

2010

Focusing on Pride (Part 2)

Hate Crimes Against Lesbian, Gay, Bisexual and Transgender (LGBT) Survivors of Sexual Assault

*A special information packet
produced by*



CALCASA
CALIFORNIA COALITION
AGAINST SEXUAL ASSAULT

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Preface

Focusing on Pride (Part 2): Hate Crimes Against Lesbian, Gay, Bisexual and Transgender (LGBT) Survivors of Sexual Assault is part of a series of information packets produced by the California Coalition Against Sexual Assault (CALCASA). These information packets were first published in 2001, but have been recently updated to reflect changes that have occurred in the sexual assault intervention and prevention field and in our general society. This 2010 publication is a revision of the 2001 publication, *Focusing on Pride - Sexual Assault in the LGBT Community (Part II)*.

The 2010 publication, *Focusing on Pride (Part 1): Supporting Lesbian, Gay, Bisexual and Transgender (LGBT) Survivors of Sexual Assault* is an introduction to the LGBT community, along with recommendations on working with LGBT sexual assault survivors. It provides specific ways advocates and crisis counselors can support LGBT survivors.

CALCASA is a statewide association, based in Sacramento, CA, that provides leadership, vision, and resources to rape crisis centers, individuals, and other entities committed to ending sexual violence. Founded in 1980, CALCASA is the only statewide organization in California whose sole purpose is to promote advocacy, training, public policy and technical assistance on the issue of sexual assault and rape. For more information, please visit CALCASA's website at www.calcasa.org or call (916) 446-2520 or email at info@calcasa.org.

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Introduction

This information packet is the second of a two-part series on sexual assault in the lesbian, gay, bisexual, and transgender (LGBT) community. **Part One** of this series created a foundation of understanding of the LGBT community, the impact of sexual assault, and recommendations for supporting LGBT survivors of sexual assault. **Part Two** will introduce the issue of sexual assault as a hate crime against LGBT individuals, as well as a foundation for understanding hate crimes and their impact on society.

HATE CRIME

A hate crime, also known as a bias crime, is a criminal act or attempted act against a person, institution, or property that is motivated in whole or in part by the offender's bias against a race, color, religion, gender, perceived gender, or gender identity, ethnic/national origin group, disability status, or sexual orientation group.¹

Hate crimes have been described as "the violence of intolerance and bigotry, intended to hurt and intimidate someone because of their race, ethnicity, national origin, religion, sexual orientation, or disability."² To be a hate crime, the offender's criminal act must have been motivated, in whole or in part, by their bias. A *hate incident*, while not a crime in itself, is an expression of bias. A person who commits hate incidents, unchallenged, often escalates their expressions into more violent hate crimes.³

Another important factor to address in regards to hate crimes is a person's gender. Any bias against gender is historically seen as a bias towards women; however, gender-based violence should also be seen through a different lens, as it not only affects cisgender women, but also transgender individuals who identify as a women. This violence is a deeply rooted problem that has historically spanned across many cultures and societies. Whether the perpetrator is a stranger or an intimate partner, their actions are a learned response to many years of subliminal, conscious male-domination and misogyny in our society (i.e. that women must be in a submissive role and any defiance should be silenced with physical or sexual force in order to enforce male domination). As a result, criteria for what constitutes a hate crime (see *Appendix A: Classifying A Hate Crime*) can easily be translated to account for gender-based violence as a hate crime.

Societal Views of the LGBT Community

According to the FBI Uniform Crime Report 2008 statistics, 60.4% of hate crimes involved an attack directed at a person. Incidents ranged from verbal assault to rape or even murder.⁴ These attacks not only aim at inflicting physical harm, but emotional harm as well. Otherwise law-abiding, young people, who see little wrong with their actions, tend to carry out most hate crimes. Alcohol and drugs are sometimes the catalyst for these crimes, but the main determinant appears to be societal prejudice that blinds them to the irrational actions that may be seen as "rational."⁵ Many youth who carry out hate crimes function on the beliefs they have been taught by society regarding the LGBT community. Their environment and society tells them that anything that falls outside typical societal norms is different and wrong. Since most hate crimes are motivated by anger against people who do not conform to societal norms, LGBT individuals can become targets of hate-based violence. It is important to note that the majority

¹ Community Relations Service, Department of Justice, 600 E. Street, N.W., Suite 6000, Washington, DC 20530. 1997

² Ibid.

³ HATE-CRIME Network, LAMBDA GLBT Community Services. www.hate-crime.website-works.com

⁴ Uniform Crime Report Statistics: Federal Bureau of Investigations, Hate Crime Data Collection Program. 2008.

⁵ *Hate Crimes Today: An Age-Old Foe In Modern Dress*. American Psychological Association: Office of Public Affairs. 1998

of hate crimes against the LGBT community are committed because someone “steps” outside what is called the *gender binary* and not necessarily because someone identifies as LGBT.

GENDER BINARY

The social rules that state one must be a boy or girl; a man or a woman, and within those roles, one must embrace the gender, i.e., a man must be masculine and a woman must be feminine. Gender binary enforces the repressive concept that there are only two genders and that crossover (gender-bending) is morally wrong or unacceptable in society.

If someone crosses the gender binary (i.e. a “femme” gay male or “butch” lesbian), then she or he is in danger of being targeted for violence. Of course, there are exceptions to this; for example, a man or woman who is leaving a LGBT establishment may be targeted for assault based on the perception that only LGBT individuals frequent LGBT-identified establishments.

Sexual assault can be one of several methods used by perpetrators to facilitate a hate crime. Therefore, sexual assault as a hate crime can be seen as an opportunistic crime on an LGBT person. That is, a person may become a target of a hate crime because s/he stepped outside the *gender binary* and that sexually assaulting them is a way to “put them (lesbians or bisexual women) back in their role as feminine women”; as a way to hurt a gay or bisexual man for wanting to be a woman (based in the misogynistic view that being a woman is less than acceptable by the patriarchal society we live in and the stereotype that all gay or bisexual men want to be women); or as an irrational disdain for obvious gender-benders, i.e. transgender persons. According to Patrick Lettelier, “they [transgender persons] are often the most visible ‘rule breakers.’ Their ambiguous appearance and behavior as well as their sometimes unintended inability to ‘pass’ as the gender of their ‘choosing,’ challenges the male-female [binary].”⁶ Another motive for violence can also be an LGBT person’s race, age, gender and other types of discrimination. For example, a young, transsexual Latina woman can be a target not only because of her gender identity, but also because of her racial or ethnic identity, etc.

According to Communities United Against Violence (CUAV) in San Francisco, who has been tracking anti-LGBT violence since 1979, and a member of the National Coalition of Anti-Violence Programs, there were 304 hate incidents reported in 2007; 42 of which were sexual assaults or rapes.

Therefore, the prejudiced and homophobic views held by many in society that LGBT persons are a “menace to society,” only grants individuals permission to perpetrate violence. They repress the LGBT community with minimal repercussion and the belief that society will thank them for their “good deed.” Silence surrounding anti-LGBT discrimination and violence has perpetuated such acts. As a result, society has tended to “turn the other cheek” in response to crimes motivated by hate and bias against the LGBT community.

Unfortunately, there has not been extensive research specifically addressing sexual assault as a hate crime against the LGBT community. This may be due to: underreporting, a lack of understanding by the survivor that a sexual assault occurred, shame, guilt, and avoidance that we see in some, if not all, sexual assaults.

Although many people believe that crazed, hate-filled neo-Nazis or “skinheads” perpetrate the majority of hate crimes, most are actually carried out by otherwise law-abiding people who see little wrong in their actions. Extreme hate crimes, however, tend to be committed by people with

⁶ Lettelier, Patrick. *Anti-GLBT Hate Violence Summary for the San Francisco Bay Area*. 2000.

a history of antisocial behavior.⁷ According to Dr. K. Franklin, teenagers and young adults commit a large percentage of assaults and may be divided into four categories:

- **Ideology assailants** report that their crimes stem from their negative beliefs and attitude about homosexuality that they perceive other people in the community share. They also see themselves as enforcing social morals.
- **Thrill seekers** are typically adolescents who commit assaults to alleviate boredom, to have fun and excitement, and to feel strong.
- **Peer-dynamics assailants** also tend to be adolescents. They commit assaults in an effort to prove their toughness and heterosexuality to friends.
- **Self-defense assailants** typically believe that homosexuals are sexual predators and say they were responding to aggressive sexual propositions, perceived or real.⁸

Reporting Hate Crimes

Hate crimes are one of the most underreported crimes in America. There are many reasons why a person chooses not to report a hate crime. According to a study in Los Angeles by Dr. Edward Dunbar, victims of sexual and aggravated assaults are the least likely to report the incident to police for fear of future encounters with the perpetrator(s).⁹ The American Psychological Association found that some people do not report hate crimes because they fear that police response will not be genuine and that the criminal legal system is biased against them. Another reason is the difficulty in proving the attack was motivated or provoked by bias.¹⁰ Other reasons may include:

- Cultural practices;
- Strength and investigative emphasis of law enforcement agencies;
- Policies of law enforcement agencies;
- Community policing policies; and
- Coming Out Issues.¹¹

In *Focusing on Pride (Part I)*, the reasons for not reporting a sexual assault are explained in more detail; however, if an LGBT person is a victim of a hate crime, not only is the person a victim of sexual violence, but the community is as well. The hate crime(s) may illicit:

- A sense of fear and anxiety from the entire community;
- Feelings that the hate crime(s) may reoccur, especially if the community feels the incident(s) are being accomplished by a serial perpetrator(s);
- Feelings that law enforcement may not be responding promptly to the hate crimes;
- Vandalism to private property or public buildings (e.g. defacing of LGBT center).

According to the National Coalition of Anti-Violence Programs (NCAVP), there were 138 cases of sexual assault/rape reported in 2008, and 74 cases of sexual assault/rape reported in 2009, by LGBT individuals in the United States.¹² It is important to note that these cases reported to the NCAVP were **not** necessarily reported to law enforcement. California statistics from the

⁷ *Hate Crimes Today: An Age-Old Foe In Modern Dress*. American Psychological Association, 1998.

⁸ Franklin, K. *Psychosocial motivations of hate crime perpetrators: Implications for prevention and policy*. Paper presented at a congressional briefing co-sponsored by the American Psychological Association and the Society for the Psychological Study of Social Issues. Washington DC. November 1997.

⁹ Dunbar, E. *Hate Crime patterns in Los Angeles County: Demographic and behavioral factors of victim impact and reporting of crime*. Paper presented at a congressional briefing co-sponsored by the American Psychological Association and the Society for the Psychological Study of Social Issues. Washington, DC. November 1997.

¹⁰ American Psychological Association, 1998.

¹¹ Bill Lockyer, Attorney General. *HATE CRIME IN CALIFORNIA*. 2002.

¹² Anti-Violence Project. *Anti-LGBT Violence in 2002 Preliminary Edition 2003*. National Coalition of Anti-Violence Programs. 2003.

Attorney General, unfortunately, do not breakdown hate crimes based on sexual orientation into types of crimes committed (i.e., sexual assault of a gay male, etc.). The statistics are based on hate crimes events¹³ and number of hate crime victims¹⁴ based on sexual orientation.¹⁵ Additionally, NCAVP attributes the decrease in incidents reported not to a decrease in violence, but a decreased capacity for organizations to capture this information due to cuts and closure as a result of the fiscal crisis.

Hate Crime Events			
2008		2009	
There were 293 hate crime events based on sexual orientation or gender reported to law enforcement:		There were 255 hate crime events based on sexual orientation or gender reported to law enforcement:	
Anti-male homosexual:	(154)	Anti-male homosexual:	(120)
Anti-female homosexual:	(22)	Anti-female homosexual:	(29)
Anti-homosexual:	(102)	Anti-homosexual:	(95)
Anti-bisexual:	(2)	Anti-bisexual:	(1)
Anti-transgender	(13)	Anti-transgender:	(10)
Hate Crime Victims			
2008		2009	
There were 417 hate crime victims based on sexual orientation or gender reported to law enforcement: *		There were 452 hate crime victims based on sexual orientation or gender reported to law enforcement.*	
Anti-male homosexual:	(192)	Anti-male homosexual:	(137)
Anti-female homosexual:	(30)	Anti-female homosexual:	(33)
Anti-homosexual:	(179)	Anti-homosexual:	(111)
Anti-bisexual:	(2)	Anti-bisexual:	(1)
Anti-transgender	(14)	Anti-transgender:	(11)
*Total numbers represent victim type by bias motivation. This includes bias to individuals as well as entities (i.e. businesses, government, etc.).			

According to the California Association of Human Relations Organizations (CAHRO), the original reason for creating hate crime reporting was to provide an early warning for signs of tension between any groups. Even though hate crimes are underreported and many law enforcement agencies are not able to correctly handle hate crime victims, there are still some law enforcement agencies that have made dealing with hate crimes a priority in their work. There are also private organizations that have tracked hate crime incidents for years, including such organization as the B'nai B'rith Anti-Defamation League and the National Gay and Lesbian Task Force. In California, the Los Angeles County Human Relations Commission became the first public (non-law enforcement) organization to track hate crimes. As a result, other cities have created hate crime tracking projects that are able to gather hate crime information that may never have been reported to law enforcement. The new coalition has allowed the public to report hate crimes without the fear of reporting to law enforcement. As stated earlier, why a person chooses not to report a hate crime depends on many factors and not always because of a fear of law enforcement.¹⁶ (See *Appendix D: Resources* for more information on CAHRO).

¹³ Hate crime event is an occurrence where there may be one or more suspects involved, one or more victims targeted, and one or more offenses involved for each event. *Hate Crime in California. 2002*

¹⁴ Hate Crime victims may be an individual, a business or financial institution, a religious organization, government, or other. For example if a church or synagogue is vandalized and/or desecrated, the victim would be a religious organization. *Hate Crime in California. 2002.*

¹⁵ *Hate Crime in California. 2002*

¹⁶ California Association of Human Relations Organizations (CAHRO). *Hate Crimes Reporting. 2000. www.cahro.org.*

Prevention of Hate Crimes

There is no single solution to the prevention of prejudice and hate. Prevention is a concerted effort that must be undertaken by everyone in the community. Hate crimes not only affect an individual, but also affect the community to which the person belongs (e.g., the Asian community as a whole). A community response to incidents of hate is essential to the reduction of hate crimes. Reducing fears, preventing retribution or additional hate crimes, and creating a safe space for those in the community who have possibly been previous victims of hate crimes to come forward and report incidents, is a responsibility that should involve every level of partnership.

Community partnerships should involve the necessary components, such as individual leaders, community organizations (e.g., rape crisis centers), law enforcement, and legislative efforts. Unfortunately, it has taken incidents of hate to bring about any intervention and prevention efforts by legislative, law enforcement and community organizations. However, it is important to note that many agencies, including law enforcement, rape crisis centers and LGBT centers have existed for decades. Recognizing their efforts and positive practices, is necessary when describing the efforts that must be undertaken in order to prevent and reduce hate crimes against the LGBT community.

In order to work on the prevention of hate crimes, we must first discuss the history of hate crime laws and the enactment of certain bills that have led to the creation of these laws; thereby increasing the awareness of hate crimes, hate crime prosecution and data collection that have begun to pave the way for the recognition of the effect of hate crimes on the LGBT community, and ways to prevent it.

1. Legislation/Laws

The term “hate crime” was first introduced in the late 1980s as an attempt to enhance existing criminal and civil laws. The purpose of the introduction of “hate crime” to existing law was to capture those crimes that were motivated by a person’s bias against an individual or group. Initially, civil rights groups lobbied to include the collection of data on crimes motivated by race, religion, and ethnicity, and later other groups including The National Gay and Lesbian Task Force joined in the lobbying efforts. Through revision and resubmission in Congress, the ***Hate Crime Statistics Act (HCSA)*** was passed into law in 1990. Although the HCSA included the statement, “[n]othing in this Act shall be construed...to promote or encourage homosexuality,” the Human Rights Campaign fund director hailed it as “the first time in history that sexual orientation would be included in a federal civil rights law” (see *Appendix B: Hate Crime Statistics Act*).¹⁷ The HCSA would now require the Attorney General to collect data on hate crime acts (and provide a yearly report) motivated by an individual’s bias based on “crimes that manifest evidence of prejudice based on race, religion, disability, sexual orientation, or ethnicity, including where appropriate the crimes of murder, non-negligent manslaughter, forcible rape, aggravated assault, simple assault, intimidation, arson, and destruction, damage or vandalism of property.”¹⁸

Unfortunately, as the Act covers sexual orientation, it does not cover gender. This not only excluded women, but transgender persons, as well. In the following four years, women’s advocacy groups lobbied to include gender as a motivation for hate crimes, but in vain. The HCSA failed to recognize gender as a motive, which in turn motivated women’s advocacy groups to lobby Congress again into amending the HCSA or have the creation of a new law that **would** cover gender bias. Women’s rights groups, already lobbying for the creation of a law

¹⁷ Jacobs, James B and Potter, Kimberly. *Hate Crimes: criminal law & identity politics*. NY: Oxford University Press. 1998. p.71.

¹⁸ U.S. Department of State: International Information Programs website. The Hate Crime Statistics Act of 1990. <http://usinfo.state.gov/usa/race/hate/28usc534.htm>.

that focused on addressing and ending violence against women, now had a new addition to their bill. Finally, in 1994, The Violence Against Women Act was passed into law, creating gender as a basis for hate crimes based on the violation of the victim's right to be free from discrimination.¹⁹

HCSA prompted other more specific hate crime laws throughout the United States. Since the HCSA was designed simply to include the collection of data based on hate crimes and not to penalize them on a federal level, many states took the initiative to create state hate crime laws that would penalize hate crimes and protect lesbian, gay and bisexual persons; some even including gender identity, which would cover transgender persons. Below is a listing from the National Gay and Lesbian Task Force on hate crime laws per state:

<p>Hate Crime Laws do not include crimes based on sexual orientation:</p> <ul style="list-style-type: none"> • Alabama • Alaska • Colorado • Idaho • Maryland* • Michigan* • Mississippi • Montana • North Carolina • North Dakota • Ohio • Oklahoma • South Dakota • Virginia • West Virginia 	<p>Hate crime laws include crimes based on sexual orientation:</p> <ul style="list-style-type: none"> • Arizona • Delaware • Florida • Iowa • Kansas • Kentucky • Maine • Massachusetts • Nevada • New Hampshire • Tennessee • Texas • Wisconsin 	<p>Hate Crime laws include crimes based on sexual orientation and gender identity:</p> <ul style="list-style-type: none"> • California • Colorado • Connecticut • Hawaii • Illinois • Iowa • Louisiana • Maine • Minnesota • Missouri • Nebraska • New Jersey • New Mexico • New York • Oregon • Pennsylvania • Rhode island • Vermont • Washington, D.C • Washington State
<p>Hate Crime laws address crimes motivated by bias or prejudice and do not list categories:</p> <ul style="list-style-type: none"> • Georgia • Utah^ 	<p>Do not have hate crime laws that include crimes based on any characteristics*:</p> <ul style="list-style-type: none"> • Arkansas • Indiana* • South Carolina • Wyoming 	

*MD, MI, & IN hate crime data collection laws include sexual orientation, but hate crime penalty laws do not include it. ◊The states mentioned still have some forms of non-discrimination laws; however, not necessarily include sexual orientation in those laws. None have hate crime laws specific to sexual orientation or gender identity. ^Utah hate crime law addresses crimes with intent to "intimidate or terrorize" and does not list specific categories.²⁰

2. Courts and Cases

As a result of legislation formulated in the United States, courts have an obligation to apply the laws set forth in prosecuting hate crimes. Unfortunately, many of the laws are difficult to enforce, as many key elements are necessary to incite prosecution of a hate crime. For

¹⁹ Public Law No. 102-322, 108 Stat. 1796, tit. IV (September 13, 1994.).

²⁰ National Gay and Lesbian Task Force. Hate Crime Laws in the United States. 2003.

example, Matthew Shepard, a 21-year old University of Wyoming student was murdered in 1998 as a result of his sexual orientation. Fortunately, his assailants were prosecuted and given life sentences for kidnapping and/or felony murder. Ironically, neither one of them was prosecuted for a hate crime, as Wyoming does not recognize hate crime laws.

On December 31, 1993, John Lotter and Marvin Thomas Nissen murdered Brandon Teena (a transgender man) in a farmhouse in rural Richardson County, Nebraska. The murder(s) occurred one week after both Loter and Nissen kidnapped, assaulted and raped Brandon Teena to “prove” she was “really a woman”, as she had been living as a man. Lotter was convicted for first-degree murder and is currently on death row. Nissen, having testified against Lotter, was convicted of second-degree murder and is serving life without parole. In both cases, the issue of hate crimes was unable to be introduced as part of the prosecution.

In California, there are several laws in which hate crimes can be used as part of the prosecution and many courts are beginning to utilize them (*see Appendix C: California Hate Crime Laws*). Unfortunately, since proving the crime was based on hate is very difficult, some cases have been difficult to prosecute under hate crime laws. As a result, in several states, including California, much needs to be done to educate, not only judges or prosecution teams, but also juries (who are critical in convicting someone of a hate crime) and society at large.

3. Law Enforcement

It is important that law enforcement be trained to sensitively deal with hate crime victims of all types. It is equally important that officers understand how to recognize hate crimes and document them properly. Law enforcement must examine their views about LGBT persons and the possibility of homophobia and transphobia. This self-examination will improve their response to LGBT survivors of a sexual assault as a hate crime.

Unfortunately, even in major cities, homophobia and transphobia still exist. According to incidents reported to CUAV in San Francisco, there were 85 incidents of law enforcement abuse and misconduct involving the LGBT community in 2008.²¹

This serves as a wake-up call for law enforcement to re-examine their training of officers and set up protocols for educating and informing new and existing officers to help reduce the incidents of hate crimes against the LGBT community.

The National Center for Hate Crime Prevention Education Development Center, Inc. funded through the United States Department of Justice, Office for Victims of Crime, has developed “Responding to Hate Crime: A Multidisciplinary Curriculum for Law Enforcement and Victim Assistance Professionals” as a “best practices” model in recognizing, responding and providing sensitive treatment to victims of hate crimes. A copy of the curriculum is available through the Rape Prevention Resource Center at CALCASA and through the National Center for Hate Crime Prevention (*see Appendix D: Resources*). The booklet is a first step in responding to hate crimes; however, more must be done to help in the prevention of hate crimes before they occur. Law enforcement officers are in a unique position as they are usually seen as role models in the community. In their everyday encounters with victims of hate crimes, being able to acknowledge the crime exists and becoming a part of the prevention effort, usually with local community activists or organizations, would send a message that hate crimes of any kind will not be tolerated. Crime victims, especially those who may have been sexually assaulted as a result of a hate crime against them, need to feel that law enforcement is on their side. Law enforcement must convey to the public that they are aware of hate crimes and are working with the community to prevent them. Working with local Hate Crimes Registries or organization that

²¹ Communities United Against Violence. Local Hate Violence report. 2008. www.cuav.org.

collect hate crime statistics will give law enforcement a better sense of what is happening in the community and ways to help in the prevention of any further hate crimes.

4. Community Organizations/Rape Crisis Centers/Rape Prevention Educators

Anti-violence projects, such as CUAV and the New York City Anti-Violence Project, are well-known organizations that provide crisis intervention and prevention efforts against hate crimes in the LGBT community, with many members focusing on helping survivors of hate crimes.

Through community efforts, these agencies can help in identifying victims of sexual assault as a hate crime and rape crisis centers can help in this collaboration. As we know, rape is not just an issue that affects women, but the entire community. For example, if a person is sexually assaulted as a result of being a lesbian, then rape crisis centers have an obligation to collaborate with centers that work with survivors of hate crime. Since some centers may not be aware of local hate crime prevention centers, there may be many survivors of sexual assault that are unaware of the services available to them as survivors of a hate crime. It is, therefore, important for rape crisis centers to contact local hate crime registry organizations or local LGBT centers to outreach to existing and potential survivors.

Rape crisis centers and rape prevention educators (RPE) are also in a unique and important position to influence positive attitudes and behavior related to hate and bias among children, youth, teachers, etc. Since humans are not born prejudiced, but rather receive our information via our environment, reaching children at a young age is a necessary opportunity to educate and prevent hate crimes. By creating collaborations with school administrators and stressing the importance of providing rape prevention education, hate crime prevention education, and the importance of diversity, rape crisis centers and rape prevention educators will be in a better position to reach those school-aged children and youth who, statistically, perpetrate most of the hate crimes against the LGBT community. Studies have shown that the younger a person is exposed to diversity, the more likely it is that s/he will view it as less threatening, and anything different they encounter will be seen as a strength. Below are some key recommendations suggested by the organization Partners Against Hate that can be used when providing rape prevention education:

- Confront prejudicial attitudes and actions before they escalate.
- Identify, understand, and effectively combat bias-related incidents and hate crimes.
- Enhance students' self-esteem by creating school climates where youth feel secure, accepted, independent, and responsible.
- Help students connect their own experiences with others'.
- Teach youth how to promote critical thinking by identifying overgeneralizations and stereotypes.
- Teach youth the history of discrimination, hate crimes, and bias.
- Provide youth with examples of individuals whose lives counter the stereotypes.
- Assist youth in becoming empowered to make positive social change.
- Help youth resist prejudice and bias.
- Help young people recognize hate and bias on the Internet.²²

²² Strategies and Resources. Partners Against Hate Website. 2002. www.partnersagainsthate.org

Screening For Hate Crime Related Sexual Assaults at Rape Crisis Centers: Recommendations For Working With Survivors

1. Providing Crisis Intervention/Counseling

Whenever LGBT survivors contact a rape crisis center, it is important to be aware of the possibility that they may have been a victim of a hate crime as well as a sexual assault. Details in a survivor's story such as the use of homophobic slurs or a location in an LGBT neighborhood may indicate that the sexual assault may have also been a hate crime.

Whether on the hotline, at the hospital, or during a counseling intake, rape crisis center staff should **not** ask the survivor if s/he thinks that the sexual assault could have been a hate crime. Determining whether it was a hate crime is the job of law enforcement and not of the rape crisis center. Instead, ask why they feel this might have happened. Survivors may tend to blame themselves for the incident and come up with reasons on how they could have prevented the assault. If the sexual assault has been proven to, indeed, be hate-motivated and classified as a hate crime, rape crisis centers can provide a definition and information about hate crimes and what laws and services are available to protect survivors of hate crimes. It is also important to allow the survivor to decide for her or himself if the sexual assault could have been a hate crime. Some survivors may be reluctant to identify it as such, just as many survivors do not initially call their traumatic experience a sexual assault. Survivors of a hate crime may exhibit the same trauma that any crime victim exhibits, with the following concerns specific to the LGBT community:

- concerns about being “outed”
- concerns about their safety or vulnerability to future assaults
- a general desire to minimize their experience
- sense of community or system betrayal
- humiliation or shame
- self-blame or feelings that it wouldn't have happened if they were “straight” or “cisgendered”
- disbelief and/or shock (“I can't believe this just happened to me”)
- anger
- feelings of revenge
- vulnerability (especially to identifying group) ²³

2. When to Refer to an LGBT Center

Community centers and services for LGBT persons exist throughout California (a listing has been provided in Part I of this two-part series, “*Focusing On Pride: Sexual Assault in the LGBT Community*,” as well as information on the California Community and Law Enforcement Hate Crime Networks in *Appendix E: California Community and Law Enforcement Hate Crime Networks* of this information packet). This is a valuable resource when working with LGBT survivors of sexual assault and hate crimes. Rape crisis centers should be familiar with their local LGBT center or Hate Crime Network organization and offer this referral to LGBT survivors routinely. An LGBT community center is a place where survivors can feel part of a larger community where they can gain support, feel safe, and possibly receive counseling. This is particularly important after a hate crime occurs because a survivor's personal safety has been violated because of their real or perceived identity. Interacting and connecting with the wider LGBT community through the local LGBT center is an important way to regain a sense of safety and normalcy. Connecting survivors with Hate Crime Network organizations also gives them

²³ Adapted from the National Criminal Justice Reference Services. *Responding to Hate Crimes: A Police Officer's Guide to Investigation and Prevention*. 1999.

the opportunity to report the hate crime, even if they decide not to involve law enforcement. The National Coalition of Anti-Violence Projects (NCAVP) can help in tracking hate crimes that are not necessarily reported to law enforcement.

When referring a survivor to an LGBT center, it is important to remember that a survivor may be LGBT; however, s/he may not *identify* as LGBT or want to be “outed,” especially if living in a rural community. If the survivor does not identify with the LGBT community, s/he may not be interested in this referral, even if a hate crime is suspected

3. Advocating for the Survivor of a Hate Crime

The role of a rape crisis advocate is to provide information, options, and support for the survivor of sexual assault. The role is no different for that of a survivor of a hate crime. Advocates first must learn about hate crimes, their definition, prosecution, treatment, etc. Once identified as a hate crime survivor, advocates must ensure that survivors know their options, such as reporting to law enforcement, prosecution, and medical treatment. Survivors may have several questions and may require information about how the criminal justice system works, medical treatment, counseling options, support, and other resources. Partnering with the LGBT center can provide the advocate with valuable information about the LGBT community. It is also important to become an ally with LGBT service providers. LGBT centers and survivors may be unaware of the services local rape crisis centers can provide to survivors of a hate crime that involved sexual assault.

As with every survivor of sexual assault, survivors of hate crimes may choose not to report the crime, continue with prosecution, or receive treatment at any time. In addition to myths and stereotypes that other sexual assault survivors may face, LGBT survivors of hate crimes may face homophobia or transphobia from law enforcement, medical personnel, and the criminal justice system. It is recommended that advocates become aware of the views of local law enforcement in regards to the LGBT community and spend time with law enforcement in educating and updating them on this community. Participating in law enforcement academy trainings and providing information on the community as a “best practices” model in responding to LGBT survivors, will not only help in reducing the amount of homophobia that exists, but may benefit and facilitate a survivor’s case in a more timely and sensitive manner. Advocates can also continue their pro-active stance and help in providing rape prevention education at local LGBT centers, law enforcement police line-ups, LGBT groups (e.g. groups targeted towards elder LGBT persons or LGBT persons with disabilities), to help minimize the fear and anxiety that may exist.

With this added knowledge, advocates will be in a better position to provide services and support the survivor in challenging any discrimination that they may face and problem-solve to provide solutions or options to counter it.

4. Healing from the Dual Trauma of Sexual Assault and a Hate Crime

Survivors of sexual assault as a hate crime face the trauma of both a sexual assault and a hate crime. In addition to common reactions to sexual assault, survivors of hate crimes may experience anger, fear, and crisis related to the hate crime. A hate crime attacks an individual’s identity and existence (i.e. attacked for what they are, not who they are). Healing may take a long time while survivors seek to regain a sense of safety, freedom, and well-being. For LGBT survivors, it may be very important to connect to the LGBT community in their area by attending local meetings, events, or support groups or accessing online or telephone support. This may provide an added sense of safety and understanding as survivors find strength in the common experiences of others. Rape crisis centers can also provide counseling, support, and special expertise in helping survivors of sexual assault.

Conclusion

Hate or bias crimes cannot be eradicated overnight. Several key players with the ability to affect the outcome of how hate crimes are viewed and handled, are necessary if any progression is to be made in the fight against them. From legislators to rape crisis centers, affecting change must happen on many different levels. Advocating for LGBT survivors of hate crimes that are sexually assaulted is a critical step in increasing awareness and educating the community to the severity of hate crimes that affect not only survivors, but society as well.

This information packet on hate crimes was designed as a supplement to *Focusing on Pride (Part 1): Sexual Assault in the LGBT Community*. It was written to include hate crimes as a possible motivation of sexual assault in the LGBT community. Part 1 is the foundation for increasing knowledge of sexual assault, as well as providing recommendations for supporting LGBT survivors and efforts to help eradicate sexual assault in the LGBT community. As with Part 1, we encourage you to utilize this information packet as a way to enhance your existing staff and volunteer sexual assault counselor training, and in your everyday work. Since hate crimes affect not only the individual person, but also the community, rape crisis centers can initiate the collaboration with hate crime prevention agencies and help not only individual survivors of sexual assault, but also reach those survivors who may not be accessing services, as a way to unite the community and eradicate sexual assault as a hate crime.

We hope this information packet will provide a platform for staff and volunteers to further research hate crimes and incorporate the information in their daily work. For more information or technical assistance on this topic, please contact CALCASA at (916) 446-2520 or via email at info@calcasa.org.

APPENDIX A:

CLASSIFYING A HATE CRIME

The following from the LAMBDA GLBT Center in El Paso, Texas' Hate-Crime Net (no longer in existence) is provided for information only and is not meant to be a legal interpretation of the law:

The following facts, particularly when combined, help support the classification of an incident as bias-motivated:

- 1) The offender and the victim were of different race, religion, disability, sexual orientation, and/or ethnicity/national origin. For example, the victim was black and the offender was white.
- 2) Bias-related oral comments, written statements, or gestures were made by the offender, which indicate their bias. For example, the offender shouted a racial epithet at the victim.
- 3) Bias-related drawings, markings, symbols, or graffiti were left at the crime scene. For example, a swastika was painted on the door of a synagogue.
- 4) Certain objects, items, or things that indicate bias were used. For example, the offenders wore white sheets with hoods covering their faces or a burning cross was left in front of the victim's residence.
- 5) The victim is a member of a racial, religious, disability, sexual-orientation, or ethnic/national origin group which is overwhelmingly outnumbered by other residents in the neighborhood where the victim lives and the incident took place. This factor loses significance with the passage of time (it is most significant when the victim first moved into the neighborhood and becomes less and less significant as time passes without incident.)
- 6) The victim was visiting a neighborhood where previous hate crimes were committed against other members of their racial, religious, disability, sexual-orientation, or ethnic/national origin group and where tensions remained high against their group.
- 7) Several incidents occurred in the same locality, at or about the same time, and the victims were all of the same race, religion, disability, sexual orientation, or ethnicity/national origin.
- 8) A substantial portion of the community where the crime occurred perceived that the incident was motivated by bias.
- 9) The victim was engaged in activities promoting their race, religion, disability, sexual orientation, or ethnicity/national origin. For example, the victim was a member of the NAACP or participated in gay rights demonstrations.
- 10) The incident coincided with a holiday or a date of particular significance relating to a race, religion, disability, sexual orientation, or ethnicity/national origin, e.g., Martin Luther King Day, Rosh Hashanah.
- 11) The offender was previously involved in committing a similar hate crime or is a hate group member.
- 12) There were indications that a hate group was involved. For example, a hate group claimed responsibility for the crime or was active in the neighborhood.
- 13) A historically established animosity existed between the victim's and the offender's groups.
- 14) The victim, although not a member of the targeted racial, religious, disability, sexual orientation, or ethnic/national origin group, was a member of an advocacy group supporting the precepts of the victim group.²⁴

²⁴ HATE-CRIME Network. 2002

APPENDIX B:

HATE CRIME STATISTICS ACT

"(1) Under the authority of section 534 of title 28, United States Code, the Attorney General shall acquire data, for each calendar year, about crimes that manifest evidence of prejudice based on race, religion, disability, sexual orientation, or ethnicity, including where appropriate the crimes of murder, non-negligent manslaughter; forcible rape; aggravated assault, simple assault, intimidation; arson; and destruction, damage or vandalism of property.

"(2) The Attorney General shall establish guidelines for the collection of such data including the necessary evidence and criteria that must be present for a finding of manifest prejudice and procedures for carrying out the purposes of this section.

"(3) Nothing in this section creates a cause of action or a right to bring an action, including an action based on discrimination due to sexual orientation. As used in this section, the term 'sexual orientation' means consensual homosexuality or heterosexuality. This subsection does not limit any existing cause of action or right to bring an action, including any action under the Administrative Procedure Act or the All Writs Act [5 U.S.C. 551 et seq. or 28 U.S.C. 1651].

"(4) Data acquired under this section shall be used only for research or statistical purposes and may not contain any information that may reveal the identity of an individual victim of a crime.

"(5) The Attorney General shall publish an annual summary of the data acquired under this section.

"(c) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section through fiscal year 2002.

"Sec. 2. (a) Congress finds that -

1. The American family life is the foundation of American Society,
2. Federal policy should encourage the well-being, financial security, and health of the American family,
3. Schools should not de-emphasize the critical value of American family life."

"(b) Nothing in this Act shall be construed, nor shall any funds appropriated to carry out the purpose of the Act be used, to promote or encourage homosexuality."

APPENDIX C:

MATTHEW SHEPARD/JAMES BYRD, JR. HATE CRIMES PREVENTION ACT of 2009

If you or someone you know has been the victim of a hate crime based on sexual orientation or gender identity, the FBI may be able to help you.

The Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act of 2009 gives the FBI authority to investigate violent hate crimes, including violence directed at the gay, lesbian, bisexual, and transgender community.

This new federal civil rights law criminalizes willfully causing bodily injury (or attempting to do so with fire, a firearm, or other dangerous weapon) when:

(1) the crime was committed because of the actual or perceived race, color, religion, national origin, of any person, or;

(2) the crime was committed because of the actual or perceived religion, national origin, gender, sexual orientation, gender identity, or disability of any person, and the crime affected interstate or foreign commerce, or occurred on federal property.

If you or someone you know is a victim of a hate crime, or if you have direct knowledge of such a crime, please contact your local FBI office (see below). This new law protects all persons equally regardless of immigration status. Reporting the incident to the FBI is a necessary step to ensuring justice for all victims of violent hate crimes.

APPENDIX D:

CALIFORNIA HATE CRIME LAWS

Felonies

- **P.C. 422.7** – Commission of a crime for the purpose of interfering with another’s exercise of civil rights.
- **P.C. 594.3** – Vandalism of place of worship based on racial or religious bias.
- **P.C. 11412** – Threats obstructing exercise of religion.
- **P.C. 11413** – Use of destructive device or explosive or commission of arson in certain places.

Misdemeanors

- **P.C. 422.6** – Use of force, threats or destruction of property to interfere with another’s exercise of civil rights.
- **P.C. 422.9** – Violation of civil order (Bane Act) protecting the exercise of civil rights.
- **P.C. 538(c)** – Unauthorized insertion of advertisements in newspapers and redistribution to the public.
- **P.C. 640.2** – Placing handbill, notice or advertisement on a consumer product or product package without authorization.
- **P.C. 11411** – Terrorism of owner or occupant of real property. Placement or display of sign, symbol or other physical impression without authorization, engagement in pattern of conduct, or burning or desecration of religious symbols.

Enhancements

- **P.C. 190.2(a)(16)** – Special circumstances imposing the Death Penalty or Life Without possibility of Parole if the victim was intentionally killed because of race, color, religion, nationality, country of origin.
- **P.C. 190.3** – Special circumstances imposing Life Without possibility of Parole if the victim was intentionally killed because of sexual orientation, gender or disability.
- **P.C. 422.75** – Penalty for felony committed because of victim’s race, color, religion, nationality, country of origin, ancestry, disability or sexual orientation shall be enhanced one, two or three years in prison, if the person acts alone; and 2, 3 or 4 years if the person commits the act with another.²⁵

Note: If the criminal offense was not committed because of bias, an appropriate criminal charge can nonetheless be filed.

²⁵ Los Angeles District Attorney’s Office website. www.da.co.la.ca.us/hate/default.htm

APPENDIX E:

RESOURCES

For more LGBT resources, please refer to CALCASA's information packet Focusing on Pride (Part 1): Sexual Assault in the LGBT Community. Below are additional websites focusing on hate crime information:

Anti-Defamation League

www.adl.org

California Association of Human Relations Organizations (CAHRO)

www.cahro.org

Center for Preventing Hate

www.preventinghate.org

Gay, Lesbian, Straight Education Network

www.glsen.org

Gay and Lesbian Alliance Against Defamation

www.glaad.org

Matthew Shepard Foundation

www.matthewsplace.com/foundtext.html

National Center for Hate Crime Prevention

hwww.edc.org/HHD/hatecrime

National Center for Victims of Crime

www.ncvc.org

Not In Our Town

www.niot.org

Partners Against Hate

www.partnersagainsthate.org

Prejudice Institute

www.prejudiceinstitute.org

Simon Wiesenthal Center

www.wiesenthal.com

Southern Poverty Law Center

www.splcenter.org

Teaching Tolerance

www.tolerance.org

APPENDIX F:

CALIFORNIA COMMUNITY AND LAW ENFORCEMENT HATE CRIME NETWORKS

Community United Against Violence (CUAV)

170A Capp Street

San Francisco, CA 94110

24-hour safety line: 415-333-4357

Services: peer-based counseling, direct assistance, education and outreach, grassroots organizing, and policy advocacy

Intergroup Clearinghouse - San Francisco

1125-B Quintara Street

San Francisco, CA 94116

Phone Number: 415-564-9410

Services: School technical assistance, criminal justice coordination, victim assistance training, victim referral, community education

Los Angeles County Commission on Human Relations

3175 W. 6th Street, Suite 104

Los Angeles, CA 90020

Phone Number: 213-738-2788

Services: Community response, criminal justice coordination, victim referral, community education

Orange County HRC

1300 South Grand Bldg B

Santa Ana, CA 92705

Phone Number: 888-662-4283

Services: Hate crime data collection, victim referral, law enforcement training & coordination, community response, school technical assistance

Sacramento Area Hate Crime Task Force

US Attorney's Office

50 I Street, Suite 10-100

Sacramento, CA 95814-2323

Phone Number: 916-554-2776

Services: Victim referral, hate crime data collection, community response, community education

San Diego Human Relations Commission

1200 3rd Ave, Suite 916

San Diego, CA 92101

Phone Number: 619-236-6420

Services: Hate crime data collection, law enforcement training, community education

Santa Barbara Human Relations Commission

Phone Number: 805-568-3410

Services: Victim assistance and referral, law enforcement training, community education, hate crime data collection, community response

Santa Clara County Network for a Hate Free Community

c/o the Santa Clara County Human Relations Commission

2310 N. First Street, Suite 104

San Jose, CA 95131

Phone Number: 408-792-2304

Services: Community education, victim assistance and referral, hate crime data collection

Sonoma County Network

Sonoma County HRC

2300 County Center Drive B167

Santa Rosa, CA 95403

Phone Number: 707-565-2693

Services: Victim referral, hate-free communities, victim assistance training, community response, college technical assistance, school technical assistance, community education

Western Inland Empire Coalition Against Hate (WIECAH)

Phone Number: 951-892-4834

Services: Victim assistance and referral, community response, hate crime collection

APPENDIX G:

SUGGESTED READING AND VIDEOS

The following materials provide further information on the issues discussed in this information packet and are available to California rape crisis center staff. Please contact Villena Kournis, CALCASA's Administrative and Library Associate, at 916-446-2520, Ext. 320 or at info@calcasa.org for a complete list of bibliographies.

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