

## Chapter 13

# Federal Action to Confront Hate Violence in the Bush Administration: A Firm Foundation on Which to Build or a Struggle to Maintain the Status Quo?

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### I. Defining the Issue: The Impact of Hate Violence

All Americans have a stake in effective response to violent bigotry. These crimes demand priority attention because of their special impact. Bias crimes are designed to intimidate the victim and members of the victim's community, leaving them feeling isolated, vulnerable, and unprotected by the law. Failure to address this unique type of crime could cause an isolated incident to explode into widespread community tension. The damage done by hate crimes, therefore, cannot be measured solely in terms of physical injury or dollars and cents. By making members of minority communities fearful, angry, and suspicious of other groups — and of the power structure that is supposed to protect them — these incidents can damage the fabric of our society and fragment communities.

The urgent national need for both a tough law enforcement response as well as education and programming to confront violent bigotry has only increased over the past few months. In the aftermath of the September 11 terrorism, the nation has witnessed a disturbing increase in attacks against American citizens and others who appear to be of

Muslim, Middle Eastern, and South Asian descent. Perhaps acting out of anger at the terrorists involved in the September 11 attacks, the perpetrators of these crimes are irrationally lashing out at innocent people because of their personal characteristics — their race, religion, or ethnicity. Law enforcement officials are now investigating hundreds of incidents reported from coast to coast — at places of worship, neighborhood centers, grocery stores, gas stations, restaurants, and homes — including vandalism, intimidation, assaults, and several murders.

In response to this disturbing series of attacks, all of the key administration officials — including President George W. Bush, First Lady Laura Bush, Secretary of Education Rod Paige, Attorney General John Ashcroft, FBI Director Robert Mueller, and Assistant Attorney General for Civil Rights Ralph Boyd, Jr. — have spoken out against hate crimes and reached out to affected communities. The Justice Department has launched more than 300 federal civil rights investigations — and is now on pace to bring a record number of federal hate crime indictments emanating from these incidents. On September 26, at a meeting with Sikh leaders at the White House, President Bush pledged that “our government will do everything we can not only to bring those people

to justice, but also to treat every human life as dear, and to respect the values that made our country so different and so unique. We're all Americans, bound together by common ideals and common values."

Yet, many of the President's core constituents — including some conservative and right-wing organizations, adamantly oppose all hate crime initiatives. It is too early to tell what new hate crime prevention and response programs the Bush Administration will support — and what level of commitment the administration will have to existing federal hate crime prevention and response initiatives, many of which were initiated in the second term of the Clinton Administration.

## II. Early Response to Clinton Administration Initiatives

The second term of the Clinton Administration was marked by an unprecedented White House commitment to improve race relations and address hate crimes in an inclusive and comprehensive manner. During that time, President Clinton established a Race Initiative, hosted a national conference on hate crimes, and, on many occasions, spoke out in support of improved intergroup relations and against prejudice, bigotry, and bias-motivated violence. Other Cabinet officials — most notably Attorney General Janet Reno — also repeatedly spoke out against hate violence and helped spark the development of a number of important new federal initiatives.<sup>2</sup>

An early indication of the level of engagement of the Bush Administration in effective federal response to hate violence will be found in the degree to which the most notable Clinton Administration initiatives are carried forward.

### A. Regional U.S. Attorney-Led Police-Community Hate Crime Working Groups (HCWGs)

An effort to improve local community coordination among affected parties in responding to hate violence, HCWGs were established at the direction of Attorney General Janet Reno in many of the 90-plus U.S. attorney's offices. Designed to enhance communication on hate crime investigations and prosecutions, improve hate crime data collection efforts, and promote expanded law enforcement training, the HCWGs have been composed of FBI investigators, state and local law enforcement officials, prosecutors, community-based organizations, and civil rights groups.<sup>3</sup>

*Following the September 11 attacks, the Bush Administration established U.S. Attorney counterterrorism task forces. While the principal focus of these groups will clearly be directed at investigating and preventing terrorism, it is too early to tell whether U.S. Attorneys will also continue to play a leadership role in helping to ensure a coordinated local response to hate violence.*

### B. Law Enforcement Hate Crime Training Programs

The Clinton Justice Department developed several excellent hate crime training curricula — designed for different command levels of Federal, state, and local law enforcement officials — and conducted a number of regional training sessions across the country, training over 5600 officers.

*The Justice Department under John Ashcroft has not promoted continuing hate crime training using these curricula, although a wide array of training materials and hate crime response resources are available at the Justice Department Web site, <[www.usdoj.gov](http://www.usdoj.gov)>.*

### C. Improved Data on Hate Crimes

In an effort to better gauge the magnitude of the hate crime problem in America, the Bureau of Justice Statistics (BJS) in the Clinton Justice Department added questions about hate violence to its well-established National Crime Victimization Survey (NCVS), an annual assessment of crime in America that complements the FBI's national crime collection effort under the Uniform Crime Reporting System.

*Although efforts to perfect survey instruments were ongoing throughout the last months of the Clinton Administration, no NCVS report using new hate crime data has yet been published.*

*However, in September 2001, BJS published a Special Report derived from close analysis of a small subset of the hate crimes reported to the FBI from 1997 to 1999. This report, Hate Crimes Reported in NIBRS, 1997–99,<sup>4</sup> provided previously unavailable detail about both hate crime victims and offenders, including useful information about youthful hate crime offenders.*

In 1998, Congress amended the Higher Education Act to require the Department of Education to collect information on a variety of crime categories — including acts directed at individuals because of their race, religion, sexual orientation, national origin, and disability — from the nation's 6,000 postsecondary institutions and to make the information widely available.

*Secretary of Education Rod Paige released the 2000 data in November 2001. These reports, available online at <<http://ope.ed.gov/security>>, include a significant increase in the number of reported hate crimes on campus.<sup>5</sup>*

### D. Partners Against Hate: Confronting Youth-Initiated Bias Crime

In 1992, Congress approved several new hate crime and anti-bias initiatives as part of the Juvenile Justice and Delinquency Prevention Act reauthorization.<sup>6</sup> Since then, the Justice Department's Office of Juvenile Justice Delinquency Prevention (OJJDP) has achieved distinction for the development of fine educational resources and training curricula addressing hate violence. In September 2000, OJJDP awarded a three-year \$3 million grant to the Partners Against Hate project created by the Anti-Defamation League, the Leadership Conference Education Fund, and the Center for the Prevention of Hate Violence.

Partners Against Hate has designed and begun to implement an ambitious three-year program of outreach, public education, and training to help address the cycle of bias, hatred, distrust, and violence by: (1) increasing public awareness — especially among youth and juvenile justice professionals — about promising practices to reduce and prevent youth-initiated hate violence; (2) providing effective hate crime prevention and intervention strategies and training and technical assistance for law enforcement agencies, educators, religious and community leaders, parents, and youth; and (3) helping individuals working with youth embrace the potential of advanced communications technologies — particularly the Internet — to break down barriers, address biases, and provide communities with the services and support they need.

The Partners website, <[www.partners-againsthate.org](http://www.partners-againsthate.org)>, serves as a comprehensive clearinghouse of hate crime-related information, including resources developed through the grant, as well as other promising programs from across the country. In addition, the website includes access to the finest da-

tabase of hate crime laws that form the basis of criminal enforcement in the states, and counteraction tools.

### E. Educating Youth About Hate Crimes

In the Clinton Administration, the Department of Justice and the Department of Education jointly produced and distributed a manual for educators on the causes of hate crimes, responses to prejudice and bigotry, and useful resources on the subject.<sup>7</sup> The Justice Department also developed an interactive hate crime website for children.

*The still-developing Justice Department website for children, <www.usdoj.gov/kids-page/>, has eliminated the interactive hate crime pages, but retains a link to the very useful Justice/Education educators' manual.*

The Department of Education's Office for Civil Rights, in association with the National Association of Attorneys General, provided excellent counsel and programming for schools in a publication, "Protecting Students from Harassment and Hate Crimes: A Guide for Schools."

*This Guide is available at the Department of Education's website at <www.ed.gov/pubs/Harassment/>.*

*In a very welcome indication of continuity, the Justice Department's Bureau of Justice Assistance published Hate Crimes on Campus: The Problem and Efforts to Confront It<sup>8</sup> in October 2001. This monograph, which continues the BJA's "Hate Crime Series," was prepared by staff at the Center for the Prevention of Hate Violence. The report examines the prevalence of hate violence on campus and the impact of these acts, identifies common obstacles colleges face in effective response to campus hate crimes, and describes several promising strategies to respond and prevent campus hate crime.*

### F. Legislation to Expand Federal Hate Crime Investigative and Prosecutorial Authority

Clinton Administration officials, working with Members of Congress and representatives of civil rights groups, developed legislation which would eliminate the current overly-restrictive obstacles to federal involvement in hate crime cases and expand authority for federal investigations and prosecutions in cases in which the bias violence occurs because of the victim's sexual orientation, gender, or disability. Clinton Administration officials actively supported this legislation in the 106th Congress.

*President Bush did not support this legislation during President debates with former Vice President Al Gore. Then-Senator Ashcroft opposed this legislation when the Senate approved the measure as an amendment to a defense authorization bill 57 to 42 in June 2000. Both President Bush and Attorney General Ashcroft have expressed support for legislation, sponsored by Senator Orrin Hatch (R-Ut.), which calls for a national study of hate crimes and creates a grant program for state and local authorities to combat hate-motivated crimes.*

## III. The 107th Congress

Before September 11, the first session of the 107th Congress had been characterized by partisan wrangling over budget and tax issues. After the terrorist incidents, members of Congress have tried to downplay party politics in an effort to focus on needed counterterrorism and aviation security measures. At the end of the session, Congress succeeded in reauthorizing the Elementary and Secondary Education Act (ESEA), the most important federal funding measure for public schools. Despite significant opposition

by some national conservative groups, Congress retained the important anti-bias programming authority in ESEA. This measure, along with the pending Local Law Enforcement Enhancement Act (LLEEA), are the top legislative priorities for the coalition of civil rights, religious, law enforcement, and education groups that advocate on behalf of strong federal action to confront hate violence.

### A. Reauthorization of the Elementary and Secondary Education Act

In 1994, with broad bipartisan support, Congress approved several important new initiatives as part of the ESEA to provide training and technical assistance for communities to address violence associated with prejudice and intolerance. Under these provisions in ESEA, a number of innovative and successful prejudice reduction programs have been developed and piloted in local communities across the country. Title IV of the Act, Safe and Drug Free Schools and Communities, also included a specific hate crimes prevention initiative — promoting curriculum development and training and development for teachers and administrators on the cause, effects, and resolutions of hate crimes or hate based conflicts. The enactment of these federal initiatives represented an essential advance in efforts to institutionalize anti-bias initiatives as a component of violence prevention programming.

Yet, these important provisions have also attracted persistent, vehement opposition from some conservative and right-wing organizations.<sup>9</sup> In part because of this vocal (if wrongheaded and erroneous) opposition, the leadership of the House Committee on Education and the Workforce removed every existing reference to bias, prejudice, and hate crime as they crafted their version of the ESEA rewrite early in the session. The

House approved this version in May — without the hate crime provisions. The Senate passed its version of the bill, which retained each of the hate crime provisions, in June. Efforts to reconcile the two versions on a wide range of issues continued until early December. On several occasions over that period of time, a broad coalition of over 100 civil rights, religious, law enforcement, civic, and education groups sent letters of strong support for the hate crime provisions. In the end, overcoming considerable opposition, the version signed into law by President Bush in January 2002 retained existing hate crime prevention authority.<sup>10</sup>

### B. The Local Law Enforcement Enhancement Act: Closing Gaps in Federal Law

First proposed in the aftermath of the 1997 White House Conference on Hate Crimes, the LLEEA would permit federal investigations and prosecutions of certain hate crimes. This new authority would complement section 245 of Title 18 U.S.C. — one of the primary statutes now used to combat racial and religious bias-motivated violence. That statute prohibits intentional interference, by force or threat of force, with enjoyment of a federal right or benefit (such as voting, going to school, or working) on the basis of the victim's race, color, religion, or national origin. Under the current law, enacted in 1968, the government must prove that the crime occurred because of a person's membership in a protected group — *and because* (not while) he/she was engaging in a federally protected activity. Justice Department officials have identified a number of significant racial violence cases in which federal prosecutions have been stymied by these unwieldy dual jurisdictional requirements.

The LLEEA would remove these overly restrictive obstacles to federal involvement by permitting prosecutions without having to

prove that the victim was attacked because he/she was engaged in a federally protected activity. Second, it would provide expanded authority for federal officials to investigate and prosecute cases in which the bias violence occurs because of the victim's actual or perceived sexual orientation,<sup>11</sup> gender,<sup>12</sup> or disability.<sup>13</sup>

The vast majority of bias crimes are effectively addressed at the state and local level. However, in states without hate crime statutes, and in others with limited coverage, local prosecutors are simply not able to pursue bias crime convictions.<sup>14</sup> In a limited number of these cases, and others in which the local prosecutor is unable or unwilling to investigate and prosecute, federal assistance or involvement is warranted.<sup>15</sup>

As drafted, the LLEEA contains a number of significant limitations on prosecutorial discretion. First, the bill's requirement of actual injury, or, in the case of crimes involving "the use of fire, a firearm, or an explosive or incendiary device," an attempt to cause bodily injury, limits the federal government's jurisdiction to the most serious crimes of violence against individuals — not property crimes.

Second, for the proposed new categories — gender, sexual orientation, and disability — federal prosecutors would have to prove an interstate commerce connection with the crime — similar to the constitutional basis relied upon for the Church Arson Prevention Act, which was passed unanimously by Congress in 1996.

Third, the LLEEA includes a certification requirement comparable to the limitations under 18 U.S.C. 245. Justice Department officials have historically been extremely selective in choosing which cases to prosecute under the federal criminal civil rights statutes. For example, in 2000, a year in which the FBI's Hate Crimes Statistics Act (HCSA) report documented 8,063 hate crimes reported by 11,690 police agencies, the Justice Department brought only 25 racial violence

cases under all federal criminal civil rights statutes combined. In fact, since its enactment in 1968, there have never been more than *ten* indictments in any year under 18 U.S.C. § 245. Yet, while the number of federal prosecutions for racial violence is small, these efforts provide an essential supplement to state and local criminal prosecutions. The importance of these few cases cannot be overstated. For example, a number of the racial violence cases involve prosecutions of members of the Ku Klux Klan and other organized hate groups. These cases — 7 in 2000, involving 7 defendants, and 8 more cases in the last two years, involving 16 defendants — help to demonstrate the federal government's resolve to combat organized bigotry.<sup>16</sup>

Supporters of the LLEEA know well that new federal criminal civil rights jurisdiction to address crimes directed at individuals because of their gender, sexual orientation, or disability will not result in the elimination of these crimes. But the possibility of federal prosecutions in select cases, the impact of FBI investigations in others, and expanded partnership arrangements with state and local investigators in still other cases, should prompt more effective state and local prosecutions of these crimes. The LLEEA also includes grants for state and local hate crime investigations and prosecutions. Especially at this time of enhanced counterterrorism coordination between law enforcement authorities, facilitating Federal, state, and local cooperative working arrangements to combat hate violence and other forms of domestic terrorism has great merit.

In the 106th Congress, bipartisan majorities in both the Senate and the House voted to approve the measure. On June 20, 2000, the Senate voted 57 to 42 to include the language of the Local Law Enforcement Enhancement Act as an amendment to the Department of Defense Authorization bill. On September 13, the House instructed its par-

### Federal Criminal Civil Rights Statutes<sup>21</sup>

State and local law enforcement authorities play the primary role in the prosecution of bias-motivated violence. Current federal law contains significant gaps and limitations — reaching only racially-motivated violence which is intended to interfere with the victim's federal rights or participation in a federally-protected activity. The federal government does play a critical role in supplementing state and local prosecutions in appropriate circumstances.

*42 U.S.C. section 3631*, 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. The statute reaches all persons involved in any housing-related activity — sellers, buyers, landlords, tenants, and real estate agents.

*18 U.S.C. section 245* is the primary criminal civil rights statute for racial violence cases that do not involve housing. As enacted in 1968, 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. Section 245 protects against race-based interference in the right to enroll in public school or college; the right to participate in and enjoy any benefit, service, or program administered by a state; employment by any private employer or state or local agency; travel in or use of a facility of interstate commerce; and enjoyment of goods or services of any place of public accommodation.

*18 U.S.C. section 247* criminalizes attacks on religious property and obstructions of persons who are enjoying the free exercise of their religious beliefs. This statute, originally enacted in 1988 and amended by the Church Arson Prevention Act of 1996, covers racially-motivated church burnings and bombings, as well as acts of desecration motivated by religious animus when the defendant has traveled in interstate commerce or has used a facility or instrumentality of interstate commerce.

*18 U.S.C. section 241* broadly prohibits 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.

ticipants in a House-Senate conference meeting to reconcile differences in that bill to retain that hate crimes language by a margin of 232 to 192. Unfortunately, at the urging of Republican leadership in the House and Senate, the LLEEA was stripped from the final version of this legislation. In this Congress, the measure has attracted over 200 cosponsors in the House and 51 in the Senate. The Senate Judiciary Committee approved the bill in July 2001, and the measure is expected to be taken up in the Senate early in the second session.

#### IV. The Hate Crime Statistics Act (HCSA)<sup>18</sup>

Though a number of private groups<sup>19</sup> and state law enforcement agencies track incidents of hate violence, the HCSA now provides the best national picture of the magnitude of the hate violence problem in America — though still clearly incomplete. Enacted in 1990, the HCSA requires the Justice Department to acquire data on crimes that “manifest prejudice based on race, religion, sexual orientation, or ethnicity” from law enforcement agencies across the country and to publish an annual summary of the findings. In the Violent Crime Control and Law Enforcement Act of 1994,<sup>20</sup> Congress expanded coverage of the HCSA to require FBI reporting on crimes based on “disability.”

#### V. The FBI’s 2000 HCSA Data at a Glance

As documented by the FBI in its November 2001 report, *Hate Crime Statistics, 2000*, violence directed at individuals, houses of worship, and community institutions because of prejudice based on race, religion, sexual orientation, national origin, and dis-

ability is disturbingly prevalent. While the overall number of crimes reported to the FBI in 2000 declined slightly (0.2%), reported hate crimes increased 2.3% — from 7,876 in 1999 to 8,063 in 2000. Another disappointing element of the 2000 report was the fact that the number of law enforcement agencies participating in the HCSA data collection effort decreased from 12,122 in 1999 to 11,690 in 2000. Here are highlights from the 2000 report:

- About 54% of the reported hate crimes were race-based, with 18% committed against individuals on the basis of their religion, 11% on the basis of ethnicity, and over 16% against gay men and lesbians.
- Overall, approximately 36% of the reported crimes were anti-black, 11% of the crimes were anti-white, 3.5% of the crimes were anti-Asian, and 6.9% anti-Hispanic.
- The 1,109 crimes against Jews and Jewish institutions comprised almost 14% of the total — and 75% of the reported hate crimes based on religion.
- Only 73% of the 16,000 law enforcement agencies that regularly report crime data to the FBI are reporting hate crime data to the Bureau. Moreover, as in years past, the vast majority of these “participating” agencies affirmatively reported that *no hate crimes were committed in their jurisdictions*. Of the 11,690 departments participating in the 2000 HCSA data collection effort, only 1,892 (16%) reported even one hate crime.

Clearly these hate crime numbers do not speak for themselves. Behind each and every one of these statistics is an individual or a community targeted for violence for no other reason than race, religion, sexual orientation, disability, or ethnicity. Despite an

incomplete reporting record over the first ten years of the Act, the HCSA has proved to be a powerful mechanism to confront violent bigotry against individuals on the basis of their race, religion, sexual orientation, or ethnicity. In addition, the Bureau's annual jurisdiction-by-jurisdiction hate crime report provides an important measure of accountability for those law enforcement agencies that report — and those that do not.<sup>21</sup> Importantly, the HCSA has also increased public awareness of the problem and sparked improvements in the local response of the criminal justice system to hate violence.<sup>22</sup> Studies have demonstrated that victims are more likely to report a hate crime if they know a special reporting system is in place.<sup>23</sup>

Police officials have come to appreciate the law enforcement and community benefits of tracking hate crime and responding to it in a priority fashion. Law enforcement officials can advance police-community relations by demonstrating a commitment to be both tough on hate crime perpetrators and sensitive to the special needs of hate crime victims.<sup>24</sup> By compiling statistics and charting the geographic distribution of these crimes, police officials may be in a position to discern patterns and anticipate an increase in racial tensions in a given jurisdiction.

However, studies by the National Organization of Black Law Enforcement Executives (NOBLE) and others have revealed that some of the most likely targets of hate violence are the least likely to report these crimes to the police.<sup>25</sup> In addition to cultural and language barriers, some immigrant victims, for example, fear reprisals or deportation if incidents are reported. Many new Americans come from countries in which residents would never call the police — *especially* if they were in trouble.<sup>26</sup> Gay and lesbian victims, facing hostility, discrimination, and, possibly, family pressures because of their sexual orientation, may also be reluctant to come forward to report these

crimes.<sup>27</sup> These issues present a critical challenge for improving law enforcement response to hate violence. When police departments implement the HCSA in partnership with community-based groups, the effort should enhance police-community relations.<sup>28</sup>

## VI. Addressing Youth-Initiated Hate Violence

There is growing awareness of the need to complement tough laws and more vigorous enforcement — which can deter and redress violence motivated by bigotry — with education, training, and diversion initiatives designed to reduce bias-motivated violence. The federal government has a central role to play in funding program development in this area and promoting awareness of initiatives that work.

There is a paucity of published information about juvenile hate crime offenders. The FBI's annual HCSA report, though clearly incomplete, now provides the best national picture of the magnitude of the hate violence problem in America. That report, however, does not provide specific information about either juvenile hate crime offenders or victims. In fact, a 1996 OJJDP "Report to Congress on Juvenile Hate Crime" stated: "the research team found very little information pertaining to the issue of hate crimes in general and even less on the nature and extent of juveniles' involvement."<sup>29</sup>

The September 2001 Bureau of Justice Statistics Special Report, *Hate Crimes Reported in NIBRS, 1997–99* closely examined about 3,000 of the almost 24,000 hate crimes reported to the FBI during that period and found that 60% of the hate crimes reported under the incident-based system were violent crimes, while only 20% of the other incident-based reports were violent crimes.

Perhaps most important, the report provided disturbing information about the too-frequent involvement of juveniles in hate crime incidents. The report documented that a disproportionately high percentage of both the victims of hate violence and the perpetrators were young people under 18 years of age:

- Thirty-three percent of all known hate crime offenders were under 18 — 31% of all violent crime offenders and 46% of the property offenders.
- Another 29% of all hate crime offenders were 18 to 24.
- Thirty percent of all victims of bias-motivated aggravated assaults and 34% of the victims of simple assault were under 18.
- Thirty-four percent of all persons arrested for hate crimes were under 18 — 28% of the violent hate crimes and 56% of the bias-motivated property crimes.
- Another 27% of those arrested for hate crimes were 18 to 24.

## **VII. A Hate Violence Deterrence and Response Action Agenda for the Bush Administration and the 107th Congress**

### **A. Enforcement of Federal Hate Crime and Civil Rights Statutes**

- *Congress should enact the Local Law Enforcement Enhancement Act, legislation that would remove the current overly restrictive obstacles to federal involvement*

*in bias-motivated crimes and provide expanded authority for federal officials to investigate and prosecute cases in which the bias violence occurs because of the victim's actual or perceived sexual orientation, gender, or disability. Congress and the administration should provide the resources necessary to develop training materials to successfully implement this expanded authority. State and local authorities investigate the vast majority of hate crime cases — and will continue to do so after the LLEEA is enacted into law. The LLEEA, however, would provide a necessary backstop to state and local enforcement by permitting federal authorities to provide assistance in these investigations — and by allowing federal prosecutions when necessary to achieve a just result.*

- *Working with U.S. Attorneys and private civil rights and community-based organizations, the Justice Department should continue to help coordinate Hate Crime Working Groups (HCWGs) in every judicial district in the country. Established in many of the 90-plus federal districts across the country under the Clinton Administration, HCWGs are well equipped to make decisions on state and local hate crime initiatives, to improve hate crime data collection efforts and enforcement of existing laws, and to set priorities for the future.*
- *Justice Department officials should vigorously investigate and, where appropriate, prosecute threats of violence transmitted over the Internet. Federal prosecutors should be trained in how to investigate and prosecute hate crimes on the Internet. In 1998, prosecutors obtained the first federal criminal civil rights conviction in a case involving an individual who had sent email messages threatening to “hunt*

down and kill” Asian American students at the University of California at Irvine.<sup>30</sup>

- *The Justice Department and the FBI should provide expanded training on the federal hate crime sentencing enhancement provisions. While the 1994 federal sentencing enhancement provision has been used to step up penalties for crimes in which the victim was targeted because of race, religion, or national origin, it has, apparently, never been applied in cases involving victims targeted because of their sexual orientation, disability, or gender. Though federal criminal civil rights statutes do not currently include these categories, the use of this enhancement in other bias-motivated crimes should be encouraged.*
- *The FBI should take steps to enhance civil rights and hate crime-related positions within the Bureau as career-advancing posts.*

## B. Improved Data on Hate Crimes

- *Congress and the administration should promote comprehensive implementation of the Hate Crime Statistics Act (HCSA) by state and local enforcement officials. The Justice Department’s Bureau of Justice Statistics has funded a necessary study on the differences in HCSA reporting rates among national law enforcement agencies. The federal government should use its full range of resources to implement policy recommendations from that study and encourage comprehensive participation in the national data collection initiative.*
- *The Justice Department should make participation in the HCSA program a prerequisite for receiving money through either the Office of Community Oriented Policing*

*Services (COPS) or its Office of Justice Programs (OJP). Congress and the administration should require that new officers hired under the COPS initiative receive training in how to identify, report, and respond to hate violence. Congress and the administration should make the receipt of OJP technical assistance grants dependent on participation in the HCSA data collection effort.*

- *Congress and the administration should provide additional incentives for HCSA implementation, including national recognition, matching grants for training, a network to promote replication of successful programs, and awards for exemplary departments. The readiness of the criminal justice system to address hate violence has significantly improved over the ten-year history of the HCSA. As efforts to implement the HCSA continue and expand, we will learn more about the perpetrators of these especially hurtful crimes — and how to prevent them.*

- *Congress and the administration should provide funds for a national assessment of juvenile hate violence, its causes, the prevalence of the problem in public schools, the characteristics of the offenders and victims, and successful intervention and diversion strategies. The problem of bias-motivated gang activity and youth violence has not been effectively studied. Additional efforts are necessary to identify and promote effective programs, including community service and alternative sentencing options.*

## C. Federal Hate Crime Research and Training Initiatives

- *Congress and the administration should provide the necessary resources to widely promote and continue outreach using the*

*Justice Department's excellent law enforcement training curricula.*

- *The administration and Congress should take steps to ensure that the FBI receives sufficient funding to continue to respond to requests for hate crime training from law enforcement agencies across the country, as well as funding to continue its own training and education outreach efforts for both new agents and in-service training for field agents at its Quantico training academy.*
- *Congress and the administration should promote hate crime training initiatives for prosecutors and judges. Building on successful and established hate crime training initiatives for police officers and executives, the next critical step is the development of model protocols, a model training guide, and an overall hate crime training curriculum for prosecutors.<sup>31</sup>*
- *Congress and the administration should provide funding to study federal and state hate crime prosecutions, including the number of convictions, the perpetrators, the impact of incarceration, and the recidivism rate.*
- *Congress and the administration should provide resources to promote education and training initiatives for juvenile justice and victim assistance professionals. Excellent resources for these two groups have been developed in recent years — including excellent new resources created by Partners Against Hate under a Justice Department grant — but additional funds are necessary to promote outreach and training for professionals who serve these constituencies.*
- *Congress and the administration should fund research on racist prison gangs and*

*develop initiatives to address inmate recruitment. At least two of the men convicted of the murder of James Byrd, Jr., in Jasper, Texas, in 1998 were members of white supremacist prison gangs during their previous incarceration.*

#### **D. The Justice Department's Community Relations Service (CRS)**

- *Congress and the administration should provide the Community Relations Service with sufficient funding to fulfill its vital and unique violence prevention mandate.*
- *Congress should act to expand the mandate of CRS to include providing mediation and conciliation services on the basis of religion and sexual orientation.<sup>32</sup> Limited by its authorizing statute (Title X of the Civil Rights Act of 1964) to respond only to conflicts based on race, color, and national origin, CRS has been unable to respond to well-documented evidence that a high incidence of hate-based crimes are committed against gays and lesbians and religiously identified people.*

#### **E. Education**

The American Psychological Association (APA), in a landmark 1993 report,<sup>33</sup> documented the role of prejudice and discrimination in fostering social conflict that can lead to violence. Educational resources are effective tools to alter attitudes and behaviors — which in turn can prevent and reduce acts of hatred and discrimination.<sup>34</sup>

- *The Department of Education should make information available regarding successful prejudice-reduction and hate crime prevention programs and resources.*

Resources must be allocated to institute and replicate best practices and promising programs on prejudice awareness, juvenile diversion, conflict resolution, and multicultural education.<sup>35</sup>

- *Congress and the administration should provide funding for the anti-prejudice initiatives included in the recently reauthorized Elementary and Secondary Education Act. In addition to hate crime prevention programs, the federal government should fund properly crafted citizenship and character education initiatives and programs to support teaching about the Bill of Rights.*
- *The Justice Department, the Department of Education, and other involved federal agencies should institutionalize and coordinate their response to prejudice-motivated violence — including gang violence — through programs and initiatives developed for schools and community youth violence prevention programs.*
- *In consultation with the Justice Department, the Department of Education should provide training and technical assistance to officials at colleges and universities to ensure comprehensive implementation of the campus hate crime reporting requirements included in the 1998 amendments to the Higher Education Act.*
- *The Department of Education should analyze the hate crime data it receives from colleges and universities and publish an annual report — similar to the separate annual report published by the FBI under the Hate Crime Statistics Act of 1990.*
- *Congress and the administration should support efforts to study hate on the Internet, analyzing its use for the dissemination of propaganda, evaluating the ex-*

*tent to which this propaganda is accessible to minors, and making appropriate recommendations for response — not regulation or censorship.<sup>36</sup>*

## F. Responding to Racism and Hate Crimes in the Armed Forces

- *The Department of Defense and all branches of the military should increase their efforts to collect information on extremist groups, provide anti-bias and anti-gay harassment training for all recruits and military personnel, improve procedures for screening out racist recruits, and clarify and publicize existing prohibitions against active duty participation in hate group activity.*
- *Congress should hold oversight hearings on the Defense Department's implementation of initiatives on hate groups in the military enacted as part of the National Defense Authorization Act of 1997.*
- *Congress and the administration should support legislation to amend the Uniform Code of Military Justice, which governs military conduct, to provide enhanced penalties for bias-motivated violence committed by members of the Armed Forces.*

## G. Leadership from Political and Civic Leaders

- *Congress and the administration should help promote civility and acceptance of differences in our society. As the nation witnessed a series of disturbing attacks against individuals perceived to be Middle Eastern, Arab, or Muslim, in the aftermath of the September 11 terrorist incidents, we were reminded of the need to directly confront the prejudice and intolerance that can lead to hate crimes —*

in our communities, in our houses of worship, in our schools, and, especially, in our homes.

- *Members of Congress and administration officials should seek opportunities to speak out against bigotry, intolerance, and prejudice in our society.* It is hard to overstate the importance of outspoken leadership

in opposition to all forms of bigotry. Our civic leaders set the tone for national discourse and have an essential role in shaping attitudes.

- *Politicians and civic leaders should never engage in divisive appeals based on race, ethnicity, sexual orientation, or religion.*

### Comparison of FBI Hate Crime Statistics, 1991-2000

|                                                         | 1991  | 1992  | 1993  | 1994  | 1995  | 1996   | 1997   | 1998   | 1999   | 2000   |
|---------------------------------------------------------|-------|-------|-------|-------|-------|--------|--------|--------|--------|--------|
| <b>Participating Agencies</b>                           | 2,771 | 6,181 | 6,865 | 7,356 | 9,584 | 11,355 | 11,211 | 10,461 | 12,122 | 11,690 |
| <b>Total Hate Crime Incidents Reported</b>              | 4,558 | 7,466 | 7,587 | 5,932 | 7,947 | 8,759  | 8,049  | 7,755  | 7,876  | 8,063  |
| <b>Number of States, including D.C.</b>                 | 32    | 42    | 47    | 44    | 46    | 50     | 49     | 47     | 49     | 49     |
| <b>Percentage of U.S. Population Agencies Represent</b> | N/A   | 51    | 58    | 58    | 75    | 84     | 85     | 79     | 85     | 84.2   |

### Offenders' Reported Motivations in Percentages of Incidents

|                                              | 1991*      | 1992       | 1993       | 1994       | 1995       | 1996       | 1997       | 1998       | 1999       | 2000       |
|----------------------------------------------|------------|------------|------------|------------|------------|------------|------------|------------|------------|------------|
| <b>Racial Bias</b>                           | 2,963/62.3 | 4,025/60.7 | 4,732/62.4 | 3,545/59.8 | 4,831/60.8 | 5,396/61.6 | 4,710/58.5 | 4,321/55.7 | 4,295/54.5 | 4,337/53.8 |
| Anti-Black                                   | 1,689/35.5 | 2,296/34.7 | 2,815/37.1 | 2,174/36.6 | 2,988/37.6 | 3,674/41.9 | 3,120/38.8 | 2,901/37.4 | 2,958/37.6 | 2,884/35.8 |
| Anti-White                                   | 888/18.7   | 134,220.30 | 1,471/19.4 | 1,010/17   | 1,226/15.4 | 1,106/12.6 | 993/12.3   | 792/10.2   | 781/9.9    | 875/10.9   |
| <b>Religious Bias</b>                        | 917/19.3   | 1,162/17.5 | 1,298/17.1 | 1,062/17.9 | 1,277/16.1 | 1,401/15.9 | 1,385/17.2 | 1,390/17.9 | 1,411/17.9 | 1,472/18.3 |
| Anti-Semitic                                 | 792/16.7   | 1,017/15.4 | 1,143/15.1 | 915/15.4   | 1,058/13.3 | 1,109/12.7 | 1,087/13.5 | 1,081/13.9 | 1,109/14.1 | 1,109/13.8 |
| Anti-Semitic as Percentage of Religious Bias | 86.4       | 87.5       | 88.1       | 86.2       | 82.9       | 79.2       | 78.5       | 77.7       | 78.6       | 75.3       |
| <b>Ethnicity</b>                             | 450/9.5    | 669/10.1   | 697/9.2    | 638/10.8   | 814/10.2   | 940/10.7   | 836/10.4   | 754/9.7    | 829/10.5   | 911/11.3   |
| <b>Sexual Orientation</b>                    | 425/8.9    | 767/11.6   | 860/11.3   | 685/11.5   | 1,019/12.8 | 1,016/11.6 | 1,102/13.7 | 1,260/16.2 | 1,317/16.7 | 1,299/16.1 |

\*1991 - due to limited data, this column represents offender's reported motivations in percentages of offenses.

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

## State by State Comparison, HCSA Reporting

| State                | 1991 |     | 1992 |     | 1993 |     | 1994 |     | 1995 |       | 1996 |       | 1997 |       | 1998 |       | 1999 |       | 2000 |       |
|----------------------|------|-----|------|-----|------|-----|------|-----|------|-------|------|-------|------|-------|------|-------|------|-------|------|-------|
|                      | A    | B   | A    | B   | A    | B   | A    | B   | A    | B     | A    | B     | A    | B     | A    | B     | A    | B     | A    | B     |
| Alabama              | **   | **  | 4    | 4   | 4    | 5   | **   | **  | **   | **    | 289  | 0     | 282  | 0     | **   | **    | **   | **    | **   | **    |
| Alaska               | **   | **  | **   | **  | 1    | 24  | 1    | 9   | 1    | 8     | 1    | 9     | 1    | 10    | **   | **    | 1    | 5     | 1    | 4     |
| Arizona              | 1    | 48  | 90   | 172 | 89   | 208 | 82   | 205 | 87   | 220   | 81   | 250   | 85   | 330   | 90   | 283   | 86   | 252   | 88   | 240   |
| Arkansas             | 169  | 10  | 183  | 37  | 187  | 13  | 189  | 9   | 190  | 7     | 191  | 1     | 194  | 0     | 193  | 3     | 192  | 8     | 4    | 3     |
| California           | 2    | 5   | 7    | 75  | 11   | 364 | 13   | 354 | 744  | 1,751 | 718  | 2,052 | 720  | 1,831 | 719  | 1,749 | 720  | 1,949 | 722  | 1,943 |
| Colorado             | 194  | 128 | 197  | 258 | 199  | 178 | 231  | 173 | 228  | 149   | 230  | 133   | 232  | 113   | 233  | 128   | 235  | 148   | 234  | 101   |
| Connecticut          | 29   | 69  | 23   | 62  | 39   | 117 | 89   | 68  | 94   | 87    | 98   | 114   | 59   | 113   | 94   | 109   | 98   | 135   | 97   | 151   |
| Delaware             | 58   | 29  | 57   | 47  | 49   | 33  | 51   | 42  | 51   | 45    | 50   | 67    | 54   | 58    | 50   | 19    | 54   | 37    | 52   | 34    |
| District of Columbia | **   | **  | 1    | 14  | 1    | 10  | 1    | 2   | 1    | 4     | 1    | 16    | 1    | 6     | 1    | 2     | 1    | 4     | 1    | 5     |
| Florida              | **   | **  | 374  | 334 | 374  | 239 | 370  | 214 | 411  | 164   | 394  | 187   | 580  | 93    | 464  | 179   | 483  | 267   | 491  | 240   |
| Georgia              | 2    | 23  | 4    | 66  | 4    | 75  | 3    | 51  | 3    | 49    | 2    | 28    | 5    | 45    | 58   | 34    | 56   | 36    | 80   | 35    |
| Hawaii               | **   | **  | **   | **  | **   | **  | **   | **  | **   | **    | **   | **    | **   | **    | **   | **    | **   | **    | **   | **    |
| Idaho                | 98   | 33  | 115  | 54  | 110  | 70  | 117  | 79  | 116  | 114   | 112  | 72    | 119  | 46    | 120  | 58    | 121  | 34    | 118  | 45    |
| Illinois             | 26   | 133 | 620  | 241 | 224  | 724 | 19   | 239 | 1    | 146   | 114  | 333   | 96   | 339   | 73   | 277   | 55   | 247   | 46   | 183   |
| Indiana              | 1    | 0   | 5    | 19  | 52   | 82  | 89   | 32  | 164  | 35    | 179  | 36    | 139  | 62    | 150  | 50    | 143  | 111   | 166  | 106   |
| Iowa                 | 201  | 89  | 190  | 36  | 196  | 39  | 226  | 61  | 232  | 29    | 231  | 43    | 230  | 55    | 218  | 0     | 222  | 31    | 220  | 33    |
| Kansas               | 3    | 6   | 2    | 3   | 1    | 0   | **   | **  | **   | **    | 1    | 28    | 1    | 55    | 1    | 54    | 1    | 41    | 1    | 42    |
| Kentucky             | 1    | 0   | 2    | 5   | 3    | 13  | 5    | 4   | 513  | 81    | 527  | 109   | 213  | 48    | 264  | 45    | 251  | 71    | 317  | 73    |
| Louisiana            | 6    | 0   | 10   | 13  | 58   | 23  | 92   | 9   | 146  | 7     | 140  | 6     | 147  | 4     | 134  | 10    | 172  | 6     | 174  | 12    |
| Maine                | **   | **  | 9    | 19  | 6    | 32  | 5    | 7   | 130  | 75    | 131  | 58    | 131  | 57    | 133  | 57    | 165  | 22    | 181  | 28    |
| Maryland             | 156  | 431 | 156  | 484 | 153  | 404 | 150  | 325 | 148  | 353   | 148  | 387   | 148  | 321   | 147  | 282   | 146  | 230   | 146  | 217   |
| Massachusetts        | 30   | 200 | 158  | 424 | 135  | 343 | **   | **  | 202  | 333   | 405  | 454   | 359  | 441   | 177  | 431   | 303  | 443   | 341  | 458   |
| Michigan             | **   | **  | 454  | 122 | 555  | 247 | 518  | 252 | 480  | 405   | 485  | 485   | 465  | 461   | 546  | 384   | 610  | 407   | 620  | 425   |
| Minnesota            | 42   | 225 | 69   | 411 | 66   | 377 | **   | **  | 66   | 285   | 307  | 268   | 312  | 214   | 72   | 248   | 314  | 225   | 313  | 169   |

A= Number of agencies participating in HCSA for each state B= Number of incidents reported by agencies in the state  
 \*\* indicates "did not report"

## State by State Comparison, HCSA Reporting

| State          | 1991 |     | 1992 |       | 1993  |      | 1994  |     | 1995  |     | 1996  |     | 1997  |     | 1998  |     | 1999  |     | 2000 |     |
|----------------|------|-----|------|-------|-------|------|-------|-----|-------|-----|-------|-----|-------|-----|-------|-----|-------|-----|------|-----|
|                | A    | B   | A    | B     | A     | B    | A     | B   | A     | B   | A     | B   | A     | B   | A     | B   | A     | B   | A    | B   |
| Mississippi    | 4    | 1   | 1    | 0     | 17    | 0    | 53    | 6   | 51    | 6   | 129   | 3   | 75    | 0   | 90    | 3   | 88    | 2   | 78   | 2   |
| Missouri       | 18   | 136 | 17   | 158   | 81    | 168  | 155   | 139 | 157   | 135 | 230   | 150 | 194   | 157 | 212   | 118 | 209   | 83  | 186  | 70  |
| Montana        | **   | **  | **   | **    | 18    | 21   | 2     | 0   | 6     | 11  | 95    | 10  | 95    | 15  | 77    | 22  | 86    | 27  | 102  | 19  |
| Nebraska       | **   | **  | **   | **    | **    | **   | **    | **  | **    | **  | 10    | 3   | 10    | 3   | 202   | 52  | 233   | 35  | 202  | 17  |
| Nevada         | 1    | 16  | 3    | 23    | 9     | 12   | 5     | 16  | 35    | 68  | 4     | 44  | 34    | 45  | 35    | 60  | 37    | 75  | 37   | 85  |
| New Hampshire  | **   | **  | **   | **    | 1     | 0    | 2     | 3   | 2     | 24  | 2     | 1   | **    | **  | 57    | 16  | 86    | 20  | 110  | 32  |
| New Jersey     | 271  | 895 | 291  | 1,114 | 317   | 1101 | 559   | 895 | 568   | 768 | 568   | 139 | 567   | 694 | 565   | 757 | 565   | 617 | 564  | 652 |
| New Mexico     | 1    | 0   | **   | **    | 13    | 4    | 57    | 4   | 70    | 24  | 70    | 44  | 58    | 24  | 59    | 31  | 59    | 16  | 43   | 15  |
| New York       | 773  | 943 | 569  | 1,112 | 571   | 934  | 567   | 911 | 520   | 845 | 499   | 903 | 502   | 853 | 500   | 776 | 506   | 590 | 539  | 608 |
| North Carolina | **   | **  | 1    | 1     | 6     | 10   | 7     | 7   | 59    | 52  | 83    | 34  | 445   | 42  | 434   | 39  | 463   | 31  | 205  | 31  |
| North Dakota   | **   | **  | 1    | 1     | 91    | 1    | 82    | 5   | 74    | 3   | 101   | 1   | 84    | 2   | 81    | 2   | 84    | 2   | 80   | 5   |
| Ohio           | 30   | 80  | 26   | 105   | 128   | 260  | 266   | 357 | 321   | 267 | 405   | 234 | 304   | 265 | 344   | 172 | 351   | 232 | 348  | 240 |
| Oklahoma       | 7    | 99  | 9    | 147   | 9     | 60   | 4     | 20  | 7     | 37  | 293   | 83  | 300   | 41  | 25    | 57  | 300   | 42  | 301  | 80  |
| Oregon         | 39   | 296 | 279  | 376   | 279   | 237  | 206   | 177 | 243   | 152 | 174   | 172 | 171   | 105 | 167   | 93  | 239   | 123 | 171  | 142 |
| Pennsylvania   | 50   | 277 | 944  | 432   | 1,036 | 391  | 1,044 | 278 | 1,134 | 282 | 1,137 | 205 | 1,108 | 168 | 1,127 | 168 | 1,140 | 185 | 933  | 141 |
| Rhode Island   | **   | **  | 44   | 48    | 45    | 62   | 45    | 37  | 45    | 46  | 46    | 40  | 45    | 43  | 46    | 29  | 48    | 41  | 48   | 48  |
| South Carolina | **   | **  | 4    | 4     | 295   | 27   | 302   | 30  | 293   | 26  | 340   | 42  | 316   | 71  | 300   | 94  | 339   | 52  | 352  | 33  |
| South Dakota   | **   | **  | **   | **    | 3     | 4    | 4     | 1   | 38    | 5   | 32    | 3   | 42    | 34  | 76    | 19  | 117   | 14  | 121  | 7   |
| Tennessee      | 2    | 1   | 2    | 4     | 56    | 2    | 113   | 20  | 104   | 25  | 191   | 33  | 167   | 46  | 260   | 58  | 355   | 127 | 422  | 230 |
| Texas          | 28   | 95  | 870  | 486   | 879   | 418  | 895   | 364 | 914   | 326 | 915   | 350 | 924   | 333 | 931   | 300 | 939   | 262 | 942  | 286 |
| Utah           | **   | **  | 9    | 12    | 121   | 45   | 123   | 93  | 116   | 107 | 124   | 59  | 124   | 49  | 101   | 66  | 122   | 59  | 127  | 71  |
| Vermont        | **   | **  | **   | **    | 1     | 1    | 18    | 12  | 19    | 10  | 3     | 4   | 20    | 3   | 37    | 13  | 43    | 16  | 43   | 19  |
| Virginia       | 19   | 53  | 24   | 102   | 21    | 100  | 160   | 95  | 175   | 51  | 409   | 92  | 409   | 105 | 415   | 160 | 372   | 203 | 384  | 325 |
| Washington     | 206  | 196 | 207  | 374   | 207   | 457  | 22    | 281 | 229   | 226 | 230   | 198 | 229   | 190 | 238   | 221 | 231   | 230 | 236  | 242 |
| West Virginia  | **   | **  | **   | **    | **    | **   | **    | **  | **    | **  | 22    | 4   | 32    | 3   | 112   | 21  | 249   | 32  | 268  | 60  |
| Wisconsin      | 303  | 41  | 145  | 67    | 161   | 19   | 150   | 40  | 337   | 45  | 338   | 43  | 345   | 50  | **    | **  | 364   | 49  | 368  | 47  |
| Wyoming        | **   | **  | 5    | 0     | 49    | 10   | 60    | 6   | 59    | 19  | 70    | 4   | 38    | 6   | 33    | 6   | 68    | 2   | 67   | 9   |

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

## Resources

These websites include outstanding resources on hate crimes laws, anti-bias and prevention programs, and links to other related sites:

[www.adl.org](http://www.adl.org) (Anti-Defamation League)

<http://www.adl.org/learn/> (Anti-Defamation League Law Enforcement Agency Resource Network)

[www.partnersagainsthate.org](http://www.partnersagainsthate.org) (Anti-Defamation League, Leadership Conference Education Fund, Center for the Prevention of Hate Violence)

[www.civilrights.org](http://www.civilrights.org) (Leadership Conference on Civil Rights/Leadership Conference Education Fund)

[www.cphv.org](http://www.cphv.org) (The Center for the Prevention of Hate Violence)

[www.tolerance.org](http://www.tolerance.org) (Southern Poverty Law Center/Klanwatch)

[www.hrc.org](http://www.hrc.org) (The Human Rights Campaign)

[www.theiacp.org](http://www.theiacp.org) (The International Association of Chiefs of Police)

## Endnotes

<sup>1</sup> Michael Lieberman has been the Washington Counsel for the Anti-Defamation League (ADL) since Jan. 1989. He has written widely about the impact of hate crimes and has been actively involved in efforts to secure passage of a number of federal and state hate crime statutes. Mr. Lieberman has participated in seminars and workshops on response to violent bigotry and has served on Advisory Boards for hate crime projects funded by the Department of Justice, the Department of Education, and the Department of Housing and Urban Development.

*The Anti-Defamation League:* Since 1913, the mission of ADL has been to “stop the defamation of the Jewish people and to secure justice and fair treatment to all citizens alike.” Dedicated to combating anti-Semitism, prejudice, and bigotry of all kinds, ADL has played a national leadership role in the development of innovative materials, programs, and services that build bridges of communication, understanding, and respect among diverse racial, religious, and ethnic groups. The League’s website, <[www.adl.org](http://www.adl.org)>, contains excellent background on legal and legislative response to hate violence, as well as educational resources on prevention of bias that can lead to violence.

<sup>2</sup> Attorney General Reno is especially deserving of high praise. Under her energetic leadership, working groups within the Department of Justice met regularly for months preceding the historic Nov. 1997 White House Conference on Hate Crimes. Justice Department working groups met repeatedly, soliciting input from government experts, law enforcement groups, academics, and civil rights activists to build on existing programs, assess future needs, and establish priorities. Most importantly, they followed up with the implementation of an ambitious and impressive series of national initiatives.

<sup>3</sup> This partnership between community groups and law enforcement was modeled after the Washington, D.C. Bias Crime Task Force, established in February 1996 to fight hate crimes and increase public awareness about bias-motivated crime in the nation’s capital. The Task Force was founded by ADL’s Washington, D.C./Maryland/Virginia/North Carolina Regional Director, David Friedman, and Eric Holder, then U.S. Attorney for the District of Columbia, who later served as Deputy Attorney General in the Clinton Justice Department.

<sup>4</sup> U.S. Department of Justice, Bureau of Justice Statistics, Sept. 2001.

<sup>5</sup> The Education Department website provides the crime statistics reported by every postsecondary institution that participates in federal financial aid programs and includes separate data for each campus. The data are categorized under one of four locations where the crime occurred: residence halls, other on-campus locations, noncampus buildings or properties, or nearby public property.

<sup>6</sup> Public Law 102-586.

<sup>7</sup> Department of Education and Department of Justice, *Preventing Youth Hate Crime: A Manual for Schools and Communities* (1997).

<sup>8</sup> This monograph is available at the Center for the Prevention of Hate Violence's website: <<http://www.cphv.usm.maine.edu/monograph.pdf>>.

<sup>9</sup> One website posting by the Traditional Values Coalition stated: "Currently, under the guise of "hate crime prevention" and "promoting tolerance," federal education dollars have provided a major funding stream to undermine and denigrate the religious beliefs of Christian parents and children. These taxpayer dollars have produced unbalanced, bigoted and offensive anti-Christian materials."

<sup>10</sup> Public Law 107-110.

<sup>11</sup> Despite the fact that a significant number of hate crimes are committed against gays and lesbians, hate crime statutes in only 27 states and the District of Columbia now include crimes directed at an individual because of his/her sexual orientation. Currently, the Justice Department has limited authority to seek enhanced penalties in bias-motivated attacks against gay men and lesbians, since sexual orientation is one of the categories included in the Hate Crime Sentencing Enhancement Act, 28 U.S.C. § 994. This authority, however, has apparently never actually been used.

<sup>12</sup> In the past five years, as states have realized that it is difficult to distinguish race-based and religion-based crimes from gender-based crimes, the trend in a number of state legislatures has been to include gender in hate crimes legislation. In 1990, only 7 of the statutes in the 31 states that had hate crime statutes included gender. Today, including the District of Columbia, 25 of the 45 states with penalty-enhancement hate crimes statutes include gender. Gender-based crimes are also subject to federal sentencing enhancements — although, again, apparently the enhancement has never been applied to a federal crime.

<sup>13</sup> The hate crime statutes in 26 states and the District of Columbia now provide enhanced penalties for disability-based crimes.

<sup>14</sup> For additional information about hate crime statutes across the country, including each state's breadth and coverage, see <[www.adl.org](http://www.adl.org)> or <[www.partnersagainsthate.org](http://www.partnersagainsthate.org)>.

<sup>15</sup> Similarly, in 1968, during the debate over 18 U.S.C. § 245, Congress had determined at that time that certain crimes directed at individuals because of "race, color, religion or national origin" required a federal remedy.

<sup>16</sup> Data provided by the Department of Justice as of Aug. 31, 2001.

<sup>17</sup> An excellent primer on the federal criminal civil rights statutes is a orientation document prepared by federal prosecutors Karla Dobinski, Tamara J. Kessler, and Suzanne K. Drouet of the Criminal Section of the Justice Department's Civil Rights Division.

<sup>18</sup> 28 U.S.C. § 534.

<sup>19</sup> The Anti-Defamation League has been compiling data on anti-Jewish vandalism and harassment since 1979. In 2000, a total of 1,606 anti-Semitic incidents from 44 states and the District of Columbia were reported to ADL regional offices across the country, representing a 4% increase from the 1999 figure of 1,547. For more information, see Anti-Defamation League, *2000 Audit of Anti-Semitic Incidents* (Mar. 2001) (annual report). In addition, the National Asian Pacific American Legal Consortium (NAPALC) has conducted an annual audit of anti-Asian violence since 1993. In 1999, NAPALC documented 486 anti-Asian incidents, an increase over its 1998 figure of 429. For more information, see National Asian Pacific American Legal Consortium, *1999 Audit of Violence Against Asian Pacific Americans* (Jan. 2000).

<sup>20</sup> Public Law 103-322 (Sept. 13, 1994).

<sup>21</sup> The separate HCSA jurisdiction-by-jurisdiction breakdown reports have been especially useful in helping to gauge the seriousness with which communities are approaching the hate crime data collection effort. For example, in 2000, the most current jurisdiction-by-jurisdiction information available, seven states (Alaska, Arkansas, the District of Columbia, Mississippi, North Dakota, South Dakota, and Wyoming) reported ten or fewer hate crime incidents. Alabama and Hawaii did not participate in the HCSA program at all. In addition, of the 50 most populous cities in the United States, 7 did not participate in the reporting of hate crime data at all: Honolulu, Toledo, Birmingham, Baton Rouge, Montgomery, Augusta/Richmond County (GA), and Mobile. Other large cities were, quite obviously, egregiously deficient in their HCSA reporting. Nashville and New Orleans each affirmatively reported zero hate crimes to the FBI. Milwaukee reported one, Oakland and Miami reported two, Detroit, Oklahoma City, and Omaha reported three, Washington, D.C., reported five, and Indianapolis, Baltimore, and Denver each reported seven. For comparison purposes, Boston, a city known for effective hate crime response — and approximately the same size as Milwaukee, Baltimore, Washington, D.C., and Nashville — reported 177 hate crimes to the FBI in 2000.

<sup>22</sup> An excellent primer on the federal criminal civil rights statutes is a orientation document prepared by Federal prosecutors Karla Dobinski, Tamara J. Kessler, and Suzanne K. Drouet of the Criminal Section of the Justice Department's Civil Rights Division.

<sup>23</sup> National Organization of Black Law Enforcement Executives (NOBLE), *Racial and Religious Violence: A Model Law Enforcement Response* (Sept. 1985) ("NOBLE report").

<sup>24</sup> As stated in the International Association of Chiefs of Police's National Policy Center's Apr. 1991 Concepts and Issues Paper on Hate Crime (revised in May 2000): "Swift and effective response to hate crimes helps to generate the degree of trust and goodwill between the community and its law enforcement agency that has long-term benefits for all concerned."

<sup>25</sup> NOBLE report at 36.

<sup>26</sup> For a fine review of these issues, see Japanese American Citizens League, *Walk With Pride — Taking Steps to Address Anti-Asian Violence* (Aug. 1991). NAPALC has also noted that a lack of bilingual police officers can exacerbate community fears and mistrust — and may contribute to an inability to initially identify a hate crime incident and create difficulties in interviewing the victim and conducting an effective investigation.

<sup>27</sup> Reporting rates for gay and lesbian hate crime victims are also likely affected by mistrust and fear of the police. For a particularly sobering review of these issues, see National Coalition of Anti-Violence Programs (NCAVP), *Anti-Lesbian, Gay, Bisexual and Transgendered Violence in 1997* ("NCAVP report"). Information gathered by NCAVP across the country indicates "a growing reluctance on the part of victims to report anti-LGBTH (Lesbian, Gay, Bisexual, Transgender, and HIV-positive) crimes to the police and an alarming increase in police indifference or hostility to those victims that did seek police assistance. The resistance of many victims to reporting is validated by the fact that there were significant increases in wrongful arrests, the number of offenders who are members of law enforcement and the number of incidents that occurred in a police precinct/jail." NCAVP report at 23.

<sup>28</sup> Collecting data under the HCSA — and training officers to identify, report, and respond to acts of violence based on prejudice — demonstrates a resolve to treat these inflammatory crimes seriously. These positive steps can be amplified by involving representatives of minority communities in the training sessions.

Excellent resources now exist to help municipalities establish hate crime response procedures. ADL has developed a number of hate crime training resources that are available to communities and law enforcement officials, including a comprehensive guide to hate crime

laws, a new crime training video on the impact of hate crime and appropriate responses, and a handbook of existing hate crime policies and procedures at both large and small police departments. ADL's anti-bias initiatives, coordinated through our A World of Difference Institute, are most often used as proactive measures to help educators, employers, and civic leaders develop the skills, sensitivity, and knowledge to combat bigotry and encourage understanding and respect among diverse groups in the classroom and in the workplace. For more information, see <[www.adl.org](http://www.adl.org)>. The League has also developed a special section of our website, the Law Enforcement Agency Resource Network, which is devoted to resources for law enforcement agencies in confronting terrorism, organized hate groups, and response to violent bigotry at <[www.adl.org/learn/](http://www.adl.org/learn/)>.

<sup>29</sup> *Report to Congress on Juvenile Hate Crime* (July 1996).

<sup>30</sup> *U.S. v. Machado*, No. SA CR 96-142-AHS (Central District of California, Feb. 10, 1998).

<sup>31</sup> The National District Attorney's Association's American Prosecutors Research Institute has produced an excellent resource guide, which is available at <[http://www.ndaa-apri.org/publications/apri/hate\\_crimes.html](http://www.ndaa-apri.org/publications/apri/hate_crimes.html)> and <[http://www.ndaa-apri.org/publications/apri/hate\\_crimes.html](http://www.ndaa-apri.org/publications/apri/hate_crimes.html)>.

<sup>32</sup> CRS has determined that anti-Semitism can be defined as conflict based on national origin or race and has offered its services in attacks or threats against Jews and Jewish institutions. In addition, CRS has responded to intercommunal violence directed at individuals on the basis of their sexual orientation on at least one occasion. On Feb. 17, 1994, Attorney General Reno exercised her authority under 28 U.S.C. § 509-510 to direct CRS to intervene in a community dispute involving a campaign of terror and harassment against a lesbian couple in Overt, Mississippi. CRS has also provided both valuable staff assistance and significant funding for the inclusive hate crimes outreach and training programs developed by the FBI and the Treasury Department's Federal Law Enforcement Training Center (FLETC), as well as the comprehensive training curricula developed by the Department of Justice.

<sup>33</sup> American Psychological Association, *Violence and Youth: Psychology's Response* (1993). The APA report asserts that education programs that reduce prejudice and hostility are integral components of plans to address youth violence. The report concludes that conflict resolution and prejudice reduction programs can provide needed information and skills to prevent youth violence.

<sup>34</sup> There are many existing programs designed to address prejudice. For example, ADL's A World of Difference Institute, founded in Boston in 1985 and now operating in over 30 cities, provides training and educational programming about the roots and consequences of prejudice. A World of Difference combines specially produced television programming, public service announcements, teacher training, curriculum materials, community-based projects, and video resource materials designed to help children and adults explore issues of prejudice and diversity. To date, more than 400,000 elementary and secondary school teachers nationwide have been trained to address prejudice and to better value diversity.

<sup>35</sup> Many of the League's best programs and hate crime prevention initiatives are highlighted in *Hate Crimes: ADL Blueprint for Action*, a publication originally prepared for distribution at the 1997 White House Conference on Hate Crime and recently updated and expanded.

<sup>36</sup> In 1993, the Commerce Department's National Telecommunications and Information Administration (NTIA) published an early study on the connection between broadcast hate and hate violence (National Telecommunications and Information Administration, U.S. Department of Commerce, *The Role of Telecommunications in Hate Crimes* (Dec. 1993)). The issue of the impact of hate on the Internet is worthy of further study. The global nature of the Internet

permits the Web to reach a worldwide audience — in a simple and inexpensive manner. Many traditional hate groups, like the Ku Klux Klan and other white supremacist groups, have already established anonymous fundraising and propaganda websites, many designed to appeal to young, impressionable youth.

While the use of the Internet by cyberhaters, racists, Holocaust deniers, and organized hate groups is disturbing, ADL believes strongly that censorship is not the best way to confront these messages. Rather, the Internet must be closely monitored, with people of goodwill and organizations exposing bigots and countering lies and distortions with accurate information. For more information on this issue, see Anti-Defamation League, *Poisoning the Web: Hatred Online* (1999), and Anti-Defamation League, *Combating Extremism in Cyberspace: The Legal Issues Affecting Internet Hate Speech* (2000).