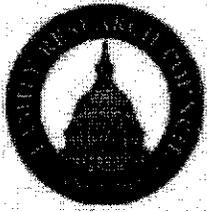


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Hate Crimes: Beyond Virtual Reality

by: Mrs. Leah Farish, Esq.

EXECUTIVE SUMMARY

The author examines the discrepancies between incidences of hate crimes[1] as reported by law enforcement, advocacy groups, and the media, and finds law enforcement to be more credible despite some oddities in reporting methods. She observes that:

- Hate crimes reached an eight-year low in the last reporting period (2002);
- numerous factors contribute to an inaccurate impression of the prevalence of hate crimes against homosexuals; and
- hate crimes against religious people are underreported.

Finally, the author, a civil rights attorney, advises Congress to reject proposed federal hate crimes legislation.

Methodology

We studied the annual Hate Crime Statistics kept by the FBI and the U.S. Department of Justice since 1991, as well as local agencies' own reports in some places. Because it usually takes about 20 months for the government to release the statistics for each year, we also identified trends by interviewing law enforcement and advocacy groups in 25 cities. We have also followed case law and the press on this subject.

Not all states prohibit the same activity or cover the same victim categories. But the federal Hate Crimes Statistics Reporting Act of 1990 asks that incidents motivated by bias against race, religion, ethnicity/national origin, "sexual orientation," or (as of 1997) disability be reported even if those victim categories do not exist in certain jurisdictions. It should be noted that these are not the same protected categories as covered in federal employment law. For instance, the reporting form does not have a category that asks for the gender or the age of the victim.

HATE CRIMES: BEYOND VIRTUAL REALITY *Leah Farish*

Introduction

There is an odd spectacle at some shopping malls and amusement parks. A person is standing on a platform, wearing a helmet that covers his eyes. He wears a vacant look or silly grin as he gropes through the air. He is wearing a virtual reality helmet, playing a virtual reality game. The false information fed to him will cause him to make lots of empty gestures, and maybe even some dangerous ones.

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Summary:
 "Hate crimes" against homosexuals are consistently overreported by private advocacy groups. Meanwhile, crimes committed for anti-religious reasons are underreported. This Insight explains why the concept of hate crimes is inherently murky, dangerous, and prone to abuse.
 keywords: homosexuality, hate crimes, crime

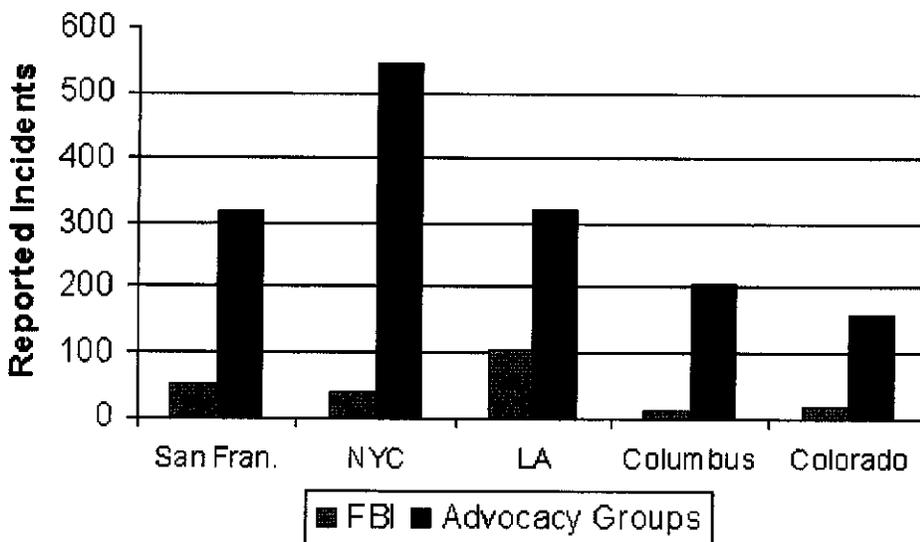
Many well-intentioned people these days are wearing virtual reality helmets, believing false impressions and acting on them. With regard to hate crimes, the virtual reality helmet worn by policymakers consists of inaccurate information from advocacy groups, misleading data from law enforcement, and misguided policy thinking.

Inaccurate Information from Advocacy Groups

Advocacy groups consistently report from three to 20 times the amount of hate crime that is reported by law enforcement.[2] The press seems only too happy to report hate crime as growing, often using statistics from private groups, which are not held accountable for their reports.[3]

For example, the National Institute Against Prejudice and Violence has estimated that "the number of college students victimized by ethnoviolence [admittedly a broad term] is in the range of 800,000 to one million students annually." [4] However, FBI statistics on bias incidents on school campuses show 555 in 1992 and 799 in 1996. [5] Moreover, the Anti-Violence Project claims that in 2001, there were 158 anti-homosexual incidents in Colorado, 205 in Columbus, Ohio, 319 in Los Angeles, 547 in New York City, and 317 in San Francisco. [6] The FBI says that there were 17 in Colorado, 12 in Columbus, 103 in Los Angeles, 38 in New York City and 50 in San Francisco. (Figure 1)[7] Let us be clear--even one is too many. But this is such a large discrepancy that policymakers first should address the discrepancy rather than accepting one or the other source of figures.

Figure 1
2001 Reported Incidence of Hate Crime by Source



Advocacy groups reluctantly admit that their numbers do not match those of law enforcement, but they cite two or three reasons why. [8] First, they claim that law enforcement agencies do not sensitize their officers to cultural diversity or to recognize hate crime. This would certainly explain the discrepancy. According to law professor Frederick Lawrence, "Some localities underreport, sometimes for nefarious reasons like not caring about bias crime or sometimes because their people are undertrained--they don't know what to look for." [9] Says Dianne Hardy-Garcia, executive director of the Lesbian/Gay Rights Lobby of Texas, "I suspect the statistics on hate crimes are very low because...police officers...don't exactly know what hate crimes are." [10] However, every force asked said that their officers do get such training, and many forces either allow openly homosexual officers or have a don't ask/don't tell policy. Many say they meet regularly with advocacy organizations such as homosexual activist groups and the Anti-Defamation League, the latter of which has consistently done significant work in this area. In some places, these groups

have input into police training.[11] Members of the Los Angeles Police Department are required to be certified by the Museum of Tolerance in Los Angeles, run by a private organization called the Simon Wiesenthal Center. Over 36,000 California law enforcement personnel have completed its "Tools for Tolerance for Law Enforcement Program." [12]

Nationwide, several officers said they feel pressure from the media to report more hate crime and have to explain that they can report only what they see. An officer in Santa Barbara, California, says, "You're going to see that disparity, but it's not because the police are not doing their job." [13]

It would not appear that police lack training in hate crimes enforcement. Agencies from all 50 states and representing four-fifths of the U.S population have attended at least one of dozens of conferences on investigating and reporting hate crimes.[14] FBI instructor Wayne Koka has trained well over 1,000 agencies in recognizing and working bias crimes. He postulated in 1994 that lack of training might have caused underreporting at that time, but he noted that two other phenomena might explain the discrepancy--either victims themselves were not reporting, or "human interest groups" were "counting non-criminal incidents." [15]

It is certainly the prerogative of advocacy groups to receive complaints from anyone they want, and to define and tally offenses any way they choose. We affirm their freedom to do this as an important alternative to police being our only information gatherers. A good example of the phenomenon of non-reporting is that of Guatemalan immigrants in Fort Myers, Florida. According to law enforcement officers there, thugs rob Guatemalan immigrants routinely on payday because the victims fear talking to police--about anything. In their native country, they believe, if you talk to the local police, you may well disappear. [16]

But we are being asked to believe that homosexuals are being assaulted by the hundreds and thousands and are cowering in fear of reporting. If this were true, homosexuals would not report minor offenses. The fact is that they usually do report minor offenses, vigilantly. [17] Some hate crimes have even been faked in order to provoke sympathy for political causes. *U.S. News and World Report* reports that one security analyst has documented approximately 100 fraudulent claims of hate crimes.[18] Often, police receive multiple calls from homosexual neighborhoods on the same incident.[19] If homosexuals are willing to pay the social cost entailed in minor incidents, it is not clear why they would not report major ones.

Hate-inspired incidents must be taken seriously, and we condemn any violence against homosexuals. Perhaps we should take off our virtual reality helmets for a moment and ask: "Do advocacy groups do a service to homosexuals when they encourage them to feel hated and live in fear when there is little basis for such feelings?" Such methods do not help those the organization purports to represent, especially when the group's credibility comes into question. Advocacy groups are not the only ones doing fuzzy thinking and reporting. Former U.S. Attorney General Janet Reno may have worn virtual reality glasses, too. In presenting the latest numbers in January 1998, she said, "These statistics show what we long believed is true: Hate crimes have long gone underreported." [20] In reality, figures of reported crimes by definition don't reveal anything about unreported crimes.

Factoring in 'Risky Behavior'

Another consideration is what law enforcement officers call provocation, which is behavior on the part of a victim that might trigger an attack. This absolutely does not mean that it should be open season on anyone who provokes a crime. All perpetrators of attacks and harassment should be punished. But provocation by victims may be one reason why victims do not report.[21] For example, numerous officers report that much anti-homosexual crime occurs around bars, at restrooms, or in streets or parks where, according to police, homosexual men may make sexual overtures that go awry.[22] This muddies the waters for prosecutors. As one member of a state attorney general's office said when asked if provocation is an issue, "Not on the ones we go to court on." [23] Even a homosexual

newspaper warned its readers that risky behavior makes homosexuals vulnerable to attack. [24] Moreover, a homosexual organization that tracks offenses against gays notes that in 1996, the victim was arrested in 44 out of 575 incidents. [25] In San Francisco, a homosexual man who grabbed the handle of a truck as it passed and was pulled under the wheels is cited as a hate murder victim in one homosexual report. [26] One account about a "male to female transgendered person" named Paige concluded, "The perpetrator is believed to be a person Paige invited to her apartment who may have reacted violently to finding that Paige had male genitalia." In fact, nine out of 22 such murder anecdotes in this summary described a violent reaction to a sexual advance made by the victim. Only three involved a stranger to the victim. Of these three, two took place in cruising areas, according to the report, and the other involved a robbery at gunpoint. [27]

There are sometimes attacks on victims who are in a protected category but who are victimized for some reason other than bias toward people in the category. For instance, more than one source indicates that homosexuals frequently are targets of attacks because they are thought by hoodlums to carry a lot of cash. [28] Criminal minds pick their prey for a number of reasons, and often the reasons are not philosophical ones.

And then, there is the issue of "gay-on-gay" crime, which is usually categorized as domestic violence. [29] But in New Jersey, for example, domestic violence is sometimes listed as a hate crime, so hate crimes against homosexuals may be rising--at the hands of other homosexuals. Domestic violence occurs in 25 to 30 percent of homosexual households, which is about the same rate of violence between separated or divorced heterosexual spouses, and about 10 times higher than married, heterosexual couples. [30]

About 30 percent of hate crimes against homosexuals are committed by "acquaintances, friends, lovers, ex-lovers, relatives, co-workers" and others who knew the victim. [31]

This sort of crime is another type that may be underreported to police but is reported in some form to advocacy groups. Overall, domestic violence is rising, and most officers said "gay-on-gay" crime is counted as domestic violence. [32]

Some so-called hate crimes are misreported or fabricated:

- In Houston, a homosexual mugging victim was left for dead in a traditionally "straight" section of town. The press initially covered it as a hate crime, but investigators found that the man had been assaulted elsewhere and transported there, "to make it look like a hate crime." [33]
- In Salt Lake City, a homosexual teacher at first thought bias offenders had put signs in her yard to intimidate her, but some of her own homosexual students later confessed to doing it. [34]
- In South Carolina, a lesbian was charged with giving false information to a police officer for saying that she was beaten; police contend she hired a man to beat her and then she reported it as a hate crime. [35]

U. S. News and World Report's John Leo says that faking hate crimes appears to be a trend. He describes numerous such incidents, such as that of the homosexual man at the University of Georgia who reported that he had been victimized in nine hate crimes, including three arsons. Under questioning, he admitted to setting the fires. Leo also discusses the lesbian at a Minnesota university who slashed her own face and then claimed that that two men had shouted anti-homosexual remarks and attacked her. Later, the woman confessed to the lie. [36]

Coverage of hate crimes intensifies when "gay rights" bills are being debated. In an interview by National Public Radio's Charlotte Reynolds on the eve of a vote on a local "sexual orientation" non-discrimination ordinance, one activist said that the state had to pass this employment ordinance or it would "send a signal" that violence against homosexuals was acceptable. [37] Pro-homosexual legislators who have failed to muster enough public support to pass the federal civil Employment Non-Discrimination Act (such as