

HATE CRIMES - ONLINE

PRESENTED BY:

DPS – Law Enforcement Academy
Santa Fe, New Mexico

Date: _____

INSTRUCTIONAL GOALS

- 1) To assist law enforcement officers gain an understanding of Hate Crimes and the New Mexico hate crimes statute.

INSTRUCTIONAL GOALS

- 1) Know the background of hate crimes in the United States and elsewhere.
- 2) Appreciate the extraordinary impact of a hate crime on a person or group.
- 3) Understand the New Mexico hate crimes statute.
- 4) Know the difference between hate crimes and free speech.
- 5) Review the major United States Supreme Court decision on hate crimes.
- 6) Learn the role of police in collecting and submitting hate crime statistics.
- 7) Learn the role of police in investigation of hate crimes.
- 8) How to determine whether a crime is a hate crime or not.
- 9) Discussing the profile of the type of person who commits a hate crime.
- 10) The role of police in working with the victim and the community.
- 11) The role of police in working with the news media.
- 12) How actions today can reduce hate crimes in the future.

ESTIMATED TIME: Two hours.

PREPARED BY: Legal Instructor
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DATE APPROVED _____ **ACCREDITATION NUMBER:** _____

INTRODUCTION

The hate crimes outline will include the following:

- A brief history of hate crimes (US and the rest of the world).
- Different viewpoints on hate crime legislation.
- A review of the New Mexico Hate Crime statute.
- Role of police (includes scenarios) when a hate crime has occurred.
- Trends of hate crimes in New Mexico.

Upon completion of the class, officers have expressed the following:

- They generally find that they like and support hate crime legislation.
- They're surprised at how seriously hate crimes are taken in New Mexico.
- They're surprised at the small number of hate crimes in New Mexico.

DEFINITION OF A HATE CRIME IN NEW MEXICO

"MOTIVATED BY HATE"

"motivated by hate" means the commission of a crime with the intent to commit the crime **because** of the actual or perceived race, religion, color, national origin, ancestry, age, handicapped status, gender, sexual orientation or gender identity of the victim, whether or not the offender's belief or perception is correct. NMSA 1978, Section 31-18B-1).

- We will go into more detail about the hate crime statute later. The main thing is that it involves a crime motivated by hate.

SOME REASONS HATE CRIMES ARE TAKEN SO SERIOUSLY

- 1) Hatred of other groups is a popular emotion,
- 2) Hatred of other groups can happen very quickly,
- 3) It's not just another crime: The impact of a hate crime is way out of proportion to the crime itself.

HISTORICAL BACKGROUND OF HATE CRIMES

THE REST OF THE WORLD

- Romans and Christians
In 64 AD, a fire in Rome destroyed much of the city. Emperor Nero quickly blamed the Christians for starting the fire. His tactic, using a scapegoat and placing the blame on others, was highly successful. Roman persecution of Christians continued for several centuries.

- Hitler in the 1930's
The German people after World War I felt defeated and powerless. Adolf Hitler and the Nazi Party repeatedly blamed Jews (and others) for Germany's problems. It was a very effective tactic. Looking at newsreels of Nazi Germany, the astonishing enthusiasm for Hitler is obvious.
- The Middle East today
In parts of the Middle East, there is popular support for religious intolerance. People (including Christians) face discrimination and prejudice.

THE UNITED STATES

Many groups in the United States have been victims of hate crimes and discrimination.

- African-Americans
Numerous pictures of a lynch mob show people happy and cheerful. The last lynching occurred in 1959 in Mississippi.

It was only a generation ago, but Segregation was common throughout the United States.
- Native Americans
Although living on a reservation is voluntary, but for many years was required. American Indians were given the right to vote in 1924.
- Chinese Exclusion Act
People from China, by law, couldn't enter the United States for many years.
- Japanese-Americans in World War II

In the early 1940's, shortly after Pearl Harbor, many Americans were afraid of a Japanese invasion. Over 100,000 Japanese-Americans were put into detention camps.
- Hispanic or Latino Americans
For different reasons, there has been friction between Hispanics and non-Hispanics. One divisive issue has been the increase in illegal immigration.
- Religion - Catholics, Jews, Mormons
Until the civil rights law of the 1960's, many Jews and Catholics were "restricted" from certain clubs and neighborhoods. The Mormons (also known as LDS, Latter Day Saints) moved to Utah because of discrimination.

Other groups have suffered, including Italians and the Irish. There also has been gender and sexual discrimination.

Note:

These acts of discrimination (at one time) had a great deal of popular support. The fact that so many groups have been victims of prejudice and discrimination has made hate crimes an important (and sensitive) issue.

- For members of these groups, the memory of what happened, even though it may have occurred some time ago, can seem very recent.

THE IMPACT OF HATE CRIMES CAN BE DEVASTATING

- One reason to take a hate crime seriously is that it can have an impact way out of proportion to the act itself.
- The motive – targeting someone because of the group they belong to – is what makes a hate crime different. To use graffiti as an example: spray painting “Beat Arizona” on a bridge is not quite the same as spray painting “Death to Jews” on a synagogue. And the reaction of the targeted group is way out of proportion to the act itself.

Consider the impact in Farmington after a racially motivated hate crime:

- News item: Farmington Plans Radio Ad Campaign
Tension in Farmington increased when three white men branded a 22-year-old Navajo man with swastikas. Farmington officials hope to launch a campaign to convince members of the Navajo Nation that the city is safe to visit. The campaign will air on radio and will be entirely in Navajo. Albuquerque Journal, November 11, 2011.
- **Note:** It only takes a few incidents of hate crimes to create a wave of fear.

DIFFERENT VIEWS ON HATE CRIME LEGISLATION

Not everyone supported hate crime legislation in New Mexico. Indeed, it did not become law until 2003. Understanding the concerns about hate crime legislation will help us understand what a hate crime is.

CONCERN: THE GROUP A PERSON BELONGS TO SHOULDN'T MATTER

- One concern was that it shouldn't matter what group – race, religion, etc. – a victim belongs to. A victim is a victim and all should be treated the same.

In fact, the sentence is already enhanced for certain groups: If a police officer is a victim of a battery or murder, the penalty is increased. This is also true for corrections officers, teachers, athletics officials, and health care workers.

CONCERN: HATE CRIMES LEGISLATION WILL AFFECT FREE SPEECH

- It was felt by many that hate crime legislation would have a chilling impact upon freedom of speech. A person might oppose gay marriage or affirmative action; taking such a position could be interpreted as a hate crime.

But there is a difference between a hate crime and free speech:

- A person's thoughts are protected under the First Amendment. A person can pass a hate pamphlet around or give a speech blasting another group and do so legally. Another person may flaunt a racist tattoo.
- Free speech is protected. But if a person commits an act that is illegal – arson, battery, murder, etc. - we have a crime. And if that crime is motivated by hate we have a hate crime.

UNITED STATES SUPREME COURT ON HATE CRIMES AND FREE SPEECH

- A group of young black men in an apartment were watching a movie called Mississippi Burning. In one scene in the movie, white men beat up a young black boy while he was praying. Mr. Mitchell said, “Do you all feel hyped up to move on some white people?” Shortly thereafter, a young white boy was seen across the street.
- Mitchell: “There's a white boy, let's go get him.” He was beaten up severely and was in a coma for four days. Mr. Mitchell had his sentence increased when he was convicted of a hate crime.
- Supreme Court noted Mr. Mitchell can say what he wants to. But violence against another is breaking the law. And if violence is committed against another simply because that person belongs to a certain group, he has committed a hate crime. His conviction was upheld. Wisconsin v. Mitchell (1993).

NEW MEXICO STATUTE ON HATE CRIMES

WHAT IS THE DIFFERENCE BETWEEN HATE CRIME AND BIAS CRIME?

- No real difference. For our purposes we will use “hate crimes.”

LEGAL DEFINITION OF HATE CRIME – “MOTIVATED BY HATE”

- As used in the Hate Crimes Act (NMSA 1978, Section 31-18B-2), “**motivated by hate**” means the commission of a crime with the intent to commit the crime **because** of the actual or perceived race, religion, color, national origin, ancestry, age, handicapped status, gender, sexual orientation or gender identity of the victim, whether or not the offender's belief or perception was correct.

- Three words are important: “**motivated by hate.**” A person commits a crime, against members of certain groups, and it is motivated by hate.
- This is the legal definition. Victims or the news media may have a different version of what a hate crime is.

A HATE CRIME IS NOT A SEPARATE, DISTINCT CRIME

- There’s no need to look up a particular crime in the statute books. It can be **any crime motivated by hate.**
- But at sentencing it can make a difference. An offender’s sentence can be enhanced if the following is shown: (1) a crime was committed, and (2) it was motivated by hate.

A SIMPLIFIED DEFINITION OF A HATE CRIME:

ANY CRIME MOTIVATED BY HATE of CERTAIN GROUPS = HATE CRIME

EXAMPLES: Crime of Arson motivated by hate = Hate crime Increased sentence
 Crime of Battery motivated by hate = Hate crime Increased sentence
 Crime of Murder motivated by hate = Hate crime Increased sentence

- Before an enhanced sentence may be imposed, the jury (or court in a non-jury case) must find beyond a reasonable doubt that “the offender was motivated by hate.” NMSA 1978, Section 31-18B-3 (C).
- One reason for increased sentencing is that hate crime laws punish not only the criminal act but also the act of discrimination.

NOT ALL GROUPS OF PEOPLE ARE INCLUDED IN HATE CRIME LEGISLATION

- The Hate Crime statute protects a number of groups, but if a group isn’t included, it isn’t protected. For example, it doesn’t include gang members, homeless people, rich people, etc.
- In 1980 New Mexico enacted an old age enhancement for crimes against a person sixty years or older. In 1989 handicapped people as victims were added. These laws were repealed when the Hate Crimes statute became law in 2003.

A HATE CRIME OFFENDER CAN BE A MEMBER OF ANY GROUP

- Usually one thinks of white supremacists and neo-Nazis attacking African Americans or Jews. We may recall a cross burning or headstones turned over in a Jewish cemetery. We may also think of teenagers beating up someone because he is homosexual.

- A hate crime offender, of course, can be a member of any group.

LEGAL - MISTAKEN PERCEPTION

- Even if the offender was mistaken in his/her belief that the victim was a member of a particular group, the offense is still a hate crime as long as the offender was motivated by prejudice or bias against that group.

LAW ENFORCEMENT TRAINING

- **In-service law enforcement training . . . shall include at least two hours of instruction . . .** NMSA 1978, Section 31-18B-5.
- The NM Law Enforcement Board approved the addition of two hours of training on crime motivated by hate to the Police Officer Minimum Standards of Training, Section 10.29.9.8.D (11), New Mexico Administrative Code (NMAC).

LEGAL - SENTENCING

- **If a felony is motivated by hate, the basic sentence may be increased by one year.** NMSA 1978, Section 31-18B-3.

This may not seem like much but generally those committing hate crimes will serve longer sentences than those who commit non-hate crimes.

THE PURPOSE OF HATE CRIME LEGISLATION

HATE CRIME LEGISLATION IS ABOUT SENDING A MESSAGE

- When a hate criminal targets someone because of the group that person belongs to, the hate criminal is sending a message that members of that group are not welcome in the community.
- But the community also has a message to send. When the sentence for a hate criminal is increased, the community is sending a message that crimes motivated by hate will not be tolerated.

ROLE OF POLICE

ROLE OF POLICE: HATE CRIMES STATISTICS

- Every district attorney and every state, county and municipal law enforcement agency, to the maximum extent possible, shall provide the federal bureau of investigation with data concerning the commission of a crime motivated by hate. NMSA 1978, Section 31- 18B-4.

- FBI began collecting statistics in 1990. On every police report in New Mexico there is a box that says, “Hate/Bias.” For purposes of statistics, the officer need only write a check mark if he or she believes there is a hate crime.
- But a good, professional officer will do more. We will now discuss ways to have a more effective hate crime investigation.

ROLE OF POLICE: INVESTIGATION

BE ALERT TO THE POSSIBILITY A HATE CRIME HAS OCCURRED

UNDERSTANDING WHAT A HATE CRIME IS

The first thing an officer must determine is if a hate crime happened or not. Some things to look for can seem pretty obvious:

1. Are there verbal remarks, written statements or gestures made by the offender which indicate his or her bias? Example: a racial slur.
2. Are there hate-oriented drawings, symbols or graffiti left at the crime scene? Example: a swastika painted on the door of a synagogue.

Jasper County (Texas) sheriff: (three white men drag a black man with a pickup truck)

“I’m a brand new sheriff. I didn’t even know the definition of a hate crime. But I know somebody has been murdered because he was black. Once we saw the KKK emblem on the cigarette lighter, that’s when we started having some bad thoughts.”

BUT IT’S NOT ALWAYS EASY TO DETERMINE MOTIVATION

Motivation – motive to hate – is the heart of a hate crime. But it’s not always easy to determine.

YOU DECIDE: ARE THE FOLLOWING CRIMES HATE CRIMES?

These are all real cases:

SCENARIO NUMBER 1

- Overnight, unknown persons broke into a synagogue and destroyed several religious objects. The offenders drew a large swastika on the door and wrote “Death to Jews” on a wall. Although valuable items were present, none were stolen. Hate crime? Justify your answer.

ANSWER:

This crime is motivated by hate. The fact that nothing was taken suggests that there wasn’t any other motive.

SCENARIO NUMBER 2

- A Japanese American was attacked by a white male wielding a tire iron. The victim suffered severe cuts and a broken arm. The incident took place in a parking lot next to a bar. Investigation revealed that the offender and victim had previously exchanged racial insults. Offender had initiated the exchange, using anti-Japanese slurs. He complained that Japanese were taking jobs from Americans. Hate crime?

ANSWER:

This appears to be a crime motivated by hate. The white male felt that Japanese were taking American jobs. In the bar he became angry with a Japanese American and used racial slurs against him. Once outside, he hit the victim with a tire iron. There appears to be no other motive for what happened.

SCENARIO NUMBER 3

- While driving through a predominately Hispanic neighborhood, a Black male stopped his car to repair a flat tire. A group of Hispanics leaving a bar across the street confronted the driver and attacked him with bottles and clubs. During the attack, the offenders used a racial slur and told him Blacks were not welcomed in the neighborhood. Hate crime?

ANSWER:

This appears to be a crime motivated by hate. Would the same thing have happened to a Hispanic who had a flat tire?

SCENARIO NUMBER 4

- A group home for persons with psychiatric disabilities was the site of a reported arson. Apparently, neighbors had expressed many concerns about the group home and were angry that the house was located in their community. Shortly before the fire was reported, a witness heard a young man state, "I'll get rid of those crazies." I'll burn them out." Hate crime? If so, what group?

ANSWER:

This appears to be a crime motivated by hate. One of the protected groups is handicapped status. This refers to a disability which means that the person has a physical or mental disability . . . NMSA 1978, Section 31-18B-2-C.

SCENARIO NUMBER 5

- Students at a religious high school vandalized their own school, leaving anti-religious statements on the walls. Nothing is taken. Hate crime?

ANSWER:

What is the motivation? This is where more information is needed. Being high school students, it's possible the motivation was vandalism.

But this leads to another question. Can members of a group commit hate crimes against their own group? (yes) A number of years ago a neo-Nazi group vandalized a Jewish Community Center on the West Coast. The leader was Mr. Smith. It turned out that Mr. Smith (not his real name) was Jewish. Even though Jewish, his motivation was hate against Jews.

SCENARIO NUMBER 6

- White male and Black male in a bar argue about a game. They begin fighting and during the fight use numerous racial slurs against each other. You arrive and witnesses advise you of this. Hate crime?

ANSWER:

This does not appear to be a crime motivated by hate. True, racial slurs were used. But the motivation for the fight was a game, not hate against the other group.

SCENARIO NUMBER 7

- Two young males have a scam going. They get into a car and look for victims. When they see an elderly female (70's, 80's), one jumps out of the passenger seat, runs over to her, knocks her down, and steals her purse. When caught they're asked why did they target older women (if over the age of 60, a person can be a victim of a hate crime) and they said because they're easy targets. We may have a double victim here: gender and age. Hate crime?

ANSWER:

This is a tricky one. Initially, it appears to be a hate crime, targeting women and seniors. But we need to look at the motivation. They went after older women because they were believed to be easy targets. There is no indication that they hate women or older people. This does not appear to be a hate crime.

SCENARIO NUMBER 8

- Each April Indian groups from all over North America have a Gathering of Nations in Albuquerque. A Native American band performed during the noon hour on the University of New Mexico campus. At the library nearby, a white male couldn't study because of the music. He went up to the band, pulled the plug, and shouted, "You're a bunch of monkeys! That's why they put you on the reservation!" and stormed off. Hate crime?

ANSWER:

Another tricky scenario! Because of statements he made, it appears to be a hate crime. From the facts, however, it seems his motivation was being annoyed because of the loud music. What crime was committed? Possibly disorderly conduct.

SCENARIO NUMBER 9

- September 16th is Mexican Independence Day. On the University of New Mexico campus in Albuquerque, a Mexican-American group asked ROTC cadets if they could put up a Mexican flag next to the American flag. The flag was put up. That

evening ROTC cadets took down the American flag. Thinking the Mexican-American group would take down their flag, they left it there. The Mexican-American group, thinking ROTC was going to take down their flag, left it there.

After the weekend, a student, a veteran from Iraq, saw the Mexican flag standing alone. Outraged, he took down the flag and tore it up (criminal damage to property). People at the University of New Mexico and the news media called it a hate crime. What would your response be?

ANSWER:

Opinions may differ on this one but this does not appear to be a crime motivated by hate. Did the investigation reveal he hated people from Mexico? Would he have done the same thing had it been another flag? From the facts given, it seems his motivation was patriotism.

SCENARIO NUMBER 10

- Las Vegas, New Mexico. A local Hispanic often would go to a bar popular with Mexican nationals. One afternoon he got into a fight with a Mexican national and was evicted. He came back with his vehicle and ran over a Mexican national. He was heard saying bad things (in Spanish) about Mexican nationals. Hate crime?

ANSWER:

Initially this was called as a hate crime. But what was the motivation? Was he angry about getting kicked out of a bar or did he hate Mexican nationals? If he hated Mexican nationals, why did he frequently go to the bar and drink with them? Upon reflection, and advice from the District Attorney's office, this was judged not to be a hate crime.

ONE REASON MANY OFFICERS FAVOR HATE CRIME LEGISLATION

- From the examples given, it should be apparent that some people are quick to declare a crime a hate crime.
- The statute gives a very narrow definition: it's a crime "motivated by hate."
- This gives law enforcement a powerful tool in determining what a hate crime is.

Upon determining that a hate crime may have occurred, what should the officer do?

- Notify the field supervisor and/or unit commander as soon as possible. Command level officers, including the Chief and Sheriff, need to be notified.
- Police department should notify the district attorney as soon as possible.

Most common mistakes when a hate crime occurs

- Misidentification whether a hate crime occurred or not.
- Treating a hate crime like any other crime.

ROLE OF POLICE: PREVENTION AND BEING PROACTIVE

When is the most appropriate time to look into hate crimes?

- Every hate crime should be taken seriously. The most common hate crimes are misdemeanors: graffiti and vandalism. It's far better to take an active interest in a hate related misdemeanor than to wait for a hate related felony to occur.

What is the "profile" of a person involved in a hate crime?

Hate gangs or hate groups

- The neo-Nazis or the KKK or militias are the most visible. These groups must be treated seriously because their presence can promote feelings of intolerance or raise existing tensions. Law enforcement needs to keep a close eye on these groups.

People who do not belong to hate groups

The great majority of hate crimes are committed by people who do not belong to hate groups. These are offenders who act alone or in small groups.

- Thrill seekers. They may commit a hate crime for the shock value. Juveniles and young adults are over-represented. Vandalism or graffiti are common.
- People with a mission. They really believe their group has a duty to suppress or hurt other groups.
- People with negative change in their lives. These are people who may resent the economic growing power of a particular racial or ethnic group or believe there is a threat to their safety and the value of their neighborhoods.
- Conflicted offenders. Offenders who belong to a group but don't want to belong to it. Examples: a Jewish person joins a neo-Nazi group or a person of mixed racial ancestry joins the KKK.

ROLE OF POLICE: WORKING WITH THE VICTIM

- Procedurally, hate crimes should be handled in the same manner as other crimes. But the injuries sustained will be more emotional in nature and the victim may suffer psychological trauma. At times, the victim's response may seem out of proportion to the officer's perception of the incident.
- One reason is that for victims, hate crimes are different. Often, the victim will experience shock: why me, why was I singled out? There may also be a

feeling of disorientation, a feeling that things won't be the same again. There is a fear it will happen again.

- A hate crime victim, whether the offense was a felony or misdemeanor, is often similar to a victim of sexual abuse or child abuse.
- A victim of a burglary can install deadbolts or an alarm system, but hate crime victims cannot protect themselves by changing skin color or ancestry.
- Failure to communicate frequently with the victim may increase their sense of isolation.
- Need to let the victim know the department takes such crimes seriously. Need to reassure victims that every investigative procedure is being utilized to solve the crime and to offer support that extends beyond the investigative stage.

The following is an example of good police work with a victim . . .

News item:

The New Mexico Crime Victims Reparation Commission will help the victim (Navajo male branded with a swastika by three white supremacists) with any medical, emotional or psychological issues that come about as a result of the crime. Farmington Police Detectives also spoke with a plastic surgeon to have damage to the victim's right bicep removed. Farmington Daily Times, May 10, 2010.

ROLE OF POLICE: WORKING WITH THE COMMUNITY

- Many members of the group that the victim belongs to will feel that they are victims too. Tensions can surface and the group that feels threatened may resort to violence or retaliation.
- Police officers need to work closely with the group that has been threatened. No other crime has the potential to cause such problems for a police department.

ROLE OF POLICE: WORKING WITH THE NEWS MEDIA

- More than ever, especially when rumors are abundant, when the community wants to know what happened, when people are upset about a particular incident, the news media has taken a leadership role.
- Officers need to work with the news media as closely as possible. A hate crime is a high profile story that often will be the lead story or on the front page.

ROLE OF POLICE: WORKING WITH THE COURTS

- A lot more attention is given to hate crimes than other crimes, both by the news media and the community. It's possible that numerous community groups will be

in the courtroom. Law enforcement needs to work closely with prosecutors and the court.

TRENDS OF HATE CRIMES IN NEW MEXICO

Hate crimes became illegal in New Mexico in 2003. A few cases reveal what has happened since then:

News item: Hate Crime Case Ends: 6 sentenced in Gay Beating

A young gay man was beaten into a coma outside of a Santa Fe motel because of his sexuality. The victim at sentencing said “being beaten solely because of my lifestyle is hard to accept. I will never, ever forget this.”

The two adult males who were the primary offenders were sent to the state penitentiary. The Judge said, “I think both of you need to see the inside of a penitentiary. I can’t let the community think this is acceptable behavior.” Albuquerque Journal, April 6, 2006

NOTE: Judges take hate crimes seriously. So does the news media. A picture of the offender, in jail uniform and wearing handcuffs, was on the front page of the newspaper.

News item: Guilty Pleas in Beating of Gay: Lawyer says Juvenile won’t contest charges

The only juvenile among a group of six males charged with beating a gay man in Santa Fe will plead “straight up” guilty to all charges, his attorney said. Albuquerque Journal, August 5, 2005.

NOTE: Prosecutors take hate crimes seriously. Many prosecutors refuse to plea bargain in a hate crime case. That may be why the juvenile pled “straight up” to the charges. A picture of the offender, in jail uniform and wearing handcuffs, was on the front page of the newspaper.

News item: Edgewood Teens Punished in Beating of Gay Man

A Santa Fe teen who blindfolded a gay Edgewood man (Edgewood is near Albuquerque) and participated when a group tried to “beat him straight” was sentenced to a year in jail. “To beat him because he was gay, so he would become straight, the hatred of that is frightening,” District Court Judge Michael Vigil said to offender Cecily Gonzales, 17, as she wept.

Vigil also handed down a sentence for co-defendant Uriah Smith, 18. Smith was sentenced to four years in prison. Albuquerque Journal, April 13, 2007.

NOTE: Judges take hate crimes seriously. A picture of the male offender, in jail uniform and in handcuffs, was on the front page of the newspaper.

News item: Hate Crimes in Farmington

Two white men who were charged with beating up and robbing a Navajo man were sentenced. There was no proof of hate crime for the 21-year-old and he was given three years. But it was different story for the nineteen year who was guilty of violating the Hate Crimes Act. He was sentenced to seven years at the State Penitentiary. Albuquerque Journal, April 18, 2007 and July 19, 2007.

NOTE: Two young men rob a Native American. The one who robbed him to get money received three years. The one whose motive was hate was given seven years.

News item: Hate Crimes Charges Filed Against N.M. Men

Three Farmington-area men who allegedly kidnapped a Navajo man with developmental disabilities, burned a swastika on his arm with a heated coat hanger and used a cell phone to record it are now facing federal hate crimes charges.

They also wrote “white power” and “KKK” on the back of his head and on his neck. The crime is punishable by up to 10 years in prison. Albuquerque Journal, November 13, 2010.

NOTE: The penalties for federal crimes are severe. The US Attorney’s Office has been very helpful in accepting hate crimes when appropriate.

News item: 2 Plead Guilty in Swastika Case

Two of three men accused of branding a swastika on the arm of a Navajo man with mental disabilities are likely to spend more than 8 years in prison. They pled guilty to federal charges. Albuquerque Journal, July 20, 2011.

WAS IT A HATE CRIME?

In February, 2012, a seventeen- year-old African American (Trayvon Martin) was walking in a gated community near Orlando, Florida. It was raining and he was wearing a “hoodie.” A community watchman followed him. Following a confrontation, the watchman (named George Zimmerman, presumably white) shot and killed Martin.

- What is astonishing is how the news media and some people wanted so much to make this a hate crime.

The News Media

Is Zimmerman white?

- Based on his last name, the news media initially reported he was white. Then they learned his father is white, his mother is from Peru. The news media began to refer to him as a white Hispanic.
- But someone noted, “would that mean President Obama is a white African American?” George Zimmerman has always considered himself to be Hispanic.

ABC – the initial story and then a retraction

- Zimmerman said he was knocked down on the grass and the back of his head hit the pavement.
- Initially, ABC showed him walking into the booking area of the police station. They said there were no visible signs he had been in a fight.
- ABC then announced a “scoop.” An enhanced picture of the back of Zimmerman’s head showed a gash. Paramedics said they had cleaned him up at the scene. Police said they noted grass stains on his back.

NBC – the initial story and then a retraction

- In an example of editing, the initial story had Zimmerman following Martin, volunteering he was black.
- NBC soon retracted the story, noting Zimmerman said Martin was black after the dispatcher asked, “Is he white, Hispanic, or Black?”
- NBC, reviewing previous calls, found Zimmerman never offered up race as a description of suspicious people in the neighborhood.
- The producer of the edited version was fired.

Did Zimmerman use a racial slur?

- Initial news media reports said Zimmerman used a racial slur, referred to Martin as a “coon.”
- Using enhanced methods, the news media admitted there was no racial slur. Zimmerman said “cold.”

Is Zimmerman a racist?

- Zimmerman previously had mentored or tutored black children.
- When the son of a white police officer hit a black person, Zimmerman passed out flyers protesting this.
- Virtually all African Americans (so far) that have known Zimmerman have stated he is not a racist.

The Role of Activists

- Large demonstrations were launched across the country, especially in Florida, calling the shooting a hate crime or race profiling.

Hate Crime

Would this have been a hate crime in New Mexico?

- Need to ask if hate was the motivation in shooting and killing Trayvon Martin.

Lesson learned:

- The news media and some people have their idea of what a hate crime is. In New Mexico, law enforcement officers follow the legal definition.

SUMMARY OF HATE CRIMES IN NEW MEXICO

So far New Mexico appears to be doing the following in regard to hate crimes:

- Police departments are treating hate crimes seriously. The command level is very much involved.
- Many prosecutors do not plea bargain hate crime cases.
- The community, especially the group affected, has shown an intense interest in what happens to a hate crime. Court appearances involving hate crimes are sometimes filled with members of the community, especially the group targeted.
- Some Judges give the maximum sentence and then add one year for a felony.
- News media coverage has been extraordinary. Hate crimes often will be on the front page or will be the lead story for television and radio. Newspapers often have a picture on the front page of the offender at sentencing in handcuffs.
- As of now there is no case law in New Mexico regarding hate crimes.

GOOD NEWS ON HATE CRIMES IN NEW MEXICO

- The Southern Poverty Law Center keeps a close eye on the number of hate groups, state by state. In 2005 they noted that New Mexico was one of the very few states that did not have a single organized hate group.
- The good news is that hate crimes, as defined by state statute, rarely occur in New Mexico. Even senior police officers, asked the last time a hate crime occurred in their community, acknowledge that hate crimes seldom occur.
- But if a hate crime does happen, it will be taken very seriously.

THE FUTURE OF HATE CRIMES

- Hate crimes are part of our history and other countries as well. We need only to look at the Middle East to see the popularity of hate crimes in some countries. The need to be vigilant when it comes to hate crimes is obvious.

- But in one sense we can leave on a positive note. America has made great progress and hate crimes, though still with us, are becoming less common. New Mexico's record when it comes to hate crimes is one of the best in the nation.

CONCLUSION

- We have learned about the hate crimes statute, how to recognize hate crimes, and how peace officers should respond. Although hate crimes happen less, we need to react quickly and take them seriously.