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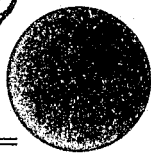
U.S. House of Representatives

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HATE CRIME STATISTICS ACT

APRIL 20, 1988.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. CONYERS, from the Committee on the Judiciary,
submitted the following

REPORT NCJRS

together with

AUG 1 1988

ADDITIONAL AND DISSENTING VIEWS

[To accompany H.R. 3193] ACQUISITIONS

[Including cost estimate of the Congressional Budget Office]

The Committee on the Judiciary, to whom was referred the bill (H.R. 3193) to provide for the acquisition and publication of data about crimes that manifest prejudice based on race, religion, sexual orientation, or ethnicity, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

PURPOSE OF THE LEGISLATION

The purpose of H.R. 3193, the "Hate Crime Statistics Act," is to require the Department of Justice annually to collect and publish statistics on crimes which manifest prejudice based on race, religion, sexual orientation, or ethnicity. There are at present no comprehensive, accurate, and up-to-date statistics kept on the national incidence of hate crimes. The Committee believes that such statistics can provide the basis for more effective law enforcement efforts since most communities seeking to combat hate crimes must speculate about their frequency, location, and patterns.

COMMITTEE CONSIDERATION

H.R. 3193 derives from work begun by the Subcommittee on Criminal Justice in the 99th Congress. The Subcommittee, after re-

ceiving testimony on legislation similar to H.R. 3193,¹ recommended a bill requiring the collection of data about the incidence of certain crimes (such as murder and arson) that are committed manifestly to express racial, ethnic, or religious prejudice. The Committee reported favorably on the bill, H.R. 2455,² and the House passed it by voice vote.³ That bill was pending in the Senate when the 99th Congress adjourned sine die.

Two oversight hearings held by the Subcommittee on Criminal Justice during the 99th Congress are also relevant to H.R. 3193. These hearings explored violence directed at Americans of Arab descent,⁴ and at gays and lesbians.⁵ In addition, the Criminal Justice Subcommittee held a hearing on religiously-motivated violence,⁶ and recommended legislation to make such violence a federal crime under certain circumstances. The Committee reported favorably on the bill,⁷ and the House passed it by voice vote.⁸ The Senate also failed to act on this legislation.

This Congress, the Committee once again reported legislation criminalizing certain acts of religiously motivated violence.⁹ The House passed the measure, H.R. 3258, by voice vote.¹⁰

Last November, the Subcommittee on Civil and Constitutional Rights held an oversight hearing on anti-Asian violence. The witnesses at that hearing noted that better data is needed and urged the enactment of H.R. 3193.¹¹

NEED FOR THE LEGISLATION

Systematic data about the incidence of hate crimes is useful not only to federal, state, and local legislators in formulating public policy, but also to federal and local law enforcement agencies in determining law enforcement priorities. There is presently no systematic collection of such data. H.R. 3193 seeks to correct that situation.

¹ Hate Crime Statistics Act: Hearing on H.R. 1171 and H.R. 775 before the Subcomm. on Crim. Justice of the House Comm. on the Judiciary, 99th Cong., 1st Sess. (1985). Testimony was received from Congressional sponsors of the legislation, the United States Department of Justice, the director of the Connecticut Commission on Human Rights and Opportunities, the director of community relations for the Maryland Commission on Human Rights, and representatives of the Anti-Defamation League of B'nai B'rith, the Anti-Klan Network (now named the Center for Democratic Renewal), the Institute for the Prevention and Control of Violence and Extremism, the NAACP Legal Defense and Educational Fund, Inc., and the American Jewish Committee.

² H.R. Rep. No. 208, 99th Cong., 1st Sess. (1985).

³ See 131 Cong. Rec. H5988-93 (daily ed. July 22, 1985).

⁴ The hearing was held June 16, 1986, and testimony was received from representatives of the FBI, the National Association of Arab Americans, the American Arab Anti-Discrimination Committee, and the Arab-American Institute.

⁵ See Anti-Gay Violence: Hearings before the Subcomm. on Crim. Justice of the House Comm. on the Judiciary, 99th Cong., 2d Sess. (1986). Testimony was received, inter alia, from representatives of the New York City Police Department, the New York County District Attorney, the National Gay and Lesbian Task Force, the American Psychological Association, and the American Sociological Association.

⁶ See Crimes Against Religious Practices and Property: Hearings on H.R. 665 before the Subcomm. on Crim. Justice of the House Comm. on the Judiciary, 99th Cong., 1st Sess. (1985). Testimony was received from Members of Congress, and representatives of the United States Department of Justice and the American Jewish Committee.

⁷ See H.R. Rep. No. 820, 99th Cong., 2d Sess. (1986).

⁸ 132 Cong. Rec. H3045-47 (daily ed. Sept. 22, 1986).

⁹ See H.R. Rep. No. 337, 100th Cong., 1st Sess. (1987).

¹⁰ See 133 Cong. Rec. H8125-27 (daily ed. Oct. 5, 1987).

¹¹ See Anti-Asian Violence: Hearing before the Subcomm. on Civil and Const. Rts. of the House Comm. on the Judiciary, 100th Cong., 1st Sess. (1987) [pub. forthcoming]. Witnesses included representatives of the Asian-American Legal Defense and Educational Fund of New York, the Japanese American Citizens League, and the Organization of Chinese Americans.

Only a few state governments and community organizations monitor the incidence of hate crimes. As the result, there is still much about them we do not know. Are the bigoted attacks and the vandalism we hear about all too often in the press isolated incidents or evidence of a more pervasive problem? Which communities are prone toward hate-inspired violence? What law enforcement techniques and actions of concerned citizens have been effective in curbing hate crimes?

While each incident represents a personal tragedy for the victim, hate crimes are an attempt to intimidate a larger group or class of people. Devoting Federal resources to the collection of more information about this problem will demonstrate a national commitment to the eradication of hate crimes.

Early last year, the New York Times reported that a debate was raging between Assistant Attorney General William Bradford Reynolds and civil rights advocates over whether racial violence, one type of hate crime, was increasing.¹² Mr. Reynolds cited informal surveys of Federal prosecutors and the number of civil rights complaints filed with the Justice Department to support his contention that racial violence was not increasing. Civil rights leaders pointed to data supplied by the Department's own Community Relations Service to show that racial violence was increasing. Enactment of H.R. 3193, the "Hate Crime Statistics Act," will help to put an end to this conflict.

On February 12, 1988, the U.S. Commission on Civil Rights passed a resolution calling on the Congress to enact legislation requiring the Attorney General to collect data about hate crimes and publish it on a yearly basis. The resolution states that "this data is essential to determining the level of bigotry-related crime in the United States."¹³

The National Institute of Justice (NIJ), in response to growing public concern about hate crimes, recently commissioned a study of how police and prosecutors are addressing this problem. The study, entitled "The Response of the Criminal Justice System to Bias Crimes," was submitted to NIJ on October 7, 1987.¹⁴ Its authors interviewed representatives of police agencies, district attorneys offices, human rights and civil rights organizations, and the director of the Community Relations Service of the Department of Justice. From these contacts, the authors of the report found that only a few jurisdictions have, thus far, enacted laws mandating the collection of data on hate crimes. They also found that blacks, Hispanics, Southeast Asians, Jews, and gays and lesbians are the most frequent victims of hate crimes.

Maryland was identified the first state to collect statistics on hate crimes. In 1981, it required its State Police to collect the data

¹² Williams, "Lack of Figures on Racial Strife Fueling Dispute—Justice Department and Rights Groups Do Not Agree," N.Y. Times, April 4, 1987, at A20; Shenon, "U.S. Rights Official Discounts Tension: Reynolds Says Racial Attacks Have Not Been Increasing," N.Y. Times, February 7, 1987, at A1.

¹³ A survey conducted by the U.S. Commission on Civil Rights staff in April 1987 disclosed that the states of Maryland, Pennsylvania, Illinois and North Carolina, and the Los Angeles County Human Relations Commission, Chicago Police Department, Boston Police Department, and New York City Police Department systematically collect data on hate crimes.

¹⁴ Finn & McNeil, "The Response of the Criminal Justice System to Bias Crime: An Exploratory Review" (1987) (contract number OJP-86-002).

and provide monthly summaries to the Maryland Human Relations Commission. In 1986, Pennsylvania began requiring its police agencies to file monthly reports on hate crimes with the State Police Bureau of Community Services. Connecticut, Illinois, and Oklahoma enacted laws last year requiring the collection of data on hate crimes.¹⁵ If this data were available on a nationwide basis, a greater level of inter- and intra-state cooperation would be possible among the various government agencies responsible for investigating these offenses.

The Department of Justice is already actively engaged in collecting data on a wide variety of crimes. Since 1930, the Federal Bureau of Investigation has administered the Uniform Crime Report (UCR) program. With the voluntary assistance of nearly 16,000 city, county, and state law enforcement agencies, data on crime is reported to the FBI where it is compiled, analyzed, and made public through regularly published reports. These reports form the basis of our knowledge of the local and national incidence of crime, and make possible better planning and coordination by those responsible for crime control.

The UCR documents the frequency and location of major crimes such as murder, theft, and arson. Lesser crimes, such as trespass and vandalism, are also reported if an arrest is made. The fact that a particular offense is a hate crime, a crime motivated by prejudice, is not currently reflected in the UCR data.

This summer, the Department of Justice will begin the implementation of the redesigned UCR program.¹⁶ State and local law enforcement agencies will move from reporting crime data on an aggregate (or summary) basis to reporting it incident by incident. Comprehensive data elements have been developed for the computerized reporting of detailed information on approximately 25 different categories of crime. The new UCR will enable the Justice Department to easily implement H.R. 3193 by adding an additional item to its data collection instrument to indicate whether or not an offense was a hate crime.

The identification of an offense as a hate crime can sometimes be difficult. The motivation of the perpetrator will not always be clear. The Committee believes, however, that in most cases an accurate determination can be made based on an evaluation of the patent, objective, and unambiguous characteristics of a crime.

The Baltimore County Police Department has developed detailed criteria to guide its officers in evaluating whether a crime is a hate crime incident.¹⁷ They can be used as a model by the Department of Justice as it develops uniform procedures for implementing this legislation. The Baltimore County Police Department criteria include: (1) whether a symbol was displayed, such as a burning cross, KKK, a hood or mask, or a swastika; (2) whether slogans or epithets were uttered; (3) whether the victim had previously received hate mail; (4) whether there has been a series of incidents; and (5)

¹⁵ *Id.* at 9.

¹⁶ See Spelman, "Beyond Bean Counting—New Approaches for Managing Crime Data" (1988) (published by the Police Executive Research Forum).

¹⁷ Baltimore County Police Dept., "The Policy and Procedures for Handling of Racial, Religious, and Ethnic Incidents" (undated). See also Intl. Assoc. of Chiefs of Police, "Models for Management—Racial, Religious and Ethnic Violence" (undated).

the presence of unresolved social conflicts in the community of the sort which typically produce bigotry (e.g., neighborhood integration, interracial couples, or scapegoating). The precinct officers in the area where a possible hate crime occurs are primarily responsible for investigating the incident and making this determination.

The National Organization of Black Law Enforcement Executives (NOBLE) has published "Racial and Religious Violence: A Model Law Enforcement Response,"¹⁸ and "Racial and Religious Violence: A Law Enforcement Guidebook."¹⁹ These publications also contain model procedures for law enforcement agencies seeking to improve their ability to identify and respond to hate crimes.

The following law enforcement organizations have endorsed H.R. 3193: the Police Foundation, the Police Executive Research Forum, the National Black Police Association, and the National Organization of Black Law Enforcement Executives.

Other organizations which have endorsed H.R. 3193 include: the American Jewish Committee, the Anti-Defamation League of B'nai B'rith, the American Arab Anti-Discrimination Committee, the American Psychological Association, American Civil Liberties Union, National Organization for Women, National Gay and Lesbian Task Force, National Urban League, National Lawyers Guild, and People For the American Way.

On January 25, 1988, Senator Alan Cranston introduced S. 2000, legislation identical to H.R. 3193. The bill remains pending before the Senate Judiciary Committee.²⁰

SECTION-BY-SECTION ANALYSIS

SECTION 1

Section 1 of the bill provides that the short title of the legislation is the "Hate Crime Statistics Act."

SECTION 2

Section 2(a) requires the Attorney General, under the authority of section 534 of title 28, United States Code, to collect data on the incidence of certain crimes that "manifest prejudice based on race, religion, sexual orientation, or ethnicity." The term "sexual orientation" means male or female heterosexuality, homosexuality, or bisexuality by orientation or practice between consenting adults.

The crimes for which such data are to be collected are homicide, assault, robbery, burglary, theft, arson, vandalism, trespass, and threat. In addition, data may be collected about any other crime that the Attorney General considers appropriate. The data is to be collected for calendar years 1988 through 1992.

Section 2(b) protects the privacy of crime victims by limiting the use to which such data may be put. Data collected under this legislation may only be used for research or statistical purposes and

¹⁸ Nat'l. Org. of Black L. Enforcement Executives, "Racial and Religious Violence: A Model Law Enforcement Response" (1985).

¹⁹ Nat'l. Org. of Black L. Enforcement Executives, "Racial and Religious Violence: A Law Enforcement Guidebook" (1986).

²⁰ See 134 Cong. Rec. S23-26 (daily ed. Jan. 25, 1988).

may not contain information that may reveal the identity of an individual who is a victim of a crime.

Section 2(c) requires the Attorney General to publish an annual summary of the data acquired under the Act.

SECTION 3

Section 3 authorizes, for fiscal years 1988 through 1993, such sums as may be necessary to carry out the Act.

COMMITTEE ACTION

On October 20, 1987, by rollcall vote (21-13), a quorum being present, the Committee ordered the bill, H.R. 3193, reported favorably, without amendment.

COMMITTEE OVERSIGHT FINDINGS

In compliance with clause 2(1)(3)(A) of rule XI of the Rules of the House of Representatives, the Committee reports that the findings and recommendations of the Committee, based on oversight activities under clause 2(b)(1) of rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of this report.

STATEMENT OF BUDGET AUTHORITY AND TAX EXPENDITURES

In compliance with clause 2(1)(3)(B) of rule XI of the Rules of the House of Representatives, the Committee states that the bill does not provide new budget authority or new or increased tax expenditures and no statement under section 308(a)(1) of the Congressional Budget Act of 1974 is required.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

In compliance with clause 2(1)(3)(C) of rule XI of the Rules of the House of Representatives, the Committee sets forth, with respect to the bill, H.R. 3193, the following estimate and comparison prepared by the Director of the Congressional Budget Office under section 403 of the Congressional Budget Act of 1974:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, October 23, 1987.

HON. PETER W. RODINO, Jr.,
Chairman, Committee on the Judiciary, House of Representatives,
Rayburn House Office Building, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed H.R. 3193, the Hate Crime Statistics Act, as ordered reported by the House Committee on the Judiciary, October 20, 1987.

CBO cannot provide a precise estimate of the cost of this bill, because the bill does not specify how the Department of Justice should undertake the required data collection. Information provided by the Bureau of Justice Statistics, the Federal Bureau of Investigation, and the Community Relations Service indicates that data collection costs could range from less than \$1 million annually to nearly \$10 million annually.

H.R. 3193 would direct the Attorney General to collect and publish data about hate crimes—crimes that manifest prejudice based on race, religion, ethnicity, or sexual orientation—for calendar years 1988 to 1992. To fund this analysis, the bill authorizes the appropriation of such sums as may be necessary for fiscal years 1988 to 1993.

Nevertheless, the bill does not specify the method for collecting data, and it is not certain at this time how the Department of Justice would conduct the study. A number of approaches exist, and the cost would vary depending upon which method is chosen. For example, one alternative would be conducting a survey similar to the National Crime Survey which is prepared by the Bureau of Justice Statistics. This would be one of the most accurate, but also the most expensive methods, because it would require collecting data from institutions not currently surveyed. Another possibility would be requiring that local police departments report incidents of hate crimes to federal authorities, who would then conduct a follow-up investigation. Less expensive would be to require the Community Relations Service to compile data on hate crimes brought to their attention.

CBO does not expect that state and local governments would incur any significant costs if this bill were enacted, because none of the data collection methods would require significant additional efforts by state or local authorities.

If you wish further details on this estimate, we would be pleased to provide them.

With best wishes.

Sincerely,

EDWARD M. GRAMLICH,
Acting Director.

OVERSIGHT FINDINGS OF COMMITTEE ON GOVERNMENT OPERATIONS

In accordance with clause 2(1)(3)(D) of rule XI of the Rules of the House of Representatives, the Committee states that, with respect to the subject matter of the bill, the Committee on Government Operations did not submit to the Committee findings or recommendations based on investigations under clause 4(c)(2) of rule X of the Rules of the House of Representatives.

INFLATIONARY IMPACT STATEMENT

In compliance with clause 2(1)(4) of rule XI of the Rules of the House of Representatives, the Committee states that the bill will have no inflationary impact on prices and costs in the operation of the national economy.

COMMITTEE COST ESTIMATE

In compliance with clause 7(a), of rule XIII of the Rules of the House of Representatives, the Committee concurs in the estimate provided by the Congressional Budget Office and adopts that estimate as the cost estimate of the Committee.

ADDITIONAL VIEWS OF JOHN CONYERS, JR.

During the past few years, there have been increasing reports of physical and psychological attacks on persons who were targeted solely because of their race, religion, sexual orientation, or ethnic origin.¹ These hate crimes appear to be the result of actions carried out by organized groups, as well as spontaneous acts by non-affiliated individuals. Yet while accounts of these offenses come in from around the Nation, no comprehensive data are available to guide the efforts of police, prosecutors, and the public to stop them.

I believe that enacting H.R. 3193 will place us in a better position to fight hate crimes. The legislation simply requires that for a period of five years, the Department of Justice collect and publish data on crimes motivated by prejudice based on the race, religion, sexual orientation, or the ethnic origin of the victim.

The Subcommittee on Criminal Justice has conducted oversight hearings on hate crimes. The testimony received clearly supports the need for this legislation. More hearings are planned for the future in an effort to develop an extensive public record on the nature and scope of this problem.

The first hearing occurred on June 16, 1986, and explored violence and harassment targeted at Americans of Arab descent.² The witnesses pointed out that Arab-Americans, as well as other persons of the Islamic faith, are becoming scapegoats for events in the Middle East. The bombing death, in October 1985, of Alex Odeh, the southern California regional coordinator of the American Arab Anti-Discrimination Committee, was cited as an example of violent anti-Arab-American activity.³ No one has yet been arrested for

¹ See Nat'l. Council of Churches, "They Don't All Wear Sheets: A Chronology of Racist and Far-Right Violence 1980-1986" (1988); Anti-Defamation League of B'nai B'rith, "The Hate Movement Today: A Chronical of Violence and Disarray" (1987); Anti-Defamation League of B'nai B'rith, "Shaved for Battle: Skinheads Target America's Youth" (1987); Nat'l. Gay & Lesbian Task Force, "Anti-Gay Violence, Victimization, and Defamation in 1986" (1987); Southern Poverty Law Center, "Move-In Violence: White Resistance to Neighborhood Integration in the 1980's" (1987); U.S. Commission on Civil Rights, "Recent Activities Against Citizens and Residents of Asian Descent" (1985).

See also "Los Angeles Hate Crimes Set Mark," Wash. Post, February 19, 1988, at A4; Rezendes, "Racial Tension Rises in Boston Project as Whites Prepare for Black Neighbors," Wash. Post, January 29, 1988, at A3; Kornbluth, "The Woman Who Beat the Klan," N.Y. Times Magazine, November 1, 1987, at 26; Marriott, "In Jersey City, Indians Protest Violence," N.Y. Times, October 12, 1987, at B1; "Five Citadel Cadets Indicted Over Racial Hazing," N.Y. Times, October 8, 1987, at A20; James, "Reports of Racial Assaults Rise Significantly in New York City," N.Y. Times, September 23, 1987, at B1; Davis, "But Who's Counting—Violent Racial Incidents Add Up," Village Voice, July 14, 1987, at 33; Baker, "Racial Incidents in County During 1986 Show Huge Rise," L.A. Times, February 21, 1987, at 1; Irwin, "Taint of Racism Persists," Christian Science Monitor, January 2, 1987, at 1; Sullivan, "Racists Take Violent Path," Christian Science Monitor, January 12, 1987, at 1; Friedrich, "Racism on the Rise," Time Magazine, February 2, 1987, at 18; Johnson, McKillop, Starr, Anderson, & Cohn, "Mean Streets in Howard Beach," Newsweek, January 5, 1987, at 24.

See also Increasing Violence Against Minorities: Hearing before the Subcomm. on Crime of the House Comm. on the Judiciary, 96th Cong., 2d Sess. (1980).

² Testimony was received from representatives of the Nat'l. Assoc. of Arab Americans, American Arab Anti-Discrimination Committee (ADC), and the Arab-American Institute.

³ Odeh was killed shortly after the hijacking of the cruise ship *A hille Lauro*.

that crime, which was one of four bombings that the Federal Bureau of Investigation suspected Jewish extremist groups of carrying out during that same year.⁴

On October 9, 1986, the Subcommittee on Criminal Justice held a hearing to examine anti-gay and lesbian violence.⁵ Witnesses pointed to an eight-city study conducted in 1986 which determined that one in five gay men and nearly one in ten lesbians had been physically assaulted because of their sexual orientation. Chief Robert Johnston, Jr. of the New York City Police Department testified that these crimes often go unreported due to fear of embarrassment or mistrust of the police.⁶

In April 1987, the National Gay and Lesbian Task Force released "Anti-Gay Violence, Victimization & Defamation in 1986." This report disclosed that the Task Force received information on 4,946 incidents that year, as compared with 2,042 in 1985.⁷

The Subcommittee on Civil and Constitutional Rights held an oversight hearing on anti-Asian violence on November 10, 1987. While the witnesses all stated that reports of hate crimes against Asians are increasing, they noted that better data is needed and urged enactment of H.R. 3192.⁸

On January 13, 1988, the Center for Democratic Renewal (formerly known as the National Anti-Klan Network) released "They Don't All Wear Sheets: A Chronology of Racist and Far-Right Violence 1980-1986."⁹ In it, the Center reports that there were nearly 3,000 incidents of hate-motivated violence, harassment, and vandalism during the seven-year period (an average of one incident per day). This figure is based upon data compiled from press accounts, victim statements, law enforcement agency reports, and information supplied by civil rights groups and government human relations agencies. In the report's introduction, it is stated that its statistical accuracy is "mediated" by the lack of a national reporting system for hate crimes.¹⁰ The report further points out that given the diversity of violent incidents documented and the ambiguities in the existing statistics, there is a demonstrated need for the Department of Justice to compile this type of data as part of the Uniform Crime Report.¹¹

Last year, the Anti-Defamation League of B'nai B'rith (ADL) issued a special report entitled "The Hate Movement Today: A

⁴ Federal Bureau of Investigation, "FBI Analysis of Terrorist Incidents and Terrorist Related Activities in the United States" (1985), at 15.

⁵ See Anti-Gay Violence: Hearings before the Subcomm. on Crim. Justice of the House Comm. on the Judiciary, 99th Cong., 2d Sess. (1986).

⁶ *Id.* at 111-12.

⁷ Gay & Lesbian Task Force, "Anti-Gay Violence, Victimization & Defamation in 1986" (1987), at 1.

⁸ The U.S. Commission on Civil Rights pointed out in its 1985 report entitled "Recent Activities Against Citizens and Residents of Asian Descent," that there needs to be a mechanism to gather statistics about hate crimes on a national basis. It suggested that the Bureau of Justice Statistics of the U.S. Department of Justice do the job. On February 12, 1988, the Commission passed a resolution calling on Congress to enact legislation requiring the Attorney General to collect data about hate crimes.

⁹ Nat'l. Council of Churches, "They Don't All Wear Sheets: A Chronology of Racist and Far-Right Violence 1980-1986" (1988). See Hyer, "Church Council Calls Hate-Related Violence a 'National Epidemic'", Wash. Post, January 14, 1988, at A28; Parsons, "Racial, Other 'Hate Violence' has become 'Epidemic' in U.S., 7-Year Study Says," The Baltimore Sun, January 14, 1988, at A14.

¹⁰ Nat'l. Council of Churches, *supra* note 20, at 15.

¹¹ Nat'l. Council of Churches, *supra* note 20, at 16.

Chronicle of Violence and Disarray" indicating that there was more criminal violence by extremists during the past three years than there has been over the previous two decades.¹²

The ADL released its annual audit of anti-Semitic incidents during January 1988. The organization reported 1,018 incidents, an increase of 12 percent over last year.¹³ Of these, 694 involved acts of vandalism ranging from swastika daubings to arson and pipe bombings. The number of acts of harassment, threat, and assault was 324.¹⁴

In recent years, several of the non-traditional religious groups such as Scientologists, Buddhists, Fundamentalists, and Evangelicals, have experienced an increase in the harassment of their members by anti-cult groups.¹⁵ Abductions of members to "deprogram" them—to get them to renounce their religious beliefs—are well documented. These attacks have provoked the concern of some main-stream churches, leading them to join the targeted religious groups in an effort to educate the public and the police about the problem.

Dramatic incidents such as the death of Michael Griffith in the Howard Beach neighborhood of Queens, New York, on December 20, 1986, or the death of Vincent Chin in Detroit, Michigan, in 1982,¹⁶ capture the attention of the national news media and, as the result of the headlines they generate, penetrate the consciousness of most Americans, reminding us that hate crimes are still very much a reality today. Already this year, the rape of Tawana Brawley,¹⁷ in Wappinger Falls, New York; the beating death of Loyal Garner,¹⁸ in Hemphill, Texas; and the hostage taking in Lumberton, North Carolina¹⁹ have been widely reported. Few across the Nation, however, will ever know about the cross burned in front of a home in rural Oriole, Maryland, on August 29, 1987,²⁰ or other lesser known incidents, unless such information is compiled and published in the manner provided for in H.R. 3193.

Participants in the "Brotherhood March" in Forsyth County, Georgia, on January 17, 1987, were attacked by white-hooded Ku Klux Klansmen hurtling rocks, bottles, and racial slurs. This unfortunate incident brought home to many the fact that despite a decline in membership, the Klan is still a visible and active organization. Over the past decade, however, a number of new, more sinister, and more militant extremist groups such as the Aryan Na-

¹² Anti-Defamation League of B'nai B'rith, *supra* note 13, at 1.

¹³ "Report Shows 12% Rise in Anti-Semitic Incidents," N.Y. Times, January 27, 1988, at A13.

¹⁴ *Id.*

¹⁵ Kushin, "Anti-Cult Groups: Now They're After Christians," The Christian Cause, January/February 1987, at 16.

¹⁶ Moore, "The Wages of Death," Detroit Free Press Sunday Magazine, August 30, 1987, at 12; "Slayer is Acquitted of Civil Rights Violation," N.Y. Times, May 2, 1987, at A28.

¹⁷ Barron, "Cuomo Presses For Testimony in Racial Case," N.Y. Times, February 25, 1988, at A1; Yen, "N.Y. Rape Probe Becomes Rallying Point," Wash. Post, January 27, 1988, at 3; Iverem, "3 Bias Cases Fuel Anger of Blacks," N.Y. Times, December 14, 1987, at B1; Iverem, "Attack Puts Quiet Hudson Area in Civil-Rights Fight," N.Y. Times, December 8, 1987, at B1.

¹⁸ Meckel, "Death in Sabine County Jail Ruled Homicide," The Houston Post, February 10, 1988, at 3A; Maraniss, "Death in the County Jail," Wash. Post, January 10, 1988, at A3; Applebaum, "Death of Black in Jail Beating Stuns 2 Towns," N.Y. Times, January 6, 1988, at A14.

¹⁹ Rezendes, "Hostage Crisis Ends With Vow to Probe Racial Bias by Police," Wash. Post, February 2, 1988, at A3.

²⁰ Estes, "NAACP Head Decries Local Cross Incident," Salisbury Daily Times, September 5, 1987, at 1.

tions; the Covenant, the Sword, the Arm of the Lord; and The Order have surfaced and engaged in robbery, assault, bombing, and murder to advance their white-supremacist agenda.²¹ Though the leadership of these groups has been decimated by arrests and successful prosecutions,²² their "Christian Identity" movement survives and continues to sow the seeds of racial hatred.²³

In June 1987, the National Institute Against Prejudice and Violence reported that a wave of racial, religious, ethnic, and homophobic violence and harassment swept American college campuses during the just completed academic year.²⁴ This type of incident continues to be a problem.²⁵ During February 1988, black students took over the University of Massachusetts Black Studies Center to protest continued racial harassment on that campus.²⁶

Gangs of head-shaven youths known as "skinheads" are now reportedly involved in a growing number of crimes targeting blacks, Jews, gays, and other minorities. A recent ADL special report entitled "Shaved for Battle: Skinheads Target America's Youth" links skinheads to the older and more established white supremacist groups.²⁷ Their prevalence in several major cities, along with members of the Aryan Youth Movement, signals the rise of a new and more youthful hate movement, capable of continuing this violence and abuse into the next decade.

Notwithstanding the information about hate crimes developed by the Subcommittee on Criminal Justice, and the organizations mentioned above, there is still a need to learn more about them. Collecting systematic data about hate crimes on a nationwide basis will enable public officials to determine which jurisdictions are most severely affected. Law enforcement resources can then be properly allocated, deployed, and coordinated. Legislative action to strengthen criminal and civil laws can follow where existing statutes fail to provide adequate remedies for hate crimes.

Hate crimes pose a threat to the peace and harmony of communities across this nation. Therefore, it is imperative that the Congress act to focus greater public attention on this problem.

JOHN CONYERS.

²¹ Sullivan, *supra* note 1.

²² See Bishop, "White Supremacists, at Trial, Charge Persecution of Beliefs," N.Y. Times, February 19, 1988, at A13; "Klan/Neo-Nazi Underground Targeted: Arkansas Trial for Seditious Conspiracy Set for February," The Monitor (January 1988), at 3; "150-Year Sentences Given to Two Killers of Radio Talk Show Host," N.Y. Times, December 4, 1987, at A26.

²³ See "Metzger Begins Move to the Top: Set to Become National Leader," The Monitor (January 1988), at 5 (a publication of the Center for Democratic Renewal); "Drive For Aryan Republic Stalled: New Organizing Begins," The Monitor (November 1987), at 1.

²⁴ "A Wave of Violence Strikes U.S. College Campuses," Forum (June 1987), at 1.

²⁵ Rozansky, "Black Students at Ramapo Stage Sit-in Over 'Line' of Racial Incidents," Newark Star Ledger, December 10, 1987, at 56; Schauble, "4 Hurt in FDU Fight—Violence Appears Racially Motivated," Hakensack Sunday Record, October 18, 1987, at A29.

²⁶ "Accord Seen in Protest at U. of Massachusetts," N.Y. Times, February 17, 1988, at A10.

²⁷ Anti-Defamation League of B'nai B'rith, "Shaved for Battle: Skinheads Target America's Youth" (1987), at 4.

DISSENTING VIEWS OF MR. GEKAS, MR. McCOLLUM, MR. COBLE, MR. DANNEMEYER AND MR. SMITH TO H.R. 3193

Accurate statistics showing the incidence of hate crime in this country can certainly be of value in helping to formulate law enforcement's response. However, the approach suggested by H.R. 3193 is not a promising one because it seeks to acquire too much information about too many crimes at too great an expense for everyone.

Legislation somewhat similar to this bill passed the House without controversy during the 99th Congress after hearings of the Judiciary Committee indicated an unaccountable rise in racial and religious hate crime. Unfortunately, some persons looked upon last year's consensus legislation as merely a tempting vehicle to dramatize what they assert is an increase in crime against homosexuals. These persons succeeded in expanding the definition of hate crimes in this year's bill to include crimes based upon something described as the "sexual orientation" of the victim. This expansion should be reversed by amendment.

We would obviously expect statistics developed by H.R. 3193 to inspire Federal legislation to counteract hate crimes or assist in the allocation of Federal law enforcement resources. But normally a Federal nexus is essential to justify a Federal response. Absent such a nexus, one must be able at the very least to base Federal involvement in essentially State matters on the goal of either supporting the common good or promoting State law enforcement. It must be emphasized that crime against any class of person is obviously reprehensible. However, there is no reason to believe that crime against homosexuals transcends the ability of individual States to respond. There is no evidence of an interstate organization such as the Ku Klux Klan or the Nation focused on homosexuals. There is no mention of homosexual rights in the Constitution. In fact, there appears no convincing evidence that homosexuals are more targeted for crime than groups such as women, the elderly, members of the police or passengers on urban mass transit. Thus gathering at considerable cost Federal statistics on crime against homosexuals is not only unjustified in itself but also unfair vis-a-vis other affinity groups.

It is noteworthy that the Congressional Budget Office, unable to predict the methodology to be employed in gathering hate crime statistics, estimated the cost of last year's legislation at less than \$1 million to as much as \$8 million annually. Adding crimes based upon the "sexual orientation" of the victim could only force this cost toward the upper end of, or beyond, this estimate. Not surprisingly, the CBO has estimated the cost of H.R. 3193 at as much as \$10 million annually—an incredible price for an object of such questionable value.

The Department of Justice has criticized this bill as being "unrealistic" because it lists too many offenses for which a motivation must be ascertained. As Assistant Attorney General John Bolton has noted: "To force statisticians through millions of burglary and theft cases in an effort to identify motivation of the perpetrator calls to mind the search for a needle in a haystack." Including "sexual orientation" only serves to make the needle smaller and the haystack larger.

In view of the cost, the question recurs as to why statistics are important. They are valuable not in themselves but rather to help discover the existence and extent of a problem and to support its solution. Statistics merely lay the foundation for a subsequent Federal response. Since this response is likely to take us down an even more costly path, it is all the more essential that targeted groups be within the scope of Federal responsibility in the first place. It is a Federal responsibility to ensure the equal protection of all citizens regardless of their race, religion or ethnic origin. It is not a Federal obligation to protect citizens in their sexual orientation.

For these reasons, I respectfully dissent.

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