



Observations on Hate Crimes Issues Summit

Presented at Marquette University Law School
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Overview of Law

OpenCongress Summary (see: <http://www.opencongress.org/bill/111-h1913/show>)

This bill, previously introduced in Congress in 2007, expand[s] upon the 1969 US federal hate-crime law by extending hate crime protections to bodily crimes motivated by a victim's actual or perceived gender, sexual orientation, gender identity, or disability, in addition to the current protections for bodily crimes motivated by a victim's actual or perceived race, color, religion, and national origin. It also codif[ies] and expand[s] the funding and investigative capabilities of federal officials for aiding their local counterparts.

This bill was adopted and signed into law as part of the 2010 Department of Defense Appropriations Bill ([H.R. 3326](#)).

Introduction

James L. Santelle, the United States Attorney for the Eastern District of Wisconsin, sponsored a comprehensive “summit” meeting of local law enforcement, non-profit and concerned citizens on the effect of hate crimes in our community. The program familiarized participants with the evolution and legislation of crimes of “hate”. For the purpose of this synopsis, hate is defined as:

Intense hostility and aversion usually deriving from fear, anger, or sense of injury whereas a hate crime can be defined as any of various crimes when motivated by hostility to the victim as a member of a group.

<http://www.merriam-webster.com/dictionary/hate?show=2&t=1299857560>

The program approached understanding hate crimes both from emotional and legal process realms. Victims of hate crimes were able to give voice to the affect of the crime on their lives while the law enforcement community was able to review process and procedures that lead to

efficient investigation and adjudication. I have chosen to comment on only this aspect of the program.

Breakout Session

Each participant had a range of information sessions he/she could attend. I chose to go to the afternoon session titled...

From Crimes to Courtroom: An overview of the Criminal Justice Process from Reporting to Conviction presented by Mary Hoerig and Karla Lehmann of the Milwaukee Police Department and Mel Johnson of the US Attorney's Office.

This presentation made the following points:

1. The prosecution of "hate crimes" is a subset of Federal Civil Rights legislation. Generally, the process of investigation of hate crimes falls first to local jurisdictions.
2. State and local law enforcement initially have more resources to allocate to an investigation but recent budgetary constraints have made the deployment of those assets a case-by-case concern.
3. The involvement of Federal authorities is dependent on a number of variables. Local investigators, the victim of the crime or their attorney can request Federal involvement.
4. Hate crimes often involve juvenile offenders and local law enforcement is better equipped to handle such cases.

Comparatively one can say that:

Federal (DOJ) Reaction	State/ Local Law Enforcement Reaction
Slower, more cumbersome	Quicker response
More comprehensive, fewer cases to pursue	More cases, less comprehensive in resource allocation
More contemplative (my words)	Short response time (greater pressure to clear cases)
Greater tendency to involve more divisions (Ex: Civil Rights Division)	

The presentation noted that hate crimes tend to involve the need to understand offender motive (see previous definition). Thus, local investigators tend to focus on:

1. Why did the crime happen?
2. What statements were made by all actors that indicate, "hate"?
3. To what extent do previous suspect arrests involve minorities or groups demonstrating hateful behaviors (patterns of repetitive behavior)?
4. What affiliations with hate groups do suspects have?
5. What physical evidence (tattoos, computer files, flags, adornments) indicate suspect tendencies to act-out hateful behavior?

In contrast to State prosecution, Federal prosecution requires Grand Jury investigations. These activities are usually more extensive than local investigations.

Federal prosecutors have a number of charging tools they can apply to encourage suspect cooperation. Significantly, Grand Juries can require the taking of an Oath to tell the truth. They also transcribe subsequent testimony using a Court Stenographer. It was noted that the weight of the Federal process causes criminals to reconsider their truthfulness and avoid giving false testimony.

Observations

Generally, all presenters provided both informative and useful information. However, I am inclined to believe that proper investigation and adjudication of hate crimes is dependent on:

- ✓ Investigator self-awareness of personal bias and definition of what she/he believes is hateful.
- ✓ The depth to which a given law enforcement agency is willing to devote time and money to the investigation.
- ✓ The levels of sensitivity officers and attorneys have to the behaviors and consequences that lead to and result from hate crime activities.
- ✓ The extents to which internal “champions” (i.e. administrators, commanders, and supervisors) commit agency resources to pursue hate crimes.
- ✓ The levels of cooperation exhibited by varied independent agencies to interact in hate crime investigation.

Significantly, the dependencies noted are also convertible into evaluative questions. By inserting “to what extent” at the beginning of each sentence one can create excellent evaluative tools for determining the effectiveness of agency commitment to hate crime investigation and prosecution.

In conclusion, The Office of the United States Attorney and James L. Santelle should be congratulated for their efforts and work. The Summit provided an excellent opportunity for all parties to commit to the diminishment of hate crimes and their negative effect on our community.

Thank you.