, Cultural Issues and Community Strategies for Dealing with Bias Crime**.*

- Address the victim's safety. Assist in developing a safety plan and network of support.
- Be aware of the possibility of prior victimization. Victims of hate crime have often been previous victims of hate crime by the same perpetrator or experienced other incidents of victimization. Frequently, victims have not reported these prior incidents to the police.
- Acknowledge that victims may feel the long-term impact of prior victimization and discrimination.
- Address the level of fear the victim may feel. Because hate crimes are message crimes, they terrorize victims. Directly address with the victim what steps may be taken to reduce this fear.
- Address issues relating to the media. Because hate crimes often attract media attention, ask the victim if someone can act as a media liaison for him or her.
- Tell the victim that this type of crime is treated very seriously, and explain your department's or agency's response protocol.
- Acknowledge institutional prejudice and its impact on the victim. Inquire as to any barriers to accessing services; for example, the victim may encounter physical, linguistic, or cultural barriers in pursuing a legal case or obtaining services.
- Acknowledge victims' potential fear in reporting the crime and pursuing their cases in the court system. Victims of crime who are immigrants without legal papers may fear deportation. Victims of homophobic hate crime may fear disclosure. All groups may fear dealing with legal authorities.
- Refer victims to culturally appropriate services.
- Educate yourself about the medical and legal systems in your jurisdiction. Learn about reporting procedures from the police or sheriff. Obtain copies, if possible, of the crime/hate crime reporting form to determine what kinds of information law enforcement will need to build a case, and what types of questions the victim must be prepared to answer.
- Understand the laws relating to civil rights violations and hate crimes and what is required to convict an offender under those laws. Help the victim develop realistic

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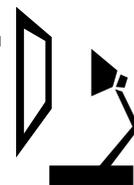
expectations about his or her role, time frames, and potential outcomes relative to the criminal justice system.

- As hate crimes affect entire communities, consider your role in organizing community members to respond to the crime and work on prevention initiatives. Options include the following:
 - Organize a community response, public awareness effort, or victim vigil to show support of both the victim and the entire community affected by the crime.
 - Develop coalitions and/or networks to support hate crime victims.
 - Coordinate with human relations commissions and specialized advocacy groups to address victimization:
 - Advocate for victims within systems
 - Train citizens to provide peer support
 - Develop self-help groups for victims
 - Refer victims for support and counseling services
 - Provide translation services
 - Provide court monitoring and advocacy
 - Develop multilingual representation and education
 - Provide media advocacy
- Educate health care providers, including pre-hospital care providers, emergency department personnel, and primary care providers, about the unique impact of bias crime and the special needs of victims. The *Annals of Emergency Medicine* has published guidelines for health care professionals on treating bias crime victims.²

References

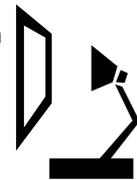
¹ Portions of this section were adapted from: U.S. Department of Justice (1998). *National hate crimes training curriculum: Multilevel state and local law enforcement professionals*. Washington, D.C.: U.S. Department of Justice.

² Hutson, H. R., Anglin, D., Stratton, G., and Moore, J. (June 1997). Hate crime violence and its emergency department management. *Ann Emerg Med* 29, 786–791.



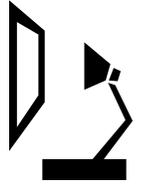
SPECIAL CONSIDERATIONS WHEN INTERVIEWING BIAS CRIME VICTIMS

- Provide extra security for the victim.
- Tell the victim you are sorry the incident happened.
- Allow the victim to ventilate feelings, and explain that the police department takes these crimes seriously.
- Use an interpreter, if necessary.
- Be extremely sensitive to and respectful of the victim, especially regarding cultural differences.
- Inform the victim about the usual range of emotional responses to victimization.
- Do not attempt to diminish the impact of the crime.
- Explain what is likely to happen during the investigation.
- Protect the victim's anonymity whenever possible.



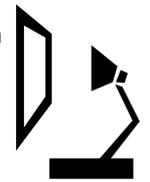
CONDUCTING EFFECTIVE VICTIM INTERVIEWS

- Only one officer should conduct the interview.
- Allow victims to tell the whole story in their own words.
- Language is often the key evidence. Have victims recall the exact words of the offender(s), if possible.
- Ask if he or she has been victimized previously.
- Do not ask “Was this a bias crime?”
- Do not make assumptions about the victim.
- Do not blame the victim or allow personal value judgments to intrude.
- Do not question victims’ judgment of their own safety.
- Use appropriate terminology; do not use biased terms.
- Regularly update victim on case status.
- Refer victim for support and assistance.



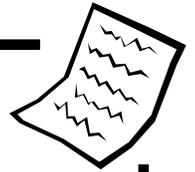
ENHANCING WITNESS COOPERATION

- Canvas the entire community, using interpreters as needed.
- Offer rewards for information.
- Remember that biases of witnesses may influence their perceptions.
- Be aware that witnesses may provide inaccurate accounts, for various reasons.
- Establish memoranda of understanding with local civil rights groups.



COLLECTING AND PRESERVING EVIDENCE IN BIAS CRIME INVESTIGATIONS

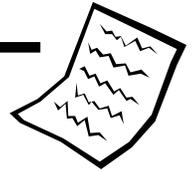
- **LANGUAGE:** Pay particular attention to any words or phrases that may be bias-related. Document exact words and expressions as evidence.
- **PHOTOGRAPHS:** Take photographs immediately of:
 - graffiti
 - property damage
 - victim’s visible personal injuries
- **SYMBOLS:** Recognize symbols indicating bias (e.g., swastika, KKK, significant numbers). Call in expert if necessary.
- **THREATENING LETTERS:** Advise victim to:
 - touch letter as little as possible
 - avoid faxing or copying letter
 - place letter in paper (not plastic) bag
 - have officer pick up letter
- **COORDINATION:** Work with other law enforcement agencies to analyze bias crime patterns.



Important Issues To Address When Assisting Bias Crime Victims

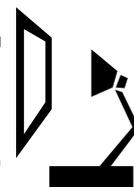
- ✓ Address the victim's physical injuries (if applicable).
- ✓ Acknowledge the unique impact of crimes motivated by hatred or prejudice. In addition to acknowledging the physical, emotional, and financial impact of hate crime, victims need professionals to address directly the prejudice motivating the offender. Professionals should address the victim's feelings of objectification and degradation and acknowledge that these issues are particularly difficult for the victims of bias crime to discuss.
- ✓ Acknowledge that the perpetrator may commit other crimes against the victim, especially in retaliatory and reactive hate crimes.
- ✓ Address the victim's safety. Assist in developing a safety plan and network of support.
- ✓ Be aware of the possibility of prior victimization. Victims of hate crime have often been previous victims of hate crime by the same perpetrator or experienced other incidents of victimization. Frequently, victims have not reported these prior incidents to the police.
- ✓ Acknowledge that victims may feel the long-term impact of prior victimization and discrimination.
- ✓ Address the level of fear the victim may feel. Because hate crimes are message crimes, they terrorize victims. Directly address with the victim what steps may be taken to reduce this fear.
- ✓ Address issues relating to the media. Because hate crimes often attract media attention, ask the victim if someone can act as a media liaison for him or her.
- ✓ Tell the victim that this type of crime is treated very seriously, and explain your department's or agency's response protocol.
- ✓ Acknowledge institutional prejudice and its impact on the victim. Inquire as to any barriers to accessing services; for example, the victim may encounter physical, linguistic, or cultural barriers in pursuing a legal case or obtaining services.
- ✓ Acknowledge victims' potential fear in reporting the crime and pursuing their cases in the court system. Victims of crime who are immigrants without legal papers may fear deportation. Victims of homophobic hate crime may fear disclosure. All groups may fear dealing with legal authorities.
- ✓ Refer victims to culturally appropriate services.

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Important Issues To Address When Assisting Bias Crime Victims (cont'd)

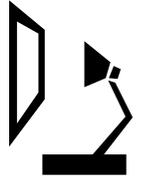
- ✓ Educate yourself about the medical and legal systems in your jurisdiction. Learn about reporting procedures from the police or sheriff. Obtain copies, if possible, of the crime/hate crime reporting form to determine what kinds of information law enforcement will need to build a case, and what types of questions the victim must be prepared to answer.
- ✓ Understand the laws relating to civil rights violations and hate crimes and what is required to convict an offender under those laws. Help the victim develop realistic expectations about his or her role, time frames, and potential outcomes relative to the criminal justice system.
- ✓ As hate crimes affect entire communities, consider your role in organizing community members to respond to the crime and work on prevention initiatives. Options include the following:
 - Organize a community response, public awareness effort, or victim vigil to show support of both the victim and the entire community affected by the crime.
 - Develop coalitions and/or networks to support hate crime victims.
 - Coordinate with human relations commissions and specialized advocacy groups to address victimization:
 - Advocate for victims within systems
 - Train citizens to provide peer support
 - Develop self-help groups for victims
 - Refer victims for support and counseling services
 - Provide translation services
 - Provide court monitoring and advocacy
 - Develop multilingual representation and education
 - Provide media advocacy
- ✓ Educate health care providers, including pre-hospital care providers, emergency department personnel, and primary care providers, about the unique impact of bias crime and the special needs of victims. The *Annals of Emergency Medicine* has published guidelines for health care professionals on treating hate crime victims.



IMPORTANT ISSUES TO ADDRESS WHEN ASSISTING BIAS CRIME VICTIMS

- ✓ Address the victim's physical injuries (if applicable).
- ✓ Acknowledge the unique impact of attacks motivated by hatred or prejudice.
- ✓ Acknowledge that the perpetrator may commit other crimes against the victim, especially in retaliatory and reactive hate crimes.
- ✓ Address the victim's safety.
- ✓ Be aware of possible prior victimization.
- ✓ Acknowledge that victims may feel the long-term impact of prior victimization and discrimination.
- ✓ Address the level of fear the victim may feel.
- ✓ Address issues relating to the media.

(continued)



IMPORTANT ISSUES TO ADDRESS WHEN ASSISTING BIAS CRIME VICTIMS (cont'd)

- ✓ Tell the victim that this type of crime is treated very seriously, and explain your department's or agency's response protocol.
- ✓ Acknowledge institutional prejudice and its impact on the victim, and inquire as to any barriers to accessing services.
- ✓ Acknowledge victims' potential fear in reporting the crime and pursuing their cases in the court system.
- ✓ Refer victims to culturally appropriate services.
- ✓ Educate yourself about the medical and legal systems in your jurisdiction.
- ✓ Understand the laws relating to civil rights violations and help victim develop realistic expectations.
- ✓ Organize the community to work on prevention initiatives.
- ✓ Educate health care providers on the special needs of bias crime victims.

Cultural Issues and Community Strategies for Dealing with Bias Crime

Overview of the Session: At a Glance

Presentation: Defining Culture and Why It Matters in Dealing with Bias Crime	15 minutes
Activity: Culture and Heritage	15 minutes
Presentation: Implications of Culture and Diversity for Bias Crime	20 minutes
Presentation: Community Impact and Outreach	10 minutes
TOTAL TIME	60 minutes

Objectives

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

- Understand the influences of culture on their own lives
- Better understand the impact of culture on bias crime
- Understand strategies for addressing cross-cultural issues when working with bias crime victims
- Describe effective community involvement in dealing with bias crime
- Understand strategies for addressing the community impact of bias crime
- Understand the importance of building successful networks and coalitions

Materials and Equipment



Time: 60 minutes



Handouts: Culture and Heritage; Guidelines for Providing Culturally Appropriate Counseling; Possible Network or Coalition Members; Community Change to Improve the Identification of and Response to Bias Crimes



Transparencies: Continuum of Prejudicial Behavior; The Dimensions of Prejudice; Emotional Reactions in Dealing with Cross-Cultural Communication; Cultural Considerations; Culturally Appropriate Counseling: An Overview; Community Impact



Equipment: Overhead projector; screen; flipchart

Instructor's Notes

1. Presentation: Defining Culture and Why It Matters in Dealing with Bias Crime (15 minutes)

Explain that this session will provide an understanding of culture, diversity, prejudice, and bigotry, and their relationship to bias crime. The session will not comprehensively deal with specific cultural groups and their history, customs, or beliefs, but rather provide an overview.

Explain that all professionals who deal with bias crimes need to understand cultural issues in order to better understand the following:

- The dynamics of bias crimes, which, in most circumstances, are committed by offenders from a different cultural background than their victims
- The dynamics of cross-cultural communication, in order to more effectively serve the victim—especially if the victim is from a culture different from that of the law enforcement or victim service professional

Without this knowledge, cultural misunderstandings and miscommunication can occur for law enforcement professionals, which can threaten the law enforcement professional's safety, impede investigations, lead to the escalation of events, which may heighten community tension, and/or increase the agency's vulnerability to liability.

For victim assistance professionals, cultural misunderstandings and miscommunication can undermine the effectiveness of victim counseling and advocacy, limit outreach to underserved populations of bias crime victims, and limit the development of culturally appropriate services to reduce harm to victims.

Positive outcomes may result from increased cultural understanding:

- Improvement in police community relations
- Improvement in reporting and a better record of solving bias crimes
- Enhancement of victim services to individuals and to the community
- Enhancement of prevention in the community

Explain that culture is a concept that helps us understand similarities and differences across groups. Definitions of culture vary, though most include the following characteristics:

- The artifacts created by a group of human beings, including architecture, art, tools, dress, and religion
- A set of traditions
- A common language



Ask participants to volunteer their own ideas about what contributes to cultural identity, and *record* their suggestions on a flipchart. Possible responses may include the following:

Nationality	Rural or urban location
Race	Education
Religion	Income
Ethnicity	Profession
Gender	Mental and physical abilities
Age	Sexual orientation
Geographic region	Beliefs and attitudes
Worldview	

Include examples from this list, if not mentioned by the group.

II. Activity: Culture and Heritage (15 minutes)



Distribute Handout F1, “Culture and Heritage,” and ask participants to spend five minutes jotting down answers to the questions.

Ask for four to six volunteers to share their notes. After hearing the examples, *ask* for volunteers to specify what differences they notice among these examples.

Possible responses:

- Last names
- Where they were born
- Where their grandparents’ parents came from
- Individual customs

Ask for volunteers to specify what similarities they notice among their examples.

Possible responses:

- Where they were born
- Individual customs

Sum up the activity by reminding participants of the following points:

- In their own experience, they have often been able to find a commonality between themselves and victims, victims’ family members, and members of the victims’ communities, even though they may appear to be “culturally different” from one another.
- A respect for all cultures and all groups will enable victim assistance and law enforcement professionals to deal more effectively with bias crime victims.
- Understanding and managing differences—and perception of differences—is nevertheless a major challenge, and a responsibility, for professionals who deal with bias crime.

III. Presentation: Implications of Culture and Diversity for Bias Crime (20 minutes)

Explain that culture is learned and that a culture's beliefs and attitudes are transmitted from generation to generation. The process by which we experience the world and transmit our assumptions about different groups and cultures influences our communication patterns, which can then influence our thoughts, beliefs, and actions. Below are some examples of the inherent problems with cultural assumptions:

Labeling

- The inherent danger in making assumptions is that we assume there are absolute facts rather than working hypotheses. This may lead to the labeling of others.
- Labeling limits our ability to perceive others accurately, which may lead to stereotyping.

Stereotyping

- “Stereotyping” is attributing characteristics to a group simplistically and uncritically, and/or assuming that those characteristics are rooted in significant biological differences.
- Stereotyping is:
 - a dangerous form of labeling
 - frequently inaccurate and overgeneralized
 - the judging of a person as a category, not an individual
- Stereotyping may lead to prejudicial beliefs.

Prejudice

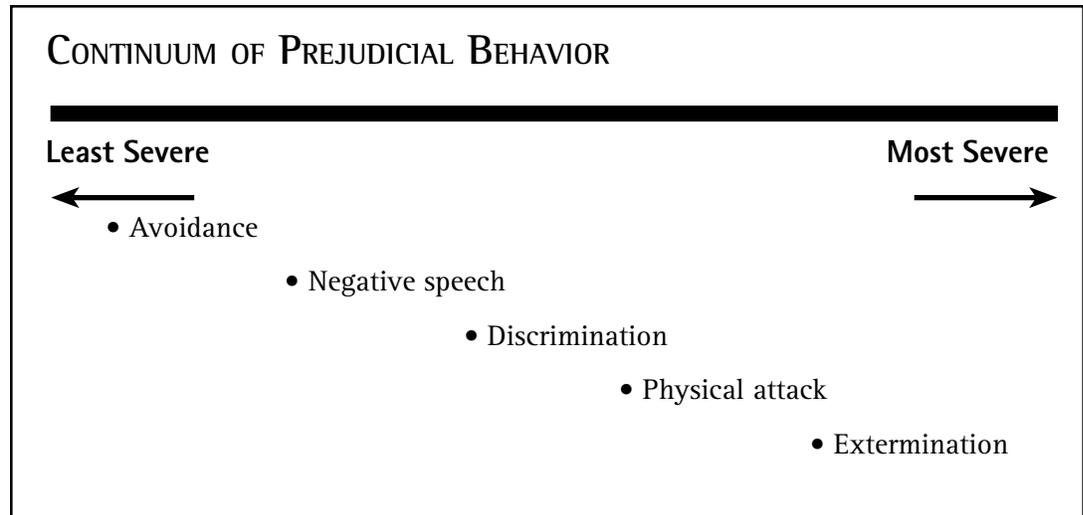
- “Prejudice” is an unreasonable and unjustifiable negative attitude toward a group and its individual members.
- Prejudice based on cultural assumptions plays a significant role in the motivation of bias crime offenders.

Implications

- Although bias crimes may be targeted against members of any culture, including the dominant culture, a significant percentage of bias crimes are committed against individuals from cultures different from the culture of the perpetrator.
- No one member of a cultural group exemplifies all the characteristics of that group in typical fashion.
- Within any given culture, there can be as much variation as there is between cultures.
- In any cross-cultural communication, we must work at understanding the uniqueness of each individual in the context of that individual's particular life experiences and her or his personal integration of cultural influences.

The Complex Nature of Prejudice

Use Transparency F1, “Continuum of Prejudicial Behavior.”¹



Explain that prejudice is comprised of various social, emotional, and cognitive aspects. Use Transparency F2, “The Dimensions of Prejudice.”²



THE DIMENSIONS OF PREJUDICE

Social Aspects of Prejudice

- Unequal group status in society results in unequal treatment of individuals.
- Social definition, or being placed by society within a particular social group, may promote “ingroup bias.”
 - “Ingroup” can be defined as a group of people who share a sense of belonging within a particular group and a feeling of common identity with the group.
 - “Outgroup” can be defined as a group that is perceived as distinctively different or apart from one’s ingroup.
- People tend to see greater similarity among individuals in the outgroup than individuals within their ingroup. For example, when students are shown faces of white and black individuals and then asked to select those individuals from a photographic lineup, they tend to recognize the faces of their own racial group more accurately. People outside their group appear more similar to one another than do individuals within their group.

(continued)



Emotional Aspects of Prejudice

- The “scapegoat theory”: When the cause of one’s frustration is too difficult to handle, either emotionally or intellectually, one often redirects the hostility outward. Whole societies can displace such aggression, as witnessed in Nazi Germany or during the slavery period of U.S. history.

Cognitive Aspects of Prejudice

- Stereotyping: Stereotypes are not always the result of consciously evil intentions. Sometimes they result from an attempt to simplify the complex information one receives from the external world. One way to simplify complex issues is to develop categories to organize the information by clustering objects into various groups. Unfortunately, this simplification often results in negative labeling and overgeneralization.
- Consequences of stereotyping: Stereotypes affect the way one interprets the world or one’s own behavior, and the way one recalls events. Having stereotyped a group of people, one tends to perceive information about an individual of that group in a way that is consistent with the stereotype, despite any conflicting evidence.
- Remedy for stereotyping: If one allows oneself to get to know an individual distinct from his or her group, the influence of the stereotype diminishes. A particularly effective means of breaking down stereotypes and biases, then, is to interact with individuals of various other groups.

Although prejudice does exist and to some degree will always exist, victim assistance and law enforcement professionals can minimize the negative effects of prejudice and bias.

Ask the group to describe the most severe and the least severe forms of prejudice they have witnessed in the communities where they work. *Explain* to them that this is a good way to gauge the level of prejudice and hate in the community.

Intercultural Communication

People in all professions and circumstances have difficulty interacting with others from different backgrounds. Behaviors and attitudes in their own cultures are no longer relevant when dealing with someone from a different culture. In addition, behaviors that represent a well-adjusted person in their own culture may be perceived as indicative of an ill-mannered person in another culture.

Describe the types of emotional reactions that individuals from different cultural backgrounds are likely to experience when interacting with one another. Use Transparency F3, “Emotional Reactions in Dealing with Cross-Cultural Communication.”³



EMOTIONAL REACTIONS IN DEALING WITH CROSS-CULTURAL COMMUNICATION

- *Anxiety*: Individuals are often anxious about whether their behavior or speech is appropriate, proper, and/or offensive.
- *Disconfirmed expectations*: Behaviors and speech of people from different cultures may differ significantly from one another's expectations.
- *Desire for feeling of belonging*: In most interactions, people want to feel accepted and understood by others. However, people of minority cultures are often denied this feeling, since they are labeled "outsiders" in many of their interactions.
- *Confrontation with one's own prejudices*: Part of most people's socialization involves treating others who are noticeably different with reserve. In some cases, people learn that rejection of those different from themselves is a socially sanctioned policy. However, such prejudices are a hindrance when interacting with people of different cultures.

Cultural Considerations for Working with Bias Crime Victims

Use Transparency F4, "Cultural Considerations," to discuss the effects of culture on hate crime victims, their families, and the professionals who serve them.⁴



CULTURAL CONSIDERATIONS

- Different cultures have different beliefs about justice, equity, and victimization.
- Culture is central to how clients do the following:
 - Seek assistance
 - Understand the crime as the cause of psychological difficulties
 - View their symptoms
 - Bring a view of hopefulness or pessimism to recovery
 - Shape their attitude toward their pain
 - View and respond to treatment
- Some cultural groups often maintain a belief in individual control over life and individual responsibility for one's actions. One commonly articulated goal of crisis intervention—to help individuals regain control over their lives after victimization has occurred—works well with them.
- Many other groups, however, perceive life events as predetermined, unchangeable, and not under individual control. If belief in control of one's life is not part of one's conceptual framework, this type of intervention may be meaningless.

Acknowledge that uncertainty about cultural considerations is widespread among professionals. This is often compounded by a lack of agency support for working in the community.

Explain that victims are influenced by a combination of factors:

- Those general to all people
- Those unique to different cultural groups
- Those specific to each individual

All three of these influences must be understood and respected in order to provide effective crisis counseling and support services. It is important to remember that each person is unique; the challenge for victim assistance professionals is to learn how to best support the individual victim.

Explain that this curriculum cannot provide participants with an opportunity to examine the different worldviews of different cultures in-depth. However, it is nonetheless important for professionals to be aware of their own biases and assumptions in terms of what the most appropriate or helpful response might be, and to take their cues from bias crime victims to determine specific needs for intervention.



Distribute Handout F2, “Guidelines for Providing Culturally Appropriate Counseling,” and *explain* that it is provided as a resource for their work with victims, their families, and the larger community. *Review* the major strategies discussed in the handout, using Transparency F5, “Culturally Appropriate Counseling: An Overview.”



CULTURALLY APPROPRIATE COUNSELING: AN OVERVIEW

- Provide appropriate emotional support services to victims
- Identify potential issues in interviewing victims
- Use interpreters and translators
- Understand the victim’s cultural history of oppression
- Observe differences in cultural considerations of time and space
- Recognize the importance of spiritual values
- Work effectively with family and friends of the victim
- Understand the role of the victim assistance professional
- Understand the role of the institution or agency

IV. Presentation: Community Impact and Outreach (10 minutes)

Explain that bias crime affects whole communities. Bias crime victimizes not only the targeted individuals but all members of the targeted group, as well as members of other commonly targeted groups. Use Transparency F6, “Community Impact.”



COMMUNITY IMPACT

Working with the community is essential to:

- Reduce fears
- Stem possible retaliation
- Prevent additional bias incidents
- Encourage other victimized individuals to come forward and report crimes
- Condemn the bigotry that leads to violence
- Provide an outlet for collective outrage
- Create public awareness of the scope of bias crime and prevention strategies
- Control rumors

Describe effective types of police and victim in-service involvement with the community in regard to bias crime:

- The police department and victim service agency should keep community members, as well as victims, abreast of developments in the case, taking care not to disclose any information that could jeopardize the investigation. Keeping the community informed quells rumors and indicates that law enforcement and victim assistance professionals are doing their jobs.
- Law enforcement and victim advocates’ presence at ceremonies, commemorations, memorial services, dedications, or other community activities sends a message that the professionals care about the community and take bias crime seriously.
- Meetings with neighborhood groups, community leaders, and members of the targeted group build community trust in the police department and victim service agency, and may assist in gathering needed information, quelling rumors, stopping vigilantism, and reducing the potential for tension in the community to escalate. Members of the community will often act as the “eyes and ears” of the police

department if they believe that law enforcement and victim service professionals respond to bias crimes and incidents quickly and effectively.

- Many police departments and some victim assistance programs appoint a special community liaison. This professional, who often speaks the predominant language of the community, is in constant contact with the community members and quickly receives information regarding bias-related incidents or the presence of hate groups within the community.
- Proactive police and victim service professionals conduct prevention programs in schools and community organizations on bias crime, racism, and other forms of bigotry, which can be very effective in preventing these crimes.

Community Outreach⁵

The National Organization for Victim Assistance (NOVA) offers the following recommendations to service providers for more effective outreach for bias crime victims:

- Victim service providers should seek to let vulnerable communities know that their assistance program is willing and able to serve victims of bias crime (e.g., by putting a notice of services available in newspapers and other media directed at audiences facing bias). Announce service availability in a broad, comprehensive statement.
- Outreach should be made, if requested, to the social or political leaders of the victim's group. There is often a healing strength within the formal and informal institutions of a group under attack.
- Learn what the culturally specific offerings of your own community. Involve yourself in cultural activities to build awareness and appreciation of different cultures. Read material relating to culture. Remember that information about culture serves as a guideline; members of any given culture are individuals and may not adhere to the generally accepted norms of their culture.
- Develop a network of service providers, with an emphasis on those of different cultures than you. Don't be afraid or embarrassed to ask for help when working with a victim of a culture different from yours.
- Take advantage of as many cross-cultural educational opportunities as possible.
- If you are a member of the white American dominant cultural group, then be aware that you know less about minority ethnic cultures than most minority members know about your culture. While minorities need to learn about the dominant culture's values in order to survive, most members of the dominant group have not been required to have this knowledge about other cultures.
- Be aware of institutional and latent cultural bigotry, which includes racism, sexism, ageism, and homophobia. While it is easy to identify obvious indicators of bigotry, subtle signs of discrimination, ignorance, and prejudice may be more difficult to observe.

Networking and Coalition Building

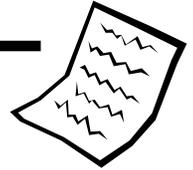
- While individuals and single organizations can have a tremendous impact, broad-based networks and coalitions can exert even wider influence on bias crime prevention policy and practice. Ultimately, the goal of bias crime intervention is to change not only the behavior of potential offenders but the community norms that support attitudes that lead to bias crime and enable it to occur.
- Victim assistance and law enforcement professionals can mobilize themselves and coordinate networks of existing organizations, or save time and effort by having such organizations and coalitions serve as intermediaries to deliver messages to their constituents.



Distribute Handouts F3, “Possible Network or Coalition Members,” and F4, “Community Change to Improve the Identification of and Response to Bias Crimes.”

References

- ¹ Allport, G. W. (1979). *The nature of Prejudice, 25th anniversary edition*. Reading, MA: Addison-Wesley.
- ² U.S. Department of Justice, Federal Bureau of Investigation (1992). *Training guide for hate crime data collection*. Washington, DC: U.S. Government Printing Office.
- ³ Adapted from Brislin, R., Cushner, K., Craig, C., and Yong, M. (1986). *Intercultural interactions: A practical guide*. Newbury Park, CA: Sage.
- ⁴ Adapted from Parsons, E. (1985). Ethnicity and traumatic stress: The intersecting point in psychotherapy. In Charles R. Figley (Ed.), *Trauma and Its Wake*. New York: Brunner/Mazel.
- ⁵ Young, M. A., NOVA (1993). *Victim assistance: Frontiers and fundamentals*. Dubuque, IA: Kendall/Hunt Publishing Company.
- ⁶ Adapted from the Ohio Coalition on Sexual Assault, *Guidelines 1991*.



Culture and Heritage

Choose one set of grandparents. For both your grandmother and grandfather in that pair, answer these questions:

Where grandmother was born:

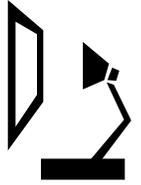
Where grandfather was born:

Language they spoke at home:

The translation/meaning of their last name (if you know or if there is one):

Where their parents came from (if you know):

Something you remember about their special customs or beliefs (e.g., about holidays, spirituality/religion, the family, dinner time):



CONTINUUM OF PREJUDICIAL BEHAVIOR

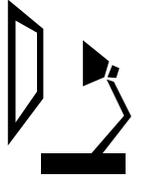
Least Severe



Most Severe



- Avoidance
 - Negative speech
 - Discrimination
 - Physical attack
 - Extermination



THE DIMENSIONS OF PREJUDICE

Social Aspects

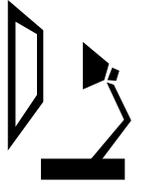
- Unequal group status in society results in unequal treatment of individuals
- Ingroup bias: People tend to see, or assume, greater similarity among individuals in the outgroup than among individuals within their ingroup

Emotional Aspects

- “Scapegoat theory”: Redirecting frustration and hostility outward

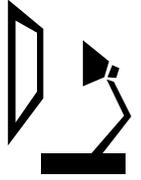
Cognitive Aspects

- *Stereotyping*: Attempt to simplify complex information that frequently results in negative labeling and overgeneralizing
- *Consequences of stereotyping*: One tends to perceive individuals in a way that is consistent with the stereotype, despite any conflicting evidence
- *Remedy for stereotyping*: Interaction with individuals of various other groups



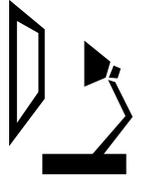
EMOTIONAL REACTIONS IN DEALING WITH CROSS-CULTURAL COMMUNICATION

- *Anxiety* about appropriateness of one's behavior or speech
- *Disconfirmed expectations* about the behaviors and speech of people from other cultures
- *Desire for feeling of belonging*, which can be impeded when people are viewed as "outsiders"
- *Confrontation with one's own prejudices*



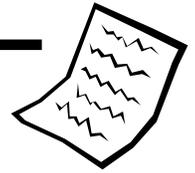
CULTURAL CONSIDERATIONS

- Different cultures have different beliefs about justice, equity, and victimization.
- Culture is central to how clients:
 - seek assistance
 - understand the crime as the cause of psychological difficulties
 - view their symptoms
 - bring a view of hopefulness or pessimism toward recovery
 - share their attitude toward their pain
 - view and respond to treatment
- Some cultural groups believe in individual control over life and respond well to one goal of crisis intervention: to help individuals gain control over their lives.
- Other groups perceive life events as predetermined, unchangeable, and not under individual control—therefore, some kinds of crisis intervention may be meaningless to them.



CULTURALLY APPROPRIATE COUNSELING: AN OVERVIEW

- Provide appropriate emotional support services to victims
- Identify potential issues in interviewing victims
- Use interpreters and translators
- Understand the victim's cultural history of oppression
- Observe differences in cultural considerations of time and space
- Recognize the importance of spiritual values
- Work effectively with family and friends of the victim
- Understand the role of the victim assistance professional
- Understand the role of the institution or agency



Guidelines for Providing Culturally Appropriate Counseling⁶

1. Provide Appropriate Emotional Support Services to Bias Crime Victims

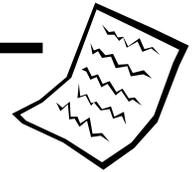
- Keep in mind that healing occurs in different stages that vary in length.
- Assure the victim that you will not disclose information—confidentiality and anonymity are important to bias crime victims, especially those who do not want to disclose their sexual orientation or residency status, or feel culturally inhibited about disclosing their victimization.
- Give the victim time to express his or her feelings and allow for cultural variance in expressing those feelings.
- Listen for the victim's immediate concerns, and help the victim identify options for addressing those concerns.
- Allow victims to make their own choices, within their cultural context. Try to support their decisions, even if the decisions aren't ones you would make within your cultural framework.
- Search for the meaning of suffering and pain in the specific culture involved.
- Listen to how the victim uses language. Use the words that she or he uses.
- Seek options that are within the context of the victim's culture, particularly if the victim's own beliefs or values are impeding the recovery process.
- Aid victims in identifying a support system. In cultures where privacy about personal matters is a major issue, help victims decide who among their friends, families, or co-workers could provide essential emotional support.
- Be aware of cultural and social expectations. Educate yourself about cultural norms, beliefs, practices, and traditions that may be unfamiliar to you.

2. Identify Potential Issues in Interviewing Victims

- Examine your attitudes towards others' language skills, use of specific words, speech patterns, and timing.
- Remember that language is based on a variety of cultural factors; response to a crisis can alter a victim's usual communication patterns.
- Different languages may not have words that are analogous to English terms. Share your definitions.
- Keep in mind that cultural restraints may prevent the victim from showing his or her feelings.

(continued)

⁶ Adapted from the Ohio Coalition on Sexual Assault, *Guidelines* 1991.

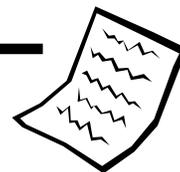


Guidelines for Providing Culturally Appropriate Counseling (cont'd)

3. Use Interpreters and Translators

- Screen interpreters for appropriateness in working with crime victims. Make sure they are bicultural as well as bilingual.
- Ensure that translators for deaf or hearing-impaired individuals are certified in American Sign Language.
- Assure victims of the confidentiality of the process.
- Speak slower rather than louder.
- Remember that there are three people involved: you, the interpreter, and the client. Don't forget the client in your body language.
- The client may understand more English than she or he is able to express. Do not reduce the client to a nonentity or infantilize him or her—talk *with* the client, rather than *about* the client.
- Have patience. Don't expect a word-by-word translation. Sometimes long conversations may be needed in the other language in order to communicate a seemingly simple point in English.
- Encourage the interpreter to ask questions.
- Respect the interpreter's statement that a question is inappropriate and do not push the point; if possible, wait until after the session and discuss it.
- Use clear and simple English until you are able to establish the vocabulary level of the interpreter and adapt appropriately.
- Face the fact that you may not be totally in control, and be flexible.
- Just as you are the professional, the interpreter is the cultural professional—respect each other's roles.
- Whenever possible, try to meet with the interpreter before the session and receive feedback after.
- If you feel uncomfortable, always remember how much more uncomfortable the client must feel.

(continued)



Guidelines for Providing Culturally Appropriate Counseling (cont'd)

4. Understand the Victim's Cultural History of Oppression

- While there are similarities among different groups in their experience of prejudice, discrimination, and oppression, there are also differences that are important to understand. Learn the history of different cultural groups.
- Keep in mind that the hate speech and symbols used in an attack serve as a reminder of the violent history of such attacks against the victim's group.

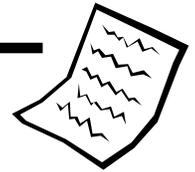
5. Observe Differences in Cultural Considerations of Time and Space

- Cultures and individuals vary in what is a comfortable distance between people and what is a violation of personal space—use education, observation of body language, and good communication to determine what will make the victim comfortable.
- Remember that cultures and individuals vary in comfort levels with various degrees of touching.
- Remember that, in some cultures, looking someone directly in the eyes is a sign of disrespect.
- Keep in mind that cultural and individual concepts of time vary.

6. Recognize the Importance of Religious and Spiritual Values

- Know that religious and spiritual values and beliefs play a role in all cultures.
- Meet with religious and spiritual leaders to learn from and work with them.
- Remember that even if a victim is not a member of a religious institution, the community norms affecting him or her may be determined by religion.
- Service providers should include religious activities as options for service in their victim assistance programs.

(continued)



Guidelines for Providing Culturally Appropriate Counseling (cont'd)

7. Work Effectively with the Family and Friends of the Victim

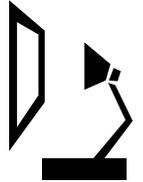
- Sometimes friends or family members will seek your assistance. Encourage them to have the victim contact you directly.
- Allow family and friends to express their own reactions and concerns about the attack.
- Family and friends will often experience reactions similar to those of the victim. Assist them in finding supportive people to respond to their needs so that the needs of the victim can remain your primary concern.

8. Understand the Role of the Victim Assistance Professional

- Your ability to show sensitivity to the victim's situation will be greatly improved by recognizing and acknowledging your own beliefs and biases and by gaining awareness of and respect for the ways that other cultures' values and beliefs differ from your own.

9. Understand the Role of the Institution or Agency

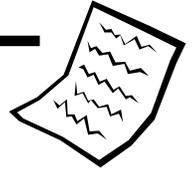
- Be sensitive to the ways that the support you typically offer may not be accessible to the victim:
 - Does the victim have financial limitations to obtaining services (child care, transportation, access to a telephone)?
 - Does the victim feel safe and/or accepted in your office?
 - Is the victim physically challenged or recovering from injuries, and are there possible physical barriers to accessibility?
 - Do you speak or understand the language of the victim? Are there brochures and other materials available in the language of the victim?



COMMUNITY IMPACT

Working with the community is essential to:

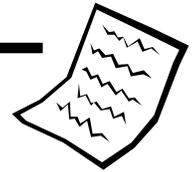
- Reduce fears
- Stem possible retaliation
- Prevent additional bias incidents
- Encourage other victimized individuals to come forward and report crimes
- Condemn the bigotry that leads to violence
- Provide an outlet for collective outrage
- Create public awareness of the scope of bias crimes and prevention strategies
- Control rumors



Possible Network or Coalition Members

Depending on the focus of the participant's department or organization, members may include the following:

- *Legislatures/government agencies:* Governmental bodies at the national, state, and local levels may enact legislative initiatives and appropriate funds for the prevention and research of bias crime.
- *Educational institutions:* Public and private schools, vocational-technical schools, community colleges, state and private colleges, and universities may offer assistance in conveying bias crime identification and prevention messages.
- *Civic organizations:* Civic planners, community groups, and religious institutions can provide insider access to particular populations.
- *Mass media:* Newspapers, radio, television, and cable television can be asked to publicize specific interventions and strategies or particular resources developed in a community to support bias crime victims and their families. Media targeted to minority communities can be an invaluable tool in coalition building.
- *Health professions:* Medical, nursing, and public health professionals in academic, institutional, state, and local settings can help increase awareness.
- *Public safety:* Criminal justice professionals can be involved in enforcing laws and regulations.
- *Advocacy groups:* Regional and state chapters of the Anti-Defamation League, National Urban League, Gay and Lesbian Task Force, American-Arab Anti-Discrimination Committee, Committee Against Anti-Asian Violence, Asian Law Caucus, Japanese American Citizens League, and other such organizations can advocate for victims.



Community Change to Improve the Identification of and Response to Bias Crimes

Possible realms in which to target change:

- Organizational policies of law enforcement and victim assistance departments and agencies and the criminal justice system
- Organizational policies of affiliated or collaborating organizations (e.g., hospitals or clinics) and community-based agencies
- Local municipal ordinances and state and federal initiatives
- Professional practice of individuals

Activities can include the following:

- Writing letters to the editor or guest columns of local papers, especially in community newspapers and in broadcast media targeted to minorities
- Appearing on radio, television, or cable talk shows and programs to present information and data to the community
- Writing short feature or point-of-view stories for inclusion in the newsletters and publications of community and professional organizations and associations
- Sitting on the boards of related community organizations
- Making presentations and giving speeches at business and civic group meetings (e.g., Chamber of Commerce, League of Women Voters) and religious meetings
- Co-sponsoring events in collaboration with local community, religious, and school leaders (e.g., memorials, family support, or fundraising events)

A Model Hate Crime Protocol

SAN DIEGO COUNTY REGIONAL HATE CRIMES PROCEDURE MANUAL October 1999

The Law Enforcement Training Subcommittee of the San Diego (California) Hate Crimes Community Working Group created this procedure manual. They received help from many experts from the state of California and also borrowed materials from the hate crimes training manuals created by the United States Department of Justice and the training curricula created by the California Peace Officers Standards and Training Hate Crimes Committees.

This protocol, developed by the San Diego Hate Crimes Community Working Group, is provided as a useful model for agencies looking to develop policies and procedures for preventing and responding to hate crime. Agencies will find the information on prevention and on the roles of law enforcement officers particularly helpful.

(Note: This protocol has been reprinted here with permission of the Hate Crimes Unit of the County of San Diego Office of the District Attorney. Several sections on laws and definitions have been omitted here because they were specific to California law.)

Examples of Hate Crimes vs. Hate Incidents

Hate crimes are crimes motivated by bias against a victim based on his or her actual or perceived race, religion, sexual orientation, gender, ethnicity, national origin, or disability. **Hate incidents** are similarly motivated but lack the elements of damage to property, harm—or the immediate threat of harm—or violence. Examples of **hate incidents** as compared to **hate crimes** are as follows:

I. Example

A. Hate Incident

Three young male toughs purposely stand outside a convenience store in a residential section of town where young, professional gay men and lesbian women are known to live. As two men thought to be gay exit the store, all three toughs begin taunting the perceived gay men, calling them insulting and derogatory names. No physical contact or threats are made, but the humiliating verbal barrage does not end until the perceived gay men enter their vehicle and drive away.

(Officers shall complete an ARJIS 9 report and the additional victim/witness form.)

B. Hate Crime

Same facts as above, but as men perceived to be gay exit the store, they are approached by the same three toughs. Not satisfied with the response, the toughs' behavior escalates:

1. One of the toughs goes up to one of the men and points his finger at the victim and says, "I'm going to kick your ass, faggot."
(Please see P.C. § 422.6(a), a misdemeanor.)
2. One of the toughs pushes one of the perceived gay men to the ground, causing him to tear his suit pants and bruise his arm.
(Please see P.C. § 242 & 422.7, a felony.)

3. When neither of the gay men fight back but rather enter their car to depart the parking lot, a second tough produces a knife and slices the car's convertible top (on the side), causing damage.
(Please see P.C. § 422.6(b), a misdemeanor; if the damage exceeds \$500, please see 422.7, a felony.)
4. One of the toughs uses the same knife to violently stab the convertible top near the driver's side. The perceived gay men are afraid of being stabbed.
(Please see P.C. § 245(a)(1) and 422.75(c), a felony.)

II. Example

A. Hate Incident

When a bi-racial married couple, with two small children, move into a predominately Hispanic neighborhood, the new arrivals begin to hear graphically insulting comments regarding their respective races whenever they are seen outside their home. Although the comments are not specifically directed at them or their children, the new residents feel intimidated.

Two weeks after moving into the neighborhood, leaflets containing racist and sexually explicit derogatory graphics are found scattered on the streets in the neighborhood. When called, the police inform the couple that the leaflets are protected by the First Amendment to our Constitution.

(Officers shall complete an ARJIS 9 report and the Additional Victim/Witness form.)

B. Hate Crime

Same facts as above, however:

1. Six weeks after moving into their new home, a rock is thrown through the family's living room window.
(Please see P.C. § 422.6(b), a misdemeanor; if the damage exceeds \$500, please see 422.7, a felony.)
2. For three consecutive nights following the rock incident, random gun shots strike the garage door.
(If the suspects continue to "engage in a pattern of conduct for the purpose of terrorizing the owner," then this crime would be a felony under P.C. § 11411(b).)

III. Example

A. Hate Incident

Beginning one morning in early summer, residents of two different neighborhoods—one predominantly African-American, the other Jewish—awaken to find that their respective neighborhoods have been leafleted with the same flyers. The flyers are graphically anti-African-American and anti-Jewish in content and contain disgustingly graphic drawings depicting Jews and African-Americans in unflattering poses.

The flyers continue to appear in the same neighborhoods on random mornings over a six-month period. Not only are the flyers found on the

street, some are placed on the windshields of parked cars. Residents of both neighborhoods contact various police agencies to complain about the flyers and demand an investigation. The complainants are informed that the flyers are a form of free speech.

(Officers shall complete an ARJIS 9 report and the Additional Victim/Witness form.)

B. Hate Crime

One morning, a Jewish family awakens to find swastikas painted on their front door. An African-American family similarly awakens to find Ku Klux Klan graffiti painted on their driveway and spray-painted on their house.

(Please see P.C.S 422.6(b) and P.C. 11411, misdemeanors. However, if the suspects continue to “engage in a pattern of conduct for the purpose of terrorizing the owner,” then this crime could be a felony under P.C. S 11411(b).)

Prevention Efforts

Departments should develop and implement innovative strategies designed to prevent and reduce the spread of hate crimes and hate-motivated incidents within their communities. These programs should be consistent with each department’s mission and values statements. The programs should take an educational approach and be tailored to the needs of the community. Departments should engage community leaders and organizations in their prevention efforts.

Departments should consider developing prevention efforts that include, but are not limited to, the following:

- A. Designating a specific person(s) to deal with hate crimes and hate-motivated incidents as part of a regular assignment
- B. Providing community awareness and education regarding hate crimes and hate-motivated incidents
- C. Building partnerships with community leaders and their organizations before major hate-based incidents occur
- D. Collaborating with K-12 schools and institutions of higher education to develop proper prevention and response plans
- E. Educating the community about reporting procedures, legal proceedings, victims’ rights, and victim assistance programs offered by the department or other county support agencies
- F. Ensuring that public outreach literature is readily available in appropriate places within the community
- G. Having personnel assist during investigations to work as liaisons between the victim(s) and the department’s investigators(s)
- H. Participating in the collection and analysis of hate-based incident statistics compiled by the department and/or other county agencies
- I. Cooperating with law enforcement intelligence networks to better anticipate potential targets of hate-based incidents

Reporting

I. Communications Operators

Each agency is responsible for ensuring that its communications staff receive training to identify what constitutes a hate crime and a hate incident. This will help ensure an appropriate law enforcement response to reported hate crimes within each department's guidelines.

II. Responding Officer

When a responding officer determines that the acts complained of may constitute a hate crime, this officer is responsible for conducting a thorough preliminary investigation consistent with department policy. The fact that the suspect may be biased against the victim's race, religion, disability, ethnicity, national origin, gender, or sexual orientation does not mean that a hate crime occurred. Rather, the offender's criminal act must have been motivated, in whole or in part, by his or her bias to be considered a hate crime.

Because motivation is subjective, it is difficult to know with certainty whether a crime was the result of the offender's bias. Ideally, officers should locate **objective facts that would lead a reasonable person to conclude that the suspect's actions were motivated, in whole or in part, by bias.**

When completing the crime report, it is important that relevant information concerning the race, ancestry, national origin, religion, sexual orientation, gender, or disability of all persons involved be included in the report. Additionally:

- A. Mark "YES" in the Additional Offenses box.
- B. Circle "YES" in the Hate Crime box.
- C. Mark "OTHER" box in Suspect Actions category (Line 60) and write in the words "HATE CRIME."
- D. Enter the appropriate hate crime statute (e.g., P.C. § 422.6, P.C. § 422.7, or P.C. § 11411) in the Additional Offenses box (on Page 2).
- E. Complete narrative consistent with department policy.
- F. Remember that a victim may request non-disclosure of his or her name and address pursuant to P.C. § 6254(f). If so, state this fact in your report, do not disclose the victim's information on the face sheet of the report, and use a supplemental report to disclose the victim's name and address.

III. Reporting Procedures

Officers should forward a copy of all reports and "Field Identification" cards for any suspected hate crime or hate incident to their agency's or area's hate crimes detectives. (Please see list of investigative team members.)

IV. Reporting Hate Incidents

- A. All reported hate incidents not rising to the level of a hate crime **shall** be documented on an ARJIS 9 report.

- B. The report will contain information concerning the race, ethnicity, religion, gender, disability, or sexual orientation of the victim(s) involved.
- C. The ARJIS Additional Victim and/or Witness form will be used and attached to the ARJIS 9 report in order to capture accurately the identification of those persons involved as victims, witnesses, or suspects.
- D. These reports must be given an agency case number for tracking and retrieval purposes. They should be forwarded to the person designated by your agency to investigate, track, and monitor hate crimes.

These reports are extremely valuable when defendants are later prosecuted for actual hate crimes and claim not to have biases.

II. Dealing with a Victim of a Hate Incident

- A. Please see section on victim impact, Special Issues Regarding Victims.
- B. Explain to the victim the difference between a hate crime and a hate incident.
- C. Explain the department's policy on dealing with hate incidents (i.e., the incident will not be forgotten).
- D. Give the victim a list of resources in the community.
- E. Advise the victim to call your department in the event another hate incident occurs.
- F. For suggestions on preventing hate incidents, please see the Prevention Efforts section.

First Responder and Investigations

I. General Procedures

A. Pro-Arrest Policy

An arrest should be made in the event that there is reasonable cause to believe that a hate-related offense has occurred. The arrest may be for a felony or misdemeanor offense.

B. Felony Arrests

If an officer has reasonable cause to believe that a felony has occurred, an arrest **should** be made.

(Note: P.C. § 422.7 elevates certain misdemeanors to felonies when committed "because of" the victim's membership in a protected class.)

C. Misdemeanor Arrests

If there is reasonable cause to believe that a misdemeanor offense has been committed, an arrest **should** be made. A **misdemeanor** arrest can be made in any of the following ways:

1. Misdemeanor committed in an officer's presence

A suspect should be arrested in the event that a misdemeanor

hate-related incident occurs in an officer's presence. Such situations include, but are not limited to, an officer's witnessing the following:

- a. An act of violence against a person
- b. Any act of vandalism
- c. A direct threat against a victim in a protected classification
- d. Any violation of a restraining order

2. Misdemeanor committed outside an officer's presence

If a person commits a misdemeanor upon a person in a protected classification, a peace officer may arrest the person without a warrant if the victim or a witness is willing to make a private person's arrest.

3. Private person's arrest

Any time a peace officer is called out on a hate-related crime, the officer should inform the victim of his or her right to make a private person's arrest. This information shall include advising the victim how to safely execute the arrest. This discussion should be held out of the presence of the suspect whenever possible. An officer shall not dissuade complainants from making a private person's arrest.

II. Preliminary Response to Hate-Related Cases

The first responder is without doubt the most critical officer in the investigation of hate crimes. This officer's work at the scene of the hate crime will determine whether a suspect is ultimately apprehended, whether the victim feels protected or isolated, and whether the community can trust law enforcement to protect it.

The following steps should be included in an officer's investigation and subsequent report:

A. Arrival at Scene

1. Determine what, if any, crime has occurred.
2. Separate the victim, suspect, and witnesses.
3. Prevent communication between parties.
4. Remove victim and witnesses from suspect's line of sight and range of hearing.

B. Determining if a Hate Crime Occurred

The officer must look for **all** signs that may indicate that the crime was motivated, in whole or in part, by the defendant's bias against the victim because of the victim's membership in a protected class. The following are only signs. The officer must still conduct a case-by-case investigation.

1. Victim and suspect are members of **different groups**.
2. **Hate language** is said before, during and/or after the crime.
3. **Symbols of hate** are on or in clothing or personal possessions.
4. **Overly vicious injuries**, more than what you may normally see for the particular crime.

5. Gratuitous **damage to items of cultural or religious importance**.
6. **History of the area:** Other hate-related incidents have taken place there.
7. **Suspect's motive:** Suspect's prior similar acts.
8. A **relevant date** in the victim's or suspect's calendar.
9. Make-up of the victim's **community**.
10. **Lack of other motives:** Suspect does not know the victim.

If the incident does not constitute a specific crime, the report shall be titled "Hate Incident." (Please see Reporting section.)

III. Special Issues Regarding Victims

Once the responding officer determines that a hate crime occurred, officers need to be aware of the special impact hate crimes have on victims.

A. Primary Victim Impact

Stronger emotional trauma because the victim was selected due to a core characteristic of their identity that is immutable:

1. Extra dimension of fear
2. Will feel more vulnerable to a repeat attack
3. Loses trust of any member of offender's group
4. May reject the aspect of self that was the target of the attack
5. Assumptions about life may be shattered
6. Stronger likelihood of serious or lethal injuries

Follow-up contact for victims should be arranged either by the investigator of the case, a community relations officer, or a victim advocate. Witnesses may need to be treated in the same manner as victims because they may be affected emotionally by the crime.

B. Secondary Victim Impact

Refers to the victim's perceived rejection by the lack of expected support from the community or by the response provided by the criminal justice system.

1. Victim trauma may be exacerbated by the insensitivity of others:
 - a. Police officers
 - b. Media
 - c. Neighbors
 - d. Co-workers
 - e. Prosecutors
 - f. Judges
2. Victims may feel betrayed and hopeless when they confront what they perceive to be institutional prejudice.

C. Community Impact

When a hate crime occurs:

1. Victimization is projected outward to all members of the victim's wider community.
2. Other members of the same group feel victimized.
3. Members of other commonly targeted groups are reminded of their vulnerability to similar attacks.
4. The community is polarized into an "us-versus-them" mentality.
5. It impedes community spirit, morale, and growth.
6. Property values are lowered.
7. It increases security concerns at schools, churches, businesses, and private homes.

IV. Conducting the Interviews

First responders should be aware that most hate crimes go unsolved for lack of arrests. The services the victim receives on the field from you are likely to be the **only** services the victim will receive from the criminal justice system.

A. General Interview Considerations

1. Before conducting interviews of victims, witnesses, and suspects, officers need to know the elements of the hate crimes and know what the issues are likely to be. The most common issues in hate crimes are **identity, self-defense, and denials of bias**. Identify which one you have and solicit pertinent information from all people involved, including witnesses, the victim, and especially the suspects.
2. Provide extra security for the victim, if needed.
3. Remember that hate crimes may have a traumatic effect on all victims, which may not be readily understood by persons outside of that particular victim's community.
4. Obtain an interpreter (or, if time is of critical importance, use a family member or friend) to interpret for a victim who does not speak in a language understood by the officer.
5. Explain to the victim that your law enforcement agency takes hate crimes very seriously and will fully investigate the incident.
6. Explain to the victim what the likely course of the investigation will be, and prepare the victim for the possibility that a successful case may not be put together.
7. Protect the anonymity of the victim whenever possible. Anonymity is of significant importance for many victims of hate crimes, especially for gay and lesbian victims, particularly if the victim is in the military.

B. The Victim Interview

1. Note the victim's **physical condition**:
 - a. Show concern for the victim's safety.
 - b. Specifically look for injuries and describe them in detail.
 - c. Make every effort to **take pictures**.
 - d. Determine if medical treatment is necessary.
2. Note the victim's **emotional condition**:
 - a. Show concern for the victim's feelings by telling the victim that you are sorry the crime happened to him or her.
 - b. Be seen as a source of security and comfort.
 - c. Do not diminish the impact of the crime.
 - d. Allow the victim the opportunity to vent.
 - e. Display neutrality.
 - f. Be proactive and supportive.
 - g. Describe the victim's emotional state in your report.
 - h. Do not comment on the victim's judgment in terms of his/her own safety.
3. Determine the victim's **financial damages** (damages over \$500 dollars may rise the case from a misdemeanor to a felony):
 - a. Ask the victim how much it would cost to make him or her whole.
 - b. Describe the damages in detail.
 - c. Photograph damages.
 - d. If the damages involve graffiti, encourage the victim to remove the graffiti as soon as possible.
 - e. Ask the victim to save all receipts.
4. General pointers
 - a. Obtain emergency contacts, telephone number, and pager number of the victim.
 - b. Record any spontaneous statements of the victim.
 - c. Document any evidence of substance or chemical abuse by victim.
 - d. Do not allow personal value judgments of the victim's behavior, lifestyle, or culture to intrude on the professionalism of your investigation.
 - e. Keep in mind the likely issues of identity, self-defense, and denials of bias, as well as the issues presented by group crimes.
5. Specific questions:
 - a. Tell me what happened, in a narrative form. (*When the victim is finished, ask follow-up questions.*)
 - b. Tell me exactly what the suspect said *before, during, and after* the incident and how often.
 - c. Do you know why you were targeted?
 - d. Describe the suspect with as much detail as you can, including tattoos or clothing.

- e. How long have you lived in this area? Are you the only member (or one of a few) of [a protected class] who lives in the area?
- f. Have there been any prior incidents?
- g. Has there been any recent public activity that would make you a target?
- h. Have you been the victim of a hate crime in the past?

C. Cultural Barriers

1. Be aware that if the victims are from a background different from your own, you may not know what is accepted behavior in their culture. You may not understand the particular views of a minority person toward law enforcement.
2. Some victims may harbor feelings of fear or suspicion directed at law enforcement.
3. Do not allow your personal value judgements of the victim's behavior, culture, or lifestyle to intrude on the professionalism of your investigation.
4. Use appropriate terminology to describe minority groups. Be sensitive to the fact that particular individuals may be offended if they are described as belonging to a group with which they do not identify.

D. Undocumented Persons as Victims or Witnesses

Often migrant workers are victims or witnesses of hate crimes. Migrant workers may be in the country without proper documentation. As a result, some migrant workers feel that physical or verbal abuse can be attributed to the cost of doing business. Generally, they do not want to be involved in the criminal justice system for fear of deportation.

1. You may have to persuade the migrant worker to cooperate.
2. Stress that if the suspects are not stopped, their criminality will likely escalate. The suspect may hurt the migrant worker's friends or relatives in the future.
3. Get detailed information regarding their address or the address of people they stay in contact with, including friends or relatives living here or in their homeland.
4. Some migrant workers may give you a phony name. Therefore, it is a good idea to take their picture.
5. Inform the individual that you may be able to obtain a **federal parole** for them if they cooperate with the prosecution:
 - a. In some occasions, federal parole allows the parolee to stay in the country and work **legally**, until his or her case is over.
 - b. Other times, the parolee may have to exit the country after the case is over.
 - c. Or, the parolee may be allowed to return to his or her undocumented status.

E. Witnesses

1. Make every reasonable effort to find and interview all witnesses, including going door-to-door looking for witnesses. This sends a powerful message to the community and potential offenders that law enforcement does not tolerate such crimes.
2. Inquire from the neighbors as to the suspect's biased views or any other prior act that may indicate the suspect's bias.
3. Interview all witnesses separately.
4. Record names, addresses, phone numbers, and emergency contacts.
5. If an interpreter is used, jot down the interpreter's identifying information, the language used, and the interpreter's qualifications for that language.

F. Suspect Interview

This is a very important aspect of your investigation. You will probably never have a chance to speak with the defendant again.

1. Describe suspect's location on arrival.
2. Describe suspect's physical condition.
3. Describe suspect's emotional condition.
4. If there is evidence of substance abuse by suspect, document it and conduct an examination.
5. Some suspects may mistakenly assume that officers share their biased perceptions. Accordingly, sometimes law enforcement officers can simply encourage (of course, without the officer ever using hate language him or herself) suspects to talk about their feelings toward a particular minority group, including expressing his or her bias motivations.
6. Quote spontaneous statements and statements made during the investigatory stage (pre-Miranda).
7. Make a determination as to whether the suspect needs to be given the Miranda advisement (or if your questions are simply "investigatory"¹).
8. If necessary, admonish the suspect and get his or her side of the story.
9. Ask how he or she feels about people with the victim's characteristics.
10. Ask specific questions:
 - a. How would you like it if someone like the victim moved next door?
 - b. How do you feel about this victim?
 - c. What did this person say or do to make you mad?
 - d. How did the victim provoke you?
 - e. How do you feel about this person or group?

¹The suspect needs an advisement only if he or she is "in custody" and is being "interrogated."

- f. Did the victim just happen to cross your path?
 - g. What were you doing in that part of town?
 - h. Do you back your race?
 - i. Was this your idea?
 - j. Has the victim's group hurt you or your friends?
11. Confront the suspect with physical evidence.
 12. Confront the defendant with the witnesses and victim's statements.
 13. Remember you can catch more flies with honey ...

V. Collecting Evidence for Hate Crimes

Officers must look for **any** evidence that may help solve the probable issues of identity, self-defense, and denial of biased motive.

A. Identity

You might not get enough evidence to identify a suspect after one crime, but since hate offenders are often recidivists, the collection of as much identifying information as possible will lead to a quicker arrest.

1. Ask every victim and witness to describe the suspect, and everything related to the suspect, with as much detail as possible. For example: height; weight; hair color, length, and style; facial hair; young or older; heavy or thin; tattoos; scars; etc.
2. Since most people are bad at describing others, officer should ask the person giving the description to use him or herself as a reference point. (Was the suspect taller, heavier, balder, or older than the victim or witness?)
3. Get as much information as possible regarding any vehicles that the suspect(s) might have used.
4. Get as much information as possible regarding the defendant's companions.
5. Take pictures of a dark scene; that way, you document whether or not it was possible for the witnesses to see the defendant and his or her actions.
6. Ask the defendant if he or she has an alibi. If so, test it.

B. Self-Defense²

1. Describe crime scene.
2. Photograph crime scene, if applicable.
3. Determine if firearms or other weapons were present, and, if so, when the weapons were used.
4. Impound and photograph all weapons and other evidence, including all instrumentalities of the crime.

² This defense is inconsistent with the identity defense. If a suspect claims self-defense, then identity is no longer an issue. A self-defense case is easier to prosecute than an identity case.

5. Conduct a detailed physical examination of the suspect in search of injuries or the lack thereof.
6. Document and photograph these injuries **or the lack thereof**.
7. Note the victim's size and build.
8. **Victim's physical injuries:** Evidence depicting physical injuries is particularly critical. This evidence helps determine the charges, settlement positions, and sentencing goals. **In the event medical treatment is necessary:**
 - a. Transport victim, or have victim transported, to hospital.
 - b. Document complaints of pain and injuries.
 - c. Have the victim sign a medical records release form.
 - d. Interview treating physician and confirm nature and severity of injuries.

C. Denials of Bias

Even after officers have identified a suspect and determined that self-defense is not an issue, the prosecution must still prove that the crime was committed "because of" the victim's actual or perceived membership in a protected class.

1. Document the exact language used **before, during, and after** the commission of an alleged hate crime. Hate language is the most common way to determine whether the incident was motivated by bias.
2. It is important to recognize hate symbols.³
3. Seize **any** item that may go to bias (clothing, papers, pictures, etc.).
4. If appropriate, or necessary, ask for consent to search the defendant's property in order to search for evidence of bias or confirm any denials of non-bias.
5. Consider seeking a search warrant. Your local hate crime prosecutors will be eager to help you.
6. When dealing with a **threatening letter or a hate flyer:**
 - a. Collect it and preserve it as evidence.
 - b. If you are responding to a phone call from a person who has received a threatening letter, advise him or her to touch the letter as little as possible.
 - c. Do not fax or copy the document (to avoid contaminating fingerprint evidence).
 - d. Place the threatening letter in a paper (not a plastic) bag so as to best preserve fingerprints.
 - e. Arrange to have an officer promptly pick up the threatening letter, assuring that the chain of evidence is maintained.
 - f. Touch it as little as possible.

³ The Simon Wiesenthal Center publishes a useful resource on hate symbols called *The New Lexicon of Hate*.

7. **Racist tattoos:**

- a. Ask the suspect what the tattoo means.
- b. If in doubt as to the meaning of a tattoo, photograph it anyway.
- c. Try to get a close-up picture of each tattoo.

VI. Group Crimes

A. General Concepts

Two or more individuals often commit hate crimes. As such, the prosecution will often rely on conspiracy or aider-and-abettor theories of culpability.

1. Officers should try to figure out what each individual did.
2. Officers should try to determine the relationship amongst all the suspects to one another, for example:
 - a. how they know one another
 - b. how long they have known one another
 - c. whether they were wearing similar clothing
 - d. whether they have similar tattoos
3. Officers should try to get specific identifying features for each suspect.
4. If the whole group did not equally participate in the crime, officers should try to determine what the other suspects were doing at the time the crime was being committed. For example:
 - a. whether they acted as lookouts
 - b. whether they acted as back-up muscle
 - c. what they were doing or saying during the crime
5. If you actually have suspects detained, line them up side by side and take their photographs, depicting them from their front and back views.
6. If possible, ask the victim and witnesses to tell you at the scene exactly what each individual suspect said and did.

B. Elements Of Conspiracy

A conspiracy is:

1. An agreement
2. Entered into between two or more persons
3. With the specific intent to agree to commit a crime,
4. Followed by an **overt act** committed by one of the parties for the purpose of accomplishing the object of the agreement.

C. General Notes on Conspiracy

1. “Overt act” means any step taken or act committed by one or more of the conspirators that goes beyond mere planning or agreement to commit a crime and that is done in furtherance of the accomplishment of the object of the conspiracy.
2. It is not necessary for the defendant to personally commit the overt act if he or she was one of the conspirators when the alleged overt act was committed.

3. The “overt act” need not itself be a crime, or even an attempt to commit the crime that is the ultimate object of the conspiracy.
4. For example: Tom and Joe agree to burn a community center belonging to a minority group. They formulate a plan and buy the materials needed, but only Tom drives to the center with the explosives. If Tom is caught in the parking lot of the center, both Tom and Joe can be charged.

D. Elements of Aiding and Abetting

A person aids and abets when:

1. With knowledge of the unlawful purpose of the perpetrator;
2. With the intent or purpose of committing or encouraging or facilitating the commission of the crime, and
3. By act or advice aids, promotes, encourages, or instigates the commission of the crime.

E. General Notes on Aiding and Abetting

1. **Mere presence** at the scene of a crime, which does not itself assist the commission of the crime, does not amount to aiding and abetting.
2. **Mere knowledge** that a crime is being committed and the failure to prevent it does not amount to aiding and abetting.
3. For example: If Tom is committing a hate crime while Joe is being the lookout and encouraging Tom by yelling slurs to the victim, Joe is aiding and abetting Tom.

VII. Completing Crime Report

- A. Maintain objectivity in reporting.
- B. Avoid personal opinions.
- C. Ensure that elements of all involved crimes are included in report (remember, the prosecution will have to prove the crime plus the additional element of motive, all beyond a reasonable doubt).
- D. Document any injuries victim has sustained on the Hate Crime supplemental form.
- E. Document all evidence collected.
- F. Specifically quote any slurs made, as opposed to reporting “hate language” or “racial slurs.”
- G. Keep in mind that under Government Code § 6254(F), the victim’s name and address may be withheld.

VIII. Victim’s Rights/Officer’s Duty to Advise

Give the victim appropriate referrals:

- A. Explain the options available to the victim, including the private person’s

arrest process, temporary restraining orders (if applicable), and, in cases of arrest, the follow-up procedures and ensuing criminal proceedings.

- B. Advise the victim of available community resources and the state victim assistance program (Community-Based Organizations).
- C. Advise the victim about his or her privacy rights as per Government Code § 6254(F).

IX. Bail Issues

Consider requesting a bail enhancement in situations where the amount listed in the bail schedule is insufficient to ensure the victim's safety and the community's fears.

Remember that under P.C. § 422.7, violation of P.C. § 240, § 242, or § 417, or any vandalism with damage over \$500, can be charged as a felony. P.C. § 422.75(c) can add up to four years in state prison to a sentence.

Further Investigative Follow-up

I. Follow-up Investigations

A thorough follow-up investigation must be conducted consistent with department policy and procedure. Investigators should maintain liaisons with appropriate state, federal, and local law enforcement agencies for intelligence and information exchange and assistance, if applicable.

Please refer to suggestions made in the First Responders and Investigations section.

A. Report Writing and Documentation

Prompt preparation of **thoroughly written** reports of an investigation is of vital importance to the ultimate examination by prosecutors responsible for the filing of criminal charges against the perpetrator(s). Investigators should be aware that reports of hate crimes or hate incidents are forwarded to state and federal justice departments for documentation purposes, in addition to being entered into the ARJIS system countywide.

The referrals of reports of potential hate crimes to other enforcement agencies:

1. increase the chance of successful prosecution
2. enable law enforcement professionals to analyze patterns and trends of hate crimes or hate incidents in a community
3. may establish evidence linking a particular suspect to more than one hate crime

B. Situations with a Continuing Risk of Violence

Sometimes victims are in serious risk of further and repeat violence. This is particularly the case when there has been group or mob activity directed at minority individuals. **Persons who commit hate crimes tend to repeat and escalate their conduct unless they are stopped by law enforcement. Consequently, victims of hate crime may be at risk of continued harm.**

1. Assess the need for a continuing law enforcement presence in the neighborhood or at the residence or business of the victim.
2. Increasing law enforcement presence (as by scheduling more frequent patrols through a neighborhood) can send a strong deterrent message that further bias-motivated violence will be addressed.
3. Assess the need for sophisticated alarm systems to be provided to victims at their businesses or homes. Many law enforcement departments and agencies have alarm units, which can be placed into a person's home or business and activated by the person if he or she is in danger of attack.
4. Simple steps such as making sure that locks work and that outside areas are properly lighted can significantly increase security to an affected victim.
5. Consider holding community meetings to try to dispel anxieties and present accurate factual information, including differentiating an individual's act from a pattern of behavior that can create community polarization and conflict.
6. **Graffiti:**
 - a. Graffiti aimed at a particular group is a message, which constantly repeats itself to members of the affected group until the message is erased.
 - b. Encourage the property owner, perhaps with the help of community groups, to remove the graffiti.
 - c. However, caution against using unsupervised youths to remove graffiti, as they could be misconstrued as an opposing gang.
 - d. Some law enforcement departments and agencies have assumed the responsibility for removing graffiti by providing funds or personnel or by using community service hours.

C. Press and Community Relations

Hate crimes often are the focus of significant public and community attention. In dealing with the press and with community members, and **subject to departmental procedures on press relations**, the investigating officer should firmly and forthrightly confirm if your agency **is investigating** whether or not the alleged incident is a hate crime. The investigating officer should further state that his or her agency considers the investigation of hate crimes and apprehension of hate crime offenders to be of paramount importance. These types of strong public statements:

1. demonstrate to the entire community the commitment of law enforcement to stopping hate crimes, and
2. send a strong deterrent message to would-be perpetrators.

Remember that an inadvertent or casual comment minimizing the incident may cause deterioration in the relations between law enforcement and the community and may undermine any subsequent prosecution.

Conclusion

Hate crime victims are usually targeted not because of anything they have said or done to the suspects or for financial gain, but because of who they are or what they believe in. As such, hate crimes violate the very basic tenets of our democracy by targeting the right of every resident to be himself or herself and live safely and freely.

Perpetrators of hate crimes seek to send a message to the victim and his or her community that they are unwanted, that they do not belong, and that the community at large does not care about what happens to them. Although it is unrealistic to believe that we can eliminate all hate crimes, we in law enforcement can drastically diminish their impact by the approach we take when dealing with hate crimes. We can send an even stronger countermesssage. We should communicate to the victim, the community, and the defendant that we will do everything we can to apprehend those who seek to terrorize any member of our community.

B State Bias Crimes Statutory Provisions

	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	•	•	•		•	•	•	•	•	•			•	•		•			•	•	•	•	•	•	•	•
Civil Action				•	•	•	•	•		•			•	•		•			•			•	•	•		•
Criminal Penalty	•	•	•		•	•	•	•	•	•			•	•		•			•	•	•	•	•	•	•	•
Race, Religion ¹ , Ethnicity	•	•	•		•	•	•	•	•	•			•	•		•			•	•	•	•	•	•	•	•
Sexual Orientation			•		•		•	•	•	•				•		•			•	•		•		•		
Gender		•	•		•			•						•		•			•	•			•	•	•	
Other ²	•	•	•		•			•	•					•		•			•	•		•		•		
Institutional Vandalism	•		•	•	•	•	•	•	•	•	•	•		•	•		•	•	•	•	•	•		•	•	•
Data Collection ³			•		•		•	•		•			•	•		•		•	•	•	•	•	•	•	•	•
Training for Law Enforcement Personnel ⁴			•		•									•		•		•	•			•		•		

(continued)

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

² "Other" includes mental and physical disability or handicap (AL, AK, AZ, CA, DC, DE, IL, IA, LA, ME, MA, MN, NE, NV, NH, NJ, NY, OK, RI, VT, WA, WI), political affiliation (DC, IA, LA, WV) and age (DC, IA, LA, VT).

³ States with data collection statutes that include sexual orientation are AZ, CA, CT, DC, FL, IL, IA, MD, MN, NV, OR and WA; those that include gender are AZ, DC, IL, IA, MN, WA.

⁴ Some other states have regulations mandating such training.

⁵ New York State law provides penalty enhancement limited to the crime of aggravated harassment.

⁶ The Texas statute refers to victims selected "because of the defendant's bias or prejudice against a person or group."

⁷ The Utah statute ties penalties for hate crimes to violations of the victim's constitutional or civil rights.

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Appendix B. State Bias Crimes Statutory Provisions

	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	•	•	•	•	•		• ⁵	•	•	•	•	•	•	•		•	•	• ⁶	• ⁷	•	•	•	•	•	
Civil Action		•	•		•					•	•	•	•	•		•	•			•	•	•		•	
Criminal Penalty	•	•	•	•	•		•	•	•	•	•	•	•	•		•	•	•	•	•	•	•	•	•	•
Race, Religion ¹ , Ethnicity	•	•	•	•	•		•	•	•	•	•	•	•	•		•	•			•	•	•	•	•	
Sexual Orientation		•	•	•	•							•		•						•		•		•	
Gender		•		•	•		•		•					•						•		•	•		
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: CA, DC, FL, ID, MD, MA, MI, MN, MS, MO, NV, NM, NY, NC, OK, RI, SC, SD, TN, VA, WV.

² “Other” includes mental and physical disability or handicap (AL, AK, AZ, CA, DC, DE, IL, IA, LA, ME, MA, MN, NE, NV, NH, NJ, NY, OK, RI, VT, WA, WI), political affiliation (DC, IA, LA, WV) and age (DC, IA, LA, VT).

³ States with data collection statutes that include sexual orientation are AZ, CA, CT, DC, FL, IL, IA, MD, MN, NV, OR and WA; those that include gender are AZ, DC, IL, IA, MN, WA.

⁴ Some other states have regulations mandating such training.

⁵ New York State law provides penalty enhancement limited to the crime of aggravated harassment.

⁶ The Texas statute refers to victims selected “because of the defendant’s bias or prejudice against a person or group.”

⁷ The Utah statute ties penalties for hate crimes to violations of the victim’s constitutional or civil rights.

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C Bias Crimes Statutes and Related Provisions Nationwide

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Alabama

Ala. Code § 13A-5-13 (Penalty Enhancement) (1993)

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

Alaska

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

Arizona

Ariz. Rev. Stat. Ann. § 13-1604 (Institutional Vandalism, Desecration of Religious Institutions) (1994)

Ariz. Rev. Stat. Ann. § 13-1702 (Penalty Enhancement) (1997)

Ariz. Rev. Stat. Ann. § 41-1750 (Data Collection) (1991)

Ariz. Rev. Stat. Ann. § 41-1822 (Training Law Personnel) (1991)

Arkansas

Ark. Code Ann. § 5-71-207 (Disturbing Religious Worship) (1975)

Ark. Code Ann. § 5-71-215 (Institutional Vandalism and Desecration of Religious Institutions) (1993)

Ark. Code Ann. § 16-123-105 (Civil Action, Private, Damages) (1995)

Ark. Code Ann. § 16-123-106 (Civil Action, Private, Damages and Injunction) (1993)

Ark. Code Ann. § 16-123-107 (Civil Action, Private, Damages and Injunction) (1995)

California

Cal. Civil Code § 52 (Civil Action, Private and Attorney General, Damages and Injunction) (1994)

Cal. Penal Code § 51.7 (Independent Criminal Civil Rights with Categories) (1994)

Cal. Penal Code § 136.2 (Stay Away Order once criminal charges filed) (1996)

Cal. Penal Code § 302 (Disturbing Religious Worship) (1994)

Cal. Penal Code § 422.6 (Independent Criminal Civil Rights with Categories and Institutional Vandalism) (1994)

Cal. Penal Code § 422.75 (Penalty Enhancement) (1995)

Cal. Penal Code § 422.9 (Violation of Civil Injunction is a Criminal Penalty) (1987)

Cal. Penal Code § 422.95 (Sensitivity Training) (1995)

Cal. Penal Code § 594.3 (Institutional Vandalism and Desecration of Religious Institutions) (1983)

Cal. Penal Code § 11410 (Declaration of Purpose for Criminal Sanctions)

Cal. Penal Code § 11411 (Cross Burning) (1991)

Cal. Penal Code § 11412 (Obstructing Exercise of Religion) (1984)

Cal. Penal Code § 1170.75 (Penalty Enhancement) (1994)

Cal. Penal Code § 13519.6 (Data Collection and Training Law Personnel) (1992)

Colorado

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

Connecticut

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

Delaware

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

District of Columbia

- D.C. Code Ann. § 22-3112.2 (Cross-Burning and Desecration of Religious Institutions) (1983)
- D.C. Code Ann. § 22-3112.3 (Mask Wearing) (1983)
- D.C. Code Ann. § 22-4001 (Defines Bias-Related Crimes)
- D.C. Code Ann. § 22-4002 (Data Collection) (1990)
- D.C. Code Ann. § 22-4003 (Penalty Enhancement) (1990)
- D.C. Code Ann. § 22-4004 (Civil Action, Private, Damages and Injunction) (1990)

Florida

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

Georgia

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

Hawaii

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

Idaho

Idaho Code § 67-2915 (Data Collection) (1995)
Idaho Code § 18-7301 (Independent Criminal Civil Rights with Categories) (1972)
Idaho Code § 18-7901 (Declaration of Purpose for Criminal Sanctions) (1983)
Idaho Code § 18-7902 (Independent Criminal Civil Rights with Categories, Desecration of Religious Institutions, Institutional Vandalism, Cross Burning) (1983)
Idaho Code § 18-7903 (Civil Action, Private, Damages and Injunction) (1983)

Illinois

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

Indiana

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

Iowa

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

Kansas

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

Kentucky

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

Louisiana

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

Maine

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

Maryland

Md. Code Ann. art. 27, § 470A (Independent Criminal Civil Rights with Categories, Institutional Vandalism and Desecration of Religious Institutions) (1994)
Md. Code Ann. art. 88B, § 9 (Data Collection) (1992)

Massachusetts

Mass. Gen. Laws Ann. ch. 12, § 11H (Civil Action, Attorney General, Injunction) (1982)
Mass. Gen. Laws Ann. ch. 12, § 11I (Civil Action, Private, Damages and Injunction) (1982)
Mass. Gen. Laws Ann. ch. 12, § 11J (Violation of Injunction is a Criminal Penalty) (1985)
Mass. Gen. Laws Ann. ch. 22C, §§ 33 to 35 (Data Collection) (1991)
Mass. Gen. Laws Ann. ch. 265, § 37 (Independent Criminal Civil Rights without Categories) (1979)
Mass. Gen. Laws Ann. ch. 265, § 39 (Independent Criminal Civil Rights with Categories and Diversity Awareness Program) (1997)
Mass. Gen. Laws Ann. ch. 266, § 98 (Institutional Vandalism and Desecration of Religious Institutions) (1960)
Mass. Gen. Laws Ann. ch. 266, § 116B (Training Law Personnel) (1991)
Mass. Gen. Laws Ann. ch. 266, § 127A (Institutional Vandalism and Desecration of Religious Institutions) (1989)
Mass. Gen. Laws Ann. ch. 268, § 34 (Mask Wearing) (1902)
Mass. Gen. Laws Ann. ch. 272, § 38 (Disturbing Religious Worship) (1970)
Mass. Gen. Laws Ann. ch. 272, § 98 (Independent Criminal Civil Rights with Categories—Public Accommodations Discrimination) (1970)

Michigan

Mich. Comp. Laws. Ann. § 14.101 (Civil Action, Attorney General, Damages and Injunction) (1970)
Mich. Comp. Laws Ann. § 750.147b (Institutional Vandalism, Desecration of Religious Institutions, Cross Burning, Independent Criminal Civil Rights with Categories and Civil Action, Private, Damages and Injunction) (1989)
Mich. Comp. Laws Ann. § 752.525 (Disturbing Religious Worship) (1994)
Mich. Executive Order (Data Collection) (1996 and 1997)

Minnesota

Minn. Stat. Ann. § 363.12 (Declaration of Policy for Criminal Sanctions) (1993)
Minn. Stat. Ann. § 609.2231 (Independent Criminal Civil Rights with Categories) (1989)
Minn. Stat. Ann. § 609.28 (Disturbing Religious Worship) (1994)
Minn. Stat. Ann. § 609.595 (Institutional Vandalism) (1989)
Minn. Stat. Ann. § 609.749(3) (1) (Penalty Enhancement) (1995)
Minn. Stat. Ann. § 611A.79 (Civil Action, Private, Injunction and Damages) (1996)
Minn. Stat. Ann. § 626.5531 (Data Collection) (1997)
Minn. Stat. Ann. § 626.8451 (Training Law Enforcement) (1993)

Mississippi

Miss. Code Ann. § 97-17-39 (Institutional Vandalism and Desecration of Religious Institutions) (1993)
Miss. Code Ann. § 97-35-17 (Disturbing Religious Worship) (1993)
Miss. Code Ann. § 99-19-301 and § 99-19-307 (Penalty Enhancement) (1994)

Missouri

Mo. Ann. Stat. § 537.523 (Civil Action, Private, Damages and Injunction) (1988)
Mo. Ann. Stat. § 574.085 (Institutional Vandalism and Desecration of Religious Institutions) (1997)
Mo. Ann. Stat. § 574.090 (Penalty Enhancement) (1988)
Mo. Ann. Stat. § 574.093 (Penalty Enhancement) (1988)

Montana

Mont. Code Ann. § 45-5-221 (Independent Criminal Civil Rights with Categories, Institutional Vandalism, Cross Burning) (1989)
Mont. Code Ann. § 45-5-222 (Penalty Enhancement) (1989)
Mont. Code Ann. § 49-2-601 and § 49-2-602 (Independent Criminal Civil Rights with Categories—Housing Discrimination) (1993)

Nebraska

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

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New Hampshire

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New Jersey

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New Mexico

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New York

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North Carolina

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North Dakota

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Ohio

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Oklahoma

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Oregon

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Pennsylvania

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Rhode Island

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Tennessee

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Texas

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Vermont

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Virginia

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Anti-Defamation League

www.adl.org

Center on Juvenile & Criminal Justice

www.cjcj.org

Hate Directory: Hate Groups on the Internet

www.bcpl.lib.md.us/~rfrankli/hatedir.htm

Hate Watch

www.hatewatch.org/index1.html

International Association of Chiefs of Police

www.theiacp.org

Justice Research and Statistics Association

www.jrsainfo.org/main.html

Leadership Conference Education Fund

www.civilrights.org/lcef

National Association of Attorneys General

www.naag.org

National Center for Hate Crime Prevention

www.edc.org/HHD/hatecrime/

National Center for Injury Prevention and Control

www.cdc.gov/ncipc/ncipchm.htm

National Center for Victims of Crime

www.nvc.org

National District Attorneys Association

www.ndaa.org

National Organization for Victim Assistance

www.try-nova.org

Police Executive Research Forum

www.policeforum.org

Southern Poverty Law Center

www.splcenter.org

Stop the Hate

www.stopthehate.org

U.S. Department of Education

www.ed.gov

Office for Civil Rights

www.ed.gov/offices/OCR

Safe & Drug-Free Schools Program

www.ed.gov/offices/OESE/SDFS

U.S. Department of Justice

www.usdoj.gov

Bureau of Justice Assistance

www.ojp.usdoj.gov/BJA

Civil Rights Division

www.usdoj.gov/crt/crt-home.html

Federal Bureau of Investigation

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Uniform Crime Reports

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National Institute of Justice

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Office for Victims of Crime

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Office of Juvenile Justice and Delinquency Prevention

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