

HATE CRIME STATISTICS ACT

HEARING

BEFORE THE

SUBCOMMITTEE ON CRIMINAL JUSTICE

OF THE

COMMITTEE ON THE JUDICIARY
HOUSE OF REPRESENTATIVES

NINETY-NINTH CONGRESS

FIRST SESSION

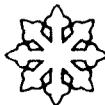
ON

H.R. 1171 and H.R. 775

HATE CRIME STATISTICS ACT

MARCH 21, 1985

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HATE CRIME STATISTICS ACT

THURSDAY, MARCH 21, 1985

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON CRIMINAL JUSTICE,
COMMITTEE ON THE JUDICIARY,
Washington, DC.

The subcommittee met at 10:05 a.m., pursuant to call, in room 2237, Rayburn House Office Building, Hon. John Conyers, Jr. (chairman of the subcommittee) presiding.

Present: Representatives Conyers, Edwards, Gekas, and Coble.

Staff present: Thomas W. Hutchison, counsel; Gail E. Bowman, assistant counsel; Raymond V. Smietanka, associate counsel; and Cheryl D. Reynolds, clerk.

Mr. CONYERS. The subcommittee will come to order. Good morning.

The Chair has received a request to cover this hearing in whole or part by television, radio, photography, or other similar manners. In accordance with committee rule V(a), permission will be granted unless there is objection. Hearing no objection, coverage is permitted.

This morning the Subcommittee on Criminal Justice will take testimony on two important measures: H.R. 1171 and H.R. 775.

H.R. 1171 would require the Attorney General to include statistics on incidences of racially, religiously, and ethnically motivated crimes in the Uniform Crime Reports issue by the FBI.

H.R. 775 would require the Attorney General to include in the Uniform Crime Reports information regarding the incidence of offenses involving racial, ethnic, or religious prejudice, and to amend chapter 13, title 18, of the United States Code to prohibit damage to property used for religious purposes, and for other purposes.

Americans claim to be strongly opposed to cross burnings, swastika paintings on synagogues, and other racially, religiously, and ethnically motivated criminal behavior. Yet, there is no law enforcement office or organization in the country which keeps comprehensive, accurate, up-to-date statistics on the incidences of hate crimes.

Private organizations must struggle to collect and tabulate incidences of racism and anti-Semitism. Racially motivated assault on, or murder of a black person, shows up in the crime reports simply as assault or homicide.

It is time that we take the first steps toward eventual control and eradication of these kinds of crimes by requiring the statistics of their incidence be collected at a national level.

The passage of these measures would mark an important first step toward a nationwide confrontation with the problem of hate crimes. Through the data collection process, existence of a hate crime problem which must be addressed will be emphasized. As accurate statistics become available, the scope of the problem would be revealed, preventive measures developed, and the degree of success evaluated.

Also, the devotion of Federal time and resources to this problem would demonstrate again the national commitment to the eradication of hate crimes.

I am very pleased to open this hearing with my two distinguished colleagues, the gentlewoman from Connecticut, Mrs. Kennelly, and Congressman Biaggi of New York.

I would like to ask Mr. Biaggi to proceed first. He is a well-known supporter of criminal justice matters and has worked with this subcommittee across the years. He is an outstanding police officer and attorney, and his concern about these and other criminal justice issues has been heartening to me over the years. And without any further ado, we welcome you again, Mario, and the gentleman with you, Mr. Michael Korenblit. You may proceed.

TESTIMONY OF HON. MARIO BIAGGI, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW YORK, ACCOMPANIED BY MICHAEL KORENBLIT, EXECUTIVE VICE PRESIDENT, INTERNATIONAL NETWORK OF CHILDREN OF JEWISH HOLOCAUST SURVIVORS

Mr. BIAGGI. Thank you very much, Mr. Chairman. And I would commend you for having these hearings, they are quite important. But it is simply a reflection of your concern and commitment for all upholding the principle of civil rights, including the right to be free from acts of religious violence and vandalism. Indeed, today we focus our attention on this most distasteful subject—the proliferation of what have been accurately described as “hate crimes.” These are acts of extreme violence and vandalism directed against religious property, institutions, and persons.

The increase in these crimes, especially in this decade, is a national scandal which demands our attention and action. We are so acutely aware of the existence of these crimes, since they happen in so many of our communities.

We are also increasingly aware of the fact that the persons who commit these crimes do so with little, if any, fear of prosecution. The prejudice and hatred practiced by these people with closed minds has left an open wound on our communities and our Nation as a whole.

I appear before you today as the author of one of several bills on this issue, which have been introduced so far in the 99th Congress. My involvement and concern with this issue, like yours, Mr. Chairman, originated long before the 99th Congress.

In fact, if someone were to examine the congressional record for early 1981, they would find statements by both of us condemning the then meteoric rise in incidents of anti-Semitic violence and vandalism.

It was in February 1981 that I first introduced legislation to impose stiff new Federal penalties against those convicted of acts of violence and vandalism against religious properties, institutions and persons attempting to freely exercise their religious beliefs.

In the 99th Congress, I have introduced H.R. 775 which continues to contain stiff penalties for antireligious crimes, as well as a requirement that the Attorney General include in the Uniform Crime Reports information about the number of offenses involving racial, ethnic, or religious prejudice.

However, the main thrust of my legislation is to provide sufficiently strong new Federal penalties to be directed at those who commit these hate crimes in an effort to deter future acts.

My bill would establish a graduated series of penalties depending on the severity of the act of violence or vandalism. At the very least, a person convicted under my bill would be fined not more than \$250,000 or imprisoned not more than 5 years or both. Now, that \$250,000 seems to be a very high sum, and it is. But it's a sum that I picked that we use because it is now part of the existing law. Public Law 98-596 indicates for a conviction of a Federal felony, the minimal fine should be \$250,000.

In the most extreme of instances, in which death might result, a person convicted could receive life imprisonment.

My bill would specifically add a new section 247 to chapter 13 of title 18 of the United States Code and would make the following subject to these new penalties:

Whoever willfully damages or destroys or attempts to damage or destroy: one, a cemetery; two, a building or other real property used for religious purposes; or three, a religious article contained in a cemetery or such building or real property.

Further, my bill also proposes a new section 248 which reads as follows:

Whoever injures, intimidates or interferes with any person in the free exercise of that person's religious beliefs secured by the Constitution or laws of the United States shall be fined not more than \$250,000 or imprisoned not more than five years or both; if bodily injury results, shall be fined not more than \$250,000 or imprisoned not more than 15 years or both; and if death results, shall be fined not more than \$250,000 or imprisoned for any term of years or for life, or both.

This hearing and my legislation focus on a real and present danger—a problem which the U.S. Civil Rights Commission in a 1983 report labeled as a serious threat to the maintenance of a peaceful, democratic and pluralistic society.

This hearing is conducted just weeks after the release of the 1984 audit of anti-Semitic incidents compiled by the Anti-Defamation League of B'nai B'rith. At this point, Mr. Chairman, I would ask that the entire 1984 report be included with my statement for the hearing record.

Mr. CONYERS. Without objection, so ordered.*

Mr. BIAGGI. The report points to the following startling statistics:

Overall there was a 6.7-percent increase in the frequency of anti-Semitic vandalism, and of any other attacks against Jewish institutions, businesses, and homes in the United States compared to

*EDITOR'S NOTE—Report appears on page 126.

1983. All told there were a total of 715 incidents or the equivalent of almost 2 a day for the entire year.

In 1984, there was a total of 23 bombings, arsons, and cemetery desecrations—almost twice as many as in 1983.

In 1984, there was a 5-percent increase in the number of assaults against Jewish individuals as well as threats and harassments against Jewish individuals or Jewish-owned properties.

In 1984, the number of persons arrested actually decreased even though the total number of incidents increased. Law enforcement authorities arrested 84 persons in connection with 51 incidents, compared to 1983 totals of 115 arrests for 55 incidents.

This problem of anti-Semitism shows no geographic boundaries. It is occurring in more than two-thirds of all of the States. Tragically, the highest concentration of incidents is occurring in the northeast region which includes the District of Columbia. These seven States and the District compiled more than 60 percent of the cases in 1984. Yet, a sharp increase was also noted in the South.

My home State of New York continues to lead the Nation in the number of anti-Semitic acts of violence and vandalism. In 1984, there were a total of 237 incidents, up almost 10 percent from 1983 and more than twice as many as any other State in the United States.

One of the more despicable of these acts took place right in the heart of my congressional district—in Co-op City in the Bronx. Let me again quote the ADL report:

Co-op City, a massive apartment complex in the Bronx, New York was the scene of anti-Semitic and racial vandalisms on 17 separate days beginning in April of 1984 and continuing through November. These remain unsolved. On these days and at various buildings in the giant complex, anti-Semitic graffiti, including swastikas and anti-Jewish epithets were smeared on apartment doors. The vandals concentrated mostly on those apartments displaying mezuzahs on their door posts. Some of the anti-Semitic and the racist graffiti was smeared on hallway and elevator walls and stairwells.

Mr. Chairman, I know about this case firsthand. I went to Co-op City on several occasions during this sick crime spree. I saw firsthand the fear and anger in the eyes of the residents of the complex, especially those whose apartments were victimized.

I would also add, Mr. Chairman, that this same Co-op City community was also victimized by an act of racially motivated vandalism. It was late on the night of Sunday, May 20, 1984—the scene was the National Association for the Advancement of Colored People Day Care Center located at 100 Erskine Place in Co-op City.

While most in Co-op City slept, an unknown number of vandals broke into the Day Care Center and unleashed a vicious and wanton attack on the facility. Included in the reign of destruction were the painting of racial slogans, breaking of several windows, flooding of the center, and the stealing of a television and stereo.

For the people of Co-op City it was another display of hatred manifested in an act of senseless vandalism. For the parents of the children it caused great anxiety and apprehension—Would this happen again? Could their children be harmed?

For the operators of the center it was a desperate thought: How will we be able to afford the repairs?

I would add at this point that I contributed \$500 to the rebuilding campaign and the generosity of others in the community was outstanding.

The effect of hate crimes, whether directed against racial, religious or ethnic groups, eats away at the very core of our society. It is a form of poison spreading through our land. It affects people physically and psychologically.

Anytime a community is affected by acts of religiously motivated violence or vandalism, it strikes at the very core of one's being. It is an assault on one of our most basic freedoms: the freedom of religion.

When there are acts of anti-Semitism, another horror is invoked—the past horror of other eras in our history such as Nazi Germany, when we saw the consequences of the elimination of religious freedoms.

All of the bills pending before your subcommittee, including mine, recognize as you said in your 1981 statement, that “anti-semitic violence is not an isolated phenomenon. There appears to be an increased incidence of criminal violence directed against members of all minority groups.” In addition all religious groups have experienced the same problem of violence and vandalism.

Let me quote from two New York Post articles:

A gentle Long Island minister who devoted his life to helping young criminals is in a coma today after he was bludgeoned by a thief who invaded his church.

A Catholic priest was viciously attacked in Brooklyn by four punks who beat him and kicked him even after he offered them his money.

The obvious point is we are dealing with a national problem and we must look to our laws for remedies. At the State level there are far too few laws on the books which address this problem adequately. And for the most part, even when they do, the judiciary takes a very charitable view of what occurs. And at best, the offender, when arrested, is given a slap on the wrist.

The most recent information I have points to only 13 States that have laws on the books to deal with hate crimes. This is less than one-half of the total number of States that reported anti-Semitic violence, not to mention the States where other hate crimes occurred.

The present Federal law, specifically section 1074 of title 18, is entirely too vague and does not in any real fashion direct its attention or penalties to the various types of antireligious crime that is the reality in today's America.

I offer my bill as one approach. I contend from my background as a law enforcement officer for some 23 years in the city of New York that the law must be strong in dealing with those people who commit these heinous crimes.

I recognize, as does the ADL, that what is needed is a combination of—

Stricter laws against violence motivated by anti-Semitic and racial bigotry, stricter law enforcement, greater attention by the media of public information to the problem of anti-Semitic violence, more education for understanding and good will in the schools and churches, more community meetings to map countermeasures, and more vocal community response to incidents of violence motivated by hate.

We must act, and we must act now. The problem is with us today. It is serious and it is only getting worse. We must make the

commitment to fight back against the dual evils of antireligious violence and vandalism. Anything less than a full-fledged effort will give license to the continuation of these horrible crimes. To sit back and do nothing of this threat is to invite its growth.

As Dr. Martin Luther King once said, "Injustice anywhere is a threat to justice everywhere."

I appreciate having this occasion to advocate for the passage of my bill. I would like to close with a quote contained in a letter of support from an organization which has special concerns about the problem of religious violence and vandalism. They know all too well the consequences that can befall a society which tolerates this type of behavior. The organization is the International Network of Children of Jewish Holocaust Survivors. Their letter reads:

At the last quarterly board meeting of the Network, your bill against hate crimes received 100 percent approval and support. The International Network of Children of Jewish Holocaust Survivors has local groups across the country and will do what we can to ensure its passage.

And as you noted, Mr. Chairman, at the outset, one of the children of the survivors of the Holocaust is with me, Michael Korenblit.

And it points out clearly the connection, tranquility to practice religious pursuits is critical. Anything that encroaches upon that tranquility is in fact dealing with one of the basic tenets of our Founding Fathers: the freedom of religious pursuit. And that apprehension is sufficient in my mind to give the Congress, the Federal Government, jurisdiction.

Mr. CONYERS. Thank you very much, Mr. Biaggi, for a very comprehensive statement.

I welcome a colleague from California, Mr. Mineta, to the witness table, and I now yield to the ranking minority member from Pennsylvania, Mr. Gekas, to introduce our newest subcommittee member.

Mr. GEKAS. Yes, thank you, Mr. Chairman.

We interrupt the proceedings just for a brief moment to introduce to the other members of the Criminal Justice Subcommittee one of the newest members of the subcommittee, Representative Coble of North Carolina, who at the very moment that he is being introduced as part of this panel, asked to be excused so he can go to another meeting and, therefore, it serves a double purpose. But we do welcome you to the subcommittee. You will find it interesting and challenging, we know.

Mr. CONYERS. I join with my colleague in welcoming the gentleman. We do not require strict attendance on this subcommittee so we will be able to let you off for the first time. Don't let it happen too often in the future.

Mr. COBLE. Mr. Chairman, you may not award credit for this but I volunteered for this subcommittee.

Mr. CONYERS. In that case, you may come and go as you please. We are pleased to have you.

Mr. BIAGGI. Mr. Chairman.

Mr. CONYERS. Yes, Mr. Biaggi.

Mr. BIAGGI. I would like to beg your indulgence just a little further, and you have been very kind so far. But we have Lane Kirkland testifying before the Education and Labor Committee, and I

am the senior member there and it behooves me to be there—if you have any questions.

Mr. CONYERS. I don't have any questions. Do any of the subcommittee members have questions of the witness?

Mr. GEKAS. Yes.

Mr. CONYERS. All right.

Mr. GEKAS. Thank you, Mr. Chairman.

Just a point of interest—there is absolutely nothing that you have said that is arguable in any philosophical sense.

My concern is whether or not the State of New York has any laws on the books, State laws, to cover the same subject matter which you are narrating today.

Mr. BIAGGI. They do have laws. And as I said before, in the past, the judges have not given this kind of offense the kind of attention it deserves. But we have experienced, however, and now we urge people to go to court when an offender is apprehended. That kind of attention kind of focuses in on the crime and judges are becoming a little severe. But I am not so sure that in the end that will do the job.

Mr. GEKAS. As a lawyer I see a number of evidentiary problems that I believe that your bill does not address. Of course, that's for our subcommittee to tear apart a little bit and perhaps help you in the long run.

But in one section you say, "whoever willfully damages or destroys, or attempts to damage or destroy a cemetery"—that by itself does not bring in the bias type of desecration of cemeteries to which you refer. It is a kind of vandalism or personal property damage situation that can apply whether or not there is any religious or ethnic or racial connotation to the desecration.

So, what I am trying to get at is the State laws, it seems to me—well, let me back up.

The question I want to ask now: Do you have any statistics on the number of cases prosecuted in your State in the State courts?

Mr. BIAGGI. Not available at this point. I don't know if they are available. We will research and find out.

Mr. GEKAS. That would go for your respective States to the other kinds.

Mr. BIAGGI. I am mindful of the rules of evidence and I understand the problem. But our experience so far has been it's the Jewish cemeteries and on occasion the Catholic cemeteries.

Now, the question of willful is a question of state of mind and evidence and admissions. The whole due process would have to be pursued. Willful is an important word in the realm of law and other crimes as well, and you have to determine whether or not it was willful, accidental, or whatever.

Mr. GEKAS. Nobody is quarreling, Mario, with the word willfully. But we are saying is that perhaps to make it more momentary, that we ought to be saying who with religious bias, or ethnic bias, or some kind of evidence of bias destroys the cemetery, or that kind of thing.

What I am anxious is to see what the State of California and the State of New York, for instance, have on the books now so that they can act as research for us. And also, the statistical evidence

that you could bring us as to what your respective State—it would be very helpful.

Mr. BIAGGI. I would be delighted to submit it to the committee. [The information referred to is being held in committee files.]

Mr. GEKAS. I have no further questions.

Mr. CONYERS. Any other questions?

Mr. EDWARDS. I just want to thank our colleague from New York for very valuable testimony.

Mr. CONYERS. We appreciate your beginning this discussion of this important legislation.

Mr. BIAGGI. I want to thank you very much, Mr. Chairman, and members of the committee.

[The prepared statement of Representative Biaggi follows:]



NEWS

FROM CONGRESSMAN

MARIO BIAGGI

19TH CONGRESSIONAL DISTRICT, N.Y.

BRONX AND YONKERS

THE HONORABLE MARIO BIAGGI OF NEW YORK
TESTIMONY BEFORE CRIMINAL JUSTICE SUBCOMMITTEE ON H.R. 775

I AM GRATEFUL FOR THE OPPORTUNITY TO APPEAR BEFORE THIS DISTINGUISHED SUBCOMMITTEE. I ESPECIALLY WANT TO COMMEND THE ESTEEMED CHAIRMAN, MY GOOD FRIEND JOHN CONYERS, FOR SCHEDULING THIS MOST IMPORTANT HEARING. IT IS BUT ANOTHER REFLECTION OF HIS COMMITMENT AND CONCERN FOR UPHOLDING PRINCIPLES OF CIVIL RIGHTS INCLUDING THE RIGHT TO BE FREE FROM ACTS OF RELIGIOUS VIOLENCE AND VANDALISM.

INDEED, TODAY WE FOCUS OUR ATTENTION ON A MOST DISTASTEFUL SUBJECT-- THE PROLIFERATION OF WHAT HAVE BEEN ACCURATELY DESCRIBED AS "HATE CRIMES." THESE ARE ACTS OF EXTREME VIOLENCE AND VANDALISM DIRECTED AGAINST RELIGIOUS PROPERTY, INSTITUTIONS AND PERSONS. THE INCREASE IN THESE CRIMES, ESPECIALLY IN THIS DECADE, IS A NATIONAL SCANDAL WHICH DEMANDS OUR ATTENTION AND ACTION. WE ARE SO ACUTELY AWARE OF THE EXISTENCE OF THESE CRIMES, SINCE THEY HAPPEN IN SO MANY OF OUR COMMUNITIES. WE ARE ALSO INCREASINGLY AWARE OF THE FACT THAT THE PERSONS WHO COMMIT THESE CRIMES DO SO WITH LITTLE, IF ANY, FEAR OF PROSECUTION. THE PREJUDICE AND HATRED PRACTICED BY THESE PEOPLE WITH CLOSED MINDS HAS LEFT AN OPEN WOUND ON OUR COMMUNITIES AND OUR NATION AS A WHOLE.

I APPEAR BEFORE YOU TODAY AS THE AUTHOR OF ONE OF SEVERAL BILLS ON THIS ISSUE, WHICH HAVE BEEN INTRODUCED THUS FAR IN THE 99TH CONGRESS. MY INVOLVEMENT AND CONCERN WITH

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THIS ISSUE, LIKE YOURS, MR. CHAIRMAN, ORIGINATED LONG BEFORE THE 99TH CONGRESS. IN FACT, IF SOMEONE WERE TO EXAMINE THE CONGRESSIONAL RECORD FOR EARLY 1981, THEY WOULD FIND STATEMENTS BY BOTH OF US CONDEMNING THE THEN METEORIC RISE IN INCIDENTS OF ANTI-SEMITIC VIOLENCE AND VANDALISM. IT WAS IN FEBRUARY OF 1981 THAT I FIRST INTRODUCED LEGISLATION (H.R. 2085) TO IMPOSE STIFF NEW FEDERAL PENALTIES AGAINST THOSE CONVICTED OF ACTS OF VIOLENCE AND VANDALISM AGAINST RELIGIOUS PROPERTY, INSTITUTIONS AND PERSONS ATTEMPTING TO FREELY EXERCISE THEIR RELIGIOUS BELIEFS.

IN THE 99TH CONGRESS I HAVE INTRODUCED H.R. 775 WHICH CONTINUES TO CONTAIN THE STIFF PENALTIES FOR ANTI-RELIGIOUS CRIMES, AS WELL AS A REQUIREMENT THAT THE ATTORNEY GENERAL INCLUDE IN THE UNIFORM CRIME REPORTS INFORMATION ABOUT THE NUMBER OF OFFENSES INVOLVING RACIAL, ETHNIC OR RELIGIOUS PREJUDICE.

HOWEVER, THE MAIN THRUST OF MY LEGISLATION IS TO PROVIDE SUFFICIENTLY STRONG NEW FEDERAL PENALTIES TO BE DIRECTED AT THOSE WHO COMMIT THESE HATE CRIMES IN AN EFFORT TO DETER FUTURE ACTS. MY BILL WOULD ESTABLISH A GRADUATED SERIES OF PENALTIES DEPENDING ON THE SEVERITY OF THE ACT OF VIOLENCE OR VANDALISM. AT THE VERY LEAST A PERSON CONVICTED UNDER MY BILL WOULD BE FINED NOT MORE THAN \$250,000 OR IMPRISONED NOT MORE THAN FIVE YEARS OR BOTH. IN THE MOST EXTREME OF INSTANCES, IN WHICH DEATH MIGHT RESULT, A PERSON CONVICTED COULD RECEIVE LIFE IMPRISONMENT.

MY BILL WOULD SPECIFICALLY ADD A NEW SECTION 247 TO CHAPTER 13 OF TITLE 18 OF THE U.S. CODE AND WOULD MAKE THE FOLLOWING SUBJECT TO THESE NEW PENALTIES:

WHOEVER WILLFULLY DAMAGES OR DESTROYS OR ATTEMPTS TO DAMAGE OR DESTROY--

- 1) A CEMETERY;
- 2) A BUILDING OR OTHER REAL PROPERTY USED FOR RELIGIOUS PURPOSES; OR
- 3) A RELIGIOUS ARTICLE CONTAINED IN A CEMETERY OR SUCH BUILDING OR REAL PROPERTY.

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FURTHER, MY BILL ALSO PROPOSES A NEW SECTION 248 WHICH READS AS FOLLOWS:

"WHOEVER INJURES, INTIMIDATES OR INTERFERES WITH ANY PERSON IN THE FREE EXERCISE OF THAT PERSON'S RELIGIOUS BELIEFS SECURED BY THE CONSTITUTION OR LAWS OF THE UNITED STATES SHALL BE FINED NOT MORE THAN \$250,000 OR IMPRISONED NOT MORE THAN FIVE YEARS OR BOTH; IF BODILY INJURY RESULTS, SHALL BE FINED NOT MORE THAN \$250,000 OR IMPRISONED NOT MORE THAN 15 YEARS OR BOTH; AND IF DEATH RESULTS, SHALL BE FINED NOT MORE THAN \$250,000 OR IMPRISONED FOR ANY TERM OF YEARS OR FOR LIFE OF BOTH."

THIS HEARING AND MY LEGISLATION FOCUS ON A REAL AND PRESENT DANGER-- A PROBLEM WHICH THE UNITED STATES CIVIL RIGHTS COMMISSION IN A 1983 REPORT LABELED AS "A SERIOUS THREAT TO THE MAINTENANCE OF A PEACEFUL, DEMOCRATIC AND PLURALISTIC SOCIETY."

THIS HEARING IS CONDUCTED JUST WEEKS AFTER THE RELEASE OF THE 1984 AUDIT OF ANTI-SEMITIC INCIDENTS COMPILED BY THE ANTI-DEFAMATION LEAGUE OF B'NAI BRITH. AT THIS POINT MR. CHAIRMAN, I WOULD ASK THAT THE ENTIRE 1984 REPORT BE INCLUDED WITH MY STATEMENT FOR THE HEARING RECORD. THE REPORT POINTS TO THE FOLLOWING STARTLING STATISTICS.

*** OVERALL THERE WAS A 6.7 PERCENT INCREASE IN THE FREQUENCY OF ANTI-SEMITIC VANDALISM AND OF OTHER ATTACKS AGAINST JEWISH INSTITUTIONS, BUSINESSES AND HOMES IN THE UNITED STATES COMPARED TO 1983. ALL TOLD THERE WERE A TOTAL OF 715 OF THESE INCIDENTS OR THE EQUIVALENT OF ALMOST TWO A DAY FOR THE ENTIRE YEAR.

*** IN 1984 THERE WERE A TOTAL OF 23 BOMBINGS, ARSONS AND CEMETERY DESECRATIONS-- ALMOST TWICE AS MANY AS IN 1983.

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*** IN 1984 THERE WAS A FIVE PERCENT INCREASE
IN THE NUMBER OF ASSAULTS AGAINST JEWISH INDIVIDUALS
AS WELL AS THREATS AND HARASSMENTS AGAINST JEWISH
INDIVIDUALS OR JEWISH-OWNED PROPERTIES.

*** IN 1984 THE NUMBER OF PERSONS ARRESTED ACTUALLY
DECREASED EVEN THOUGH THE TOTAL NUMBER OF INCIDENTS
INCREASED. LAW ENFORCEMENT AUTHORITIES ARRESTED 84
PERSONS IN CONNECTION WITH 51 INCIDENTS, COMPARED TO
1983 TOTALS OF 115 ARRESTS FOR 55 INCIDENTS.

THIS PROBLEM OF ANTI-SEMITISM SHOWS NO GEOGRAPHIC
BOUNDARIES. IT IS OCCURRING IN MORE THAN TWO-THIRDS OF ALL
OF THE STATES. TRAGICALLY THE HIGHEST CONCENTRATION OF INCIDENTS
IS OCCURRING IN THE NORTHEAST REGION WHICH INCLUDES THE
DISTRICT OF COLUMBIA. THESE SEVEN STATES AND THE DISTRICT COMPILED
MORE THAN 60 PERCENT OF THE CASES IN 1984.

YET, A SHARP INCREASE WAS ALSO NOTED IN THE SOUTH.

MY HOME STATE OF NEW YORK CONTINUES TO LEAD THE NATION
IN THE NUMBER OF ANTI-SEMITIC ACTS OF VIOLENCE AND VANDALISM.
IN 1984 THERE WERE A TOTAL OF 237 INCIDENTS UP ALMOST 10 PERCENT
FROM 1983 AND MORE THAN TWICE AS MANY AS ANY OTHER STATE IN
THE UNITED STATES. ONE OF THE MORE DESPICABLE OF THESE ACTS
TOOK PLACE RIGHT IN THE HEART OF MY CONGRESSIONAL DISTRICT--
IN CO-OP CITY IN THE BRONX. LET ME AGAIN QUOTE FROM THE
ADL REPORT:

"CO-OP CITY, A MASSIVE APARTMENT COMPLEX IN THE
BRONX, NEW YORK WAS THE SCENE OF ANTI-SEMITIC
AND RACIAL VANDALISMS ON 17 SEPARATE DAYS
BEGINNING IN APRIL OF 1984 AND CONTINUING THROUGH
NOVEMBER. THESE REMAIN UNSOLVED. ON THESE DAYS
AND AT VARIOUS BUILDINGS IN THE GIANT COMPLEX,
ANTI-SEMITIC GRAFFITI, INCLUDING SWASTIKAS AND
ANTI-JEWISH EPITHETS WERE SMEARED ON APARTMENT
DOORS. THE VANDALS CONCENTRATED MOSTLY ON
THOSE APARTMENTS DISPLAYING MEZUZAHS ON THEIR
DOOR POSTS. SOME OF THE ANTI-SEMITIC AND THE
RACIST GRAFFITI WAS SMEARED ON HALLWAY WALLS,
ELEVATOR WALLS AND STAIRWELLS."

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MR. CHAIRMAN, I KNOW ABOUT THIS CASE FIRST HAND. I WENT TO CO-OP CITY ON SEVERAL OCCASIONS DURING THIS SICK CRIME SPREE. I SAW FIRST HAND THE FEAR AND ANGER IN THE EYES OF THE RESIDENTS OF THE COMPLEX ESPECIALLY THOSE WHOSE APARTMENTS WERE VICTIMIZED.

I WOULD ALSO ADD, MR. CHAIRMAN, THAT THIS SAME CO-OP CITY COMMUNITY WAS ALSO VICTIMIZED BY AN ACT OF RACIALLY MOTIVATED VANDALISM. IT WAS LATE ON THE NIGHT OF SUNDAY, MAY 20, 1984-- THE SCENE WAS THE NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE DAY CARE CENTER LOCATED AT 100 ERSKINE PLACE IN CO-OP CITY. WHILE MOST IN CO-OP CITY SLEPT AN UNKNOWN NUMBER OF VANDALS BROKE INTO THE DAY CARE CENTER AND UNLEASHED "A VICIOUS AND WANTON ATTACK ON THE FACILITY. INCLUDED IN THE REIGN OF DESTRUCTION WERE THE PAINTING OF RACIAL SLOGANS-- BREAKING OF SEVERAL WINDOWS-- FLOODING OF THE CENTER-- AND THE STEALING OF A TELEVISION AND STEREO."

FOR THE PEOPLE OF CO-OP CITY IT WAS ANOTHER DISPLAY OF HATRED MANIFESTED IN AN ACT OF SENSELESS VANDALISM. FOR THE PARENTS OF THE CHILDREN IT CAUSED GREAT ANXIETY AND APPREHENSION-- WOULD THIS HAPPEN AGAIN-- COULD THEIR CHILDREN BE HARMED? FOR THE OPERATORS OF THE CENTER IT WAS A DESPERATE THOUGHT-- HOW WILL WE BE ABLE TO AFFORD THE REPAIRS. I WOULD ADD AT THIS POINT THAT I CONTRIBUTED \$500 TO THE REBUILDING CAMPAIGN AND THE GENEROSITY OF OTHERS IN THE COMMUNITY WAS OUTSTANDING.

THE EFFECT OF HATE CRIMES WHETHER DIRECTED AGAINST RACIAL, RELIGIOUS OR ETHNIC GROUPS-- EATS AWAY AT THE VERY CORE OF OUR SOCIETY. IT IS A FORM OF POISON SPREADING THROUGH OUR LAND. IT AFFECTS PEOPLE PHYSICALLY AND PSYCHOLOGICALLY.

ANYTIME A COMMUNITY IS AFFECTED BY ACTS OF RELIGIOUSLY MOTIVATED VIOLENCE VANDALISM, IT STRIKES AT THE VERY CORE OF ONE'S BEING. IT IS AN ASSAULT ON ONE OF OUR MOST BASIC FREEDOMS-- THE FREEDOM OF RELIGION. WHEN THERE ARE ACTS OF ANTI-SEMITISM, ANOTHER HORROR IS INVOKED-- THE PAST HORROR OF OTHER ERAS IN OUR HISTORY SUCH AS NAZI GERMANY, WHEN WE SAW THE CONSEQUENCES OF THE ELIMINATION OF RELIGIOUS FREEDOMS.

ALL OF THE BILLS PENDING BEFORE YOUR SUBCOMMITTEE, INCLUDING MINE, RECOGNIZE AS YOU SAID IN YOUR 1981 STATEMENT THAT "ANTI-SEMITIC VIOLENCE IS NOT AN ISOLATED PHENOMENON. THERE APPEARS TO BE AN INCREASED INCIDENCE OF CRIMINAL VIOLENCE DIRECTED AGAINST MEMBERS OF ALL MINORITY GROUPS." IN ADDITION, ALL RELIGIOUS GROUPS HAVE EXPERIENCED THE SAME PROBLEM OF VIOLENCE AND VANDALISM.

LET ME QUOTE FROM TWO NEW YORK POST ARTICLES:

"A GENTLE LONG ISLAND MINISTER WHO DEVOTED HIS LIFE TO HELPING YOUNG CRIMINALS IS IN A COMA TODAY AFTER HE WAS BLUDGEONED BY A THIEF WHO INVADED HIS CHURCH."

"A CATHOLIC PRIEST WAS VICIOUSLY ATTACKED IN BROOKLYN YESTERDAY BY FOUR PUNKS WHO BEAT HIM AND KICKED HIM EVEN AFTER HE OFFERED THEM HIS MONEY."

THE OBVIOUS POINT IS WE ARE DEALING WITH A NATIONAL PROBLEM AND WE MUST LOOK TO OUR LAWS FOR REMEDIES. AT THE STATE LEVEL THERE ARE FAR TOO FEW LAWS ON THE BOOKS WHICH ADDRESS THIS PROBLEM ADEQUATELY. THE MOST RECENT INFORMATION I HAVE POINTS TO ONLY 13 STATE THAT HAVE LAWS ON THE BOOKS TO DEAL WITH HATE CRIMES. THIS IS LESS THAN ONE HALF OF THE TOTAL NUMBER OF STATES THAT REPORTED ANTI-SEMITIC VIOLENCE, NOT TO MENTION THE STATES WHERE OTHER HATE CRIMES OCCURRED. THE PRESENT FEDERAL LAW, SPECIFICALLY SECTION 1074 OF TITLE 18, IS ENTIRELY TOO VAGUE AND DOES NOT IN ANY REAL FASHION DIRECT

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ITS ATTENTION OR PENALTIES TO THE VARIOUS TYPES OF ANTI-RELIGIOUS CRIME THAT IS THE REALITY IN TODAY'S AMERICA.

I OFFER MY BILL AS ONE APPROACH. I CONTEND FROM MY BACKGROUND AS A LAW ENFORCEMENT OFFICER FOR 23 YEARS IN THE CITY OF NEW YORK THAT THE LAW MUST BE STRONG IN DEALING WITH THOSE PEOPLE WHO COMMIT THESE HEINOUS CRIMES.

I RECOGNIZE, AS DOES THE ADL, THAT WHAT IS NEEDED IS A COMBINATION OF "STRICTER LAWS AGAINST VIOLENCE MOTIVATED BY ANTI-SEMITIC AND RACIAL BIGOTRY, STRICTER LAW ENFORCEMENT, GREATER ATTENTION BY THE MEDIA OF PUBLIC INFORMATION TO THE PROBLEM OF ANTI-SEMITIC VIOLENCE, MORE EDUCATION FOR UNDERSTANDING AND GOOD WILL IN THE SCHOOLS AND CHURCHES, MORE COMMUNITY MEETINGS TO MAP COUNTER MEASURES AND MORE VOCAL COMMUNITY RESPONSE TO INCIDENTS OF VIOLENCE MOTIVATED BY HATE."

WE MUST ACT, AND WE MUST ACT NOW. THE PROBLEM IS WITH US TODAY. IT IS SERIOUS AND IT IS ONLY GETTING WORSE. WE MUST MAKE THE COMMITMENT TO FIGHT BACK AGAINST THE DUAL EVILS OF ANTI-RELIGIOUS VIOLENCE AND VANDALISM. ANYTHING LESS THAN A FULL-FLEDGED EFFORT WILL GIVE LICENSE TO THE CONTINUATION OF THESE HORRIBLE CRIMES. TO SIT BACK AND DO NOTHING OF THIS THREAT IS TO INVITE ITS GROWTH. AS DR. MARTIN LUTHER KING ONCE SAID, "INJUSTICE ANYWHERE IS A THREAT TO JUSTICE EVERYWHERE."

I APPRECIATE HAVING THIS OCCASION TO ADVOCATE FOR THE PASSAGE OF MY BILL. I WOULD LIKE TO CLOSE WITH A QUOTE CONTAINED IN A LETTER OF SUPPORT FROM AN ORGANIZATION WHICH HAS SPECIAL CONCERNS ABOUT THE PROBLEM OF RELIGIOUS VIOLENCE AND VANDALISM. THEY KNOW ALL TOO WELL THE CONSEQUENCES THAT CAN BEFALL A SOCIETY WHICH TOLERATES THIS TYPE OF BEHAVIOR. THE ORGANIZATION IS THE INTERNATIONAL NETWORK OF CHILDREN OF JEWISH HOLOCAUST SURVIVORS. THEIR LETTER READS:

"AT THE LAST QUARTERLY BOARD MEETING OF THE NETWORK, YOUR (BILL AGAINST HATE CRIMES) RECEIVED 100 PERCENT APPROVAL AND SUPPORT. THE INTERNATIONAL NETWORK OF CHILDREN OF JEWISH HOLOCAUST SURVIVORS HAS LOCAL GROUPS ACROSS THE COUNTRY AND WILL DO WHAT WE CAN TO ENSURE ITS PASSAGE. UNFORTUNATELY WE KNOW TOO WELL FROM OUR PARENTS WHAT

EFFECTS THE DAMAGE, DESTRUCTION AND DESECRATION OF
RELIGIOUS OBJECTS AND BUILDINGS HAVE ON PEOPLE AND WHAT
IT CAN LEAD TO. THAT IS WHY WE FEEL IT IS IMPERATIVE
THAT YOUR BILL BE ADDED TO THE UNITED STATES CODE AND
BE MADE FEDERAL LAW."

THANK YOU MR. CHAIRMAN.

Mr. CONYERS. I would like to turn now to Mrs. Kennelly from Hartford, CT. She is a member of the Northeast-Midwest Congressional Coalition, on the executive committee of the Arms Control and Foreign Policy Caucus, the Democratic Steering Committee and last but, of course, not least, the Ways and Means Committee.

We welcome you as the major sponsor of H.R. 1171, and, without objection, we will include your testimony and all of the witnesses testimony into the record.

TESTIMONY OF HON. BARBARA B. KENNELLY, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CONNECTICUT

Mrs. KENNELLY. Thank you, Mr. Chairman, and thank you for allowing me to be here this morning to testify on H.R. 1171, the Hate Crime Statistics Act.

The holding of this hearing so early in the session gives me hope that there is a possibility that we will be able some day to collect these statistics that are so necessary.

Are crimes of hate a significant problem in this country?

Are we in the midst of an upsurge of violence against particular racial, religious, or ethnic groups?

Or is the problem confined to a few areas where racial and ethnic tensions are high?

I don't know the answer to that question, Mr. Chairman, and I don't think anybody else does.

Today, a few organizations are collecting information on certain types of hate crimes. For example, the 1984 Anti-Defamation League of the B'nai B'rith reported 715 anti-Semitic incidents nationwide, including vandalism, bombings, arsons, and cemetery desecrations. That's up from 670 in 1983.

The Klan Watch of the Southern Poverty Law Center monitors Klan and Nazi activities, and does a rough count of other kinds of racial, religious, and ethnic crimes. Since 1978, they have reported about a thousand such incidents.

Other groups have made admirable efforts to monitor the problem at a local level. In response to a rise in violence against Chinese, Japanese, Korean, Philippine, and Indochinese refugees in southern California, the Asian Pacific Legal Center of Southern California collects information on such episodes. Since 1983, a monitoring system is also there to collect anti-Asian data statewide in California.

The Boston Police Department keeps an approximate count of the total number of racial incidents.

Beyond such helpful but incomplete reports, there is only anecdotal data, some of which I would like to share with you. These stories are not pretty. And I tell them not to shock, but to give you an idea of the very real and dangerous problem my bill addresses.

In Detroit in 1983, a 27-year-old Chinese-American was beaten to death by two unemployed white males. They thought he was Japanese and blamed him for the depressed American auto industry.

In March 1982, a Jewish female student was shot five times with a BB gun on a Maryland college campus. The attacker yelled "Heil Hitler" as he fired the gun and used other epithets that indicated the attack was motivated by anti-Semitic feelings. An underground

campus newspaper hailed the assailant as a hero and suggested that the next time a flamethrower be used.

In Vermont, a black college freshman returned to his dorm room one day to find the word "nigger" taped on his window. The following morning his window was smashed and the epithets continued to appear on and off for 12 days.

I could go on, but it's not necessary.

Each episode I have described is a personal tragedy for the victim, for the community where it existed, and a tragedy for society at large. None of them should ever have happened. But before we can act to prevent them, there is much more we need to know.

We need to know whether these events are isolated incidents or evidence of a more pervasive problem.

We need to know how many crimes that appear to be motivated by racial, religious, or ethnic hatred are in fact a different kind of crime.

We need to know how many crimes of hate simply fail to come to our attention because the victims don't report them, organizations that collect such data fail to become aware of them, or newspapers fail to report them.

We need to know which communities are especially prone to this sort of hate-inspired violence.

We need to know what law enforcement techniques are effective in communities so they can combat hate crime and what community responses are most effective.

We need to measure the actual extent of hate crime.

We need to know where, what, and how many such crimes are committed each year.

We need to know if hate crimes have increased or lessened and what patterns exist.

The scattered and incomplete data available today permit us to do little more than ask these questions. But a society that prides itself on its tolerance for diversity and thrives on the presence of different races, religions, and ethnic groups should demand to know more. That is the purpose of the Hate Crime Statistics Act.

The bill would make an important change in the way the FBI reports crime. It would require that racially, religiously, or ethnically motivated crimes be reported separately in the Uniform Crime Reports.

Today, for example, the slaying of a spouse in a domestic quarrel or the murder of a black person because of racial hatred are both recorded as homicides. They are not the same crimes. They don't have the same root causes. And they shouldn't be treated the same way.

The recommendation embodied in the Hate Crime Statistics Act was first made by the Connecticut State Advisory Committee to the U.S. Commission on Civil Rights in October 1982 in a study entitled "Hate Groups and Acts of Bigotry."

In January 1983, the U.S. Commission on Civil Rights endorsed the idea in a publication entitled "Intimidation and Violence, Racial and Religious Bigotry in America."

The support of such groups is important because their opinions are based on careful review of the problem of hate crime.

The information required by the Hate Crime Statistics Act can be easily collected along with the rest of the statistics included in the FBI's annual Uniform Crime Reports. The mechanism for collecting such information already exists. The Hate Crime Statistics Act directs only that information on hate crimes be added to this effort.

We need this information and we need it now. Without it, communities cannot respond adequately when crime occurs because they do not have enough data. They don't know what strategies have worked in other places because they do not know how other communities dealt with similar problems.

Law enforcement officials are similarly handicapped in dealing with hate crime. The lack of hard data affects their ability to measure trends, develop enforcement strategies, and assign manpower. It even affects the perception of the existence of the problem.

Effective police responses to crimes motivated by racial, religious, or ethnic intolerance are critical to keep these crimes from spreading. If the police fail to respond because they do not know how or fail to appreciate a problem exists, perpetrators can interpret such a response as official sympathy or even sanction. But often a failure to respond stems from the fact that the person involved, the policeman or the officer of the law, has failed to appreciate that a problem even exists.

Lack of statistical data impairs policymakers' ability to assess the extent of the problem. Such data would help them to highlight and determine national, regional and local trends, and to evaluate the effectiveness of a particular measure of law.

Such statistics would bring a new level of awareness of the problem to Federal and State governments. Hard data would reinforce the fact that the problem does exist and must be addressed.

Finally, the systematic gathering of information about such crimes would symbolize society's commitment to eradicate bigotry, racism and its violent byproducts. It would be a concrete demonstration of our willingness to commit time and resources to this problem.

Although we have no hard facts on the total number of hate crimes that occur in our Nation, we can estimate that hundreds of such acts of violence, intimidation, and brutality are committed against people and groups because of their color, religious beliefs, or national origin. Cross-burnings, beatings, swastikas sprayed across the walls of a temple, arson, or murder of people caused by hatred threaten us all. They threaten our vision of America as a land of democracy and pluralism. We need to begin to find out the true scope of the problem so we can begin to combat it.

I urge this committee to act quickly on this legislation, and I also thank you for at least letting us get to this point so that we can talk about it.

Mr. CONYERS. We are very pleased that you are here to testify on behalf of your legislation. It is an important statement, and this subcommittee is going to concentrate on this area in this session.

Mrs. KENNELLY. Thank you, Representative Conyers.

Mr. CONYERS. All right. Are there any questions of the witness?

[No response.]

[The prepared statement of Representative Kennelly follows:]

TESTIMONY OF
CONGRESSWOMAN BARBARA B. KENNELLY
BEFORE THE HOUSE JUDICIARY COMMITTEE
SUBCOMMITTEE ON CRIMINAL JUSTICE
ON H.R. 1171, THE HATE CRIME STATISTICS ACT

MARCH 21, 1985

TESTIMONY OF CONGRESSWOMAN BARBARA B. KENNELLY
BEFORE THE HOUSE JUDICIARY COMMITTEE
SUBCOMMITTEE ON CRIMINAL JUSTICE
ON H.R. 1171, THE "HATE CRIME" STATISTICS ACT
MARCH 21, 1985

Mr. Chairman, I am very pleased to have the opportunity to testify this morning on H.R. 1171, the "Hate Crime" Statistics Act. The holding of this hearing so early in the session is an encouraging sign that we may soon begin collecting information on the incidence of crimes motivated by racial, religious, and ethnic prejudice. Such comprehensive information would be an important step toward combating such crimes.

Are crimes of hate a significant problem in this country? Are we in the midst of an upsurge in violence against particular racial, religious, or ethnic groups? Or is the problem confined to a few areas of the country where racial and ethnic tensions run high?

I honestly don't know. Neither does anyone else. Today, a few organizations are collecting information on certain types of hate crimes. For example, in 1984, the Anti-Defamation League of the B'nai B'rith reported 715 anti-Semitic incidents nationwide, including vandalism, bombings, arsons and cemetery desecrations. That's up from 670 such incidents in 1983. The Klan Watch of the Southern Poverty Law Center monitors Klan and Nazi activities, and does a rough count of other kinds of racial, religious, and ethnic motivated violence. Since 1978, they have reported about 1000 such incidents.

Other groups have made admirable efforts to monitor the problem at a local level. In response to a rise in violence against Chinese, Japanese,

Korean, Philippine and Indochinese refugees in Southern California, the Asian Pacific Legal Center of Southern California collects information on such episodes in Southern California. A monitoring system to collect anti-Asian data statewide was set up in California in 1983. The Boston Police Department's Community Disorders Unit keeps an approximate count of the total number of racial incidents.

Beyond such helpful but incomplete reports, there is only anecdotal data, some of which I'd like to share with you. These stories are not pretty. I tell them not to shock you, but to give you an idea of the very real and dangerous problem my bill addresses.

In Detroit in 1983, a 27-year-old Chinese-American was beaten to death by two unemployed white men who thought he was Japanese and blamed him for the depressed American auto industry. (New York Times, Sept. 83, p.9, L.A. Times)

In March 1982, a Jewish female student was shot five times with a BB gun on a Maryland college campus. The attacker yelled "Heil Hitler" as he fired the gun and used other epithets that indicated the attack was motivated by anti-Semitic feelings. An underground campus newspaper hailed the assailant as a hero and suggested that he use a flamethrower on the victim next time. (The Baltimore Sun, May 19, 1982, page 1)

In Vermont, a black college freshman returned to his dorm room one day to find the word "nigger" taped to his window. The following morning his

window was smashed and the epithets continued to appear on and off for 12 days. (The Boston Globe, September 29, 1983, pp. 21,24)

I could go on. But it's not necessary.

Each episode I have described is a personal tragedy for the victim, a tragedy for the community in which it happened, and a tragedy for society at large. None of them should ever have happened. But before we can act to prevent them, there is much more we need to know.

We need to know whether these events are isolated incidents or evidence of a more pervasive problem.

We need to know how many crimes that appear to be motivated by racial, religious or ethnic hatred are in fact a different type of crime.

We need to know how many crimes of hate simply fail to come to our attention because the victims do not report the crime, organizations that collect such data fail to become aware of it, and newspapers fail to report it.

We need to know which communities are especially prone to this sort of hate-inspired violence.

We need to know what law enforcement techniques are effective in combating hate crime, and what community responses are most effective.

We need to measure the actual extent of hate crime. We need to know where, what and how many such crimes are committed each year. We need to know if hate crimes have increased or lessened and what patterns exist.

The scattered and incomplete data available today permit us to do little more than ask these questions. But a society that prides itself on its tolerance for diversity and thrives on the presence of different races, religions, and ethnic groups should demand to know more. That is the purpose of the "Hate Crime" Statistics Act.

The bill would make an important change in the way the FBI reports crime. It would require that racially, religiously, or ethnically motivated crimes be reported separately in the Uniform Crime Reports. Today, for example, the slaying of a spouse in a domestic quarrel and the murder of a black person because of racial hatred are both recorded as homicides. They are not the same kind of crime. They don't have the same root causes. The same law enforcement approach simply will not work.

The recommendation embodied in the "Hate Crime" Statistics Act was first made by the Connecticut State Advisory Committee to the U.S. Commission on Civil Rights in an October 1982 study entitled "Hate Groups and Acts of Bigotry: Connecticut's Response" (pp.27-28). In January 1983, the United States Commission on Civil Rights endorsed the idea in a publication entitled "Intimidation and Violence, Racial and Religious Bigotry in America" (p.78) The support of such groups is especially noteworthy since their opinions are based on a careful review of the problem of hate crimes.

The information required by the "Hate Crime" Statistics Act can be easily collected along with the rest of the statistics included in the FBI's annual Uniform Crime Reports. The mechanism for collecting such information

already exists. The Hate Crime Statistics Act directs only that information on hate crimes be added to this effort.

We need this information and we need it now. Without it, communities cannot respond adequately when such crime occurs because they do not have enough data. They do not know what strategies have worked in other places because they do not know who else has a similar problem.

Law enforcement officials are similarly handicapped in dealing with hate crime. The lack of hard data affects their ability to measure trends, develop enforcement strategies, and assign manpower to areas of greatest need. It even affects their perception of the existence of the problem.

Effective police responses to crimes motivated by racial, religious or ethnic intolerance are critical to keep such crime from spreading. If the police fail to respond because they do not know how or fail to appreciate a problem exists, perpetrators can interpret such a response as official sympathy or even sanction. We know that this is not so. But often a failure to take such acts seriously stems from a failure to appreciate that a problem even exists.

Lack of statistical data impairs policymakers' ability to assess the extent of the problem and develop adequate measures of prevention. Such data would help them to highlight and determine national, regional and local trends and to evaluate the effectiveness of particular measures or laws to combat it.

Such statistics would bring a new level of awareness of the problem to federal, state and local governments. Hard data would reinforce the fact that the problem does exist and must be addressed.

Finally, the systematic gathering of information about such crimes would symbolize society's commitment to eradicating bigotry, racism and its violent by-products. It would be a concrete demonstration of our willingness to commit time and resources to this problem.

Although we have no hard facts on the total numbers of hate crimes that occur in our nation, we can estimate that hundreds of such acts of violence, intimidation and brutality are committed against people and groups because of their color, religious beliefs or national origin. Cross-burnings, beatings, swastikas sprayed across the walls of a temple, arson, or murder of people caused by hatred threaten us all. They threaten our vision of America as a land of democracy and pluralism. We need to begin to find out the true scope of the problem so we may begin to combat it.

I urge this Committee to act quickly and favorably on this legislation and see that it is approved for consideration by the full Committee.

Mr. CONYERS. I would like to now turn to the gentleman from California, Mr. Mineta, who serves with distinction on the Public Works Committee, and is chairman of the Aviation Subcommittee. He is also the past mayor of San Diego.

Mr. MINETA. San Jose, Mr. Chairman.

Mr. CONYERS. San Jose, OK.

Mr. MINETA. The community that Mr. Edwards so ably represents.

Mr. CONYERS. Right.

We are delighted to have you here, and we will allow you to proceed in your own way. Welcome to the subcommittee this morning.

TESTIMONY OF HON. NORMAN Y. MINETA, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Mr. MINETA. Thank you very much, Mr. Chairman, and members of the subcommittee. And I would like to thank all of you for this opportunity to testify today on a very important piece of legislation before this Congress, H.R. 1171, the Hate Crime Statistics Act.

It is important because it's a piece of legislation that will help protect Americans from the most insidious type of crimes, those that are motivated by a hatred of a person merely because of their race, their religious or their ethnic background.

As you are very well aware, the Uniform Crime Reports were created with the idea of compiling crime statistics on a national basis in order to measure the extent of the crime problems in this country.

Today, I am appearing before your subcommittee to speak in support of this legislation that calls for the collection of statistics on hate crimes. It is the type of crime that violates all of our country's most fundamental rights and liberties, and leaves a stain on our Constitution and the reputation of this country that this country has of protecting all of its citizens.

In real terms, these hate crimes leave most people shocked and bewildered that something like this can even happen in America. America likes to believe that it has turned the page of history on church burnings and lynch mobs; that this country does not tolerate the vandalizing of synagogues and the harassment of recent immigrants.

Unfortunately, as you have heard already this morning and will doubtlessly hear again and again, this is not the case. These crimes in fact do occur. All of us have read of them, all of us know of particular incidents. But we do not know much more than that. We do not know the seriousness of the problem, or the frequency of the occurrence, or even the likelihood of this type of crime being reported to the police.

That is what the Uniform Crime Reports are for, that is their purpose: to provide reliable statistical information so that we can begin to assess that information and develop adequate protections.

The Hate Crime Statistics Act will accomplish these very important goals. It will also provide us with two other important objectives. Historically, it is apparent that the incidence of hate crimes rise when economic times worsen. Those suffering from the misfortunes, stress and fears of unemployment and other problems of the

economy will often look for scapegoats. Many times it is the new immigrant or the minority community member who are the victims. And it is the store of the new immigrant that is burned, or the merchant or student that is beaten because they are convenient scapegoats for people's frustrations and fears.

This law will give us the framework for establishing an early warning system for this type of crime. It will provide us with the statistics that will allow us to chart whether in fact this country is experiencing an upswing of that all too familiar hatred generated by fear. Armed with that information we will be able to develop an effective enforcement strategy to combat the problem.

Another objective that this bill will accomplish is the prevention of a frequently used defense for inaction, by many who do want to recognize that this tragic problem exists.

By passing this bill, we put to rest for good the defense used by some that while there are various newspaper accounts, the data we have on hate crimes is anecdotal, and is not acceptable evidence of any pattern or trend. With this legislation, we will be able to point to the numbers—undeniable statistics—and refute the argument that nothing needs to be done, or can be done.

Mr. Chairman, I can tell you quite confidently that Americans of Asian ancestry are deeply concerned that the violence that is occurring to us because of our ethnic background is reaching alarming proportions in both frequency and degree. Furthermore, we are concerned that our Federal Government is not vigorously enforcing the civil liberties that we possess as citizens and residents of the United States.

This morning you have already heard my very fine and distinguished colleague, Representative Kennelly, mention the case of Vincent Chin. I would like to briefly recount the case. On June 19, 1982, a young American of Chinese ancestry in Detroit was enjoying a last night out before his wedding when two unemployed auto-workers blamed him for the troubles being suffered by the automobile business.

Such scapegoating is not at all rare, but in this case the two men followed Mr. Chin for half an hour, stalked him, later beating him to death with baseball bats. For this crime, the Michigan courts sentenced the two men to \$3,000 in fines and probation. Neither spent a night in jail.

It was only after very strong protests and 8 months—8 months of very hard work, convincing the Justice Department to act, that these men were prosecuted on civil rights charges from the Federal level, with one of them ultimately convicted.

Now recently we have heard of incidences of beatings and harassment of recent immigrants from Laos, Vietnam, Cambodia, the Philippines, and many other Asian-Pacific countries troubled by violence and unrest.

As people who come to America to escape violence, and to join in becoming hard working and contributing members of our Nation, they have come to expect that the Federal Government of their newly adopted homeland will do all in its power to protect them from the hatred of unenlightened and ignorant people.

The Hate Crime Statistics Act is a strong and positive move toward that responsibility.

Finally, Mr. Chairman, I would ask this subcommittee to help find a solution for an increasingly serious problem faced by many of our citizens. As Representative Kennelly pointed out, each year acts of violence and intimidation are committed against specific groups and individuals because of their race, religion, or ethnic background.

In an increasingly growing number of these crimes, political intimidation is inextricably linked to the motivation of race, religion, or ethnic background. How many times in anti-Semitic hate literature and graffiti do we see the accusation of Zionist?

How many times do we see an act of criminal intimidation committed on a citizen using the label of Communist?

Now, in an increasing number of cases, we are seeing acts of violence being committed against Americans of Asian or Pacific ancestry because of their political beliefs.

In many instances the long arm of their former country is reaching into their new country, the United States, and attempting to terrorize them into silence by intimidation.

Often this sort of intimidation crime is carried out by foreign intelligence agents operating illegally in our country, or by people in our country operating at their direction. Intimidation, surveillance, and outright criminal terror, including murder, are becoming serious problems for U.S. citizens recently arrived from these troubled countries.

Now, this sort of hate crime is so closely intertwined to the language of this bill, that I hope that this subcommittee can find some easy and effective way to prevent that sort of crime from escaping compilation by our Government.

Again, Mr. Chairman, I would like to thank Representative Kennelly for her very fine work that she has done on her bill. And once again, Mr. Chairman, I want to thank you and the members of your subcommittee for allowing me to testify today on this very important matter.

I would also like to point out that this is the second time this very month that I have had an opportunity to appear before you, Mr. Chairman, where you are involved in hearings on legislation involving the protection of the civil rights of the citizens of this great country.

It seems that whenever these kinds of issues arise, John Conyers is there, and I would like to express my deep personal appreciation to you for that service that you are performing for our country.

Thank you very, very much.

Mr. CONYERS. I appreciate that. I would like to include Don Edwards, too, while I serve on his Constitutional Subcommittee, he has been kind enough to join me on the Criminal Justice Subcommittee.

Both of you have made important statements, and I would like to yield now to Mr. Edwards.

Mr. EDWARDS. Thank you, Mr. Chairman, and I certainly say amen to the remarks of my colleague and former mayor of San Jose, and good friend, Norman Mineta.

I want to congratulate both of you, Congresswoman Kennelly and Congressman Mineta. I think that this is the kind of a bill that

could move ahead, and should. It will not cause any difficulty to the FBI.

As you know, Mr. Conyers mentioned the subcommittee that I chair, of Judiciary, has jurisdiction over the FBI. We are very well acquainted with their computers and with the funds, the ample funds, that we have always made available to the FBI. Their budget is now \$1.2 billion, up 20 and 30 percent a year. So there's no problem in cost. I am sure that this could be done readily, and it should be done.

Our country is getting more complicated all the time. In the high school that Norman Mineta and I were graduates of in San Jose, they speak 17 languages, the children. And there is this awesome problem of racial conflicts always in our country.

And Washington, DC, here in Congress, the Federal Government has to help out and explain to the people of the United States, like we do in civil rights and civil liberties, what our country's all about, and what the Constitution requires. And a lot of that has to do with getting along with each other, and insisting that we get along. And if the local police won't do the job, then it is the obligation of Uncle Sam to step in. We had to do that in the Deep South—stepping in. We didn't want to have to do that, didn't want to have to send FBI agents into Mississippi and Alabama, and so forth, and have these strong civil rights laws. If the local people had done their job, this wouldn't have been necessary. We run into this from time to time, and this ought to be fair warning to the local people.

A shocking incident in New York yesterday that was in section 2 of the New York Times, about an off-duty policeman.

So I compliment you, Mr. Chairman. I know that our friends on the other side of the aisle will be enthusiastic about this, too. And this is a bill that we should move with and our colleagues are really making major contributions.

Mr. CONYERS. I would like to second Don Edwards' remarks. You know, we have been trying to get this done through discussion over the years with the Department of Justice, and now the time has come for us to move it to a legislative statement on the part of the Congress.

I am glad that you have brought it forward. We are going to give it our complete attention. I think that the time has come and there is very, very little to quarrel about concerning keeping this kind of record. After all, we keep all other kinds of statistics of an almost trivial nature. So that to continue to exclude these cases of racial and religious bigotry is no longer justifiable.

I commend you and I am very pleased to know that you will be working with our committee as we move this through the Congress. Thank you very much.

Mrs. KENNELLY. Thank you, Mr. Chairman. Thank you, Mr. Edwards.

Mr. MINETA. Thank you very much, Mr. Chairman.

[The prepared statement of Representative Mineta follows.]

THE "HATE CRIME" STATISTICS ACT
H. R. 1171

TESTIMONY BY
NORMAN Y. MINETA, M.C.

HEARING OF THE
SUBCOMMITTEE ON CRIMINAL JUSTICE

MARCH 21, 1985

Mr. Chairman, and Members of the subcommittee, thank you for allowing me to testify today on a very important piece of legislation before this Congress, H.R. 1171, the 'Hate Crime' Statistics Act. It is an important because it is a piece of legislation that will help protect Americans from the most insidious type of crimes, those motivated by a hatred of a person because of race, religious, or ethnic background.

As you know, the Uniform Crime Reports (UCR) was created with the idea of compiling crime statistics on a national basis in order to measure the extent of the crime problem in this country.

Today, I am appearing before your Subcommittee to speak in support of this law that calls for the collection of statistics on the 'hate crime.' It is the type of crime that violates all of our country's most fundamental rights and liberties, and leaves a stain on our Constitution and the reputation that this country has of protecting all of its citizens.

In real terms, these hate crimes leave most of shocked and bewildered that something like this can happen in America. For America likes to believe that it has turned the page of history on church burnings and lynch mobs; that this country does not tolerate the vandalizing of synagogues and the harassment of the recent immigrant.

Unfortunately, as you have heard this morning and will doubtlessly hear again, this is not the case. These crimes do occur. All of us have read of them, all of us know of particular incidents. But we do not know much more than that. We do not know the seriousness of the problem, or the frequency of the occurrence, or even the likelihood of this type of crime being reported to the police. That is what the uniform crime reports are for -- that is their purpose; to provide reliable statistical information so that we can begin to assess the information and develop adequate protections.

The 'Hate Crime' Statistics Act will accomplish these important goals. It will also provide us with two other important objectives. Historically, it is apparent that the incidence of hate crimes rise when economic times worsen. Those suffering from the misfortunes, stress and fears of unemployment and other problems of the economy will often look for scapegoats. Many times it is the new immigrant or the minority member who is the victim. It is the store of the new immigrant that is burned, or the merchant or student that is beaten because they are convenient scapegoats for people's frustrations and fears.

This law will give us the framework for establishing an "early warning system" for this type of crime. It will provide us with the statistics that will allow us to chart whether in fact this country is experiencing an upswing of that all too familiar hatred generated by fear. Armed with that information we will be able to develop an effective enforcement strategy to combat the problem.

Another objective this bill will accomplish is the prevention of a frequently used defense for inaction, by many who do want to recognize this tragic problem exists.

By passing this bill, we put to rest for good the defense used by some that while there are various newspaper accounts, the data we have on hate crime is "anecdotal," and is not acceptable evidence of any pattern or trend. With this legislation, we will be able to point to the numbers -- undeniable statistics -- and refute the argument that nothing needs to be, or can be, done.

Mr. Chairman, I can tell you quite confidently that Americans of Asian ancestry are deeply concerned that the violence that is occurring to us because of our ethnic background is reaching alarming proportions in both frequency and degree. Furthermore, we are concerned that the our government is not vigorously enforcing the civil liberties we possess as citizens and residents of the United States.

This morning you heard my colleague, Representative Kennelly, mention the case of Vincent Chin. I would like to briefly recount the case. On June 19, 1982, a young American of Chinese ancestry in Detroit was enjoying a last night out before his wedding when two auto workers blamed him for the troubles suffered by the auto business.

Such scapegoating is not at all rare, but in this case the two men followed Mr. Chin for a half an hour, later beating him to death with baseball bats. For this crime, the Michigan courts sentenced the two men to \$3,000 fines and probation. Neither spent a night in jail.

It was only after strong protests, and eight months - - eight months -- of hard work convincing the Justice Department to act, that these men were prosecuted on federal civil rights charges with one of them ultimately convicted.

Recently, we are also hearing of incidents of beatings and harassment of recent immigrants from Laos, Vietnam, Cambodia, the Phillipines and many other Asian-Pacific countries troubled by violence and unrest. As people who came to America to escape violence, and to join in to become hardworking and contributing members of our nation, they should expect that our government do all in its power to protect them from the hatred of unenlightened and ignorant people. The 'Hate Crime' Statistics Act is a strong and positive move toward that responsibility to protect.

Finally, Mr. Chairman, I would ask this subcommittee to finding a solution for an increasingly serious problem faced by many of our citizens. As Representative Kennelly pointed out, each year acts of violence and intimidation are committed against specific groups and individuals because of their race, religion, or ethnic background.

In an increasingly growing number of these crimes, political intimidation is inextricably linked to the motivation of race, religion, or ethnic background. How many times in anti-Semitic hate literature and graffiti do we see the accusation of "Zionist"? How many times do we see an act of criminal intimidation committed on a citizen using the label of "Communist"?

In an increasing number of cases, we are seeing acts of violence committed against Americans of Asian or Pacific ancestry because of their political beliefs. In many instances the long arm of their former country is reaching into their new country, the United States, and attempting to terrorize them into silence by intimidation.

Often this sort of intimidation crime is carried out by foreign intelligence agents operating illegally in our country, or by people in our country operating at their direction. Intimidation, surveillance, and outright criminal terror, including murder, are becoming serious problems for U.S. citizens recently arrived from these troubled countries.

This sort of hate crime is so closely intertwined to the language of this bill, that I hope this Subcommittee can find some easy and effective way to prevent that sort of crime from escaping compilation by our government.

Mr. Chairman, I would like to thank Representative Kennelly for the very fine work she has done on this bill. And once again, Mr. Chairman, let me thank you and the members of your Subcommittee for allowing me to testify today here on this important matter. I would also like to point out that this is the second time this month I have appeared before you, Mr. Chairman, where you are involved in hearings on legislation involving protecting the civil rights of the citizens of our country. It seems that whenever those issues arise, John Conyers is there, and I would like to express my personal appreciation to you for that service to our country.

Thank you.

Mr. CONYERS. I am going to call the Department of Justice right after our next witness who has a time problem. I hope that they will indulge us.

I am calling now Steve Winter, assistant counsel for the NAACP Legal Defense and Educational Fund from New York City. Mr. Winter testified before us at our hearings on racially motivated violence a few years ago, and we are delighted to see him. Elaine Jones, the resident counsel for the organization, is joining him at the witness table. Please proceed in your own way.

**TESTIMONY OF STEVEN L. WINTER, ESQ., ASSISTANT COUNSEL,
AND ELAINE JONES, ESQ., RESIDENT COUNSEL**

Ms. JONES. Thank you, Mr. Chairman and members of the subcommittee.

The NAACP Legal Defense Fund is very happy to have been invited to give you our thoughts regarding H.R. 1171.

As you have indicated, Mr. Steven Winter of our New York office, will give you our remarks. Steven Winter has spent his legal career, a substantial portion of it, at the Legal Defense Fund, for the past 6½ years, litigating in the area of prison reform, capital punishment, and police misconduct. He has argued cases in the fifth and sixth circuits. He has tried cases, and he has also argued before the Supreme Court of the United States. So we thought he was particularly suited to bring you our views.

Mr. CONYERS. Well, you could do the same job. You are very modest this morning, for reasons I don't understand, but we are always glad to see Steve come down.

Ms. JONES. Thank you, Mr. Chairman.

Mr. CONYERS. You are welcome.

Mr. WINTER. Thank you, Mr. Chairman and members of the subcommittee.

I want to start by thanking you for this opportunity to come before the subcommittee and express the views of the Legal Defense Fund on this proposed legislation.

The work of this subcommittee is significant and important in this area. Its sustained scrutiny of the problem of racially and religiously motivated violence has made, and continues to make, an important contribution to the stopping of these reprehensible acts.

In this connection, let me say that the bill under consideration is yet another example of this contribution. The Legal Defense Fund fully supports this legislation.

It is only if we have full and accurate information concerning the problem of racially motivated or religiously motivated violence that we can expect to have any kind of coherent response.

The bill is, I might characterize it as a minimalist and elegant response to the problem, serving an important educative function as well as providing basic information in order to have any kind of sustained or coherent law enforcement response. Whether that response be on the Federal, State or local level, it is important first to know what is going on and what the crimes are.

I am also reminded of Mr. Justice Holmes' famous dictum, that sunlight is the best disinfectant. These crimes fester in the dark because people think that they are not scrutinized or that these kinds

of acts are acceptable. And the bill puts the U.S. Government and the Congress on record that these kind of crimes are not acceptable, and will get particular scrutiny in the criminal justice system.

But, let me express our concerns about a related subject that we believe should also be covered by this bill. When I testified before this subcommittee in 1981, the chairman, Representative Conyers, asked me if the Legal Defense Fund was aware of that record of the Justice Department in prosecuting these kinds of crimes.

I replied that we were not, and that in fact no one was monitoring this area. At that hearing, the importance of scrutiny of the record of the Justice Department in prosecuting these kinds of crimes was made apparent. As a result, the Legal Defense Fund attempted to undertake an effort at scrutiny of the Justice Department.

In August of that year, 1981, following the hearings, we filed a Freedom of Information Act request with the Justice Department. We asked them for data concerning the enforcement of the Federal criminal civil rights provisions, 18 U.S.C. 241, 242, and 245. We asked for information regarding complaints, decisional memoranda, and the histories of actual prosecutions undertaken. That request covered a period spanning about 6 years, both the Carter and Reagan administrations, so that, we hoped, we would have a basis for comparison.

We received a reply from Mr. James P. Turner, the Deputy Assistant Attorney General of the Civil Rights Division, dated March 24, 1982. I have attached a copy of that reply to our testimony this morning; it's a two-page letter attached to our testimony.

To put it bluntly, it was a stonewall. It claimed that the Justice Department would have to review over 25,000 documents consisting of over 10,000 cubic feet of documents; that it would take at least 12 months before they would even begin to process the request; and that the Legal Defense Fund would have to commit to pay the Department fees exceeding \$10,000. This was in spite of the fact that we had made some inquiries beforehand, and it was our information that the Justice Department has computer printouts on much of this information. And in our Freedom of Information request, we had specifically asked for those computer printouts which ought to have been a simple thing to provide.

For some time now, members of the administration, including officials in the Department of Justice such as the Assistant Attorney General in charge of Civil Rights, have been telling the public that the administration's position on civil rights is misunderstood and that all this would only be cleared up if we would look at the record. Let us do so.

However, the letter that I have attached from the Justice Department from the Civil Rights Division, seems to indicate that the Civil Rights Division is apparently uneasy about this prospect of scrutiny and attempts to frustrate legitimate efforts at scrutiny.

In our view, therefore, Congress, in the exercise of its oversight responsibilities, should take action. We would suggest an amendment to the bill that would strengthen this bill.

We recommend a provision that would require the Attorney General to report on his enforcement of the Federal criminal civil rights statutes. These reports should include information regarding

the numbers of complaints received annually, the actions taken, the prosecutions brought, and the results.

Adding a specific reporting requirement would be nothing new in the Federal law. There are many and varied reporting requirements already in existing law. In addition to the crime statistics, the Attorney General is already required to report on such things as the activities of the Department in enforcing the statutes governing loansharking, the enforcement of activities of the public integrity section, and there are other examples.

Without denigrating the importance of Federal enforcement in these areas, I think it is safe to say that the enforcement of the Federal criminal civil rights laws is at least as important. The amendment we propose is a necessary addition to what we believe is an important and thoughtful bill.

I want to thank the subcommittee for this opportunity to bring our views, and would be happy to answer any questions.

Mr. CONYERS. I thank you both very much. I recognize Mr. Edwards.

Mr. EDWARDS. I thank the witnesses, but I have no questions, Mr. Chairman.

Mr. CONYERS. In what ways, ladies and gentlemen, would the data on 241, 242, and 245 enforcement be of assistance to the Legal Defense Fund?

Mr. WINTER. Representative Conyers, we have already heard testimony this morning not only about the nature of these crimes but also the problems of enforcement of these crimes and the limitations of local efforts. In some places the local efforts are more strong than others. In many areas of the country, it falls on the Justice Department and basically the Justice Department alone, to see that these crimes are prosecuted. And without that data and reporting on this, no one can effectively monitor this activity.

I am reminded of an example. Not too long ago, I think it was 1980 or 1981, a black teenager was lynched in Mobile, AL. It was immediately apparent, or fairly soon it was apparent to law enforcement, the parties who were responsible for this act. They were arrested by local authorities and released in, I think, 24 hours, and the indictments dismissed. And it was only after Federal prosecutions were not sought, and it was only the dogged persistence of a particular assistant U.S. attorney that helped turn that situation around.

I think that illustrates the exceptional importance of a strong Federal response and, I think, the importance of public and congressional monitoring and oversight of what the Justice Department is or is not doing in this area. Frankly, we don't know.

Mr. CONYERS. Thank you.

Let me ask you: Do you have any experiences that you can relate to the subcommittee about trying to get this kind of information from local officials?

Mr. WINTER. We have not sought this information from local law enforcement. But I would only observe, as has been observed earlier this morning, that often these crimes are not separately reported, and there is no way to break out these crimes—those that are vandalism of synagogues or racially motivated homicides will be

listed in ordinary categories. So it would be very hard to do so, I believe.

Mr. CONYERS. Absolutely.

We want to thank you both for your testimony here this morning. Give my regards to everybody in LDF, and thank you very much.

Ms. JONES. Thank you.

[The prepared statement of the NAACP Legal Defense and Educational Fund, Inc., follows:]

STATEMENT OF THE
NAACP LEGAL DEFENSE & EDUCATIONAL FUND, INC.
BEFORE THE
SUBCOMMITTEE ON CRIMINAL JUSTICE
OF THE HOUSE OF REPRESENTATIVES,
COMMITTEE ON THE JUDICIARY

March 21, 1985

MR. CHAIRMAN AND MEMBERS OF THE SUBCOMMITTEE, I want to thank you for this opportunity to come before the Subcommittee and express the views of the Legal Defense Fund on H.R. 1171, proposed legislation that would require the Attorney General separately to report statistics on crimes motivated by animus toward any racial, ethnic, or religious group. As you know, the Legal Defense fund has long been concerned about crimes against racial and other minorities. Over the years, we have been involved in many cases concerning this issue. We have appeared before this Subcommittee on previous occasions. The work of this Subcommittee has contributed significantly to the cause of equal justice for all American citizens.

In this connection, let me say that the bill under consideration is yet another example of this contribution. The Legal Defense Fund fully supports this legislation. Only if we have full and accurate information concerning the problem of racially motivated violence can we expect to have a coherent and effective response -- on the federal, state, and local levels -- to stop these reprehensible acts.

But let me express our concerns about a related subject that, we believe, should be covered by this bill. When I testified before this Subcommittee in June of 1981, the Chairman, Representative John Conyers, asked me if the Legal Defense fund were aware of the record of the Justice Department in investigating and prosecuting these crimes. I replied that no one was monitoring this area. At that hearing the importance of close scrutiny of the Justice Department was made apparent and it was suggested that groups such as the Legal Defense Fund could undertake such a monitoring effort.

As a result of that hearing, the Legal Defense Fund filed a Freedom of Information Act request with the Justice Department on August 31, 1981. We requested data concerning enforcement of the federal criminal civil rights provisions, 18 U.S.C. §§ 241, 242, and 245 and 42 U.S.C. § 3631, including complaints, decisional memoranda, and actual prosecutions. The request was for a period that covered both the Carter and Reagan administrations so that we would have a basis for comparison.

We received a reply from Mr. James P. Turner, the Deputy Assistant Attorney General of the Civil Rights Division, dated March 24, 1982, a copy of which is attached to this statement. To put it bluntly, the letter established roadblocks to our getting the information sought and was thus decidedly unhelpful. It claimed that the Department would have to review over 25,000 documents, consisting of over 10,000 cubic feet; that it would take at least twelve months to even begin the process; and that the

Legal Defense Fund would have to commit to pay the Department fees exceeding \$10,000. This was in spite of the fact that, according to our information, much of this data was retrievable by computer, and we had specifically asked for a computer print-out of this information. (See attached letter.)

For some time now, members of the Administration--including officials in the Department of Justice such as the Assistant Attorney General in charge of Civil Rights and the White House --have been telling the public that its position on civil rights is misunderstood and that this would be clear if only one looked at the record. Let us do so. However, by its letter to us of March 24, 1982 the Civil Rights Division is apparently uneasy about this prospect, and frustrates legitimate efforts at scrutiny.

Therefore, in our view, Congress, in the exercise of its oversight responsibilities, should take reasonable action. Accordingly, we would suggest an amendment that would strengthen the proposed bill. We recommend that a provision be added that requires the Attorney General to report on his enforcement of the civil rights statutes. These reports should include information on the number of complaints received annually, the actions taken, the prosecutions brought, and the results obtained.

Adding a specific reporting requirement for civil rights prosecutions is consistent with the many and varied reporting requirements in current law. In addition to the crime statistics required by 28 U.S.C. § 522(2), the Attorney General is already

required to report on such things as the activities of the Department in the enforcement of 42 U.S.C. §891 et. seq., concerning extortionate credit transactions, and the enforcement activities of the Public Integrity Section. 28 U.S.C. § 529. See also 42 U.S.C. § 3789c (LEAA); 49 U.S.C. § 790 (settlement of all claims under Public Vessels Act). Without denigrating the importance of federal enforcement and congressional oversight in these areas, we believe it safe to observe that the enforcement of the federal civil rights statutes is at least as important. The amendment we propose is a necessary addition to what is, in our view, an important and thoughtful bill.

I want to thank the Subcommittee for this opportunity to express our views on this very important subject.



Civil Rights Division

Deputy Assistant Attorney General

Washington, D.C. 20530

24 MAR 1982

Mr. Steven L. Winter
NAACP Legal Defense and
Educational Fund, Inc.
10 Columbus Circle
New York, NY 10019

Dear Mr. Winter:

This is in reference to your request for complaints and requests for prosecution, etc., under 18 U.S.C. 241, 242, 245 and 42 U.S.C. 3631 which was received by the Civil Rights Division's Freedom of Information/Privacy Acts Branch on August 31, 1981. Your request sought, in part: all complaints and requests for prosecution since January 1, 1975, including those requests which the Justice Department has decided not to prosecute; all final decision memoranda, indicating the reasons for prosecuting, or not prosecuting; for all cases prosecuted, unreported decisions or other documents reflecting dispositions, including dismissals and plea bargains; and any computer print-out or other documents which contain any or all of the above information. Please excuse my delay in responding to you.

I have been advised by the Criminal Section of this Division, which is responsible for the enforcement of federal criminal civil rights statutes, of the magnitude of the records you seek. Since January 1, 1975, the Civil Rights Division has received over 25,600 citizen complaints and over 51,000 individual matters were received or investigated by the FBI concerning alleged violations of federal criminal civil rights statutes. A review of the annual reports of the Attorney General reveals that approximately 3,000 criminal civil rights complaints each year warrant investigation by the FBI.

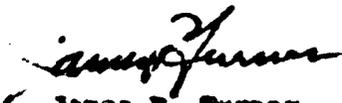
Based on estimates provided by the Criminal Section and our own experience at processing documents, we expect that the search for the documents responsive to your request will involve retrieving well over 25,000 case and matter files and searching through a bare minimum of 10,000 cubic feet of documents. Before we can proceed with your request, we must receive your commitment to pay any costs incurred.

As you know, under subsection (a)(4)(D) of the Freedom of Information Act, we may charge for the direct costs of the search and duplication expenses incurred in processing your request. At this time, I am unable to waive or reduce the fees which we must assess. It is my determination that waiver of these charges would not be in the public interest at this time because I am unable to determine that the costs to the taxpaying public would be outweighed by the benefits gained. Therefore, pursuant to Department of Justice regulation, 28 C.F.R. 16.9, we will be charging you at the rate of eight (8) dollars per hour for the professional search time needed to locate documents in response to your request. This does not include the duplication costs, which will be assessed at ten (10) cents per page.

It is difficult to determine the total fees on a request of this size since so many variables enter the process, however, you can easily see that the copying fees will exceed \$10,000.

After we receive your commitment to pay any fees incurred, we will process your request in the order in which it was received. Because of a number of substantial requests we are currently experiencing a backlog in completing requests of approximately twelve months.

Sincerely,



James P. Turner
Deputy Assistant Attorney General
Civil Rights Division

Mr. CONYERS. Our next witness is from the Department of Justice and the FBI, Dr. Steven Schlesinger, Director of the Bureau of Justice Statistics of the Department of Justice; Mr. William Baker, Assistant Director of the Office of Congressional and Public Affairs of the Federal Bureau of Investigation.

Welcome, gentlemen. We will be happy to receive any additional testimony that you would like to make and to summarize the testimony you are submitting, and identify the other gentlemen that are joining you at the table, please.

TESTIMONY OF WILLIAM M. BAKER, ASSISTANT DIRECTOR, OFFICE OF CONGRESSIONAL AND PUBLIC AFFAIRS, FEDERAL BUREAU OF INVESTIGATION, ACCOMPANIED BY PAUL ZOLBE, SECTION CHIEF, UNIFORM CRIME RECORDS SECTION, FBI; AND STEVEN R. SCHLESINGER, DIRECTOR, BUREAU OF JUSTICE STATISTICS, DEPARTMENT OF JUSTICE, ACCOMPANIED BY BENJAMIN RENSHAW, DEPUTY DIRECTOR, BUREAU OF JUSTICE STATISTICS

Mr. BAKER. Good morning, Mr. Chairman. I am Bill Baker with the FBI. To my right is Section Chief Paul Zolbe, who heads the Uniform Crime Records Section at FBI Headquarters.

Thank you for the opportunity to appear before you today. Would you like me to continue with my opening remarks at this time?

Mr. CONYERS. Yes, go right ahead. We know that Ben Renshaw, Deputy Director, Bureau of Justice Statistics is at the table. Please proceed.

Mr. BAKER. Thank you.

While we share the interest of the drafters of H.R. 1171 in developing an information base on the incidence of racially and religiously motivated crimes, we respectfully observe that the bill, as drafted, is unrealistic in looking to the Uniform Crime Reporting Program as a means of securing such information.

I would like to begin by providing you with some background on UCR and then generally addressing the basis for our opposition to this bill, the Hate Crime Statistics Act which you are considering today.

Crime, aberrant behavior worthy of punitive attention defined by law, is harmful to the well-being of civilized society. The amount and nature of crime has historically been a matter of concern to organized societies. Because of this and other concerns, a group of police chiefs met in St. Louis, MO, late in the 19th century. Their deliberations resulted in the formation of the International Association of Chiefs of Police. However, through the later years of the 1800's and into the early 1900's, the concept of measuring crime remained an elusive objective.

During the 1920's, supported by private foundation resources, the IACP constructed a scheme to gather crime data. This scheme overrode State penal codes which had been long-time impediments to uniformity in measuring the incidence of crime in the United States.

It is appropriate to underscore the fact that we have in this country a system to measure crime by virtue of the cooperation and professionalism of the community.

The system they adopted over a half century ago has served as a model for the development of crime data collections in other countries. It further has stood the test of time and continues to produce the most extensive set of criminal justice statistics in existence today.

For a short period in 1930, the IACP managed what we know today as the UCR Program. In June of that year, section 534 of title 28, United States Code, was enacted. In part, section 534 mandates the Attorney General to collect crime and other records. This is the basis upon which the FBI administers the UCR Program.

The UCR Program is the collector of crime statistics from the Nation's community. The participation in the national data collection effort is purely voluntary. It was in 1930 and it is today.

When the program was conceived and later implemented, there were two primary goals. First, and most important, the program was to provide the executives statistical knowledge upon which to rely for direction in management decisions.

Second, the program was to provide a viable means of communicating to the public, researchers, and legislatures reliable indicators of fluctuations in the nature and extent of criminal behavior. The presentation of such information would allow for correlation of local problems to the national experience.

The founders of UCR were quite astute. They selected a group of general crimes common to every American jurisdiction and generally subject to the same type of report from police officers. These crimes are structured to serve as an index to gauge changes in overall criminality. We have acclimated to the crime index. This index in no way attempts to measure total criminality; it only serves as a barometer.

Just as the Dow Jones index of select stocks attempts to gauge price trends for the thousands of securities on the New York Stock Exchange, the crime index is used to estimate volume trends in the hundreds of different crimes coming to the attention of the police.

The crimes in the index were carefully selected with input from local and State authorities, to provide the most correct and useful data while minimizing the impact on those agencies which collect and provide us the statistics. Requesting over 16,000 agencies nationwide to comply with a complex scheme of crime information and data collection would be extremely burdensome and confusing to them, and therefore not in the national interest.

The UCR Program relies upon the investigation of the officer given the call to respond to a crime scene. Frequently, the original dispatch order to the officer does not agree with what is found at the scene. The initial report is the key to developing UCR statistics, although there may be facts which emerge later upon edit, for UCR purposes, which change classification.

All UCR data are based on reports of crimes aggregated by local agencies. A handbook is in the hands of all law enforcement agencies in this country as a guide. Periodically, we conduct regional training designed to enlighten and to educate those law enforce-

ment people charged with the compiling of UCR data. We have in place 41 State UCR systems which augment the national effort.

Changes, recommendations, and clarifications relevant to UCR are communicated by means of newsletters and bulletins. Any and all enhancements are presented to the Committee on Uniform Crime Records of the IACP and the UCR Committee of the National Sheriffs' Association.

By mandate, the FBI UCR Program could operate independent of this committee review. To do so would be inadvisable. Relying on professional associations representing law enforcement gives credibility and acceptance to the overall effort. While the Federal Government holds the reins to its operation, there is no mandate to participate short of professionalism of the law enforcement community.

No one would question that knowledge of the subset of crimes motivated by other than personal gain is important and would be useful. However, we do not believe that the UCR should be mandated to gather such knowledge of a limited nature. It is not the appropriate system for such information collection, review, and analysis.

The bill which the subcommittee is considering today would mandate the UCR to collect certain information. Although, as I have noted, the FBI shares your concerns with crime motivated by bigotry, we do not believe that the legislation being considered today is the best way to identify the extent of the crime, nor does it recognize the current limitations of the UCR.

In general, H.R. 1171 would require the UCR to collect information regarding two areas of offenses. First, the bill would require the collection of information regarding the offenses of robbery, burglary, theft, arson, vandalism, and trespass involving property which symbolizes or customarily is used in the performance of a religious activity or the achievement of a religious purpose. Information is considered to be too broad a term perhaps requiring the collection of more than statistical data. The UCR is not the forum for such information collection or analysis.

Further, except for trespass, incidents of robbery, burglary, et cetera, are set forth in various places within the UCR.

However, the bill would require that these categories be subdivided to specifically include such incidences against certain property. This type of data, which does not require a determination of motivation, can be adapted to the UCR's collection process. However, we would oppose mandating its collection.

Currently, UCR is being studied to determine what changes should occur to make it most useful to law enforcement and others. Let us incorporate your interests to this study. This would give us the flexibility needed to determine the feasibility of the proposal with input from others, as well as from Congress.

The in-depth study of the UCR Program began in 1982 after several years of planning. The study represents a joint venture of the Bureau of Justice Statistics and the FBI. The BJS provided funds for the effort and the FBI rendered technical and other support.

A prime contractor, Abt Associates of Cambridge, MA, has conducted the necessary research to formulate a blueprint for UCR of the future.

This guide to improving the UCR allows for flexibility heretofore not enjoyed by the program. While the overall concepts of a future UCR are yet to be reviewed by the Attorney General, we are optimistic that recommendations which will be forthcoming later this year will be favorably received.

The bill would also require the acquisition of information regarding incidences of homicide, assault, robbery, burglary, theft, arson, vandalism, and trespass committed to manifestly express racial, ethnic, or religious prejudice.

The collection of this type of information is not suitable for the statistical collection system of the UCR. It would require a judgment on the part of the officer responding to homicide, burglary, et cetera. The mere fact that a synagogue, for example, was burglarized and items stolen does not always indicate a crime motivated by religious hatred. The motivation could have been only personal gain.

However, to request that a police officer, the source of our UCR data, determine motivational factors would not reflect statistically accurate data; only opinion. As previously mentioned, the UCR is a system for data collection, it is not a tool for analyzing motivations of criminals.

Therefore, we do not recommend enactment of H.R. 1171 for the following reasons:

Such legislation would diminish UCR managers' flexibility to supervise and develop a system that best meets law enforcement's and society's needs;

The bill is overbroad; in requiring the collection of information it ignores the fact that the UCR is primarily a system for data collection;

Although the UCR could report statistics of incidences of certain crimes against property symbolizing or used in religious activity, such data would say nothing about motivation of the crime.

Further, mandating the collection of such data undermines the current project to study the UCR and plan its future.

Information concerning the motivation of crime is not suitable to the UCR collection process. Any such data collected would be likely to be incomplete, relying too much on the judgment of the reporting officer. Therefore, it is questionable how much value these statistics would have as an indicator of the number of or trend in such crimes.

Adding questionable data to the UCR system could diminish the reputation and credibility of the UCR as a whole, thus harming a system of data collection and analysis that has worked well for over half a century and now produces data of inestimable value to the law enforcement community.

This concludes my formal statement. At the conclusion of Director Schlesinger's statement, I will be happy to answer any questions which you or others on the subcommittee might have. Thank you.

Mr. CONYERS. Thank you very much. We are going to have some questions.

Dr. Schlesinger, please proceed.

Mr. SCHLESINGER. Mr. Chairman and members of the subcommittee:

I appreciate the opportunity to testify today on H.R. 1171, the Hate Crime Statistics Act. At this time, I would like to formally introduce Mr. Benjamin Renshaw, sitting to my right. He has been, for about 10 years, on the staff of the Bureau of Justice Statistics (BJS). He has served as the Acting Director and now is the Deputy Director.

Before I begin my testimony, I thought the subcommittee might like to know that, before I came to the Department of Justice, I was a professor of political science at Catholic and Rutgers Universities after receiving my doctoral degree from Claremont Graduate School. I have written books and articles about a variety of criminal justice subjects. I would hope to bring this background to bear on today's subject.

Since the Bureau of Justice Statistics has no responsibility for the operation of the UCR system, I cannot add to the FBI's testimony on the specific issue of adapting the current UCR system to serve the purposes outlined in the bill under consideration. Nonetheless, because the Bureau of Justice Statistics has substantial experience and expertise in the collection and analysis of criminal justice data, I can describe some of the technical and methodological issues involved in collecting statistics on crimes motivated by racial, religious, or ethnic hatred.

To be useful, criminal justice data must be credible. Data collection must follow uniform rules and procedures. Definitions must be clearly articulated. Personnel must be properly trained and their work systematically audited. When samples are drawn—as in the National Crime Survey of the Bureau of Justice Statistics, which measures victimization rates—strict statistical rules must be followed to ensure that the sample accurately reflects the larger population.

Finally, the analysis of aggregate data must be conducted by personnel skilled in statistical techniques who are also capable of presenting technical findings in a way understandable to a nontechnical audience. Only if these principles are followed can we be confident that the results accurately depict reality and thereby provide policymakers with the sound information they need.

Different data collection efforts pose different challenges to the statistician. As much as we might wish it otherwise, much information of potential use to the policymaker cannot be accurately collected at reasonable cost. There can be little doubt that the greatest data collection challenge posed by H.R. 1171 is the classification of crimes based upon the motive of the offender.

In more than a decade of experience with the National Crime Survey, the analysts at the Bureau of Justice Statistics have become keenly aware of the difficulty of classifying crimes based upon the supposed motivation of the offender. For example, a crime victim may report that a rock was thrown through his or her window.

Is this an act of vandalism by someone trying to destroy property?

Is it an accident by someone who did not even know the window was hit?

Is it an attempted burglary by someone who intends to enter the property through the window but is interrupted before the act can be completed?

Or is it an attempt to injure the occupants?

This problem of determining the intent of the offender would become much greater if one attempted to determine whether the event involved religious or racial bigotry. Consider, for example, a robbery in which, the victim reports, a racial remark was made.

How is the victim, the interviewer, or an analyst at a later stage to know whether the robbery was prompted by racial prejudice or material gain?

In certain clear-cut cases, such as a cross burning on a lawn or the painting of a swastika on a temple, the racial or religious overtones are quite clear. Most crimes, however, are not of this nature.

When crimes of violence involve offenders and victims of different races, religions or ethnic groups, or when churches or synagogues are vandalized or burglarized, it may be impossible in a straightforward, objective manner to determine whether the motive of the crime was prejudice or something entirely different.

In addition to the classification issues involved, measurement of intent would involve the problem of leading questions. It is well-known in survey research that some respondents will agree with much that the interviewer suggests in order to please the interviewer, to end the interview more quickly, or for other reasons. Thus, if the interviewer suggested that racial, religious, or ethnic prejudice was a possible motive for a crime perpetrated upon the respondent, estimates of this problem are likely to be inflated.

This problem of inflated estimates is further aggravated by the fact that the victims of crimes, even of less serious property offenses, often bear such enormous ill-feeling toward the offender as to ascribe any number of malicious motives to the criminal.

If, on the other hand, the question is not asked directly, the incidence of this problem may be understated because some people will not recognize that the interviewer would like to know about that aspect of the crime.

Given the difficulties and complexities of accurately ascertaining criminal motivation even in one specific case, one cannot underestimate the complications of setting out and enforcing uniform rules or standards for interviewers or police officers to apply throughout the Nation in the thousands of violent or property crimes in which racial, religious, or ethnic prejudice might possibly be a motive.

I trust that this gives some sense of the dimension of the problem of assessing offender motivation in a way which will allow for the collection of credible data of the type specified in H.R. 1171.

I will be glad to answer any questions you might have concerning my statement. Thank you, Mr. Chairman.

Mr. CONYERS. I want to thank you both.

Now, we have been trying to get this worked out cooperatively across the years, and now we are forced to try to do it legislatively. It is going to be hard for me to tell the Members of Congress now that if we just hold on for a little more studying we might be able to incorporate some of this activity in the UCR.

I am also looking at civil rights violations which, as I understand it, are rarely caught by the UCR reporting mechanisms. And I

think that ought to be studied as well, in perhaps a separate piece of legislation.

But these constitutional violations, as troublesome as you may describe them, have got to be caught. These are the things we are more concerned about than car theft, or trespass, or burglary. We are going to the heart of our whole system and way of life. I refuse to be deterred by the fact that it may be a little complicated to classify.

We have these kind of questions of intent coming up in other kinds of crimes that get classified as well. The hypothetical of a rock being thrown through the window eventually gets classified into something. We are not saying that it's permanent for all time, but it gives us an idea of where the problem areas are.

I also think that the fact that we have motivational problems should not prevent us from recording constitutional violations. I think it is very important that we do that.

Your discussion has taken us, in my view, to the tough kinds of questions that occur. But a cross burned on a lawn, or a vandalization of a synagogue, while there may be robbery or some other motive, there's no question—it seems to me that there wouldn't be any reason not to classify some of the obvious cases.

In other words, I am trying to direct your attention to this broad, clear-cut kind of violation, and you are directing mine to the tougher, closer questions.

Now, it seems to me that somewhere, once we all agree that these cases are important enough to be classified and to be recorded, that we can then find a way to do it. And that's what I think the Congress is going to say to you after all these years.

Mr. BAKER. Mr. Chairman, I think the message that we try to project to you, both the Department and the FBI speaking collectively, is that we are very concerned about the problem of bigotry and hatred. Certainly, our investigations against the Aryan Nation, the Order, and the three shoot-outs that have involved our agents in as many months just recently, are an indication that when a crime occurs and it is within our jurisdiction, the FBI is out there aggressively.

But here we are trying to protect the integrity of a data collection system, and I don't want to confuse the issue because I know that it is a serious and an emotional issue. But in trying to protect the data, we keep coming back to we depend on over 15,000 submitting agencies, law enforcement officers out at the scene, to give us their response to a crime as they report to the scene.

And what we are asking for here is a motivation determination. And that is where we have the most problem in trying to reach, with you, for an answer and the proper way to gather the data that you are seeking. We believe that in trying to get that officer to determine motivation, we will discredit the integrity of the data collection system.

Mr. CONYERS. What about the clear-cut case?

Mr. BAKER. There are clear-cut cases, but there are thousands of other cases that are not clear-cut or that do change. I think what I am here to say is that we know that there is a problem. We do not believe that UCR is the apparatus to give you the answer that you are seeking.

I note that there may be other ways, and I would defer to the Department if you have some suggestions on other ways. But, certainly, a type of clipping service serves as an advantage because these crimes, in my experience, do get attention as they occur in the community.

Mr. CONYERS. I beg to differ with you there. There are thousands of cases that don't get reported. If it could be solved that way, we wouldn't have you coming up here, we would just refer to the Congressional Record clipping service and save us the trouble of a hearing. Yes, sir?

Mr. SCHLESINGER. Mr. Chairman, I would like to do two things. First, Mr. Baker has spoken about the difficulty of using police officers in effect to classify crimes as to whether racial or religious or ethnic hatred was involved.

There is an additional difficulty which BJS has some experience with because of our national crime survey, the victimization survey. Any data collection strategy that relies on victim reports poses serious methodological problems, as we believe that it's impossible for an interviewer to elicit this information without leading the victim. In addition, we question the ability of the victim objectively to provide this information for a number of reasons, and I would like to deal with those just very briefly.

We know from our victimization survey, the national crime survey, that victims frequently have difficulty reporting purely objective facts about offenders, such as age and race, let alone subjective factors such as motivation.

We know from anecdotal reports that victims are prone to ascribe a wide range of negative attributes to offenders.

Third, and finally, we know that in many of the offenses specified in the bill the victim has no interaction with the offender, and unless the offender leaves behind tangible evidence of racial, religious or ethnic motivation, the victim simply has no basis for determining motivation.

Now, Mr. Chairman, let me try to address as specifically as I can your concern that we try to narrow the difference between the Justice Department and the kinds of concerns that you have raised. Let me try to summarize my thoughts on that by breaking the crimes, which I believe this bill is concerned with, into three parts, and perhaps we can talk about those three parts separately.

The first type of crime would be cross burnings, swastika paintings, cemetery desecrations—those kinds of crimes for which it is obvious or manifest—

Mr. CONYERS. Well, won't you add that graffiti is racially antagonistic? In other words, ethnic slurs? I mean, if you write nigger across the window of a person's house, you don't have to call in a psychologist to figure out what the message is, do you?

Mr. SCHLESINGER. I didn't intend that little list to be exhaustive. I am sure there are other kinds of incidents or crimes that could be added to that list.

Mr. CONYERS. The reason I wanted to add it is because we get these kinds of obvious cases. I just want to make sure that this is included and other kinds of obvious cases where racial or religious attacks or intentions are evident.

Mr. SCHLESINGER. My point is that for those kinds of crimes for which the intention, the motivation, is manifest—and I think you have mentioned a number of them—one could perhaps work through a clipping service, or one could work through a national network of organizations.

Mr. CONYERS. We just dismissed that—out of hand. A lynching in the South isn't due to get a lot of public attention—not only in the South, I hasten to add, for the record—we can't depend on the Detroit Free Press to tell the Department of Justice whether there's a basis for a civil rights or a constitutional violation.

I mean, if it were that simple, we would just do that. But what we found out is that many of the incidents do in fact go unreported.

Now, I think if you study this subject, you will find that that's the case. We have been told that constantly in the hearings that we have held on this subject.

Mr. SCHLESINGER. Mr. Chairman, perhaps it would be useful if I turn to the other two categories of crime.

Mr. CONYERS. Well, you haven't taken care of this one. I mean, the fact of the matter is that in the most obvious kinds of cases and this classification that you have described yourself, you tell me to go to the congressional clipping service, or contract with the local newspapers across America.

Why wouldn't a cop, who has to make these determinations in every other case, why doesn't he understand the meaning of a burning cross on the lawn of a black family that's the first one in the neighborhood—do you think that there would be some misunderstanding? I mean, you are ignoring, sir, the most obvious category of cases of which there shouldn't even be any question about how to classify them, and what the witnesses think and feel, and all of that.

I mean, this is the one kind of case on which I thought we would agree. I thought I had some agreement from the other witness. You can't mistake that, can you?

When someone writes a Jewish denigration across the synagogue wall, do you wonder, was this racially motivated? And if they also steal some silver and some other things—do you think we sit around in the real world of police activity and say, well, now, they stole something, they damaged something, they broke and entered, and they also wrote some defamatory ethnic slurs. Now, I wonder how we are going to categorize this?

Mr. BAKER. Mr. Chairman, that would be categorized by whichever offense it occurred in under now as it is now and it would be investigated. If it is a burglary along with that, then it would be investigated as a burglary by that department.

Mr. CONYERS. That's precisely the point, at mass, the ethnic or racial violations that are going on, and that's why we are trying to create a separate category. Now, if to you it's more important to know the breaking and entering than whether a person's constitutional rights are being violated, we are going to write a law to make it clear. We will send all the computer experts and all the administrative people back to school to figure out a way to come up with a classification.

But may I suggest, for instances where there may be a legitimate difficulty, we could identify a category that is questionable, or for which there may be one or more interpretations, and we would put questionable incidents there. We would then get the picture. But we can't continue into the 21st century in a constitutional democracy and be told by law enforcement officials that the police are not smart enough to determine questions—acts of violation, where there's an intent question involved. There are intent questions involved in other classifications that you are presently making.

A policeman goes out to the scene of a crime and there's a dead body, he doesn't know if it's murder, suicide, manslaughter, first degree, or anything else. And UCR doesn't require that he accurately do that. We have a dead body, we go from there. Sometimes the classification has to be changed. We are not requiring perfection. But we are not going to let technology, or lack of technology, foil us on this basic question.

These problems are bigger than going to a clipping service. I think that is an absolutely simplistic solution of a problem. I mean, our staff could have figured that out. We wouldn't call you up here to pass a law, and you tell us to clip out of the Washington Post and the Detroit Free Press for a constitutional violation. We are already clipping.

What we find out is that there are many violations that aren't caught. The newspapers don't have any responsibility to report every racial or act of bigotry that comes to them. They say that's the police's job, that's somebody's job—it's not ours.

Mr. BAKER. Mr. Chairman, I did not mean to imply a simplistic approach to a very complicated problem. We have given this and your concerns a great deal of insight in preparing our response which we understand is not in line with your desires right now. We have this study that's ongoing. We are expecting the final results of the Abt study, which has been looking into how to better use the data that we collect in UCR, and how to better serve law enforcement. And we intend to take your interests to this group when we meet in April down at Quantico, VA, and to discuss your interests with this group.

Mr. CONYERS. Well, that's very encouraging.

Mr. BAKER. The other was just something that certainly would have to be considered, but not a simplistic clipping, but a much more serious effort.

Mr. CONYERS. Forget the clipping, please; don't take up that suggestion. I have been taking gas on this subject for quite a few years. And if I get 218 Congressmen and 51 Senators, we are going to make it a law. So there's two ways we can solve this problem. We pass a law and then force you to add this to the classification—and I don't think it is going to disrupt UCR one bit, just between you and me—or you can come up with some reasonable solution, and it has to be reasonable, it's not just any solution. And please don't ever let anybody tell you to come back and recommend clipping to this subcommittee. That's the one thing I ask you—do not bring it back, because we have been through that already.

Mr. Edwards.

Mr. EDWARDS. Thank you very much, Mr. Chairman, and I, too, welcome our witnesses from the Bureau.

Insofar as the FBI is concerned, Mr. Baker, I find it rather interesting in the subcommittee that I chair, that the subcommittee is fighting for the purity of the NCIC system, and the Bureau and the Department of Justice are apparently interested in not so pure an NCIC. That is not the subject of this morning—you want to put into the NCI system investigative information, information about individuals suspected of criminal activity. And here we are on the other side, so it's a little paradoxical, I find.

Now, you Mr. Baker, are Assistant Director, Office of Congressional and Public Affairs. Who is the head of the Uniform Crime Reports?

Mr. BAKER. Mr. Zolbe is the Section Chief.

Mr. EDWARDS. Right.

Mr. BAKER. That's under my division, Mr. Edwards.

Mr. EDWARDS. You mean that is under the division of the Office of Congressional and Public Affairs?

Mr. BAKER. Yes, it is.

Mr. EDWARDS. Now, you have an in-depth going with Abt Associates and you are going to have a meeting at Quantico, is that correct?

Mr. BAKER. Yes.

Mr. EDWARDS. What are you going to decide at that meeting?

Mr. ZOLBE. We are bringing in all the individuals that operate the State uniform crime reporting programs. We are also bringing in the Committee on Uniform Crime Records of the IACP, and committee members from the National Sheriffs' Association. At that time, we will review in-depth the most recent findings in regard to their research. And, if necessary, make further recommendations for them to proceed.

Mr. EDWARDS. What might come out of this?

Mr. ZOLBE. Hopefully, these people attending this conference will look to the research as being worthwhile, valuable, and certainly worthy of attempting to implement those recommendations.

Mr. EDWARDS. At what point, if ever, will you come back to Congress, who will be authorizing the money, for its opinion on any changes, any major changes, made in uniform crime reporting?

Mr. ZOLBE. Our current plan is to have this conference in Quantico to discuss UCR in an in-depth way with those who are very knowledgeable about it, and have been for years, following which the Abt report would be made available for public comment, such as leading law enforcement executives throughout the country, researchers, and others with an interest in the crime problem.

Mr. EDWARDS. In other words, you will advise Congress after the decision has been made, and you are treating Congress like with the NCIC, Mr. Baker, just another member of the public? The changes will be implemented, major changes, the whole system can be changed, and we will be asked respond to it through this public register?

Mr. ZOLBE. No, sir, following public comment, we, of course, would submit it to the Attorney General for his review. And at that time, if the Attorney General decides it is correct to go forward with this futuristic plan, then, quite obviously, we have to come to Congress. There is no other way to proceed.

Mr. EDWARDS. That's not necessarily true at all. You make changes in your procedures through regulations all the time without getting any input from Congress.

Mr. ZOLBE. If the changes are so dramatic we will have to come to you.

Mr. EDWARDS. On this issue, what kind of a questionnaire? What kind of paper does a policeman complete to send into the FBI?

Mr. ZOLBE. An officer initiates an incident report form which is submitted to staff review within the local law enforcement agency. And every agency is a little bit different in their procedures but, by and large, these are the kinds of things that happen. At the staff review level, where that report is looked upon for dissemination, assignment of the report to somebody for further investigation, a determination is made as to what UCR classification that particular incident would fall into.

At that point in time, for simplistic reasons, a tick mark is made on a piece of paper where it is entered into their administrative computer system.

At the end of a month, the data that is ordinarily submitted to UCR on a monthly basis, is aggregated. And in 41 States, it is submitted to a State UCR agency. They, in turn, glean off any information that they need and submit the rest of it to the FBI here in Washington for further aggregation into a national perspective.

Mr. EDWARDS. What kind of a piece of paper does the FBI in Washington get?

Mr. ZOLBE. Sometimes we get a computer tape, a printout, sometimes a form which only has the aggregate numbers of crimes which make up the crime index.

Mr. EDWARDS. And there is no way to add a question or a place to check if there would be indications that it was in a cemetery, in a synagogue, graffiti was present, so and so, you don't think the cops are capable of doing that—and that couldn't go into the computer, so that at least some indication of increase or decrease?

I notice that you keep emphasizing, I think, Mr. Baker, that this is the information from the uniform crime reporting is of key importance, which it is, to police all over the country and the FBI. It is also, I might point out, of key interest to your policymakers, to Congress, because ultimately we have to write the laws that the FBI enforces. And the more information we get, the better we can do our job, too, and we are serious about learning more about this particular type of crime.

Now, at this meeting you are going to have, will you, Mr. Baker, look into whether or not a question could be—or a space, a blank, somewhere in all of this paper that is sent in—that some indication couldn't be made?

Mr. BAKER. Yes, we will.

Mr. EDWARDS. You know, you have really got your heels dug in on this.

Mr. BAKER. Well, they are planted, Congressman Edwards, because serious concerns have been brought to my attention by the people who work the system, and that serious concern, again, gets back to the attempt to determine motivation, and what that effort might mean to the overall credibility of the data. And we are concerned, just as you are concerned, in getting information. We are

concerned that we deliver it to you in a correct manner that won't be open to criticism for inaccuracies.

Mr. EDWARDS. We understand the difficulties of subjective information in any reporting, and we understand that you are interested and you feel that your obligation is to be totally accurate and on time.

We would like you to really scratch your head about it, though, because you have just told Mr. Conyers' subcommittee, no, you are not interested. That's really what you have been saying. You have been doing that for quite awhile, is it, Mr. Conyers?

Mr. CONYERS. Years and years.

Mr. EDWARDS. It seems to me that you could be a little ingenuous about it and try to help out more, because it is rather a serious problem, and it is getting more serious. Here in Washington the other day, the Korean store owners, having their stores burned down, and so forth.

That data somehow or other, should be put into orderly records so that we can see the trends and what's going on, and how serious it is, percentages, and so forth.

Mr. BAKER. Another example, though, Congressman, on just the type of problem here in Washington—again, in the last week, we had the murder of a church official. And on its outset, something like that might appear to be a racially motivated or religiously motivated crime. But, in fact, it is unraveling that such is not the case and it was a case of internal larceny. These are the type of problems we are trying to deal with in your requests.

Mr. EDWARDS. I understand that. But when you are talking about thousands, perhaps hundreds of thousands of cases, you are bound to have a crime like that where—we are after trends more than anything else.

Mr. CONYERS. Will the gentleman yield?

Mr. EDWARDS. Yes, of course I will.

Mr. CONYERS. You don't have to make these UCR reports the same day or the next day, or the next week. I mean, you are giving, I think, maybe a misimpression to some people, but not to me. These things come in whenever they get ready to come in. As a matter of fact, notwithstanding all this talk about precision from Dr. Schlesinger, a lot of these police reports are lousy, because they are self-serving documents.

I hate to say that as a part of the criminal justice community, but it is a little untidy secret that we happen to know something about.

Mr. BAKER. Mr. Chairman.

Mr. CONYERS. What is your response?

Mr. BAKER. We are very aware of the potential for flaws in the reporting system, and that's why, with your authorization, we are moving ahead with an audit capability that Director Webster is seriously interested in, and that is to have an audit staff that can go back to these 15,000-plus submitters—and, again, it's on a voluntary basis. But these are concerns, the ones you raise, are ones we are aware of and working for solutions on.

Mr. CONYERS. You know, I am beginning to wonder about some of your intentions over in the Department. We have got here, from our subcommittee, sent June 1984, a request for your evaluation on

a bill that would require the Attorney General to include the uniform crime reports information about racial and religious incidents. It has never been answered.

If I give you a copy to take back to the new Attorney General, could I believe that he will get a copy of it and somebody over there will show enough interest in this subject matter at least to respond and say they don't like it? We never got a response from Barbara Kennelly's bill, going back to last summer. So I would like you to look into that.

Now let's talk about this precise reporting that police do from 16,000 jurisdictions. Is there a standard form?

Mr. ZOLBE. A standard form for submission of the numbers on a monthly basis, that's correct.

Mr. EDWARDS. Let's have the forms submitted.

Mr. CONYERS. You say there is a standard form or they submit their material and it's transferred to a standard form?

Mr. ZOLBE. The investigating officer submits it to his headquarters. At that point, among many other things, a UCR number determination is made.

Mr. CONYERS. I am willing to believe that there are different forms that are being submitted to you. Isn't that correct?

Mr. ZOLBE. The information comes to us in several different fashions but it's always in the same structure. It may be submitted on a magnetic computer tape, on a set of printouts, or on what we commonly refer to as a hard copy, which is the basic form that the law enforcement agency completes on a monthly basis, which is the aggregate number of crime index episodes that were reported to that agency during that time.

Mr. CONYERS. OK. Then we probably need to look at these forms and the various ways that the information can come to you.

Now, 16,000 police jurisdictions. That gets down to some pretty tiny operations. They are all conforming to the requirements?

Mr. ZOLBE. We hope so. And the only hope that we have is through education and monitoring of the numbers that they submit. If their numbers tend to become somewhat unrealistic over a period of time, we communicate with them. So we are doing internal edits and educating them in training sessions throughout the country.

Mr. CONYERS. You know, this subcommittee is not unsympathetic to the problem that you have of trying to get accurate reports. But we know better than you about all this precise police work that's going on, because we have too much information to the contrary. Like you, we are trying to encourage more accuracy, more precision, more honesty, more nonviolation of anybody's rights. But we are talking about a constitutional matter here, gentlemen—the right to live and work and walk in this society without getting your property blown up, or being beaten up because of your color or religion.

It is something that we have got to put a little bit more energy on the ball on. There has been a lot of accusations that we have been slipping in civil rights progress. And we are trying to counter that. And we need your help, in helping us get to at least an accurate assessment of what's going on. So it is in that spirit that I am

very pleased to have you before the subcommittee, and I yield to Mr. Edwards.

Mr. EDWARDS. Thank you, Mr. Chairman.

Is it my understanding that staff has been instructed to obtain from our witnesses some of the forms so that we can look at them?

Mr. CONYERS. Exactly, yes.

Mr. EDWARDS. We would appreciate that.

You know, more than 40 years ago, when I was an FBI agent, arrest records were just being collected. We had a heck of a time because the police didn't want to give them to us, and we had to do it all through public relations. Mr. Hoover would instruct us to go to the field and try to have halfway decent relations with these suspicious cops and chiefs of police so they would please here and there start sending arrest records and conviction records in to the FBI so that we could start our recordkeeping system that we are so proud of today.

So, I know how hard it is to get something started. Now it is very sophisticated, and the police are much better educated, more talented, they are high-technology people today out there, which they weren't in my day. So I think we ought to be able to approach this problem with a little more cooperation.

Mr. CONYERS. Send them valentine cards, or welcome them on—yesterday was spring, you know, happy new spring for 1985. They would be shocked to hear from you that way.

Seriously, though, we do need to tighten this up and we have got to move on it. So we will be waiting on the work that your firms will be doing in this regard. We consider this a very relatively easy problem to solve in terms of the kinds of criminal justice that are out there.

So we thank you very, very much for your time, gentlemen, and we will all be in touch with each other.

Mr. BAKER. Thank you.

Mr. CONYERS. I also would like to give you a copy of this request outstanding over a year.

[The prepared statements of Mr. Baker and Mr. Schlesinger follow:]



Department of Justice

STATEMENT
OF
STEVEN R. SCHLESINGER
DIRECTOR
BUREAU OF JUSTICE STATISTICS
BEFORE
THE
SUBCOMMITTEE ON CRIMINAL JUSTICE
COMMITTEE ON THE JUDICIARY
UNITED STATES HOUSE OF REPRESENTATIVES
CONCERNING
H.R.1171: "HATE CRIME" STATISTICS ACT
ON
MARCH 21, 1985

Mr. Chairman and members of the subcommittee. I appreciate the opportunity to testify today on H.R. 1171, "Hate Crime' Statistics Act." As you know, H.R. 1171 would impose new reporting requirements on the "Uniform Crime Reports" program. You have already heard testimony from the Federal Bureau of Investigation, which conducts the UCR program, on the feasibility of using that nationwide crime reporting system to provide statistics on crimes motivated by racial, religious, or ethnic hatred. Since the Bureau of Justice Statistics has no responsibility for the operation of the UCR system, I cannot add to the FBI's testimony on the specific issue of adapting the current UCR system to serve the purposes outlined in the bill under consideration. Nonetheless, because the Bureau of Justice Statistics has substantial experience and expertise in the collection and analysis of criminal justice data, I can describe some of the technical and methodological issues involved in collecting statistics on crimes motivated by racial, religious, or ethnic hatred.

The Bureau of Justice Statistics (BJS) is responsible for all of the major national statistical series and other sources of data concerning crime and criminal justice with the sole exception of the FBI's Uniform Crime Reports. The mission of the Bureau is twofold: to provide officials of the Department of Justice, the Congress, the law enforcement community and the public with accurate and timely justice data and analyses relevant to policy decisions, and to support the emerging capacity of State and local governments to use data as a cornerstone of their criminal justice programs. The largest single undertaking of the Bureau of Justice Statistics is the National Crime Survey, involving twice-a-year interviews with over 125,000 individuals in order to measure the nature and extent of criminal victimization throughout the United States. This survey measures crime which is both reported and unreported to the police.

To be useful criminal justice data must be credible. Data collection must follow uniform rules and procedures. Definitions must be clearly articulated. Personnel must be properly trained and their work systematically audited. When samples are drawn—as in the National Crime Survey which measures victimization rates—strict statistical rules must be followed to ensure that the sample accurately reflects the larger population. Finally, the analysis of aggregate data must be conducted by personnel skilled in statistical techniques who are also capable of presenting technical findings in a way understandable to a non-technical audience. Only if these principles are followed can we be confident that the results accurately depict reality and thereby provide policy makers with the sound information they need. Those of us responsible for generating policy relevant statistics are keenly aware of the suspicion which many in the public have for statistics—a suspicion so aptly reflected in the well-known quip that there are three kinds of falsehoods: lies, damn lies, and statistics. Consequently, it is imperative that government agencies follow accepted professional norms of statistical data collection.

Different data collection efforts pose different challenges to the statistician. As much as we might wish it otherwise, much information of potential use to the policymaker cannot be accurately collected at reasonable cost. There can be little doubt that the greatest data collection challenge posed by H.R. 1171 is the classification of crimes based upon the motive of the offender. The expressed purpose of the bill is to collect statistics on crimes "motivated by racial, religious, or ethnic hatred" (emphasis added). The very title of the bill—"Hate Crime' Statistics Act"—

highlights the issue of motive. The bill goes on to delineate two categories of offenses for which statistics should be collected. The second of these expressly defines the subject crimes in terms of motive: "Homicide, assault, robbery, burglary, theft, arson, vandalism, and trespass committed to manifestly express racial, ethnic, or religious prejudice (emphasis added)."

While it is true that the first category of offenses includes crimes committed against religious property regardless of the motive of the offender, such information would be of little use in terms of the broad purposes of the bill without some assessment of the proportion of such crimes motivated by religious prejudice rather than material gain. In a recent draft of a report funded by the National Institute of Justice titled, "Racial and Religious Violence: A Model Law Enforcement Response," the National Organization of Black Law Enforcement Executives put the point well:

Both ranking and line [law enforcement officers] . . . should be trained to identify racially and religiously targeted violence. They must possess the knowledge and skills necessary to differentiate such incidents from regular crimes. For example, random vandalism to property should be distinguished from vandalism that is specifically directed at certain groups for the sole purpose of intimidating, threatening or harassing them.(p.25)

In more than a decade of experience with the National Crime Survey the analysts at the Bureau of Justice Statistics have become keenly aware of the difficulty of classifying crimes based upon the supposed motivation of the offender. For example, a crime victim may report that a rock was thrown through his or her window. Is this an act of vandalism by someone trying to destroy property? Is it an accident by someone who did not even know the window was hit? Is it an attempted burglary by someone who intends to enter the property through the window but is interrupted before the act can be completed? Or is it an attempt to injure the occupants?

This problem of determining intent of offender would become much greater if one attempted to determine whether the event involved religious or racial bigotry. Consider, for example, a robbery in which, the victim reports, a racial remark was made. How is the victim, the interviewer, or an analyst at a later stage to know whether the robbery was prompted by racial prejudice or material gain? In certain clear-cut cases, such as a cross burning on a lawn or the painting of a swastika on a temple, the racial or religious overtones are quite clear. Most crimes, however, are not of this nature. When crimes of violence involve offenders and victims of different races, religions or ethnic groups, or when churches or synagogues are vandalized or burglarized, it may be impossible in a straightforward, objective manner to determine whether the motive of the crime was prejudice or something entirely different.

In addition to the classification issues involved, measurement of intent would involve the problem of leading questions. It is well known in survey research that some respondents will agree with much that the interviewer suggests in order to please the interviewer, to end the interview more quickly, or for other reasons. Thus, if the interviewer suggested that racial, religious, or ethnic prejudice was a possible motive for a crime perpetrated upon the respondent, estimates of this problem are likely to be inflated. This problem of inflated estimates is further aggravated by the fact that the victims of crime, even of less serious property offenses, often bear such enormous ill-feeling toward the offender as to ascribe any number of malicious motives to the criminal. If, on the other hand, the question is not asked directly, the incidence of this problem may be understated because some people will not recognize that the interviewer would like to know about that aspect of the crime.

Given the difficulties and complexities of accurately ascertaining criminal motivation even in one specific case, one cannot underestimate the complications of setting out and enforcing uniform rules or standards for interviewers or police officers to apply throughout the nation in the thousands of violent or property crimes in which racial, religious, or ethnic prejudice might possibly be a motive.

I trust that this gives some sense of the dimension of the problem of assessing offender motivation in a way which will allow for the collection of credible data of the type specified in H.R. 1171.

OPENING STATEMENT
OF
WILLIAM M. BAKER
ASSISTANT DIRECTOR
OFFICE OF CONGRESSIONAL AND PUBLIC AFFAIRS
FEDERAL BUREAU OF INVESTIGATION

BEFORE THE
SUBCOMMITTEE ON CRIMINAL JUSTICE
HOUSE COMMITTEE ON THE JUDICIARY

REGARDING
UNIFORM CRIME REPORTING
AND
H.R.1171 "THE 'HATE CRIME' STATISTICS ACT"

MARCH 21, 1985

Mr. Chairman and members of the Subcommittee. Thank you for the opportunity to appear before you today. While we share the interest of the drafters of H.R.1171 in developing an information base on the incidence of racially and religiously motivated crimes, we respectfully observe that the Bill, as drafted, is unrealistic in looking to the Uniform Crime Reporting (UCR) Program as a means of securing such information. I would like to begin by providing you with some background on UCR and then generally addressing the basis for our opposition to the Bill, H.R.1171, the Hate Crimes Statistics Act which you are considering today.

Crime, aberrant behavior worthy of punitive attention defined by law, is harmful to the well being of civilized society. The amount and nature of crime has historically been a matter of concern to organized societies. Because of this and other law enforcement concerns, a group of police chiefs met in St. Louis, Missouri, late in the 19th century. Their deliberations resulted in the formation of the International Association of Chiefs of Police (IACP). However, through the latter years of the 1800s and into the early 1900s, the concept of measuring crime remained an elusive objective.

During the 1920s, supported by private foundation resources, the IACP constructed a scheme to gather crime data. This scheme overrode state penal codes which had been long-time

impediments to uniformity in measuring the incidence of crime in the United States. It is appropriate to underscore the fact that we have in this country a system to measure crime by virtue of the cooperation and professionalism of the law enforcement community. The system they adopted over a half century ago has served as a model for the development of crime data collections in other countries. It further has stood the test of time and continues to produce the most extensive set of criminal justice statistics in existence today.

For a short period in 1930, the IACP managed what we know today as the UCR Program. In June of that year, Section 534 of Title 28, United States Code, was enacted. In part, Section 534 mandates the Attorney General to collect crime and other records. This is the basis upon which the FBI administers the UCR Program.

The UCR Program is the collector of crime statistics from the Nation's law enforcement community. The participation of law enforcement in the national data collection effort is purely voluntary. It was in 1930 and it is today.

When the Program was conceived and later implemented, there were two primary goals. First, and most important, the Program was to provide the law enforcement executive statistical knowledge upon which to rely for direction in management decisions.

Secondly, the Program was to provide a viable means of communicating to the public, researchers, and legislatures reliable indicators of fluctuations in the nature and extent of criminal behavior. The presentation of such information would allow for correlation of local problems to the national experience.

The founders of UCR were quite astute. They selected a group of general crimes common to every American jurisdiction and generally subject to the same type of report from police officers. These crimes are structured to serve as an index to gauge changes in overall criminality. We have acclimated to the Crime Index. This Index in no way attempts to measure total criminality; it only serves as a barometer. Just as the Dow Jones Index of select stocks attempts to gauge price trends for the thousands of securities on the New York Stock Exchange, the Crime Index is used to estimate volume trends in the hundreds of different crimes coming to the attention of the police. The crimes in the Index were carefully selected with input from local and state authorities, to provide the most correct and useful data while minimizing the impact on those law enforcement agencies which collect and provide us the statistics. Requesting over 16,000 law enforcement agencies nationwide to comply with a complex scheme of crime information and data collection would be extremely burdensome and confusing to them, and therefore not in the national interest.

The UCR Program relies upon the investigation of the officer given the call to respond to a crime scene. Frequently, the original dispatch order to the officer does not agree with what is found at the scene. The initial report is the key to developing UCR statistics, although there may be facts which emerge later upon edit, for UCR purposes, which change classification.

All UCR data are based on reports of crimes aggregated by local law enforcement agencies. A handbook (guide) is in the hands of all law enforcement agencies in this country. Periodically, we conduct regional training designed to enlighten and to educate those local law enforcement people charged with the compiling of UCR data in a respective agency. We have in place 41 state UCR systems which augment the national effort.

Changes, emendations, and clarifications relevant to UCR are communicated by means of Newsletters and Bulletins. Any and all enhancements are presented to the Committee on Uniform Crime Records of the IACP and the UCR Committee of the National Sheriffs' Association. By mandate, the FEI UCR Program could operate independent of committee review. To do so would be inadvisable. Relying on professional associations representing law enforcement gives credibility and acceptance to the overall effort. While the Federal Government holds the reins to its operation, there is no mandate to participate short of professionalism of the law enforcement community.

No one would question that knowledge of the subset of crimes motivated by other than personal gain is important and would be useful. However, we do not believe that the UCR should be mandated to gather such knowledge of a limited nature. It is not the appropriate system for such information collection, review, and analysis.

The Bill which the Subcommittee is considering today would mandate the UCR to collect certain information. Although, as I have noted, the FBI shares your concerns with crime motivated by bigotry, we do not believe that the legislation being considered today is the best way to identify the extent of the crime; nor does it recognize the current limitations of the UCR.

In general, H.R.1171 would require the UCR to collect "information" regarding two areas of offenses. First, the Bill would require the collection of "information" regarding the offenses of "robbery, burglary, theft, arson, vandalism, and trespass involving property which symbolizes or customarily is used in the performance of a religious activity or the achievement of a religious purpose." "Information" is considered to be too broad a term perhaps requiring the collection of more than statistical data. The UCR is not the forum for such "information" collection or analysis.

Further, except for trespass, incidents of robbery, burglary, etc., are set forth in various places within the UCR.

However, the Bill would require that these categories be subdivided to specifically include such incidences against certain property. This type of data, which does not require a determination of motivation, can be adapted to the UCR's collection process. However, we would oppose mandating its collection. Currently, UCR is being studied to determine what changes should occur to make it most useful to law enforcement and others. Let us incorporate your interests into this study. This would give us the flexibility needed to determine the feasibility of the proposal with input from others, as well as the Congress.

The in-depth study of the UCR Program began in 1982 after several years of planning. The study represents a joint venture of the Bureau of Justice Statistics (BJS) and the FBI. The BJS provided funds for the effort and the FBI rendered technical and other support. A prime contractor, Abt Associates of Cambridge, Massachusetts, has conducted the necessary research to formulate a blueprint for UCR of the future. This guide to improving the UCR allows for flexibility heretofore not enjoyed by the Program. While the overall concepts of a future UCR are yet to be reviewed by the Attorney General, we are optimistic that recommendations which will be forthcoming later this year will be favorably received.

The Bill would also require the acquisition of "information" regarding incidences of homicide, assault, robbery, burglary, theft, arson, vandalism, and trespass committed to

manifestly express racial, ethnic, or religious prejudice." The collection of this type of information is not suitable for the statistical collection system of the UCR. It would require a judgment on the part of the officer responding to homicide, burglary, etc. The mere fact that a synagogue, for example, was burglarized and items stolen does not always indicate a crime motivated by religious hatred. The motivation could have been only personal gain. However, to request that a police officer, the source of UCR data, determine motivational factors would not reflect statistically accurate data; only opinion. As previously mentioned, the UCR is a system for data collection, it is not a tool for analyzing motivations of criminals.

Therefore, we do not recommend enactment of H.R.1171 for the following reasons: (1) Such legislation would diminish UCR managers' flexibility to supervise and develop a system that best meets law enforcement's and society's needs; (2) The Bill is over broad; in requiring the collection of "information" it ignores the fact that the UCR is primarily a system for "data" collection; (3) Although the UCR could report statistics of incidences of certain crimes against property symbolizing or used in religious activity, such data would say nothing about motivation of the crime. Further, mandating the collection of such data undermines the current project to study the UCR and plan its future; (4) Information concerning the motivation of crime is not suitable to the UCR collection process. Any such data collected would

likely be incomplete, relying too much on the judgment of the reporting officer. Therefore, it is questionable how much value these statistics would have as an indicator of the number of or trend in such crimes; (5) Adding questionable data to the UCR system could diminish the reputation and credibility of the UCR as a whole, thus harming a system of data collection and analysis that has worked well for over half a century and now produces data of inestimable value to the law enforcement community.

This concludes my formal statement. At the conclusion of Director Schlesinger's statement, I will be happy to answer any questions which you or others on the Subcommittee might have.

Mr. CONYERS. Our next set of witnesses are Dr. Arthur Green, Ms. Joanne Anderson, Mr. Jerome Bakst, Randolph Scott-McLaughlin, and Mrs. Peirson.

Dr. Arthur Green, you are the next witness. Would you like to proceed at this point?

TESTIMONY OF ARTHUR L. GREEN, DIRECTOR, CONNECTICUT COMMISSION ON HUMAN RIGHTS AND OPPORTUNITIES; JOANNE ANDERSON, DIRECTOR, COMMUNITY RELATIONS, MARYLAND COMMISSION ON HUMAN RIGHTS; JOAN WEISS, EXECUTIVE DIRECTOR, INSTITUTE FOR THE PREVENTION AND CONTROL OF VIOLENCE AND EXTREMISM; JEROME H. BAKST, DIRECTOR, RESEARCH AND EVALUATION, ANTI-DEFAMATION LEAGUE OF B'NAI B'RITH, ACCOMPANIED BY DAVID BRGDY, WASHINGTON REPRESENTATIVE; RANDOLPH SCOTT-McLAUGHLIN, ESQ., CENTER FOR CONSTITUTIONAL RIGHTS, ON BEHALF OF THE ANTI-KLAN NETWORK, AND VERONICA PEIRSON

Mr. GREEN. Yes, thank you.

Mr. CONYERS. Dr. Green is director of the Connecticut Commission on Human Rights, and has also been before us in his capacity as a member of the Commission on the International Association of Human Rights Agencies. We remember your testimony before—we are glad to see you again. Here we are, same subject, same committee. Welcome back.

Mr. GREEN. Thank you very much, Mr. Chairman, and members of the committee.

My name is Arthur Green. I am director of the Connecticut Commission on Human Rights and Opportunities. I am also the past president of the International Association of Official Human Rights Agencies. That body, Mr. Chairman, is a national organization of State and local human rights agencies that enforce the country's anti-discrimination laws.

I would like to thank you for the opportunity, again, to appear before you to testify on this very important subject.

Connecticut, by establishing the first official State human rights law enforcement agency, has historically been a pioneer in the field of protecting civil and human rights.

In 1943, the Connecticut Legislature established our agency. We are also proud that Representative Barbara Kennelly, of our First District, introduced H.R. 1171 to the 99th Congress.

This, bill, Mr. Chairman, as I see it, and listened to some of the previous testimony, represents more than merely collecting data about incidents of racially, religious motivated violence. But it also will constitute a statement to the general public of our country that this Congress and this administration and, indeed, the State and local governments, will not tolerate further acts of violence against people. So the expressions of concern about intent and motivation are not valid concerns, Mr. Chairman, in my judgment, because, indeed, the States and the Federal courts are beginning to talk about intent in terms of proving cases. And I say to you, that has constituted a major barrier to the enforcement of civil rights law where you have to prove intent. And I say with all respect to these bodies that the rules of the game change when you talk

about intent and motivation if you have to prove intent and prove motivation, you will never violate—probably you will never get to violations of basic rights.

So these are rules of the game somewhat, to discuss intent and to discuss motivation—these are rules created, I think, to frustrate our objectives in general.

The subject of these hearings to deal with the question of collecting data, I see as a continuation almost of the previous hearings that I testified, and that subject dealt with racial violence against minorities—and here we are talking about how we now identify the scope and the extent of that violence precisely so that we can make sound public policy at State and local levels so we can pass laws so that law enforcement officials can do their job.

But I submit to you that law enforcement officials on the criminal side do their job rather well in this country because we have allocated huge amounts of resources and expertise to do that. And when it comes to the question of protecting civil and human rights, we do find all kinds of objections against doing that.

The Connecticut legislature passed several acts dealing with this subject after the 1979 hearings that we held. And I have submitted previously, Mr. Chairman, a copy of that report—I have another one here for your use if you need it. But in 1979 when we held four hearings throughout Connecticut on racially and religiously motivated violence, we did concern ourselves with motivation—we didn't try to examine it, but we knew what we saw, and people knew what they felt—we could relate violence to a given group or a given race. And that, to me, is quite adequate to make public policy.

Mr. CONYERS. Could you give a few examples of the kinds of things you run into in the real world?

Mr. GREEN. Yes, and that's where we all need to be, I think, in order to make sound judgments.

In the real world, you will find that every day some black youngster, some Hispanic youngster, in this country, some Jewish person, will experience not merely racial or religious epithets but also behavior incidents of slight physical abuse or as well as psychological abuse in schools, is the most common source today, sir, of this kind of abuse in our school systems.

You find it even in the recreational areas where people think they might be able to go and recreate or enjoy themselves. You find it in public places such as stores and restaurants. I am not describing the need to have sit-ins anymore in restaurants—I am telling you that there still exists the kind of abuse that may not be physical but certainly occurs.

The worst example of all is if we do nothing—if we do nothing to identify the scope and extent of the problem, we are going to encourage not only the violator, but we are going to say to the minority person and the religious minority that our Government doesn't care because we haven't devoted adequate attention.

Other examples in our State and in other parts of the country that I am well aware of, of violence committed with people wearing hoods and masks. So, Connecticut passed a law prohibiting the wearing of a hood or mask, and associating that with some violence.

We have upgraded the penalties, the criminal penalties, for these kinds of acts. Property—the burning of crosses on public property has been banned in our State. And you can only burn a cross on private property if you get the owner's permission. So we do have the Klan—you see coming into Connecticut burning crosses on private property with the owner's permission. In other words, our State has tried to address some of the same problems that you are concerned with, by passing law.

But we didn't get too hung upon on whether or not we could determine motivation. We knew what we saw again.

Mr. CONYERS. Were those upgradings in the law as a result of increased incidents being reported to you?

Mr. GREEN. The four laws I mentioned in my written statement to you resulted from one of the hearings that we held. We received over 200 witnesses throughout the State of all sorts of people testifying as, one, to their personal experiences, and report of professional judgment, such as Dr. Comer from Yale University who reported on the psychological impact on minority people from violence.

Also, the laws were passed based upon the fact that incidents were reported to our agency as well as the criminal justice system in our State. So there was a collection of data and information. But the real thing that motivated, if you will, our legislature was not so much the motives concerned but, rather, the fact that people said it happened to them. That seemed to be sufficient.

Mr. CONYERS. Then, finally, you would recommend that we include all of those examples? For example, school incidents should be reported, too, under the proposal?

Mr. GREEN. Yes, I think so, because you see, in our classrooms and in our school corridors, and the playgrounds, not reported to anyone probably, and not even reported to teachers occasionally, are acts of violence against minority young people. And that ought to be reported if you are going to get a full and comprehensive picture.

Mr. CONYERS. Thank you, Dr. Green. I would like to get Dr. Comer's report as well.

Mr. GREEN. I can get that for you.

Mr. CONYERS. I would like to study it and it may have some usefulness in the record.*

Mr. CONYERS. Ms. Joanne Anderson is Director of Community Relations for the Maryland Commission on Human Rights. Welcome to the subcommittee.

Ms. ANDERSON. Thank you, Mr. Chairman, and members of the committee.

I am representing the State of Maryland Commission on Human Relations and I welcome this opportunity to come before you and offer testimony in support of H.R. 1171. I am very proud to say that the State of Maryland, in 1981, enacted similar legislation, and I would like to share with you some of our experience over the past 3 years.

*EDITOR'S NOTE.—The report is on file with the Subcommittee on Criminal Justice.

To that end, my testimony will cover 3 areas: the purpose and intent of the Maryland law, the implementation of the Maryland law, and the differences between the Maryland law and H.R. 1171.

The Human Relations Commission is mandated under article 49(b) of the Maryland Annotated Code to respond to and to address racial problems in a community.

It is our responsibility to offer technical assistance to communities plagued with this type of crime, and to make recommendations to the Governor in order that his or her office may render assistance in combating negative effects this type of crime would have on a community.

Pursuant to these statutory responsibilities, the Human Relations Commission monitors acts and crimes perpetrated against persons based on their race, their religion, or their ethnic background. However, our method of monitoring these crimes in the past have been extremely primitive. Quite frankly, we simply had to rely upon the news media to inform us of racial and religiously motivated crimes.

This reliance was in part due to the inadequacies of the local police departments' method of reporting. Local police departments in Maryland are required to report crimes statistically to the State Police monthly pursuant to the UCR. However, there was no requirement for police departments to identify whether a crime was racially or religiously motivated. In fact, police departments were not even sensitive to these type of crimes. To them, a crime was a crime.

Therefore, when we attempted to review police records to ascertain whether a crime was racially or religiously motivated, we could not tell from the police reports. For example, if a synagogue had been vandalized and a swastika had been sprayed on the alter, the police report would merely indicate that a building had been vandalized and the individual was charged with malicious destruction. There would be no indication that the crime was perpetrated based on anti-Semitic feelings, or that the property was a synagogue, or the destruction was a swastika application.

We also discovered another problem in the police reporting system. In Maryland, the police departments report the illegal cross burning not as cross burnings, but rather, as arsons. Once again, if one read the police reports it would merely show an arson and not a cross burning, which is also illegal in Maryland.

In other words, the institutions which we traditionally rely upon to obtain accurate criminal information were not reporting the information necessary for the Human Relations Commission to carry out its mandate. Therefore, we had to seek another method of obtaining this information. Fortunately, the printed media, anxious to inform the public about this type of crime, began to report it in their daily newspapers. The newspapers gave us some information but, once again, not the necessary information, and we did not have the resources to read the daily newspapers for the 24 political jurisdictions in Maryland.

At this time, and this is around the end of 1979, we began to recognize that these acts seemed to be increasing. But we did not know to what degree our data base was reliable. Therefore, we decided that the only way we could obtain accurate information was

to require it legislatively. To that end, we requested Delegate Walter Dean, a 1981 member of the Maryland General Assembly, to sponsor legislation which would require local police departments to identify racially, religiously or ethnically motivated crimes in their monthly UCR reports.

I have submitted a copy of the—a raw copy of the bill—which will show you what our law looked like in the beginning and final copy.

[The document follows:]

[This is an Enrolled Bill which is a bill that has passed both the House and Senate and is ready for the Governor's signature.]

HOUSE BILL No. 958
(11r2556)

06

Introduced by ~~Delegate--Dean~~ Delegates Dean, Exum, Toth, 25
Booth, Phillips, Sklar, Hollinger, Murphy, Santangelo, 26
and Woods

Read and Examined by Proofreader: 29

Proofreader. 31
32

Proofreader. 34
35

Sealed with the Great Seal, and presented to the Governor, 37

for his approval this _____ day of _____ 39

at _____ o'clock, _____ M. 41

Speaker. 43
44

CHAPTER _____ 47

AN ACT concerning 51

State Police - Reports of Incidents of-Racial-Hatred 54
Directed Against Racial, Religious, or Ethnic Groups 55

FOR the purpose of mandating that the State police collect 59
information relating to incidents ~~inspired-by-racial~~ 60
~~hatred apparently directed against racial, religious,~~
~~or ethnic groups~~ and request similar information from 61
the local police law enforcement agencies and fire 62
departments the State Fire Marshal; requiring the State 63
police to make monthly reports of the information to 64
the State Human Relations Commission.

BY repealing and reenacting, with amendments, 66

Article 88B - State Police 69
Section 9 and 10 71
Annotated Code of Maryland 73
(1979 Replacement Volume and 1980 Supplement) 74

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter deleted from existing law.
Underlining indicates amendments to bill.
~~Strike--out~~ indicates matter stricken by amendment.

2

HOUSE BILL No. 958

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That section(s) of the Annotated Code of Maryland be repealed, amended, or enacted to read as follows: 77
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Article 88B - State Police 81

9. 84

(A) The Department shall collect, analyze, and disseminate information relative to the incidence of crime within the State, the identity of known and suspected offenders, and the arrest, disposition, and incarceration of such offenders. All law enforcement agencies of the State and all places for the confinement of persons convicted of crime, including Patuxent Institution and hospitals for the criminally insane, shall furnish such information at such times, in such form, and to such extent as may be prescribed by rule of the Superintendent. 87
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(B) (1) THE DEPARTMENT SHALL COLLECT AND ANALYZE INFORMATION RELATING TO INCIDENTS INSPIRED BY RACIAL HATRED, SUCH AS THE BURNING OF CROSSES, POSTING OF SWASTIKAS, AND OTHER ACTS CONNECTED WITH GROUPS THAT ADVOCATE THE NOTION OF RACIAL PURITY APPARENTLY DIRECTED AGAINST RACIAL, RELIGIOUS, OR ETHNIC GROUPS. 96
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(2) THE DEPARTMENT SHALL REQUEST SUCH INFORMATION FROM THE LOCAL POLICE DEPARTMENTS ALL LOCAL LAW ENFORCEMENT AGENCIES AND FROM THE LOCAL FIRE DEPARTMENTS STATE FIRE MARSHAL AND INCLUDE THE INFORMATION IN ITS ANALYSES. 102
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10. 108

(A) Any information, records, and statistics collected pursuant to this subtitle shall be available for use by any agency required to furnish information, to the extent that such information is reasonably necessary or useful to such agency in carrying out the duties imposed upon it by law. The Superintendent may by rule establish such conditions for the use or availability of such information as may be necessary to its preservation, the protection of confidential information, or the circumstances of a pending prosecution. 111
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~~(B) THE DEPARTMENT SHALL MAKE MONTHLY REPORTS OF THE INFORMATION RELATING TO INCIDENTS INSPIRED BY RACIAL HATRED TO THE STATE HUMAN RELATIONS COMMISSION.~~ 120
121

(B) THE DEPARTMENT SHALL MAKE MONTHLY REPORTS TO THE STATE HUMAN RELATIONS COMMISSION OF THE INFORMATION COMPILED PURSUANT TO § 9(B) OF THIS ARTICLE. 124
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SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 1981. 129

[This is the actual Law-Reporting Bill.]

Art. 88B, § 8 ANNOTATED CODE OF MARYLAND

§ 9. Criminal information.

(a) *In general.* — The Department shall collect, analyze, and disseminate information relative to the incidence of crime within the State, the identity of known and suspected offenders, and the arrest, disposition, and incarceration of such offenders. All law-enforcement agencies of the State and all places for the confinement of persons convicted of crime, including Patuxent Institution and hospitals for the criminally insane, shall furnish such information at such times, in such form, and to such extent as may be prescribed by rule of the Superintendent.

(b) *Information relating to incidents directed against racial, religious or ethnic groups.* — (1) The Department shall collect and analyze information relating to incidents apparently directed against racial, religious, or ethnic groups.

(2) The Department shall request such information from all local law-enforcement agencies and from the State Fire Marshal and include the information in its analyses. (1968, ch. 547, § 1; 1981, ch. 404.)

§ 10. Dissemination of information to participating agencies.

(a) *In general.* — Any information, records, and statistics collected pursuant to this subtitle shall be available for use by any agency required to furnish information, to the extent that such information is reasonably necessary or useful to such agency in carrying out the duties imposed upon it by law. The Superintendent may by rule establish such conditions for the use or availability of such information as may be necessary to its preservation, the protection of confidential information, or the circumstances of a pending prosecution.

(b) *Monthly reports of information compiled pursuant to § 9 (b).* — The Department shall make monthly reports to the State Human Relations Commission of the information compiled pursuant to § 9 (b) of this article. (1968, ch. 547, § 1; 1981, ch. 404.)

§ 11. Dissemination of information to public.

The Department shall at least monthly publish statistics concerning the occurrence and cause of all motor vehicle accidents within the State. The Department shall also publish periodic statistics of the incidence of crime within the State. No such statistical report shall name or otherwise identify a particular known or suspected offender. Reports required by this section shall be distributed to all agencies which contributed information contained in such reports, to the press, and to all other interested persons. In addition, the Superintendent may prescribe by rule the conditions under which reports of specific motor vehicle accidents may be made available upon request to the public; and the fee for furnishing any such report shall be two dollars (\$2.00) and the moneys received therefrom shall be used by the Department to be applied to the cost of providing this service. (1968, ch. 547, § 1; 1973, ch. 270.)

§ 12. Recommendations by Department.

Any report issued by the Department pursuant to § 11 of this article may include recommendations to the Governor, to the Secretary of Public Safety and Correctional Services, and, subject to § 2-1312 of the State Government Article, to the General Assembly of such legislation as the contents of the reports indicate is necessary or desirable to promote traffic safety, reduce crime, or otherwise insure proper law enforcement. (1968, ch. 547, § 1; 1970, ch. 401, § 8; 1982, ch. 911, § 10; 1984, ch. 285, § 2.)

Ms. ANDERSON. Our purpose in seeking this legislation was to obtain accurate information in order to render assistance to communities plagued by this problem, in order to make appropriate recommendations to the Governor concerning this problem, to allay any concerns regarding the racial climate of our State, and to develop programs and projects which will foster racial and religious harmony.

Additionally, this information is used by the intelligence units of the Maryland State Police to warn them of imminent criminal activity so that they might take necessary action to prevent it.

The legislation in Maryland was fully endorsed by the Maryland State Police. The concept of identifying crimes beyond their generic meaning was not a new concept to the Maryland police departments. In 1979, the Maryland General Assembly enacted legislation which required police departments to identify crimes against spouses in domestic violence cases. For example, if a woman was abused by her husband and the charge was assault and battery, we have a separate reporting system in Maryland that will identify this as a spousal abuse incident.

Our law was enacted in 1981, July 1981, but prior to that time, the Maryland State Police met with the 134 police jurisdictions in Maryland to educate them on how they might report these incidents. The greatest concern the police departments dealt with the ability to identify these types of crimes.

Our law gave little or no guidance. And if you will read our law, it simply says that the department must collect information concerning acts that are apparently directed against racial, religious, or ethnic groups. This was done intentionally. We decided before we wanted to promulgate any type of guidelines, we would first try to see how the police departments would work with the statute as it was. We were only interested in reporting the obvious: The swastikas, the cross burnings, the racial epithets. If the act did not manifest any type of racial or religious motivation, we expected that it would not be reported. We were not asking our police officers to make on-the-spot carte blanche decisions about the mental state of the perpetrator. It is very difficult to prove motivation in a court of law let alone on the street when you are making out a police report.

After we had our first meeting in June 1981, the Human Relations Commission, along with the Montgomery County Human Relations Commission, and the State police, met with the 134 police departments in Maryland. We conducted seminars and we conducted meetings to sensitize them to this particular type of crime.

Oddly enough, once we had a meeting or a seminar with any of the police departments, the statistics would automatically go up the next month.

Last year, in 1984, we decided the time had come to promulgate guidelines. And I have included those guidelines in the handout. We are in the process of finalizing those—

Mr. CONYERS. Would these help the UCR people at the Federal level?

Ms. ANDERSON. Could it help them?

Mr. CONYERS. I mean, if they had these kind of reporting guidelines, would this help them over their problem of how to classify these kinds of crimes and report them?

Ms. ANDERSON. I think so. In fact, I would recommend very strongly that you contact the Maryland State Police, their UCR department. I had spoken with them yesterday, but they had not been contacted by your office, so they could not come, but they were willing to come to this hearing today but they had not been contacted.

Mr. CONYERS. They would be cooperative, positive witnesses?

Ms. ANDERSON. Very positive.

Mr. CONYERS. Well, we would like to invite them.

Ms. ANDERSON. In fact, the Baltimore County Police Department would also be extremely positive.

Mr. CONYERS. Very good.

Ms. ANDERSON. We, in Maryland, also have a Governor's Task Force on Extremism and Violence and Governor Hughes has addressed the Governors of all the States concerning this matter.

Mr. CONYERS. Yes, he was the witness last time. Governor Hughes honored us with his presence.

Ms. ANDERSON. Shall I continue or would you like for me to answer more questions?

Mr. CONYERS. You could summarize a concluding statement and then if there are questions we will ask you those.

Ms. ANDERSON. What I have also included—I guess the thing that I would like to discuss are the differences between H.R. 1171 and our law. H.R. 1171 specifies certain crimes, and I think that it is somewhat too restrictive. I was concerned to hear that the NAACP Legal Defense Fund had also attempted to get statistics on the prosecutions under 241 and 245. I also had attempted to gather that information some several years ago and, unfortunately, could not gather that information.

I would recommend strongly that the language that you have in H.R. 1171 not be so specific but more general. Simply a word crimes—it's true, that many, many—that the States have different codes. And you will see in my packet of materials, the criminal sections of the Maryland law in which these acts are likely to occur. And I know for a fact that all States do not have similar criminal statutes.

So, rather than just specifying trespassing, vandalism, use the generic term crimes that racially or directed against a racial, religious, or ethnic group. That way, you will not exclude any crime that might come up that you didn't think of. Telephone calls, for example, we have experienced a great deal of threatening phone calls. In Maryland, we have an Unlawful Telephone Use Act, a law. I don't know if all States have that type of law.

We additionally have in Maryland a law that prohibits one from carrying firearms within x number of feet of a public demonstration. Unfortunately, that is not on your list, but I can certainly get you a copy of that statute. I know for a fact all States do not have that.

So it just appears to be a little bit too limiting, and I would just recommend that the language be changed to reflect more generic types of crimes.

Mr. CONYERS. An excellent idea.

Ms. ANDERSON. Pardon?

Mr. CONYERS. That's an excellent idea.

We are going to incorporate some of these forms into the record as well.

Ms. ANDERSON. Thank you.

Mr. CONYERS. Thank you very much.

[The documents follow:]

This is a copy of the Session Law of H.B. 1247.

HARRY HUGHES, Governor

3069

(A) THE COURT MAY AWARD A CLAIMANT A SUM NOT TO EXCEED THE AMOUNT DETERMINED BY THE COURT TO BE RESTITUTION FOR THE VICTIM.

(B) AN AWARD SHALL NOT BE MADE ON A CLAIM UNLESS THE CLAIMANT HAS INCURRED A MINIMUM OUT-OF-POCKET LOSS OF \$25. OUT-OF-POCKET LOSS MEANS UNREIMBURSABLE EXPENSES OR INDEBTEDNESS REASONABLY INCURRED TO MAKE THE CLAIMANT WHOLE.

(C) IF THE VICTIM DIES AS A DIRECT RESULT OF THE DELINQUENT ACT, THE CLAIMANT'S RECOVERY IS LIMITED TO UNREIMBURSABLE EXPENSES OR INDEBTEDNESS REASONABLY INCURRED FOR MEDICAL CARE AND FUNERAL AND BURIAL COSTS.

(D) THE CUSTODIAN OF THE FUND SHALL PAY THE SUM AWARDED TO A CLAIMANT AT THE DIRECTION OF THE COURT.

7-191.

ACCEPTANCE OF AN AWARD UNDER THIS ARTICLE SUBROGATES THE FUND, TO THE EXTENT OF SUCH AWARD, TO ANY RIGHT OR RIGHT OF ACTION OCCURRING TO THE CLAIMANT OR THE VICTIM TO RECOVER PAYMENTS ON ACCOUNT OF LOSSES RESULTING FROM ANY ACT OR OCCURRENCE WITH RESPECT TO WHICH THE AWARD IS MADE. THE PRINCE GEORGE'S COUNTY STATE'S ATTORNEY SHALL REPRESENT THE FUND IN SUCH AN EVENT.

7-192.

(A) A MINOR ADJUDGED TO HAVE COMMITTED A JUVENILE DELINQUENT ACT MAY BE ORDERED BY THE JUVENILE COURT TO REIMBURSE THE FUND HIMSELF, EITHER BY A SINGLE PAYMENT OR IN INSTALLMENTS, AT THE DISCRETION OF THE COURT. INTEREST SHALL BE ASSESSED AGAINST THE MINOR AT THE LEGAL RATE FROM THE DATE OF DISBURSEMENT FROM THE FUND.

(B) UNLESS THE MINOR IS AN EMANCIPATED MINOR, THE PARENTS OR GUARDIAN OF A MINOR SHALL BE ORDERED TO COSIGN WITH THE MINOR A NOTE FOR THE AMOUNT OF THE AWARD TO INSURE THE FUND IS REIMBURSED. IF THIS IS ORDERED, THE LIABILITY OF THE MINOR PRECEDES THE LIABILITY OF THE PARENTS OR GUARDIAN.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 1982.

Approved May 25, 1982.

 BEGINS →
 CHAPTER 482

(House Bill 1247)

AN ACT concerning

Firearms - Demonstrations in Public Places

FOR the purpose of providing that certain persons may not have a firearm in their possession or on their person at a demonstration, or in a vehicle at a certain proximity to a demonstration in a public place, under certain circumstances; providing a penalty for violations of this Act; and defining certain terms.

BY adding to

Article 27 - Crimes and Punishments
Section 36G
Annotated Code of Maryland
(1976 Replacement Volume and 1981 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That section(s) of the Annotated Code of Maryland read(s) as follows:

Article 27 - Crimes and Punishments

36G.

(A) (1) IN THIS SECTION, THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) (I) "DEMONSTRATION" MEANS DEMONSTRATING, PICKETING, SPEECHMAKING OR MARCHING, HOLDING OF VIGILS AND ALL OTHER LIKE FORMS OF CONDUCT WHICH INVOLVE THE COMMUNICATION OR EXPRESSION OF VIEWS OR GRIEVANCES ENGAGED IN BY ONE OR MORE PERSONS, THE CONDUCT OF WHICH HAS THE EFFECT, INTENT OR PROPENSITY TO DRAW A CROWD OR ONLOOKERS.

(II) "DEMONSTRATION" DOES NOT INCLUDE THE CASUAL USE OF PROPERTY BY VISITORS OR TOURISTS WHICH DOES NOT HAVE AN INTENT OR PROPENSITY TO ATTRACT A CROWD OR ONLOOKERS.

(3) (I) "FIREARM" MEANS A PISTOL OR REVOLVER, RIFLE, SHOTGUN, SHORT-BARRELED RIFLE, SHORT-BARRELED SHOTGUN, OR ANY OTHER FIREARM, WHETHER LOADED OR UNLOADED.

(II) "FIREARM" DOES NOT INCLUDE ANTIQUE FIREARMS, AS DEFINED IN § 36F OF THIS ARTICLE.

(4) "LAW ENFORCEMENT OFFICER" MEANS:

(I) A DULY APPOINTED MEMBER OF A POLICE FORCE OR OTHER AGENCY OF THE UNITED STATES, THE STATE, A COUNTY, MUNICIPALITY, OR OTHER POLITICAL SUBDIVISION, WHO IS

HARRY HUGHES, Governor

3071

RESPONSIBLE FOR THE PREVENTION AND DETECTION OF CRIME AND THE ENFORCEMENT OF THE LAWS OF THE UNITED STATES, THE STATE, A COUNTY, MUNICIPALITY, OR OTHER POLITICAL SUBDIVISION;

(II) A PARK POLICE OFFICER DULY APPOINTED BY THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION;

(III) A DULY APPOINTED MEMBER OF THE UNIVERSITY OF MARYLAND POLICE FORCE; AND

(IV) ANY MILITARY OR MILITIA PERSONNEL DIRECTED BY CONSTITUTED AUTHORITY TO KEEP LAW AND ORDER.

(5) "PISTOL OR REVOLVER" HAS THE SAME MEANING AS IN § 441 OF THIS ARTICLE.

(6) "RIFLE, SHOTGUN, SHORT-BARRELED RIFLE, SHORT-BARRELED SHOTGUN" HAS THE SAME MEANING AS IN § 36F OF THIS ARTICLE.

(7) (I) "PUBLIC PLACE" MEANS A PLACE TO WHICH THE GENERAL PUBLIC HAS ACCESS AND A RIGHT TO RESORT FOR BUSINESS, ENTERTAINMENT, OR OTHER LAWFUL PURPOSE.

(II) "PUBLIC PLACE" IS NOT LIMITED TO A PLACE DEVOTED SOLELY TO THE USES OF THE PUBLIC.

(III) PUBLIC PLACE INCLUDES:

1. THE FRONT OR IMMEDIATE AREA OR PARKING LOT OF ANY STORE, SHOP, RESTAURANT, TAVERN, SHOPPING CENTER, OR OTHER PLACE OF BUSINESS;

2. A PUBLIC BUILDING, INCLUDING ITS GROUNDS AND CURTILAGE;

3. A PUBLIC PARKING LOT;

4. A PUBLIC STREET, SIDEWALK, OR RIGHT-OF-WAY; AND

5. A PUBLIC PARK OR OTHER PUBLIC GROUNDS.

(B) EXCEPT FOR LAW ENFORCEMENT OFFICERS, A PERSON MAY NOT HAVE A FIREARM IN THEIR POSSESSION OR ON OR ABOUT THEIR PERSON AT A DEMONSTRATION IN A PUBLIC PLACE, OR IN A VEHICLE WITHIN 1,000 FEET OF A DEMONSTRATION IN A PUBLIC PLACE, AFTER:

(1) HAVING BEEN ADVISED BY A LAW ENFORCEMENT OFFICER THAT A DEMONSTRATION WAS OCCURRING AT THE PUBLIC PLACE; AND

(2) HAVING BEEN ORDERED BY THE LAW ENFORCEMENT OFFICER TO LEAVE THE AREA OF THE DEMONSTRATION UNTIL THE PERSON DISPOSES OF THE FIREARM.

(C) A PERSON WHO VIOLATES ANY OF THE PROVISIONS OF THIS SECTION IS GUILTY OF A MISDEMEANOR, AND ON CONVICTION IS SUBJECT TO A TERM OF IMPRISONMENT OF NOT MORE THAN 1 YEAR, OR A FINE OF \$1,000, OR BOTH.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 1982.

Approved May 25, 1982.

CHAPTER 483

(House Bill 1814)

AN ACT concerning

Harmful Substances - Penalties

FOR the purpose of altering the penalties for instructing minors to inhale certain substances and for the distribution or possession with intent to distribute certain substances to minors under certain circumstances.

BY repealing and reenacting, with amendments,

Article 27 - Crimes and Punishments
Section 301A
Annotated Code of Maryland
(1976 Replacement Volume and 1981 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That section(s) of the Annotated Code of Maryland read(s) as follows:

Article 27 - Crimes and Punishments

301A.

(a) No person may distribute, or possess with intent to distribute, to any minor any of the substances enumerated in § 301 of this article if such distribution is with the intent to induce unlawful inhaling of the substance or is with the knowledge that the minor will unlawfully inhale the substance.

Mr. CONYERS. We have Joan Weiss, executive director, Institute for the Prevention and Control of Violence and Extremism, in the absence of Birch Bayh, chairman of the board.

Ms. WEISS. Thank you very much, Mr. Chairman.

I know Birch Bayh would have liked to have been here himself. He, unfortunately, apparently is still testifying on another bill.

I am pleased to have this opportunity to appear before you on behalf of the Institute for the Prevention and Control of Violence and Extremism to express the institute's concerns for the issue addressed by H.R. 1171—the Hate Crime Statistics Act.

I would like to tell you a little bit about the institute because it is new and many people are not yet completely familiar with it. It is a national center established last year to prevent and respond to violence and intimidation motivated by race, religion, or ethnic background.

Over the last 5 years, many of us have become aware of the increase in reported crimes based on prejudice, and of the inability of existing agencies, programs, and laws to deal effectively with these acts. One factor which has prevented us from adequately addressing the problem is insufficient knowledge about the number and nature of these hate acts.

Maryland has been in the forefront of this issue, as Joanne Anderson has indicated, both in acknowledging that these crimes exist and in developing both policies and programs to deal with them, along with, I might add, the State of Connecticut—and I have worked before with Dr. Green and am pleased to be with him today.

Through interactions with agencies and organizations throughout the country, the Governor's Task Force in Maryland on Violence and Extremism became aware of the dearth of information nationally about hate crimes and the absence of any coordinated effort to deal with the problem.

Therefore, Governor Hughes and his task force, after a period of assessment and exploration, created the institute last year with initial funding from the Maryland Legislature. Its goals are to serve as a national clearinghouse and referral service, to conduct research, assist victims, and provide training and assistance to public and private agencies. Needless to say, an assessment of the problem relies on accurate data, and there is no way to collect that data currently.

We need to know what is happening, where it is happening, how often it is happening, and to whom. Currently, a major difficulty in compiling this data is insufficient descriptive information in most police reports. Typically, a swastika painting is recorded simply as an act of vandalism, a cross burning is reported as arson. In neither case is the true nature of the act, nor its impact on the victim, acknowledged.

As Joanne indicated, the Uniform Crime Reporting Act was amended in July 1981 in Maryland to require police jurisdictions to identify crimes which are racially, religiously, or ethnically motivated. When that happened, the reported incidents increased from fewer than 100 in 1980 to 421 in 1984. And I might add, that even with the existence of that amendment, we did not have accurate

information—we know that, from the entire State. That speaks to the problem of enforcement throughout the country.

That deficit does not preclude the importance or the use of the information we do have. Better to have some than none.

Mr. CONYERS. You underscore an important point that Don Edwards mentioned to me. We are interested in trends, not precision.

Ms. WEISS. Exactly.

Mr. CONYERS. And I think that that's what we are working toward, and I appreciate your revealing the uneven kind of reporting that goes on even when there's a statutory requirement.

Mr. EDWARDS. Mr. Chairman, may I interrupt a minute?

Mr. CONYERS. Let me yield to Mr. Edwards.

Mr. EDWARDS. I am going to have to go to another meeting but I would like to know if any of the witnesses takes seriously this heels-dug-in attitude of the Department of Justice and the FBI? You know, they are really stonewalling. What do you think?

Ms. WEISS. I have concerns about that, I really do. I do take it seriously. And I would like to say at this point that I certainly sympathize with the issue of subjectivity. Having been in a State and in a county where compliance with this was taken very seriously, I know first hand how difficult it is to determine motivation.

In Montgomery County, during my 5 years with the Human Relations Commission, on a day-to-day basis, we were making judgment calls. However, that happened in a small percentage of cases. And we erred on the side of conservatism more often than on the side of liberalism. So when in doubt, we did not record the act as a racially motivated act. We gave the benefit of the doubt to those who would accuse us of trying to create a problem.

Mr. CONYERS. But what's the difference? Suppose you had erred overgenerously and charged cases of being racially motivated or religiously motivated and they weren't? You can always change the record, can't you, when you find out that it really wasn't?

Ms. WEISS. You are addressing a very important issue which I would like to speak to, and that is, many times we never know. For example, vandalism. Only about 10 percent of acts of vandalism result in prosecutions, at least in the jurisdictions that I am familiar with. Vandalisms are committed in the middle of the night. Swastikas are painted and racial epithets are written at times when the acts are not seen. And more often than not, they are committed by youths between the ages of 13 and 18. These offenders are not usually caught, so, there is never any way to ascertain motivation in these cases. Therefore, the guideline we used most of the time is that if there was clear racial overtone, or religious overtone, if there were swastika paintings, or crosses burned, or racial epithets, we assumed them to be to have some motivation that was racial, religious, or ethnic.

If there was a rock thrown through the window of the home of a black family, without further information we did not assume it to be a racial incident. That is the kind of judgment call we made.

Mr. CONYERS. Suppose it was the first family in an all-white neighborhood?

Ms. WEISS. Now you are adding more information. OK?

Mr. CONYERS. Right.

Ms. WEISS. Given that information, we sometimes had enough to go on to state that we believed it to have racial motivation. Sometimes we did not. Some of it had to do with the tenor of the neighborhood, had to do with interactions we have had with community members. We are getting down to very local specifics and these are important.

Mr. CONYERS. I think you are being very careful, because if I was on the commission and a rock was thrown through a home of a predominantly black community, I wouldn't record it. If it was one of the few blacks in an all-white area, I would record it. I mean, it would be as simple as that, absent all other evidence.

Now you could add the next thing on, if there had been some tensions reported in the neighborhood or this had happened before—I mean, what do you need? Sherlock Holmes?

Ms. WEISS. One of the concerns that has been expressed over the years in some Maryland jurisdictions is that the incidents that are recorded should not be only ones that are directed against minorities. The way I read H.R. 1171 and the way the law is interpreted in Maryland, the issue is race or religion or ethnic background. Therefore, if incidents are perpetrated against nonminorities but based on racial or religious or ethnic issues, they are also recorded.

Mr. CONYERS. Exactly, because the Irish could be a minority in some neighborhoods.

Ms. WEISS. Exactly. And I think that that point is often overlooked.

I would like to make one or two more points and then——

Mr. CONYERS. Let me just interrupt because Mr. Edwards is going to have to leave and I would like anyone else that wanted to take a crack at his question, please do, and then we will come back to you, Ms. Weiss.

Ms. ANDERSON. Mr. Edwards, I was a little bit concerned when I heard about the FBI's position a couple of years ago. Quite frankly, like I said earlier, the Maryland law was fully endorsed by the Maryland State Police. Without their endorsement it would not have passed. I really, truly, honestly believe it was the political climate of the times of the State of Maryland. It's a political question.

I don't know what you can do about that type of issue. It's purely political.

Mr. EDWARDS. In other words, your response is that if they want to do it, they could do it without the political roof falling in, as they described it would.

Ms. ANDERSON. And as you probably know, I believe in your State there is similar legislation that has already been introduced into the California General Assembly—Washington, Indiana, Georgia, and Florida. So many, many States are attempting to pass this type of legislation at this very moment.

Mr. CONYERS. Attorney McLaughlin.

Mr. SCOTT-MCLAUGHLIN. Yes, I would just like to briefly comment. The chairman made the appropriate, I believe, suggestion that the FBI's impression is that the best way to solve this problem is to clip newspaper articles. Not only is it simplistic, it's ludicrous.

I teach at a university in New York City's branch of Yeshiva University because it's a law school. And as a part of that duty I meet with students on a regular basis. One day a student came in

to me in a meeting, and his nose had been broken, severely broken; his face was scarred with bloody scars. I asked him what had happened. He indicated he had been in the State of Connecticut, minding his business, going to a synagogue service, and he had been viciously, brutally attacked by a group of white youths probably between the ages of 13 and 18. That incident had never been reported in any newspaper articles anywhere in the State of Connecticut. I never heard about it in the newspapers. But I knew about it.

I think the only real way to document this is to have a systematic presentation. And this to me is another extension of the Justice Department's reluctance to even prosecute Klansmen under 241-242. Now they don't want us to even have information about that. Perhaps their concern is that if we have the information, we will find out if they are not prosecuting when they should be. Perhaps that's what's behind this stonewalling, as the gentleman said.

Mr. CONYERS. Mr. Bakst.

Mr. BAKST. I am the official at the Anti-Defamation League of B'nai B'rith who has been in charge of the supervision of the compilation of the audit that was mentioned earlier.

I have some sympathy with the position expressed by the FBI because we sometimes climb the wall trying to determine whether to count an episode that apparently, apparently, is motivated by racial or religious considerations, but which may not be.

And if you are going to compile statistics, you want to have them as credible as you can possibly make them.

In the testimony I submitted earlier, we focused on some of our problems—and that wasn't designed to be negative. I am accompanied here by David Brody, our Washington Representative. We devoted a lot of time to this. The fact of the matter is that it is not easy, and I have some sympathy with them.

I think that one problem is that they are trying to shoehorn in a new set of data into something that's been established for a number of years—the Uniform Crime Reports.

If possibly, you could consider a separate body of data, a separate set of statistics, it might meet some of their problems. I throw that out for what it's worth.

We support the concept of this bill. We are conscious, very conscious, that there are difficulties when you get into the problem of motivation. Example, and I give it in the testimony, a synagogue broken into and vandalized, an IBM typewriter is stolen, and the cash box in the office is taken, and so on. But there's no evidence of anti-Semitic motivation. It's a crime, it's a burglary, it's a theft, whatever you want to call it. But it is not necessarily motivated by hate just because it took place in a synagogue.

They steal the silver and gold and adornments from the Torahs, or the Torahs themselves, which have value. These are things that appear to us to be motivated by gain or by greed, or whatever else you want to call it, but not necessarily by hate.

Mr. CONYERS. Well, what's the problem? Let's call it a burglary.

Mr. BAKST. Fine—call it a burglary.

Mr. CONYERS. But that doesn't leave us walking around scratching our heads. The ones where there is a clear racial or religious overtones to the burglary, we categorize it. If you throw a stone

through a black guy's house and he is the only one in the neighborhood, you don't assume that that just was a coincidence.

Mr. BAKST. That's right. There are problems, but I agree that that can be done. That's the ones we count in our audit. Where they are clearly motivated by anti-Jewish hatred, we count them.

Mr. CONYERS. Sure.

Mr. EDWARDS. The answer is that if they wanted to, they could help us, is that right? I would like to hear what Brody has to say because he owes me lunch.

Mr. CONYERS. Dave Brody.

Mr. BRODY. For the record, I want to correct the statement just made by my good friend Don Edwards—he owes me lunch.

Mr. CONYERS. We will have to take this to mediation.

Mr. BRODY. And the agreement is not in the Members dining room. [Laughter.]

I think, as Mr. Bakst indicated, and he is an expert in this area because he has been working on the collection of data—and I think what he suggested makes good sense, that evidently the Bureau must have problems, as he said, shoe-horning this information into the Uniform Crime Reporting statistics.

As he also suggested, there's nothing to prevent the Bureau or the Justice Department from collecting information outside of the UCRS. And I think by asking for the State to submit that data, it would make the local and State police jurisdictions sensitive to the need for reporting such data. Now, the reports may not be accurate. There are difficulties, there are judgmental problems. But I think we would be able to collect information, collect data, and at the same time sensitize local and State police agencies on the need to collect such data.

And by reporting that data, as Mr. Bakst makes plain in his testimony, we will also sensitize the American people to how significant this problem now is.

Mr. CONYERS. Good point.

Mrs. Peirson?

Mrs. PEIRSON. Yes. The FBI problem seems to be they don't have a definition to encompass what we are talking about: hate crime. Once a definition is conceptualized and becomes operationalized, it will be much easier to collect the statistics. Right now the FBI, if they want to, can expand the standard form that goes out. One of the things that is needed is a field to deal with this particular issue. It must be incorporated into the program that the Justice Department now have in their computer and in the hard form, which is given out to the police departments to collect the data.

As I stated, one of the main problems seems to be they don't know how to form a definition so it can become operationalized, therefore, making it easier to collect data. You cannot allow 51 States to have definitions in this area and then expect to use that information. It must be one definition to go out—"this is what it means, and this is how the data will be collected." If you have 51 definitions, you will not be able to have a uniformed statistic on the matter.

Mr. CONYERS. Thank you.

Dr. Green?

Mr. GREEN. Yes. I don't think you have to get to motivation at all, I will say that again. I read the bill and I don't see motivation as a problem at all. The current way civil rights agencies enforce the law at the local level, you don't deal with motivation, you deal with inferences. We draw inferences from a given set of circumstances, facts and information.

I would draw the inference, each and every time I see some kind of violence related to—I underscore related to—persons of color or religion. I don't think this is proper unless you are going to argue that we have to be physical scientists and have pure objective data. But even the physical scientists, sir, if the information is not pure nor is it objective. Those are figments also of our intellectual thinking.

Mr. CONYERS. Dr. Green, in the case of a synagogue that is broken in and robbed, with no graffiti, how would that be classified in the Connecticut Commission?

Mr. GREEN. By the Connecticut Commission and most people—we would relate that to the fact that this is a synagogue that was broken into. We would not—

Mr. CONYERS. There would be an inference drawn?

Mr. GREEN. We would draw the inference, yes, we would.

Mr. CONYERS. Do you, therefore, feel that it would then be necessary for us to create a category outside of USC, or do you, consistent with your views, think that a special category for religious and racial activities could be included within UCR?

Mr. GREEN. I think rather than create another bureaucracy or layer of reporting, every time we create something new, I think we stymie the effort. We could add onto what we already have, but I think it would require a little more sensitivity. The real problem with the FBI, by the way, in my judgment, is that it's their motivation, not adequate to do the job that you want done.

Mr. CONYERS. OK.

We are back to you now for your comments and to finish your testimony. Go ahead, Ms. Weiss first and then we will get to Bakst.

Ms. WEISS. Thank you. I just want to state that I agree with Art Green that we should not have a separate category. Also, in response to statements made earlier, in terms of definition—part of it is not definition but description. And it is really much simpler than creating very fine lines of how things are to be reported, because in police reporting, the minute you have definitions that are very carefully bound, then you might run into a problem with these kinds of crimes.

I think accurate descriptions are very important, so that you don't have a cross burning recorded as arson. If you look at the police reports that come in in the State of Maryland, it says cross burning instead of simply arson. Under the category of vandalism, instead of saying defacement of a building, it says swastikas.

If you have that kind of description, you don't need the kind of definitions that were referred to because I think that's where you are going to run into a problem.

I realize for statistical purposes you need to have consistency. But this is not the kind of issue where you can have, really, total consistency—social science data are not like other data.

Mr. CONYERS. Mr. Bakst?

Mr. BAKST. Yes, I was just saying, if the subcommittee and presumably the Congress of the United States is interested in seeing trends—one of the values, I think, of a separate compilation of statistics on racially motivated or religiously motivated crimes is that you can isolate them out and see them, whereas, if they are in the uniform crime statistic it's another burglary, or it's another theft, or whatever it is.

I suspect that the separation out may be valuable rather than the other way around.

Mr. CONYERS. Well, not if we add this categorization—see, there's no place to put a hate crime statistic in the UCR right now. Not even a civil rights violation, which is something we shouldn't ignore here because one of the questions that are going to have to be grappled with sooner, and probably right away, is what about lynching, and what about obvious racial assaults which now apparently escape detection as well as just incidents—buildings and religious edifices?

Ms. WEISS. Shall I continue?

Mr. CONYERS. Yes.

Ms. WEISS. One of the points I was going to make is about the increase in severity of these crimes. Congresswoman Kennelly referred to that earlier and you just alluded to it as well. In the State of Maryland we have noticed an increase in the severity of these crimes. Five years ago there was a large proportion of harassments and vandalisms; the proportion of assaults in the last year, 1983-84, increased 50 percent.

Mr. CONYERS. You are saying there's physical violence now accompanying vandalism and property destruction?

Ms. WEISS. Yes; that's exactly what I am saying.

In fact, not only an increase in physical violence but an increase of physical violence with the use of weapons. And this is occurring more and more, to get back to a point that was made earlier, in the schools.

Now, I don't know how all school jurisdictions work, but in Montgomery County it is required that principals fill out a serious incident report for any kind of felonious act that occurs in the schools.

My experience, having worked with innumerable schools over the last 5 years, is that schools are fiefdoms, and the principals decide what they will report and what they won't report. Now, if there is a weapon in use, then that's going to get reported. If there is a fire set, that's going to get reported. But short of that, a lot of incidents do not get reported. And while I would like to see them reported, I am not quite sure how to deal with that.

Mr. CONYERS. That's why we brought that subject up, because, you know, these cities are little municipalities all their own.

Ms. WEISS. That's right.

Mr. CONYERS. And some of them, unfortunately, are pretty large. The principal is the mayor, and like municipalities, they are not interested in advertising their dirty linen. So that there is this great predisposition to slough off harassment incidents or anything short of a real fight between different groups in the school, or if it is something that they can keep under cover and not report, we have got that additional problem.

But I think the important step is to start requiring that they be reported——

Ms. WEISS. Yes.

Mr. CONYERS [continuing]. So the people begin to understand that we are not excluding these little fiefdoms, as you call them, from the regular course of non-sanctioned activity in the society.

Ms. WEISS. An important adjunct to the law would be an educational effort. Because of what you are saying, the law will not be as effective as it would be if sufficient publicity were given throughout the country to its existence so that individuals who feel their crimes are not being heard would know that these, in fact, can, and should be, reported. And if they can't feel comfortable reporting to local police offices, they can report to State commissions, or to the Institute.

We believe that enforcement is going to require a lot more than just the placement of the law.

To conclude my testimony, one of the concerns about a law such as this is that it will result in an increase in numbers and, therefore, it will appear that we have a problem that we didn't have before.

The fact of the matter is, we had a tremendous increase in reports in the State of Maryland. But we have had a tremendous increase in other places in the country as well. Without the existence of the law that is in Maryland, other jurisdictions and agencies also witnessed significant increases.

The Anti-Defamation League is represented here today—from 1979 through 1984, they documented, without any law that required such reporting, a 454-percent increase in anti-Semitic acts nationally.

Klanwatch of the Southern Poverty Law Center also saw a dramatic increase in racial and religious crimes from 1978 through 1984 compared with the period of 1971 through 1978. Therefore, the fear that legislating accurate reporting will create the illusion of a problem where none exists is unfounded.

We are convinced that the documented increases noted by some agencies and jurisdictions reveal only a small portion of the crimes motivated by prejudice in spite of these numbers. We believe that we are just seeing a very small portion of what is occurring.

We cannot afford to continue to blind ourselves to the trauma experienced by the countless victims in this country simply because we are not willing to see what is happening, and why. There is a problem, and it is one which not only devastates individual victims but also tears at the fabric of our communities. Left unchecked, racial and religious hatred and violence undermine the very essence of a free society.

The Hate Crime Statistics Act would be a clear statement on the part of Congress that hate crimes are not condoned. That's something that has not been done before. And it would encourage law enforcement authorities to accurately document the occurrence of such acts—and encouragement is not enough, we need to have stronger sanctions, I believe.

The Institute for the Prevention and Control of Violence and Extremism urges the subcommittee to further efforts to eliminate

these insidious crimes by acting favorably and forwarding this bill to the full committee.

Thank you.

Mr. CONYERS. You are more than welcome. I appreciate your statement.

Now we turn to Mr. Jerome Bakst, the director of research and evaluation of the Anti-Defamation League of B'nai B'rith, and Mr. Dave Brody. Welcome again to the subcommittee hearing.

Mr. BAKST. Thank you, Mr. Chairman. We have already submitted testimony and I won't bother except to say that in that testimony we do draw attention to some of the problems we have been discussing here.

We wholeheartedly endorse the concept embodied in H.R. 1171. We believe that if the proposed nationwide data bank on ethnically motivated crimes becomes a reality it will lead to a greater public awareness of the problem posed to American society by such offenses.

It will also lead to greater involvement in the problem of bias motivated crimes by police and law enforcement authorities around the country. So there will be two beneficial results, we hope.

The ADL's own annual audit of anti-Semitic incidents has helped to focus public attention and official attention on anti-Jewish transgressions and we have noted an overall drop in the total number of anti-Jewish incidents since the peak year of 1981.

Our audit has also been accompanied by deeper involvement in the problem of bias-motivated offenses by police departments in New York City, Nassau and Suffolk Counties on Long Island, and in cities such as Boston and Chicago.

The special units set up in the police departments of the city of New York and in Nassau and Suffolk Counties keep statistics concerning offenses motivated by anti-Jewish bias.

In connection with ADL's annual audits of anti-Semitic incidents, ADL has drafted a model statute on ethnic vandalism and intimidation. To date, 29 States have enacted measures which criminalize ethnic vandalism or intimidation. Many States have parental liability statutes which cover damages for such crimes. Five States—Illinois, Indiana, Louisiana, Massachusetts, and Pennsylvania—have based their bias-crime statutes on language contained in ADL's model statute.

Additionally, a number of bills designed to deal with the problem of religious vandalism were introduced in the last session of Congress. Despite some problems involved, ADL believes and hopes that if the idea embodied in H.R. 1171, the Hate Crime Statistics Act, should become a reality, similar substantial benefits for the country could result from the adoption of the bill. But let us remember, there are problems involved in maintaining good records.

Mr. CONYERS. There are problems involved in everything.

Mr. BAKST. Sure.

Mr. CONYERS. I mean, we don't sit around here and carve out perfect laws—there are rough edges. We are hoping that we get a little bit of observance of the statutes, much less giving somebody a perfect statute.

Mr. BAKST. One possibility, Mr. Chairman, might be that if there are standard forms—one of the things that might be done is to

adapt them or add a box or a blankline, or whatever, that the location of this crime was at a religious institution, or a racial institution, or the home of a black person, or something that will focus on the possible motivation, let alone the actual motivation for crime.

Mr. CONYERS. Thank you.

Mr. Brody?

Mr. BRODY. I just want to add one very brief comment. I think the experience of the State of Maryland, which has undertaken to have a reporting form which substitutes for the word arson a cross burning is a valuable one.

So I think the inquiries made or the questions asked on the Uniform Crime Reporting forms ought to be of such a character so that the person responding knows that he has to point out just where that crime took place. And where it's a cross burning, that we indicate it as a cross burning instead of merely arson, because, otherwise, the nature of the crime is not really indicated.

Mr. CONYERS. Give me your opinions about this: Now, we have been trying to get civil rights incident statistics on the books, too. Now we are at the point of: Do we include the 241, 242, 245—I mean, lynchings don't get reported properly. We are either going to put this all in one package or we are going to then come back next year with another bill to report civil rights violations which could, incidentally, involve religious violence to a person as well.

What about the way that we go here? Anybody got any views?

Mr. SCOTT-McLAUGHLIN. As I indicated earlier, Mr. Chairman, one of the problems we are having right now is compelling the Justice Department—we filed a lawsuit, *McCullum v. Smith*, when Mr. Smith was the Attorney General, to try and compel prosecutions. Of course, that wasn't too successful in the courts, not to our surprise. Nevertheless, in order to determine whether or not the Justice Department is adequately prosecuting cases under 241-242, I think it is extremely important that these matters be recorded. If nothing else, if the Justice Department wants to hold out their figures and say, see, we are prosecuting, at least they will have the benefit of those figures and we will, too, to make sure they are doing their job.

Mr. CONYERS. Yes, sir. Ms. Weiss.

Ms. WEISS. My only concern in putting it together as a whole package is that we may lose it if we try to combine it. An incremental approach would be preferable, as far as I am concerned, than taking the chance that we would lose it.

Mr. CONYERS. Maybe we will get one and never get the other.

I guess I am going to have to weigh this out here. I just wanted to see how you would handle this as Congressmen on the Judiciary Committee.

Mrs. PEIRSON. May I make a comment?

Mr. CONYERS. Yes, Mrs. Peirson.

Mrs. PEIRSON. Mr. Chairman, if it has to be revised because there's a lot of work going into it and a lot of money would be going into it, you would have to reprogram each time you go in. I think it should be done at one time, because all it means is doing it one year and you would have to do it again next year.

Mr. CONYERS. You know, I am going to be in bad shape if I come back next year and haul these same birds up before me and say,

now we want this new addition. And they will say, wait a minute now, what is this?

Mrs. PEIRSON. Yes, it could have been incorporated at one time. It's best whenever you change a field, to do as extensive as you possibly can, because to change a field 1 year, or 1 month, or one time, and then go back another time, it takes a lot of time and money to do the same thing twice.

Mr. CONYERS. You would make a pretty great Congresswoman.

Mr. BRODY. I am sympathetic to your recommendation, Mr. Conyers. What I would suggest as a practical matter to lay the groundwork for such legislation, when the Bureau comes back to the committee after the Quantico meeting, I think the staff at least ought to sit down with the Bureau and have an extensive discussion with them to see what objections, if any, they have, or why they haven't done it before. And once you lay the factual groundwork for legislation, at that time you can proceed.

Mr. CONYERS. You are right, Dave. I think they ought to do it before they go to Quantico. And we have been asking for this for years, too. This is not a request that just occurred.

Mr. BRODY. I don't know what the objection is.

Mr. CONYERS. No.

Mr. BRODY. But I would like to hear, you know, what the Bureau says, just as you would. And I agree with you, that you ought to do it before they go to Quantico so that will be one of the items on their agenda. And I think you ought to have extensive staff discussions with the Bureau before then.

Mr. CONYERS. Excellent idea.

All right, now we turn to attorney Randolph Scott-McLaughlin of the Center for Constitutional Rights. Welcome, sir. We appreciate your participation up until now.

Mr. SCOTT-McLAUGHLIN. Thank you, Mr. Chairman, it is my pleasure to be here today.

On behalf of the Center for Constitutional Rights, I would just like to inform the body that we have been in the field of litigating of incidences of racial motivated violence for several years. I have made available to a member of your staff a copy of our book—"Racially Motivated Violence Litigation Strategies."

While we well understand the difficulty in always determining the motivation of someone who has committed an act of violence or an act of desecration, we are presently handling the case of Mr. Darrell Cabey who was suing Bernhard Hugo Goetz for the shooting of his person in a subway car.

While as of this moment there is no clear-cut indication one way or another that Mr. Goetz was racially motivated, there are some statements that he has made which might lead one to think that. And rather than foreclose the option that one's violence is racially motivated, I think we should err on the side of caution and perhaps seek a little more information, as we are doing in the Goetz case, to determine whether or not he was racially motivated.

Mr. CONYERS. Are you one of the lawyers for some of the defendants in that case?

Mr. SCOTT-McLAUGHLIN. I am. I am one of the lawyers for Darrell Cabey, who is presently laying in a hospital bed with his spine severed because of the gun violence that Mr. Goetz visited upon his

body. We are seeking civil action to compensate him for the injuries he sustained. We have been engaging in a lot of civil action of that nature. Again, as I say, a lot of dispute as to whether or not Mr. Goetz was racially motivated. He had a statement attributed to him in the New York Times when he was asked whether or not he liked the publicity he was getting, he said, "Well, I would rather be an anonymous gun-toting honky."

I am here to testify today, however, Mr. Chairman, on behalf of the National Anti-Klan Network. The National Anti-Klan Network was founded in August 1979, and it is one of the principal clearing-houses for peaceful efforts to counter the rise of hate groups and violent bigotry in America.

We conduct numerous programs and document cases of racial violence, and we have been seeking, as the other groups today, to document incidences of racially motivated violence as well as anti-Semitic violence.

Between 1978 and 1983, our organization has been able to document over 1,100 serious acts of violent bigotry within our borders; 600 of these cases can be tied directly to members of organized hate groups. However, there are numerous incidents of random racially motivated violence which, of course, cannot be toggled to any particular group.

Sadly to say, despite the existence of adequate Federal laws on the books, only a fraction of these documented crimes have ended in prosecutions or convictions. Frequently, crimes of violent bigotry are not given any investigative priority at the local level. We feel the failure of our system to adequately protect its citizens from hooded terrorism has caused quite a bit of controversy and discussion, but other forms of terrorism in this country, there has been very little brouhaha about hooded terrorism—puts in jeopardy every other right afforded by our Constitution.

If I don't have the right to walk down the street, or if I can be shot or brutalized in the streets of New York or any city, then surely I cannot exercise my right to vote once I am in my coffin.

The first step, we feel, to reversing these failures which have emboldened Klansmen and men like Goetz to engage in violence, is to determine the extent of the problem of hate and violence in our country. The act under consideration today will help immeasurably in this preliminary phase.

We are confident that in revealing the scope of this problem, the act will hopefully send a very significant signal to local law enforcement authorities throughout the land that they, too, now, must be engaged in the act of documenting and unearthing incidents of racially and religiously motivated violence.

But the problem is the FBI is, of course, one agency, and the people who are much closest to the problem, of course, are local law enforcement agencies. We have to encourage them to be about better reporting.

It is difficult for us as we sit here in this hallowed room and in our hallowed halls and testify in this sanctified building to really understand and appreciate the actual nature of the violence that is going on in our society.

I had the opportunity in 1981 to represent five elderly black women who had been attacked by three Klan members in Chatta-

nooga on April 19, 1980. These women were shot, cold blood, broad daylight, when they were walking down the street on a Saturday evening, and Klansmen decided that they were going to empty their shotgun bullets into the bodies of these five black women. All five sustained serious injuries, both physically as well as emotionally.

The State prosecuted. The prosecution resulted in the acquittal of two Klansmen and a third Klansman was convicted of minor assault and sentenced to a mere 9 months in prison, served 6 months, and got off with 3 months good behavior. This is the same man that took two shotguns and emptied them into the bodies of five women.

The Center came in and filed a Federal civil rights action. And after 2 years of vigorous litigation, the women were awarded compensatory and punitive damages totaling one-half million dollars. In addition, the Federal judge, Judge Frank Wilson, who is now deceased, he also handled the case of prosecution of Jimmy Hoffa in Chattanooga—he issued a sweeping injunction prohibiting the Klansmen from engaging in acts of violence and terror in that city.

Since that time, to our knowledge, there have been no reported incidents of Klan violence in Chattanooga.

Nevertheless, the Justice Department, when Ms. Crumsey came to Washington to try and get the Justice Department to prosecute these Klansmen under the Federal Civil Rights Act, indicated that they didn't have the jurisdiction, that no clear constitutional rights were violated.

We ask, doesn't Ms. Crumsey have a constitutional right to live, a right to life? Wasn't that violated when the Klansmen tried to put her life out, snuff it out that night in April? Nevertheless, no prosecution has resulted.

I could go on and on with the various types of incidents, but I would like to close by indicating that this is not the first time the Klan has appeared on a national scene. This is not the first time that congressional agencies, congressional committees have tried to deal with this problem. We have been handling this problem since the 1870's when Congress held hearings and enacted the Civil Rights Act, the anticlimax, and those have gone a long way to helping us to deal with the problem of Klan violence.

Now here we are once again, trying to again solve this problem which has infiltrated and pervaded our society to the point that blacks, Asians, Latins, Jews, are afraid to walk in certain segments of our society.

I would like to close by reminding the body of an opinion and a quote from Judge Minor Wisdom in his landmark opinion, *United States v. The Original Knights of the KKK*, it's 250 Federal Supplement, page 330. In Judge Wisdom's opinion said, and I quote in part, "The Klan is a fearful conspiracy against society, holding men silent by the terror of their act and their powerful evil."

This bill will go a long way, perhaps, stamping out that evil. Someone once said, in order for evil to prevail, it just takes a few good men and women to do nothing.

I hope that we do something to stop this evil from perpetrating in our society.

Mr. CONYERS. You are right at the front line, counsel, and you know about this violence. I am glad you have brought the Klan specifically into focus here, because at one of our earlier hearings on the subject of racially motivated violence, we had to eject the national leader of the Klan right out of our hearing room. So we get a little front line taste of this, too, even in these hallowed halls.

Mr. SCOTT-MCLAUGHLIN. Now, Mr. Wilkinson—the gentleman I believe you are referring to—has since that time, I believe, indicated that he has been an informant for the FBI for many years. He has now stepped down from his position as a national leader after that revelation.

Mr. CONYERS. I didn't know about that, but I appreciate your adding that to the record.

Our final witness is Mrs. Veronica Peirson. Mrs. Peirson is a statistician consultant with the American Bankers Association. Welcome to the committee again, and we have appreciated your input so far.

Mrs. PEIRSON. Thank you, Mr. Chairman.

While evidencing great concern about religious related crime or harassment, and race related crime, one should undertake to define precisely what is meant by these terms.

It is recognized that harassment itself need not necessarily encompass criminality, the type of harassment activity that is addressed here has as its focus a particular religious or racial group and often leads to further actions that are defined as criminal.

There are, however, at least three separate elements woven into the concept upon which these concerns are based:

First, the target is chosen because of his or her religious beliefs and racial identification.

Second, the action taken, whether or not it is specifically defined as criminal in nature, has as its motive some type of harassment aimed at the individual or the group he or she is identified with.

Third, the action taken be recognized as one taken because of the individual's identity or group's identity.

In addressing the concerns relative to religious and race related crime or harassment, the parameters of the problem will be best understood if the issues are precisely defined.

A concise definition that can be operationalized, in referring to being specific—when you operationalize, you do give descriptions, and that's how you become operationalized—will lessen the possibility and probability of subjectivity. Particularly, the inclination toward unawareness of these types of crime, which would result in the invalidity of the data collected.

In order to specify what is meant by these terms I have incorporated a definition developed in connection with an ongoing research being conducted by a national organization. They define racially or religiously targeted acts as “* * * acts or threatened or attempted acts by persons or groups against persons and/or property of another individual or group which may in any way constitute an expression of racial or religious hostility.”

This definition lends itself not to an act while defining it as criminal, so much as a specific type of an act that is already labeled as criminal. That is to say, most types of religious and race related harassment are already defined by statute as a crime. For

example, the defacing of churches comes under the criminal category of vandalism or trespassing.

Similarly, the posting of burning crosses usually falls under the criminal statute of disorderly conduct, vandalism, disturbing the peace, or trespassing, as well as arson.

The FBI, in its annual report—Crime in the United States, better known as the Uniform Crime Reports [UCR]—already uses this approach. In it, murder is broken down into that which is identified as negligent or nonnegligent; stolen property is classified under the categories of buying, receiving, or possession; and weapons offenses are subcategorized as carrying or possessing.

Therefore, by incorporating religious and racially motivated forms of harassment in the UCR in the same manner it now treats other offenses, these crimes can be collected and tabulated for uniformity.

It is important to understand that the inclusion of racial and religious motivated criminal activities would not decrease the objectivity nor increase the subjectivity of data contained in the UCR. Incorporating these types of offenses in the UCR would not lessen the validity of the report. On the contrary, the information needed to document these types of offenses are already available in police reports, as well as the UCR.

The need is to develop a methodology for extracting it for tabulation. The standard form which is distributed by the FBI to police departments—which was said here today they do not do, but they do do—for the purpose of collecting data can be revised to facilitate the incorporation of religious and racially related offenses.

As a statistician, I envision relatively simple changes. The data collection instruments used by police departments should be recoded—using descriptive words to pull in the information—and the existing program for massaging must be modified.

The program maintenance will probably consist of increasing the existing fields so that the new program can massage/analyze the new data fed to it by the data entry person. There is basically no change or no training per se, extensive training, for the data entry persons.

Worthiness of incorporating racial and religious crimes is addressed in the forward of the 1978 UCR. Director William Webster noted that the information contained in the report constitutes a social statement. He further pointed out that, “. . . it represents one of the darker sides of human behavior in this country and should not be taken lightly.”

This is precisely why religious and racially motivated criminal acts should be addressed in the report. Religious and racial bigotry is in and of itself a social statement of the darker side of human behavior in this country, and as such, is at least as important, if not more important, than the practice of documenting the amount of murders, robberies, car thefts, and other trivia.

It is possible to accomplish the collection and storage of data on racial and religious motivated offenses in the same manner part 1 and part 2 offenses are reported in the UCR. The publication of the data would not prove to be an embarrassment to law enforcement agencies, as was the case in the publication in the UCR of convic-

tion rates which resulted in the cancellation of the publication of that particular data.

The example here is the UCR in 1976 or 1977, and previously had published conviction rates, which are no longer in the publication. And the conviction rates for that time indicated that this particularly—16,000 people were arrested for rape, 4,000 were formally charged, and only 33 percent of the 4,000 were guilty and convicted. This was an embarrassment for them so it was deleted because these statistics reflected poorly on the efficiency of the police to legally support their arrest. And when they cannot support the arrest, they just refuse to publish their arrest. They may even gather the arrest but they just don't have to publish it.

Also, the manner in which bank fraud and embezzlement statistics are published now does not indicate whether the crime is committed by a bank official, which is on management level, or low level employee. It just states theft in the report, and you have to decide—in fact, you don't know how it's broken down. You don't know if it's just—well, all theft is different. You don't know if it's someone walking into the bank and taking something, or an employee on a low level, or whatever level, it's just reported as theft and there's no data telling you what.

To exclude this information from the FBI's report—official report—is to imply that the activities involved are insufficiently important to measure and publicly document. The FBI report has traditionally measured crime and arrests by geographical area, by sex of the offender, by race of the offender, and by age group.

The report even documents the type of geographical area in which the arrests took place, for example, city resident or rural area.

Given the many ethnic, racial and religious groups that combine to form our communities, it is of tremendous social importance that problems experienced by these groups because of their racial or religious identity be known and dealt with to the same extent that other types of serious crimes are documented and investigated. Only then can it truthfully be said that justice is for all people. Also, to include these types of criminal acts in the UCR would give researchers a reliable and constant source of data for research that would assist in addressing and alleviating the problem.

Thank you, Mr. Chairman.

Mr. CONYERS. Thank you very much.

I have gotten a lot out of this. You know, here we come up with—I was going to say the world's shortest little bill that we could handle—and now we have some recommendations that may send us back to the drawing board.

1. That we should pick up the 241, 242, 245.

2. That we have some language that's a little bit better than this, specifically in paragraphs 1 and 2 which leave out things we can begin thinking of already.

So we are thinking about either picking up the language, apparently, the Maryland language, collect information relating to incidents inspired by racial hatred apparently directed against racial, religious or ethnic groups.

Or, we have some other language that comes from the black executive police organization—they define racially or religiously tar-

geted as acts or threatened, or attempted acts, by persons or groups against persons and other property of another individual or group, which may in any way constitute an expression of racial or religious hostility.

It seems to me that both of those come closer to incorporating all of the kinds of acts and conduct that are contemplated. So with that thought in mind, Gail Bowman is going to be in touch with a variety of people, including our redrafting for another bill. What do you think?

OK, the subcommittee is adjourned while I am ahead, then, I got nods from everybody.

Mr. BRODY. There's one point, Mr. Chairman, the subject of juvenile offenses which may not be considered criminal, and they may be racially related.

Mr. CONYERS. That's right, that would require some special language, wouldn't it?

Mr. BRODY. Yes.

Mrs. PEIRSON. You must understand that the juvenile cases will not be able to be incorporated in the FBI report, because as a juvenile—

Mr. CONYERS. They don't handle it, right.

Mr. BRODY. Yes.

Mrs. PEIRSON [continuing.] They are not processed as an adult.

Mr. CONYERS. Good point. Yes, sir, Mr. Bakst?

Mr. BAKST. Mr. Chairman, in connection with that, we have found that more than 80 percent of those arrested are—

Mr. CONYERS. Are juveniles.

Mr. BAKST [continuing.] Teen-agers—you know, juvenile or teenager, under 20, and that's a problem. It's a problem.

Mr. CONYERS. Yes, it is. We will consider that.

Thank you all—wait a minute.

Ms. ANDERSON. I was going to mention, but she mentioned the juvenile rights.

Mr. CONYERS. It raises an important problem of how we reach them and the restrictions that we are under.

Thank you all very much. This has been enormously helpful.

Mr. CONYERS. The subcommittee stands adjourned.

[Thereupon, at 1:15 p.m., the subcommittee was adjourned.]

[The prepared statements of Mr. Green, Senator Birch Bayh, Mr. Bakst, Mr. Scott-McLaughlin, and Ms. Peirson follow:]

STATEMENT OF ARTHUR L. GREEN, DIRECTOR OF THE
CONNECTICUT COMMISSION ON HUMAN RIGHTS AND OPPORTUNITIES
BEFORE THE SUBCOMMITTEE ON CRIMINAL JUSTICE OF THE
HOUSE COMMITTEE ON THE JUDICIARY
THURSDAY, MARCH 21, 1985
WASHINGTON, D.C.

MY NAME IS ARTHUR L. GREEN. I HAVE BEEN DIRECTOR OF THE CONNECTICUT COMMISSION ON HUMAN RIGHTS AND OPPORTUNITIES SINCE 1966. I AM A PAST PRESIDENT OF THE INTERNATIONAL ASSOCIATION OF OFFICIAL HUMAN RIGHTS AGENCIES, INC. THANK YOU FOR THE OPPORTUNITY TO TESTIFY BEFORE THIS SUBCOMMITTEE ON CRIMINAL JUSTICE OF THE HOUSE COMMITTEE ON THE JUDICIARY.

CONNECTICUT, BY ESTABLISHING THE FIRST OFFICIAL STATE HUMAN RIGHTS AGENCY IN 1943, HAS HISTORICALLY BEEN A PIONEER IN THE FIELD OF PROTECTING CIVIL AND HUMAN RIGHTS OF ALL PEOPLE.

CONNECTICUT IS PROUD THAT REPRESENTATIVE BARBARA B. KENNELLY OF THE FIRST DISTRICT HAS INTRODUCED H.R. 1171 TO THE 99TH CONGRESS, FIRST SESSION, A BILL "TO IMPROVE THE COLLECTION OF STATISTICS ON CRIMES MOTIVATED BY RACIAL, RELIGIOUS, OR ETHNIC HATRED BY REQUIRING THE ATTORNEY GENERAL TO INCLUDE IN THE UNIFORM CRIME REPORTS INFORMATION DESCRIBING THE INCIDENCE OF CERTAIN OFFENSES INVOLVING THE EXPRESSION OF RACIAL, ETHNIC, OR RELIGIOUS PREJUDICE".

ON JUNE 3, 1981, I HAD THE OPPORTUNITY TO APPEAR BEFORE THIS SUBCOMMITTEE, CHAIRED BY THE HONORABLE JOHN CONYERS, TO

ADDRESS THE SUBJECT OF RACIAL VIOLENCE AGAINST MINORITIES. I SEE THE HEARING ON REPRESENTATIVE KENNELLY'S BILL AS THE CONTINUATION OF THAT SUBJECT. AT THE 1981 HEARING, I REPORTED TO YOU THAT, DUE TO INCREASED INCIDENCES OF RACIAL AND ETHNIC VIOLENCE, THE CONNECTICUT COMMISSION ON HUMAN RIGHTS AND OPPORTUNITIES CONDUCTED A STUDY WHICH INCLUDED LENGTHY PUBLIC HEARINGS ON VIOLENCE AGAINST MINORITIES IN THE STATE. THE HEARINGS WERE HELD IN NOVEMBER AND DECEMBER 1979, AND A REPORT TO THE GOVERNOR WAS ISSUED IN APRIL 1980. A COPY OF THAT REPORT IS ON FILE WITH THIS SUBCOMMITTEE. THESE INCIDENTS CONTINUE SOMEWHAT WITH LESS INTENSITY.

THE CONNECTICUT LEGISLATURE HAS PASSED SEVERAL ACTS WHICH ADDRESS THIS GENERAL TOPIC: MAKING THE DEPRIVATION OF A PERSON'S CIVIL RIGHTS BY PERSON WEARING MASK OR HOOD A CLASS D FELONY; ESTABLISHING UNLAWFUL TRAINING IN USE OF FIREARMS, EXPLOSIVE OR INCENDIARY DEVICES OR TECHNIQUES CAPABLE OF CAUSING INJURY, A CLASS C FELONY; INCREASING THE PENALTIES FOR DESECRATION OF PROPERTY AND CROSS BURNING; AND IMPOSING STRICTER PENALTIES ON A PERSON WHO COMMITS ARSON BY STARTING A FIRE OR EXPLOSION WITH THE INTENT TO DEPRIVE ANOTHER PERSON OF HIS CIVIL RIGHTS. THE RELEVANT STATUTES ARE ATTACHED.

GIVEN THE DEVELOPMENTS IN CONNECTICUT AND THROUGHOUT THIS COUNTRY, IT IS ABSOLUTELY IMPERATIVE THAT THIS CONGRESS ADOPT H.R. 1171. IN ORDER TO ADEQUATELY ASSESS THE SCOPE

AND THE IMPACT OF CRIMES MOTIVATED BY RACIAL, RELIGIOUS, OR ETHNIC HATRED, THE UNITED STATES ATTORNEY GENERAL SHOULD BE REQUIRED "TO INCLUDE IN THE UNIFORM CRIME REPORTS INFORMATION DESCRIBING THE INCIDENCE OF CERTAIN OFFENSES INVOLVING THE EXPRESSION OF RACIAL, ETHNIC, OR RELIGIOUS PREJUDICE". SUCH A CENTRALIZED COLLECTION AND REPORTING OF THESE DATA WILL PROVE INVALUABLE TO STATE AND LOCAL LAW ENFORCEMENT OFFICIALS. THESE STATISTICS WILL AID LEGISLATIVE BODIES IN THEIR DEVELOPMENT OF PUBLIC POLICY REGARDING THIS SUBJECT.

FINALLY, AND MOST IMPORTANTLY, MR. CHAIRMAN, LET ME OBSERVE THAT ADOPTION OF THIS BILL WILL ALSO ELEVATE THE IMPORTANCE OF CIVIL RIGHTS LAW ENFORCEMENT NOT ONLY ON THE FEDERAL LEVEL, BUT AMONG THE VARIOUS LOCAL AND STATE GOVERNMENTS. THIS COUNTRY HAS MADE MAJOR STRIDES IN THE FIGHT AGAINST ORGANIZED CRIME AND OFFENSES AGAINST OUR DOMESTIC AND INTERNATIONAL SECURITY BY THE ALLOCATION OF HUGE AMOUNTS OF OUR RESOURCES AND THE COLLECTION AND USE OF SIMILAR INFORMATION. THE STRUGGLE AGAINST BIGOTRY, PREJUDICE AND DISCRIMINATION DESERVES NO LESS ATTENTION, IF NOT MORE.

ATTACHMENT

SYR

3. **Sec. 46a-58. (Formerly Sec. 53-34). Deprivation of rights. Desecration of property. Cross burning. Penalty.** (a) It shall be a discriminatory practice in violation of this section for any person to subject, or cause to be subjected, any other person to the deprivation of any rights, privileges or immunities, secured or protected by the constitution or laws of this state or of the United States, on account of religion, national origin, alienage, color, race, sex, blindness or physical disability.

(b) Any person who intentionally desecrates any public property, monument or structure, or any religious object, symbol or house of religious worship, or any cemetery, or any private structure not owned by such person, shall be in violation of subsection (a). For purposes of this subsection, "desecrate" means to mar, deface or damage as a demonstration of irreverence or contempt.

(c) Any person who places a burning cross or a simulation thereof on any public property, or on any private property without the written consent of the owner, shall be in violation of subsection (a).

(d) Any person who violates any provision of this section shall be guilty of a class A misdemeanor, except that if property is damaged as a consequence of such violation in an amount in excess of one thousand dollars, such person shall be guilty of a class D felony.

(1949 Rev., S. 8374, P.A. 74-80; P.A. 77-278, S. 1; P.A. 80-54, 80-422, S. 7; P.A. 84-15.)

History: P.A. 74-80 applied penalty to discrimination based on sex and specified violation as class A misdemeanor, deleting penalty of maximum fine of one thousand dollars and/or maximum imprisonment of one year; P.A. 77-278 applied penalty to discrimination based on blindness or physical disability; P.A. 80-54 applied penalty to discrimination based on religion or national origin and added Subsecs. (b) and (c) re desecration of property and burning crosses on property; P.A. 80-422 amended Subsec. (a) and designated penalty provision formerly in Subsec. (a) as Subsec. (d); Sec. 53-34 transferred to Sec. 46a-58 in 1981; P.A. 84-15 amended Subsec. (d) by increasing the penalty to a class D felony if property is damaged in an amount in excess of one thousand dollars.

See Conn. Const. Art. 1, Sec. 20.

See Sec. 1-1f.

4. **Sec. 53a-112. Arson in the second degree: Class B felony.** (a) A person is guilty of arson in the second degree when, with intent to destroy or damage a building, as defined in section 53a-100, (1) he starts a fire or causes an explosion and (A) such act subjects another person to a substantial risk of bodily injury; or (B) such fire or explosion was intended to conceal some other criminal act; or (C) such fire or explosion was intended to subject another person to a deprivation of a right, privilege or immunity secured or protected by the constitution or laws of this state or of the United States; or (2) a fire or explosion was caused by an individual hired by such person to start such fire or cause such explosion.

(b) Arson in the second degree is a class B felony.

(1969, P.A. 828, S. 114, P.A. 79-570, S. 4, P.A. 80-229, S. 2, P.A. 82-290, S. 2, P.A. 84-4.)

History: P.A. 79-570 made second degree arson a Class B, rather than a Class C felony; P.A. 80-229 added reference to building definition of Sec. 53a-100; P.A. 82-290 amended Subsec. (a) by deleting (1) intent to destroy or damage a building of another (2) fires or explosions caused for the purpose of collecting insurance proceeds and (3) subjecting another building to risk of destruction or damage and adding (1) fires or explosions intended to conceal some criminal act and (2) fires or explosions caused by person hired to set fire or cause explosion; P.A. 84-4 amended Subdiv. (1) of Subsec. (a) by adding Subpara. (C) re a fire or explosion intended to subject another person to a deprivation of certain rights, privileges or immunities.

See also annotations to part V.

Cited 172 C. 298 Cited 178 C. 67, 68 Cited 189 C. 228, 230 Cited 191 C. 636, 645.

Subsec. (a):

Subdiv. (1)(A) cited 174 C. 73. Subdiv. (2) cited 1d. Subdiv. (1)(B) cited 189 C. 291, 302. Subdiv. (1)(B)(2) cited 1d., 732, 754.

INSTITUTE FOR THE PREVENTION AND CONTROL
OF VIOLENCE AND EXTREMISM
525 WEST REDWOOD STREET
BALTIMORE, MARYLAND 21201
(301) 528-5170

TESTIMONY BEFORE THE
SUBCOMMITTEE ON CRIMINAL JUSTICE
OF THE HOUSE JUDICIARY COMMITTEE
BY
THE HONORABLE BIRCH BAYH
CHAIRMAN OF THE BOARD, INSTITUTE FOR THE
PREVENTION AND CONTROL OF VIOLENCE AND EXTREMISM
ON
H.R. 1171 - HATE CRIME STATISTICS ACT

MARCH 21, 1985

I am pleased to have this opportunity to appear before you on behalf of the Institute for the Prevention and Control of Violence and Extremism to express the Institute's concerns for the issue addressed by H.R. 1171 - Hate Crime Statistics Act. The Institute is a new national center, established in 1984 to prevent and respond to violence and intimidation motivated by race, religion or ethnic background.

Over the last five years, many of us have become aware of the increase in reported crimes based on prejudice, and of the inability of existing agencies, programs and laws to deal effectively with these acts. One factor which has prevented us from adequately addressing the problem is insufficient knowledge about the number and nature of hate acts which occur.

Maryland has been in the forefront of this issue in acknowledging that these crimes exist and in developing both policies and programs to deal with them. Through interactions with agencies and organizations throughout the country, the Governor's Task Force on Violence and Extremism in Maryland became aware of the dearth of information nationally about hate crimes and the absence of any coordinated effort to address the problem.

Governor Hughes and his Task Force, with initial funding from the Maryland legislature, created the Institute. Its goals are to serve as a national clearinghouse and referral service, conduct research, assist victims, and provide training and technical assistance to public and private agencies.

Being able to accurately assess the extent and nature of these incidents, as well as where they occur and to whom, is an essential component of any national effort which is to have an impact on the problem. Currently, a major difficulty in compiling data nationally is the lack of sufficient descriptive information in most police reports. Typically, a swastika painting is recorded simply as an act of vandalism; a cross burning is reported as arson. In neither case is the true nature of the act, nor its impact on the victim, acknowledged.

In Maryland, where the Uniform Crimes Reporting Act was amended in July, 1981 (Art. 88B, Sect. 9-10, Annotated Code of Maryland), to require police jurisdictions to identify crimes which are racially, religiously or ethnically motivated, reported incidents increased from fewer than 100 in 1980 to 421 in 1984. While part of the increase can be attributed to an increase in accuracy of reporting as a result of the law, and part to statewide efforts to encourage victims to report, it is clear that an actual increase did occur which was part of a national trend. Other jurisdictions without such laws, and agencies which monitor racial and religious crimes and extremist group activities, witnessed significant increases in these crimes.

The Anti-Defamation League of B'nai B'rith documented 129 anti-Semitic incidents in 1979, and 715 such incidents in 1984, a 454 percent increase. Similarly, Klanwatch of the Southern Poverty Law Center saw a dramatic increase in racial and religious crimes from 1978-1984 compared with the period of 1971-1978. Therefore, the fear that legislating accurate reporting will create the illusion of a problem where none exists is unfounded.

We are convinced that the documented increases noted by some agencies and jurisdictions reveal only a small portion of crimes motivated by prejudice. We cannot afford to continue to blind ourselves to the trauma experienced by the countless victims in this country simply because we are not willing to see what is happening, and why.

There is a problem, and it is one which not only devastates individual victims, but also tears at the fabric of our communities. Left unchecked, racial and religious hatred and violence undermine the very essence of a free society.

The Hate Crime Statistics Act would be a clear statement on the part of Congress that hate crimes are not condoned, and would encourage law enforcement authorities to accurately document the occurrence of such acts. The Institute for the Prevention and Control of Violence and Extremism urges the Subcommittee to further efforts to eliminate these insidious crimes by acting favorably and forwarding this Bill to the full Committee.

Proposed

"HATE CRIME STATISTICS ACT"

Testimony of

Jerome H. Bakst

Director of Research and Evaluation

Anti-Defamation League of B'nai B'rith

Before

The Sub-Committee on Criminal Justice, House Judiciary Committee

March 21, 1985

Washington, D.C.

Mr. Chairman and Members of the Sub-Committee:

My name is Jerome Bakst and I am Director of Research and Evaluation for the Anti-Defamation League, founded in 1913 and a leading Jewish human rights agency. The League itself is part of B'nai B'rith, the oldest and largest Jewish fraternal order in the U.S., founded in 1843.

We have been asked to present our views on the proposed "Hate Crime Statistics Act" introduced by the Hon. Barbara B. Kennelly of Connecticut. The ADL has had experience in collecting statistics concerning anti-Semitic vandalisms and other transgressions motivated by religious prejudice. We carry out an Annual Audit of Anti-Semitic Incidents and a copy of our 1984 Audit is attached. We have been conducting this Annual Audit for a number of years. One of my duties is supervising the compilation of these Audits.

We support the concept of the proposed "Hate Crime Statistics Act." We think the idea of a nationwide data bank concerning crimes apparently committed as the result of racial, religious or ethnic prejudice is a good idea.

Because of our experience in conducting our Annual Audit, however, we feel we should outline briefly some of the problems involved in compiling statistics about racial, religious and ethnically-motivated crimes.

1. First and foremost is the problem of establishing bias as the motivating factor in an offense. For example, a synagogue is vandalized, an electric typewriter is stolen and cash is missing from the synagogue office. ADL does not include such a crime in its Audit as a religiously-motivated offense merely because it took place at a synagogue. The same crime, however, would be considered as motivated by bias if the synagogue or the synagogue office were smeared with swastikas, or anti-Semitic epithets, or other clear evidence of anti-Semitism.

Another example: A Jewish cemetery is vandalized on a certain night and 50 gravestones are overturned while others are daubed with swastikas. We would count that as an anti-Semitic cemetery desecration. But if the same cemetery were vandalized but without swastika daubings, and on the same night, or the next night, a nearby Roman Catholic or Protestant cemetery were vandalized, we would not count the vandalism at the Jewish cemetery as necessarily motivated by anti-Semitism.

2. Second, is the problem of gathering accurate information. Except in New York City, where the police department has established a Bias Crime Unit, and in New York's Nassau and Suffolk Counties on Long Island where similar units have been established, local police departments do not generally maintain statistics about crimes deemed to be motivated by racial, religious or ethnic prejudice.

3. Our Audits have shown that the overwhelming majority of those arrested for bias crimes -- more than 80% for a number of years -- have been aged 20 or under, mostly teenagers and juveniles. Some police departments do not keep records of offenses by young people as criminal offenses; this tends to complicate the gathering of accurate statistics about crimes motivated by racial, religious or ethnic prejudice.

Our Audits, based on reports gathered by our 30 regional offices around the country and compiled by our National Office research staff, are as complete and accurate as we can make them. But they cannot be viewed as "scientific surveys" because, of course, they do not catch every episode; many anti-Semitic offenses are simply not reported either to local law enforcement agencies, or to ADL regional offices around the country.

Local police departments, moreover, often tend to view many bias-motivated offenses as teenage or juvenile mischief, or as pranks.

In short, the concept of a nationwide system of reporting crimes motivated by racial, religious or ethnic prejudice is one that we support but we are drawing attention to some of the logistical and judgmental problems that appear to us to be involved in developing such a system and of incorporating it into the FBI's Uniform Crime Reports. Some states, one of which is Maryland, have adopted legislation that provides for record keeping of bias crimes, but whether such data could be easily absorbed into the FBI's Uniform Crime Reports I cannot say; there is considerable difference between the usual crimes -- murder, assault, rape and the like -- and crimes motivated by racial, religious and ethnic prejudice, because many of the latter involve far more subjective judgment. I suggest that some helpful information could be gained by the sub-committee's consultation with the International Association of Chiefs of Police and the National Organization of Black Law Enforcement Officers (N.O.B.L.E.).

To summarize: We support the concept embodied in the proposed "Hate Crime Statistics Act" but we draw attention to the need to focus on the logistical and procedural problems involved in establishing such a system and putting it into place on a permanent basis.

If there is any further way in which we can be helpful in your future deliberations, please do not hesitate to call on us. We stand ready to cooperate with you as best we can.

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**1984
AUDIT OF
ANTI-SEMITIC INCIDENTS**



**Anti-Defamation League of B'nai B'rith
823 United Nations Plaza, New York, NY 10017**

1984 ANTI-DEFAMATION LEAGUE
AUDIT OF ANTI-SEMITIC INCIDENTS

January, 1985

Introduction

The frequency of anti-Semitic vandalism and of other attacks against Jewish institutions, businesses and homes in the U.S. during 1984 showed a small increase compared to 1983. The number of anti-Semitic vandalism incidents at Jewish institutions and privately-owned properties reported by Anti-Defamation League offices around the country was 715, an increase of 6.7% compared to the 670 incidents reported during 1983. The 1984 increase interrupted declines of 19.2% in 1983 and 14.9% in 1982. The declines followed two years — 1980 and 1981 — in each of which vandalism incidents more than doubled: 192% in 1980 and 158% in 1981.

The number of anti-Semitic vandalisms, including more serious crimes such as bombings, attempted bombings, arsons, attempted arsons and cemetery desecrations, recorded by the ADL Audit in recent years is as follows:

1979 - 129	1982 - 829
1980 - 377	1983 - 670
1981 - 974	1984 - 715

More Serious Incidents

More serious incidents monitored by the ADL as part of the vandalisms in the Annual Audit -- bombings, attempted bombings, arsons, attempted arsons and cemetery desecrations -- increased during 1984. There were three bombings in 1984 compared to none in 1983; there was one attempted bombing in 1984, the same as in 1983. Arsons rose noticeably; there were nine in 1984 compared to three in 1983, but attempted arsons dropped slightly, to eight in 1984 from 10 in 1983. Cemetery desecrations increased to 11 in 1984 from nine in 1983.

The picture with respect to these more serious violations in recent years is as follows:

	<u>ARSONS</u>	<u>ATTEMPTED ARSONS</u>	<u>BOMBINGS</u>	<u>ATTEMPTED BOMBINGS</u>	<u>CEMETERY DESECRATIONS</u>	<u>TOTAL</u>
1979	10	0	2	0	0	12
1980	10	2	4	2	5	23
1981	10	6	4	2	15	37
1982	7	7	3	0	15	32
1983	3	10	0	1	9	23
1984	9	8	3	1	11	32

In 1984, as in the past, the overwhelming majority of the incidents reported, based on those cases in which arrests were made, appeared to be the work of teenagers. In only five of the 3,694 vandalisms recorded during the last six years -- a fraction of 1% -- has there been evidence of organized hate group involvement, the last in 1981.

In a separate category of assaults against Jewish individuals, and threats and harassments in which Jewish individuals or Jewish-owned properties were the victims or targets, the picture in 1984 was also similar to that recorded in 1983: there were 369 such incidents reported in 1984 compared to 350 in 1983, an increase of 5.4%.

Anti-Semitism in the U.S.

In reading the 1984 ADL Audit of Anti-Semitic Incidents, it should be borne in mind that while the Audit provides a useful yardstick for measuring an aspect of anti-Jewish hostility in the country, it is not the only such yardstick.

Anti-Semitism in the United States manifests itself in various ways:

- In national and local political campaigns;
- In the anti-Semitic rhetoric of various Arab representatives in the halls of the United Nations;
- In the anti-Semitism promoted around the world by the Soviet Union in the guise of "anti-Zionism";
- In the anti-Israel and anti-Zionist propaganda carried on by pro-Arab and pro-PLO organizations in the U.S. that often tends to mask hostility to Jews;
- In the propaganda activities of organized right-wing anti-Jewish hate groups, such as the KKK, neo-Nazi groups, Willis Carto's Liberty Lobby, and Lyndon LaRouche's operations.
- In the activities of radical leftist organizations such as the Communist Party USA whose propaganda against Israel and Zionism attacks the most basic concerns of the overwhelming majority of Jews in the United States and around the world.

Publicized Incidents

Several incidents in 1984 attracted considerable media attention. In April, a synagogue in Boise, ID, was bombed. Damage was estimated at \$5,000 to \$6,000. Because Idaho rarely has been the scene of anti-Semitic vandalism or other anti-Jewish violations, the synagogue bombing in Boise was unusual. The militantly anti-Semitic and violence-prone Aryan Nations organization, which has its headquarters at Hayden Lake, ID, disclaimed any connection with the as yet unsolved bombing.

Co-op City, a massive apartment complex in The Bronx, NY, was the scene of anti-Semitic and racial vandalisms on 17 separate days beginning in April

and continuing through November; these remain unsolved. On these days, and at various buildings in the giant complex, anti-Semitic graffiti, including swastikas and anti-Jewish epithets were smeared on apartment doors; the vandals concentrated mostly on those apartments displaying mezuzahs on their doorposts. Some of the anti-Semitic -- and the racist -- graffiti was smeared on hallway walls, elevator walls and stairwells.

In October, a newly-opened synagogue in Manalapan, NJ, was vandalized when a bulldozer parked on the grounds was driven into a wall of the building. In addition to the damage caused by the bulldozer, the temple was defaced by anti-Semitic slogans and epithets. Three teenagers were arrested and charged with the vandalism. A few days later, two other teenagers were arrested in connection with an earlier vandalism and attempted arson at another Manalapan synagogue in which a Molotov cocktail was hurled at the house of worship. Two of the teenagers charged in the bulldozing episode were also charged in connection with the earlier arson attempt.

Multiple or Repetitive Incidents

The experience at Co-op City -- of multiple and repetitive anti-Semitic vandalism in apartment houses or in a particular neighborhood -- was a pattern reported from some other locations around the country -- Philadelphia, PA, Salem, MA, Knoxville, TN, Atlanta, GA, Los Angeles and San Francisco, CA. No arrests have been reported in connection with any of these episodes.

The 1984 Geographic Breakdown

The 715 incidents of anti-Semitic vandalism took place in 32 states and the District of Columbia, the same total of states as in 1983. Once again, as in recent years, New York and California were the states reporting the largest number of anti-Semitic vandalisms -- New York with 237 and California with

99. New York increased by 22 incidents compared to 1983 but California decreased by 12. Maryland with 69, an increase of 22 incidents over 1983, moved from fourth place to third. New Jersey, with 56 -- a decrease of one -- dropped from third to fourth place. Florida, with 51 incidents reported -- up nine -- remained in fifth place.

These five states were followed by Pennsylvania (28, up 9), Massachusetts (20, down 16) and Illinois (19, no change compared to 1983).

The Northeastern region, comprising seven states and the District of Columbia, accounted for roughly 60% of the total number of anti-Semitic vandalisms reported. In 1983, these states accounted for 58% of the total. The Northeastern states are: Massachusetts (20), Rhode Island (7), Connecticut (5), New York (237), New Jersey (56), Pennsylvania (28), Maryland (69) and the District of Columbia (10).

In nine Southern states, 98 vandalism incidents were reported -- 13.7% of the 1984 total -- compared to 73 such incidents which formed 10.9% of the 1983 total. The nine Southern states are: Florida (51), Georgia (15), Louisiana (9), Virginia (9), Mississippi (5), Texas (5), Arkansas (3), Tennessee (3), and North Carolina (1).

The Midwest -- Illinois (19), Minnesota (15), Michigan (7), Ohio (6), Indiana (4), Missouri (2), Iowa (1), Nebraska (1) and Wisconsin (1) -- showed a noticeable decline in 1984 compared to 1983. Fifty-six anti-Semitic vandalisms were reported in these states during 1984 compared to 80 in 1983. The Midwest accounted for 7.8% of the total number of such incidents in 1984 compared to 11.9% in 1983.

The Western region of the country showed practically no change compared to 1983. The seven states of the region -- California (99), Arizona (10), Washington (7), Colorado (6), Oregon (2), Idaho (1) and New Mexico (1) -- had 126 incidents of anti-Semitic vandalism which comprised 17.6% of the total.

In 1983, there were 127 such incidents reported in these states which formed 19% of last year's total.

Assaults, Threats and Harassments

Although the total number of assaults against Jewish individuals and threats and harassments in which Jewish individuals or Jewish-owned properties were the targets remained practically unchanged -- 369 in 1984 compared to 350 in 1983 -- there was a near reversal in the "mix" comprising this year's total. The number of incidents in which Jewish institutions were the targets of threats by mail or telephone, or of other anti-Jewish harassment, increased markedly -- from 39 in 1983 to 106 in 1984. The number of such incidents in which Jewish individuals were the targets or the victims dropped by 48 -- from 311 in 1983 to 263 in 1984.

Arrests

During 1984, police and law enforcement authorities arrested 84 persons in connection with 51 of the total number of incidents reported. In 1983, 115 persons were arrested in connection with 55 of the incidents. In 1984, as in previous ADL Audits, the overwhelming majority of those arrested were aged 20 or under; 73 of the 84 persons arrested -- 87% -- were 20 or younger.

ADL Security Handbook

During 1984, the Anti-Defamation League of B'nai B'rith published and distributed across the country a security handbook aimed at preventing -- and coping with -- destructive violence against persons and property, including such violence motivated by religious or racial prejudice. The document -- Security for Community Institutions -- was prepared in cooperation with the Crime Prevention Section of the New York City Police Department. It was based

on ADL's experience in monitoring and countering anti-Jewish vandalism and other crimes aimed at Jews, Jewish institutions, and Jewish-owned property. It reflected the knowledge gained by the League and its 30 regional offices in working closely with law enforcement agencies from coast to coast and in co-sponsoring security conferences and workshops involving police, educators, and community organizations.

The ADL handbook received endorsements from local and Federal law enforcement officials in Boston, Los Angeles, New Jersey and Washington, DC.

It outlined proper security measures and procedures for community institutions; proper reaction when incidents occur; provided details of security programs carried out by the New York City Police Department's Crime Prevention Section and its Bias Incident Investigating Unit, first of its kind in the nation; a model form for reporting incidents of violence to local police departments, and the text of a model statute developed by ADL as a tool to assist law enforcement agencies to cope with problems such as vandalism against religious and ethnic institutions.

Evaluation and Conclusion

It is disturbing that the declines in anti-Semitic vandalism recorded in the ADL Audits of 1982 and 1983 have been interrupted by the 6.7% increase recorded in 1984. The latest total of 715 incidents, however, is substantially lower than the peak of 974 recorded in 1981. The 6.7% increase this year is moderate, however, when compared to the skyrocketing increases of 192% and 158% recorded in 1980 and 1981.

That there were 715 incidents of anti-Semitic violence indicates clearly that the counteractive measures and social "preventive medicine" which ADL mentioned last year are still very much needed: stricter laws against violence motivated by anti-Semitic and racial bigotry, stricter law enforcement,

greater attention by the media of public information to the problem of anti-Semitic violence, more education for understanding and good will in the schools and churches, more community meetings to map counter measures, and more vocal community response to incidents of violence motivated by hate. In short, more hard work, more vigilance, more education and more good will must take place in communities around the country before the nation can be free of the scourge of violence motivated by ignorance and prejudice.

The teenage vandals who appear overwhelmingly to be responsible for much of the anti-Jewish vandalism must be dealt with firmly by American communities, and their offenses punished and repudiated by community and church leaders and by all citizens of good will.

A model can be seen in the response of the community of Manalapan, NJ, where the five teenagers were accused in the two assaults against Jewish houses of worship. There, U.S. Senator Frank Lautenberg and the Gov. Thomas Kean joined with county and local officials and with local religious and community leaders in expressing outrage; these officials and leaders participated, with 3,000 citizens, in a Solidarity Day that manifested total repudiation of the anti-Jewish violence. The Solidarity Day also expressed the community's commitment to the cause of good will and interreligious understanding. As for the five teenagers arrested in the two synagogue violations, they have been indicted and face trial.

THE 1984 ADL AUDIT OF ANTI-SEMITIC VANDALISMS AND OTHER INCIDENTS

STATE	SERIOUS CRIMES				ASSAULTS, THREATS, HARASSMENTS		ALL 1984 ARRESTS	
	1984 TOTAL	LOCATION INST. PVT. PUB.	ARS/att BMB/att DES.	'83/'84 CHANGE	1984 INST. IND.	1983 TOTAL	CASES INDS.	AGED ACED 20 or 21 and UNDER/OVER
1. NEW YORK.....	237	72..103..62	5..7..0..0..0..1	215 +22	26..108	134	41	55 / 8
2. CALIFORNIA.....	99	28.. 53..18	3..0..1..0..0..1	111 -12	12.. 11	23	2	3 / 0
3. MARYLAND.....	69	14.. 30..25	0..0..0..0..0..1	47 +22	5.. 9	14	2	1 / 1
4. NEW JERSEY.....	56	11.. 31..14	0..1..1..1..0..0	57 -1	9.. 11	20	1	5 / 0
5. FLORIDA.....	51	14.. 10..27	0..0..0..0..0..0	42 +9	8.. 17	25	0	9 / 0
6. PENNSYLVANIA..	26	6.. 18.. 4	0..0..0..0..0..0	19 +9	0.. 17	17	2	5 / 0
7. MASSACHUSETTS..	20	3.. 12.. 5	0..0..0..0..0..0	36 -16	3.. 24	21	1	1 / 1
8. ILLINOIS.....	19	1.. 13.. 5	0..0..0..0..0..0	19 0	9.. 14	23	1	2 / 0
9. GEORGIA.....	15	0.. 8.. 7	0..0..0..0..0..0	2 +13	3.. 6	9	0	0 / 0
10. MINNESOTA.....	12	8.. 4.. 3	0..0..0..0..0..1	18 -3	6.. 8	14	1	0 / 1
11. Dist. Columbia.	10	1.. 1.. 8	0..0..0..0..0..0	4 +6	1.. 0	1	0	0 / 0
12. ARIZONA.....	10	3.. 3.. 4	0..0..0..0..0..0	4 +6	1.. 7	8	0	0 / 0
13. LOUISIANA.....	9	7.. 2.. 0	0..0..0..0..0..1	6 +3	4.. 1	5	0	0 / 0
14. VIRGINIA.....	9	0.. 2.. 7	0..0..0..0..0..0	17 -8	3.. 2	5	0	0 / 0
15. MICHIGAN.....	7	2.. 2.. 3	0..0..0..0..0..0	12 -5	0.. 0	0	0	0 / 0
16. RHODE ISLAND..	7	5.. 1.. 1	1..0..0..0..0..0	2 +5	2.. 0	2	0	0 / 0
17. WASHINGTON.....	7	3.. 3.. 1	0..0..0..0..0..0	3 +4	2.. 6	8	0	0 / 0
18. COLORADO.....	6	2.. 1.. 3	0..0..0..0..0..0	3 +3	0.. 0	0	0	0 / 0
19. OHIO.....	6	2.. 3.. 1	0..0..0..0..0..0	11 -5	7.. 1	8	0	0 / 0
20. CONNECTICUT...	5	4.. 1.. 0	0..0..0..0..0..3	9 -4	0.. 3	3	0	0 / 0
21. MISSISSIPPI...	5	0.. 5.. 0	0..0..0..0..0..0	2 +3	0.. 0	2	0	0 / 0
22. TEXAS.....	5	4.. 1.. 0	0..0..0..0..0..0	2 +1	0.. 0	0	0	0 / 0
23. INDIANA.....	4	3.. 0.. 1	0..0..0..0..0..0	9 -5	3.. 1	4	0	0 / 0
24. ARKANSAS.....	3	0.. 3.. 0	0..0..0..0..0..0	2 +1	0.. 0	0	0	0 / 0
25. TENNESSEE.....	3	2.. 1.. 0	0..0..0..0..0..0	0 +3	0.. 0	0	0	0 / 0
26. MISSOURI.....	2	1.. 0.. 1	0..0..0..0..0..0	5 -3	0.. 3	3	0	0 / 0
27. OREGON.....	2	1.. 0.. 0	0..0..0..0..0..0	1 +1	0.. 5	5	0	0 / 0
28. IDAHO.....	1	1.. 0.. 0	0..0..1..0..0..0	1 0	0.. 0	0	0	0 / 0
29. IOWA.....	1	1.. 0.. 0	0..0..0..0..0..0	2 -1	0.. 0	0	0	0 / 0
30. NEBRASKA.....	1	0.. 1.. 0	0..0..0..0..0..0	4 -3	0.. 0	0	0	0 / 0
31. NEW MEXICO.....	1	0.. 0.. 1	0..0..0..0..0..0	0 +1	2.. 0	2	0	0 / 0
32. NORTH CAROLINA.	1	0.. 0.. 0	0..0..0..0..0..0	0 +1	0.. 0	1	0	0 / 0
33. WISCONSIN.....	0	0.. 0.. 0	0..0..0..0..0..0	0 0	0.. 4	4	0	0 / 0
34. DELAWARE.....	0	0.. 0.. 0	0..0..0..0..0..0	0 0	0.. 1	1	0	0 / 0
35. NEW HAMPSHIRE..	0	0.. 0.. 0	0..0..0..0..0..0	0 0	0.. 1	1	0	0 / 0
36. VERMONT.....	0	0.. 0.. 0	0..0..0..0..0..0	3 -3	0.. 0	0	0	0 / 0
Alabama, Kentucky								
1984 - TOTALS	715	196 317 203	9 8 3 1 11	670 +45	106 263	369	51	81 73 / 11
1983 - TOTALS	670	162 321 187	3 10 0 1 9	670 +45	89 311	350	55	115 102 / 13

THE 1984 ADL AUDIT OF ANTI-SEMITIC VANDALISMS AND OTHER INCIDENTS

- NEW YORK STATE -

1984 TOTAL	VANDALISMS		SERIOUS CRIMES		ASSAULTS, THREATS, HARASSMENTS			ALL 1984 ARRESTS	
	INST.	LOCATION	AFS/att	CEM	INST.	IND.	1983 TOTAL	CASES	AGED
			att	DES.	CHG			INDS.	20 or 21 and UNDER/OVER
11 ...	4..	2..5	1...0...0...0...0	0...0	14 - 3	5..	5.. 10	11 ...	1... 6... 6 / 0
45 ...	30..	11..4	3...4...0...1...0	0...0	24 +21	6..	5.. 11	11 ...	4... 7... 5 / 2
31 ...	15..	13..3	0...0...0...0...1	0...1	21 +10	5..	2.. 7	7 ...	0... 0... 0 / 0
36 ...	9..	7..20	0...2...0...0...0	0...0	13 +23	2..	4.. 6	4 ...	1... 2... 2 / 0
5 ...	1..	4..0	0...0...0...0...0	0...0	10 - 5	2..	5.. 7	2 ...	0... 0... 0 / 0
12 ...	5..	5..2	0...0...0...0...2	0...2	18 - 6	0..	4.. 4	4 ...	1... 3... 3 / 0
48 ...	4..	28..16	1...0...0...0...0	0...0	56 - 8	0..	24.. 24	28 ...	14...17... 15 / 2
49 ...	4..	33..13	0...1...0...0...1	0...1	59 -10	6..	59.. 65	56 ...	20...28... 24 / 4
237	72	103	5	7	0	0	0	4	41 63 55 / 8
1983 TOTALS	215	64	108	43	1	5	0	1	6 215 +22 9 114 123 45 89 77 / 12

Additional Remarks: Jerome Bakst,
Director of Research and Evaluation,
Anti-Defamation League of B'nai B'rith

March 21, 1985

The ADL whole-heartedly endorses the concept embodied in H.R. 1171. ADL believes that if the proposed nationwide data bank on ethnically-motivated crimes becomes a reality, it will lead to greater public awareness of the problem posed to American society by such offenses. It will also lead to greater involvement in the problem of bias-motivated crimes by police and law enforcement authorities around the country.

The ADL's own Annual Audit of Anti-Semitic Incidents has helped to focus public and official attention on anti-Jewish transgressions and has noted an overall drop in the total number of anti-Jewish incidents since 1981. Our Audit has also been accompanied by deeper involvement in the problem of bias-motivated offenses by police departments in New York City, in Nassau and Suffolk Counties on Long Island, and in cities such as Boston and Chicago. The special units set up in the police departments of the City of New York and in Nassau and Suffolk Counties keep statistics concerning offenses motivated by anti-Jewish bias.

In connection with ADL's Annual Audits of Anti-Semitic Incidents, ADL has drafted a Model Statute on Ethnic Vandalism and Intimidation. To date, 29 states have enacted measures which criminalize ethnic vandalism or intimidation. Many states have parental liability statutes which cover damages for such crimes. Five states -- Illinois, Indiana, Louisiana, Massachusetts and Pennsylvania -- based their bias crime statutes on language contained in the model statute prepared by the Anti-Defamation League of B'nai B'rith. Additionally a number of bills designed to deal with the problem of religious vandalism were introduced during the last session of Congress.

Despite some problems involved, ADL believes and hopes that if the idea embodied in H.R. 1171 -- the "Hate Crime Statistics Act" -- should become a reality, similiar substantial benefits for the country could result from adoption of the bill.

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TESTIMONY BY
BY RANDOLPH SCOTT-MCLAUGHLIN
REPRESENTING THE NATIONAL ANTI-KLAN NETWORK
BEFORE THE SUB-COMMITTEE ON CRIMINAL JUSTICE
OF THE
COMMITTEE ON THE JUDICIARY
U.S. HOUSE OF REPRESENTATIVES

The National Anti-Klan Network welcomes this opportunity to express its support for House Resolution 1171, the "Hate Crime' Statistics Act."

The National Anti-Klan Network, founded in August of 1979, is the principal clearinghouse for peaceful efforts to counter the rise of hate groups and violent bigotry in America. Over 60 organizations belong to the Network, including the Southern Christian Leadership Conference, Klanwatch, the National Organization for Women, the National Council of Churches and many others.

The National Anti-Klan Network conducts programs which monitor Klan activity, document cases of racist and religious violence, educate the public about the extent of these developments, advise communities on how to counter the Klan, and attempt to affect public policy towards vigorous prosecution when our laws are violated. Legal institutions which are affiliated with the Network, such as the Center for Constitutional Rights for whom I work, have also pioneered in aggressive litigation against the most violent KKK organizations, representing victims

of their attacks.

Honorable members of the Committee and guests. During the last seven years our country has been visited by an epidemic of racist and anti-Semitic violence.

Between 1978 and 1983, our organization is able to document over 1,100 serious acts of violent bigotry within our borders. 600 of these cases can be tied to members of organized hate groups, primarily members of various Ku Klux Klan factions. The others have no proven organization connections and we believe many to be "random acts" of racially or religiously motivated violence. These acts include various forms of life-threatening intimidation, whippings, arson, bombings and murders.

Sad to say, despite adequate federal laws on the books, only a tiny fraction of these documented crimes have ended in prosecutions or convictions. Frequently, crimes of violent bigotry are not given any investigative priority at the local level. The failure of our judicial system to adequately protect its citizens from hooded terrorism puts in jeopardy every other right afforded by our Constitution, including the right to free speech, association, assembly and the right to vote.

The first step to reversing these failures which have emboldened Klansmen and other violent racists, is to determine the extent of the problem of hate/violence in our country. The Act under examination today will help immeasurably in this preliminary phase.

Each time our organization learns of an incident of violent bigotry, whether from a public or private source, our

investigators discover at least 3 more incidents which were unknown to us. In many cases, a single family had endured what must seem to be a never-ending series of incidents before contacting our group. In the beginning, most victims call on local law enforcement authorities. If no genuine help or protection is forthcoming, they may cease to continue to call their local police. But almost all have made initial reports. For us at the national level, the problem is this: There is no collection of statistics which identifies this type of violence.

We are confident that in addition to revealing the scope of this problem, the Act will also send a very significant signal to local law enforcement authorities throughout the land. Although we are happy to report that we believe there are only a tiny minority of law enforcement officers holding membership in various hate groups, there is still --- particularly in the South---a great resistance to admitting that the problem of the Klan or racist violence exists. Government and civic leaders often acknowledge the Klan's presence but simply hope it will go away. This results only in a deeper retrenchment for hatred and violence. The collection of statistics by the FBI, as part of their Uniform Crime Reporting system, would set a tone of frank admission and reveal the need for active remedies on the part of law enforcement.

We are confident that members of this Committee and the entire Congress share with us a deep concern about growing hatred and its violent expressions. But it is difficult for many of us to imagine the horror which strikes the victims of white-sheeted terror.

I had the opportunity to represent the five elderly black women who had been attacked by three Ku Klux Klan members in Chattanooga, Tennessee five years ago this April. These women were shot and wounded by members of the "Justice Knights of the KKK", a small local Klan faction. All five women sustained serious injury and these acts of violent bigotry sent a deep suspicion throughout the black community that any of its members could become a future target. The state court trial resulted in the acquittal of two of the Klansmen and a third Klansmen served less than three months in prison. A major civil disturbance followed the state trial.

A federal jury later awarded the women both punitive and compensatory damages in a federal civil suit and a federal judge issued a sweeping injunction against all such future Klan activity in the area. But deep fear remains in Chattanooga's black community as there has never been a federal criminal prosecution, in short no genuine criminal justice has been done. On April 19, 1985 the statute of limitations for a federal criminal prosecution will expire. Ms. Fannie Crumsey, one of the victims of this attack, has been told by Assistant Attorney General William Bradford Reynolds that the Justice Department could find no violation of federal civil rights laws in their case. Now, Ms. Crumsey will not leave her home after dark.

In Cedartown, Georgia the Ku Klux Klan began recruiting members after a large textile mill closed in the early 80s. A group of less than 100 Mexican immigrant workers became their scapegoat for the town's economic woes. In the course of the

KKK's "anti-Wetback" campaign, whites have threatened, intimidated, beaten, and shot into the homes of numerous Mexican families there. Ramero Lopez and Casiano Zamudio were both murdered by local whites and their killers acquitted in separate state court trials. In April, 1984 an 18 year-old black youth was beaten by a robed Klansman during a day-time KKK literature distribution in downtown Cedartown. Citizens who oppose the Klan, from all races, have legitimate fear about speaking their minds. In 1984, the National Anti-Klan Network and the Georgia Civil Liberties Union were informed that the Justice Department had conducted an investigation into incidents Cedartown but had found no grounds for a federal prosecution.

In North Carolina's Iredell and Alexander counties there have been at least two dozen acts of racially motivated violence. After a group of robed Klansmen attempted to bond out a black prisoner accused of rape, from the County jail, Rev. Wilson Lee voiced his opinions about the Klan in the local newspaper. Shortly after his letter appeared, his home was shot into and a cross burned on his lawn as a warning. Within the last month, the local leader of the "White Knights of Liberty" Klan group addressed school board meetings in Iredell, Rowan and Forsyth Counties in North Carolina, announcing his intention of recruitment drives among white students.

I have dwelt on these three local situations simply to illustrate the extent of violence and convey its impact upon our citizenry.

On behalf of our sixty-seven member organizations, we urge the Committee to favorably recommend the 'Hate Crime' Statistics

Act. Enactment of HR 1171 will send a message of concern to the victims of violent bigotry and begin the initial work necessary to end these violations of criminal law.

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TESTIMONY OF

VERONICA PEIRSON

ON H.R. 1171, THE "'HATE CRIME' STATISTICS ACT"

BEFORE

COMMITTEE ON THE JUDICIARY

SUBCOMMITTEE ON CRIMINAL JUSTICE

MARCH 21, 1985

While evidencing great concern about religion related crime or harassment, and race related crime, one should undertake to define precisely what is meant by these terms. It is recognized that while harassment itself need not necessarily encompass criminality, the type of harassing activity that is addressed here has as its focus a particular religious or racial group and often leads to further actions that are defined as criminal. There are, however, at least three separate elements woven into the concept upon which these concerns are based: 1. the target is chosen because of his/her religious beliefs or racial identification; 2. the action taken, whether or not it is specifically defined as criminal in nature, has as its motive some type of harassment aimed at the individual or the group he/she is identified with; 3. the action taken be recognized as one taken because of the individuals', or the group's identity.

In addressing the concerns relative to religious and race related crime or harassment, the parameters of the problem will best be understood if the issues are precisely defined. A concise definition will lessen the possibility and probability of subjectivity. Particularly, the inclination towards unawareness of these types of crime, which would result in the invalidity of the data collected. In order to specify what is meant by these terms I have incorporated the definition developed in connection with an on-going research being conducted by a national organization. They define racially or religiously targeted acts as "... acts or threatened or attempted acts by persons or groups against persons and or property of another individual or group which may in any way constitute and expression of racial or religious hostility."

This definition lends itself not to an act while defining it as criminal, so much as a specific type of an act that is already labelled as criminal. This is to say most types of religious and race related harassments are already defined by statute as a crime. For example, the defacing of churches comes under the criminal category of vandalism or trespassing. Similarly, the posting of burning crosses usually falls under the criminal statute of disorderly conduct, vandalism, disturbing the peace, or trespassing. The Federal Bureau of Investigation, (FBI) in its annual report - Crime in the United States, - better known as the Uniform Crime Reports (UCR), already uses this approach. In it, murder is broken down into that which is identified as negligent and non-negligent; stolen property is classified under the categories of buying, receiving, or possession; and weapons offenses are sub-categorized as carrying or possessing. Therefore, by incorporating religious and racially motivated forms of harassment in the UCR in the same manner it now treats other offenses, these crimes can be collected and tabulated uniformly.

It is important to understand that the inclusion of racial and religious motivated criminal activities would not decrease the objectivity nor increase the subjectivity of data contained in the UCR. Incorporating these types of offenses into the UCR would not lessen the validity of the report. On the contrary, the information needed to document these types of offenses is already available in police reports.

The need is to develop a methodology for extracting it for tabulation. The standard form which is distributed by the FBI to police departments for the purpose of collecting data can be revised to

facilitate the incorporation of religious and racially related offenses. As a statistician, I envision relatively simple changes. The data collection instruments used by police departments should be recoded and the existing program for massaging must be modified. The program maintenance will probably consist of increasing the existing fields so that the new program can massage/analyse the new data fed to it by the data entry person.

Worthiness of incorporating racial and religious crimes is addressed in the forward to the 1978 UCR. Director William H. Webster noted that the information contained in the report constitutes a social statement. He further pointed out that "... it represents one of the darker sides of human behavior in this country and should not be taken lightly." This is precisely why religious and racially motivated criminal acts should be addressed in the report. Religious and racial bigotry is in and of itself a social statement of the darker side of human behavior in this country, and as such, is at least as important, if not more important, than the practice of documenting the amount of murders, robberies, and car thefts.

It is possible to accomplish the collection and storage of data on racial and religious motivated offenses in the same manner Part 1 and Part 2 offenses are reported in the UCR by the FBI. The publication of this data would not prove to be an embarrassment to law enforcement agencies as was the case in the publication in the UCR of conviction rates which resulted in the cancellation of the publication of that particular data.

To exclude this information from the FBI's official report is to imply that the activities involved are insufficiently important to

measure and publically document. The FBI report has traditionally measured crime and arrests by geographical area, by sex of the offender, by race of the offender, and by age group. The report even documents the type of geographic area in which the arrests took place, i.e., city, residential or rural. Given the many ethnic, racial and religious groups that combine to form our communities, it is of tremendous social importance that problems experienced by these groups because of their racial or religious identity be known and dealt with to the same extent that other types of serious crimes are documented and investigated. Only then can it truthfully be said that justice is for all the people. Also, to include these types of criminal acts in the UCR would give researchers a reliable and constant source of data for research that would assist in addressing and alleviating in the problem.

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ADDITIONAL STATEMENT

STATEMENT

OF

HYMAN BOOKBINDER

ON BEHALF OF

THE AMERICAN JEWISH COMMITTEE

ON

H.R. 1171: THE "HATE CRIME" STATISTICS ACT

TO THE

SUBCOMMITTEE ON CRIMINAL JUSTICE

HOUSE JUDICIARY COMMITTEE

HOUSE OF REPRESENTATIVES

March 21, 1985

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The American Jewish Committee, a national organization of approximately 50,000 members founded in 1906, is dedicated to the defense of the civil rights and religious liberties of all Americans. We wish to take this opportunity to express our support for, and make some comments with respect to, the "Hate Crime" Statistics Act which has been introduced by the Honorable Barbara B. Kennelly of Connecticut.

We believe that the provisions of the Act, which mandate the collection of statistics on crime motivated by racial, religious or ethnic hatred, will constitute a valuable tool in the battle against "hate crime."

The systematic gathering of such information will serve several functions. For one thing, the availability of this data will enable law officials to assess the extent of the problem, both in their own communities and from a nation-wide perspective. Thus, authorities will have a statistical basis on which to determine whether there is a trend in these kinds of crimes, either locally or on a broader scale. Moreover, the information gathered will provide a means for authorities to learn of, and assess, strategies utilized by other law enforcement agencies, and help guide both public and private institutions in the development of additionally needed educational, preventive, and enforcement activities. Perhaps as important, the gathering of this information will, in and of itself, carry to offenders, to victims and to society at large an important message -- that the nation is committed to battling the violent manifestations of bigotry and racism.

It has been estimated that there are hundreds of brutal acts each year directed against individuals and institutions based upon color, religious beliefs or ethnic affiliation. These acts, which may include desecration of places of worship or cemeteries, arson or even murder, constitute an ominous threat to the pluralistic and democratic values on which our country is built. It must be clear not only that these acts are condemned, but also that society will take effective steps toward their eradication.

-- more --

We note that the Act requires collection of data with respect to two types of acts: actions directed against religious institutions and instruments, and actions whose purpose is to express racial, religious and ethnic hatred. These two categories are, of course, neither synonymous nor mutually exclusive. Not every action against an individual or an institution of a particular religion, color or ethnic group is necessarily motivated by that individual's or institution's affiliation. In carrying out the Act's mandate, therefore, care must be taken to formulate consistent, objective criteria so that the information gathered will not appear merely to be a Rorschach test of those crimes which a local official perceives as motivated by hatred.

Accordingly, the persons who gather the information which ultimately finds its way into the uniform crime reports must be provided with objective standards which will guide them in determining which attacks are truly directed, in the language of the bill, to "manifestly express racial, ethnic or religious hatred." We believe that such objective standards can be developed, just as, in the enforcement of civil rights laws, those persons who commit violent crimes motivated by racial hatred are distinguished from those who commit such crimes for other reasons.

Thus, information gatherers must be trained to be alert to such objective manifestations of hatred as (i) utilization by offenders of speech and written symbols associated with expressions of hatred (e.g., swastikas or the utilization of racial and religious epithets); (ii) acts of violence directed toward particular types of institutions which appear to be part of a recurrent pattern, rather than isolated instances of perhaps random vandalism; or (iii) criminal acts against religious institutions which appear directed against religious symbols qua religious symbols (e.g., desecration of an ark in a synagogue would be considered a "hate crime" while theft of an electrical appliance, or even a Torah, would not be so considered unless there was some other reason

to believe that the theft was not economically motivated).

It has been noted that a substantial proportion of acts and vandalism against religious institutions are committed by juveniles. This fact does not mitigate against the ends served by proposed legislation. However, the data contemplated by the Act should reflect the extent to which these acts are committed by juveniles, as opposed to adults, since this will bear significantly on our understanding of the nature and extent of the problem and the work that will have to be done to deal with it.

With these practical considerations in mind as to the refinements that will be required once the proposed legislation is enacted, we respectfully urge the Congress to enact the "Hate Crime" Statistics Act.

