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COMPARISON OF HATE CRIME RATES ACROSS PROTECTED AND UNPROTECTED GROUPS

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SUMMARY

Current proposed legislation would change certain existing federal hate crime laws to add sexual orientation and gender identity as protected categories. Sexual orientation and gender identity are important categories for inclusion in federal law because members of these groups are just as likely to be victimized as members of other groups that are already covered, such as those based on race, religion, or national origin.

A close analysis of hate crime rates demonstrates that groups that are already covered by hate crime laws, such as African Americans, Muslims, and Jews, report similar rates of hate crime victimization as lesbians, gay men, and bisexuals, who are not currently federally protected. On average:

- 8 in 100,000 African Americans report being the victim of hate crime
- 12 in 100,000 Muslims report being the victim of hate crime
- 15 in 100,000 Jews report the victim of hate crime
- 13 in 100,000 gay men, lesbians, and bisexuals report being the victim of hate crime

Currently hate crimes based on gender expression are not covered in federal hate crime legislation. This omission persists despite evidence that transgender individuals experience a similar number of hate crimes as some other protected groups, with an average of 213 hate crimes per year.¹

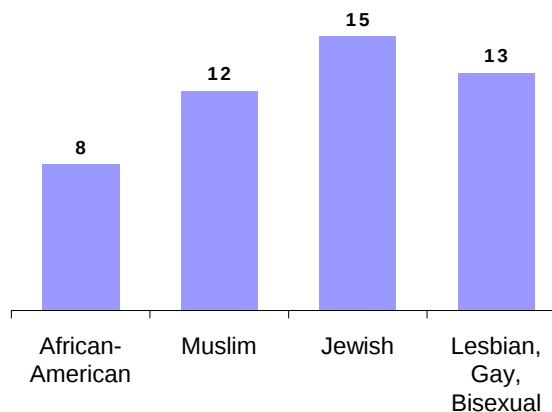
The rest of this report explains the generation of hate crime statistics and relevant policy questions in more detail.

POLICY BACKGROUND

A hate crime or bias motivated crime occurs when the perpetrator of the crime intentionally selects the victim because of his or her membership in a certain group. Individual states and the federal government have varying definitions of hate crime, and different means of punishing them.

Thirty-three states and the District of Columbia have laws addressing hate crimes motivated by bias against the victim's sexual orientation among other protected categories. Eleven states and the District of Columbia have statutes that include hate crimes motivated by the victim's gender identity.

**Figure 1: Estimated Hate Crime Rates
(per 100,000 people)**



Federal law has primarily addressed hate crimes in three ways: 1) by defining and prosecuting federal hate crimes; 2) by enhancing sentences for other federal offences when motivated by bias against protected groups; and 3) by requiring the FBI to track hate crimes from state and local agencies across the United States. Currently sexual orientation is not included in defining and prosecuting federal hate crimes, but is included in federal sentence enhancements and tracking laws. In contrast, gender identity is not included in any of the three types of federal hate crime laws.

Since 2000, Congress has considered changing existing laws to expand the federal definition of hate crimes to include sexual orientation and gender identity. In addition, proposed legislation would add gender identity to hate crime statistics laws.

EXISTING HATE CRIME STATISTICS

With the passage of the Hate Crime Statistics Act of 1990, the FBI has collected yearly data from participating agencies along with their Uniform Crime Report statistics. The raw counts show that the majority of hate crimes have been crimes based on race (primarily against African Americans), followed each year by either crimes based on religion (primarily against Jews) or crimes based on sexual orientation (primarily against gay men) as the second most common type of hate crime.

Although tracking is invaluable for understanding hate crimes in the United States, evidence suggests that underreporting is a problem. As with other types of crime, there is a large gap between what is reported by the police and what is reported in victimization surveys. A report from the Bureau of Justice statistics comparing the FBI data and victimization survey data suggests that only about 44% of hate crimes are reported to the police.² Thus, these estimates

are a conservative look at the number of hate crimes that are occurring across the United States.

EXPANDING HATE CRIME LAWS TO INCLUDE SEXUAL ORIENTATION AND GENDER IDENTITY

The FBI's raw counts of hate crimes do not take into account the size of the populations covered. For example, racial and ethnic minorities account for about 30% of the total population of the United States,³ but the estimated population that identifies as gay, lesbian, or bisexual is only about 4%.⁴ Therefore, calculating proportional rates of possible victimization provides another important perspective for comparing hate crimes across groups.

This analysis utilized the average number of hate crimes experienced by gay men, lesbians, and bisexuals, as well as three sub-populations that are already protected by hate crime laws: African Americans, Jews, and Muslims. Then we divided this average number of hate crimes by the estimated population of each respective group in the United States to estimate an overall rate of potential victimization.⁵

Table 1 – Average Hate Crimes per Year from 1995-2005

Category	Average Number of Hate Crimes per year from 1995-2005
Race	4,407
Religion	1,420
Sexual Orientation	1,205
Ethnicity/National Origin	992
Disability	35*

* Data for disability is only available from 1997-2005

Table 2 – Estimated Hate Crime Rates per 100,000 people

Category	Average Hate Crimes 1995-2005	Estimated Population	Estimated Hate Crime Rate
African Americans	2,884	34,658,190	8 per 100,000
Muslims	112	1,742,112	12 per 100,000
Gay Men, Lesbians, and Bisexuals	1,191	9,460,000	13 per 100,000
Jews	1,024	6,155,000	15 per 100,000

These results suggest that when taking the respective population sizes of each group into consideration, the gay men, lesbians, and bisexuals who experience similar rates of victimization as members of those groups who are already receiving federal protection.

EXTENDING HATE CRIME TRACKING LAWS TO INCLUDE GENDER IDENTITY

Despite issues of underreporting from law enforcement agencies, some additional data suggest that hate crimes against transgender people are a significant problem. Community organizations and other interested groups have been tracking hate crimes against transgender people for several years. In particular, the National Coalition of Anti-Violence Programs (NCAVP) includes transgender people in their collection of hate crime data against sexual minorities.

When examining reports on 14 major cities, 5 states, and one multi-state region since 1997, the NCAVP reports an average of 213 hate crimes per year against transgender people. In 2004, the NCAVP reported the highest number of hate crimes against transgender people:

321 hate crimes.⁶ Nationally, this level of violence is comparable to the level of violence perpetrated against Muslims since 2002. Thus, the inclusion of gender identity in the categories reported in the Uniform Crime Reports and in the new National Incident Based Reporting System (NIBRS) system would allow for more tracking of this serious problem.

About the Author

Rebecca Stotzer is a Public Policy Fellow at the Williams Institute, UCLA School of Law. Dr. Stotzer has a PhD in Social Work and Psychology from the University of Michigan. She studies patterns of hate crime offenses, factors that generate positive attitudes toward the LGBT community among heterosexuals, and the role of stereotypes in predicting types of violence for different categories of hate crime victims.

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APPENDIX – Calculating the Hate Crime Rates

Hate Crime Data

Hate crime data for African Americans, sexual minorities, Muslims, and Jews was taken from the FBI Uniform Crime Reports from 1995-2005. The FBI collects data from local and state law enforcement agencies that turn in annual totals with their other crime indexes. Although the FBI is mandated to collect hate crime reports from local agencies, the participation of local law enforcement in reporting to the FBI is largely voluntary. Because of annual fluctuations based on current events and changes in reporting trends, totals were averaged across these years for each group.

Determining the Estimated Population for African Americans

The African American population figure comes from the American Community Survey, 2005. This figure includes the entire population of children and adults in the calculation.

Determining the Estimated Population for Gay Men, Lesbians, and Bisexuals

Gay population estimates are derived from the National Survey of Family Growth, 2002. This survey includes adults age 18-44, and found that 4.1% of that population identified as gay, lesbian, or bisexual. However, this number focuses on adults, but individuals in their teens are just as likely to be victims of bias based on sexual orientation. Thus, this 4.1% was applied to the known population of 14-17 year olds in the United States as well as the population 18 years and older.

Determining the Estimated Population for Muslims

Muslim population estimates are reported in the Statistical Abstract of the United States, 2006. This population estimate comes from the American Religious Identification Survey (ARIS), which was a random digit-dial telephone survey of the continental United States. Respondents were asked to describe themselves and were not prompted with identifications. This was an identification survey, not a behavioral survey, thus no questions were asked about attendance at religious events. However, this population estimate is only an estimate for the adult population. Therefore, because an estimated 1/3 of the United States population is under age 18, the adult Muslim population reported by Statistical Abstract 2006 was increased by 1/2 to include children.

Determining the Estimated Population for Jews

Jewish population estimates are reported in the Statistical Abstract of the United States, 2006. Data was collected from the American Jewish Yearbook, and is an estimate of those who identify as religiously or culturally Jewish from local Jewish federations and other large community surveys. This includes the entire population of children and adults in the calculation of risk.

References

¹ See the National Coalition of Anti-Violence Programs annual reports from 1997-2006 from <http://www.ncavp.org/>.

² Wolf, Caroline (2005). Bureau of Justice Statistics, Special Report – Hate Crime Reported by Victims and Police.

³ U.S. Census 2000 American Fact Finder, Summary 1 Table on Race/Ethnicity of the U.S. Population.

⁴ Mosher, W. D., Chandra, A., & Jones, J. (2005). Sexual behavior and selected health measures of men and women 15-44 years of age, United States, 2002. Advance Data from Vital and Health Statistics.

⁵ This procedure for determining rates is similar to the procedure used by William Rubenstein, "The Real Story of U.S. Hate Crime Statistics: An Empirical Analysis" published in the *Tulane Law Review* in 2003.

⁶ National Coalition of Anti-Violence Programs (2005). *Anti-gay, Lesbian, Bisexual and Transgender Violence in 2004: A Report of the National Coalition of Anti-Violence Programs*. Retrieved January 2, 2007 from <http://www.ncavp.org/>.