

6

Hate Crimes

Characteristics of Incidents, Victims, and Offenders

JACK McDEVITT

AMY FARRELL

DANIELLE ROUSSEAU

RUSSELL WOLFF

Late one June night in 1988 in Jasper, Texas, James Byrd Jr. left a family party. He had a few too many drinks at the party, and because he had a predisposition to seizures and other health issues, he had no car, so he decided to walk home. When a pickup stopped to offer him a ride, it was a relief. In the truck were three White men, Bill King, Russell Brewer, and Shawn Berry, who were small-time criminals and White supremacists looking for a victim. Earlier in the week, King had discussed with Brewer the idea of starting a Jasper chapter of the Confederate Knights of America, the KKK hate group he and Brewer had joined while in prison. After drafting a

constitution, bylaws, and membership applications, King wanted a dramatic incident to publicize the cause and attract members.

James Byrd accepted their offer of a ride and climbed into the truck.

Around 3:00 A.M., the men pulled Byrd from the truck. King stomped him with his boot and spray-painted his face black. They then tied Byrd's ankles with a heavy logging chain and connected him to the back of the truck. Byrd was alive and conscious for more than two miles over dirt and concrete roads as the men dragged him behind the truck. His ankles, elbows, and buttocks were ground to the bone as he tried desperately to keep his

head and shoulders above the road. Eventually his struggle ended when his body hit the edge of a concrete culvert that decapitated him.

The men never got the chance to establish their Jasper chapter. King and Brewer were convicted of capital murder and sentenced to death, while Shawn Berry received a life sentence after testifying against his friends.

Though the chilling torture and murder of James Byrd Jr. is not typical of hate crimes, this horrific crime highlights aspects of what makes hate crimes different from other offenses. Byrd was targeted because he was a Black man, not for any other reason; any Black man walking down that road would have done. Hate crime victims are viewed by their attackers as interchangeable, attacked simply because they are perceived to be members of a particular race, religion, or other target group, not because of anything the victim may have done. As often occurs in hate crimes, the offense was committed by multiple offenders. This contributes to a third element more often seen in hate crimes—the excessive brutality of the attack. Hate crimes often involve unusually brutal attacks on victims who are innocent.

The terms *hate crime* and *bias crime*, coined during the 1980s, refer to behavior prohibited by law in which the perpetrator's actions are motivated by bias against a particular group. Acts of violence motivated by bigotry and hatred have occurred throughout history, including major acts of genocide such as the Holocaust during World War II, the “ethnic cleansing” we see across the globe, as well as acts of personal violence targeted at members of specific groups such as the killing of James Byrd Jr. described previously. Despite this lengthy history, it is only during the last three decades that this behavior has been defined as a hate crime and constructed as a social problem that requires additional public policy and legislation.

The term *bias* more accurately reflects a preconceived prejudice toward members of a group characterized by certain attributes, whereas *hate* suggests a more personalized

anger associated with a particular individual. However, in light of the fact that *hate* has become more popularly associated with the crime we are considering here, we will continue to use that term throughout this chapter. In addition, although bias, prejudice, and bigotry can influence a wide variety of behavior, this chapter focuses on those *criminal behaviors* that are motivated primarily by hatred or discrimination toward a particular group.

Responses to hate crime have varied across the United States. Federal and state legislation have been passed over the past two decades calling for law enforcement to report incidents involving hate crimes and criminalizing certain types of hate-motivated actions. Hate crime laws differ significantly by state, although most statutes share a few broad commonalities. They traditionally provide for state action, contain a subjective standard to interpret the intent of the offender, and specify a list of protected status characteristics (e.g., race, religion, ethnicity, sexual orientation, disability, etc.; Jenness, 2001). The Federal Bureau of Investigation (FBI) defines hate crimes on the federal level as “criminal offenses that are motivated, in whole or in part, by the offender's hatred toward a race, religion, sexual orientation, ethnicity/national origin, or disability, and committed against persons, property, or society” (FBI, 1999). The Anti-Defamation League (ADL) also employs a law-based standard, defining hate crime as “a criminal act against a person or property in which the perpetrator chooses the victim because of the victim's real or perceived race, religion, national origin, ethnicity, sexual orientation, disability or gender” (ADL, 2001).

HATE CRIME REPORTING AND STATISTICS

Over the last two decades significant efforts have been made to enhance the quality of information about the existence and prevalence of hate crimes in the United States. With the passage of the Hate Crime Statistics Act

(HCSA) in 1990, the attorney general charged the FBI to establish the first national hate crime data collection and reporting program. Utilizing the FBI's existing Uniform Crime Reporting (UCR) program, local, county, and state law enforcement agencies began to submit information about hate crime incidents to the FBI. Incorporating the new hate crime data collection effort into the UCR program was a critical decision, as the UCR program has been an accepted method of national data collection for more than 70 years. Today more than 17,000 local, county, and state law enforcement agencies participate in the UCR program. Despite these advantages, hate crime data collection and reporting have remained challenges for many agencies.

The number of agencies participating in the national hate crime data collection program has grown considerably since the program's initial years. In 1991, 2,771 law enforcement agencies participated in the national data collection program by submitting statistics

on the number of hate-motivated crimes that come to the attention of their agency; by 2004, that number had grown to nearly 13,000 agencies (Figure 6.1). Even with this remarkable growth, still only three-fourths of those agencies that participated in the general UCR program also participated in the national bias crime data collection program. As a result, the national statistics on hate crime are missing information from many police agencies across the country.

Despite the growth in the total number of agencies participating in the hate crime reporting program, many major cities report no hate crimes or surprisingly low numbers of hate crimes. Today nearly 85% of participating agencies report no hate crimes, according to the most recent FBI report. While reporting zero hate crimes may accurately reflect the number of hate crimes in many jurisdictions, scholars suggest that some agencies, particularly in larger, more diverse communities, are not fully and accurately collecting information on and

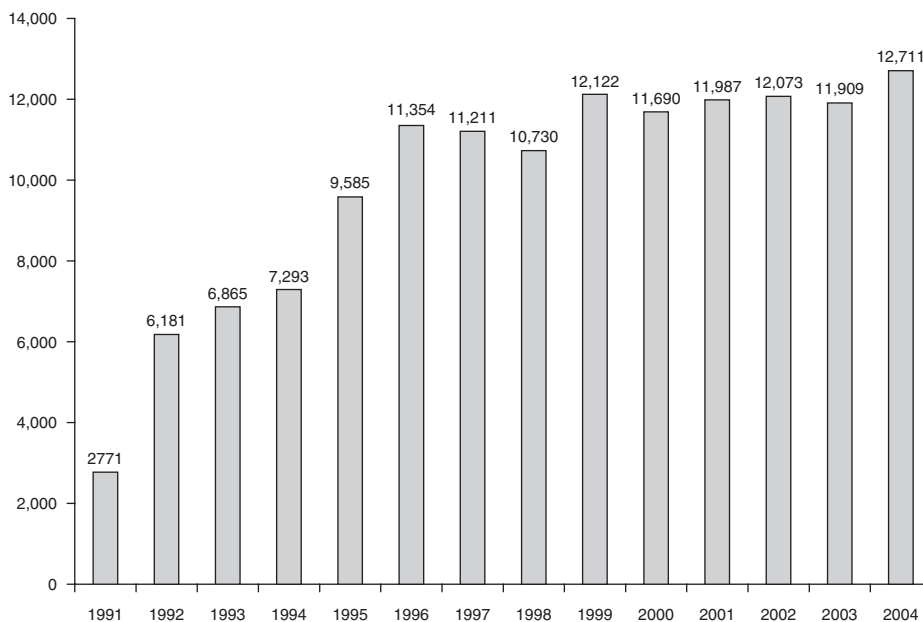


Figure 6.1 Number of Agencies Participating, National Bias Crime Data Collection Program, 1991–2004

SOURCE: Federal Bureau of Investigation, *Hate crime statistics reports (1991–2004)*. Washington, DC: U.S. Department of Justice.

reporting hate crimes (McDevitt et al., 2003). For example, in 2004, three states reported fewer than five hate crimes for the entire state: Mississippi (2), Wyoming (2), and Alabama (3). Similarly, a number of major cities reported surprisingly low numbers of hate crimes, such as Detroit, Michigan (0), Indianapolis, Indiana (0), Milwaukee, Wisconsin (2), Nashville, Tennessee (5), New Orleans, Louisiana (6), and Houston, Texas (14; FBI, 2005b).

Though limited to those crimes that are reported to the police, national hate crime statistics provide a critical measure of the prevalence and distribution of hate crimes throughout the country. Between 1995 and 2004, the FBI reports that the total number of hate-motivated crimes reported in the national statistics remained relatively constant, ranging from a low of 7,459 (2002) to highs of 9,792 (1999) and 9,721 (2001; Figure 6.2).

The relatively stable level of reported hate crime is more troubling when compared to other national estimates of violent and property crime (including the FBI's UCR program), which have reported dramatic decreases in all types of crimes over the same period (FBI, 2005a).

Of the 7,642 hate-motivated incidents reported in 2004, most of these crimes were motivated by race. A little more than half (52%) of all hate crimes were motivated by the race of the victim. The remaining incidents were motivated by religion (18%), sexual orientation (16%), ethnicity/national origin (13%), and disability (1%; Figure 6.3).

While race has been the overwhelming motivation for hate crime over the past 10 years, the proportion of reported hate crimes based on religion or ethnicity/national origin has increased throughout this 10-year period (Figure 6.4). Some suggest that this increase

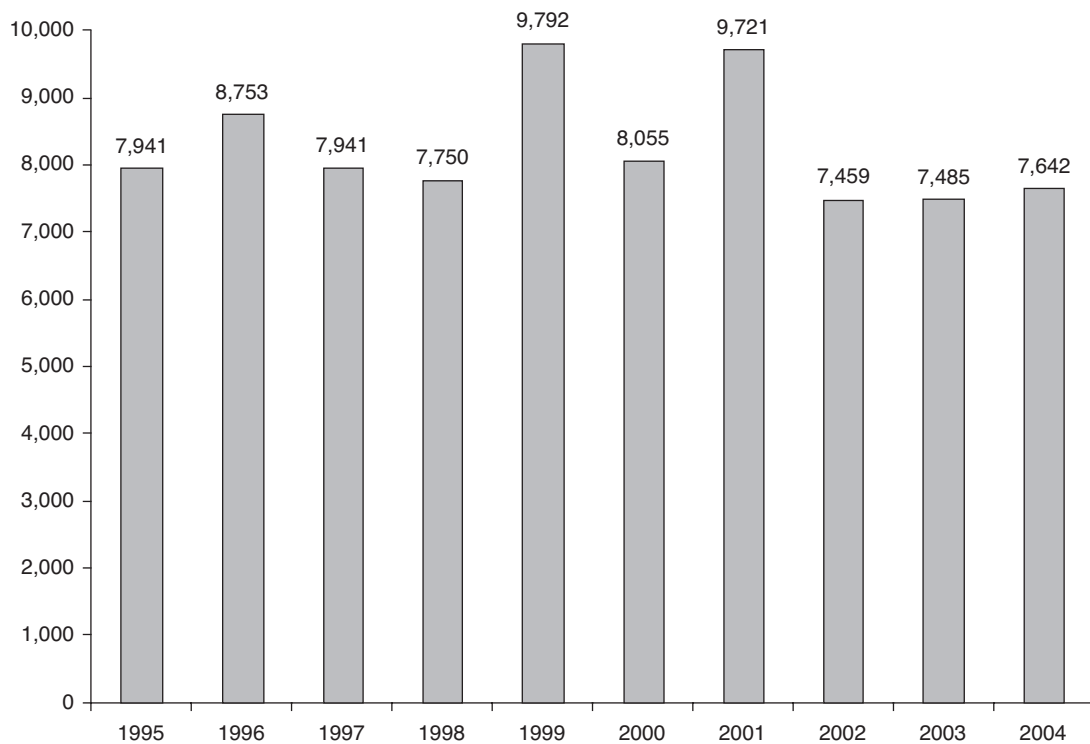


Figure 6.2 Total Hate Incidents Reported by Year, 1995–2004

SOURCE: Federal Bureau of Investigation, *Hate crime statistics reports* (1995–2004). Washington, DC: U.S. Department of Justice.

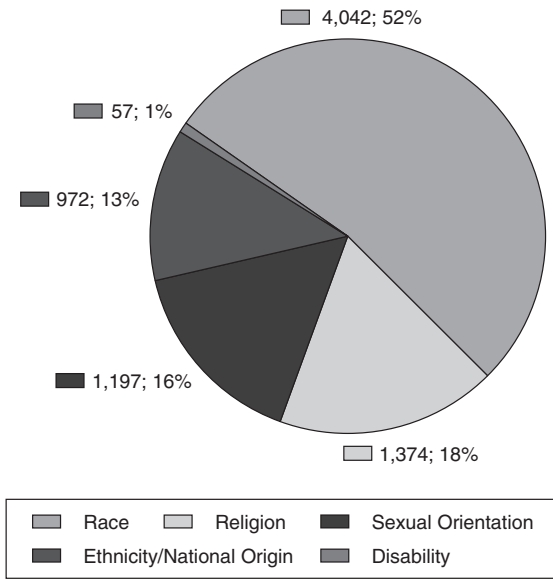


Figure 6.3 Reported Hate Incidents According to Motivation, 2004 UCR Count, and Percentage of Total Incidents

SOURCE: Federal Bureau of Investigation. (2005). *Hate crime statistics, 2004*. Washington, DC: U.S. Department of Justice.

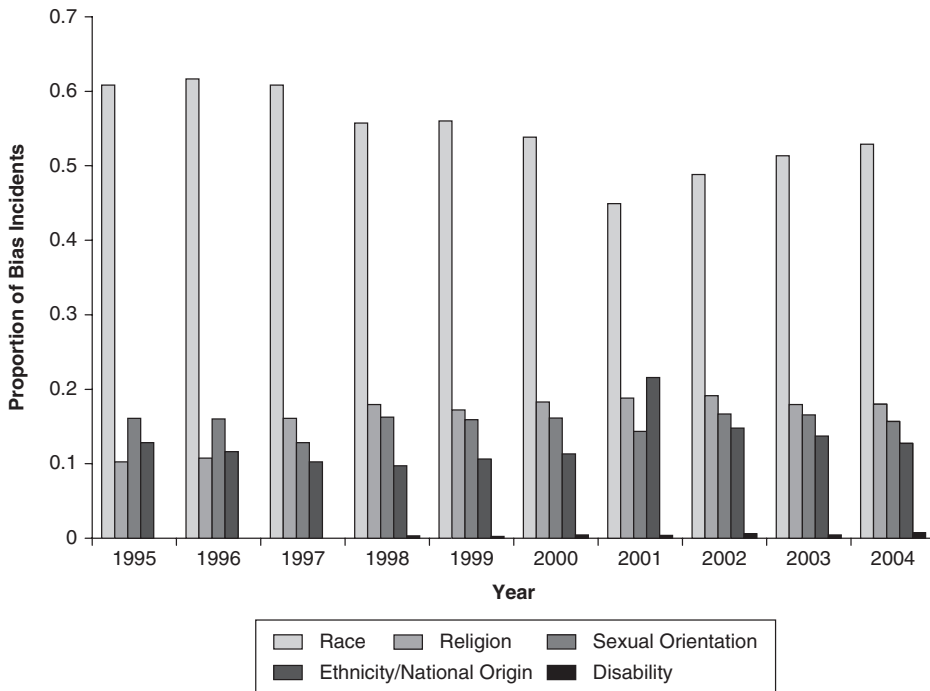


Figure 6.4 Proportion of Hate Incidents Motivation Reported by Year, 1995–2004

SOURCE: Federal Bureau of Investigation, *Hate crime statistics reports (1995–2004)*. Washington, DC: U.S. Department of Justice.

may be related to anti-Arab sentiment following the events of September 11, 2001.

In addition to information about the type of victim, the national hate crime statistics provide useful information about the type of underlying crime that has been reported. In 2004, 34% of all hate crime victimizations involved destruction of property or vandalism, 20% involved actions intended to intimidate the victim, 18% were simple assaults, and 11% were aggravated assaults (FBI, 2005b).¹ These figures indicate that in 2004 almost one half of all hate crimes reported nationally involved attempts to intimidate or physically harm the victim.

In addition to the collection of national statistics on hate-motivated crime by the FBI, a program that is voluntary, 24 states have adopted mandatory hate crime reporting programs (ADL, 2005b). Some data are also generated by national advocacy organizations, such as the ADL and the Southern Poverty Law Center, and state human rights commissions. The statistics gathered from these sources are in many cases different than those reported in the national hate crime statistics due to inconsistencies in reporting practices and definitions of hate crime. Most importantly, the national hate crime statistics report only those incidents that are known to the police. Many victims may not report a hate-motivated crime to the police but will provide information to an advocacy group that tracks such incidents. Particular groups, such as gay men, lesbians, and people of color, may be more likely to resist reporting hate-motivated incidents to the police based on historically negative interactions with law enforcement. In all hate crimes, victims are less likely to report the crime than in similar non-hate-motivated crimes. The reason for this is that the victim carries the cause of their victimization around with them; there is nothing they can do to change their race or ethnicity, so they remain vulnerable to future attacks in all areas of their life, work, socializing, and most importantly when they are at home. This

apparent vulnerability causes many victims to remain silent.

HATE CRIME LEGISLATION AND POLICY

Laws and policies addressing hate crime as a distinctive subset of criminality are fairly recent in the United States. Popular understanding of the concept of a hate crime did not arise until the late 1970s. Nonetheless, since then the construction of hate crime as a unique crime typology has had a significant effect on legislation, as well as law enforcement procedure. Legislative responses to hate crimes have primarily established an additional category of offense specifying that an existing criminal act was committed out of hatred or permitted a sentencing enhancement for existing criminal offenses that can be shown to have been committed based in part on hatred toward a particular group. It is important to note that these statutes do not criminalize thoughts, beliefs, or legal forms of expression.

The agenda for hate crime legislation was shaped by social movements, legislatures, courts, and law enforcement agencies at the local, state, and national levels. This agenda was born of an integration of several seemingly disparate social movements, including Black civil rights, the women's movement, the gay and lesbian movement, the disability movement, and the crime victims' movement (Jenness, 2001). Many different victim groups galvanized around the violence that was directed at them simply because of who they were. Initially, the goal of these social movements was to make the public aware of the existence and extent of hate-motivated violence, fundamentally through publicizing statistical information and advocating for hate crime legislation (Jenness & Grattet, 2001). The cause was advanced through efforts of civil rights groups, advocacy groups, victims' rights groups, and private monitoring organizations including the Southern Poverty Law Center and the ADL.

Stakeholders seeking legislation stressed initially the importance of documenting the prevalence of hate crimes and raising awareness through data gathering and reporting. Subsequently, the 1990s witnessed the introduction of four fundamental pieces of federal hate crime legislation. The first victory for hate crime advocates came in 1990, when the Hate Crime Statistics Act (HCSA) was signed into law by President George H. W. Bush. The law required that the U.S. attorney general collect data and publish a summary annually describing the incidence of hate crime in the nation. This data gathering responsibility was delegated to the FBI, who then developed the National Hate Crime Data Collection Program (Cogan, 2002; Levin, 2002; Nolan, Akiyama, & Berhanu, 2002).

Once data were being recorded about the prevalence of hate-motivated crime, advocates sought enhanced penalties for acts of hate-motivated violence. In 1994, the Hate Crime Sentencing Enhancement Act (HCSEA) was passed. This statute increased sentence penalties in federal cases with proof of victim targeting based on race, color, religion, national origin, ethnicity, gender, disability, or sexual orientation (Cogan, 2002; Levin, 2002). In 1994, the Violence Against Women Act was passed allowing for punishment and compensation in relation to federal crimes motivated by gender, promoting the inclusion of gender in the definition of hate crime in a number of states (Jenness & Grattet, 2001).

The Hate Crimes Prevention Act was introduced in 1998, and in subsequent years, in an attempt to expand the jurisdiction of federal officials to investigate and prosecute hate-motivated crimes, broadening both protection and circumstances of protection. This piece of federal legislation has yet to pass Congress.

Following the institutionalization of federal hate crime laws, a majority of states have enacted legislation specifically addressing crimes motivated by hate. State laws vary, but the main principles include prohibiting specific

behavior, establishing a unique intimidation offense, or providing for increased sentences in crimes with hate motivation. In addition to allowing various types of responses to hate-motivated crime, states differ significantly in what constitutes requisite prejudice and what crimes specifically qualify under legislation. Currently, 45 states, as well as Washington, D.C., have provisions based on race, religion, and ethnicity; 32 on sexual orientation; 27 on gender; and 32 on disability. Five states also include political affiliation, 11 include transgender identity, and 13 include age as statuses protected under the law. To date, Wyoming has no hate crime legislation (ADL, 2005b). In addition, some states have enacted legislation requiring data collection, mandating law enforcement training, prohibiting paramilitary training, and providing for compensation to victims (ADL, 2005b; Jenness, 2001).

Concerns regarding the constitutionality of hate crime have been addressed by the Supreme Court on multiple occasions. *R.A.V. v. City of St. Paul* (1992) represented a free speech challenge to the establishment of hate crime legislation. In *R.A.V.*, a teenaged skinhead was prosecuted for burning a cross in the yard of a neighborhood Black family. The appeal challenged an ordinance prohibiting the placement of any anger or resentment arousing symbol or object on personal or private property when such action targeted the status of "race, color, creed, religion, or gender" (St. Paul Bias-Motivated Crime Ordinance, 1990). The Court found the local ordinance unconstitutional, arguing that it punished speech, not action, and went beyond the bounds of permissible state regulation.

Wisconsin v. Mitchell (1993) addressed the issue of the legality of penalty enhancements in hate crime legislation. The accused, a Black male named Todd Mitchell, was charged and faced enhanced sentencing after encouraging and participating in the beating of a White youth. The incident resulted from a discussion of a scene from the film *Mississippi Burning* in

which a White supremacist beats a Black youth who is praying. Although the accused claimed violation of First Amendment rights, upon review, the Supreme Court, in a unanimous decision, held that the state statute was not in violation of the accused's First Amendment rights. Further, the court held that the First Amendment does not prohibit use of speech as evidence in establishing motive or intent.

Despite the establishment and ongoing clarification of hate crime legislation, such legislation still faces both procedural and theoretical challenges. The constitutional validity of penalty enhancements for hate crimes was again called into question before the Supreme Court in the case of *Apprendi v. New Jersey* (2000), where the court determined that judicial decisions to increase a sentence beyond the maximum prescribed by law must be proved before a jury beyond a reasonable doubt. Here, the state's procedures for enhancing penalties for hate crime were questioned, not the substantive validity of sentence enhancements in cases of hate motivation.

On a theoretical level, some scholars question the usefulness of keeping hate crime as a distinct criminal category. For example, Jacobs and Potter (1997) raise concerns regarding the definition of hate crime and its conceptualization as a unique construct, describing the potential for subjectivity and bias. They argue that hate crime laws have the capacity to generate conflict and social strain by further politicizing crime along lines of racial or ethnic identity and difference. Despite such opposition, however, categorizing offenses as hate crimes has proven to be a useful tool for identifying and addressing this unique phenomenon.

UNIQUENESS OF HATE CRIME VICTIMS

Central to the idea of maintaining separate categories and penalties for hate crimes is the notion that these crimes impact their victims

in unique ways. Perpetrators of hate crimes specifically target victims on the basis of identity characteristics (e.g., race, ethnicity, religion, etc.). Accordingly, it is important to understand the unique effects of such crime on the victim and others identifying with the victim's targeted group.

Research suggests that the effects of hate crimes are in fact unique and may produce a more serious emotional, psychological, and behavioral impact on victims when compared to similar crimes lacking a hate motivation. Victims of hate crime often experience unusual levels of fear of the perpetrator or perpetrators and may demonstrate behavioral changes, including avoidance of high-risk situations or desire for retaliation. In addition, hate crime victims possess an increased risk for experiencing symptoms of depression or post-traumatic stress disorder (PTSD; Barnes & Ephross, 1994; Herek, Gillis, & Cogan, 1999; Herek, Gillis, Cogan, & Glunt, 1997). In determining how to effectively assist victims of hate crime, empirical examination of the nature of victimization and its unique characteristics becomes crucial.

Methodologies and Methodological Issues in Studying Hate Crime Impact

As Herek and Berrill (1990) point out, there are three principal means of attempting to study hate crime perpetration. First, criminal victimization records and statistics obtained by law enforcement agencies (e.g., FBI UCR data) may be examined. Second, researchers can study self-report data from samples of perpetrators, including those who are convicted or admitted perpetrators as well as individuals at risk for becoming perpetrators. Finally, victims can be sampled and asked about their personal experiences.

In attempting to sample the population of hate crime victims, a questionnaire or survey format is most frequently implemented, and the majority of studies conducted to date have

been cross-sectional self-report measures. Though generally efficient and cost effective, these self-report methods face several limitations. First, survey design can be hindered by the difficulty of determining an accurate definition of hate crime. Further, self-report measures must rely on the victim's perception of a perpetrator's motivation. With such measures, validity can be threatened due to limitations in memory or complexities resulting from question interpretation. (Herek et al., 1997; Shively, 2005).

Impacts of Hate Crime on Victims

Although weaknesses in current research do exist, there is evidence suggesting the presence of unique emotional, psychological, and behavioral consequences for victims of hate crime. Barnes and Ephross (1994) conducted focus groups based on a sample of victims obtained through human rights and social service agencies as well as police departments. Victims provided narrative responses to the presentation of open-ended questions and, in addition, completed questionnaires addressing demographic characteristics and emotional responses to victimization. Results indicate that physical assaults, verbal assaults, and mail or telephone threats were the most common form of hate crime committed. The most prevalent emotion expressed by victims was anger toward the perpetrator. One third of participants reported behavioral changes including both avoidance and preparation for retaliation. The authors found that, unlike victims of other crimes, hate crime victims did not demonstrate a lowered sense of self-esteem (Barnes & Ephross, 1994).

Research examining the effects of hate crimes against lesbians, gays, and bisexual adults supports the existence of higher levels of psychological distress in victims of hate crime assaults. According to a study conducted in Sacramento, California, by Herek et al. (1997), more than half of the respondents had, as an

adult, experienced at least one hate crime or attempted hate crime related to sexual orientation. Approximately one fifth of respondents had specifically experienced an assault related to sexual orientation. In this study, self-administered questionnaire data were obtained from a convenience sample of 147 gay, lesbian, and bisexual respondents, with 45 respondents additionally completing a follow-up interview. Assault survivors indicated more anxiety and anger, as well as increased symptoms of depression and PTSD. The hate crime victims were less willing to believe in the general benevolence of people and rated their own risk for future victimization higher than other individuals in the sample.

Herek et al. (1999) compared psychological distress in the victims of sexual-orientation-related hate crimes with victims of non-hate crime and nonvictims. The study is based on a targeted sample of 2,259 gay, lesbian, and bisexual respondents obtained from the Sacramento, California, area. Data were obtained by means of a self-report questionnaire examining victimization experiences, psychological well-being, and victimization-related beliefs, with results indicating that hate crimes appear to have a more serious impact on the victims than do other forms of crime. Greater distress seems to be present based on the fact that the negative symptomatology and vulnerability of hate crime victims was directly connected with the victim's identity. Again, analysis supports the findings that hate crime survivors experienced less belief in the benevolence of people, more fear of future crime, and greater perceived vulnerability.

A study conducted by McDevitt, Balboni, Garcis, and Gu (2001) found differences in victims' psychological reactions to being assaulted, depending on whether the attack was hate motivated or not. The study examined data in relation to hate-motivated assault victims and a comparison group of non-hate-motivated assault victims. Study

participants completed self-administered questionnaires based on the Horowitz Impact of Events scale. Results of the survey demonstrate that victims of hate crimes experienced increased fear and indicated a greater likelihood of experiencing intrusive thoughts, even controlling for the type and severity of crime. Effects experienced by victims of hate crime were more intense and lasted longer than those of the non-hate victims in the sample.

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

As a result of the fear and trauma associated with the crime, many victims are afraid to report crimes of hate. For example, Herek et al. (1999) found that victims targeted on the basis of sexual orientation were significantly less likely to report crime to the police. Victims of hate crime may fear revictimization, retaliation, or having their privacy compromised. Many victims lack trust in law enforcement and other officials; they believe that authorities will not take their victimization seriously and will thus fail to bring perpetrators to justice. Gay and lesbian victims may specifically fear being “outed” as a result of reporting a hate crime. “Outing” refers to a process where external groups identify a person as gay, lesbian, bisexual, or transgender when that

person desires to keep that information private. Other groups, such as immigrants, may believe they will not be understood, either culturally or because of language barriers. Resident and illegal aliens may fear deportation in the process of reporting. Finally, victims may simply want to avoid the humiliation and retraumatization of having to recount the event (Berrill & Herek, 1990; Bureau of Justice Assistance, 1999; Garnets et al., 1990).

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

Race

Race has long been one of the difficult issues facing American society, so it is not surprising that crimes motivated by racial hatred are the most common category of hate crimes reported to the police (Figure 6.4). According to 2004 hate crime data as collected by the UCR program of the FBI, more than half (52%) of all hate incidents are racially motivated. When incidents of ethnicity- and nationality-based hatred are included, the figure rises to 65 percent (FBI, 2005b). Furthermore, along with ethnicity and religion, race represents one of the original and most consistently protected statuses under hate crime legalization and initiatives. However, there currently exists little research that examines in depth the effects of hate crime on victims of racially motivated violence.

Research has begun to examine the effect of racially motivated hate speech. Although much hate speech does not rise to the level of criminality, research in this area highlights attitudes and reactions that may help to

predict victims' responses to more severe victimization. Boeckmann and Liew (2002) found evidence to suggest that hate speech targeted at group characteristics is perceived as being unique in comparison to offenses targeted at individual characteristics. Racially and ethnically targeted hate speech were found to justify increased support for punishment as well as to elicit a stronger emotional response in participants. Nielsen (2002) found that racist hate speech is common. In a survey of three communities, half of all people of color experienced racial remarks "every day" or "often," while less than 5% of White participants experienced similar remarks. The experience of racial hate speech by non-Whites led to a variety of emotional responses, including fear and anger; however, few participants responded to the crime by reporting to the police, retaliating, or telling others about the incident, opting instead to simply ignore the incident or leave the situation.

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

It is important to recognize the continued existence of racism and the role social belief systems play in the occurrence of hate crimes. In a qualitative study of the responses of White students to the occurrence of a campus-based hate crime, participants indicated they should not personally be held liable, because of their being White, for radicalized

hatred targeted toward other racial groups (Jackson & Heckman, 2002). However, the role of race relations in hate-motivated crime goes beyond the extreme racist beliefs of a few. According to Perry (2002),

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

Hate crime, and racialized violence in particular, targets core identity issues. Accordingly, it is important to understand the greater social and cultural context within which such crimes occur. This understanding can facilitate more effective assistance to victims of crime targeted on the basis of their race.

Religion

In 2004, according to federal hate crime statistics, 18% of hate crime incidents were motivated by hatred of religious affiliation. Of such religiously motivated incidents, 69% were anti-Jewish, 11% anti-Islamic, approximately 4% anti-Catholic, approximately 3% anti-Protestant, approximately 3% against multiple religions, and less than 1% anti-Agnostic or anti-Atheist.

From the earliest versions of hate crime legislation, religion has been included as a protected status, largely a result of the work of social advocacy organizations, particularly of the ADL. Representing one of the most long-standing anti-hate violence groups, the ADL has been documenting and publishing data on anti-Semitic and other forms of hate violence since 1979 (Jeness & Grattet, 2001). Currently, the vast majority of states have laws addressing crimes motivated by religious hatred, and 21 states and Washington, D.C., have legislation specifically criminalizing interference with religious worship (ADL, 2005b). According to

audit results of the ADL, anti-Semitic incidents have reached the highest level in almost a decade, with high numbers of incidents occurring in schools and on college campuses (ADL, 2005a). One aspect of antireligious hate crimes is the location of the acts of criminal violence. A majority of antireligious hate crimes are targeted at property such as synagogues, churches, mosques, or cemeteries. It has been suggested that because it may be hard to identify potential victims as members of a particular religion, it is relatively easy to attack a symbol of that religion such as a mosque, synagogue, or church (Levin & McDevitt, 1993).

Hate crimes perpetrated against Arabs and/or Muslims have increased dramatically following the events of September 11, 2001. Hate crimes motivated by anti-Islamic sentiment increased from 34 in 2000 to 546 in 2001—a 1,554% increase during this time period. Hate crimes based on national origin (other than Hispanic) increased from 429 in 2000 to 1,752 in 2001—a 308% increase. While such crimes have decreased sharply since 2002, the number of anti-Islamic hate crimes remains much higher than the pre-September 11, 2001, levels. Analysis indicates that anti-Arab or anti-Islamic hate crimes increased sharply and dramatically in response to global events.

Gay, Lesbian, Bisexual, and Transgender

There were 1,197 hate crime incidents targeting sexual orientation reported to law enforcement agencies in 2004, representing 16% of total hate crime incidents reported (FBI, 2005b). According to the ADL, 31 states and the District of Columbia have hate crime laws that specifically include sexual orientation as a protected status, and 16 of those (50%) collect data relating to antihomosexual hate crime (ADL, 2005b). The majority (62%) of incidents targeting sexual orientation that were reported by law enforcement to

the FBI were anti-male homosexual, 14% were anti-female homosexual, 20% were anti-homosexual, 3% were antiheterosexual, and 1% were anti-bisexual in nature. Of the 1,406 offenses involved in these incidents, 28% were for intimidation; 26% were simple assaults; 25% were destruction, damage, or vandalism; and 15% were aggravated assaults (FBI, 2005b).

Research suggests that hate-motivated crimes present opportunities for a varied and severe set of consequences for members of the gay, lesbian, bisexual, and transgender (GLBT) community. Hate crime survivors had higher levels of depression, anxiety, anger, and post-traumatic stress symptoms than victims of non-hate crimes and nonvictims (Herek et al., 1997; Herek et al., 1999). In addition, although many hate crimes were committed by only one perpetrator, hate crimes against gay individuals were more likely than non-hate crimes to involve two or more offenders (Herek, Cogan, & Gillis, 2002), increasing the likelihood of serious injury. Research has also shown that violent hate-motivated attacks against gay males are often more excessive and brutal than those against other groups (see Willis, 2004).

Perhaps more than for members of other groups, identity issues can be very complex for GLBT individuals, making victimization potentially more severe and complicated. Because antigay sentiment is still relatively acceptable in American society—we can see it from church pulpits, in statewide elections, and in a wide variety of media outlets—an individual identifying him or herself as gay may alienate even the people closest to him or her. Despite this, hiding one's identity produces negative consequences and can make it more difficult to weather "heterosexism." Research has shown that those persons who are committed to their gay identity and do not try to hide it from others typically experience stronger psychological adjustment (see Garnets, Herek, & Levy, 2003). Ironically,

those who do identify themselves publicly as gay are increasingly likely to be victimized (Herek et al., 1997). Thus embracing a gay identity may act simultaneously as a psychological buffer as well as a risk factor.

Several important methodological issues in antihomosexual hate crime research need to be addressed in order to more accurately assess the effects of victimization. More work needs to be done on accurately locating GLBT individuals and obtaining victimization data from those populations. This is even more vital to the study of bisexual and transgender populations, as well as GLBT individuals of racial and ethnic minorities, all of whom do not typically appear in research in large enough numbers.

Last, the reluctance to report hate crime victimization is an essential factor to understand in working with victims of antihomosexual hate crime. For example, Herek et al. (1999) found that victims targeted on the basis of sexual orientation were significantly less likely to report crime to the police. Victims may fear the insensitive or hostile response by police, as well as being "outed" as a result of reporting a hate crime (Kuehnle & Sullivan, 2003).

Disability

A group that has, until recently, often been ignored in the development and implementation of hate crime policy and legislation is that of disabled individuals. Hate crimes targeting disabled individuals are now legally proscribed in 31 states and in Washington, D.C. (ADL, 2005b). Disabled individuals represent one of the largest minority populations in the United States, and victimization against the disabled is both prevalent and seemingly on the rise. Furthermore, this group is often disregarded in social, legal, and policy arenas. Both data collection efforts as well as law enforcement training procedures have infrequently addressed the

disabled population, and there have been no appellate cases dealing with the inclusion of disability in hate crime legislation (Grattet & Jenness, 2001). Violence experienced by disabled individuals is often perpetrated in private and thus may be more veiled than other forms of group targeted violence.

According to FBI data, reported incidents of disability-targeted crime account for less than 1% of all reported hate crime, however, the actual occurrence is almost certainly much higher. Another important difference to recognize is the fact that, unlike other hate crimes in which the perpetrator is generally a stranger or a group of strangers (Berk, 1990; Downey & Stage, 1999; Levin & McDevitt, 1993), the perpetrators of crime against disabled individuals are often known to the victim and many times may be a person on whom the disabled individual must depend (Waxman, 1991). Accordingly, attempts to assist this population must pay particular attention to the group's uniqueness as well as to the fact that disabled victims represent a population that has often been overlooked and often only peripherally linked to hate crime initiatives.

Gender

Like sexual orientation, gender is often a controversial status category in discussions of hate crime. Gender was not included as a protected category under the original HCSA; it was added as a protected category in the HCSEA of 1994, but it is largely overlooked. According to McPhail (2002), "The inclusion [of gender] remains more symbolic than realized as it is rarely invoked and remains controversial" (p. 130). Despite passage of the HCSEA, the FBI still does not collect data on gender. In addition, only 27 states and the District of Columbia have statutory provisions addressing hate crimes committed out of gender hatred (ADL, 2005b), and some of those laws are ineffective. For example, to

prove a hate crime motivated by gender, some statutes require that the perpetrator must verbally denigrate women as a class, and in other states at least two restraining orders must have been filed against the perpetrator by two different women for hate crime charges to be filed (McPhail, 2002).

One of the main arguments used by opponents of gender's inclusion as a protected category is that crimes against women are typically committed by people known to the women, ostensibly violating the interchangeability criterion of hate crime. However, hate crimes do not require that the offender and victim be complete strangers, only that the offense be committed at least in part because of the victim's actual or perceived membership of a group. For gender-motivated hate crimes, the challenge is identifying when acts of violence against women are motivated by specific hatred of women as a class or are more broadly caused by existing power differences between men and women commonly found throughout American society.

HATE CRIME OFFENDERS

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

Hate crime perpetrators may be somewhat distinct in comparison to other criminals. For example, in a study of undergraduate

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

Typologies have been established to characterize the distinctive motivation of hate crime perpetrators. Building on an earlier typology conceptualization (Levin & McDevitt, 1993), McDevitt, Levin, and Bennett (2002) propose a theory characterizing four unique hate crime perpetrator motivations: thrill, defensive, retaliatory, and mission. In a review of 169 hate crime cases investigated by the Boston Police Department, thrill was found most frequently to be the motivation, distinguishing well over half of all hate incidents. Thrill crimes are characterized by a desire for excitement and may be typified by an immature desire for power. Thrill offenses are often perpetrated by groups of teenage or young adult offenders, with offenses occurring on the victim's "turf." In comparison to other perpetrators, there is often less of a commitment to hatred in such offenders (McDevitt et al., 2002). In many of these cases, young men looking for excitement or thrills decide to attack someone who they perceive as different. Based on messages they have received from our culture, these young criminals do not think anyone will care if they attack a member of one of these target groups.

Defensive hate crimes represent the next most common type. These crimes are committed when perpetrators target victims under the perception that the perpetrator is protecting valuable resources or defending threats to his or her neighborhood. As with thrill offenses, defensive crimes are often perpetrated by groups of teenagers or young adults, but in contrast, most defensive hate crimes occur in

the offender's neighborhood, not the victim's. It is the offender's "turf" being defended. A common example of defensive hate crimes involves harassment suffered by a Black family who moves into an all-White neighborhood (McDevitt et al., 2002).

The third most common hate crime motivation is that of retaliation. Retaliatory offenses occur in reaction to a perceived hate crime. Here, it is not important whether in fact an assault occurred, only that the offender believes it took place. Retaliatory offenders are likely to act out individually, often seeking out a victim to target in the victim's own territory.

Finally, the least common, but potentially most critical motivation for hate crime offenders, is that of mission offenders. Mission offenders perceive themselves to be crusaders whose lives are completely committed to hatred and bigotry. Mission offenders may operate in groups (in affiliation with an organized hate group) or alone (such as in the example of Timothy McVeigh; McDevitt et al., 2002).

Franklin (2000) also proposes perpetrator typologies in examination of hate crimes perpetrated against gay and lesbian victims. Franklin defines four factors, including peer dynamics, antigay ideology, thrill-seeking, and self-defense. Peer dynamic motivation is characterized by a desire to be closer to friends, to live up to expectations, and to demonstrate toughness or heterosexuality. Antigay ideology is comprised of negative attitudes toward homosexuals, including expression of religious and moral values. Thrill-seeking refers to acts similar to those described in McDevitt et al. (2002), which are committed out of a desire for excitement or fun. Motivations of self-defense are based on the perceived need to respond to a fight initiated by one or more homosexuals.

Overall, typologies categorize perpetrator motivation and can assist law enforcement and other agencies to better detect hate-motivated crime when it occurs. In fact, the FBI incorporates the McDevitt et al. (2002)

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

CONCLUSIONS

Hate crime is a challenge facing communities and law enforcement both internationally and in the United States. As a nation founded on tolerance for group difference, criminal acts motivated by hatred toward particular groups threaten our core democratic principles. State and federal legislation designed to help measure the prevalence of hate crime and create additional penalties for crimes motivated by hatred toward a particular group have helped raise public awareness about the problem of hate-motivated crime. Through these efforts we have learned a great deal about the hate crimes that are reported to the police; however, much more work needs to be done to understand how hate crimes affect individual victims and groups.

Several strategies for dealing with hate crime have been suggested in the literature (ADL, 2005a; Levin & McDevitt, 2002). These strategies include strong legislation making it clear that any hate-motivated violence will be met with significant criminal sanctions, training for law enforcement in how to identify and respond to acts of hate-motivated violence, and, most important, community reaction to each and every incident that supports the victims and sends a message to the offenders that hate-motivated violence will never be tolerated in our community.

REFERENCES

- Anti-Defamation League. (2001). *How children learn and unlearn prejudice: Responding to*

- hate-motivated behavior in schools*. Retrieved March 24, 2006, from www.adl.org/ctboh/Responding1.asp
- Anti-Defamation League. (2005a). *ADL audit: Anti-Semitic incidents at highest level in nine years*. Retrieved March 24, 2006, from www.adl.org/PresRele/ASUS_12/4671_12.htm
- Anti-Defamation League. (2005b). *Anti Defamation League state hate crime statutory provisions*. Retrieved March 24, 2006, from www.adl.org/learn/hate_crime_laws/state_hate_crime_statutory_provisions_chart.pdf
- Apprendi v. New Jersey, 530 U.S. 466 (2000).
- Barnes, A., & Ephross, P. H. (1994). The impact of hate violence on victims: Emotional and behavioral responses to attacks. *Social Work, 39*(3), 247–251.
- Berk, R. A. (1990). Thinking about hate-motivated crime. *Journal of Interpersonal Violence, 5*(3), 334–349.
- Berrill, K., & Herek, G. M. (1990). Primary and secondary victimization in anti-gay hate crimes: Official response and public policy. *Journal of Interpersonal Violence, 5*(3), 401–413.
- Boeckmann, R. J., & Liew, J. (2002). Hate speech: Asian American students' justice judgments and psychological responses. *Journal of Social Issues, 58*(2), 363–381.
- Bureau of Justice Assistance. (1999). *A policy-maker's guide to hate crimes*. Washington, DC: U.S. Department of Justice.
- Cogan, J. C. (2002). Hate crime as a crime category worthy of policy attention. *American Behavioral Scientist, 46*(1), 173–185.
- Craig, K. M. (1999). Retaliation, fear, or rage: An investigation of African American and White reactions to racist hate crimes. *Journal of Interpersonal Violence, 14*(2), 138–151.
- Downey, J. P., & Stage, F. K. (1999). Hate crimes and violence on college and university campuses. *Journal of College Student Development, 40*(1), 3–9.
- Federal Bureau of Investigation. (1999). *Hate crime federal data collection guidelines: Uniform crime reporting*. Washington, DC: U.S. Department of Justice.
- Federal Bureau of Investigation. (2005a). *Crime in the United States, 2004*. Washington, DC: U.S. Department of Justice.
- Federal Bureau of Investigation. (2005b). *Hate crime statistics, 2004*. Washington, DC: U.S. Department of Justice.
- Franklin, K. (2000). Antigay behaviors among young adults: Prevalence, patterns, and motivators in a noncriminal population. *Journal of Interpersonal Violence, 15*(4), 339–362.
- Garnets, L., Herek, G. M., & Levy, B. (1990). Violence and victimization of lesbians and gay men: Mental health consequences. *Journal of Interpersonal Violence, 5*(3), 366–383.
- Garnets, L. D., Herek, G. M., & Levy, B. (2003). Violence and victimization of lesbians and gay men: Mental health consequences. In L. D. Garnets & D. C. Kimmel (Eds.), *Psychological perspectives on lesbian, gay, and bisexual experiences* (2nd ed., pp. 188–206). New York: Columbia University Press.
- Grattet, R., & Jenness, V. (2001). Examining the boundaries of hate crime law: Disabilities and the "dilemma of difference." *Journal of Criminal Law and Criminology, 91*(3), 653–698.
- Herek, G. M., & Berrill, K. T. (1990). Documenting the victimization of lesbians and gay men. *Journal of Interpersonal Violence, 5*(3), 301–315.
- Herek, G. M., Cogan, J. C., & Gillis, J. R. (2002). Victim experiences in hate crimes based on sexual orientation. *Journal of Social Issues, 58*(2), 319–339.
- Herek, G. M., Gillis, J. R., & Cogan, J. C. (1999). Psychological sequelae of hate-crime victimization among lesbians, gay, and bisexual adults. *Journal of Counseling and Clinical Psychology, 67*(6), 945–951.
- Herek, G. M., Gillis, J. R., Cogan, J. C., & Glunt, E. K. (1997). Hate crime victimization among lesbian, gay, and bisexual adults: Prevalence, psychological correlates and methodological issues. *Journal of Interpersonal Violence, 12*(2), 195–215.
- Jackson, R. L., II, & Heckman, S. M. (2002). Perceptions of White identity and White liability: An analysis of White student responses to a college campus racial hate crime. *Journal of Communication, 52*(2), 434–450.
- Jacobs, J. B., & Potter, K. A. (1997). Hate crimes: A critical perspective. *Crime and Justice, 22*, 1–50.

- Jenness, V. (2001). The hate crime canon and beyond: A critical assessment. *Law and Critique*, 12(3), 279–308.
- Jenness, V., & Grattet, R. (2001). *Making hate a crime: From social movement to law enforcement*. New York: Russell Sage Foundation.
- Kuehnle, K., & Sullivan, A. (2003). Gay and lesbian victimization: Reporting factors in domestic violence and bias incidents. *Criminal Justice and Behavior*, 30(1), 85–96.
- Levin, B. (2002). From slavery to hate crime laws: The emergence of race and status-based protection in American criminal law. *Journal of Social Issues*, 58(2), 227–245.
- Levin, J., & McDevitt, J. (1993). *Hate crimes: The rising tide of bigotry and bloodshed*. New York: Plenum.
- Levin, J., & McDevitt, J. (2002). *Hate crime revisited: America's war on those who are different*. Boulder, CO: Westview Press.
- McDevitt, J., Balboni, J., Garcia, L., & Gu, J. (2001). Consequences for victims: A comparison of bias and non bias motivated assaults. *American Behavioral Scientist*, 45(4), 697–713.
- McDevitt, J., Balboni, J. M., Bennett, S., Weiss, J. C., Orchowksy, S., & Walbolt, L. (2000). *Improving the quality and accuracy of bias crime statistics nationally: An assessment of the first ten years of bias crime data collection*. Washington, DC: U.S. Department of Justice, Bureau of Justice Statistics.
- McDevitt, J., Cronin, S., Balboni, J., Farrell, A., Nolan, J., & Weiss, J. (2003). *Bridging the information disconnect in bias crime reporting*. Washington, DC: U.S. Department of Justice, Bureau of Justice Statistics.
- McDevitt, J., Levin, J., & Bennett, S. (2002). Hate crime offenders: An expanded typology. *Journal of Social Issues*, 58(2), 303–317.
- McPhail, B. A. (2002). Gender-bias hate crimes: A review. *Trauma, Violence, & Abuse*, 3(2), 125–143.
- Nielsen, L. B. (2002). Subtle, pervasive, harmful: Racist and sexist remarks in public as hate speech. *Journal of Social Issues*, 58(2), 265–280.
- Nolan, J. J., III, Akiyama, Y., & Berhanu, S. (2002). The Hate Crime Statistics Act of 1990: Developing a method for measuring the occurrence of hate violence. *American Behavioral Scientist*, 46(1), 136–153.
- Perry, B. (2002). Defending the color line: Racially and ethnically motivated hate crime. *American Behavioral Scientist*, 46(1), 72–92.
- R.A.V. v. City of St. Paul, Minnesota, 505 U.S. 377 (1992).
- Rayburn, N. R., Mendoza, M., & Davidson, G. C. (2003). Bystanders' perceptions of perpetrators and victims of hate crime: An investigation using the person perception paradigm. *Journal of Interpersonal Violence*, 18(9), 1055–1074.
- Shively, M. (2005, June). *Study of literature and legislation on hate crime in America*. Publication of U.S. Department of Justice, National Institute of Justice.
- St. Paul Bias-Motivated Crime Ordinance, St. Paul, Minn., Legis. Code § 292.02 (1990).
- Waxman, B. F. (1991). Hatred: The unacknowledged dimension in violence against disabled people. *Sexuality and Disability*, 9(3), 185–199.
- Willis, D. G. (2004). Hate crimes against gay males: An overview. *Issues in Mental Health Nursing*, 25(2), 115–132.
- Wisconsin v. Mitchell, 505 U.S. 476 (1993).

NOTE

1. The remaining 7% of crimes were made up of 2% robbery, 2% burglary, 2% larceny-theft, 1% arson, and less than 1% homicide, rape, and other crimes combined (percentages are rounded).

