

Hate Crime

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On 'fast-track,' Clinton gives all-out effort

Trade measure meets heavy resistance from Democrats

By Paul Wiseman
USA TODAY

WASHINGTON — President Clinton was trying desperately to pull off another comeback victory. But it was unclear Sunday night whether he'd be able to win "fast-track" trade negotiating authority from Congress.

As the House moved toward a possible vote on the measure early this morning, Clinton appeared to be unable to persuade many Democrats to vote for fast-track. The president found himself relying on House Speaker Newt Gingrich, R-Ga., to deliver Republican votes.

"I would not want to see the president summarily defeated," Gingrich said Sunday night. "That would mean America was defeated."

Fast-track probably would pass easily in the Senate. But in the House, Clinton had to overcome an aggressive anti-fast-track campaign by organized labor and the misgivings of House Democrats convinced that he didn't live up to past promises.

Clinton energetically courted undecided Democratic lawmakers. "He is at his best in these situations," said Rep. Tim Roemer, D-Ind.

The White House also cut deals for votes last week and through the weekend. Rep. Earl Pomeroy, D-N.D., agreed to vote yes after the White House promised to conduct an annual study into whether the Canadian government unfairly subsidizes wheat exports to the USA.

"If you needed a footbridge for your district, you could probably get the Golden Gate Bridge today," Roemer quipped. He planned to vote against fast-track anyway.

Republicans used Clinton's

desperation for votes to wring concessions from the White House. They delayed and may have effectively killed Clinton's plan for nationwide educational testing. And they delayed a Census Bureau plan to include population estimates in the 2000 census, which Republicans fear could lead to more Democratic districts by inflating the numbers of minorities.

"There seems to be a fire sale going at the White House," said Jay Diskey, spokesman for the House Committee on Education and the Workforce.

Gingrich also put on a last-minute, full-court press for fast-track. Here's why it was so difficult:

► **Labor opposition.** The AFL-CIO mounted a well-organized, well-financed campaign against fast-track. Unions made it clear that a no vote on fast-track was their priority issue this year and that they would remember who voted against them. They spent more than \$1 million on TV and radio advertisements against fast-track.

And they waged a relentless lobbying campaign on Capitol Hill, repeatedly visiting Democratic members to press their case.

Perhaps most important, the unions got off to an early start. Rep. Zoe Lofgren, D-Calif., says she first heard from a United Auto Workers lobbyist opposed to fast-track in early summer. She didn't hear from fast-track supporters until September.

► **Clinton's record.** Many House Democrats believe the White House didn't live up to promises Clinton made during the 1993 debate over the North American Free Trade Agreement to protect the environment, consumer safety

and worker rights. And they say the administration hasn't adequately enforced trade deals made in 1995 with Japan and South Korea.

That's why many Democrats didn't bite when Clinton started dangling offers, including a \$4 billion program announced last week to help workers who lose jobs as a result of expanded trade with low-wage countries.

"They've got to come

through," Roemer says. "The president can't just announce a \$4 billion training initiative two days before the vote."

Pomeroy demanded that to see in writing the administration's promise to monitor Canadian wheat exports.

"Some of us had to get these assurances spelled out and nailed down," Pomeroy says. "That's part of the reason this vote is so difficult for them."

► **Business lethargy.** The business community, which would benefit the most from expanded trade, was slow to embrace fast-track. It wouldn't endorse the idea until it saw the wording of Clinton's proposal.

The delay gave labor a huge head start.

"That was not a wise strategy," says Rep. David Price, D-N.C., who came out for fast-track.

Q: What is fast-track negotiating authority?

A: Fast-track allows the president to negotiate trade pacts and submit them to Congress for quick up-or-down votes. No amendments are allowed.

The 1993 North American Free Trade Agreement (NAFTA) with Canada and Mexico, for instance, was negotiated under fast-track authority and almost certainly would not have passed without it.

Q: Is fast-track something new?

A: Every president since Gerald Ford has had fast-track authority. President Clinton's expired in 1994. Facing resistance in Congress at that time, he dropped his efforts to renew the authority.

Q: What are the arguments for fast-track?

A: Without fast-track, it is all but impossible for the United States to strike deals to lower trade barriers with other nations or regions. Other nations won't sign agreements if they know Congress can reopen them later and force further talks.

U.S. companies that want to export their products risk being left behind as other countries sign trade pacts that exclude the United States. For instance, Canada signed a deal last year with Chile that exempted Canadian goods from Chile's 11% across-the-board tariff

on imports. That puts U.S. companies seeking to do business with Chile at a competitive disadvantage.

Q: What are the arguments against fast-track?

A: Organized labor, environmental groups and many liberal Democrats oppose the fast-track legislation because it does not include strong measures to force U.S. trading partners to protect workers' rights and the environment.

Critics say earlier trade accords, NAFTA in particular, have shifted U.S. jobs overseas and forced U.S. companies to compete with foreign businesses that pay lower wages and face less stringent environmental standards.

Q: What's so controversial about including labor and environmental standards?

A: Republicans and business groups counter that fast-track legislation should be limited to trade. Other countries, they say, won't go along if the United States tries to impose environmental and labor standards on them.

The legislation would allow the White House to use fast-track authority to negotiate labor and environmental standards, but only if they are "directly related to trade."

By Paul Wiseman

USA TODAY • MONDAY, NOVEMBER 10, 1997

Clinton, Reno to increase hate crimes prosecution

President Clinton today is to announce significantly expanded federal efforts to prosecute hate crimes nationwide. At a day-long White House conference on hate crimes, Clinton also will endorse legislation that would extend federal civil rights protection to homosexuals and the disabled.



USA TODAY
Reno: Civil rights directives

At the conference, Clinton and Attorney General Janet Reno will:

- Direct each of the nation's 94 U.S. attorney offices to establish a local working group to coordinate hate crimes enforcement and encourage hate crimes education. The groups will include federal prosecutors, FBI agents, local police officers, educators and community leaders.

- A newly formed working group at the Justice Department will oversee the efforts and disseminate information about practices that work.

- Assign 50 more FBI agents and federal prosecutors to work on hate crimes enforcement, more than doubling the current number.

- Endorse legislation being introduced by Sens. Edward Kennedy, D-Mass., and Arlen Specter, R-Pa., to expand coverage to include gender, sexual orientation and disabilities under the federal civil rights law.

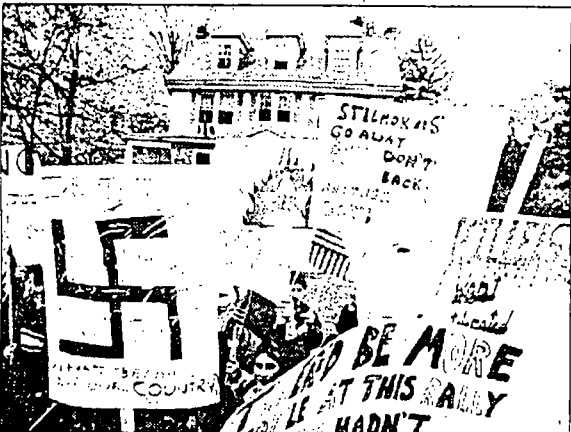
That endorsement follows a controversy Clinton sparked Saturday by appearing at a dinner sponsored by the Human Rights Campaign, a gay rights group. He's the first sitting president to appear before a gay rights group. (Story, 7A)

Also today, the Department of Housing and Urban Development will announce assistance to help victims of housing-related hate crimes pursue civil suits and receive monetary damages.

— Susan Page and Gary Fields

NEW YORK BOMB: New York City police said they have no evidence to tie terrorist activity to an early morning explosion at a Wall Street area office building. A small, crude bomb damaged a revolving door and blew out several windows, police said. No one was injured. The building houses offices of Merrill Lynch Swiss Security Bank and Swiss Bank Corp. Police said that no individual or group has claimed responsibility for the blast. — Scott Hildebrand

Holocaust anniversary marked



By Dan Loh, AP

Deportation urged: About 200 anti-Nazi demonstrators gather outside the Lansdowne, Pa., home of Jonas Stelmokas, once a member of a Lithuanian police force that helped Nazis kill Jews during World War II. Stelmokas, 81, lost his citizenship in 1995 but remains in the country pending appeal. The demonstration marked the 67th anniversary of the beginning of the Holocaust.

INSURANCE QUANDARY: Millions of American workers reject health insurance from their own or a family member's job, and most remain uninsured, a study shows. Most of the 6 million workers who declined coverage in 1997 did so because of the cost, according to a study published today in *Health Affairs*, a journal of the health education foundation Project HOPE. The number of workers with access to such group health plans, 82 million, is about the same as in 1987. Of those rejecting coverage, 4.6 million remain uninsured.

HOMELESS VETERANS: A third of homeless men seeking shelter are veterans, mostly from the Korean, Vietnam and Persian Gulf conflicts, according to a survey by a network of rescue missions. "War is something that breaks people," said Phil Rydman, spokesman for the International Union of Gospel Missions. The survey of 11,000 men seeking shelter in 58 missions in late October showed 32% were veterans. By comparison, Veterans Administration figures show that former members of the armed forces make up about 19% of the male population. The survey showed that 71% of homeless veterans have honorable discharges; 5% were dishonorably discharged.

ALSO SUNDAY . . .

- **NEWBORN FOUND:** A 7-pound newborn girl was in fair condition a day after being found in the toilet of a Walt Disney World restroom in Orlando, Fla. The baby's head was sticking out of the water and the umbilical cord was wrapped around her neck when she was found. The search for the child's parents is under way.

- **VIDEO RAID:** Nine people were arrested in New York City and 30,000 bootleg tapes seized in a raid on the biggest video counterfeiting operation yet uncovered in the USA, local District Attorney Charles Hynes said.

- **FATAL CRASH:** Eight people, including a family of seven, died when a commuter plane crashed shortly after takeoff Saturday in Barrow, Alaska, officials said. The family was taking the body of a relative to Wainwright for burial.

- **VETERANS DAY:** Federal offices and courts are closed Tuesday for Veterans Day, celebrating the anniversary of the armistice that ended World War I. Many state and local government offices and schools and most banks also will be closed. Mail will not be delivered.

Accusations taint Miami mayoral vote



AP
Suarez: Attempt at entrapment

A fraud investigation involving the mayoral race in Miami has been widened after the discovery that absentee ballots sent to voters who had died wound up being cast in the race, the state Department of Law Enforcement said.

Absentee ballots helped Xavier Suarez barely deprive incumbent Joe Carollo of an outright win last Tuesday officials said. A runoff is scheduled Thursday. The state probe began a month ago after a tip that absentee ballots were being sold on the street. Friday, police arrested a Suarez volunteer, who is accused of agreeing to buy absentee ballots from undercover agents. Suarez, a former mayor, called the probe "a clumsy attempt at entrapment." Lawyers for Carollo filed suit Saturday saying there was so much fraud that all 4,740 absentee ballots should be thrown out, the runoff canceled and Carollo declared the winner.

Written by John Bacon with staff and wire reports

Look Who's in the Chemical Treaty

A HINT OF Iran's supposed new-found "moderation" has come into public view with its ratification and deposit of the treaty banning chemical weapons. Such is the prevailing suspicion of the revolutionary Islamic regime that it is going to have to earn American credence every step of the way. But it cannot be ignored that acceptance of international restraints on weapons of mass destruction, including weapons employing nerve gas, has been one of the principal standards Washington has set for easing its efforts to isolate Tehran. The other standards go to halting support for terrorism and stopping attempts to disrupt Middle East peace negotiations.

Iran used chemical weapons, and had them used against it, in its long war with Iraq in the 1980s. These are weapons whose production and storage lend themselves to hiding. But the new treaty provides for vigorous pursuit. A state formally joining has 30 days to divulge its chemical facilities and stockpiles; international inspection follows. Better, short-notice "challenge" inspections can be made of undivulged facilities identified by treaty members' intelligence.

In Iran, the ruling ayatollahs operate apart from the elected political authorities in a manner useful for keeping one hand from knowing or telling what the other hand is doing. It is the supreme religious leader, Ali Khamenei, who heads up the armed forces, not the recently elected president, Mo-

hammad Khatami, in whom many international hopes for moderation have been reposed. The split between these two figures enables a regime so inclined to use the treaty to conceal arms production or storage.

Presumably, however, Iran has thought about the costs of being caught and identified as a cheater. For one thing, access to ostensibly peaceful chemical technology and to commerce in civilian chemicals hinges on honoring treaty terms.

Few others would want to be in Iran's strategic spot. It needs partners to deter its primary rival, Iraq. But it has yielded to revolutionary fever and alienated the United States, pre-Khomeini Iran's patron; the United States is bent on inducing China and Russia not to aid Iranian missile development. And confounding strategic logic, Iran is hostile to Israel, also a bulwark of pre-Khomeini Iran; Israel is pressing Americans and Europeans to make common cause against Iran's special-weapons programs.

For its own advantage, Iran needs to alter the policies—in terrorism, the Middle East and special weapons—that limit its ties with many nations and especially with the United States. There lies the interest in its professed—but not yet proven—readiness to open itself up to the disclosures and inspections of the chemical treaty.

Water Troubles

IN ARID California, water comes not just from nature but from government. To reclaim the central and southern deserts, the federal and state governments have created over the years a system for diverting vast amounts of water from the wetter north. The giant dams, reservoirs, aqueducts and pumps have produced obvious benefits but in draining the north have done considerable environmental damage as well.

In an effort to rectify that damage, Congress in 1992 passed legislation to reallocate the federal government's share of the water. Basically, it ordered that about 10 percent less be sent south each year for agriculture and instead be held in the north for the benefit of fish and wildlife in the streams that converge in the San Francisco delta and bay. Agricultural users also were required to pay an annual fee for environmental restoration.

In five years, none of that has happened. First the act was tied up by agricultural groups in the courts. Then the Interior Department had to go through the lengthy process of interpreting it and promulgating rules for carrying it out. A final decision on the rules is supposed to be announced this week. But in fact, Interior officials are still negotiating with the agricultural and environmental organizations, state officials and others with an interest in the matter. The administration is trying to stay within the terms of the act yet cut a deal that will avert further litigation and delay and allow at

least some of the corrective action to begin. In doing so, it already has given some ground; in their semifinal form, the rules already were a retreat from some of the act's provisions. The question is whether in the final version the department will retreat any further.

The agricultural interests insist that, despite what it appears to say, the act, read together with other law, does not empower the government to take away any of their existing water. If the government wants more water for environmental purposes, it ought to use the restoration fund to buy it, they say—and once it's finished with the water up north, it ought to send it south for their use anyway. They propose a perversion of the law. The more ground the government gives in their direction, the closer it comes to becoming complicit in that.

The growers have powerful political patrons in both parties. The administration has a further stake of its own in the matter, having helped to negotiate a partial truce in the California water wars in 1994. The truce is a genuine substantive as well as political accomplishment that it seeks to keep alive. The president himself touted the accomplishment in a speech while on a fund-raising trip to California over the weekend. So for lots of reasons the administration seeks a deal. But the law that Congress passed in 1992 was right, and the deal ought not be to abandon it.

The Washington Post

MONDAY, NOVEMBER 17, 1997

Hate Crimes

The 'Hate-Crime' Problem

BILL CLINTON, at a White House conference last week, declared his support for a proposal by Sens. Edward Kennedy and Arlen Specter to broaden federal jurisdiction over that category of violence dubbed "hate crime." Federal law already permits judges to lengthen the sentences of defendants convicted of such crimes, defined as those in which a victim is targeted because of a particular identity. The Hate Crimes Prevention Act would go a step further than merely toughening sentences; it would significantly widen the Justice Department's latitude to prosecute local violent crimes that were motivated by bigotry. The bill is a can of worms.

The proposal is crafted as an amendment to a civil rights statute that makes it a crime to interfere violently with anyone's exercise of certain federally protected activities because of that person's race, religion or ethnicity. This law sometimes has enabled the federal government to prosecute violent civil rights abuses when state authorities were unable or unwilling to do so. The new proposal would add a section explicitly including sexual preference, gender and disability status within the law and allowing the government to prosecute bias-motivated attacks even when the victims are not engaged in a federally protected activity. It would open the door, proponents concede, for certain rapes and domestic violence cases to be prosecuted federally as hate crimes.

Folding sexual preference into the protection of the existing statute is clearly a good idea. The civil rights of gays and lesbians, after all, are sometimes targeted violently, and the federal government's anachronistic lack of authority to punish perpetrators of these assaults should be corrected. The disturbing aspect of the legislation is the lower threshold for federal involvement in any case. The government has an abiding interest in preventing

attacks on the civil rights of its citizens. On the other hand, rape, murder and assault—no matter what prejudice motivates the perpetrator—are presumptively local matters in which the federal government should intervene only when it has a pressing interest. The fact that hatred lurks behind a violent incident is not, in our view, an adequate federal interest. The other conditions for federal involvement outlined in the proposal could prove too malleable to the Justice Department's desire to involve itself in a given case. We don't suggest that the proposal would lead to widespread federal involvement in routine criminal matters, but it is too permissive—and for the wrong reason.

The president's White House Conference on Hate Crimes, as it turned out, was less a discussion of these offenses than a kind of pep rally against the dreaded emotion itself. That's fine as a bully-pulpit exercise, but the federal focus on what are called hate crimes must not wander too far from criminality. While the government has a simple obligation to protect us from crime, its relationship with hatred is necessarily more complicated. Government officials can denounce hatred and pass anti-discrimination laws, but when push comes to shove, most expressions of ugly intolerance are protected by the First Amendment. Proponents of the new measure argue that a swastika painted on a synagogue has a deeper impact on a community than does a routine act of vandalism, and that's true as far as it goes. But the victim of a bias-motivated stabbing is no more dead than someone stabbed during a mugging. Ultimately, we prosecute crimes, not feelings. Guiding how people feel about one another is only marginally a law enforcement concern.

The Washington Post

MONDAY, NOVEMBER 17, 1997

Date: 01/08/98 Time: 11:13
HNearly 9,000 hate crimes reported in 1996

Hate Crimes
EW

WASHINGTON (AP) Law enforcement agencies around the country reported 8,759 hate crimes occurring during 1996, with race-motivated incidents accounting for more than 60 percent, the FBI said today.

Of the reported incidents, 5,396 were linked to racial bias, 1,401 to religious bias, 1,016 to sexual orientation bias, 940 to ethnic bias and six to multiple biases.

``These statistics show what we long believed is true: hate crimes have long gone under-reported,'' Attorney General Janet Reno said.

``Violent crime has dropped for five years in a row, but we're just beginning to grasp the problem of hate crimes and how best to fight back, and we are not going to let up,'' she said at a news conference.

Reno said she has asked all 93 U.S. attorneys to appoint hate crime coordinators to meet in Washington next month to map out strategies to fight hate crimes.

The FBI first began reporting hate crime statistics in 1993. But it was not able to compare the 1996 figures to those of past years because the number of local law enforcement agencies reporting incidents has gone up significantly.

Some 11,000 law enforcement agencies representing about 85 percent of the American population voluntarily participated in the FBI's Uniform Crime Reporting Program last year.

The FBI report said the 8,759 incidents involved 11,000 hate crime victims. Eighty percent of those victims were individuals, while the others were businesses, religious organizations and other targets.

Sixty percent of the victims were attacked because of their race, with bias against blacks accounting for 42 percent of the total, it said.

The report said intimidation was the single most frequently reported hate crime, accounting for 39 percent. Destruction of property and vandalism comprised another 27 percent, simple assault 16 percent and aggravated assault 13 percent.

APNP-01-08-98 1121EST



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

hate
crimes

FACSIMILE TRANSMITTAL COVER SHEET

DATE: 9/15/97

TO: Tom Freedman

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TELEPHONE NO. _____

FROM: David Ogden

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TELEPHONE NO. (202) 514-~~2187~~ 8633

NUMBER OF PAGES INCLUDING COVER SHEET: 25

COMMENTS:

Thank you for not distributing this
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U. S. Department of Justice
Office of the Attorney General

Washington, D.C. 20530

September 12, 1997

MEMORANDUM

TO: Hate Crimes Working Group

FROM: David W. Ogden ^{DWO/IHG}
Counselor to the Attorney General

SUBJECT: DATE, TIME AND ROOM CHANGE - Hate Crimes Working Group
Next Week

The next meeting of the hate crimes working Group will be Wednesday, September 17, at 2:30 pm, in the Criminal Division Conference Room (Main Justice, 2208). We will discuss the attached draft memo to the Attorney General describing the recommendations of the Working Group.

I look forward to seeing you on Wednesday, and I apologize for any inconvenience.



U. S. Department of Justice

Office of the Deputy Attorney General

DRAFT

Washington, D.C. 20530

September 1997

DRAFT

9/12/97 (4:15 pm)

MEMORANDUM FOR THE ATTORNEY GENERAL

THROUGH:

FROM:

SUBJECT: Hate Crime Initiative

I. INTRODUCTION

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

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

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

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

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

II. OVERVIEW

A. The problem of hate crime

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

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

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

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

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

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

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

The primary mechanism for federal involvement is through the

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

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

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

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

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

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

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

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

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

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

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

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

C. The FBI Civil Rights Plan

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

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

III. Prosecution and Enforcement

A. Objective

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

B. Discussion

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

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

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

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

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

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

C. Recommendations

(1) Create Local Working Groups

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

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

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

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

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

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

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

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

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

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

(3) Modify the "Backstop" Policy

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

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

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

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

(4) Develop Model Hate Crime Curricula

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

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

distribute model hate crime curricula.

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

(5) Develop a Prosecutors' Manual

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

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

IV. DATA COLLECTION AND ANALYSIS

A. Objective

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

B. Discussion

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

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

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

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

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

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

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

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

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

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

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

C. Actions and Recommendations

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

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

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

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

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

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

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

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

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

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

(4) Encouraging Hate Crime Reporting through Federal Funding

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

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

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

(5) Bolster Reporting through the Local Working Groups

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

V. COMMUNITY OUTREACH

A. Objective

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

B. Discussion

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

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

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

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

C. Recommendations

Youth Programs

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

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

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

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

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

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

(3) Develop Alternative Sentencing Approaches for Juvenile Justice Courts

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

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

Prison Programs

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

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

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

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

Public Outreach

(1) Public Service Announcements

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

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

(2) AG/DAG Meetings with Local Working Groups

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

(3) Response to Specific Incidents

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

(4) Hate Crime Internet Site

Numerous components of the Department are involved in a wide

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

(5) Speeches by Department Officials

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

(6) Articles and Letters on Hate Crime

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

(7) White House Conference on Hate Crime

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

VI. COORDINATION

A. Objective

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

B. Discussion and Recommendations

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

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

VII. IMPLEMENTATION

TO BE ADDED

DRAFT

MEMORANDUM FOR ALL UNITED STATES ATTORNEYS

FROM: THE ATTORNEY GENERAL

SUBJECT: Implementation of
National Anti-Hate Crime Initiative

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Attachment

Hate Crime Copy to Tom Freeman
JOE CORRA
From PM/IN/VAL
RVE
NATIONAL ASSOCIATION OF ATTORNEYS GENERAL
750 FIRST STREET NE SUITE 1100
WASHINGTON, DC 20002
(202) 326-6234
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CHRISTINE T. MILLIKEN
Executive Director
General Counsel

March 5, 1998

PRESIDENT
JAMES E. DOYLE
Attorney General of Wisconsin

PRESIDENT-ELECT
MIKE MOORE
Attorney General of Mississippi

VICE PRESIDENT
CHRISTINE O. GREGG
Attorney General of Washington

IMMEDIATE PAST PRESIDENT
SCOTT HARRINGTON
Attorney General of Massachusetts

The Honorable Orrin G. Hatch
United States Senate
131 Russell Senate Office Building
Washington, D.C. 20510

The Honorable Patrick J. Leahy
United States Senate
433 Russell Senate Office Building
Washington, D.C. 20510

Re: An Act to Enhance Federal Enforcement of Hate Crimes and for Other Purposes
Senate Bill No. 1529, 105th Congress, First Session

Dear Senators Hatch and Leahy:

As state attorneys general, we are writing to express our enthusiastic support for the passage of Senate Bill No. 1529, the Hate Crimes Prevention Act of 1998. As you know, the bill would strengthen 18 U.S.C. Section 245 in two important ways: (1) it would extend the protection of the current hate crimes law to those who are victimized because of their gender, sexual orientation or disability; and (2) it would expand the ability of federal prosecutors to prosecute serious forms of hate-motivated violence by removing unnecessary and onerous jurisdictional requirements. Both these changes in the law will ensure swift and sure enforcement and punishment of perpetrator of bias-motivated violence, which are essential steps in preventing these terrible crimes.

Although most states have responded to the rising tide of hate crimes by enacting state criminal civil rights laws, a number of states do not have laws addressing violence based on the victim's gender, sexual orientation or disability.¹ The Hate Crimes Prevention Act of 1998 is a necessary supplement to state hate crime enforcement efforts to address bias-motivated victimization based on gender, sexual orientation and disability. In addition, the bill is an appropriate next step following passage of the Hate Crimes Sentencing Enhancement Act, which passed as part of the 1994 Crime Bill. It directs the United States Sentencing Commission to promulgate guidelines that enhance the penalties for hate crimes, including crimes motivated by the victim's gender, sexual orientation and disability.

As of October, 1997, hate crimes committed on the basis of a victim's gender are criminal in 25 states and the District of Columbia; hate crimes committed on the basis of a victim's sexual orientation are criminal in 20 states and the District of Columbia; and hate crimes committed on the basis of a victim's disability or handicap are criminal in 23 states and the District of Columbia.

The Honorable Orrin G. Hatch
The Honorable Patrick J. Leahy
March 5, 1998
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As you are aware, presently this federal hate crime law only protects victims where the perpetrator intentionally interferes by force or threat of force with a person's exercise of a federally protected right, such as riding public transportation, eating in a restaurant, renting an apartment or buying a home. The requirement that federal prosecutors prove that a defendant threatened, injured or killed the victim in order to deny that victim a federally protected right has substantially interfered with federal hate crimes enforcement efforts. This bill would enable the United States Department of Justice and United States Attorneys to prosecute flagrant hate crimes in cases that they have been unable to bring under the existing law.

Statistically, young people across the country are committing hate crimes themselves or are being enlisted by adults as accomplices in larger numbers. This bill recognizes this increasingly common phenomenon and allows appropriations for state and local programs designed to combat hate crimes committed by juveniles and directs the United States Sentencing Commission to study and, if appropriate, implement penalty increases for adults who recruit juveniles to commit hate crimes. With this trend in mind, we are pleased to see that this legislation would also authorize additional law enforcement personnel to provide invaluable assistance to state and local officials in the investigation and prevention of hate crimes.

Although state and local governments will continue to have the principal responsibility, an expanded federal role in investigating and prosecuting serious forms of hate crimes is critically needed if we are to be successful in addressing and deterring these crimes in our nation. The amendment to 18 U.S.C. Section 245 would provide invaluable tools for the United States Department of Justice and United States Attorneys to combat hate crimes effectively. Therefore, we strongly urge passage of this important hate crimes legislation.

Sincerely,



Scott Harshbarger
Attorney General of Massachusetts

cc: President William Jefferson Clinton
Senator Edward M. Kennedy
Senator Arlen Specter
Attorney General Janet Reno

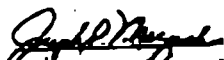
The Honorable Orrin G. Hatch
The Honorable Patrick J. Leahy
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Page 3

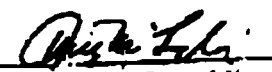

Grant Woods
Attorney General of Arizona


Robert F. Barrow
Attorney General of Florida


Andrew Keiser
Attorney General of Maine


Hubert H. Humphrey, III
Attorney General of Minnesota

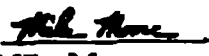

Joseph P. Mazurek
Attorney General of Montana


Philip T. McLaughlin
Attorney General of New Hampshire

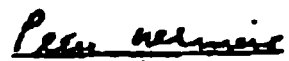

Richard Blumenthal
Attorney General of Connecticut

Gus F. Diaz
Gus F. Diaz
Attorney General of Guam


J. Joseph Curran, Jr.
Attorney General of Maryland


Mike Moore
Attorney General of Mississippi


Frankie Sue Del Papa
Attorney General of Nevada


Peter Verniero
Attorney General of New Jersey

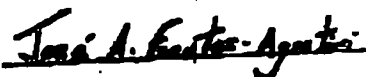
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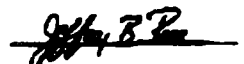
Heidi Heitkamp
Attorney General of North Dakota



W.A. Drew Edmondson
Attorney General of Oklahoma



Jose A. Posadas-Agostini
Attorney General of Puerto Rico



Jeffrey B. Pines
Attorney General of Rhode Island



Dan Morales
Attorney General of Texas



William H. Sorrell
Attorney General of Vermont



Christine O. Gregoire
Attorney General of Washington



Darrell V. McGraw, Jr.
Attorney General of West Virginia



James Doyle
Attorney General of Wisconsin

THE WHITE HOUSE
WASHINGTON

3-31-98

Tom:

I ASSUME
YOU'VE SEEN THIS
& WORKED W/TAM.

Joe



U.S. Department of Justice
Bureau of Justice Statistics

Washington, D.C. 20531

March 24, 1998

Mr. Cerda:

Dr. Chaiken asked me to
mail this letter to you. If
you have any questions, please
don't hesitate and call.

John A. Diaz

From the desk of



Jose Cerda

Special Assistant

Department of Planning and Development

BRUCE/ELENA/TOM/RAHUL:

ATTACHED PLEASE FIND THE
DRAFT "CHILD PROTECTION"
PACKAGE BEING CONSIDERED
BY THE HOUSE R'S. I
UNDERSTAND THEY INTEND TO
INTRODUCE THIS PRETTY SOON,
SO WE SHOULD DISCUSS.

ILL SHARE W/DOJ + GET
THEIR REACTION.

CC: KENT MARKUS
LEANNE

Jose





Hate Crimes

U. S. Department of Justice
Office of the Attorney General

Joseph Palmer

Washington, D.C. 20530

September 12, 1997

*get it from **

MEMORANDUM

TO: Hate Crimes Working Group

FROM: David W. Ogden *DWO/ING*
Counselor to the Attorney General

SUBJECT: **DATE, TIME AND ROOM CHANGE - Hate Crimes Working Group
Next Week**

The next meeting of the hate crimes working Group will be **Wednesday, September 17, at 2:30 pm**, in the **Criminal Division Conference Room** (Main Justice, 2208). We will discuss the attached draft memo to the Attorney General describing the recommendations of the Working Group.

I look forward to seeing you on Wednesday, and I apologize for any inconvenience.

Kennedy options:

- 3 ① Full Kennedy - gender, orientation, disability + interstate commerce.
 - 2 ② Full Kennedy - orientation/disability, but gender needs interstate travel - effects JANET
 - 1 ~~③~~ ③ Amtrak 245 - travel / interstate limited. gender, orientation, disability - one business
 - ④ Drop gender - w/ full Kennedy
- 25,000 Cases*
\$30-50 mil
no 4-11-97
- ①
②
③
④

*Note above
DW/ING*

*(Coordinating
Posters,
→ go to GPs.*



U. S. Department of Justice
Office of the Deputy Attorney General

DRAFT

Washington, D.C. 20530

September 1997

DRAFT

9/12/97 (4:15 pm)

MEMORANDUM FOR THE ATTORNEY GENERAL

THROUGH:

FROM:

SUBJECT: Hate Crime Initiative

I. INTRODUCTION

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

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

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

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

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

II. OVERVIEW

A. The problem of hate crime

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

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

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

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

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

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

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

The primary mechanism for federal involvement is through the

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

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

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

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

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

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

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

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

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

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

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

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

C. The FBI Civil Rights Plan

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

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

III. Prosecution and Enforcement

A. Objective

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

B. Discussion

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

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

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

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

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

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

C. Recommendations

(1) Create Local Working Groups

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

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

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

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

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

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

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

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

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

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

(3) Modify the "Backstop" Policy

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

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

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

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

(4) Develop Model Hate Crime Curricula

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

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

distribute model hate crime curricula.

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

(5) Develop a Prosecutors' Manual

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

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

IV. DATA COLLECTION AND ANALYSIS

A. Objective

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

B. Discussion

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

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

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

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

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

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

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

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

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

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

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

C. Actions and Recommendations

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

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

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

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

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

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

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

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

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

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

(4) Encouraging Hate Crime Reporting through Federal Funding

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

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

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

(5) Bolster Reporting through the Local Working Groups

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

V. COMMUNITY OUTREACH

A. Objective

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

B. Discussion

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

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

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

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

C. Recommendations

Youth Programs

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

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

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

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

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

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

(3) Develop Alternative Sentencing Approaches for Juvenile Justice Courts

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

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

Prison Programs

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

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

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

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

Public Outreach

(1) Public Service Announcements

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

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

(2) AG/DAG Meetings with Local Working Groups

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

(3) Response to Specific Incidents

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

(4) Hate Crime Internet Site

Numerous components of the Department are involved in a wide

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

(5) Speeches by Department Officials

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

(6) Articles and Letters on Hate Crime

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

(7) White House Conference on Hate Crime

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

August 8, 1997

FAX

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FROM: Judy Smith
Office of the Attorney General

RE: Hate Crimes Working Group

Pages: 6 + cover

CYRUS TO
ELIWA K
MAY S.
TOM F.

FYE

P.S.

Date: Friday, August 8, 1997 1:31 pm
From: SMO02(SMITHJUD)
Subject: Hate Crimes Meeting

Hate Crimes Working Group:

I have attached a draft implementation memo to the field drafted by the Prosecution/Enforcement Sub-Group. Discussion of this memo will be a principal agenda item for Monday's meeting of the full Hate Crimes Working Group.

Thanks.
Ian Gershengorn

D R A F T

MEMORANDUM FOR ALL UNITED STATES ATTORNEYS

FROM: THE ATTORNEY GENERAL

SUBJECT: Implementation of
National Anti-Hate Crime Initiative

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

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

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

The organizing principle of the Department's efforts has been the recognition that addressing problems of hate crimes requires a coordinated effort, with cooperation among federal, state and local law enforcement, as well as community leaders. Only by a

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combination of vigorous enforcement, effective community outreach, thorough education and training, and accurate data collection can we hope to address the problem of hate crimes.

In my June meeting with the Attorney General's Advisory Committee ("AGAC"), we described this hate crime initiative in a preliminary way. The purpose of this memorandum is to provide you with written guidance concerning its implementation. I have asked the [Civil Rights Division] to coordinate this initiative, and you will be receiving additional correspondence from the [Assistant Attorney General of the Civil Rights Division] in that regard.

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

I would ask you to keep in mind two important points concerning this strategy. First, this initiative does not necessarily require a new task force or bureaucracy to address hate crime if you already have mechanisms in place that are working in your district. The initiative contemplates that you may use or build upon any existing component that has proven to be effective, or that has a strong potential for success.

For example, the FBI, the Civil Rights Division, and EOUSA had previously devised an initiative for improving criminal civil rights enforcement generally. A copy of that initiative is attached. It involves conducting more aggressive FBI field office outreach to local law enforcement and community groups in order to increase detection and reporting of civil rights crimes; improving the training, experience and expertise of civil rights agents; increasing proactive measures; producing faster and better coordinated prosecutive decisions, and sharpening data collection and trend analysis. I encourage you to take advantage of the fruits of any such efforts already underway in your districts. In many districts, however, a working group devoted exclusively to hate crimes will be the most effective vehicle for addressing this problem.

Second, the goal of the initiative is to complement, not supplant, the efforts of state and local prosecutors. If any of your counterparts in your districts has an effective hate crime strategy in place that can - - or does - - take into account the need for coordination and cooperation among federal, state and local law enforcement officials, you should consider building the strategy around that existing state or local hate crime component. The

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key is to develop a strong partnership in this effort with state and local officials in a way that will be most productive.

In order to implement the anti-hate crime initiative in your district, please undertake the following steps:

- ▶ By [DATE], designate a senior Assistant United States Attorney to be a Hate Crime Coordinator to serve as a contact in your office with the [Civil Rights Division]. You may designate your Civil Rights Point of Contact, or any other appropriate person, to fulfill this role.
- ▶ By [DATE], each United States Attorney should meet with all pertinent federal, state and local law enforcement agencies and appropriate community leaders in his or her district to form a new, or strengthen an existing, hate crime working group.
- ▶ With the help of your local working group, you should seek to undertake a survey that will identify a number of issues, including:
 - ◆ your district's most critical hate crime problems that are susceptible to a coordinated federal/state/local attack, with violent hate groups as one possible area;
 - ◆ the relative priority of these problems;
 - ◆ the law enforcement programs and resources currently dedicated to the investigation and prosecution of these problems;
 - ◆ the results achieved to date from these efforts; and
 - ◆ any multi-district or multi-jurisdictional aspects of these problems.

The [Civil Rights Division] will send your Hate Crime Coordinator an outline of the entire list of issues that the survey should address.

- ▶ By [DATE], please forward the results of your survey to the [Civil Rights Division], by faxing it to [Richard Roberts, Chief, Criminal Section, at fax

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number 202-514-8336, or to Neal Kravitz, Acting Counsel to the Assistant Attorney General, at fax number 202-xxx-xxxx].

The [Assistant Attorney General of the Civil Rights Division] and your representatives on the AGAC will quickly analyze the results of the surveys from all the districts. You will then be provided with any needed assistance to develop an appropriate prosecutive strategy for your district. Thereafter, you will be asked to take the following steps:

- ▶ Using the new or existing working group as a mechanism, develop a single district plan to implement the national initiative consistent with your local needs and the available law enforcement resources in your district.
- ▶ Specify in the plan a prosecutive strategy for attacking the problems you have identified as most susceptible to a coordinated federal/state/local effort. The civil rights bluesheet (USAM §§ 8-3.100 to 8-3.150) sets forth the processes for information-sharing and decision making between your offices and the Civil Rights Division in these investigations and prosecutions. The [Civil Rights Division] can send your Hate Crime Coordinator a sample operations plan which you may wish to use in developing a plan for your district.
- ▶ Assist law enforcement agencies in your district in developing or enhancing an operational task force or other working group that will carry out the day-to-day investigations of your highest priority hate crime problems. Where appropriate, existing task forces and other successful joint federal/state/local efforts should be preserved. In other instances, it may be appropriate for existing task forces or other working groups to be combined, expanded or redirected.

The Civil Rights Division and EOUSA will be available to provide support for your local efforts. For example, EOUSA has surveyed your offices for information about existing hate crime working groups or plans underway to set them up. This survey may provide some useful guidance to you in planning your working group. The Department will disseminate the survey results to you shortly. In addition, the Criminal Section of the Civil Rights Division recently updated its portion of the Civil Rights monograph contained on USA Book that addresses the investigation and prosecution of federal hate crimes.

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

You should also know that your efforts are part of a significant Department-wide effort to combat hate crimes. I and other members of the Department will be speaking often about hate crimes in the months ahead to help to focus attention on the importance of addressing this problem. In addition, through the Office of Justice Programs, CRS, and others, the Department will make available a wealth of educational and training materials, as well as grant opportunities, to aid in the fight against hate crimes. More details on these resources will be distributed later.

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

Attachment

Hate crimes

THE WHITE HOUSE

Office of the Press Secretary

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

RADIO ADDRESS BY THE PRESIDENT
TO THE NATION ON HATE CRIMES

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

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

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

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

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

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

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

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

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

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

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

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

Thanks for listening.

For internal use only:

THE WHITE HOUSE CONFERENCE ON HATE CRIMES

November 10, 1997

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

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

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

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

Q. What are the goals of the Conference?

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

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

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

Q. Who will be invited to participate?

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

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

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

socarides 6-1611

HATE CRIMES — Q's and A's

Q: What is a hate crime?

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

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

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

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

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

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

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

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

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

HATE CRIMES -- BACKGROUND PAPER

Federal Hate Crimes Statutes

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

Hate Crimes Statistics

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

FOR 2P
mtg



HUMAN
RIGHTS
CAMPAIGN

Hate
Crimes

TO: Richard Socarides
Tracey Thornton

FAX NUMBER: 456-6682
456-2604

FROM: The Human Rights Campaign
Political and Field Departments

Winnie Stachelberg, Political Director
Donna Red Wing, National Field Director
Susanne Salkind, Deputy Director for PAC

Nancy Buermeyer
Becky Dinwoodie
Candace Gingrich
Tony Esoldo
Bev Jones
Thom Kincheloe
Seth Kilbourn

Kevin Layton
Chad Lord
Tiffany Newton
Fawn Phelps
Kris Pratt
Tracey St. Pierre
Tony Varona

Tom Harkin
Manny
Wendy
SMP
Curt

DATE: 5/4

RESPOND TO:

PAGES TO FOLLOW:

(11)

PHONE: 202.628.4160
FAX: 202.347.5323

Richard and Tracey:

I wanted to provide you both with the newly-finished Senate "dear colleague" on the Hate Crimes Prevention Act (S. 1529 / H.R. 3081). Also attached is the latest cosponsor list, organizational endorsements, and other fact sheets for your information.

As I believe Winnie has mentioned, She and I, along with a small group of the hate crimes coalition (ADL, NOW Legal Defense, etc.) would like to meet with you regarding this bill. Please feel free to call me or Winnie with any questions.

Thanks, and I hope you both are doing well.

United States Senate

WASHINGTON, DC 20510

April 30, 1998

Dear Colleague:

We are writing to urge you to join us in sponsoring S.1529, the Hate Crimes Prevention Act of 1998. The bill would amend federal law to make it easier for federal prosecutors to prosecute racial and religious violence, and would permit federal prosecution of violence motivated by prejudice against the sexual orientation, gender or disability of the victim.

This bipartisan bill has also been introduced in the House of Representatives by Congressmen McCollum, Schumer, and Conyers, and has been strongly endorsed by President Clinton. It has the support of State Attorneys General, police organizations and disability groups around the country.

Hate crimes are uniquely destructive and divisive. They injure not only the immediate victim, but the community and sometimes the nation. Despite the best efforts of local, state and federal law enforcement, hate crimes are on the rise. In 1996, the FBI documented 8759 hate crimes, a 49% increase from 1994. This figure clearly understates the actual number of hate crimes, because not all jurisdictions report hate crimes to the FBI, and victims of hate crimes are frequently reluctant to report them.

The federal government plays an important role in combating hate crimes. Although state and local governments have the principal responsibility for prosecuting such crimes, there are exceptional circumstances in which it is appropriate for the federal government to prosecute such cases.

For instance, hate crimes often are committed by individuals with ties to groups that operate across state lines. The Confederate Hammerskins are a skinhead group that began terrorizing minorities and Jews in Tennessee, Oklahoma and Texas a decade ago. Federal law enforcement officials are well situated to investigate and prosecute criminal activities by such groups, and the federal government, with substantial assistance from local law enforcement authorities, took the lead in successfully prosecuting these skinheads.

In Lubbock, Texas, three white supremacists attempted to start a race conflict in 1994 by shooting three African-American victims, one fatally. Under Texas law, each defendant would have been entitled to a separate trial in a state court, and each defendant also might have been entitled to a separate trial for each shooting. The result could have been at least three, and perhaps as many as nine trials in state court, and the defendants, if convicted, would have been eligible for parole in 20 years. Federal and local prosecutors, working together, prosecuted these crimes as federal offenses.

The defendants were tried together in federal court, convicted, and are serving life sentences.

Federal involvement in the prosecution of hate crimes dates back to the Reconstruction Era following the Civil War. These laws were updated in 1968, but they are no longer adequate to meet the current challenge. As a result, the federal government is waging the battle against hate crimes with one hand tied behind its back.

Current federal law covers crimes motivated by racial, religious or ethnic prejudice. Our bill adds violence motivated by prejudice against the sexual orientation, gender or disability of the victim. Our bill also makes it easier for federal authorities to prosecute racial, religious and ethnic violence, in the same way that the Church Arson Prevention Act of 1996 helped federal prosecutors combat church arsons by loosening the unduly rigid jurisdictional requirements under federal law for prosecuting church arson.

In addition, the bill addresses the growing problem of adults who recruit juveniles to commit hate crimes by directing the Sentencing Commission to study the problem and promulgate appropriate sentencing enhancements for adults who recruit juveniles to commit hate crimes.

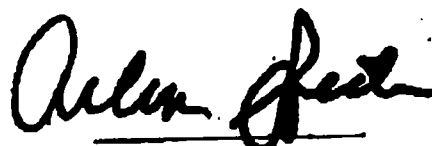
States will continue to take the lead in the prosecution of hate crimes. From 1990 through 1996, there were 37 federal hate crimes prosecutions nationwide under the law we are seeking to amend - fewer than six per year out of more than 10,000 hate crimes nationwide. Our bill should result only in a modest increase in the number of federal prosecutions of hate crimes. The Attorney General or other high ranking Justice Department officials must approve all prosecutions under this law. This requirement ensures federal restraint, and ensures that states will continue to take the lead.

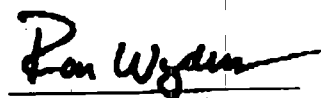
In addition to bipartisan support in both the Senate and the House, and the strong support from President Clinton, over 80 organizations, including police organizations, have endorsed the bill. Recently, a bipartisan group of 22 State Attorneys General sent a strong letter of support for the bill. Attached are several of these letters indicating support for the bill.

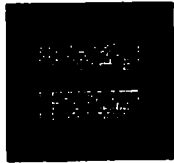
Our bill represents the next step in the battle against hate crimes. If you have any questions, or would like to co-sponsor the bill, please contact Dena Graziano (4-7878) in Senator Kennedy's office, David Brog (4-4254) in Senator Specter's office, or Carole Grunberg (4-5244) in Senator Wyden's office.

Sincerely,


Edward M. Kennedy


Arlen Specter


Ron Wyden



**HUMAN
RIGHTS
CAMPAIGN**

1101 14th Street NW
Washington, DC 20005
phone 202 628 4160
fax 202 347 5323

HCPA

Cosponsors of the Hate Crimes Prevention Act (HCPA)

H.R. 3081/S. 1529

April 30, 1998

AZ
Kolbe

AR
BUMPERS

CA
BOXER
FEINSTEIN
Dellums #
Eshoo
Filner
Horn
Lantos
Miller
Pelosi
Roybal-Allard
Stark
Tauscher
Torres
Waxman
Woolsey

CO
DeGette

CT
Gejdenson
Kennelly

DC
Norton

FL
Foley
Hastings
*McCollum**
Wexler

GA
Lewis

HI
Mink

IL
DURBIN
MOSELEY-BRAUN
Blagojevich
Gutierrez

IN
Carson

IA
Boswell
Leach

ME
Baldacci

MD
Morella

MA
KENNEDY*
Delahunt
Frank
McGovern
Meehan
Olver

MI
Bonior
Conyers
Levin
Rivers

MN
WELLSTONE
Luther
Sabo

MO
Gephardt

NJ
TORRICELLI
Pallone
Payne
Rothman

NY
Ackerman
Engel
Hinchey
Lowey
McCarthy
Maloney
Manton
Nadler
Owens
Schumer*
Slaughter
Velazquez

NC
Price

OH
Pryce

OR
WYDEN*

PA
*SPECTER**

PR
Romero-Barcelo

SC
Clyburn

SD
JOHNSON

TN
Clement
Ford

TX
Frost
Green
Jackson Lee
Lampson
Reyes

VA
ROBB

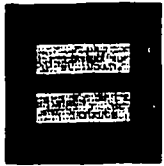
WA
MURRAY
McDermott

WI
Barrett
Kleczka

* Lead Sponsors
Italics - Republicans
- no longer in
Congress

TOTAL: 85

House: 72
Senate: 13



HUMAN
RIGHTS
CAMPAIGN

1101 14th Street NW
Washington, DC 20005
phone 202 628 4160
fax 202 347 5323

HCPA Fact Sheet

The Hate Crimes Prevention Act

H.R. 3081: Reps. Schumer (D-NY) and McCollum (R-FL)

S. 1529: Sens. Kennedy (D-MA), Specter (R-PA), and Wyden (D-OR)

- Current law (18 U.S.C. 245) permits federal prosecution of a hate crime only if the crime was motivated by bias based on race, religion, national origin, or color, *and* the assailant intended to prevent the victim from exercising a "federally protected right" (e.g. voting, attending school, etc.) This dual requirement substantially limits the potential for federal prosecution of hate crimes, even when the crime is particularly heinous.
- The Hate Crimes Prevention Act would expand federal jurisdiction to reach serious, violent hate crimes. Under the bill, hate crimes that cause death or bodily injury because of prejudice can be investigated federally, regardless of whether the victim was exercising a federally protected right.
- The bill describes a "hate crime" as a violent act causing death or bodily injury "because of the actual or perceived race, color, religion, national origin, sexual orientation, gender, or disability" of the victim. These are the same protected categories that are already in federal hate crimes law. (Existing law provides enhanced penalties for hate crimes that are committed on federal property, such as Indian reservations or national parks.)
- To avoid federal involvement in every hate crime, there are certain limitations to the bill. There is a constitutional requirement that the perpetrator or victim has traveled in interstate commerce, or used the "facilities" of interstate commerce. Further, under current law, the Attorney General or her designee must certify, in writing, that a federal prosecution may go forward. Under current 18 U.S.C. 245, which has been in place since 1969, there have never been more than 10 prosecutions brought under the statute in a single year.
- The Hate Crimes Prevention Act also authorizes grants to state and local prosecutors for combating hate crimes committed by juveniles.
- Some examples of crimes that were outside federal jurisdiction but could have been prosecuted under S. 1529/H.R. 3081: In December 1995, self-identified neo-Nazis murdered two African American residents of Fayetteville, North Carolina. The victims were selected solely because of their skin color. In April 1994, two African-American men murdered a white father of three in Lubbock, Texas; the killers later stated that they set out to find a white victim. In January 1996, two men in Houston, Texas stabbed a gay man thirty-five times, killing him. Evidence showed that the assailants were outspoken opponents of gay rights who had traveled to Houston in part to commit violence against gay people.
- Violence based on prejudice is a matter of national concern that federal prosecutors should be empowered to punish if the states are unable or unwilling to do so. S. 1529/H.R. 3081 would begin to bring uniformity to the categories covered under current federal hate crimes law. Further, many states lack comprehensive hate crimes laws, and FBI statistics show the incidence of hate crimes reported continues to be unacceptably high, although rates of most violent crimes are decreasing.

The Hate Crimes Prevention Act of 1998 is supported by President Clinton, the Department of Justice, and a broad range of national civil rights groups, state and local government associations, and law enforcement organizations:

African-American Women's Clergy Association
 American Association of University Women
 American Citizens for Justice
 American Ethical Union, Washington Office
 American Federation of Government Employee's
 American Foundation for the Blind
 American Friends Service Committee (AFSC)
 American Jewish Committee
 American Jewish Congress
 American Nurses Association
 American Psychological Association
 American-Arab Anti-Discrimination Committee
 Americans for Democratic Action
 And Justice For All
 Anti-Defamation League
 Aplastic Anemia Foundation of America, Inc.
 Asian American Legal Defense and Education Fund
 Asian Law Caucus
 Asian Pacific American Labor Alliance
 Asian Pacific American Legal Center
 AYUDA
 Bi-Net
 Business and Professional Women, U.S.A.
 Catholics for Free Choice
 Center for Democratic Renewal
 Center for Women Policy Studies
 Chinese Americans Citizens Alliance
 Church Women United
 Disability Rights Education & Defense Fund
 Federal Law Enforcement Officers Association
 Federally Employed Women
 Gender Public Advocacy Coalition
 General Federation of Women's Clubs
 Hadassah
 Hispanic National Law Enforcement Association
 Human Rights Campaign
 Japanese American Citizens League
 Jewish Council for Public Affairs
 Jewish War Veterans of the U.S.A.
 Jewish Women International
 Labor Council For Latin American Advancement
 Leadership Conference on Civil Rights
 Learning Disabilities Association of America
 MALDEF -- Mexican American Legal Defense & Education Fund
 MANA, A National Latina Organization
 NAACP
 NAACP Legal Defense Fund, Inc.
 NA'AMAT USA
 National Asian Pacific American Legal Consortium
 National Association of Commissions for Women

National Association of Protection & Advocacy Systems
 National Black Women's Health Project
 National Coalition Against Domestic Violence
 National Coalition of Anti-Violence Programs
 National Congress of American Indians
 National Council of Churches of Christ in the USA
 National Council of Jewish Women
 National Council of La Raza
 National Education Association
 National Gay and Lesbian Task Force
 National Jewish Democratic Council
 National Mental Health Association
 National Organization of Black Law Enforcement Executives
 National Parent Network on Disabilities
 National Respite Network
 National Spinal Cord Injury Association
 National Victim Center
 National Women's Law Center
 NOW -- National Organization for Women
 NOW Legal Education and Defense Fund
 Organization of Chinese Americans
 People For the American Way
 Police Executive Research Forum
 Police Foundation
 Presbyterian Church (USA), Washington Office
 Service Employees International Union, AFL-CIO
 Society for the Psychological Study of Social Issues
 Southeast Asia Resource Action Center
 Union of American Hebrew Congregations
 Union of Needletrades, Industrial & Textile Employees (UNITE)
 Unitarian Universalist Association
 United Church of Christ--Office of Church in Society
 United Methodist Church
 U.S. Conference of Mayors
 United States Student Association
 The Woman Activist Fund, Inc.
 Women of Reform Judaism, Federation of Temple Sisterhoods
 Women Work!
 Women's Alliance for Theology, Ethics & Ritual
 Women's Legal Defense Fund
 YWCA of the U.S.A.

As of 4/1/98

*List in progress

NATIONAL ASSOCIATION OF ATTORNEYS GENERAL
750 FIRST STREET NE SUITE 1100
WASHINGTON, DC 20002
(202) 326-6054
(202) 408-6999 FAX

CHRISTINE T. MILLIKEN
*Executive Director
General Counsel*

March 5, 1998

PRESIDENT
JAMES E. DOYLE
Attorney General of Wisconsin

PRESIDENT-ELECT
MIKE MOORE
Attorney General of Mississippi

VICE PRESIDENT
CHRISTINE O. GREGOIRE
Attorney General of Washington

IMMEDIATE PAST PRESIDENT
SCOTT HARSHBARGER
Attorney General of Massachusetts

The Honorable Orrin G. Hatch
United States Senate
131 Russell Senate Office Building
Washington, D.C. 20510

The Honorable Patrick J. Leahy
United States Senate
433 Russell Senate Office Building
Washington, D.C. 20510

Re: *An Act to Enhance Federal Enforcement of Hate Crimes and for Other Purposes
Senate Bill No. 1529, 105th Congress, First Session*

Dear Senators Hatch and Leahy:

As state attorneys general, we are writing to express our enthusiastic support for the passage of Senate Bill No. 1529, the Hate Crimes Prevention Act of 1998. As you know, the bill would strengthen 18 U.S.C. Section 245 in two important ways: (1) it would extend the protection of the current hate crimes law to those who are victimized because of their gender, sexual orientation or disability; and (2) it would expand the ability of federal prosecutors to prosecute serious forms of hate-motivated violence by removing unnecessary and onerous jurisdictional requirements. Both these changes in the law will ensure swift and sure enforcement and punishment of perpetrators of bias-motivated violence, which are essential steps in preventing these terrible crimes.

Although most states have responded to the rising tide of hate crimes by enacting state criminal civil rights laws, a number of states do not have laws addressing violence based on the victim's gender, sexual orientation or disability.¹ The Hate Crimes Prevention Act of 1998 is a necessary supplement to state hate crime enforcement efforts to address bias-motivated victimization based on gender, sexual orientation and disability. In addition, the bill is an appropriate next step following passage of the Hate Crimes Sentencing Enhancement Act, which passed as part of the 1994 Crime Bill. It directs the United States Sentencing Commission to promulgate guidelines that enhance the penalties for hate crimes, including crimes motivated by the victim's gender, sexual orientation and disability.

¹ As of October, 1997, hate crimes committed on the basis of a victim's gender are criminal in 25 states and the District of Columbia; hate crimes committed on the basis of a victim's sexual orientation are criminal in 20 states and the District of Columbia; and hate crimes committed on the basis of a victim's disability or handicap are criminal in 23 states and the District of Columbia.

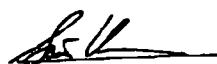
The Honorable Orrin G. Hatch
The Honorable Patrick J. Leahy
March 5, 1998
Page 2

As you are aware, presently this federal hate crime law only protects victims where the perpetrator intentionally interferes by force or threat of force with a person's exercise of a federally protected right, such as riding public transportation, eating in a restaurant, renting an apartment or buying a home. The requirement that federal prosecutors prove that a defendant threatened, injured or killed the victim in order to deny that victim a federally protected right has substantially interfered with federal hate crimes enforcement efforts. This bill would enable the United States Department of Justice and United States Attorneys to prosecute flagrant hate crimes in cases that they have been unable to bring under the existing law.

Statistically, young people across the country are committing hate crimes themselves or are being enlisted by adults as accomplices in larger numbers. This bill recognizes this increasingly common phenomenon and allows appropriations for state and local programs designed to combat hate crimes committed by juveniles and directs the United States Sentencing Commission to study and, if appropriate, implement penalty increases for adults who recruit juveniles to commit hate crimes. With this trend in mind, we are pleased to see that this legislation would also authorize additional law enforcement personnel to provide invaluable assistance to state and local officials in the investigation and prevention of hate crimes.

Although state and local governments will continue to have the principal responsibility, an expanded federal role in investigating and prosecuting serious forms of hate crimes is critically needed if we are to be successful in addressing and deterring these crimes in our nation. The amendment to 18 U.S.C. Section 245 would provide invaluable tools for the United States Department of Justice and United States Attorneys to combat hate crimes effectively. Therefore, we strongly urge passage of this important hate crimes legislation.

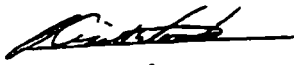
Sincerely,



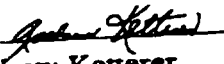
Scott Harshbarger
Attorney General of Massachusetts

cc: President William Jefferson Clinton
Senator Edward M. Kennedy
Senator Arlen Specter
Attorney General Janet Reno

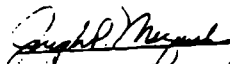
The Honorable Orrin G. Hatch
 The Honorable Patrick J. Leahy
 March 5, 1998
 Page 3


 Grant Woods
 Attorney General of Arizona


 Robert Butterworth
 Attorney General of Florida


 Andrew Kenner
 Attorney General of Maine

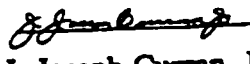

 Hubert H. Humphrey, III
 Attorney General of Minnesota


 Joseph P. Mazurek
 Attorney General of Montana

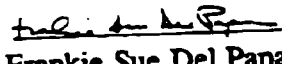

 Philip T. McLaughlin
 Attorney General of New Hampshire


 Richard Blumenthal
 Attorney General of Connecticut

Gus F. DIAZ
 Gus F. Diaz
 Attorney General of Guam


 J. Joseph Curran, Jr.
 Attorney General of Maryland

Mike Moore
 Mike Moore
 Attorney General of Mississippi

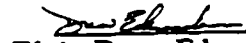

 Frankie Sue Del Papa
 Attorney General of Nevada

Peter Verniero
 Peter Verniero
 Attorney General of New Jersey

The Honorable Orrin G. Hatch
The Honorable Patrick J. Leahy
March 5, 1998
Page 4



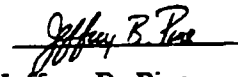
Heidi Heitkamp
Attorney General of North Dakota



W.A. Drew Edmondson
Attorney General of Oklahoma



Jose A. Fuentes-Agostini
Attorney General of Puerto Rico



Jeffrey B. Pine
Attorney General of Rhode Island



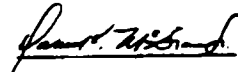
Dan Morales
Attorney General of Texas



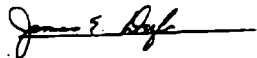
William H. Sorrell
Attorney General of Vermont



Christine O. Gregoire
Attorney General of Washington



Darrell V. McGraw, Jr.
Attorney General of West Virginia



James Doyle
Attorney General of Wisconsin



HUMAN
RIGHTS
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***Hate Crimes Laws that
include "sexual
orientation":***

**19 States plus the
District of Columbia:**

Arizona
California
Connecticut
Delaware
District of Columbia
Florida
Illinois
Iowa
Louisiana
Maine
Massachusetts
Minnesota
Nebraska
Nevada
New Hampshire
New Jersey
Oregon
Vermont
Washington
Wisconsin

***Hate Crimes Laws that
exclude "sexual
orientation":***

19 States:

Alabama
Alaska
Colorado
Idaho
Michigan
Mississippi
Missouri
Montana
New York
North Carolina
North Dakota
Ohio
Oklahoma
Pennsylvania
Rhode Island
South Dakota
Tennessee
Virginia
West Virginia

***No Hate Crimes Laws
for anyone:***

9 States:

Arkansas
Georgia
Hawaii
Indiana
Kansas
Kentucky
New Mexico
South Carolina
Wyoming

3 State laws unclear:

Maryland
Texas
Utah

Updated 1/8/98



**HUMAN
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Gays and Lesbians Are the Third-Highest Targeted Group for Hate Crimes *

Category	1996 Reported Incidents	Percentage
Total	8,759	100%
Race	5,396	61.6%
Religion	1,401	16.0%
Sexual Orientation	1,016	11.6%
National Origin	940	10.7%
Multiple Bias Incidents	6	0.07%

Percentage of Hate Crimes Based on Sexual Orientation, 1991-1996

Year	1991	1992	1993	1994	1995	1996
Total Hate Crime Incidents Reported	4,588	6,623	7,587	5,932	7,947	8,759
Percentage of crimes based on sexual orientation	8.9%	11.6%	11.3%	11.5%	12.8%	11.6%

Reported Hate Crimes Against Gays, Lesbians, and Bisexuals - 1996

Sexual Orientation	Incidents	Offenses	Victims	Known Offenders
Total	1,016	1,256	1,281	1,180
Anti-Male Homosexual	757	927	940	925
Anti-Female Homosexual	150	185	192	150
Anti-Homosexual	84	94	99	93
Anti-Heterosexual	15	38	38	4
Anti-Bisexual	10	12	12	8

* All Data from FBI Uniform Crime Reports, 1991 - 1996.

1/12/98

WORKING FOR LESBIAN AND GAY EQUAL RIGHTS.

1101 14th Street NW, Suite 200 Washington, D.C. 20005