



HATE CRIMES ANALYSIS

To: Eric Treene, Emily Loeb
From: Hansdeep Singh, Jaspreet Singh
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Re: Analysis on Hate Crime Coding and Data Collection

The 2010 FBI Hate Crime Statistics reveal that out of 6,624 single-bias incidents, **20%** were motivated by religious bias.¹ What is both significant and shocking about this number is that it represents the highest percentage of religiously motivated hate crimes ever recorded by the FBI, since it began documenting hate crimes statistics, nationwide, in 1992. In comparison, in 2001 and 2002, hate crimes motivated by religious bias were at 18.8% and 19.1% respectively. More concerning, a decade after 9/11, anti-Muslim hate crimes jumped almost 50% from 2009 to 2010 and anti-Jewish bias still represents the majority of hate crimes motivated by religious bias. And finally, though community organizations have documented over 700 incidents of hate crimes against Sikhs since 9/11, there is no anti-Sikh hate crimes code in the Uniform Crime Reporting 1-699 Form.

For years now, deep flaws in the FBI's tracking of hate crimes have been exposed. In the most recent FBI data (2010), out of the 14,977 jurisdictions that participated in reporting hate crimes, **87%** of agencies reported zero hate crimes. This includes approximately **64 jurisdictions with a population over 100,000**.² The Bureau of Justice Statistics' 2011 Special Report on hate crimes indicates that from 2003-2009 an average of 195,000 hate crime victimizations occurred each year according to the National Crime Victimization Survey (NCVS).³ The data further reveals that police were **not** notified about hate crime victimizations in 55% of the cases documented by NCVS.⁴

Recognizing the lack of proper data collection, the Crime Victims' Institute (CVI) has identified an imbalance between how the different players: law enforcement, victims, and the affected group perceive an incident.⁵ The CVI has looked specifically at how to improve documentation in Texas. For example, while Kentucky has 1/8th the population of Texas, Texas' 2010 statistics on hate crimes are virtually equivalent.⁶

However, the CVI points to the Hate Crimes Task Force (HCTF) of New York as a model to overcome such an imbalance. From 1996-2005, police confirmed 91% of victim reported hate crimes.⁷ This reveals that proper law enforcement training, engagement with NGOs and the affected communities, and oversight over hate crimes documentation, produces more accurate results.

¹ Federal Bureau of Investigation ("FBI"), *Uniform Crime Reports*, http://www.fbi.gov/about-us/cjis/ucr/ucr#cius_hatecrime (statistics dating back to 1995 on hate crimes are available here).

² FBI, *Uniform Crime Reports: Hate Crime Zero Data Submitted*, at Table 14, <http://www.fbi.gov/about-us/cjis/ucr/hate-crime/2010/tables/table-14-hate-crime-zero-data-submitted-per-quarter-by-state-and-agency-2010/view>

³ Bureau of Justice Statistics, *Hate Crime: 2003-2009*, at 1 (June 2011), <http://bjs.ojp.usdoj.gov/content/pub/pdf/hc0309.pdf>

⁴ *Id.*

⁵ Crimes Victims' Institute (CVI), *Hate Crimes*, at 16 (Aug. 2008),

<http://www.crimevictimsinstitute.org/documents/Hate%20Crimes%20Final.pdf>.

⁶ FBI, *Uniform Crime Reports*, at Table 12, <http://www.fbi.gov/about-us/cjis/ucr/hate-crime/2010/tables/table-12-agency-hate-crime-reporting-by-state-2010.xls>.

⁷ CVI, at 16 (citing Levin & Amster, 2007).

How to Overcome Underreporting?

In our analysis, we will use the New York Police Department (NYPD) as a model for improving hate crimes documentation at the local level in order to improve reporting at the Federal level. Only with proper training and resources devoted to agencies at the local level will the national numbers on hate crimes be properly reflected in the UCR statistics.

On August 14, 2009, the New York State Division of Criminal Justice Services (DCJS) implemented a plan to improve hate crimes reporting and implemented new procedures.

- **Follow-up:** DCJS monitors all reporting agencies in NY to ensure that hate crimes reports are submitted each month, rather than just quarterly.
- **Quality Review:** DCJS reviews for accuracy every hate crime incident report upon receipt. This ensures accuracy and completeness of the reports.

The DCJS in evaluating the previous year's data uncovered three key reasons for underreporting.

- **Failure to Identify Hate Crimes:** To address the limitations in identification, model hate crime policy has been shared with departments across the state, which helps to facilitate a more thorough investigation and helps to properly document potential hate crime incidents.
- **Non-Reporting:** Many factors relate to non-reporting, including immigration status, fear of law enforcement, and belief that reporting hate crimes will not be taken seriously.
- **Hate Crimes Not Submitted:** For 2008, DCJS identified 112 additional hate crime incidents that were not reported. The incident form that originally documented the hate crime were not submitted to DCJS.

Create Anti-Sikh Hate Crimes Code on 1-699 UCR Form

An Anti-Sikh hate crime code is necessary for proper allocation of law enforcement resources that recognize the Sikh community as especially vulnerable to bias motivated crimes because of their external religious identity. The Investigation of Hate Crimes Model Policy created by the International Association of Chiefs of Police (IACP), includes an example of Sikh victims (i.e. forcibly having their hair cut) in the section regarding looking for possible signs of a hate crime.⁸ There is clear recognition by the NYPD that Sikhs are intended targets of hate crimes because of their identity.

Patrol Guides Across the Country Should Include Bias Motivated Incident Procedure

The Patrol Guide is the procedural book issued to law enforcement officers. In terms of procedure, the Patrol Guide is the controlling instrument that guides law enforcement conduct. Additionally, the Patrol Guide functions as a study guide for academy examinations, its mastery is essential for promotion, and following procedure helps officers avoid misconduct. Thus, it is a vital tool both in the office and on the streets.

Law enforcement agencies do not necessarily **mandate** training and inclusion of thorough guidelines on how to investigate and document bias motivated incidents. Fortunately, the 2012 NYPD Patrol Guide includes detailed procedural guidelines on how to investigate and document hate crimes.⁹ The inclusion of bias motivated

⁸ See International Association of Chiefs of Police (IACP), *Investigation of Hate Crimes: Model Policy* (2009), http://www.nychiefs.org/ModelPolicies/MPTC_Hate_Crimes_Model_Policy.pdf.

⁹ See NYPD Patrol Guide, *Bias Motivated Incidents*, at PG 207-10 (2012) (App can be purchased off iTunes).

incident guidelines in the NYPD Patrol Guide and a model hate crimes policy created by IACP provide a tremendous asset to the NYPD and create the proper environment for identification and documentation of hate crimes. Such guidelines should be included in Patrol Guides across the country.

Hate Crimes Task Force/ NGO and Local Community Collaboration Must be Revitalized

In 1997, then Attorney General Janet Reno, pushed forth a comprehensive Hate Crimes Initiative to be deployed throughout the nation. However, the Initiative went beyond law enforcement and recognized the need to draw “on local people to craft solutions that are tailored to the particular problems of the local community.” Thus, “the centerpiece of the Department's initiative is the formation in each U.S. Attorney's District of a working group consisting of federal, state, and local law enforcement, **as well as local community leaders and educators, to develop a comprehensive approach to hate crimes.**”¹⁰

Additional mandates also emphasized the “use [of] community outreach to help ensure effective reporting, investigation, prosecution, and, ultimately, prevention of hate crime, as well as to heal wounds, in the community caused by hate crimes” and “to aggressively expand hate crime education and training to include a wide range of programs, including the training of federal, state, and local law enforcement in hate crime enforcement, classroom-based education programs targeted at young people, and others; **and finally, to improve data collection, so that with accurate statistics we can understand the full scope of the problem and effectively deploy our resources to combat it.**”¹¹

Tracking of hate crimes requires an effort from all interested parties and local law enforcement and the FBI should make provisions for integrating community and NGO documentation on hate crimes.

Hate Crimes Reporting Must be Mandated for All Law Enforcement Agencies

More than a decade ago, the Bureau of Justice Assistance “[r]ecogniz[ed] the importance of collecting accurate data on hate crimes[.] State policymakers might want to support or introduce legislation that mandates such data collection by all law enforcement agencies in the State as part of their regular UCR reporting process. In States without data collection laws, policymakers might want to support or sponsor legislation that requires law enforcement agencies to collect hate crime data.”¹² Today, it is imperative that hate crimes recording becomes mandatory, especially when you consider that 87% of reporting agencies in 2010 reported zero hate crimes.

Victim Demographics is Crucial Data for Law Enforcement and NGOs

As the UCR includes demographics on the perpetrator of hate crimes, victim demographics are similarly important data to assist law enforcement in protecting vulnerable communities. For example, NY State DCJS includes Victim(s) Demographics, including: age, gender, race, and ethnicity. First, such demographics should include religion, and a victim who has suffered the trauma of a hate crime should have the right to self-identify. Second, understanding the communities that are being victimized allows law enforcement to better understand, assist, protect, and even warn those communities of potential bias motivated violence. Third, the ability to disaggregate data is an important tool for both law enforcement and NGOs.

¹⁰ U.S. Department of Justice, Office of the Attorney General, *Memorandum for all United States Attorneys: Implementation of the Hate Crime Initiative* (Dec. 22, 1997), <http://www.justice.gov/ag/readingroom/hatecrimeinit.htm> (emphasis added).

¹¹ *Id.* (emphasis added).

¹² Bureau of Justice Assistance, *A Policymaker's Guide to Hate Crimes*, at xv, <https://www.ncjrs.gov/pdffiles1/bja/162304.pdf>.

When the Perpetrators Intended Target is Unclear

When the perpetrators criminal act is a result of his/her bias motivation, but it is unclear that the victim(s) was the intended target, the controlling factor in coding the bias incident should be the victim(s) identity or affiliation to a particular group (e.g. religious, racial, ethnic etc.).

Conclusion

The analysis herein points to a need for a sincere and comprehensive review of our hate crimes reporting system both at a local and federal level. Civil society engagement with law enforcement will be crucial in filling the chasm that currently exists between the reality of hate crimes in the U.S. and what is currently reported.