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**STATEMENT OF THE ANTI-DEFAMATION
LEAGUE ON BIAS-MOTIVATED CRIME
AND H.R. 1082 — THE HATE CRIMES
PREVENTION ACT†
AUGUST 4, 1999**

The Anti-Defamation League (ADL) is pleased to provide testimony as the House Judiciary Committee conducts hearings on bias-motivated crime and H.R. 1082, the Hate Crimes Prevention Act (HCPA).¹ This necessary legislation, introduced under the leadership of Representatives Conyers, Morella, Gephardt, Frank, and Forbes, would eliminate gaps in federal authority to investigate and prosecute bias-motivated crimes.

Along with the Leadership Conference on Civil Rights, the Human Rights Campaign, and the National Organization for Women Legal Defense and Education Fund, ADL is privileged to coordinate the activities of the national Hate Crimes Coalition. The Hate Crimes Coalition supports efforts to develop and enhance federal and state initiatives to prevent and deter hate violence. Under the leadership of the Hate Crimes Coalition, over 100 national law enforcement organizations, civil rights groups, religious denominations, and state and local government associations endorsed the HCPA.² Last month, the Senate voted to include the provisions of the HCPA as part of the Commerce State Justice Appropriations measure. In the House, the HCPA received bipartisan support from over 180 Members. We urge the House Judiciary Committee to promptly act to approve this important measure.

† The following article is a transcript of a statement submitted to the House Judiciary Committee by the Anti-Defamation League at hearings on bias crime on August 4, 1999 in Washington, D.C. The statement was written by Michael Lieberman, Washington Counsel for the Anti-Defamation League.

1. For additional information on federal response to hate violence, contact Michael Lieberman, Washington Counsel, Anti-Defamation League, 1100 Connecticut Avenue, #1020, N.W. Washington D.C., 20036. Additional information about the League's resources on countering hate violence and combatting prejudice in schools and communities is available at: www.adl.org.

2. A list of agencies endorsing the HCPA is attached.

I. DEFINING THE ISSUE: THE IMPACT OF HATE VIOLENCE

In recent months, the issue of hate violence dramatically returned to the public consciousness because of tragic bias-motivated shootings in Illinois and Indiana over the Fourth of July weekend, resulting in the deaths of two people and the wounding of nine others; the recent murder of a gay couple in northern California; the arsons at three synagogues in Sacramento in June; and the gruesome and apparently gender-based murders of four women in Yosemite National Park. Last year, according to FBI statistics, there were approximately 6,000 murders nationwide between June and October. However, it was the particularly violent and depraved manner in which James Byrd, Jr. was murdered in Jasper, Texas in June 1998 and Matthew Shepard was murdered in Laramie, Wyoming in October 1998 — and the fact that each was murdered for no reason other than his race and sexual orientation, respectively — that sparked national outrage and raised awareness of the need for more effective federal, state, and local responses to hate violence.

James Byrd, Jr. and Matthew Shepard were attacked for different reasons in different parts of the country. In each case, law enforcement officials aggressively pursued these crimes and apprehended the apparent perpetrators, who are now in custody facing severe consequences. Yet, thousands of hate crimes do not make national headlines. Too frequently, other victims of bias-motivated vandalism, hateful graffiti, threats, or assaults do not receive the police attention they merit.

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 can 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.

1) *The Anti-Defamation League (ADL)*

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 combatting anti-

Semitism, prejudice, and bigotry of all kinds, defending democratic ideals and promoting civil rights, ADL is proud of its 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.

Over the past decade, ADL has been recognized as a leading resource on effective responses to violent bigotry: conducting an annual *Audit of Anti-Semitic Incidents*, drafting model hate crime statutes for state legislatures, and serving as a principal resource for the FBI in developing training and outreach materials for the Hate Crime Statistics Act (HCSA), which requires the Justice Department to collect statistics on hate violence from law enforcement officials across the country.

The attempt to eliminate prejudice requires that Americans develop respect and acceptance of cultural differences and begin to establish dialogue across ethnic, cultural, and religious boundaries. Education and exposure are the cornerstones of a long-term solution to prejudice, discrimination, bigotry, and anti-Semitism. Effective responses to hate violence by public officials and law enforcement authorities can play an essential role in deterring and preventing these crimes.

2) *Hate Crime Statutes: A Message to Victims and Perpetrators*

In partnership with human rights groups, civic leaders and 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. While bigotry cannot be outlawed, hate crime penalty enhancement statutes demonstrate an important commitment to confront criminal activity motivated by prejudice.

Presently, forty states and the District of Columbia have enacted hate crime penalty-enhancement laws; many based on an ADL model statute drafted in 1981. In *Wisconsin v. Mitchell*, 508 U.S. 476 (1993), the United States Supreme Court unanimously upheld the constitutionality of the Wisconsin penalty-enhancement statute — effectively removing any doubt that state legislatures may properly increase the penalties for criminal activity in which the victim is intentionally targeted because of their race, religion, sexual orientation, gender, or ethnicity.

3) *Improving the Federal Government's Response to Bias-Motivated Violence*

Under President Clinton's leadership, activists from across the country gathered in Washington on November 10, 1997 for the first White House Conference on Hate Crimes. In speeches,

panels, and workshops throughout the Conference, the President, the Vice President, and six Cabinet members stressed the importance of direct action against bias-motivated crimes. The diverse panels included presentations on effective law enforcement and educational strategies to confront this national problem.

The Conference provided a forum for the announcement of a number of significant and promising law enforcement and educational initiatives to confront hate violence:

- ***Regional U.S. Attorney-led Police-Community Hate Crime Working Groups (HCWGs).***

At the heart of the Administration's proposals was a well-conceived strategy to improve local community coordination among affected parties in responding to hate crimes. Ideally composed of representatives of the judicial district's U.S. Attorney's Office, FBI investigators, state and local law enforcement officials, prosecutors, community-based organizations, and civil rights groups, these HCWGs were designed to enhance communication on hate crime investigations and prosecutions, improve hate crime data collection efforts, and promote expanded law enforcement training.

- ***Coordinated Law Enforcement Hate Crime Training Programs.***

The President announced the development of a model hate crime training curriculum for federal, state, and local law enforcement officials.

- ***Additional Hate Crime Investigators and Prosecutors.***

The President announced that the Department of Justice would add up to 50 FBI agents and federal prosecutors to enforce hate crime laws. The White House announced that this increase would more than double the existing number of federal agents and prosecutors currently assigned to do this work.

- ***Improved Data on Hate Crimes.***

In an effort to better gauge the magnitude of the hate crime problem in America, the President announced plans to add questions about hate violence to the well-established National Crime Victimization Survey (NCVS), an annual assessment of crime in America undertaken by the Justice Department's Bureau of Justice Statistics.

- ***Educating Youth About Hate Crimes.***

The President announced that the Department of Justice and the Department of Education would jointly distribute a manual for educators on the causes of hate crimes, responses to prejudice and bigotry, and useful resources on the subject. In addition, the President announced plans for the development of a special Justice Department interactive hate crime web site for children.

- ***Housing-Related Hate Crimes.***

The President and HUD Secretary Andrew Cuomo announced an initiative to provide authority for victims of housing-related hate violence by seeking monetary remedies from perpetrators.

- ***Legislation to Expand Federal Hate Crime Investigative and Prosecutorial Authority.***

The President announced his support for legislation that would expand authority for federal investigations and prosecutions in cases where the bias violence occurs because of the victim's sexual orientation, gender, or disability.

4) *Addressing Limitations in Existing Federal Civil Rights Statutes*

H.R. 1082, the Hate Crimes Prevention Act (HCPA), would amend Section 245 of Title 18, United States Code, one of the primary statutes used to combat racial and religious bias-motivated violence. The current statute, enacted in 1968, prohibits intentional interference, by force or threat of force, with the enjoyment of a federal right or benefit (such as attending school or serving as a juror) on the basis of race, color, religion, or national origin.

As mentioned, under the current statute, the government must prove *both* that the crime occurred because of a person's membership in a protected group, such as race or religion, *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. In addition, federal authorities are currently unable to involve themselves in cases involving death or serious bodily injury resulting from crimes directed at individuals because of their sexual orientation, gender, or disability — even when local law enforcement remedies are not available.

The HCPA would amend 18 U.S.C. Sec. 245 in two ways. First, the legislation would remove the 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 new authority for federal officials to investigate and prosecute cases in which the bias violence occurs because of the victim's real or perceived sexual orientation, gender, or disability.

If adopted, the HCPA would expand the universe of possible federal criminal civil rights violations. Congress and the Administration should match this increased authority with additional

appropriations for FBI investigators and Justice Department prosecutors. Similarly, after expanding federal authority to address the disturbing series of attacks against houses of worship in the Church Arson Prevention Act of 1996, Congress provided additional funds to ensure that federal authorities had the resources to follow through on the promise of the new law.

Clearly, however, neither the sponsors nor the supporters of this measure expect that federal prosecutors will seek to investigate and prosecute every bias crime as a federal criminal civil rights violation. State and local authorities investigate and prosecute the overwhelming majority of hate crime cases and they will continue to do so after the HCPA is enacted. For example, between 1991- 1997, the FBI documented over 50,000 hate crimes. During that period, however, the Justice Department brought only 37 cases under 18 U.S.C. Sec. 245. Nonetheless, some crimes *will* merit federal involvement — for exactly the same reasons that Congress in 1968 determined that certain crimes directed at individuals because of “race, color, religion or national origin” required a federal remedy.

The HCPA 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. In those states without hate crime statutes, and in others with limited coverage, local prosecutors are simply not able to pursue bias crime convictions. Currently, including the District of Columbia, only twenty-two states include sexual orientation-based crimes in their hate crimes statutes, twenty-one states include coverage of gender-based crimes, and twenty-two states include coverage for disability-based crimes. Other cases, which could clearly merit federal involvement, include those in which local law enforcement officials refuse to act because, for example, the rapist or the batterer in a small town is a friend or relative of the police chief, the district attorney, or the mayor.

5) *Limitations on Federal Hate Crime Prosecutions*

As drafted, the HCPA 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 any explosive 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 will have to

prove an interstate commerce connection with the crime — similar to the constitutional basis relied upon for the Church Arson Prevention Act passed *unanimously* by Congress in 1997.

Third, the HCPA retains the current certification requirement under 18 U.S.C. Sec. 245. This institutional limitation on prosecutions requires the Attorney General, or her/his designee, to certify in writing that an individual prosecution “is in the public interest and necessary to secure substantial justice.”

Justice Department officials have historically been extremely selective in choosing which cases to prosecute under the federal criminal civil rights statutes. For example, in 1997, a year in which the FBI’s HCSA report documented 8,049 hate crimes reported by 11,211 police agencies, the Justice Department brought only twenty-two racial violence cases under *all* federal criminal civil rights statutes combined — and only three cases under 18 U.S.C. Sec. 245. In fact, since its enactment in 1968, there have never been more than ten indictments in any year under 18 U.S.C. Sec. 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, neo-Nazi Skinheads, and other organized hate groups. These cases — 6 in 1998, involving 13 defendants, and 7 more cases in the previous two years, involving 16 defendants — help to demonstrate the federal government’s resolve to combat organized bigotry.

Federal prosecutors can be expected to continue to defer to state authorities under the expanded authority of the HCPA. However, the HCPA will permit prosecutions of bias-motivated violence that might not otherwise receive the attention they deserve. Supporters of the HCPA 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 involvement in select cases, the impact of FBI investigations in others, and partnership arrangements with state and local investigators in still other cases, should prompt more effective state and local prosecutions of these crimes.

6) *Recent Federal Responses to Hate Violence*

The federal government has an essential leadership role to play in confronting criminal activity motivated by prejudice and in promoting prejudice reduction initiatives for schools and the community. In recent years, Congress provided broad, biparti-

san support for several federal initiatives to address these crimes. These initiatives led to significant improvements in the criminal justice system's response to bias-motivated crime. The HCPA is based on the hate crime definitions established in these previous enactments — and builds on the foundation of these existing laws.

In late 1995 and early 1996, law enforcement investigators and civil rights leaders began to monitor a notable increase in the number of reported attacks on houses of worship — especially against African-American churches in the South. Though slow to recognize the national scope of the problem, over time the Administration developed a well-coordinated interagency campaign focusing on public education, prevention, enforcement, and rebuilding.

Complementing bipartisan congressional action (discussed below), federal agencies responded with unusually integrated and coordinated action focused on prevention, enforcement, and rebuilding:

- In testimony before the Senate Judiciary Committee, Justice and Treasury Department officials labeled response to the attacks “one of the largest federal criminal investigations of any kind, one of the largest arson investigations in history, and the largest current civil rights investigation.”
- The Justice Department's Community Relations Service played a central role in coordinating prevention activities and addressing community tensions in the aftermath of these attacks.
- The Federal Emergency Management Agency (FEMA) developed and distributed arson prevention materials and provided arson training grants to affected states.
- The Bureau of Alcohol, Tobacco, and Firearms (BATF) prepared a “Church Threat Assessment Guide” to help houses of worship, especially rural ones, take steps to protect themselves from criminal arsonists and vandals.
- The Department of Housing and Urban Development administered a \$10 million Federal Loan Guarantee Fund and provided other technical rebuilding assistance.

This interagency response was complemented by extraordinary outreach and cooperative efforts by private civil rights and religious organizations — ranging from financial and legal assistance to providing volunteers to help rebuild. Relationships established and cooperative efforts undertaken on this issue had a very positive effect on inter-group relations nationally.

In June 1996, President Clinton established the National Church Arson Task Force (NCATF), composed of FBI and

BATF investigators and Justice Department prosecutors. The Task Force benefited greatly from the effective leadership of the Justice Department's Civil Rights Division and the newly established FBI Hate Crime Unit. The Task Force achieved outstanding results and clearly made a difference using a central clearinghouse in FBI and ATF databases to track leads and to coordinate information sharing and investigations with state and local law enforcement officials. On October 22, 1998, officials from the Justice Department and Treasury Department released the second-year National Church Arson Task Force report. The report documented a decrease in the number of reported attacks against houses of worship, attributing the decline to increased law enforcement vigilance, well-publicized arrests and prosecutions, and expanded prevention efforts.

According to the report, from January 1, 1995 to September 8, 1998, the Task Force opened 670 investigations of suspicious fires, bombings, and attempted bombings, including 225 incidents involving predominantly African-American houses of worship — 163 in the South. Federal, state, and local law enforcement officials arrested 308 people in connection with 230 of these incidents — 254 whites, 46 African-Americans, and 8 Hispanics. 119 of the arrested persons were juveniles, under the age of 18. Of the 106 suspects arrested for attacks against predominantly African-American churches, 68 were white, 37 were African-Americans, and 1 was Hispanic. Of the 197 suspects arrested for attacks against houses of worship that are not predominantly African-American, 181 were white, 9 were African-American, and 7 were Hispanics.

Federal and state prosecutors obtained convictions of 235 defendants in connection with 173 incidents — including the first convictions under the Church Arson Prevention Act. The report indicated that of the 61 defendants convicted of federal charges, 29 were convicted of hate crimes arising from 24 incidents. In addition, of the 171 defendants convicted of state criminal charges, 25 were convicted of 13 incidents determined to be hate crimes. Overall, the arrest rate in Task Force cases — 34% — is more than double the arson arrest rate nationwide. Beyond arrests and convictions, the report documented extensive public and private efforts to assist communities in rebuilding trust and strengthening inter-group relations.

From the beginning, a critical question facing law enforcement officials and private watchdog groups, like ADL, was whether these attacks were part of a national conspiracy of domestic terrorism directed by organized hate groups. To date, investigators determined that at least two of the fires were directly

linked to Ku Klux Klan members. However, the overwhelming consensus is that the vast majority of the fires were not part of a campaign driven by elements of the organized hate movement. This finding, of course, leads to a disturbing conclusion: individuals, in different parts of the country, at different times, often inspired by hate, were acting independently to commit these crimes.

II. FEDERAL STATUTORY RESPONSES TO HATE VIOLENCE

1) *The Hate Crime Statistics Act (HCSA) of 1990 (28 U.S.C. Sec. 534)*

Though a number of private groups 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 which “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, Pub. L. No. 103-322, 108 Stat. 1796 (1994), Congress expanded coverage of the HCSA to require FBI reporting on crimes based on “disability.”

a) *Seven Years of HCSA Data: Progress and Significant Promise*

The FBI documented a total of 4,558 hate crimes in 1991, reported from almost 2,800 police departments in 32 states. The Bureau's 1992 data documented 7,442 hate crime incidents reported from more than twice as many agencies, 6,181 — representing 42 states and the District of Columbia. For 1993, the FBI reported 7,587 hate crimes from 6,865 agencies in 47 states and the District of Columbia. The FBI's 1994 statistics documented 5,932 hate crimes, reported by 7,356 law enforcement agencies across the country. The FBI's 1995 HCSA report documented 7,947 crimes reported by 9,584 agencies. The FBI's 1996 HCSA report documented 8,759 hate crimes reported to the FBI by 11,355 agencies.

The Bureau's 1997 HCSA summary report, released in November 1998, documented a slight decrease in both the number of reported hate crimes, 8,049, and the number of participating law enforcement agencies, 11,211. Though activists and analysts were pleased to note the slight decrease in the number of reported hate crimes, it is too early to tell whether this drop reflects

the general declining crime trends, effective programmatic and law enforcement response — or, instead, is attributable to the accompanying unwelcome decrease in the number of HCSA participating agencies. Other summary findings of the 1997 FBI HCSA report include:

- About 59% of the reported hate crimes were race-based, with 17% committed against individuals on the basis of their religion, 10% on the basis of ethnicity, and almost 14% against gay men and lesbians.
- Overall, approximately 39% of the reported crimes were anti-Black, 12% of the crimes were anti-White, 4.5% of the crimes were anti-Asian, and 6.5% anti-Hispanic.
- The 1,087 crimes against Jews and Jewish institutions comprised more than 13% of the total and 79% of the reported hate crimes based on religion.
- Only 70% 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 participating agencies affirmatively reported that *no hate crimes were committed in their jurisdictions*. Of the 11,211 departments participating in the 1997 HCSA data collection effort, only 1,732 (15%) reported even one hate crime.

1997 marked the first year that the number of participating agencies declined from one year to the next. The six-year increase in the number of agencies that implemented HCSA reporting mechanisms was an important measure of its success. In 1998, the Justice Department's Bureau of Justice Statistics awarded a grant to examine why some local law enforcement agencies fail to collect or report hate crimes and why some other agencies have not continued earlier efforts to participate in the HCSA program. With the goal of improving the accuracy and geographic coverage of hate crime statistics, researchers at the Northeastern University College of Criminal Justice, led by Professor Jack McDevitt, will seek to identify strategies for increasing and sustaining HCSA reporting participation nationwide.

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 seven years of the Act, the HCSA proved to be a powerful mechanism to confront violent bigotry against individuals on the basis of their race, religion, sexual orientation, or ethnicity. More importantly, the HCSA also increased public awareness of hate crimes and sparked improvements in the criminal justice system's local response to hate violence. Studies demonstrate that victims are

more likely to report a hate crime if they know a special reporting system is in place.

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. 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.

A recent ABC News "20/20" segment, *Fake Hate, Phony Victims*, aired on July 25, 1999, focused attention on several "staged" hate crimes, allegedly perpetrated in furtherance of fraudulent insurance claims. In our experience, phony hate crime claims are tragic, hurtful to the affected communities, and very rare. Phony hate crime claims are especially harmful because, at first, they have all the emotional and psychological impact of actual bias-motivated criminal activity on the community. If later revealed to be staged, such incidents can make community members cynical and wary of engaging in active efforts to support other actual victims of hate violence and bias-motivated vandalism. Of course, this type of criminal fraud should be aggressively investigated and punished to the full extent of the law.

As previously noted, it is clear that hate crime is dramatically underreported. Studies conducted by the National Organization of Black Law Enforcement Executives (NOBLE) and others revealed that some of the most likely targets of hate violence are the least likely to report these crimes to the police. 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. 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. 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.

2) *Hate Crime Sentencing Enhancement Act (28 U.S.C. Sec. 994)*

Congress enacted a federal complement to state hate crime penalty-enhancement statutes in the 1994 crime bill. This provision required the United States Sentencing Commission to increase the penalties for crimes in which the victim was selected "because of the actual or perceived race, color, religion, national origin, ethnicity, gender, disability, or sexual orientation of any person." This measure applies, *inter alia*, to attacks and vandalism that occur in national parks and on federal property.

In May, 1995, the United States Sentencing Commission announced its implementation of a three-level sentencing guidelines increase for hate crimes, as directed by Congress. This amendment took effect on November 1, 1995. According to information prepared for the White House Hate Crimes Conference, 27 cases received enhanced sentences in 1996.

3) *The Violence Against Women Act (VAWA) (42 U.S.C. Sec. 13981)*

Enacted as Title IV of the 1994 crime bill, VAWA addressed the problem of violent crime against women by providing authority for domestic violence and rape crisis centers and for education and training programs for law enforcement officials and prosecutors. The Act also included new federal criminal jurisdiction for interstate enforcement of restraining orders, to make acts of interstate domestic violence a federal offense, and to outlaw the possession of firearms and ammunition by persons who are subject to restraining orders.

Importantly, VAWA established a new federal civil remedy for victims of gender-based violent crimes, which provides them with the right to sue perpetrators for compensatory and punitive damage awards, as well as injunctive relief. However, defendants in the first cases to be litigated under VAWA's civil rights remedy challenged the remedy's constitutionality, claiming that Congress lacked authority to enact the statute.³

3. In *Brzonkala v. Virginia Polytechnic Inst.*, 169 F. 3d 820 (4th Cir. 1999), the court unanimously held that the VAWA's Civil Rights Remedy was unconstitutional because it exceeded Congress' powers under both the Commerce Clause and the Fourteenth Amendment. The Fourth Circuit's decision was then appealed to the United States Supreme Court. The case is currently pending before the Supreme Court and the Court is expected to hand down a decision by June 2000. *United States v. Morrison; Bronkala v. Morrison*, 120 S.Ct. 11 (1999).

- 4) *The Church Arson Prevention Act (CAPA) of 1996 (Pub. L. No. 104-155, 110 Stat. 1392) (1996)*

This measure was sponsored by then-Senator Lauch Faircloth (R-NC) and Senator Edward Kennedy (D-MA), and, in the House, by Representatives Henry Hyde (R-IL) and John Conyers (D-MI). The Act was originally designed solely to facilitate federal investigations and prosecutions of these crimes by amending Section 247 of Title 18, United States Code, a statute enacted by Congress in 1988 to provide federal jurisdiction for religious vandalism cases in which the destruction exceeds \$10,000. Hearings were held on both the impact of these crimes and the appropriate response of government. Federal prosecutors testified that the statute's restrictive interstate commerce requirement and its relatively significant damages threshold were obstacles to federal prosecutions.

Following the hearings, Congress found that "[t]he incidence of arson of places of religious worship has recently increased, especially in the context of places of religious worship that serve predominately African-American congregations." Legislators appropriately recognized that the nation's response to the rash of arsons should be more ambitious and comprehensive than mere efforts to ensure swift and sure punishment for the perpetrators.

In a welcome, if very rare, example of bipartisanship, both the House and the Senate *unanimously* approved CAPA, which expanded federal criminal jurisdiction to investigate and prosecute attacks against houses of worship, increased the penalties for these crimes, and authorized additional FBI and BATF investigators, DOJ prosecutors and community conciliators.

III. FEDERAL HATE CRIME AWARENESS AND TRAINING INITIATIVES: A STATUS REPORT FOR 1999

A. *Justice Department Programs and Initiatives*

- 1) *The Federal Bureau of Investigation (FBI)/Hate Crime Statistics Act (HCSA)*

The FBI has been receptive to requests for HCSA training for state and local law enforcement officials. As of September 1998, the FBI held more than 126 hate crime training conferences across the country, training nearly 7,700 law enforcement personnel from more than 2,600 agencies nationwide. ADL and other groups with expertise in analyzing and responding to hate violence participated in a number of these FBI training seminars. The FBI training seminars teach state and local law enforcement authorities to identify, report, and respond to hate crimes.

The FBI updated its Hate Crime Data Collection Guidelines and its excellent Training Guide for Hate Crime Data Collection in 1996. Responding to the 1994 Congressional mandate to collect data on disability-based crimes, the FBI recently developed and distributed training materials to help officials identify and respond to these hate crimes as well.

In 1996, for the first time, the FBI incorporated an HCSA summary report in its annual *Crime in the United States* (CIUS) report. CIUS, essentially the Bible of crime statistics, is an impressive, 400-page compendium of jurisdiction-by-jurisdiction crime statistics, charts, and graphs. CIUS is a primary resource for criminologists, policymakers, and analysts. Inclusion in CIUS encourages researchers and criminologists to study hate violence, helps place it on the agenda for criminal justice and crime prevention conferences, and sends the message to law enforcement officials that the HCSA is a permanent, integral part of the FBI's comprehensive data collection programs.

In 1997, the FBI divided its Civil Rights Unit into a Color of Law Unit, to investigate official misconduct and police brutality, and a Hate Crime Unit to investigate federal criminal civil rights violations. The separate Hate Crime Unit provides a useful focal point for training and outreach on a range of FBI hate crime issues.

2) *Federal Hate Crime Training and Outreach Initiatives*

Four versions of the hate crime training curriculum for law enforcement officials announced at the White House Conference on Hate Crime were developed under the leadership of Justice Department officials in the Community Relations Service, Office of Justice Programs (including the Office of Juvenile Justice Delinquency Prevention, Office For Victims of Crime, Bureau of Justice Statistics, and Bureau of Justice Assistance), the Office of Community Oriented Policing Services (COPS), and the Department's Civil Rights Division. These excellent and inclusive curricula, developed in partnership with the International Association of Directors of Law Enforcement Standards and Training, the National Association of Attorneys General, and the Treasury Department, build on earlier hate crime training resources developed by, among others, the FBI, Treasury's Federal Law Enforcement Training Center (FLETC), the Massachusetts-based Educational Development Center, and the Office of the Massachusetts Attorney General. The curricula were presented at three regional train-the-trainers conferences in September and October 1998. Almost 400 law enforcement officials, prosecutors, and representatives of civil rights and community-based or-

ganizations participated in the training sessions. Training teams made up of participants from those sessions are now promoting other regional and state training sessions.

At the direction of Attorney General Janet Reno, many U.S. Attorneys established or assisted in strengthening Hate Crime Working Groups (HCWGs). HCWGs are composed of state and local police, sheriffs, FBI agents, prosecutors, and representatives from civil rights groups and community-based organizations. On February 18, 1998, the Justice Department hosted a conference for representatives from each U.S. Attorney's office to discuss strategies for establishing the HCWGs, enforcement priorities, and available national resources.

3) *The Community Relations Service (CRS)*

CRS is the only Federal agency that exists primarily to assist communities in addressing intergroup disputes. On many occasions since the establishment of CRS by the 1964 Civil Rights Act, CRS professionals, working with police officials and civil rights organizations, acted to defuse community tensions and prevent disorders that could escalate into riots. For example, CRS professionals frequently provided technical assistance to law enforcement officials and community groups facing the impact of a Klan rally or a demonstration by organized hate groups.

CRS also played a leading role in the implementation of the HCSA data collection effort. CRS professionals participated in HCSA training sessions for hundreds of law enforcement officials from dozens of police agencies across the country.

CRS mediators and conciliators also played an essential role in addressing community tensions in the aftermath of attacks on houses of worship — and played a coordinating role in the development and implementation of the Justice Department's new law enforcement training curriculum.

In 1998, CRS published a bulletin, *Hate Crime: The Violence of Intolerance*.

4) *The Office for Victims of Crime (OVC)*

In 1992, at the direction of Congress, the Justice Department's Office for Victims of Crime (OVC) provided funds for the development of a training curriculum to improve the response of law enforcement and victim assistance professionals to victims of hate crimes. This excellent OVC training curriculum also promotes coordinated action between law enforcement officials and victim assistance professionals in the investigation and prosecution of these crimes.

5) *The Office of Juvenile Justice and Delinquency Prevention (OJJDP)*

In 1992, Congress approved several new hate crime and prejudice-reduction initiatives as part of the four-year Juvenile Justice and Delinquency Prevention Act reauthorization. The Act required that each state's juvenile delinquency prevention plan include a component designed to combat hate crimes and that the Justice Department's Office of Juvenile Justice and Delinquency Prevention (OJJDP) conduct a national assessment of youths who commit hate crimes, their motives, their victims, and the penalties received for their crimes.

In response, in 1993, OJJDP allocated funds for this national assessment. After a baffling and extended delay, OJJDP submitted an incomplete and disappointing report in July 1996 that failed to provide any insights into the magnitude of the problem, the characteristics of the offenders or victims, or the causes of juvenile hate violence. The report also failed to make recommendations for future study or future action.

However, OJJDP did provide funds for the development of an excellent, wide-ranging curriculum, "Healing the Hate: A National Bias Crime Prevention Curriculum for Middle Schools," which is appropriate for educational, institutional, and other settings to address prevention and treatment of hate crimes committed by juveniles.

6) *The Bureau of Justice Statistics (BJS)*

Under a grant funded by BJS, scholars and researchers from the Center for Criminal Justice Policy Research at Northeastern University in Boston are now studying differences in reporting rates among law enforcement agencies and identifying strategies for increasing and sustaining reporting participation by these state and local officials.

In addition, as announced at the White House Conference on Hate Crime, BJS received funding in its FY 1999 appropriation to develop and integrate questions about bias crime into its annual survey assessment of crime in America, the National Crime Victimization Survey (NCVS). The NCVS survey data, compiled through a national sampling of some 50,000 U.S. households, should complement the hard data collected by the FBI under the Hate Crime Statistics Act to provide a more complete picture of hate violence across the country.

7) *The Bureau of Justice Assistance (BJA)*

Under the leadership of its Director, Nancy Gist, BJA has emerged as the Justice Department's most active and innovative source for positive initiatives to address bias-motivated crime.

In 1997, under a grant provided by BJA, the National Criminal Justice Association prepared a comprehensive report on federal, state, and local response to hate crimes. This useful report, "A Policymaker's Guide to Hate Crimes," includes a review of relevant legal cases and law enforcement hate crime practices.

BJA also provided funding for the International Association of Chiefs of Police (IACP) for its national Hate Crime Summit in June 1998.

BJA identified "Law Enforcement Partnership to Address Hate Crimes" as one of its ten Concept Paper Topic Areas for FY 1998. Under this program, BJA awarded four grants, ranging in amounts from \$100,000 to \$150,000, for innovative hate crime education, coordination, and outreach programs to prosecutors and other law enforcement authorities — including the San Diego Police Department in partnership with the San Diego Regional Office of the Anti-Defamation League and The San Diego Hate Crimes Community Working Group.

BJA is also funding an important new initiative to develop and provide training for prosecutors responding to hate crimes. The National District Attorneys Association, through its research arm, the American Prosecutors Research Institute, is developing these training materials, best practices, and model protocols for effective response to bias crimes.

8) *National Institute of Justice (NIJ)*

Under a 1995 grant provided by NIJ, the American Prosecutors Research Institute of the National District Attorneys Association conducted a best practices review of prosecutor protocols in handling bias-motivated cases. The objective of the initiative was to develop a hate crimes training guide for prosecutors.

9) *The Office of Violence Against Women*

Under the Violence Against Women Act of 1994 (VAWA), "(A)ll persons within the United States shall have the right to be free from crimes of violence motivated by gender." The Office oversees the implementation of VAWA, including the establishment of domestic violence and rape crisis centers and education and training programs for law enforcement and prosecutors. The Office also tracks the incidence of the new VAWA criminal provisions.

10) *The Office of Community Oriented Policing Services (COPS)*

Hate violence can be addressed effectively through a combination of presence, prevention and outreach to the community, which is the hallmark of community policing.

In 1998, the COPS Office provided essential funding for the IACP Hate Crime Summit and for the production and distribution of the Justice Department's excellent law enforcement hate crime training initiative. In addition, the COPS Office funded several bias crime-related initiatives under its \$40 million Problem-Solving Partnership grant program.

B. *The Department of Education*

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

In 1992, for the first time, Congress acted to incorporate anti-prejudice initiatives into the Elementary and Secondary Education Act (ESEA), the principal federal funding mechanism for public schools. 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 important advance in efforts to institutionalize prejudice reduction as a component of violence prevention programming.

In July 1996, the Department of Education provided almost \$2 million in new grants to fund the development and implementation of “innovative, effective strategies for preventing and reducing the incidence of crimes and conflicts motivated by hate in localities directly affected by hate crimes.” The Anti-Defamation League's A WORLD OF DIFFERENCE Institute received one of the grants under this initiative to implement an anti-bias, anti-hate crime training program at four high schools and their feeder elementary and middle schools in three states: California, Nebraska and New York.

Under the leadership of the Department's Office of Civil Rights, in association with the National Association of Attorneys General, the Department provided excellent counsel and programming for schools in a new publication, “Protecting Students

from Harassment and Hate Crimes: A Guide for Schools." The Department should make this new guide available on its website and prepare and promote training materials on the issue.

C. *The U.S. Commission on Civil Rights*

The U.S. Commission on Civil Rights has historically held useful field hearings and briefings on race relations and hate violence. The Commission held community forums on the suspicious fires at houses of worship in six Southern states in July 1996. Hosted by its State Advisory Committees, the Commission heard testimony from community and civic leaders, and federal, state and local law enforcement officials.

D. *The Department of the Treasury*

As mentioned above, agents from the Treasury Department's Bureau of Alcohol, Tobacco, and Firearms (BATF) provided essential investigative resources as part of the government's Federal Church Arson Task Force.

Hate crime response experts from around the country have assisted in the development of an excellent model hate crime training curriculum for use by the Federal Law Enforcement Training Centers (FLETC) for federal, state and local police officials. The FLETC curriculum was presented at twenty-two training seminars across the country to over 650 law enforcement training personnel and deserves much more attention and promotion.

E. *The Department of Housing and Urban Development (HUD)*

In conjunction with the National Council of Churches and the Congress of National Black Churches, HUD organized a series of information seminars at which HUD officials discussed its \$10 million loan guarantee-rebuilding fund, with architects, lawyers, and construction specialists available to offer specific assistance. In addition, representatives from the Justice Department, BATF, and FEMA were also available to discuss enforcement and arson prevention activities. Over 100 houses of worship received rebuilding assistance through HUD's National Rebuilding Initiative.

In December 1997, HUD promulgated a proposed rule to expand civil penalties for Fair Housing Act violations. Under this new procedure, administrative law judges would be explicitly authorized to assess a separate civil penalty for multiple acts involving housing discrimination. This initiative, called "Make 'Em Pay," is designed to combat housing-related acts of hate violence

by increasing the severity of the consequences for committing such a crime. In February 1999, the initiative went into interim effect.

HUD officials are currently planning a national "Healing Neighborhoods" conference in an effort to increase the housing community's awareness of hate crime issues.

F. *The Department of Defense*

In recent years, factions of the Ku Klux Klan and other organized hate groups have attempted to infiltrate the armed forces and establish cells at military camps and bases. The dangers of extremism in the military were most dramatically revealed in December 1995, when two African Americans were murdered in Fayetteville, North Carolina by two white soldiers stationed at nearby Fort Bragg who had been involved in neo-Nazi skinhead activities. In the wake of these murders, the Army established a Task Force on Extremist Activities, which conducted extensive interviews and surveys of thousands of soldiers and released its report in March 1996. The report found minimal evidence of extremist activity in the Army. Yet, even if organized hate group members in the military are few in number (as they are in general society), the access they have to weapons, explosives, and training make them a potentially significant threat to society. In addition, the presence of haters and extremists in the military poses a threat to morale and good order in the ranks.

The House National Security Committee held hearings on the issue of hate crimes in the military on June 25, 1996. In an important follow up, Congress required each service branch to conduct "ongoing programs for human relations training for all members of the Armed Forces," and required the Defense Department to report to Congress the findings of an annual survey to measure the state of racial, ethnic, and gender discrimination in the military — as well as the extent of hate group activity. Each of the service branches have subsequently revised and strengthened their policies against hate group activity and recruitment.

G. *National Institute of Mental Health (NIMH)*

According to information distributed at the White House Conference on Hate Crimes, NIMH is funding the first large-scale study of the mental health consequences of hate crimes, focusing on anti-gay hate violence. The study is also designed to elicit information about the prevalence of anti-gay hate crimes and the rate at which these crimes are reported to the police.

IV. CONCLUSION

The fundamental cause of bias-motivated violence in the United States is the persistence of racism, bigotry, and anti-Semitism. Unfortunately, there are no quick, complete solutions to these problems. Ultimately, the impact of all bias crime initiatives will be measured in the criminal justice system's response to the individual acts of hate violence. Enactment of the Hate Crimes Prevention Act, along with implementation of other hate crime training, prevention, and anti-bias education initiatives announced at the White House Conference on Hate Crimes is, in the language of 18 U.S.C. §245 itself, "in the public interest and necessary to secure substantial justice."

We applaud the leadership of the sponsors of this measure and urge the Judiciary Committee to approve this important legislation as soon as possible.⁴

4. As of April 25, 2000, H.R. 1082 is still pending before the House of Representatives. It has 191 cosponsors. The Senate counterpart to H.R. 1082, S. 622, is pending before the Senate with 42 cosponsors. Proponents are pressing for Senate action before adjournment in the Fall of 2000.

The Hate Crimes Prevention Act is supported by twenty-two state Attorneys General, and over 100 national law enforcement, civil rights, religious, and civic organizations:

AIDS National Interfaith Network	Asian Pacific American Labor Alliance
African-American Women's Clergy Association	Asian Pacific American Legal Center
Alliance for Rehabilitation Counseling	AYUDA
American-Arab Anti-Discrimination Committee	Bazelon Center for Mental Health Law
American Association for Affirmative Action	Bi-Net
American Association of University Women	B'nai B'rith International
American Association on Mental Retardation	Brain Injury Association, Inc.
American Citizens for Justice	Business and Professional Women, USA
American Council of the Blind	Catholics for Free Choice
American Counseling Association	Center for Community Change
American Ethical Union, Washington Office	Center for Democratic Renewal
American Federation of Government Employees	Center for Women Policy Studies
American Federation of State, County, and Municipal Employees, AFL-CIO	Chinese American Citizens Alliance
American Foundation for the Blind	Christian Church Capital Area
American Friends Service Committee	Church Women United
American Jewish Committee	Coalition of Labor Union Women
American Jewish Congress	Congress of National Black Churches
American Medical Association	Consortium of Developmental Disabilities Councils
American Music Therapy Association	Disability Rights Education and Defense Fund
American Network of Community Options and Resources	Disciples of Christ Advocacy Washington Network
American Nurses Association	The Episcopal Church
American Speech-Language Hearing Association	Equal Partners in Faith
American Therapeutic Recreation Association	Evangelical Lutheran Church of America, Office for Government Affairs
American Psychological Association	Fair Employment Council of Greater Washington
Americans for Democratic Action	Federal Law Enforcement Officers Association
American Veterans Committee	Federally Employed Women
And Justice For All	Feminist Majority
Anti-Defamation League	Gender Public Advocacy Coalition
Aplastic Anemia Foundation of America, Inc.	General Federation of Women's Clubs
Arab American Institute	Goodwill Industries International, Inc.
The Arc of the United States	Hadassah
Asian American Legal Defense & Education Fund	Hispanic National Law Enforcement Association
Asian Law Caucus	Human Rights Campaign
	India Abroad Center for Political Awareness

- Interfaith Alliance
 International Association of Chiefs of Police
 International Association of Jewish Lawyers and Jurists
 International Association of Jewish Vocational Services
 International Dyslexia Association
 International Union of United Aerospace and Agricultural Implements
 Japanese American Citizens League
 Jewish Council for Public Affairs
 Jewish Labor Committee
 Jewish War Veterans of the USA
 Jewish Women International
 JAC-Joint Action Committee
 Justice for All
 LDA, The Learning Disabilities Association of America
 Labor Council for Latin American Advancement
 Latino/a, Lesbian, Gay, Bisexual & Transgender Organization
 Lawyers' Committee for Civil Rights Under Law
 Leadership Conference on Civil Rights
 LEAP- Leadership Education for Asian Pacifics Inc.
 Learning Disabilities Association of America
 Log Cabin Republicans
 MALDEF - Mexican American Legal Defense & Education Fund
 MANA - A National Latina Organization
 The McAuley Institute
 National Abortion Federation
 NAACP
 NAACP Legal Defense Fund, Inc.
 NA'AMAT USA
 NAKASEC- National Korean American Service & Education Consortium, Inc
 National Asian Pacific American Legal Consortium
 National Association of Commissions for Women
 National Alliance for the Mentally Ill
 National Alliance of Postal and Federal Employees
 National Asian Pacific American Bar Association
 National Association of the Deaf
 National Association of Developmental Disabilities Councils (NADDC)
 National Association of Latino Elected and Appointed Officials (NALEO)
 National Association of People with AIDS
 National Association of Private Schools for Exceptional Children
 National Association of Protection & Advocacy Systems
 National Association of Rehabilitation Research and Training Centers
 National Association of Social Workers
 National Black Women's Health Project
 National Center for Victims of Crime
 National Coalition Against Domestic Violence
 National Coalition of Anti-Violence Programs
 National Coalition on Deaf-Blindness
 National Conference for Community and Justice (NCCJ)
 National Congress of American Indians
 National Council of Churches of Christ in the USA
 National Council of Jewish Women
 National Council of La Raza
 National Education Association
 National Federation of Filipino American Associations
 National Gay and Lesbian Task Force
 National Hispanic Leadership Agenda (NHLA)
 National Italian American Foundation
 National Jewish Democratic Council
 National Korean American Service and Education Consortium
 National Mental Health Association

National Newspaper Publishers Association	Rehabilitation Engineering and Assistive Technology Society of North America
National Organization of Black Law Enforcement Executives	A. Philip Randolph Institute
National Parent Network on Disabilities	Rock the Vote
National Partnership for Women & Families	Service Employees International Union, AFL-CIO
National Puerto Rican Coalition, Inc.	Society for the Psychological Study of Social Issues
National Rehabilitation Association	Southeast Asia Resource Action Center
National Respite Network	Spina Bifida Association of America
National Sherrifs' Association	Union of American Hebrew Congregations
National Spinal Cord Injury Association	Union of Needletrades, Industrial & Textile Employees (UNITE)
National Therapeutic Recreation Society	Unitarian Universalist Association
National Urban League	United Church of Christ - Office of Church in Society
National Women's Law Center	United Methodist Church
NOW - National Organization for Women	The United States Conference of Mayors
NOW Legal Defense & Education Fund	United States Student Association
NETWORK, A National Catholic Social Justice Lobby	United Synagogue of Conservative Judaism
Organization of Chinese Americans	The Woman Activist Fund, Inc.
ORT- Organization for Educational Resources and Technological Training	Women of Reform Judaism, Federation of Temple Sisterhoods
Paralyzed Veterans of America	Women Work!
Parents, Families and Friends of Lesbians and Gays	Women's Alliance for Theology, Ethics & Ritual
People For the American Way	YWCA of the USA
Police Executive Research Forum	
Police Foundation	
Presbyterian Church (USA), Washington Office	

Hate Crimes Laws

STATE HATE CRIMES STATUTORY PROVISIONS

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

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

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

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

4. Some other states have regulations mandating such training.

Hate Crimes Laws

	MT	NE	NEV	NH	NJ	NM	NY	NC	ND	OH	OK	OR	PA	RI	SC	SD	TN	TX	UT	VT	VA	WA	WV	WY
Bias-Motivated Violence and Intimidation	✓	✓	✓	✓	✓		✓ ⁵	✓	✓	✓	✓	✓	✓	✓		✓	✓	✓	✓	✓ ⁷	✓	✓	✓	✓
Civil Action		✓	✓		✓					✓	✓	✓	✓	✓		✓	✓				✓	✓	✓	✓
Criminal Penalty	✓	✓	✓	✓	✓		✓	✓	✓	✓	✓	✓	✓	✓		✓	✓	✓	✓	✓	✓	✓	✓	✓
Race, Religion ¹ , Ethnicity	✓	✓	✓	✓	✓		✓	✓	✓	✓	✓	✓	✓	✓		✓	✓				✓	✓	✓	✓
Sexual Orientation		✓	✓	✓	✓							✓	✓								✓	✓	✓	✓
Gender		✓		✓	✓		✓	✓					✓								✓	✓	✓	
Other ²		✓	✓	✓	✓		✓				✓		✓								✓	✓	✓	✓
Institutional Vandalism	✓		✓		✓	✓	✓	✓	✓	✓	✓	✓	✓	✓		✓	✓					✓	✓	✓
Data Collection ³		✓	✓		✓						✓	✓	✓	✓				✓				✓	✓	
Training for Law Enforcement Personnel ⁴												✓	✓									✓		

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

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

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

