

Exploring Disability Hate Crimes

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Abstract: This paper identifies some of the characteristics of disability hate crimes and explains the difference between a “hate crime” and other sorts of crimes. Hate crimes are best understood as crimes with two victims (both individuals and communities) and as two crimes in one act. The high level of violence associated with hate crimes are noted, and the evidence necessary to demonstrate “hate” exists is also discussed. The differences between hate speech and hate crimes are outlined. The paper discusses the rapid growth in recent years of anti-disability websites on the Internet. It suggests that the use of the Internet to promote hatred of disabled people is a serious concern. Finally, some possible responses to disability hate crimes are identified, including legislation, improvements in reporting procedures, community interventions, and support for individual victims.

Key Words: Hate crimes, abuse and disabilities, violence and disability

What Is a Hate Crime?

The Community Relations Department of the US Department of Justice (2001:1) defines a hate crime as: “the violence of intolerance and bigotry, intended to hurt and intimidate someone because of their race, ethnicity, national origin, religious, sexual orientation, or disability. The purveyors of hate use explosives, arson, weapons, vandalism, physical violence, and verbal threats of violence to instill fear into their victims, leaving them vulnerable to more attacks and feeling alienated, helpless, suspicious, and fearful.” There are two victims of hate crimes -- individuals and communities. Hate crimes not only represent an attack on the rights and freedoms of individuals, but also indicate a lack of physical safety for many people in minority communities. Hate crimes are crimes against a community because their message of intolerance can terrorize particular groups. As a result, penalty enhancement is a common response to hate crimes. Martin (1996) points to three reasons why hate crimes deserve a different response than other crimes: first, hate crimes inflict more psychological harm than other crimes; second, hate crimes have negative impact upon communities by spreading fear and anger; and third, the bias expressed when the crime is committed has its own meaning separate from the actual crime. Some of the practical consequences of hate crimes are that other members of the targeted population may move away from or avoid the area, or may significantly alter their routines to enhance their safety (Craig, 2002).

The unique aspect of hate crimes is that they involve “parallel crimes” (Jenness and Grattet, 2001: 130). That is, there are two crimes embedded in a single act - one consisting of a crime such as vandalism, theft, arson, murder, or assault, and the other being a bias crime. In order to prove that a bias crime has occurred, it is necessary to demonstrate that the offender discriminated in the selection of his or her victim. In order to prove that a disability hate crime has occurred, discrimination on the basis of real or perceived disability must be a substantial reason in the selection of the victim.

Hate crimes tend to be associated with high levels of violence, frequently involving physical threat and harm to individuals, rather than property. Hate crime victims are three times

more likely to require hospitalization than victims of a non-bias assault (Bodinger DeUriate and Sancho, 1992). In one study half the victims of hate crimes were assaulted. This is a significantly higher rate than the national crime average - where only 7% of crimes involve assault (Levin and McDevitt, 2001:17). The psychological consequences of hate crimes also seem to be more significant than those for other crimes, in terms of depression, anger, anxiety and post-traumatic stress (Herek et al., 1997; Herek et al, 1999). Many hate crimes involve multiple perpetrators (whereas most assaults usually involve two mutual combatants) and often the victims are unarmed while the perpetrators are armed (Bodinger DeUriate and Sancho, 1992). Also, perpetrators of hate crimes often do not live in the area where they commit the crimes. They frequently spend time and money in traveling to unfamiliar areas in order to perpetrate their crimes. And in most property crimes, something of value is stolen, but hate crimes that involve property are more likely to entail the destruction rather than the theft of that property (Medoff, 1999).

Many hate crimes are committed by complete strangers -- people who do not know the victim at all. Hate crimes are also often unprovoked (McPhail, 2000). This aspect of the crime reinforces the sense that it is not something about the particular individual, but rather his or her shared identity with a collective group, which is the source of the victimization. In fact, this aspect of the crime is often seen as pivotal in establishing that the act was a hate crime, rather than another form of crime. In her study of how law enforcement officers enforce hate crime law, Jeannine Bell (2002) found that any type of pre-existing relationship between perpetrator and victim was sufficient to convince many officers that the act was not a hate crime.

Compared to other kinds of hate crimes, disability hate crimes seem more likely to depart from the expectation that the perpetrators are strangers. For instance, the literature on sexual assaults and other forms of violence against disabled people is replete with examples of perpetrators who are in some "caregiving" capacity with the victim. The reliance of the disabled person on the perpetrator may mean that they feel unable to report the crime. The difficulties disabled people may experience in reporting and leaving violence has been summarized in the phrase used by Marsha Saxton, *et al.* (2001): "Bring my scooter so I can leave you." It seems that there is a pattern of recidivism among certain care providers which entails repeated predatory behavior against disabled people under their care. For instance, Dick Sobsey (1994) cites one study where ten percent of disability caregivers were known to have criminal histories for sexual assault, molestation, child abuse, and so on.

A recent case illustrates some of the problems with automatically assuming that caregivers cannot be motivated by hate. In Billings, Montana, Floyd "Todd" Tapson is currently awaiting retrial over the attempted murder of a disabled woman. He is alleged to have abducted the woman, sexually assaulted her, driven her to a remote location, and shot her in the face. The woman survived the shooting and was able to identify her alleged attacker. It was subsequently revealed that he had worked in a number of group homes in North Dakota, Minnesota, and Maryland where disabled people have vanished (TASH, 2002).

It is not necessary to enter into the details of this alleged case, but simply to remark that it is very similar to many cases examined in the literature on disability and abuse where repeat offenders situate themselves in positions of power over disabled people and exploit this dynamic in order to perpetrate criminal behavior (Sobsey, 1994). What is interesting in this regard is that this repeated victimization of disabled people is never seen as a form of hate crime. And yet such characteristics as repeat offenders against multiple victims, use of derogatory language, and a

high level of violence (all commonly found in hate crimes) suggest that there may be unique dynamics which certain types of offenders exploit in committing disability hate crimes.

Signs of a hate crime can include: words or symbols associated with hate, demeaning jokes about a particular group, the destruction of group symbols, a history of crimes against a group, a history of hate crimes in the community, and the presence of hate group literature. Hate crimes often involve serial victimizations and multiple offenders.

Hate crime legislation typically outlines specific identity categories which are protected under bias legislation. This has led some critics to suggest that there is a hierarchy of protected categories, with race, religion and ethnicity being the least controversial categories, and gender, sexual orientation and disability being the most controversial (McPhail, 2000). The high levels of hate crimes against homeless people – many of whom are disabled – has also led to advocacy for homelessness to be a separate category protected under hate crimes legislation.

There is a notoriously low rate of prosecution and conviction for hate crimes. In fact, only one disability hate crime has ever been successfully prosecuted. However, while this low rate of prosecution is appalling, it is not something which is unique to disability hate crimes. Boston has been cited as a national model for hate crime investigations, and yet a study of 452 hate crimes in Boston between 1983 and 1987 found that approximately 85% of offenders were not arrested, and charges were dropped against one third of those arrested. For a total of 452 incidents, many of which were extremely violent, only five individuals were sent to jail (Levin and McDevitt, 2002).

Only a very small minority of hate crimes involve organized hate groups. Disability hate crimes are no different in this respect. However it is important to acknowledge that some organized hate groups overtly display their hostility to disabled people. In early November 2002, the discussion forum of the white supremacist group Stormfront (www.stormfront.org) had allocated a section of their discussion forum to eugenics. Among the disability language which appeared on the forum included the following comments: “Ever notice how visually offensive those savants tend to be??” and “Just as the Christian hates the sin not the sinner. We hate the defective genes that have crippled some of our people.” Another comment stated, “We must put into place social and economic systems that encourage the best genes to dominate in numbers as well as power.” A past ‘Quote of the Week’ was from H.G. Wells which stated:

The ethical system that will dominate the world-state will be shaped primarily to favor the procreation of what is fine and efficient and beautiful in humanity - beautiful and strong bodies, clear and powerful minds - and to check the procreation of base and servile types.

Hate Speech and Hate Crime

Hate crime laws do not punish free speech – they simply increase penalties for acts that are already illegal. Hate crime laws emphasize that their intent is to punish conduct, not speech. The First Amendment guarantees the right to free speech; hate crime laws never can, and never intend to, override this Constitutional right. The “hate crimes- hate speech paradox”, as it has been called, involves simultaneously punishing the bias criminal and protecting the right of the bigot to free speech.

Hate speech towards disabled people is widespread. Here are some recent quotes from Internet sites dedicated to expressing hate towards disabled people:

- “Retards. I hate them. I don’t care how un-politically correct it is. I fucking *hate* retards. I watched something on Canadian television this weekend about a mother who had her mongoloid son chemically castrated. Thank *GOD*. He is twenty-four years old with the mind of a four year old, blind, and (obviously) not even capable of taking care of himself or others.”
(http://www.geocities.com/d_i_s_s_i_d_e_n_t/ihateretards.html, retrieved 29 January 2003).
- “I hate those drooling fucking life less wall faced bastards all they do is shit themselves smell bad and try to wipe boogers and pass diseases to anyone and everyone around them. Sometimes I see them I want to take a hammer to their thick skulls. I get fed up with there [sic] stupidity and retarded blank stares [sic]. They always smell bad and never make any sense. They have mush for brains, and not one has ever contributed anything useful for society! They have done nothing useful ever except for being a nuisance to everyone. And with brains like a 10 month old at age 16 it gets annoying real quick. I was fortunate not to go to a high school with these drooling vegetables. Every time I see them I want to puke! They disgust me and scare me. You never know when anyone of them will try and pull your hair or hit you. They have been known to attack people for no apparent reason. I just cannot stand them.” (<http://www.angry.net/groups/r/retards.htm>, retrieved 29 January 2003)
- A Webzine entitled “Colon D” published an article entitled “Retarded People: A Blessing Or A Crisis” which stated, “Well I will be blunt, I hate fucking retards. I dont [sic] see why they are let to live. All they are doing is continuing to supply the world with more retarded people. Im [sic] not saying they are evil or anything, Im [sic] just pointing out they are not helping the future of mankind. Now, I propose that all mentally challenged people be taken into the middle of nowhere and shot in the head and then burned in a giant hole that will be filled in with concrete.” (<http://www.colond.org/past/colond9.html>, retrieved Wednesday, January 07, 2004)
- When a Wal-Mart advertisement for DVDs included developmentally disabled people, a discussion list contained comments such as, “I hate those fuckin' retards, too! I don't give A [sic] flying fuck about how their [sic] into DVD! I like 'em, too, but not as much as these losers! This is what happens when you move away from the film buffs, and just pander the lowest common denominator! If these losers try to pester me about their obsession with DVDs, They're [sic] gonna get whacked upside the head with my baseball bat! Don't call us, we'll call you!” (These comments have since been removed from the site).
- Another website suggested that it was fun to administer the wrong drugs to disabled people: “If you switch the meds around on the 'tards, they all strt [sic] to dance and yodel a lot. It's fun to give the 'tards lots of dexedrine!” (<http://thingsihate.org/view/447>, retrieved 7 January, 2004)
- An online essay entitled “Retards in School” began with the statement that “In general I think that all retards should be shot in the face.” After a long discussion of this topic, the essay concludes: “So here is my plan, I think that we should take all the retarded people in the country, gather them at a big rally, then while they are having fun, if they even know why

they are there or where they even are at, then the military should fence [sic] in to a big building that the construction companies want to blow up, you gather them in there lock them in then line the [sic] in and outside with the most powerful explosive you could find then blow the shit out of the building. And if there are any survivors, have guys with m-16 [sic] ready to shoot them down. Then you keep doing that until all of the retards in this country are gone. In my way you would kill two birds with one stone. All of the retards will be gone and you would remove the buildings that you want to get rid of. And then after they are all gone if a baby ever turns out retarded it should be a responsibility of all citizens of the united states to kill them [sic] if they cant [sic] do it they take the babies to a special are where one a week all the retarded people their [sic] will be killed for the good of the u.s. [sic] and for the good of humanity”. (<http://hellncphs.20m.com/Retardsinschool.html>, retrieved 7 January 2004).

- One website expressed many of the common themes of disability hate, so I will quote it at some length. It was written by someone using the pseudonym of “Vicious Headbutt” and was entitled “Cripples, Retards, and the Other Untouchables”. This webpage states: “Useless self-pitying cripples and bothersome retarded fucks alike are all extraordinarily worthless. What is their purpose in society? Exhausting our precious resources while annoying the fuck out of us: the hard working American public. I hate crippled people, with their close up parking spots and their defective appendages. I especially hate lamenting cripples demanding compassion and consolation while being enormous assholes. The biggest assholes are those hopeless cripples new to the experience via some horrible accident or illness. These so called ‘new’ cripples always demand solace while nostalgically remembering how they used to be able to move without a machine to propel them. ‘I’m handy capable! I’m differently able!’ No you aren’t, fuck you. I detest retards immensely. The babbling, drooling, flailing fuck ups irritate me to no end. When a one-year-old baby pisses itself and cries to be changed it’s acceptable. However when a thirty-year-old balding fat man pisses himself and hollers incomprehensibly while violently thrashing about its [sic] just down right [sic] disturbing. Retards coast through life unknowing of the massive drain they put on society. These massive drains are nothing more than disgusting sub-human nuisances. The worst of these untouchables is the combination of the two, the crippled retard. These sad sacs of human refuse have serious defects and don’t deserve to live. What the hell is the point to keep these crack baby, drooling retard, wheelchair bound, disgusting fucks?” (www.murderize.com, retrieved 29 January 2003)
- An editorial on this site stated, “Mentally handicapped individuals are bad enough, but what’s worse is when they are also fat and ugly. The unsightly chunksters I’m referring to are people with Down Syndrome. A dumpy Down Syndrome baby is a huge drain on society and every parent’s nightmare. These genetic screw-ups hog an extra chromosome, but they pay for it by being gruesome Quasimodoesque retards. Every goofy looking Down Syndrome fat-body wearing a bicycle helmet and running spastically at 2mi/hr should die an early death so they can be put out of their misery. And they do. However, I say before they die we should put the fatties to work. Here’s the plan. Load them on a caravan of short buses and make them sweat off a few pounds picking lettuce or strawberries in a field. This guarantees the hideous chubbsters some good cardiovascular exercise, and if a few die in the process of manual labor, who cares? They were worthless anyway.” (www.murderize.com/Editorials/Headbutt/retards2, retrieved 7 January 2004)

Examples of Disability Hate Crimes

On January 30, 1999, Eric Krochmaluk, a cognitively disabled man from Middletown, New Jersey was kidnapped, choked, beaten, burned with cigarettes, taped to a chair, his eyebrows were shaved, and he was then abandoned in a forest. Eight people were subsequently indicted for this hate crime, the first prosecution of a disability hate crime in America. Similar attacks had occurred on two previous occasions. Monmouth County Prosecutor John Kaye said, "They tormented this mentally disabled man because of his disability... They did it to him because they could – because they could manipulate him, and because they believed he could not tell on them, which was almost true." (see Sherry, 2002). Other examples of disability hate crimes have been cited by the disability organization Protection and Advocacy. They have cited cases such as the assault against a man with cerebral palsy in Oklahoma who was taunted with the use of epithets such as, "You belong in the trash, you cripple" and who was then stuffed into a trash can, unable to call for help because of his speech impairment (see Sherry, 2003).

Abuse is a ubiquitous synonym for crimes against disabled people. Serious crimes (including rape, theft, assault, vandalism and so on) are frequently mislabeled as "abuse". For instance, the schoolmates of an 18-year-old North Carolina high school student with a developmental disability soaked his lunch in cleaning fluid and watched him eat it. He experienced life threatening poisoning and had to be taken to intensive care (Consortium for Citizens with Disabilities, 1999). This example suggests to me that it is not useful to label every crime against a disabled person "abuse". These acts are crimes, and they need to be punished as such. The sexual harassment of Deaf people by nuisance callers sending obscene and malicious messages via text phones is also a unique form of disability hate crime which may be mislabeled as "abuse" (Shakespeare, Gillespie-Sells and Davies, 1996).

Failure to recognize a crime as a disability hate crime may also occur if the investigating officers from law enforcement agencies do not have significant disability awareness. Their lack of disability awareness may also mean that they overlook evidence indicating the bias element of the crime. For instance, the organization Consortium for Citizens with Disabilities (1999) has reported the case of a man living with AIDS who was attacked on a New York subway by a group of young men and women who screamed abuse at him, kicked him in the face, and left him with serious injuries. A law enforcement officer with limited disability awareness may not realize that AIDS fits the legal definition of a disability, and may not report such a case as a disability hate crime.

The connection between disability and homelessness is well established, so it would be remiss not to acknowledge the hundreds of hate crimes which have been reported against homeless people. Many of these crimes are documented in the report *Hate, Violence and Death on Main Street USA: A Report on Hate Crimes and Violence Against People Experiencing Homelessness from 1999-2002*, published by the National Coalition for the Homeless (2003). This report details 212 hate crimes in 89 American cities – with many crimes that are shocking in their brutality. For instance, the report cites cases of people being set on fire, shot, beaten to death, run over, kidnapped and even beheaded. An earlier report on hate crimes against homeless people had included the case of a wheelchair user from Hawaii who died after he appeared to have been beaten, experiencing head and facial wounds, and who was found lying unconscious, out of his wheelchair, five feet away from a fire in a trash can (National Homeless Civil Rights Organizing Project, 2000).

Responding to Disability Hate Crimes

This paper has suggested that the problems of disability hate crimes needs to be explored in far more detail. There may be unique dynamics involved in disability hate crimes which have not been explored in previous studies and further research into this topic is clearly required. Disability hate crimes need to be acknowledged, reported, and investigated thoroughly, and victims need appropriate support. Further research is also required on disability hate speech, and its connection to hate crimes.

Legislative Responses

During 2002, there was some hope that disabled people would receive enhanced protection from hate crimes under the Federal Local Law Enforcement Enhancement Act (S.625), which proposed to expand federal jurisdiction over violent hate crimes. It would have enabled Federal law enforcement agencies to investigate hate crimes which caused death or bodily injury, or which were committed with a firearm or explosive device, regardless of whether the victim was exercising a federally protected right. Current Federal law only covers hate crimes based on race, national origin, and religion, and only protects citizens who are threatened or attacked while they are exercising a federally protected right. Such rights include renting a house, riding public transportation, or eating in a public restaurant. Many other forms of hate crimes (including hate crimes based on disability, gender and sexual orientation) are ignored in the current law, which is 32 years old. The hope that this Federal legislation would be extended was shattered when the Law Enforcement Act was permanently shelved in the Senate.

Improved Reporting of Incidents

Many hate crimes are not reported at all. Reasons for the failure to report a hate crime could include the victim's shame, fear of retaliation, or fear of not being believed. We need to provide more support for disabled victims of hate crimes, and encourage more people to recognize that some of their experiences of "abuse" are actually "hate crimes" Also, there is a need to remove bureaucratic inefficiencies which impede the hate crime reporting process. Balboni and McDevitt (2001) suggest that lack of departmental infrastructure, lack of training and supervision, and communication breakdowns between line officers and those responsible for reporting the crimes may inhibit accurate reporting of hate crimes. Submitting hate crimes reports is voluntary, not all jurisdictions within states submit reports, and time frames for reporting are uneven – ranging from one month to one year (American Psychological Association, 1998). A related problem is that there is a great deal of inconsistency in the location of hate crime units, in the nature and amount of training received by responsible officers, in procedures for screening and handling cases, and in record keeping systems (Martin, 1995).

Community Interventions

One of the most comprehensive guides for community responses to hate crimes has been produced by the International Association of Chiefs of Police (1998). Their 22 recommendations for responding to hate crimes recognize the complexities of the causes of hate crime and work to

reduce prejudice and bigotry at the individual and the societal level. Their recommendations include:

- increasing public awareness and community involvement in responding to prejudice, intolerance and hate crime;
- developing coordinated planning processes, task forces and institutional frameworks to promote community stability and to respond to hate groups;
- providing adequate support to victims;
- reforming school curricula to include diversity training, conflict resolution and information about hate crimes;
- developing more effective sanctions for perpetrators;
- encouraging responsible and accurate media coverage of hate crimes; and
- establishing mechanisms for repairing harm to communities.

Valuable resources which have been developed specifically for an educational context include *Healing the Hate: A National Hate Crime Prevention Curriculum for Middle Schools* by McLaughlin and Brilliant (1997) and *Preventing Youth Hate Crime* published by the U.S. Department of Education (2002).

One of the areas which is not addressed by these reports is the role of social movements in politicizing hate crimes. In *Making Hate a Crime*, Valerie Jenness and Ryken Grattet (2001) highlight the roles of social movements in politicizing the issue of hate crimes and in drawing attention to the high levels of hate crime victimization experienced by specific groups. Social movements gather data on hate crime and publicize this information, which is then distributed to policy makers, law enforcement agencies and the general public. Jenness and Grattet suggest that the first stage in the public policy process is for social movements to publicize the problem of hate-motivated violence and pressure politicians to pass legislation, well before courts and police administer and interpret those laws. The implication of this argument is that the disability movement must engage in more lobbying to have disability hate crimes included in the political agenda.

Assistance for Individual Victims of Hate Crimes

For legal action following a hate crime incident, individual victims should contact law enforcement. Other community organizations which may be helpful to victims of hate crimes may include the following:

- Local Protection and Advocacy Organizations
- The Southern Poverty Law Center
- The Anti-Defamation League (ADL)
- The Asian American Legal Defense and Education Fund
- The Center for Democratic Renewal
- LAMBDA Community Services
- The Hate Crime National Hotline (1-800-686-HATE)

Disability-Specific Challenges

In another paper, Sherry (2000) discussed some of the specific social changes needed to reduce the incidence of disability hate crimes. These disability-specific changes include: a change in negative attitudes towards disability, improved background checks for caregivers, enhanced accessibility to domestic violence shelters and women's refuges, and development of alternatives to segregated institutions because they often foster a culture of abuse. There may also be unique disability-related forms of victimization which need to be recognized as "hate crimes" rather than abuse, such as overmedication, withholding medications, and so on.

Conclusion

This paper has suggested that it is useful to understand hate crimes as two crimes in one act – an initial crime, and a parallel bias crime. It has also identified two victims of hate crimes – individuals and communities. The paper distinguishes between hate crimes and hate speech, and notes that hate speech is not illegal. Nevertheless, the rapid growth of disability hate sites on the internet is an alarming feature of contemporary society which suggests that hatred of disabled people is not unusual, but is in fact quite widespread. Finally, the paper suggests a number of possible avenues for responding to disability hate crimes, including legislative responses, improved reporting procedures, community interventions, and assistance for individual victims.

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