

**INVESTIGATING HATE
CRIMES ON THE
INTERNET**

TECHNICAL ASSISTANCE BRIEF

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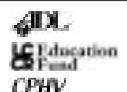
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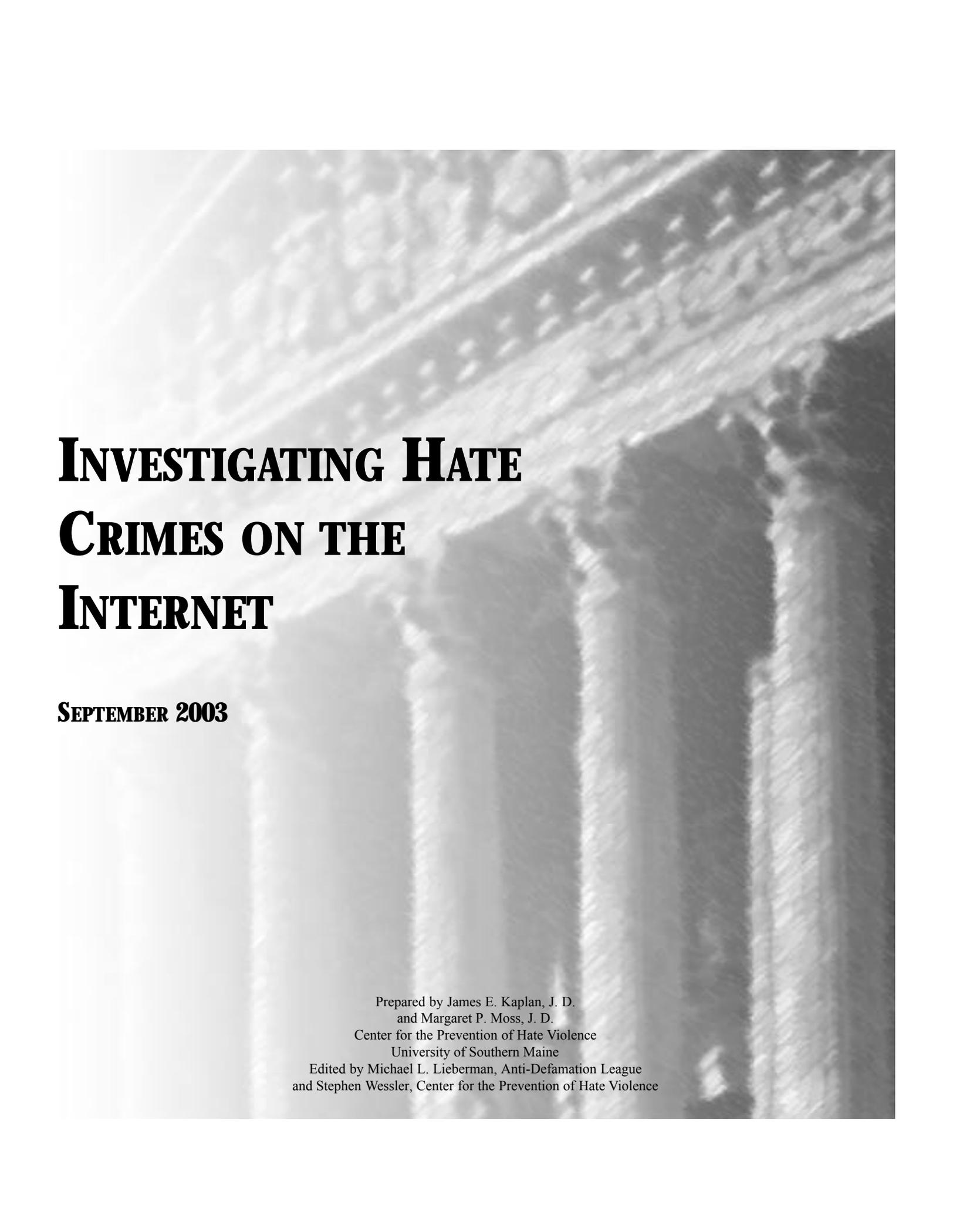


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I. INTRODUCTION

All Americans have a stake in effective response to hate crimes. These crimes demand priority attention because of their special impact. Bias crimes are designed to intimidate the victim and members of the victim's community, leaving them feeling isolated, vulnerable, and unprotected by the law. Failure to address this unique type of crime could cause an isolated incident to explode into widespread community tension. The damage done by hate crimes, therefore, cannot be measured solely in terms of physical injury or dollars and cents. By making members of targeted communities fearful, angry, and suspicious of other groups -- and of the power structure that is supposed to protect them -- hate crimes can damage the fabric of our society and fragment communities.

The Internet has rapidly transformed the way people worldwide communicate messages and ideas, do business, and live their lives. The ability to send information instantaneously at any time for relatively little or no cost is truly revolutionary. As the Internet's important and significant benefits expand, however, the possibilities to use this medium for unlawful activity grow as well. Unfortunately, the Internet has become a new frontier in spreading hate.

The Internet is an especially inviting host for the virus of hate. Whereas hate mongers once had to stand on street corners and hand out their message of bigotry on mimeographed leaflets, now these extremists have seized new technologies to promote their causes at sites on the World Wide Web and in chat rooms. The Internet has allowed extremists expanded access to a potential audience of millions - including impressionable youth. It has also facilitated communication among like-minded bigots across borders and oceans and enhances their ability to promote and recruit for their causes anonymously and cheaply. In a criminal context, e-mail messages containing threats can be sent behind a cloak of anonymity or false identity. Persons can be chosen to receive messages without their consent or knowledge.

Although hate speech is offensive and hurtful, the First Amendment usually protects such expression. Beyond spreading hate, however, there is a growing, disturbing trend to use the Internet to intimidate and harass

individuals on the basis of their race, religion, sexual orientation, or national origin. When speech contains a direct, credible threat against an identifiable individual, organization, or institution, it crosses the line to criminal conduct. **Hate speech containing criminal threats is not protected by the First Amendment.** Criminal cases concerning hate speech on the Internet have, to date, been few in number. The Internet is vast and perpetrators of online hate crimes hide behind anonymous screen names, electronically garbled addresses, and Web sites that can be relocated and abandoned overnight. Despite these special challenges, law enforcement authorities can learn much from the first few successful prosecutions outlined in this Technical Assistance Brief.

United States v. Machado

In September 1996, a 21-year-old expelled college student who lived in Southern California sent a threatening e-mail message to 60 Asian students at the University of California Irvine ("UC Irvine"). The message expressed a hatred for Asians and stated that UC Irvine would be a much more popular school without Asian students. The message further blamed Asians for all crimes that occurred on campus, and concluded with a clear threat to hunt down and kill all Asians on campus if they did not leave the university:

"I personally will make it my life career [sic] to find and kill everyone one [sic] of you personally. OK????? That's how determined I am...."

The message was signed "Asian Hater."

The sender did not sign his name to the message, and the message was sent from an e-mail account that hid his identity. Ultimately, however, in voluntary interviews with UC Irvine police, Richard Machado admitted that he sent the threatening message. He was charged with violating the Federal Civil Rights laws, which prohibits (among other things) interference by force or threat of force based on race or national origin with a person's attendance at a public university.

United States v. Machado (cont.)

Machado's first trial ended in a hung jury. A second trial in 1998 resulted in Machado's conviction, and he was sentenced to one year in prison.

The urgent national need for both a tough law enforcement response to hate crimes, and education and programming, to confront violent bigotry has only increased over the past year. In the aftermath of the September 11, 2001, terrorism, the nation has witnessed a disturbing increase in attacks against American citizens and others who appear to be of Muslim, Middle Eastern, and South Asian descent. Perhaps acting out of anger at the terrorists involved in the September 11, 2001 attacks, the perpetrators of these crimes are irrationally lashing out at innocent people because of their personal characteristics – their race, religion, or ethnicity. Law

enforcement officials have investigated hundreds of incidents reported from coast to coast – places of worship, neighborhood centers, grocery stores, gas stations, restaurants, and homes – including vandalism, intimidation, assaults, and several murders.

This Brief provides essential information about the growing problem of hate crimes on the Internet and tips for investigation and prosecution of hate crimes on the Internet. First, the Brief defines hate crimes, summarizes the principal Federal and State hate crime laws, and describes a number of reported cases. Second, the Brief examines key legal elements involved in the investigation of hate crimes on the Internet. Finally, the Brief focuses on three issues that can arise in hate crime investigations, including First Amendment protections for hate Web sites, the jurisdictional aspects of prosecution of threats on the Internet, and potential problems encountered in the collection and preservation of electronic evidence.

II. ADDRESSING BIAS-MOTIVATED CRIMES: A LAW ENFORCEMENT PRIORITY

Hate Crimes and Bias Incidents

The Federal government defines a **hate crime** as “a crime in which the defendant selects a victim, or in the case of a property crime, the property that is the object of the crime, because of the actual or perceived race, color, religion, national origin, ethnicity, gender, disability, or sexual orientation of any person.” 28 U.S.C. § 994, *as amended*. Like hate crime penalty enhancement statutes that now exist in 45 states and the District of Columbia, this law increases sentences for bias-motivated federal crimes. With respect to the Internet, a hate crime is almost always a threat.

A **bias incident** is an act that is motivated by bias or prejudice that does not involve criminal conduct. For example, the distribution of hate literature is a bias incident. The definition of what constitutes a hate crime varies from state to state and under Federal law. Hate crime offenders may be prosecuted under Federal or state criminal and civil rights laws. Participants in bias incidents cannot be prosecuted criminally, but state law may provide a civil remedy.

Federal Laws - Federal Criminal Civil Rights Statutes

State and local law enforcement authorities play the primary role in the prosecution of bias-motivated violence. Current Federal law contains significant gaps and limitations, reaching only certain bias-motivated violence, which is intended to interfere with the victim’s federal rights or participation in a federally protected activity. The Federal government does play a critical role in supplementing state and local prosecutions in appropriate circumstances.

42 U.S.C. Section 3631, the criminal portion of the Fair Housing Act of 1968, prohibits housing-related violence on the basis of race, color, religion, sex, handicap, familial status, or national origin. The violence usually prosecuted under this section includes cross-burnings, fire bombings, arsons, gunshots, rock throwing, and vandalism. The statute reaches all persons involved in any housing-related activity – sellers, buyers, landlords, tenants, and real estate agents.

18 U.S.C. Section 245 is the primary criminal civil rights statute for racial violence cases that do not involve housing. As enacted in 1968, Section 245 prohibits the use of force or threats of force against individuals because of their race, color, religion, or national origin, and because those individuals are engaged in certain specified activities. Section 245 protects against race-based interference in the right to enroll in a public school or college; the right to participate in and enjoy any benefit, service, or program administered by a state; employment by any private employer or state or local agency; travel in or use of a facility of interstate commerce; and enjoyment of goods or services of any place of public accommodation.

18 U.S.C. Section 247 criminalizes attacks on religious property and obstructions of persons who are enjoying the free exercise of their religious beliefs. This statute, originally enacted in 1988 and amended by the Church Arson Prevention Act of 1996, covers racially-motivated church burnings and bombings, as well as acts of desecration motivated by religious animus when the defendant has traveled in interstate commerce or has used a facility or instrumentality of interstate commerce.

18 U.S.C. Section 241 broadly prohibits a conspiracy to injure or threaten “any person” in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States.

28 U.S.C. § 994, the Hate Crimes Sentencing Act, enhances the penalties only for bias-motivated federal crimes that occur in National Parks and on other federally owned property. Under the Act, a hate crime is “a crime in which the defendant selects a victim, or in the case of a property crime, the property that is the object of the crime, because of the actual or perceived race, color, religion, national origin, ethnicity, gender, disability, or sexual orientation of any person.” 28 U.S.C. § 994, *as amended* (2000).

In addition, the **1990 Hate Crime Statistics Act** requires the U.S. Department of Justice to collect data on crimes motivated by bias or prejudice based on race, religion, sexual orientation, ethnicity, or disability from law enforcement agencies across the country, and to publish an annual report of these statistics. 28 U.S.C. § 534, *as*

amended. These annual reports can increase the effectiveness of law enforcement agencies by providing information necessary to determine patterns of hate crimes, to anticipate changes in the incidence of hate crimes, and to foster better police-community relations on a local level (Rosenberg and Lieberman, 1998).

State Laws

Almost every state has a law that punishes some bias-motivated crimes. Forty-five states and the District of Columbia have hate crime penalty enhancement laws that more severely punish crimes intentionally directed at individuals or institutions because of their personal characteristics, such as race, religion, national origin, sexual orientation, gender, or disability. All the states include race, religion, and ethnicity or national origin as protected characteristics; about half the states include gender, sexual orientation, or disability. A few states have hate crime laws that cover political or age bias.

Hate crime laws typically fall into three categories. First, a small number of states have laws in which the hate violence stands alone as a separate crime. Second, as previously mentioned, 45 states and the District of Columbia provide stiffer sentences for an offender whose criminal activity is intentionally directed at an individual or institution because of the victim's personal characteristics. Finally, approximately 20 states have civil hate crime laws that authorize the State Attorney General to obtain injunctions against perpetrators to prohibit repeat behavior and to seek the imposition of civil fines. The civil rather than criminal approach is adopted for a variety of reasons, including quicker enforcement, a lower burden of proof (preponderance of the evidence versus beyond a reasonable doubt), and avoidance of overcrowded state court criminal dockets. Many of the state hate crime laws and national hate crime statistics can be found at the Anti-Defamation League's Web site, www.adl.org, and the Partners Against Hate Web site at www.partnersagainsthate.org/hate_response_database/.

Reported Cases: Hate Crimes on the Internet

As previously mentioned, the small number of reported Internet hate crime cases is instructive. Like the Machado case described at the outset, the majority of

these cases result from e-mail messages containing threats. Some of these reported Internet hate crime cases are listed below.

State v. Belanger. In 1997, Casey Belanger was a 19-year-old freshmen student at the University of Maine at Orono. He posted his resume, which included a statement that he "dislike[d] fags," on the university's computer network. In response, another student posted a message attacking Belanger's resume and asking whom Belanger thought he was. This subsequent message was sent to student groups organized on the university's Internet system for Religion, Gay/Lesbian/ Bisexual, Politics, and Debate.

Later that same day, Belanger posted a message to all of these same groups, which stated [expletives deleted]:

I hope that you die screaming in hell...
you'd [sic] better watch your...back you little...

I'm [sic] gonna shoot you in the back of
the...head...
die screaming [name of student], burn in
eternal...hell

I hate gay/lesbian/bisexuals, so...what...

The State Attorney General brought an action against Belanger under the Maine Civil Hate Crime Act seeking an injunction to require Belanger to cease from threatening any person because of the person's sexual orientation, race, color, religion, ancestry, sex, national origin, or physical or mental disability. The Court issued a permanent injunction against Belanger.

Commonwealth of Pennsylvania v. ALPHA HQ. In 1998, a white supremacist in Pennsylvania named Ryan Wilson was charged by the Commonwealth's Attorney General with threats, harassment, and ethnic intimidation in connection with a Web site that Wilson owned and operated for his racist organization, ALPHA. Among other images, the Web site depicted a bomb destroying the office of Bonnie Jouhari, a fair housing specialist who regularly organized anti-hate activities. Next to her picture, the ALPHA Web site stated, "Traitors like this should beware, for in our day, they will be hung from the neck from the nearest tree or lamp post." Wilson did not contest the State's action under Pennsylvania's Civil Hate Crimes Act; the site was removed from the Internet, and the Court issued an injunction against Wilson and his

organizations barring them from displaying certain messages on the Internet.

United States v. Kingman Quon. A college student, Kingman Quon, sent e-mail messages to 42 Hispanic faculty members at California State University at Los Angeles, 25 Hispanic students at the Massachusetts Institute of Technology, and numerous other Hispanic persons employed at various institutions and businesses across the nation. Quon's racially derogatory messages discussed his hatred of Latinos, accused them of being "too stupid" to have been accepted at the university or have obtained employment without the help of affirmative action programs, and concluded that he intended to "come down and kill" them.

In 1999, the U.S. Department of Justice charged Quon with interfering with the students' Federal rights in violation of Federal Civil Rights laws. Quon plead guilty and received a two-year prison sentence.

Reasons for Likely Increase in Internet Hate Crimes

Although there are relatively few reported cases, local

police and high school and college administrators indicate that the use of the Internet to send bias-motivated messages and threats is increasing. Internet use has increased exponentially in recent years. Approximately 533 million people now use the Internet to search for information, create material to share with large audiences, and to communicate with others throughout the world for little or no cost. Users in the United States are estimated at approximately 149 million (Information Please, 2001). Web sites, chat rooms, and e-mail messages have become a reliable method of communication for much of the population. These moves of communications, however, typically permit a user to remain anonymous or adopt a false identity, providing an opportunity for that person to express freely his or her most bigoted views.

Widespread Internet use combines nearly limitless reach of communication with apparent lack of accountability. For the bias-motivated user, this combination is tantalizing, as the user can both send a threatening message and, theoretically, remain unknown to the recipient. As revealed in recent litigation concerning illicit use of the Internet, however, some users have wrongly assumed that their apparent anonymity would shield them from prosecution.

III. INVESTIGATING HATE CRIMES ON THE INTERNET

Investigating hate crimes on the Internet can appear to be unusually complicated because of the involvement of electronically sent messages. While the investigation of Internet hate crimes occasionally involves complicated legal and investigatory issues such as those described in the **Additional Issues** section later in this Brief, the far greater number of investigations are the same or similar to routine investigations of threats by telephone or mail. The fact that messages were sent through the Internet does not affect the basic legal analysis of whether the message itself constitutes a threat and whether the threat was motivated by bias or prejudice. Additionally, the determination of who sent the threat must be guided by the same investigative strategies that law enforcement officers use in cases of telephone or mail threats.

Determining Whether a Message Constitutes a Threat

The definition of criminal threat will vary from state to state. Under most State laws, the crime of threatening requires proof that an individual has sent a message that causes another to have a reasonable fear of imminent bodily injury. This definition does not vary whether the threat was made in person or by telephone, mail, facsimile or e-mail. In some states, prosecutors must also prove that the perpetrator must have the ability to carry out the threat.

The definition of harassment also varies from state to state. In general, for speech to be harassing it must be targeted at specific individuals and it must be persistent, pernicious, and inflict great emotional or physical harm. The starting point for analysis in Internet hate crimes investigations is the message itself. Law enforcement officers must determine whether the message – on its face – threatens imminent bodily injury to the target of the threat. This determination becomes more difficult if the language of the message is vague with respect to the threat or with regard to the intended recipient.

A second critical step in determining whether a message constitutes a threat is the interview with the target of the threat. It is difficult both legally and practically to

bring a criminal charge of threatening to a message that, while it may appear to a law enforcement officer to threaten imminent bodily injury, is perceived by the recipient or target as being innocuous. In short, if the target of a possibly threatening message does not believe that he or she is being placed in imminent danger of bodily injury and is not “scared” by the message, then prosecution will be extraordinarily difficult.

Most police officers have had experience investigating threats. The investigative strategies and tactics for determining whether an Internet communication is a threat does not vary in any significant respect from investigations into either mail or telephone threats.

Bias Motivation: The Importance of Bias Crime Indicators

Establishing that a threatening message also constitutes a hate crime requires the investigator to determine that the message was intentionally directed at an individual or institution because of the victim’s personal characteristics. Since bias or prejudice can explain the reason for this criminal conduct, determining whether the message itself was motivated by bias is at the heart of investigating potential hate crimes. Investigators will need to closely examine the applicable hate crime statute to determine which bias motivations are included in the statute. See **Addressing Bias-Motivated Crimes: A Law Enforcement Priority, Hate Crimes and Bias Incidents** section.

Identifying bias crime indicators and confirming bias motivation are essential building blocks for investigating and, ultimately, successfully prosecuting Internet hate crimes. Bias indicators are objective facts; circumstances or patterns attending a criminal act that, standing alone or in conjunction with other facts or circumstances, suggest that the offender’s actions were motivated in whole or in part by bias. The factors and sub-factors listed in the **Appendix** are the most significant bias indicators, but it is critical to recognize that the existence of one or more bias crime indicators does not in and of itself establish that the act investigated was in fact motivated by bias. Rather, law

enforcement officers must assess all relevant bias indicators and then make a reasoned judgment based upon experience as to whether the conduct in question was motivated by bias or prejudice.

Examining the Message Itself

In Internet threat cases (as in any investigation of a potential bias-motivated threat), the most important evidence usually is the message itself. Most hate crime investigations of threats originate because the content of the message clearly indicates a bias motivation. This fact was true of the e-mail messages in the *Machado* and *Belanger* cases and of the Web site at issue in *Commonwealth of Pennsylvania v. ALPHA HQ*.

Interviewing the Recipient of the Message

Even if the message appears to be bias-motivated, investigators must interview the recipient to determine whether there were any other motivations for sending the message other than the bias apparent in the context of the message itself. It is, obviously, important to interview friends, family members, roommates, and co-workers to obtain information. A further inquiry into the recipient's background may be necessary.

Identifying the Sender

Frequently, the most difficult investigative issue in an Internet threat or harassment case is the identification of the sender. Most e-mail threats are anonymous. While there may be complexities involved in trying to identify who sent an e-mail message, many of the same investigative tools that police officers use to determine who sent an anonymous letter or placed an anonymous telephone call are equally applicable to anonymous messages over the Internet. Most (but certainly not all)

threats are sent by people who know each other, and the recipient of the threat often has some idea (perhaps a very clear one, perhaps an educated guess) as to who is responsible. Again, interviews with the victim and with friends, roommates, family members, neighbors, and co-workers is a critical first step to obtain information necessary to identify the sender of the message.

Collection and Preservation of Evidence

Because communications sent over the Internet can be easily destroyed, deleted, or modified, law enforcement officials must know how best to gather, preserve, and authenticate electronic evidence. While several of the issues that can arise for law enforcement agencies in the collection and preservation of evidence for the successful prosecution of an Internet hate crime are common to any criminal investigation, a few have different application and considerations.

For instance, the need for probable cause to conduct a search exists in any investigation, but an investigator of an Internet hate crime must consider whether probable cause exists separately to seize from a computer the hardware, software, and other stored data. Assuming probable cause exists to obtain a warrant, investigators must be careful to ensure that the material searched is within the scope of the warrant, a somewhat more difficult task when searching evidence on a computer than when searching most crime scenes.¹ While use of the Internet introduces some novel investigative and prosecutorial concerns, investigators and prosecutors for the most part already are armed with the skills needed to pursue these cases and should not be deterred by the Internet connection. Indeed, it is essential that Internet hate crimes cases be rigorously investigated and prosecuted, so that the apparent anonymity that spurs the hate-motivated actor is not coupled with a lack of accountability.

¹ An extremely useful source for the practical aspects of searches and seizures in this area is *Best Practices for Seizing Electronic Evidence* (a joint project of the International Association of Chiefs of Police and the U.S. Secret Service).

IV. ADDITIONAL ISSUES

Hate Web Sites

For relatively modest fees or free of charge, most Internet Service Providers willingly “host” any and all Web pages regardless of content and provide nearly unlimited use of the hardware and communications lines for creation of a Web site. As would be expected, Web sites that contain bias or prejudice based on race, religion, ethnicity, gender, disability, and sexual orientation have taken full advantage of the low-cost opportunity to spread their messages 24 hours a day to millions of people at an instant (Kessler, 1999).

As previously mentioned, generally even the most reprehensible and bigoted Web sites receive First Amendment free speech protection, so long as the sites cannot be interpreted to satisfy the narrow exceptions for threats or harassing speech directed at specific individuals or identifiable groups. One Federal case that sought to establish a line over which hate Web sites could not step is *Planned Parenthood of the Columbia/Willamette, Inc. v. American Coalition of Life Activists*, 23 F. Supp. 2d 1182 (D. Or. 1999), *inj. granted*, 41 F. Supp. 2d 1130 (D. Or. 1999), *vacated and remanded*, 244 F.3d 1007 (9th Cir. 2001), *reh’g en banc granted*, 268 F.3d 908 (9th Cir. 2001), *aff’d in part, vacated in part and remanded*, 290 F. 3d. 1058 (9th Cir. 2002), *cert. den.*, 123 S. Ct. 2637 (2003). In this case, anti-abortion group created a Web site included the names, photographs, home addresses, license plate numbers, and the names of spouses and children of doctors who allegedly performed abortions. Headlined “Visualize Abortionists on Trial” and depicting blood dripping from aborted fetus parts, the site called for these doctors to be brought to justice for crimes against humanity. The names of doctors who had been wounded by anti-abortion protesters were listed in gray. Doctors who had been killed by anti-abortionists were shown with a line through their names. The anti-abortion group also printed posters with the word “Guilty” at the top, a comparison of abortions to Nazi war crimes and a list of names of physicians who provide abortion services. Three physicians named on the poster and the Web site were subsequently murdered.

Several doctors and abortion clinics sued the anti-

abortion groups alleging that they had been the specific targets of threats to kill, assault or cause bodily harm. The jury agreed, finding that the Web site constituted a threat to the plaintiff physicians. Rejecting defendants’ free speech claims, the jury ordered the Web site owners and operators to pay plaintiffs more than \$100 million in damages. Consistent with the jury’s verdict, the judge subsequently determined that the plaintiffs reasonably felt threatened by the materials, and issued a permanent injunction to prevent the defendants from providing additional information to the Web site.

This verdict and injunction were reversed on appeal in March 2001 by a unanimous three-judge panel of the U.S. Court of Appeals for the Ninth Circuit. Contrary to the lower court rulings, the Court of Appeals held that defendants’ Web site was a lawful expression of views protected by the First Amendment. The Court of Appeals concluded that “[u]nless [defendants] threatened that its members would themselves assault the doctors, the First Amendment protects its speech.” 244 F.3d 1007, 1015 (9th Cir. 2001). In October 2001, the Court of Appeals decided to rehear the case before all members of the Court, and it held that the Web site constituted a true “threat of force” and was not protected by the First Amendment. 290 F.3d 1058, 1063 (9th Cir. 2002). The 9th Circuit’s decision is an important development because it establishes that Web sites do not always have First Amendment protection.

However, as a general matter, the First Amendment protection for hate Web sites remains an extremely high bar to hurdle. At least for now, law enforcement agencies should seek careful direction from the U.S. Attorneys in their districts, State Attorneys General, or local District Attorneys before pursuing investigations of complaints against offensive or hate Web sites.

Jurisdiction

Perpetrators of Internet hate crimes are not hampered by the existence of national or international boundaries, because information can be easily transmitted worldwide through communications and data networks. Even though connections may be of short duration, most

computers are physically located in identifiable places. Of course, computers can be accessed remotely, regardless of the location of the persons who post, send, view, or receive information online.

As a result, it is at least possible that a perpetrator of a threat or harassing speech need not be at the actual scene of the crime (or within 5,000 miles, for that matter) to prey on his or her victims. Just as telephones have been used to create distance between offenders and victims, a computer server from which a threat or harassing speech is sent can be located in California and the recipients scattered throughout New England. Likewise, evidence of an Internet hate crime can be stored at a remote location, either for the purpose of concealing the crime from law enforcement or simply because of the design of the network used.

To be sure, the Internet increases the ability of law enforcement officials and others to detect and gather evidence from a distance. Long-distance detection and collection of evidence, however, can require that the investigation and prosecution of the crime extend beyond the borders of any single jurisdiction. The traditional investigative tools available – interviews, physical or electronic surveillance, and subpoenas for the production of documents or for testimony – may not always be adequate to compel information from a wrongdoer who is located in a place far away from the victim. The challenge to law enforcement, then, is to identify that location, and to determine which laws apply to the investigation and incidents at issue.

For example, if a threat or harassing speech is

communicated to a resident of State A by an offender in State B, and State A issues a subpoena for investigators to search records of the State B offender, no formal procedural mechanism currently exists for the service and enforcement of that subpoena. Although the prosecutors in State A might obtain assistance from the State B authorities, this assistance is a matter of professional courtesy rather than legal process. There is no guarantee that prosecutors in one state have the authority to issue a subpoena in another state, or that the subpoena will be properly served or adequately enforced, which could mean the end of the State investigation (National Cybercrime Training Partnership, 2000).

Virtually identical problems are presented with the interstate enforcement and execution of search warrants and judicial electronic surveillance orders. And beyond these and other problems law enforcement agencies encounter with interstate investigations, international investigations of Internet hate crimes pose even greater challenges (National Cybercrime Training Partnership, 2000). Because of these complex issues, some prosecutors believe that Federal authorities may be better suited to conduct investigations involving Internet messages that cross state or national lines.

These problematic issues, however, are unlikely to arise in many Internet hate crimes cases in which messages are sent from within the same community in which the victim lives. Traditional investigative techniques typically will prove adequate in investigation of localized hate crimes on the Internet.

V. CONCLUSION

Hate crimes perpetrated over the World Wide Web pose special challenges for investigators and prosecutors. Those who send threatening e-mail communications through the Internet may convey these messages anonymously across state lines to victims in another part of the country. Prosecutors face the daunting task of

identifying the perpetrator, collecting and preserving evidence, and establishing jurisdiction over the criminal act. It is essential that law enforcement authorities be equipped to address these challenges in order to hold perpetrators of these crimes fully accountable.

VI. APPENDIX: BIAS CRIME INDICATORS

Identifying bias crime indicators and confirming bias motivation are the essential building blocks for responding to the needs of victims and the community and successfully prosecuting hate crimes. Bias crime indicators are objective facts, circumstances, or patterns attending a criminal act that, standing alone or in conjunction with other facts or circumstances, suggest that the offender's actions were motivated, in whole or in part, by bias.

The following factors may indicate bias motivation:

1. Racial, Ethnic, Gender, and Cultural Differences Between Perpetrator and Victim

- a. Racial identity, religion, ethnicity/national origin, disability, or sexual orientation of the victim differs from that of the offender.
- b. Victim is a member of a group overwhelmingly outnumbered by members of another group in the area where the incident occurred.
- c. Victim was engaged in activities promoting his or her group.
- d. Incident coincided with a holiday or date of particular significance to the victim's group.
- e. Victim, although not a member of the targeted group, is a member of an advocacy group that supports the targeted group or was in the company of a member of the targeted group.
- f. Long-established animosity exists between the victim's group and the offender's group.

2. Comments, Written Statements, and Gestures

- a. Bias-related comments, written statements, or gestures were made by the offender.
- b. Bias-related e-mails or Web sites were made by the offender.

3. Drawings, Markings, Symbols, and Graffiti

- a. Bias-related drawings, markings, symbols, or

graffiti were left at the scene of the incident.

4. Involvement of Organized Hate Group or its Members

- a. Objects or items that represent the work of an organized hate group were left at the crime scene.
- b. 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 at the time of the crime.

5. Previous Existence of Bias Crimes/Incidents.

- a. Victim was visiting a location where bias crimes had been committed against members of the victim's group.
- b. Several incidents occurred in the same area, and victims were members of the same group.
- c. Victim had received harassing mail or phone calls previously or had been subjected to verbal abuse based on his or her affiliation with a targeted group.

6. Victim/Witness Perception

- a. Victims or witnesses perceive that the incident was motivated by bias.

7. Motive(s) of Suspect

- a. Offender was involved in a similar incident or is a member of, or associates with members of an organized hate group.
- b. Victim was in the company of, or married to, a member of a targeted group.
- c. Offender has a history of committing crimes with a similar modus operandi, and there have been multiple victims with the same racial identity, religion, ethnic/national origin, disability, sexual orientation, or gender.

8. Location of Incident

- a. Victim was in or near an area or place commonly associated with or frequented by individuals of a particular racial identity, religion, ethnic/national origin, disability, sexual orientation, or gender.
- b. The incident occurred at or near a place of

worship, a religious cemetery, the home of a minority family living in a predominantly white neighborhood, or a gay bar.

9. Lack of Other Motives

- a. No clear economic or other motive for the incident exists.

VII. RESOURCES

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- Cause for Concern: Hate Crimes in America*. 1997. Washington, D.C. Leadership Conference on Civil Rights.
- Combating Extremism in Cyberspace: The Legal Issues Affecting Internet Hate Speech*. 2000. New York, NY: Anti-Defamation League.
- International Association of Chiefs of Police and U.S. Secret Service. 2000. Best practices for seizing electronic evidence. Retrieved December 17, 2002, from the Web: www.secretservice.gov/electronic_evidence.shtml, www.theiacp.org/documents/index.cfm?fuseaction=document&document_id=97.
- 1998 Hate Crimes Resource Manual for Law Enforcement and Victim Assistance Professionals*. Massachusetts Governor's Task Force on Hate Crimes.
- McLaughlin, K.A., Brilliant, K., and Lang, C. 1995. *National Bias Crimes Training for Law Enforcement and Victim Assistance Professionals: A Guide for Training Instructors*. Rockville, MD: National Criminal Justice Reference Service.
- Responding to Extremist Speech Online: 10 Frequently Asked Questions*. 1999. New York, NY: Anti-Defamation League.
- Responding to Hate Crimes: A Police Officer's Guide to Investigation and Prevention*. 2000. Alexandria, VA: International Association of Chiefs of Police.
- Rockland County (N.Y.) Sheriff Department, 2000, Hate Crimes: A Seminar Presented by the Computer Crime Unit.
- Uniform Crime Reporting Program. *Hate Crime Statistics, 1991-2001*. Washington, D.C.: Federal Bureau of Investigation.

Web Sites

In the Spotlight – Hate Crime
www.ncjrs.org

Intelligence Report
www.splcenter.org/intelligenceproject/ip-index.html

NW3C Internet Resources
www.cybercrime.org/Bookmarks.html

Stop the Hate
www.stopthehate.org

VIII. REFERENCES

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[pdf](#).

Rosenberg, D. and Lieberman, M. 1998. *1999 Hate Crimes Laws*. New York, NY: Anti-Defamation League.

Information Please. 2001. *Internet and wireless internet users worldwide*. Boston, MA: Family Education Network, Inc. Retrieved December 17, 2002, from the Web: www.infoplease.com/ipa/A0902420.html.

PARTNERS AGAINST HATE

INFORMATION

General Information

Partners Against Hate represents a joint effort by the Anti-Defamation League (ADL), the Leadership Conference on Civil Rights Education Fund (LCCREF), and the Center for the Prevention of Hate Violence (CPHV) to design and implement a program of outreach, public education, and training to address youth-initiated hate violence. Funded by the U.S. Department of Justice, Office of Juvenile Justice and Delinquency Prevention and the U.S. Department of Education, Safe and Drug-Free Schools Program, Partners Against Hate features an innovative collection of both on- and offline resources and support to a variety of audiences, including parents, educators, law enforcement officials, and the community at large.

Indepth Information

For more indepth information about Partners Against Hate and its program, we may be contacted by:

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Resources

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Partners Against Hate

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