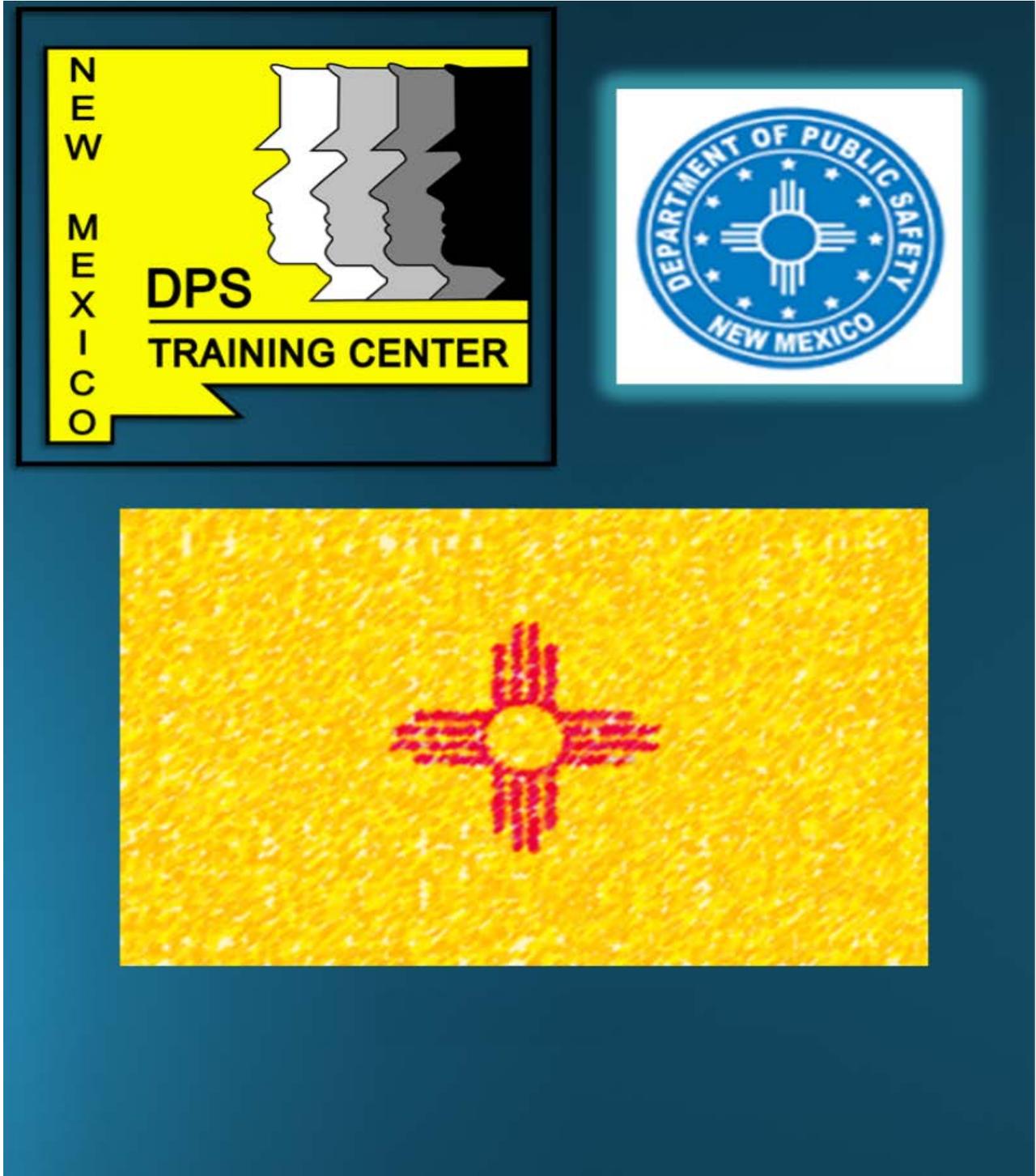


Lesson Plan / Instructor Guide



COURSE TITLE:

Biennium Hate Crimes Refresher

INSTRUCTIONAL GOAL:

This course will refresh the officer with regard to the importance of hate crimes in their communities and their role in the investigative process.

INSTRUCTIONAL OBJECTIVES:

Upon completion of this block of instruction the participant will:

- 1) Differentiate between a hate crime and free speech
- 2) Discuss the major SCOTUS decision on hate crimes
- 3) Identify the role of police in investigating hate crimes
- 4) Identify the importance of documenting and reporting hate crime statistics
- 5) Identify the requirements for a crime to be a hate crime
- 6) Discuss the profile of a person who commits a hate crime
- 7) Identify practice to reduce future hate crimes

INSTRUCTIONAL METHODS:

Classroom Lecture

HANDOUTS:

Hate Crimes ppt slides

COURSE DURATION:

2hrs

CURRICULUM REFERENCES:

NMLEA, 2016-2017 Biennium Hate Crimes Training

EQUIPMENT, PERSONNEL, AND SUPPLIES NEEDED:

Computer, projector, screen

TARGET AUDIENCE:

Certified NM law enforcement officers

INSTRUCTOR RATIO:

1:60

EVALUATION STRATEGY:

Class participation

AUTHOR & ORIGINATION DATE:

Elliott Guttman, NMLEA

REVISION / REVIEW DATE(S):

1/23/2018

REVISED / REVIEWED BY:

NMLEA ATB Staff

INTRODUCTION

This outline will include the following regarding hate crimes:

Why the history of hate crimes has made this such an important crime today.

How hate crime laws affect free speech.

Using real scenarios to better understand the hate crime statute.

What law enforcement should do when a hate crime occurs.

Trends of hate crimes in New Mexico since it became illegal in 2003.

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”

As used in the Hate Crimes Act (NMSA 1978, Section 31-18B-1) “**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.**

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

SOME REASONS HATE CRIMES ARE TAKEN SO SERIOUSLY

Hatred of others is a popular emotion, hatred of others can happen very quickly.

It’s not just another crime: The impact is extraordinary.

HISTORICAL BACKGROUND OF HATE CRIMES

HATRED OF OTHERS IS A POPULAR EMOTION

One reason hate crimes are taken so seriously is historical: hate and fear have been successfully exploited by leaders for thousands of years. Hate crimes can range from simple vandalism to genocide.

THE REST OF THE WORLD

Roman 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

Hatred based upon religious differences in some areas of the Middle East is supported by many people.

THE UNITED STATES

The United States has numerous examples of people or groups of people suffering because of the group they belonged to. Often hatred against another group was popular and widely supported.

African-Americans

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

The Ku Klux Klan (KKK). Although regarded as a fringe, extremist group, this hasn't always been the case. In the 1920's, millions of people joined the KKK and many of its ideas were mainstream (white) American. As recently as the 1960's the KKK was still popular, mainly in the South.

Segregation in various forms, until recently, was common throughout the United States.

Native Americans

Although living on a reservation is voluntary, for many years it 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

Today, because of immigration issues, crimes against a Hispanic because he or she is Hispanic, have increased.

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 in the Middle West.

Discrimination because of gender and sexual orientation

Many other groups have suffered – Italians, Irish, etc.

Note:

These acts of discrimination had a great deal of support. Hate, as with other human emotions, can be a powerful force. The fact that so many groups have been victims of prejudice and discrimination – victims of hate crimes – has made this an important issue for many.

HATRED OF OTHERS CAN HAPPEN VERY QUICKLY

Think of a brushfire. In the midst of summer, during a drought, brush and kindling can quickly lead to a major fire. Hate is similar in that it can suddenly flare up and escalate into violence.

Genocide in Rwanda in the 1990's

Rwanda, located in central Africa, has two main groups, the Hutu and the Tutsi. Both groups are black but the Hutu are of middle height while the Tutsi are the tallest tribe in Africa. Radio announcers started a hate campaign, suggesting it was time to go after the

Tutsi. The Hutu people, using machetes, killed nearly 800,000 Tutsi within a hundred days. Today the two groups appear be getting along again.

The Jews in Germany

One surprising fact is that the Jews in the 1920's (the Nazis came to power in 1933) were fairly well assimilated. The brushfire of hatred rose, however, and six million Jews (and many others) were murdered. In recent years many Jews have chosen to live in Germany and relations appear to be normal.

Note: It's unlikely there will be a "brushfire of hate crimes" in the United States. One way to reduce the chances of that happening is to teach hate crimes now.

NOT JUST ANOTHER CRIME: THE IMPACT CAN BE GREAT

An extraordinary thing about hate crimes, and another reason to take them seriously, is that a hate crime can have an impact way out of proportion to the act itself.

An example of this happened after Iraq was invaded in 2003. The Islam faith in Iraq has two major factions, Sunni (20%) and Shiite (60%). An outside terrorist group began a campaign of hate crimes against the Shiite majority. The Shiites reacted by waging war against the Sunni. These few hate crimes by an outside group had an astonishing impact and nearly caused a civil war.

In America, to a lesser extent, we have also felt the impact of hate crimes. Matthew Shepard, a gay person, was tied to a fence in Wyoming and left to die; in Jasper, Texas, a black man was chained to a vehicle and dragged to death. But these aren't just two more murders. The impact on the targeted group is 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. Graffiti, for example: spray painting “Beat the Lobos” on a bridge is not the same as painting “Death to Jews” on a synagogue.

Note: [It only takes a few incidents of hate crimes to create a wave of fear.](#)

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 gay.

However, we need to remember that anyone can be involved in a hate crime, either as an offender or as a victim

CONCERNS ABOUT HATE CRIME LEGISLATION

Not everyone supported hate crimes legislation in New Mexico. Indeed, it did not become law until 2003. Understanding the concerns about hate crime legislation will better 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, sentences are 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 teachers, athletic officials and health 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 marriages 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 - 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 is 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 goes a white boy, let’s go get him.” After they beat him up, he was in a coma for four days. Mr. Mitchell was charged with a hate crime and his sentenced was enhanced.

Supreme Court noted that Mr. Mitchell could say whatever he wanted to. But when he committed violence against another, he was breaking the law. And if the violence was committed against another simply because that person belonged to a certain group, he committed a hate crime. His conviction was upheld. Wisconsin v. Mitchell (1993).

UNDERSTANDING HATE CRIMES - NM STATUTE ON 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, motivated by hate.

This is the legal definition: a crime motivated by hate. Victims or the news media may have a different version of what a hate crime is.

NOT ALL GROUPS OF PEOPLE ARE INCLUDED IN HATE CRIME LEGISLATION

The Hate Crimes statute protects a number of groups. But if a group isn’t listed, it isn’t protected. For example, it doesn’t include homeless people, poor 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 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.

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

A SIMPLIFIED DEFINITION OF A HATE CRIME:

ANY CRIME + MOTIVATED BY HATE = 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 discrimination.

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.

LAW ENFORCEMENT TRAINING

In-service law enforcement training . . . shall include at least two hours of instruction . . . NMSA 1978, Section 31-18B-5

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 look at suggestions for the prevention of hate crimes and ideas for working with the victim, the community, and the news media.

ROLE OF POLICE: INVESTIGATION

UNDERSTANDING WHAT A HATE CRIME IS

The first thing an officer must do is determine if the crime was a hate crime. This is not as easy as it sounds. People have different opinions and conclusions as to whether a hate crime has occurred or not. It comes down to following a legal definition: a crime has occurred and it was motivated by hate.

Jasper County (Texas) sheriff:

“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.

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 is a crime 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 that 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.

GREAT MAJORITY OF 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 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?

We should treat every hate crime 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 homicide 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.

The “profile” of a person most likely to commit hate crimes

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

ROLE OF POLICING: 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. And there is a fear that it will happen again.

Officers need to let the victim know that the department takes such crimes seriously. Frequent communication is important to prevent the victim from having a sense of isolation.

A hate crime victim, whether the offense was a misdemeanor or felony, is often similar to a victim of sexual abuse or child abuse.

ROLE OF POLICING: 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

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.

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. And 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.