

TOUGH ON HATE? ADDRESSING HATE CRIMES IN A POST-DIFFERENCE SOCIETY

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To Mary Lewis,
for inspiring me
towards curiosity

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ABSTRACT OF DISSERTATION

TOUGH ON HATE? ADDRESSING HATE CRIMES IN A POST-DIFFERENCE SOCIETY

In *Tough on Hate?*, I analyze the cultural politics of hate crimes across a range of social fields, primarily news media production and national politics, and to a lesser extent law making, advocacy, and academia. Counterintuitively, I observe that mainstream discursive performances about hate crimes tend to undercut the salience of contemporary minority and civil rights concerns. These widely distributed depictions not only narrowly define bigotry as a law enforcement problem, they also create opportunities to celebrate American exceptionalism and tolerance, further stigmatize the white underclass, and give voice to members of minority groups who actively disavow identity politics. In each of these three areas, individuals and organizations that are defined by their recognition of ascriptive differences — including both white supremacists and minority rights advocates — are marginalized through demonization, criminalization or, more subtly, invisibility.

In grappling with the significance of these findings, I develop the construct post-difference ideology. Post-difference ideology describes the cultural tendency to condemn hate crimes in terms that disavow the continued significance of ascriptive differences. The saturation of post-difference ideology within mainstream representations of hate crimes has implications for how hate crimes are understood as a policy field, political issue, news theme, and site of minority and civil rights activism. I surmise that anti-hate crimes legislation functions as a sound criminal justice practice while representations of hate crimes share the same damning consequences for minorities as other expressions of color-blind racism, new homophobia, and Anti-Arab/Muslim sentiment. The dualistic cultural tendency to condemn hate crimes while ignoring these crimes' social and

historical imbrications indicates that the ideological pattern termed “new racism” has come to characterize, not only racial thinking, but also other forms of identity-based difference and even mainstream efforts to combat bigotry. The result being that the bigotry manifest in hate crimes is unequivocally defined as criminal, while the differences that initiated these crimes in the first place are rendered moot. Bigotry appears deviant, while the status of being in a minority group is viewed as either neutral or irrelevant. The myth of the color-blind society transmogrifies within these narratives into the myth of the post-difference society.

As a transdisciplinary endeavor, *Tough on Hate?* contributes to ongoing conversations within scholarship on the post-civil rights era, race-class-gender studies, and hate crimes studies. Beyond academia, my dissertation speaks to minority and civil rights advocates interested in cultural futures for anti-hate crimes policy. Ultimately, this dissertation generates new theory on the role of political discourse and cultural production in reifying the post-civil rights era’s identity-based social harms.

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At the forefront of our minds, the obvious signals of violence are acts of crime and terror, civil unrest, international conflict. But we should learn to step back to disentangle ourselves from the fascinating lure of this directly visible 'subjective' violence, violence performed by a clearly visible agent. We need to perceive the contours of the background which generate such outbursts. A step back enables us to identify a violence that sustains our very efforts to fight violence and to promote tolerance.

-Slavoj Zizek, *Violence*

THE CULTURAL POLITICS OF HATE CRIMES: AN INTRODUCTION

INTRODUCTION

My first personal encounter with a hate crime lacked what theorist Slavoj Žižek describes as a “clearly visible agent.” Indeed, the persistent absence of any kind of accountable criminal subject made the incident all the more hauntingly nasty. As with the majority of all hate crimes committed in the United States, the crime itself was a simple act of graffiti.¹ *Die Dyke, Die!* Scripted with matter-of-fact tidiness on a first-year student’s dry eraser board, the threat surfaced like a withering, long-suppressed resentment. More a death rattle than a battle cry, it unhinged us nonetheless. The victim and I lived in the same undergraduate residence hall at Smith College. Located in Western Massachusetts, Smith is one of the country’s oldest women’s only colleges. Where many of its contemporaries went co-educational, Smith maintained its commitment to single-sex higher education. The resonance of this particular hate crime only becomes comprehensible if understood within Smith’s distinct social milieu. As with hate crimes generally, both context and subtext matter.

A micro-universe of homosociability, Smith houses students within a dormitory system that engenders a remarkable degree of trust and togetherness. During the four years I lived on campus, every meal was eaten with the same group of women, at the same table. It was prepared by the same staff who always listened to the same radio station. Throughout the year, we held hands, wore ugly hats, sang songs of dorm loyalty, and skinny-dipped. On more than one occasion, women who had previously defined themselves as straight would find something newly erotic about a close female friend and

the terms of sexual self-identification would slide towards passionate re-naming.

“BDOC”: Big Dyke On Campus. “LUG”: Lesbian Until Graduation. These were terms of endearment and known categories within Smith’s unique sexual typology.

Homosexual sex was in some, arguably confined, ways pervasive on Smith’s campus. The acceptance of lesbian desire was presupposed, if not lavishly indulged. We held dear a mythology about ourselves as a progressive community: we liked to tell ourselves that, having transcended mere tolerance, we had created an idealized diverse space. But the lived experience of being a lesbian or being queer or being transgendered was still difficult terrain for many students who were not simply engaged in playful experimentation. Given this often-overlooked tension, the slur “Die Dyke, Die!” cut through our imagined veil of tolerance and drew to the surface a more complex entanglement of sexual identities and hierarchies of sexual belongingness. Ultimately, the progressive myths themselves contributed to the harm caused by the crime. Our sense of ourselves as having already achieved a perfect state of tolerance masked the crime’s intimate social embeddedness.

The student who received the threat had been gay before arriving on campus. Once on campus, he stopped using female pronouns, adopted a male name, and began the process of transitioning from female to male. He was overweight, butch, and had tried drugs none of us had ever had any kind of access to. “Dyke” was hardly how he defined himself. Even before the hate crime crystallized his marginality, he was already held at a distance by the other femme first-years.

The night after the graffiti was discovered, I found myself sitting on the fourth floor hallway with a cluster of overwhelmed first-year students who were trying,

awkwardly, to make sense of the incident. This was my first exposure to the defensive rhetoric that follows in the wake of a publically recognized hate crime — the overwhelming desire to prove that *we*, the people within the community where the crime occurred, are better than the crime. These women were embarrassed by the crime and felt that the house's reputation had been unfairly tarnished: *This is not us. This makes us look bad. It isn't fair that this makes us look bad. Why is this happening to us? Maybe he wrote it himself to get attention.* On one superficial level, they were right. Before the hate crime, we had a stellar campus-wide, perhaps even valley-wide, reputation for throwing fun theme-based keg parties. The crime made our house an object of muted disdain on campus and an unfortunate playground for new Residents Life diversity initiatives.

However, our feelings of shame, embarrassment, and indignation compromised our ability to support the victim, who was appalled by our fuss over the dorm's public image. As the victim stopped attending meals in our dining room, we focused our collective energies on demanding that the institution ramp up its efforts to identify the crime's perpetrator. Firmly believing that finding the culprit would solve the problem, we insisted that the administration come and take all of our fingerprints and do a thorough crime scene investigation — never mind that the logistics of writing on a dry eraser board made such a demand for justice nearly impossible for campus authorities to achieve.

In retrospect, I have come to understand that by the time we were actively investigating the crime the nature of the problem had already shifted. The hate crime itself was actionably serious, harmful, and wrong. Despite being a minor property violation, it had profound social consequences. If a perpetrator had been identified, he or she should have been punished fully in accord with the heightened seriousness of the

offense's bias-motivation. However, by the time we were all eagerly demanding criminal redress for the initial incident, the victim himself had moved on to dealing with the isolation and betrayal that accompanied the dorm's defensive response. How we responded created a new set of problems. In defending our dorm's reputation we had further marginalized the crime's actual victim. He moved out of our dorm the following year. The perpetrator was never identified.

In many ways this dissertation is an effort to productively engage the memory of this incident. In *Tough on Hate?*, I aim to articulate a fuller understanding of the social harm caused, not by hate crimes themselves, but by the ideological premises that shape how we respond to hate crimes. Hate crimes are a distinct category of criminal violation that call out for rigorous, informed policing and fair adjudication. However, this project primarily encounters hate crimes not as criminal incidents, but as a universe of densely packed ideas about ascriptive differences, about best practices in criminal justice, about what constitutes harm, and about whose trauma is worthy of resources, recognition, and respect. At its core, this dissertation insists that certain mainstream ideas about hate crimes — particularly ideas that validate what I term “post-difference ideology” — are part of the problem. Further, effective anti-hate crimes efforts require not only, or even predominantly, law enforcement remedies but also an engagement with deeply held cultural and political values.

POST-DIFFERENCE IDEOLOGY

On a national scale, political discourse and cultural production inform our sense of what hate crimes are, how they function, and what they mean. The news media and

national politicians frame the issue for mainstream audiences of news consumers and voters. In doing so, they suggest what kinds of actions constitute hate crimes and how these incidents should be responded to. Throughout *Tough on Hate?*, I position these actors' and institutions' investment in the cultural production of hate crimes as fundamentally at stake.

In more specific terms, *Tough on Hate?* analyzes the cultural politics of representing hate crimes across a range of social fields — primarily news media, national politics, and federal law making, and to a lesser extent law enforcement, advocacy, and academia. I enter into these fields through three interconnected research questions: What are the epistemological foundations of hate crimes in the United States? How has the issue been represented within the public sphere? What does a close reading of hate crimes' political and news media framing reveal about the values and norms of our society? Counterintuitively, I observe that mainstream discursive performances about hate crimes tend to undercut the salience of contemporary minority and civil rights concerns. These widely distributed depictions not only narrowly define bigotry as a law enforcement problem, they also create opportunities to celebrate American exceptionalism and tolerance, further stigmatize the white underclass, and give voice to members of minority groups who actively disavow identity politics. In each of these three areas, individuals and organizations that are defined by their recognition of ascriptive differences — including both white supremacists and minority rights advocates — are marginalized through demonization, criminalization or, more subtly, invisibility.

In grappling with the significance of these counterintuitive findings, I develop the construct post-difference ideology. I define post-difference ideology as the cultural

tendency to condemn hate crimes in terms that disavow the continued significance of ascriptive differences. As an expansion of existing theories about racial apathy and color-blind racism, the term post-difference ideology calls attention to the way in which the enforcement of color-blindness now challenges efforts to combat other modes of identity-based bigotry, including homophobia, xenophobia, and anti-Arab/Muslim sentiment. The dualistic cultural tendency to condemn hate crimes while ignoring these crimes' social and historical imbrications indicates that the ideological patterns termed "new racism" and "color-blind racism" have come to characterize, not only racial thinking, but also other forms of identity-based difference and even efforts to combat bigotry.

The saturation of post-difference ideology within representations of hate crimes in the public sphere has implications for how these crimes are understood as a policy field, political issue, news theme, and site of minority and civil rights activism. With near uniformity, empirically informed academic analyses of hate crimes focus attention on the ways in which these offenses express the multitude of biases, prejudices, and stereotypes that define our shared social life. In contrast, mainstream discursive performances about hate crimes instead tell stories about individual murder victims, the monsters who killed them, and the exceptional nation that adjudicates retributive justice. Post-difference ideology is the background against which these spectacularly brutal crime stories make sense and within which social critique becomes seemingly irrelevant.

I surmise that anti-hate crimes legislation, when implemented properly at the local level, functions as a sound criminal justice practice.² However, mainstream discursive performances about hate crimes share the same damning consequences for minorities as other expressions of color-blindness and racial apathy. Within these representations,

bigotry is unequivocally defined as criminal. But, the ascriptive differences that initiated these crimes in the first place are rendered meaningless. Put simply, these discursive performances simultaneously reinforce the idea that bigotry is deviant, while also implicitly suggesting that the status of being in a minority group is irrelevant. The myth of the color-blind society transmogrifies within these narratives into the myth of the post-difference society.

ETYMOLOGY

The complex evolution of the term hate crimes' usage in the public sphere further illuminates these historical and cultural processes. I begin from the supposition that the concept of hate crimes is a historically specific cultural, social, and legal invention of the post-civil rights era. The phrase hate crimes did not enter into our everyday lexicon until the early-1990s, before which it was preceded by skeptically tentative adoption — *The New York Times* reported on “so-called hate crimes” as late as 1991.³ During the 1980s, the terms used to label the phenomenon of bias-motivation victimization in the United States changed. Offenses that were originally labeled as “community disorders,” “civil rights violations,” “racially motivated attacks,” “gay bashing,” “anti-Semitic incidents,” and “ethnic intimidation” were all drawn together under the umbrella term “hate crimes.” The phrase hate crimes was politicized, popularized, and codified into law between the 1980s and the early 1990s. However, there is evidence to suggest that the term itself was coined earlier, in the 1960s, and simply did not enter into popular usage until twenty years later when tough-on-crime politics were in full bloom.

The exact etymology of the phrase hate crimes remains more elusive than its

previous authors confess.⁴ Scholars have credited The Hate Crimes Statistics Act of 1985 HR 2455, which was co-sponsored in the House of Representatives by Congressmen John Conyers (D, MI), Barbara Kennelly (D, CT), and Mario Biaggi (D, NY), with the term's coining.⁵ The first use of the phrase hate crimes in The Congressional Record appeared when Congressmen Biaggi (D, NY) introduced the bill on July 22, 1985. Alternately, scholars have traced the concept of hate crimes back to the Anti-Defamation League's (ADL) model statute, which was drafted in 1981 by attorneys David M. Raim and Jeffrey P. Sinensky. However, early uses of the term in the print news media as well as internal documents from the ADL, The Boston Police Department's Community Disorders Unit, and other minority rights groups working on issues of bias-motivated victimization during the 1980s, instead reveal a more complex evolution in the terms' origin and early usage.

The term hate crimes entered into popular usage haltingly during several years of dialogue between law enforcement officials, legislators, and the print news media. As these institutional actors sought to gain attention for their diverse work on the issue of criminal civil rights violations and bias crimes, the term hate crimes was increasingly utilized. The term seems to have been generated at the intersection of the fields of law making and policing, where it then launched into the broader public sphere over the course of the late 1980s. Once adopted, the term hate crimes eventually overshadowed the more specific terms preferred by minority and civil rights advocates during the 1980s.

In this way, the term hate crimes' etymology is fundamentally tied to the slippage in the issue's public meaning from misdemeanor to murder. While the ADL is rightly credited with inventing the legal premise behind anti-hate crimes laws, there is no

definitive evidence that the organization originated the term hate crimes. The ADL titled its 1981 measure, “ADL ‘Model’ Religious Vandalism Statute.” Within the statute itself, the demarcated crimes are labeled as “institutional vandalism,” “anti-Semitic vandalism,” and “ethnic intimidation.”⁶ The term hate crimes does not appear anywhere in either the proposed statute or in the ADL’s internal documents from the early 1980s. Of the unarchived documents the ADL shared with me, the term hate crimes does not appear in use until 1990.⁷ When asked during a personal interview if the term hate crimes was in circulation at the ADL in the early-to-mid 1980s, when the organization was drafting what would become the model for future state and federal anti-hate crime statutes, attorney David M. Raim ruminated, “I really don’t think that the phrase was used. It was something that started out as something that could be used for anti-Semitic incidents and help similarly situated people. A more modest start.”⁸ In this statement, Raim links the modest intentions behind the ADL’s model legislation with the organization’s choice to work within a more specific, less sensational lexicon.

The Oxford English Dictionary (OED) did not add the term hate crimes until June of 2002. The dictionary’s current entry on hate crimes, which falls as a subheading under the word hate, suggests that the term originated in the United States and cites a July 14, 1984 *Washington Post* article, titled “Mayor Flynn and Friend,” as the first example of usage.⁹ However, *The OED* fails to note that *The Washington Post* article was preceded by a few months by a January 11, 1984 article published in *The Baltimore Sun*, titled “Divided Council Approves Penalties for Racist Attacks,” which was itself preceded by an April 5, 1960 *Chicago Daily Defender* article titled “Urges Laws on Hate Crimes.” *The Chicago Daily Defender’s* article reported on Governor Gaylord Nelson’s (D, WI)

effort to make “lynching” and “hate bombings” federal crimes.¹⁰ After *The Washington Post*’s 1984 article, the next news source to print the phrase hate crimes was *The Christian Science Monitor* on December 23, 1986, and the third source, *The New York Times*, did not print the phrase hate crimes until March 2, 1987.¹¹ Television news networks did not begin using the term hate crimes until even later — CBS News and ABC News reported their first hate crimes stories in 1990 and NBC, surprisingly, did not use the term until 1997.

Although the phrase hate crimes eventually became a media favorite, it is unlikely that the term was a news media invention. Even as the term began to appear regularly within the print news media, its adoption was notably skeptical. During the 1980s and early 1990s, the term hate crimes tended to appear within quotation marks, preceded by a definition, or even more cautiously as “so-called hate crimes.” The print news media’s provisional early usage of the phrase hate crimes was likely premised on preexisting usage of the term within policing and within law making circles: the phrase hate crimes appeared within the print news media in the mid-to-late 1980s when quoted law enforcement officials used the term or when anti-hate crime laws were being reported on.

For example, in the 1986 *Christian Science Monitor* article cited above, the phrase hate crimes is included within a direct quotation from New York City Police Commissioner Benjamin Ward who stated, “it was a bias incident, a hate crime.”¹² Similarly, in the 1984 *Washington Post* article cited above, the phrase hate crimes was situated within a report on a speech Boston Mayor Flynn gave to the law enforcement community on law enforcement practices. As these examples illustrate, the term hate crimes entered into the print news media’s vocabulary because local politicians, national

legislators, and law enforcement officials used the term during interviews with the press.

RATES OF REPORTED HATE CRIMES VERSUS RATES OF REPORTING ON HATE CRIMES, 1986-2010

Hate crimes' usage within the public sphere was premised on external cultural and political forces. An examination of the disjuncture between rates of reported hate crimes, as recorded in The Federal Bureau of Investigation's Uniform Crime Report, and rates of reporting on hate crimes in the national news media from the mid-1980s to 2010 illustrates this point. Importantly, the term hate crimes reached its to-date peak of media prominence between 1998 and 2000. In this brief timespan, the most number of stories on the topic of hate crimes that included the phrase hate crimes were published in *The New York Times* and *Newsweek* and aired on the three traditional television news networks, ABC, NBC, and CBS. In contrast, The FBI's recorded rate of hate crimes victimization did not reach its to-date peak until 2001 and 2002 — a full year after the news media's most heavy coverage of the issue. As more hate crimes were being reported by The FBI after the September 11th terrorist attacks, the news media's attention drifted away from the issue. Charts One, Two, and Three picture these national trends.

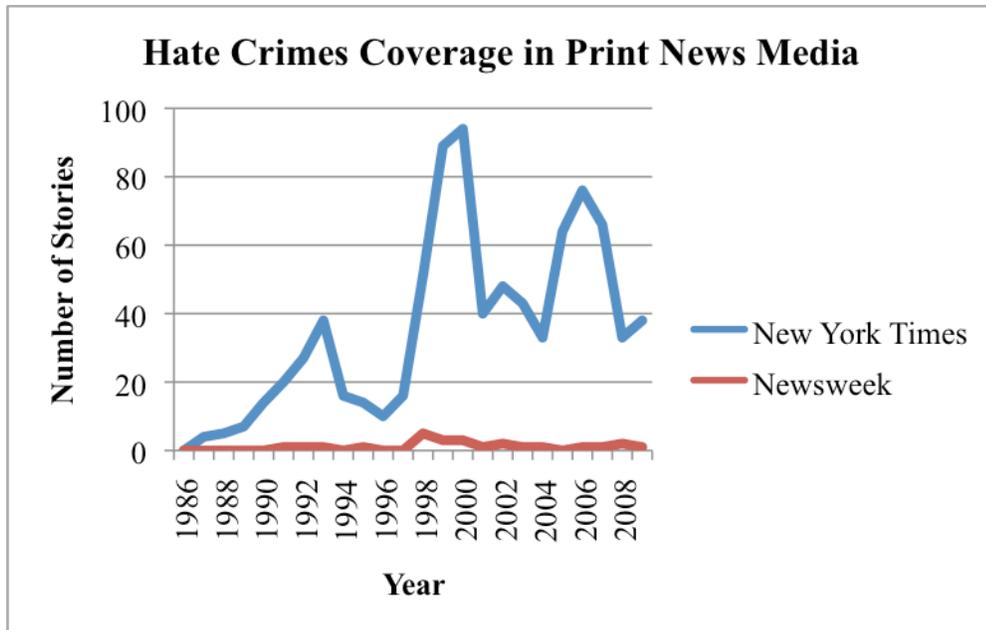


Chart 1: “Hate Crimes Coverage in Print News Media,” based on data from LexisNexis Academic, word search of “hate crimes” and/or “hate crime” both in body of text and as subject heading.

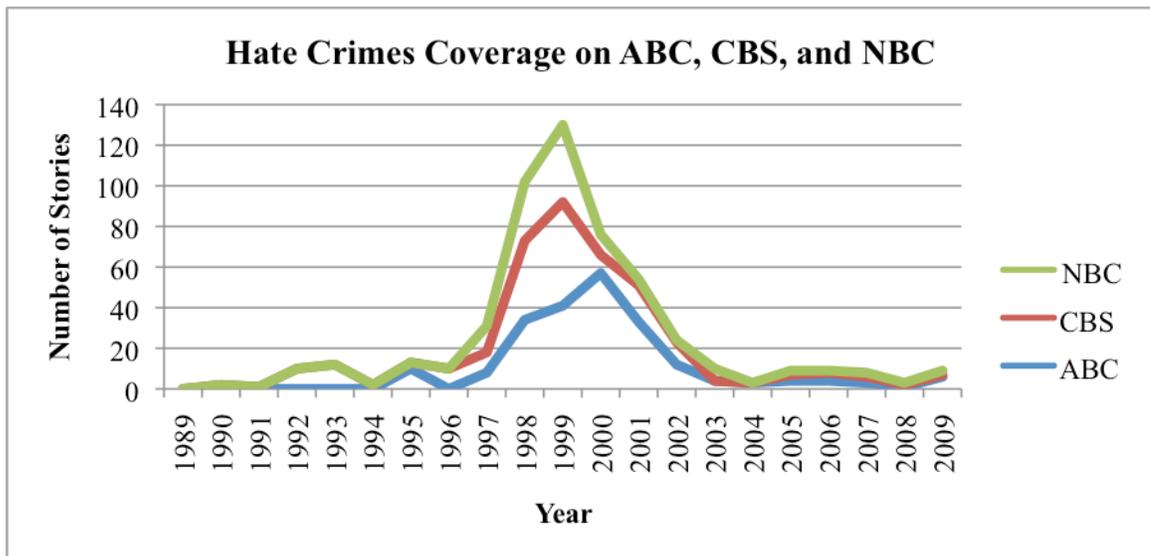


Chart 2: “Hate Crimes Coverage on ABC, CBS, and NBC,” based on data from LexisNexis Academic, word search of “hate crimes” and/or “hate crime” both in body of text and as subject heading.

As both Charts One and Two show, coverage of hate crimes began in earnest after the passage of the first piece of federal anti-hate crimes legislation, The Hate Crimes Statistic Act, H.R 1048 (HCSA), which President George H. W. Bush signed into law on

April 23, 1990. The HCSA likely inspired reporting on hate crimes for two reasons. First, by codifying the term hate crimes into federal law, the HCSA lent the still-questioned phrase legitimacy. Second, it provided a yearly measure of the problem, which facilitated reporting on “rising rates” or “epidemics” of victimization.

The charts also illustrate that while television news networks were slower to adopt the phrase hate crimes, the number of hate crimes stories reported on in both print journalism and television news peaked at the same moment, between 1998 and 2000. Significantly, 1998-2000 was not a period during which reported rates of hate crime victimization peaked.

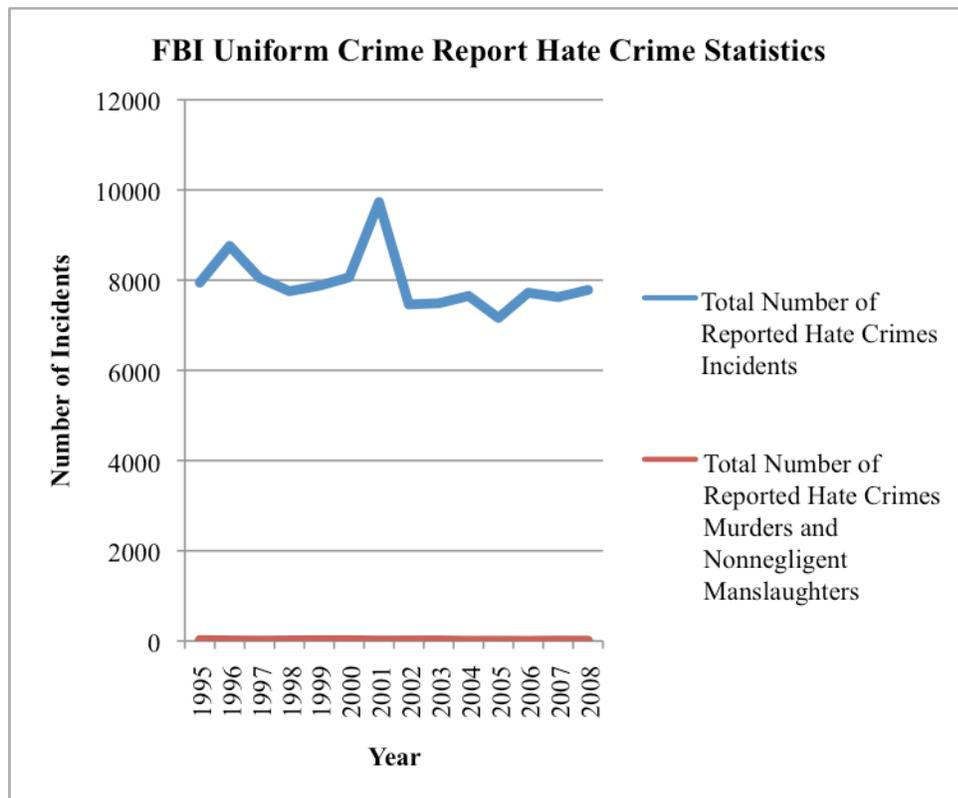


Chart 3: “FBI Uniform Crime Report Hate Crime Statistics,” based on data from the Federal Bureau of Investigations’ *Unified Crime Report*.

As Chart Three shows, rates of reporting on hate crimes in the news media do not mimic

the reported rate of hate crimes victimization documented in The FBI's *Unified Crime Report*. In 2008, the most recent year hate crimes statistics are available for, The FBI's *Unified Crime Report* counted 7,783 instances of hate crimes. In 1998, one of the peak years of hate crimes news coverage, *The Unified Crime Report* counted 7,755 instances of hate crimes. Despite significantly different rates of news media coverage of hate crimes in 1998 and in 2008, the recorded rates of victimization are essentially the same. Further, Chart Three illustrates that while hate crime murders are a yearly recurring social fact in the U.S. — between three and twenty hate crime murders have been reported annually since 1995 — they constitute but a tiny fraction of overall hate crimes victimization. In sum, news media coverage of hate crimes is divorced from actual rates of reported victimization and aloof to the majority of everyday acts of minor offending that have characterized the problem of hate crimes since national statistics began being compiled.

WHY 1998-2000? FEAR OF CRIME, HATE CRIMES, AND THE “TRIUMPH” OF IDENTITY POLITICS

These obvious incongruities are best understood as nested within the context of the 1990s tough-on-crime culture. While the United States has a long history of interest in crime and its control, I am using the phrase “tough-on-crime culture” to label a more discrete, contemporary set of criminal justice policies and cultural practices that began during Barry Goldwater's presidential campaign in 1964 and culminated in the sweeping reforms ushered into law during President William J. Clinton's administration, particularly the Violent Crime Control and Law Enforcement Act of 1994, H.R. 3344. These reforms include legislation that limits judicial discretion in criminal sentencing; the

codification of victims' rights; funding for the war on drugs and for policing; the privatization of the security and prison industries; as well as the unprecedented cultural fascination with crime, which can be seen in the popularity of television programs such as *Law & Order*, *Cops*, and *24*.¹³

The years 1998 through 2000 may not have presented a period of markedly heavy hate crimes victimization. But, it was a period during which the issues of hate crimes and anti-hate crimes legislation were both politically salient and culturally relevant. During the 1990s, the Clinton White House strongly advocated for increased federal anti-hate crimes legislation as part of an overarching expansion of the law enforcement and criminal justice industries. With the Clinton Administration's attention focused on violent crime, the murders of Mathew Shepard and James Byrd, Jr. and the 1999 hate crime shooting spree at a Jewish day camp in California were very publicly prosecuted. Heavy coverage of these three incidents explains the significant peak in reporting on hate crimes that occurred between 1998 and 2000.

As fear of crime captured America's cultural imagination during the 1990s, hate crimes offered one relevant arena within which to police the boundaries of expressive bigotry. However, marking the boundaries of unacceptable expressions of bigotry with hyper-violent hate crimes murders has significant limitations for identity politics, civil rights, and minority rights. Tracing hate crimes' etymology and its varied levels of cultural prominence binds the phenomenon to two different waves in American political culture: first, a rising wave of fear of crime that characterized the 1990s, followed by a swelling tide of fear of terrorism after the attacks on September 11, 2001. Between these two waves, concern over the problem of hate crimes peaked and then receded.

In their widely cited 1998 work on the relationship between hate crimes law and identity politics, sociologists James B. Jacobs and Kimberly Potter argue, “to understand why American society passed hate crime laws in the 1980s requires examining the history of the post-World War II period, especially the civil rights movement and the subsequent triumph of identity politics.”¹⁴ Jacobs and Potter are right to insist on hate crimes’ historical specificity. Without the changes in American law demanded by the African American civil rights movement, anti-hate crimes legislation would have lacked legal precedent. However, Jacobs’ and Potter’s sense of identity politics’ “triumph” is overstated and the acceptance of this historical narrative within the field of hate crimes studies warrants critical reconsideration. To understand how American society perceives the problem posed by hate crimes instead requires an examination of the unequal overlay of tough-on-crime politics, with its vibrant cultural influence, over and above the multitude of issues posed by identity politics groups.

Between 1992 and 1998, Americans found crime and violence to be the number one problem facing the country. According to the *Sourcebook of Criminal Justice Statistics*, prior to 1992 crime had been significantly less concerning than unemployment, fear of nuclear war, the economy, and drugs.¹⁵ Similarly, between 1993 and 2004, when Americans were asked “what do you think are the two most important issues for the government to address?” between less than 0.5 and 2 percent of respondents chose the combined category of human, civil, and women’s rights. This category never received more than 2 percent backing. Over the same timeframe, between 3 and 36 percent of respondents chose fear of crime and violence as their number one most important issue for the government to address.¹⁶ *U.S News & World Report* issued similar findings in

their 1993 “U.S. News IV National Study.” The study found that “seventy three percent of respondents indicate that they believe crime is the most important or [a] very important problem facing the country.”¹⁷ It would be almost absurdly understated to point out that fear of crime and a desire for the State to take a more active role within law enforcement and criminal justice superseded concerns with civil and minority rights in the 1990s, during which time hate crimes enjoyed as-yet unrepeated levels of publicity.

The Clinton Administration was well aware of the relative political capital of getting “tough on crime” when compared to issues of racial justice and minority rights. The same *U.S News & World Report* survey that highlighted the significance of crime to American voters also documented President Clinton’s sinking job approval ratings. A memorandum sent from Ed Goeas and Dave Sacket, of the Terrance Group, which conducted the survey and interpreted its findings, to *U.S. News & World Report* explained, “President Clinton’s job performance ratings continue to decline and almost half of American voters, forty-eight percent indicate that they disapprove of the job he is doing as President.”¹⁸ Within this context, the Clinton Administration tabled racial justice and focused on concrete crime control policies.

A memorandum sent from Rahm Emanuel to Leon Panetta on September 15, 1994, titled “Crime Planning” is illustrative. Emanuel outlined a plan that would emphasize that “crime and violence continue to have the President’s complete attention.”¹⁹ The plan included Attorney General Janet Reno making a public spectacle of the first Three Strikes Prosecution; President Clinton making a surprise visit to a police station; a Rose Garden announcement about the Top Cop program, which aimed to put 100,000 additional police officers “on the street as soon as possible;” and recommended

that the President host a town hall meeting on *America's Most Wanted* and speak on the issue of domestic violence at a "White Church." "sometime during the holiday season, the President should deliver a major speech focusing on community, responsibility, and family at a suburban, middle-class church."²⁰ On the final page of the memorandum, under the subheading "Outstanding" Emanuel included the topic "Racial Justice" and then explained "we must determine the appropriate time to issue the President's directive to the Attorney General and the corresponding policy statement."²¹ As Emanuel's memorandum makes clear, racial justice was on the President's agenda. But, an "appropriate" time and specific policy had yet to be sorted.

In response to the sweeping criminal justice reforms ushered in by the Clinton Administration, some of which are reflected in Emanuel's memorandum quoted above, Rev. Jesse Jackson, of The National Rainbow Coalition, wrote a personal letter to President Clinton to "express grave concerns," which was sent on March 21, 1994. "A number of current and proposed criminal laws and policies have a clear discriminatory impact on African Americans, Latinos, Native Americans, and poor people," argued Rev. Jackson, "the impact of these laws and policies is so discriminatory that crime and criminal justice have become the preeminent civil rights issue of our time."²² As Jackson explained, not only was racial justice on the sidelines during the 1990s' criminal justice reforms, the reforms themselves wrought fundamentally anti-minority outcomes. In ruminating on the cultural politics of hate crimes, I draw these contradictions closer to the surface.

THE CULTURAL POLITICS OF HATE CRIMES: DISCIPLINARY CONVERSATIONS AND CONTRIBUTIONS

Tough on Hate? participates in ongoing conversations within scholarship on the post-civil rights era, race-class-gender studies, and hate crime studies. The very mechanics of researching *Tough on Hate?* necessitated that I craft a transdisciplinary dialogue between bodies of scholarship that share core concerns but are usually aloof to each other's innovations. In broad terms, my work brings American Studies' instincts and methods to the study of racial meanings and other identity-based differences during the post-civil rights era. My central aim is two-fold: to affirm the necessity of cultural sources and historical specificity in forming a full understanding of hate crimes as a social problem and to highlight the subtle underlying violence contained within discourses that purport to condemn hate crimes.

First, my work applies an intersectional race-class-gender studies approach to inquiry on the post-civil rights era.²³ I consider the development of the construct post-difference ideology to be my central contribution in this regard. Scholarship on the post-civil rights era has generated a wealth of information about attitudes and social practices, particularly white racial ideologies.²⁴ Indeed, *Tough on Hate?* is in many ways an effort to apply insights from scholars such as Eduardo Bonilla-Silva, Lawrence D. Bobo, Tyrone A. Forman, and Amanda E. Lewis to better understand the cultural meanings ascribed to hate crimes over the course of the concept's development and adaption *beyond* law.

While the existing body of literature has made a dissertation such as mine possible, the field is largely dominated by traditional sociological survey-based methods

and focuses primarily on new racisms. In analyzing primary sources that are drawn from the overarching political and cultural contexts within which beliefs about difference are legitimated, I bring the existing scholarship about race during this time period into a broader conversation about criminal justice policy and the intersectionality of identity-based differences, including sexual orientation, class, ethnicity, and gender. My work demonstrates that thinking about racial difference, as well as other ascriptive differences, during the post-civil rights era was profoundly linked to shifts in thinking about crime and justice. Further, my dissertation underscores the symbiotic interplay between mainstream cultural sources and the malevolent ideas about ascriptive differences that existing survey data has tracked in specific populations, particularly racial apathy and color-blind racism.

Second, my work develops a new line of cultural analysis within the field of hate crime studies. Prominent hate crimes experts have called out the field's relative underdevelopment.²⁵ Overall, hate crimes studies is skewed asymmetrically towards legal, psychological, and sociological analysis, with exciting new developments hailing from the disciplines of geography and corrections.²⁶ As experts in the field have noted, cultural production and political discourse have yet to be fully incorporated into our understanding of the problem of hate crimes. In his 2001 assessment of the field of hate crimes studies, sociologist Donald P. Green explained, "the very manner in which societies define and debate hate crimes depends on their political-cultural traditions."²⁷ Yet, as of her 2006 critique of the field of hate crime studies, titled sharply "Missing Pieces: The Paucity of Hate Crime Studies," sociologist Barbara Perry still insisted that more critical scholarship on the cultural, political, and historically specific processes of

defining hate crimes was needed.²⁸ In part, this dissertation addresses these calls to research.

Through an analysis of the mainstream cultural discourses within which hate crimes are defined, made sense of, and symbolically adjudicated, my work contributes methodologically to the field of hate crimes studies. This kind of analysis draws attention to how hate crimes have been represented to mainstream audiences of American voters and news consumers, thus allowing for an increased understanding of how the problem has been framed for national audiences. Most importantly, this kind of analysis facilitates a pointed critique of both the national news media and national legislators, who condemn hate crimes in terms that undermine the relevance of contemporary minority rights and civil rights endeavors. Through an analysis of these empowered discourses, my dissertation both shows how and critically implicates these social actors in the diffusion of the social harm caused by hate crimes victimization.

SOURCES AND METHODS

In researching *Tough on Hate?*, I drew on methods from the disciplines of American studies, history, sociology, and cultural studies. During this transdisciplinary process, I integrated primary sources from archival research and personal interviews with a qualitative news media and legislative discourse analysis. I began by analyzing Senate and Congressional hearings; presidential speeches; transcripts of nationally syndicated news broadcasts from ABC, NBC, and CBS; and *Newsweek* and *The New York Times* articles. These sources were selected because of their intended audience. Unlike activist or academic discourses, these sources evidence how hate crimes tend to be represented to

mainstream national audiences.

From this source base, I conducted a two-part discourse analysis. In the first stage, I identified dominant and outlying themes across the entire source base by reading and coding every story that was on the topic of hate crimes and contained the word “hate crime(s)” within the body of the text. After identifying perpetrators, victims, and the nation as central thematic elements within hate crimes discourse, I then recoded within each of these areas for subthemes. Finally, I complemented this primary source base with personal interviews; unarchived documents from the Anti-Defamation League and MTV; and archived documents from the William Jefferson Clinton Presidential Library Archives, The Library of Congress’s Media Reading Room and Law Library, The Boston Public Library Archives, and The Northeastern University Archives.

CHAPTER SUMMARIES

Tough on Hate? begins with an examination of the invention of the concept of hate crimes, with a particular focus on the period between the late 1970s and early 1990s. Chapter One, “A More Modest Start,” traces the history of hate crimes as a policy field and examines how the concept has been defined outside of the mainstream. I argue that as the concept of hate crimes gained salience within the public sphere, its meaning was profoundly altered. Where the initial architects of the concept of hate crimes sought to raise awareness about misdemeanors, as the term became a viable talking point within national politics and a recognized news theme, it was reframed in hyper-violent, extreme terms. In gaining recognition, hate crimes became subsumed under intensifying fears about stranger murder and street crime.

Chapters Two, Three, and Four begin from the moment of transition, or representational settling, detailed in Chapter One. These thematic chapters analyze the central characters and tropes found within representations of hate crimes spanning the late 1980s through to 2010, with a particular focus on the late 1990s. Chapter Two, “A More Perfect Union,” analyzes references to the nation within hate crimes discourse and develops the construct post-difference ideology. Chapter Three, ““Only the Hater Loses,”” analyzes representations of white hate crimes perpetrators, or “haters.” Chapter Four, ““I Wish We Were All the Same Color,”” analyzes representations of prominent hate crime victims and their surviving family members.

I conclude by suggesting strategies for utilizing cultural production as an anti-hate crimes technology. My final call for cultural reforms stems from an appreciative analysis of poet Mark Doty’s poem “Charlie Howard’s Descent.” The depth of sociological intuition displayed by Doty in “Charlie Howard’s Descent” perfectly exhibits the ability of subaltern and counter discourses to recuperate the “full human potential” of telling hate crime stories that are — in their entanglement with ideas about difference and marginality — necessary.

CONCLUSION

The concept of hate crimes has both a material and ideological life. It is also both a real social problem that is worthy of legislative remedy and law enforcement resources, and, less usefully, a source of moral panic. Within mainstream politics and news media, the moral panic surrounding hate crimes creates rhetorical opportunities to undermine the relevance of contemporary minority rights work and to feast on the spectacle of violent

crime. Unfortunately, attempting to teach tolerance through lessons on retributive justice is counterproductive. In her 2005 article dedicated to reconceptualizing racial violence in the United States, sociologist Kathleen M. Blee argued:

In the case of hate crimes, it is possible to think of ordinary racism (everyday racism of most whites in a white society) as providing the contrast against which hate crimes (at least in their most spectacular forms) seem extraordinary. This conceptualization is useful because it allows us to consider what is rarely considered in analysis of hate crimes: how what is extraordinary can hide the ordinary. Spectacular hate crimes command enormous media and political attention but, in so doing, they obscure more ordinary expressions of racial violence. Racial violence comes to be understood as hate crimes, as acts of multiple shootings by avowed racist. More mundane (and perhaps more consequential) expressions of racial violence, such as institutionalized violence against racial minorities recede into the background.²⁹

Building on Blee's assertion that spectacular hate crimes cloak more mundane, consequential expressions of bias-motivated crime, this dissertation examines the content of these spectacular cases and sets their production against a background of historically specific cultural work on the part of national political figures and news producers.

Spectacular hate crimes serve no particular masking function in their own right. Indeed, after 2000, even the most heinous hate crime murders have garnered less and less public attention. To wit, despite a number of more contemporary and equally horrifying hate crime murders, the names Mathew Shepard and James Byrd, Jr, were memorialized in the 2009 Local Law Enforcement Hate Crimes Prevention Act H.R. 1913. Both Byrd and Shepard were killed in the late 1990s. If spectacularly violent hate crime murders, such as the Shepard and Byrd cases, are used to cloak everyday acts of criminal bigotry then that is the result of intentional human design, an expression of insidious indifference

towards minorities, and a historically specific phenomenon.

My analysis of the entanglement of tough-on-crime and post-difference rhetorics within hate crimes discourse reveals what theorist Slavoj Žižek describes as “a violence that sustains our very efforts to fight violence and to promote tolerance.”³⁰ Symbolic violence is part of the cultural production of hate crimes in the United States. Promoting tolerance within a society that values post-difference ideology is itself a messy undertaking. Discursive performances about hate crimes perfectly illustrate the awkward damage of such attempts. Yet, as poet and legal scholar Kenji Yoshino articulates in his recent work on new directions for civil rights, “law’s inability to apprehend our full human complexity, however, means our culture must do the work.”³¹

CHAPTER 1

“A MORE MODEST START”: THE INVENTION OF HATE CRIMES

INTRODUCTION

Peruse any college-level United States history textbook and you are likely to see examples of violence motivated by identity-based bias, or hate crimes broadly speaking, including Native American removal, slavery, and Japanese internment. In this expansive sense, hate crimes can be understood as a deeply seated, perhaps even universal, aspect of human social life and governance. However, the term hate crimes is itself a relatively nascent invention — a cultural construct and legal tool used in debates over minority rights, identity politics, victims’ rights, and criminal justice during the mid-1980s through to the present moment. Where most inquiry into the topic of hate crimes focuses on the issues’ relevance to minority and civil rights, this chapter instead draws attention to hate crime’s connection to the 1980s and 1990’s tough-on-crime zeitgeist.

This is a story about how early anti-hate crimes advocates’ modest intentions failed to translate into mainstream representations of the problem. I consider the initial intentions behind anti-hate crimes law, policing, and advocacy to be rather brilliantly “modest” because actors in these fields sought to draw attention to the social harm caused by everyday acts of bias-motivated victimization, such as vandalism, verbal harassment, intimidation, and destruction of property. Petty offenses of this nature generally fall bellow the radar of those who are not its immediate targets, who themselves bear significant psychological suffering.³² In its telling, this is also the story of the fraught

entanglement of civil rights and crime during a period of neoliberal reforms. Discursive performances about hate crimes from this period proffer a useful analytic vantage point from which to critically interrogate the marked effects of neoliberalism on ideas about crime and about difference.

My central aim is to denaturalize hate crimes' dominant framing within the public sphere. The following three thematic chapters primarily address representations of hate crimes from the mid-1990s to the present. As shown in the introduction, the cultural history of hate crimes in the United States is largely a history of the spectacular hate crimes of the late 1990s, particularly the Mathew Shepard and James Byrd, Jr. cases. Given the settling that has occurred within representations of hate crimes in the public sphere since the 1980s, I have organized the following chapters around an analysis of these now quite patterned narratives. Before delving into an analysis of dominant representations of hate crimes, however, it is worth taking stock of how the initial advocates within the field chose to define the problem and then situate the diminishment of these modest intentions within the rise of tough-on-crime politics.

Combing traditional historical methods with discourse analysis, this chapter locates the concept of hate crime's precursors in law enforcement practice, advocacy, and law making within the overarching ascendance of crime control culture. Mainstream audiences of American news consumers and voters learned about hate crimes as a problem of stranger murder, violent street crime, organized white supremacy, and, asymmetrically, as the final frontier in realizing our nation's color-blind, or mute-on-difference, destiny. Tellingly, hate crimes that have garnered publicity have been packaged within a tough-on-crime frame. Within this frame, hate crimes are depicted as

being both more violent and less politically controversial than all empirical measures of the problem suggest. Analyzing how the problem of hate crimes has been defined historically outside of the mainstream's gaze, I argue that the strange grafting of minority rights concerns onto extreme crime fears that now characterizes public representations of hate crimes was not inevitable. Hate crimes' current tough-on-crime framing required active construction on the part of news media producers and politicians, and rhetorical compromises from the law enforcement, academic, and advocacy communities.

While hate crimes have been successfully woven into conservative law and order narratives, the concept originally grew out of a set of innovative policing practices and legal advocacy endeavors that sought to address specific patterns of low-level anti-integrationist, anti-Semitic, anti-Arab American, and, to a lesser degree, homophobic criminal activity. The lawmakers, NGOs, and law enforcement officials whose loosely organized coalition first supported anti-hate crimes legislation viewed the problem very differently than current cultural imaginings. During the 1980s, police and advocates sought to raise awareness about the harm caused by low-level bias-motivated offenses perpetrated against minorities, specifically. Similarly, in advocating for the first federal anti-hate crimes law, The Hate Crimes Statistic Act H.R 1048, legislators made distinctions between white racism and anti-white sentiment, focused on structural challenges to minority rights, explained hate crimes as a socially and historically rooted phenomenon, and depicted hate crimes perpetrators as conformists, not as loners or extremists. Early news coverage of hate crimes also attended to misdemeanor-level violations, inter-ethnic urban conflict, and the legislative process.

However, early indications of how the issue of hate crimes would eventually be

conflated with the different issue of murder can already be seen surfacing within early legislative debates and news coverage. Within these fields, hate crime murders were used to illustrate the seriousness of the problem and to lend legitimacy to legislative action and news media coverage. Even as the problem was still widely being explained in these fields in structural and historical terms, particularly violent murders and “hate groups,” or organized white supremacy, were given a special, arguably detrimental, attention.

Economic explanations for hate crimes were a large part of the early discourse. Where current representations depict hate crimes perpetrators as poor white trash (see Chapter Three), early economic rationales focused instead on a broader range of structural class concerns. These debates were characterized by traditional progressive imperatives, including a critique of economic inequality, attention to state histories of identity-based oppression, and the desire to fulfill the promises of the Civil Rights era. The distinctions and connections made within these early discussions about hate crimes still characterize academic and activist work on the issue. However, hate crimes’ early root-cause framing was overshadowed in the public sphere by the mid-1990s, at which point, hate crimes became subsumed under increasingly pervasive tough-on-crime discourses. Policing practices in the city of Boston, specifically the work of the Community Disorders Unit (CDU), prefigured and then participated in the development of the hate crimes concept.

THE BOSTON POLICE DEPARTMENT’S COMMUNITY DISORDERS UNIT: FOUNDED, 1978

Created in April 1978, the CDU was the first police unit in the country to take on the challenge of specializing in the investigation of bias-motivated crime and civil rights

offenses. Philadelphia, Baltimore, and New York added similar units in the early 1980s. The CDU's policies anticipated the logic of anti-hate crime legislation and educational campaigns. As with later state and federal anti-hate crime laws, the CDU, in partnership with the city's attorney general's office, codified legislation that enhanced penalties for low-level misdemeanors when they demonstrated a bias-motivation and, in partnership with local advocacy groups, gathered and published data on these types of crimes. The CDU also produced and distributed an educational video that was shown in public school classrooms.³³

Despite lines of symmetry between the CDU's work and later anti-hate crime efforts, examining how the unit defined and approached their work marks significant differences between the concept of community disorders and the concept of hate crimes. On a purely semantic level, the terms have very different connotations. Initially, the CDU used the labels "racially motivated crimes," "civil rights violations," and "community disorders incidents."³⁴ Unlike the term hate crimes, the CDU's preferred lexicon included even non-criminal "incidents" and contained a sense of mutuality. The terms listed above imply that bias-motivated incidents and crimes are an expression of underlying social tensions and shared attitudes. The community as a whole was explicitly implicated.

Rhetoric aside, the CDU was created to address a specific problem with the city's existing policing practices and widespread resistance to desegregation.³⁵ Before the advent of the CDU, the Boston Police Department's standard practices overlooked the patterned nature of low-level civil rights violations. Excusing crimes such as vandalism, verbal harassment, and damage to property as too small to merit investigative resources, the department had not historically recognized the role these types of offenses played in

maintaining residential segregation and bolstering a negative image of the city as racially troubled. After an internal inquiry drew attention to the patterned nature of community disorders and highlighted their negative effect on the city's reputation, the CDU was formed.³⁶ In yearly reports, training manuals, and internal communications with city officials, the CDU situated their discrete crime control efforts within the government's overarching interest in "racially balancing the city's housing developments," "improving outreach to the Gay and Lesbian Community," and combating inter-racial gang activity.³⁷ Within this complex picture, hate crimes were described as a "pervasive social problem" and anti-hate crimes policing and prosecution was deemed a measure of the "strength of the commonwealth's civil rights statutes" and as indicative of "the city's improved racial climate."³⁸

Accounting for low-level offenses, even non-criminal incidents, was central to the CDU's efforts and a notable rarity within urban policing practices. A 1987 report sent from Police Commissioner Francis Roache to Mayor Raymond L. Flynn, titled "Civil Rights Investigations Conducted by the Boston Police Department — Community Disorders Unit," is illustrative. The report explained that the unit had seen a pleasant decrease in rates of victimization due in part to community support and prevention-based activities:

Public perception of the CDU as an effective and responsive arm of the police department has resulted in more citizens reporting incidents of verbal harassment or minor neighborhood problems before they escalate into seriously violent incidents.³⁹

In this statement, Commissioner Roache assured Mayor Flynn that the public's heightened willingness to report minor incidents was a measure of the CDU's success.

Remarking on the CDU's combined normative, symbolic, and criminal justice functions during a personal interview, Chuck Wexler, one of the original members of the CDU, similarly emphasized the primacy of low-level offenses:

[The CDU introduced] a role police could play and hadn't played historically. We hadn't seen these crimes for what they were. They lose significance if they are looked at as just a vandalism. The goal was really to look at individual cases. The way the court system was dealing with them wasn't having a deterrent effect. You weren't going to serve real jail time. We wanted to add teeth, ninety-day sentences. This was meant to send out a message at a street level and organizationally that these crimes would be taken seriously. We wouldn't let people be threatened or pushed out — preventing integration.⁴⁰

In this explanation of the unit's purpose, Wexler argued that these new policing practices grew out of an awakening to a role law enforcement could, and would need to, serve as the city underwent court-ordered desegregation in public housing and schools. The crimes themselves did not present a novel social problem. What was new was the CDU's consciousness of these crimes' negative role in preventing integration and further marginalizing minority populations. Significantly, Wexler emphasized that the CDU intended to "send out a message" that "these crimes would be taken seriously." Clearly, crimes such as murder and assault were already being taken seriously by the Boston Police Department. The added "teeth" were intended for misdemeanor-level offenses, particularly instances of vandalism.

In sum, the CDU defined hate crimes as primarily involving patterns of low-level community disorders. The formation of the CDU was, in and of itself, an act of recognition on the part of Boston's legislators and law enforcement officials. They chose to recognize that these patterns of victimization were worthy of investigative resources

because they were of greater harm to victims, were reflective of overarching community values, and were enmeshed within broader social shifts within the city's demography. Early anti-hate crimes work at The Anti-Defamation League (ADL) was similarly engaged with drawing attention to low-level offenses, which they perceived to be historically resonant and socially situated phenomena.

**“THE ANTI-DEFAMATION LEAGUE’S ‘MODEL’ RELIGIOUS VANDALISM STATUTE:”
DRAFTED, 1981**

In 1981, the ADL became increasingly concerned with anti-Semitic vandalism and began drafting a legislative response. Working with the same balancing strategy as the organization's recently successful “Anti-Paramilitary Training Statute,” the ADL's new statute adapted language from existing civil rights legislation and actively safeguarded first amendment rights.⁴¹ An internal memo sent to the regional offices on December 28, 1981, titled “ADL ‘Model’ Religious Vandalism Statute,” explained, “the ‘model’ bill is one ADL response to the growing problem of anti-Semitic vandalism.”⁴² “Anti-Semitic vandalism” is the key phrase for understanding the history of the ADL's campaign. The term hate crimes was not part of how the ADL defined the problem initially. The organization became increasingly concerned with the discrete issue of “anti-Semitic vandalism” after the ADL's 1979-1980 “Annual Audit of Anti-Semitic Incidents” reported an alarming rise in rates of victimization. In response to the Audit, the ADL began drafting what would later morph into anti-hate crimes legislation. In synch with the work of the CDU, the ADL's model statute added prosecutorial teeth to

sentences for low-level offenses, which traditionally would not have been properly investigated or fully punished.

The ADL has been credited with drafting and successfully advocating for the adoption of anti-hate crime laws. This is certainly a fair assessment of the ADL's unflagging work in this arena. However, examining the intentions behind the ADL's initial model legislation suggests that, while the ADL was successful at getting legislation codified, it was not able to control how the problem was defined in national political debates or on the nightly news thereafter. As the chapter title underscores, the young lawyer responsible for drafting the ADL's model legislation in 1981, David M. Raim, described his work as having "more modest" aspirations. Similarly, Michael Lieberman, the current director of the ADL's Civil Rights and Policy Planning Center, explained during a personal interview that the initial aim of the model legislation was to underscore the seriousness of small offenses and to "teach why these crimes matter." "We count every one [in The Annual Audit of Anti-Semitic Incidents] because there are no insignificant hate crimes."⁴³ As with Wexler's description of the CDU's work, Lieberman's statement highlights the ADL's commitment to raising awareness about crimes that too often go unreported outside of the victim's psyche. The ADL's model legislation was written with the intention of raising awareness about misdemeanor-level bias crimes.

During an interview in the spring of 2008, I asked David Raim to describe how the ADL defined the problem initially. Considering the contemporary conflation of hate crimes with grisly murders, I wanted to know if the ADL had these types of extreme cases in mind when they set out to define this new policy arena in the early 1980s. With

the model statute on the table in front of us, brightened by the afternoon's slanting light, Raim explained:

That's not what the issue was. We were dealing with cemetery desecrations and swastika daubing. None of the more serious crimes were in there. The thought was those activities were punished enough by the law as is. This was trying to make low-level offenses, misdemeanors, into felonies. Much more aimed at the less serious crimes. The only one that involves touching someone is assault.⁴⁴

At that point we looked over the statute together and he pointed to the list of offenses.

The model statute lists "criminal trespass, criminal mischief, harassment, menacing, assault and/or any other appropriate statutorily proscribed criminal conduct."⁴⁵ Raim further explained why murder was not included:

The idea was not to add thirty more years to a murder conviction or send someone to the chair. It was to take crime that didn't have much effect on the perpetrator and give the prosecution some teeth. If you look at the audit, it is all about low level offenses. No legislation is going to deal with the psychopaths. These kinds of crimes, lynchings, brutal beatings, don't affect most people in everyday life. It is aimed at dealing with the kinds of situations people encounter everyday, slurs written on doors or in cemeteries. Crime that otherwise wouldn't get investigated or prosecuted because they are third degree misdemeanors.⁴⁶

In this quotation, Raim argues that the ADL's model statute was meant to effect everyday interactions, the kinds of crimes that undermine the quality of life or impede the pursuit of happiness, not the kinds of crimes that end life.

Along with mobilizing a legislative response to bias-motivated misdemeanors, the ADL's original purpose included an explanatory, historical dimension. The ADL sought to connect the problem of hate crimes with broader historical patterns of victimization,

exclusion, and persecution. An internal report written by the organization's Civil Rights Division explained:

The ADL's decision to draft hate crime legislation stemmed from a recognition that crimes motivated by bias have a special emotional and psychological impact on the victim and the victim's community, particularly when that community has previously faced a history of persecution and discrimination.⁴⁷

According to this statement, the "special" harm caused by hate crimes is bound to historic patterns of victimization. In this framework, hate crimes are a signifying remainder; they call attention to the lingering insult of past prejudices. As with the ADL's richly contextual approach, federal legislative hearings on the topic of hate crimes from the 1980s reflect a similar depth of historical and sociological imagination.

FEDERAL LEGISLATIVE DEBATES: HELD, 1985-1988

After The Hate Crimes Statistics Act H.R. 2455 was introduced in 1985, the House of Representatives held a series of hearings on different aspects of bias crime. These hearings, which are precursors to the hate crimes hearings held in 1988, include: *Crimes Against Religious Practices and Property* held on May 16 and June 19, 1985; *Anti-Gay Violence* held on October 9, 1986; *Ethnically Motivated Violence Against Arab-Americans* held on July 16, 1986; and *Racially Motivated Violence* held on May 11 and July 12, 1988. Each of these hearings was held before the House of Representatives Committee on the Judiciary subcommittee on Criminal Justice, which was chaired by Representative John Conyers, Jr. (D, MI). On a similar theme, the House of Representatives Select Committee on Children, Youth, and Families also held hearings on *Race Relations and Adolescents: Coping With New Realities* on March 27, 1987. On

July 12, 1988, less than a month after the hearings on *Racially Motivated Violence*, the Senate Subcommittee on Criminal Justice held hearings on the *Hate Crime Statistic Act*. As the rosters attest, the first hearings on federal anti-hate crimes legislation brought together largely the same group of legislators, advocates, academics, and law enforcement officials that had previously gathered for the hearings listed above. The 1988 hate crime hearings opened an umbrella over what was already an active area of legislative and activist interest.

The federal hearings from the 1980s, listed above, stand out within the cultural history of hate crimes because of their progressive political content and fixed attention on bigotry's structural dimensions. Overall, the hearings offered a temporary ideological haven for pro-civil rights legislators within an otherwise hostile political climate. A general tone of resigned combat pervaded the hearings. The legislators and the experts they invited to testify spoke nostalgically about the Kerner Commission and flagrantly critiqued President Ronald Reagan's anti-civil rights policies. The discussion of violence and crime reads as an attempt to create an otherwise absent urgency around issues of minority rights. The overarching argument was that bias-motivated violence should be understood as one of many nasty side effects of systematic neglect of social programs and substandard enforcement of civil rights laws. As John Weiss, of the National Institute Versus Prejudice and Violence, explained during hearings on *Racially Motivated Violence* in 1988:

Until the economic disparities in this country are rectified and until we provide for basic needs such as housing and employment, it is impossible for us to deal effectively with intergroup tensions. These factors create a barrier to educating youth, to dispelling ignorance and fear and anger, which erupt into violence. It is a problem that requires

serious attention and a commitment of resources.⁴⁸

As Weiss's testimony highlights, root cause, or structural, arguments were the norm. In more specific terms, participants in these hearings drew distinctions between white racism and anti-white bias; depicted hate crimes perpetrators as socially integrated; situated hate crimes within broad social, political, and cultural climates; critiqued the Reagan Administration, the media, and the law enforcement industry; and articulated sweeping proposals for social change.

In defining hate crimes as socially entrenched phenomenon, participants in these hearings were careful to make clear distinctions between white racism and minority group animus. For example, during the hearings on *Racially Motivated Violence* in 1988, Congressman George W. Gekas' (R, PA) paused the proceedings to request a general definition of racism:

Mr. Gekas: How should we begin with the definition of racism? . . . And. . .how do you deal with the fact that there are whites who are victims of minority racists acts, if you will?

Reverend Chavis: Racism is defined as racial prejudice plus power.

Mr. Gekas: Plus what?

Reverend Chavis: Plus power. Racial prejudice plus power, there has been a lot of discussion about reverse racism and all that stuff. We don't believe that a person who is powerless can commit racism.

Mr. Wilson: [Reads the Random House dictionary definition of racism out loud to the committee] In that definition we would agree that in this society minorities cannot be racists.⁴⁹

With no vocal dissent on the record, the participants in this hearing felt that crimes against whites that demonstrated a bias-motivation should be recorded along with other hate crimes statistics. But, they were unanimously in agreement that these kinds of crimes

should not be labeled as racist. As with the other hearings from the 1980s, hate crime was perceived to be a social problem that disproportionately victimized minority groups.

Beyond marking differences between white racism and anti-white bias, participants in these hearings began from the supposition that perpetrators were normal; their “ignorance,” “fear,” and “anger” were justified by the broader social circumstances limiting their access to opportunity and inflected by normative community values. As Rev. C. T. Vivian, of the Center for Democratic Renewal, argued during hearings on *Racially Motivated Violence* in 1988, “many of the perpetrators are well socialized within their communities and [their crimes] reflect the racial tensions that already exist in these communities.”⁵⁰ “People who commit hate crimes,” stated Eugene S. Mornell, Executive Director of the L.A. Commission on Human Rights, during the same hearings “are acting out the feelings of a larger group.”⁵¹ Making the same point in more personal terms during hearings on the *Hate Crime Statistic Act* in 1988, John Weiss posited:

Most of the crimes in this country of this nature are committed by our neighbors and our neighbors’ children. This is a pervasive problem which is not something that we can address by just looking at hate groups. Doing so diverts us from the attention that the problem deserves.⁵²

Read together, these statements form an image of hate crimes perpetrators as ordinary, if youthful and unruly, members of bigoted communities — a picture that contemporary psychological research on hate crimes perpetrators’ profiles has repeatedly confirmed.⁵³ The sense that bigoted, anti-minority ideology was a pervasive, contemporary social fact led many of the participants in these hearings to define the problem in terms of political, cultural, and historical contexts. Importantly, as Weiss emphasized, the problem of hate

crimes was viewed as both different from and more detrimental than organized white supremacy, or “hate groups.”

Within these hearings, hate crimes were primarily understood as one, albeit extreme, expression of diffuse social tensions, a hostile political and cultural climate, state histories of oppression, and structural social problems. Where contemporary hate crimes discourse tends to be either ahistorical or antihistorical, during the 1980s discursive performances about hate crimes instead took a notably long view: during the *Race Relations and Adolescents* hearings in 1987, James Comer, M.D., traced contemporary racial violence back to slavery in colonial America;⁵⁴ during the *Hate Crime Statistic Act* hearings in 1988, William Yoshino, the Midwestern Regional Director of the Japanese American Citizens League, detailed an extended history of violence against Asians starting in the 1850s;⁵⁵ during the *Ethnically Motivated Violence Against Arab Americans* hearings in 1986, former senator and then director of the Arab-American Anti-Discrimination Committee, James Abourezk, traced the history of anti-Arab discrimination back to the Crusades;⁵⁶ and finally, during the *Anti-Gay Violence* hearings in 1986, Diana Christensen, Director of the Community Against Violence in San Francisco, connected contemporary anti-gay violence with a history of violence against homosexuals starting in the Middle Ages.⁵⁷ As these examples exemplify, historic patterns of bias were deemed useful in understanding the problem of hate crimes during legislative debates in the 1980s.

Beyond using historical explanations, participants in these hearings also drew on a wide range of social, political, and cultural factors in explaining the problem posed by hate crimes. “Apart from their tragic personal significance,” stated Senator George Miller

(D, CA) during hearings on *Race Relations and Adolescents* in 1987, “incidents of racial antipathy are important for what they tell us about larger economic and demographic trends in our society and for what they signal about the environments in which our children are growing up to adulthood.”⁵⁸ “We will have failed in our real responsibilities,” implored Rev. C. T. Vivian during hearings on *Racially Motivated Violence* in 1988, “if we attempt to address the issue of racist violence without consideration to the economic and social factors which contribute to the spontaneous continuance of racism.”⁵⁹ During the same hearings, Rev. Benjamin Hooks, the Executive Director of the NAACP for Maryland, situated racial violence within a political climate that had become openly hostile to minority rights. “The assault against affirmative action, the cry that enough has been done for minorities, that women’s rights have been overdone,” Hook argued, “I think we have had, in the last seven and a half years, the creation of a climate that, while not designed specifically to foster racial violence, creates a tension.”⁶⁰ Dr. Gregory M. Herek, of the American Psychological Association, made a similarly contextual argument with regards to homophobic violence during hearings on *Anti-Gay Violence* in 1986:

Violence is only one manifestation of the larger problem of prejudice and hostility directed towards the estimated 20 million homosexual persons in American society. The term ‘homophobia’ has come to be used to describe this phenomenon. The hostility, fear, and ignorance of most Americans reflect our society’s institutional homophobia — anti-gay ideologies prevalent in our Government, our schools, our churches, and our mass media. These societal institutions effectively create a cultural climate in which individual expressions of homophobia, including violence, are tolerated or even encouraged.⁶¹

As Dr. Herek's statement makes clear, within these hearings, hate crimes were perceived to be only one expression of a normative social climate that discriminated against sexual minorities.

Working with equally structural logic to Senator Miller, Rev. Vivian, Rev. Hooks, and, Dr. Herek, Congressman John Conyers. Jr. (D, MI) opened the hearing on *Racially Motivated Violence* in 1988 with the following remarks:

Now everybody knows what the problem is: How do you extirpate racial hatred from people and groups? How do you deal with the problem so deeply embedded in the law enforcement and criminal justice system itself — indeed, in the political system in America? How do we move from what might be regarded as this short, 200-year history of the Nation, to move from the status of slaves as property to the real question of full citizenship? That is really the backdrop of what it is we are examining.⁶²

Congressman Conyers insistence that “everybody knows” that the problem of hate crimes is fundamentally bound up with problems within the law enforcement, criminal justice, and political systems in America is itself telling. Within these legislative debates, hate crimes were, with remarkable degrees of consensus, perceived to be an aggressive reflection of vast social problems. The educational system, religion, and the media were all held accountable for what was perceived to be an escalating national hate crimes problem.

Acknowledging that hate crimes are nested within overarching structural problems, speakers at these hearings critiqued powerful social institutions and agents, including the Reagan Administration, the media, and the law enforcement and criminal justice systems. “A direct orchestrated racist attack against people of Arab descent,” stated former Senator James G. Abourezk, during hearings on *Ethnically Motivated*

Violence Against Arab American in 1986, “has been joined in by politicians, by members of the media, by the film industry, and on and on, culminating in what we see today.”⁶³ Later, during hearings on the proposed *Hate Crimes Statistics Act* in 1988, Abourezk added, “politicians and opinion leaders can leave an atmosphere of permissiveness with regard to violence against certain groups by how they react to that violence.”⁶⁴ During hearings on *Race Relations and Adolescents* in 1987, Dr. James Cromer lamented, “too many leaders have played groups against each other for political, economic, and social gain rather than address a national problem.”⁶⁵ “The official response to antigay violence has been disappointing thus far,” noted Dr. Kevin Berrill, of the American Psychological Association, during hearings on *Anti-Gay Violence* in 1986, “by permitting discrimination, the Federal Government actually facilitates violence against gay people by inhibiting them from reporting to the police and seeking legal redress.”⁶⁶ Each of the speakers, quoted above, bound the problem of hate crimes to the actions of empowered social actors and institutions.

Focusing attention on the Reagan Administration, Congressman Nick Joes Rahall (D, WV) posited that a wave of “Ramboism” was legitimizing violence against Arab Americans. “We are now confronted with a wave of anti-Arab hysteria which is fueled daily by the media in this country,” stated Congressman Rahall “[it is] fueled by the President and members of the Administration.”⁶⁷ During hearings on *Racially Motivated Violence* in 1988, Ronald L. Kuby, of the Center for Constitutional Rights in New York, made a similar argument with regard to racially motivated police brutality. “Racist violence and other forms of racial discrimination in law enforcement are not the most prevalent type of hate crime in this country, but I do think they are the most serious,”

stated Kuby, “I believe, a conscious disregard on behalf of the Reagan Administration for civil rights and civil liberties generally and that certainly extends to failure to prosecute police agencies and individual policemen for excesses and attacks committed in the course of enforcement of the law.”⁶⁸ As both Kuby and Congressman Rahall’s comments make clear, the Reagan Administration was considered to be part of the hate crimes problem.

The structural critiques that were circulated widely within these hearings were matched with equally expansive calls for social change. “I think there’s a lot of evidence today that we have become separate and unequal societies in a pretty profound way,” observed Dr. Gary Orfield, of the National Desegregation Research Project, during hearings on *Race Relations and Adolescents* in 1987, “we have to make a national effort to transfer resources and skills and commit to upgrading minority institutions . . . and we really have to have a serious attack on the urban color line.”⁶⁹ During the same hearings, Dr. James Cromer called attention to the role of history and education in combating hate crimes. “It is necessary to provide all Americans with the knowledge base necessary to understand past race relations problems and current opportunities,” Cromer argued, “and a program is needed to compensate for the adverse conditions of the past.”⁷⁰ In equally substantive terms, David Wertheimer, the Executive Director of the New York Gay and Lesbian Anti-Violence Project, connected the fight against hate crimes with pending legislation extending civil rights to homosexuals:

I would encourage advocacy on behalf of the national gay and lesbian rights bill that has been before congress for a number of years. In terms of antigay and antilesbian violence, this is a very important piece of legislation. A statement from the Congress of the United States saying that people should not be discriminated against because

they are gay or lesbian will enable more people to come forward when they are attacked.⁷¹

As Wertheimer's, Orfield's, and Cromer's comments underscore, in the context of these early legislative debates, hate crimes were not viewed as an isolated criminal justice problem. Education, reparations, civil rights legislation, affirmative action, and residential desegregation were all considered necessary remedies. Put simply, addressing the problem of hate crimes required a substantial investment of resources and sweeping social, cultural, and legislative changes. Early print news media accounts that used the term hate crimes picked up on some of these more radical ideas, but filtered them through both sensational and skeptical lens.

EARLY PRINT NEWS MEDIA COVERAGE OF "SO-CALLED HATE CRIMES:" 1960-1991

The print news media's early coverage of hate crimes — or "so-call-hate crimes," as they tended to be labeled until the 1990s — offered similarly contextual, if noticeably less radical, explanations. Coverage from the 1980s reported on cases that were not exclusively murders, on the legislative process itself, and considered hate crimes within a context of shifting economic realities. It is possible to identify three overlapping waves within early news coverage of hate crimes. Wave one focused primarily on the issue of statistics gathering legislation. This coverage reported on the debates over whether or not legally mandating the collection of statistics on rates of reported bias-motivated crimes and incidents was necessary and constitutional. Wave two continued the discussion of anti-hate crimes legislation and, additionally, applied the term to incidents of inter-ethnic, working-class, urban conflict. This wave was characterized by economic rationales, which situated hate crimes within the context of deindustrialization and urban

intercultural tension. Wave three marks a significant turning point in the cultural history of hate crimes. By the end of the 1980s, as wave three rose, the issue of hate crimes had become synonymous with the issues of violent crime, stranger murder, and organized white supremacy.

Unlike contemporary news coverage of hate crimes, journalism from the 1980s tended to define hate crimes in terms of minor violations and non-criminal incidents. This definitional direction mirrored the dominant frame in law enforcement and advocacy at the time. For example, in a *Baltimore Daily Sun*'s article, titled "Divided Council Approves Penalties for Racially Motivated Attacks," published on January 11, 1984, the hate crimes being considered for enhanced penalties did not include any crimes that involved physical contact: "Attacks against black families in Savage that prompted the legislation included 'KKK' being painted on a front door, garbage being dumped on a front lawn, tire slashings, egg splattered on doors and windows, and racially tinged name-calling."⁷² Similarly, journalist Lena Williams, writing for *The New York Times* on April 5, 1987, explained the need for anti-hate crimes legislation by drawing attention to a range of low-level bias motivated offenses: "Race-related assaults are often recorded simply as assaults, cross burnings are variously categorized as malicious mischief, vandalism or burning without a permit. Swastika paintings are often categorized as graffiti incidents or mischief."⁷³ Developing a similar stance, journalist Todd S. Purdum reported for *The New York Times* in November of 1987 that "New York City's "Bias Incident Investigating Unit [started] in response to a wave of anti-Semitic vandalism,"⁷⁴ and that "in the first three months of 1987, 191 complaints of racial or ethnic bias, ranging from assaults and anonymous phone calls to verbal slurs, vandalism, and other

acts were reported to the police.”⁷⁵ As these examples highlight, coverage of the debate over anti-hate crimes legislation during the 1980s retained a sense of the significance of low-level offending to the coherency of the issue as a whole.

Within these first two waves of hate crimes news coverage, demands for structural social change and economic rationales were given voice, as were dismissive statements by the Regan Administration. Journalist Coleman McCarthy, in his July 14, 1984 article on bias-crime policing in the city of Boston, quoted Boston Mayor Raymond Flynn arguing that combating the sources of intergroup animus was a state responsibility: “[It is] a responsibility of government to bring people together [and] to work for the common good on issues like racial harmony, housing, hunger, and unemployment.”⁷⁶ In contrast to this progressive pro-state stance, President Ronald Reagan was reported to have stated that if Democratic legislators wanted a record of rates of bias-motivated victimization they should save clippings from newspapers and compile their own data. “Reagan Administration officials said that it would be difficult to include ‘hate crime’ . . . in the FBI’s national crime statistics,” detailed the National Desk at *The Los Angeles Times* on March 22, 1985, “[Reagan Administration officials] suggested that Congress collect newspaper clippings to obtain such information.”⁷⁷ The contrast between these two statements shows the debates over state-power and economic policy at play within the more discrete discussion of anti-hate crimes legislation.

As described above, the Reagan Administration’s push towards neoliberal economic policies was writ large over how hate crimes were framed in mainstream print journalism during the late 1980s. The inter-group ramifications of the 1980s economic shifts were detailed most explicitly, and unsurprisingly, in *The Wall Street Journal’s*

limited coverage of hate crimes. In a 1986 article titled, “Asia Bashing: Bias Against Orientals Increases With Rivalry of Nations’ Economies, Immigration of the Industrious Poor Also Brought Resentment,” *The Wall Street Journal* quoted a criminal lawyer who explained that “Asian bashing” was the result of “the poor scrambling over the same scarce resources.”⁷⁸ In a similar article, also from 1986, *The Wall Street Journal* posited several possible factors that might explain the “apparent rise in ‘hate’ crimes;” “one of the reasons cited by human relations experts for the worrisome trend is the depressed economy in some regions.”⁷⁹ Within this framework, hate crimes perpetrators were synonymous with the poor.

As the then head of New Jersey’s Bias Crime Office, Paul Goldenberg, explained, “a lack of self-esteem and identity [are to blame] for the increase in the number of juveniles involved in bias crimes.” Goldenberg elaborated:

When people are out of work, they tend to vent their frustrations and anger on other groups of people, often in front of their children. The youth, in some cases, act out their parents' anger and fears by scapegoating on other people, especially minorities.⁸⁰

In this statement, Goldenberg contextualized the rising rates of hate crime in New Jersey within the parameters of white working-class resentments and the modes of juvenile delinquency that grow out of cultures of poverty. In this framework, the issue of hate crimes was approached as both a violation of middle-class norms and as an unintended consequence of shifts in the international labor market.

As the preceding examples demonstrate, neoliberal state policy and popular thought affected how hate crimes were understood. In this context, the condemnation of the individual hate crimes perpetrators took precedent over broader structural critiques.

The subtleties of mutuality and the radicalism of civil rights lost ground to neoconservative tough-on-crime sentiments and neoliberal economic policies.

The killing of Michael Griffith in Howard Beach, New York in 1986 occurred during this moment of paradigm shift. The Howard Beach case involved a group of young white males assaulting a group of African American teenagers in a predominantly white Queens neighborhood. The assault resulted in the death of one of the African American teenagers, Michael Griffith, who in attempting to escape his attackers accidentally ran into traffic. Reporting on this one high-profile killing illustrates the way in which the issue of hate crimes was being reframed within the public sphere during the late 1980s. While low-level offenses and statistics gathering efforts were still being discussed within coverage of the Howard Beach case — indeed, the case drew fresh attention to these ongoing efforts — the killing’s prominence reflected an overarching shift towards conflating hate crimes with murder.

New York City Mayor, Edward I. Koch, described Michael Griffith’s killing as “the most horrendous incident of violence in my nine years as mayor” and as “the worst murder in the modern era of New York because of its racial overtones.”⁸¹ During the same public statement, reported on by *The New York Times* on December 23, 1986, Mayor Koch, “went on to say that he hopes the city will ‘rise up in wrath’ at those who perpetrated the crime.” In contrast to Mayor Koch’s emphasis on condemning the individual perpetrators, Alberta B. Fuentes, executive director the New York City Commission on Civil Rights described how the Commission planned to respond to the killing. “The commission will go through the community to see what gave rise to the incident,” explained Fuentes, “we work with the community so they themselves resolve

the problem.”⁸² As these paired statements highlight, the Howard Beach case was viewed through several, incompatible lenses. The older community-centered frame, utilized by the CDU and ADL, still maintained currency. But, a new interest in condemning individual perpetrators was also gaining legitimacy. As state interventions, outside of law enforcement, lost political capital, the arena of viable political action for anti-hate crimes efforts narrowed in on the individual hate crime perpetrator and his singular culpability. The rhetorical field within which to make meaning of hate crime became increasingly insular.

FROM MISDEMEANOR TO MURDER: NEOLIBERALISM, MORAL PANIC, AND HATE CRIME IN THE 1990S

Up until this point I have been developing an argument about the comparatively radical progressive political content of hate crimes policy and rhetoric from the 1980s. However, tough-on-crime refrains were already also in circulation. Where the ADL and CDU maintained a focus on misdemeanor-level crimes and bias-motivated incidents, national legislators, those invited to testify during their hearings, and the national news media dramatized the issue of hate crimes through personal narratives about the suffering of individual hate crimes murder victims and the evil of individual hate crime perpetrators. Even as participants in these public debates demanded new history curriculums, increased affirmative action practices, reparations for slavery, community activism, and the extension of civil rights legislation for homosexuals, they still used stories about murder victims to illustrate the seriousness of the hate crimes problem.

For example, during hearings on *Anti-Gay Violence* held in 1986, Kevin Berrill, Director of the Violence Project at the National Gay and Lesbian Task Force, demanded

that the Reagan Administration attend to the civil rights of homosexuals. But, he illustrated the need for said legislation by telling the stories of “Robert from New Jersey” and “Charlie Howard.” Robert’s “assailants beat him, extinguished cigarettes in his face, and then tied him to the back of a truck, dragging him in toe.” Charlie Howard from Maine, “was thrown off a bridge to his death by three teenagers,” in Maine.⁸³ While both murders are hate crimes, they are spectacular, not typical, hate crimes. During hearings on *Racially Motivated Violence* held in 1988, participants framed the issues of hate crimes within their overarching concern about the decreased participation of minorities in American life. But, the murder of Michael Griffith in Howard Beach, New York was the most frequently cited example of racial violence.⁸⁴ Similarly, during the hearings on *Ethnically Motivated Violence Against Arab Americans* in 1986, the most frequently discussed crime was the bombing murder of Alex Odeh. The killings of Vincent Chin, Alex Odeh, and Michael Griffith were highlighted in early hearings and then took center stage again during the hearings on the *Hate Crimes Statistics Act* in 1988.⁸⁵

Within the context of 1980s’ neoliberalism, these gory murder cases added an otherwise absent bipartisan urgency to the issue of hate crimes. Where the CDU and ADL were working to combat a comparatively mundane social problem, legislators and the news media’s focus on murder victims instead created a moral panic that brilliantly tapped into the historical moment’s unprecedented fascination with violent crime. During the late 1980s and into the 1990s, affirmative action, liberal education reforms, and homosexual civil rights were not politically popular — to say nothing of the outlandishness of reparations for slavery under the Reagan Administration.⁸⁶ “Given the atmosphere of economic, political, and cultural change that characterized the 1980s, then,

the options for racial policy are rather bleak” explained social theorists Michael Omi and Howard Winant in their pioneering work on racial formation in the United States. Omi and Winant concluded, “the climate of anti-statism severely limited the expansion of state activity to deal with impoverishment and the invidious effect of racism in housing, education, and welfare.”⁸⁷ Within neoliberal thinking about state policy and identity-based differences, graphic stories about hate crimes murder victims held out a seemingly irresistible political capital.

The marked cultural and political import of hate crimes murders during the 1990s is best understood as embroiled within the overarching shifts towards neoliberal governance with its attendant popularization of tough-on-crime values. Broadly, the cultural production of hate crimes is situated within the overarching history of politicizing crime in America. “Neoliberalism, the increasing penetration of free market principles and practices to all spheres of life, is the fundamental factor underlying both the threats of crime and violence, *and* increasingly authoritarian control tactics,” explains criminologist Robert Reiner.⁸⁸ Adding a historical dimension, Reiner argues, “the early 1990s saw a hardening of public and political discourse about law and order and about crime control policies.”⁸⁹ As the Clinton Administration took office and The Violent Crime Control and Law Enforcement Act of 1994, H.R.3355, was introduced, a new consensus on crime control that emphasized individual criminal culpability and harsh sentencing reforms had already solidified.

Representations of hate crimes since the 1980s are located within these cultural contexts and political subtexts. The overarching shift towards neo-liberalism generated cultural fascination with violent crime and wrought increasingly binary divisions between

victims and criminals.⁹⁰ Both of these trends factor into the content and tone of representations of hate crimes. The increased prominence of victims and the amplified demonization of perpetrators has been attributed to a wide range of structural and economic changes, which gained momentum in the late 1960s. These include economic deregulation, the advent and proliferation of victimization surveys, rising crime rates, the threat of terrorism, political speech that assumed stories about victims would win votes, the media's increased interest in reporting on and fictionalizing crime, new managerialism's consumerist approach to public services, feminist victimology's ability to raise awareness about previously unrecognized populations of victims, and the production of new scholarship focused on victims' issues.⁹¹ Overall, the 1980s and 1990s witnessed tremendous change in the climate of policymaking, including criminal justice policy. Combined, these new market practices and social values heightened both the actual risk of victimization and the fear of victimization, two distinct social problems.⁹²

The victim-criminal binary was interpellated, in part, to do the work of legitimizing increasingly putative criminal justice policies and to dramatize the desirability of expanding both the law enforcement and security industries. As criminologist Martin Innes explains, the news media operating within these political subtexts “amplified the ‘demonization’ of perpetrators.”⁹³ Inversely, the figure of the crime victim grew to iconic proportions. The interests of the individual victim of crime had previously been subsumed under the interests of the general public. As sociologist David Garland documents, prior to the late 1960s “individual victims featured hardly at all, other than as members of the public whose complaints triggered state action. Their interests were subsumed under the general public interest, and certainly not counter-

posed to the interests of the offender.”⁹⁴ Previously on the sidelines of law, politics, and culture, the victim emerged during the 1980s and 1990s as a formidable figure. In the words of criminologist A. E. Bottoms, the victim became a “powerful motif.”⁹⁵ The potency of the victim motif peaked popular interest in the problem of hate crimes at the exact moment when other civil rights and minority rights projects were being undone.

CONCLUSION

The emergence of hate crimes as both a social problem and a source of moral panic overlaps temporally with tough-on-crime politics. Further, mainstream discursive performances about hate crimes share a set of cultural themes, policy concerns, and emotional tones with the 1980s and 1990s’ unparalleled obsession with crime. The remaining chapters take these themes, tones, and concerns as critical focal points. As the concept of hate crimes was elaborated from local policing practices and advocacy projects to national political issue and media spectacle, it shifted from being a way of addressing the subtle, emotional harm caused by bias-motivated misdemeanors to yet another way of creating fear of violent crime and of marginalizing the recognition of ascriptive differences. Unlike its predecessors “community disorder,” “ethnic intimidation,” and “civil rights violation,” which all tap into histories of state discrimination and social stereotyping, the phrase hate crimes seamlessly cued into the 1990s’ popular politicization of crime control and backlash against identity politics.

Even staunch supporters of legislating against hate crimes equivocate on the term’s dramatic inclinations. For former ADL attorney David M. Raim, the term hate crimes is a “double-edged sword [that] evokes a visceral negative reaction, something a

society should do something about. But, people have a right to hate as long as they don't act on it."⁹⁶ Similarly, Dr. Frederick Lawrence, a prominent legal expert on hate crimes, described the term as "a distraction." In his own work, Lawrence prefers the word "bias" because, "you can hate. What is meant by hate crime is a bias motivation. It is an act of discrimination turned violent."⁹⁷ Both the idea of distraction, or masking, and the idea of violence are essential in denaturalizing hate crimes' many meanings. However, the certainty of what constitutes violence needs to be unmoored. The CDU and ADL's early attentiveness to the subtle, interpersonal violence wrought by even the most seemingly mundane hate crimes offers one sound starting point.

CHAPTER 2

“A MORE PERFECT UNION”: THE NATION AND POST-DIFFERENCE IDEOLOGY IN REPRESENTATIONS OF HATE CRIMES

The prevailing common sense of the post-civil rights era is that race is the province of an unjust, irrational ascription and prejudice, while nation is the necessary horizon of our hopes for color-blind justice, equality, and fair play. –Nikhil Pal Singh, *Black is a Country*

INTRODUCTION

Unlike many other equally vexing contemporary legislative debates, the issue of hate crimes has been overburdened with the chore of telling us who we really are as Americans. “We can embody our values by passing hate crime laws,” urged Vice President Al Gore during presidential debates with Governor George W. Bush on October 11, 2000.⁹⁸ “These are not like other crimes,” stated President William J. Clinton during remarks on proposed anti-hate crimes legislation on April 25, 2000, “they strike at the heart of who we are as a nation.”⁹⁹ Most recently on October 28, 2009, during remarks on the signing of the enactment of The Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act, H.R. 2647, President Barack H. Obama posited, “at root, this isn’t just about our laws, this is about who we are as people.”¹⁰⁰ Vice President Gore’s, President Clinton’s, and President Obama’s remarks similarly conflate the nation’s imagined community with the trajectory of federal anti-hate crimes legislation. As these statements begin to illustrate, political figures write the nation into hate crimes discourse to reframe the issue’s stakes.

Put simply, the nation is a central character within the cultural construction of hate crimes. New scholarship on the spatial dynamics of bias-motivated victimization

highlights the political utility of fictitiously locating hate crimes on the “outside” of mainstream politics and everyday life. As geographer Colin Flint explains, this “handy fiction . . . clouds the pervasiveness of identifying ‘others’ and discriminating against them.”¹⁰¹ Dovetailing from this new scholarship, I contend that, along with being socially constructed, spaces of hate and their proverbial inverse, spaces of tolerance, have a cultural nexus. As geographer Rini Sumartojo argues, “the notion that hate crimes and the reactions they provoke are part of the production of place is another important subject for investigation . . . such crime contributes to the ongoing struggle over place meanings.”¹⁰² Within discursive performances about hate crimes, the perpetual “struggle over place meanings” can be seen most clearly in images of the nation.

The nation enters into hate crimes discourse through two primary themes. In the first theme, the nation plays the role of external moral agent who stands in judgment of hate crimes and signifies the illusion of ethical consensus. These narratives participate in the production of the “handy fiction” that hate crimes are un-American. In the second theme, the nation is positioned as the real victim of hate crimes. In these alarmist narratives, an “epidemic” of hate crimes afflicts the nation, which implicitly casts the fight against hate crimes as a matter of national survival. While these themes are logically incongruous, many discursive performances simultaneously utilize aspects of both themes in ways that are ideologically potent. Through a discourse analysis of these two themes, I argue that the increased public visibility of hate crimes since the late 1980s created opportunities for revisionist history, assertions of American exceptionalism, and celebrations of national progress towards tolerant, color-blind ideals.

In analyzing references to the nation within the cultural construction of hate

crimes, I contribute to ongoing critical inquiry into the post-civil rights era's dominant racial ideologies.¹⁰³ As the epigraph quote from intellectual historian Nikhil Pal Singh notes, the nation has come to figuratively embody post-race ideals. Within discursive performances about hate crimes from the late 1980s through to the present, the nation not only embodies the ideal of colorblindness, but also functions as a symbolic geography onto which progress beyond identity politics can be mapped. In analyzing political rhetoric and news media renderings, I bring the existing scholarship about racial ideology during this time period into a broader analysis of the troubled relationship between national identity and visible expressions of bigotry. The pervasive tenacity of nationalistic rhetoric underscores that a range of empowered social actors within the state apparatus and the national news media approach hate crimes as opportunities to speak out against bigotry without having to acknowledge the continued significance of identity-based differences. In dialogue with scholarship on new or color-blind racism, particularly sociologist Tyrone A. Forman's call for conceptually innovative research on "racial apathy," I find this cultural tendency reveals a broader disenchantment with identity-politics, and possibly even the concept of tolerance.¹⁰⁴ I term this particular pattern of disenchantment "post-difference ideology." The construct post-difference ideology describes the rhetorical tactic of applying color-blind dictates to a host of other ascriptive difference beyond race. The limitations and absurdities of post-race thinking now characterize not only the treatment of other identity-based difference groups, but even efforts to combat bigotry.

The central themes analyzed here have been consistently deployed throughout mainstream political discourse and news media since the debate over federal anti-hate

crimes legislation began in the late 1980s. Even as the historical context shifted around the issue of hate crimes, these themes remained remarkably fixed in their reiteration; the exact same phrases, terms, and metaphors used during congressional hearings in 1988 resurface unaltered in news broadcasts aired in 2009. In part, I observe that these themes and the politics they engender have hegemonic tendencies, or what social theorist Pierre Bourdieu describes as a quality of taken-for-grantedness.¹⁰⁵ Given this stasis, my analysis is organized thematically, as opposed to historically. This organization is not meant to discount the necessity of situating these representational patterns within the historical context of the post-civil rights era, without which they are rendered nonsensical.

While certainly enduring, these themes are not perfectly universal. Political actors and media figures tend to either reproduce this rhetoric, refuse to speak on the topic of hate crimes, or, as the case of Reverend Jeremiah Wright highlights, accept the sundry labels of extremism. President George W. Bush is the clear outlier. As one of the rare national political figures to oppose federal anti-hate crimes legislation, President Bush had a limited range of rhetorical options with which to legitimately express his stance. Instead of challenging the nationalistic rhetoric used to promote federal anti-hate crime legislation, President Bush simply did not speak on the topic unless asked directly during public debates or in the immediate aftermath of the September 11, 2001 terrorist attacks. When unable to remain silent on the topic, President Bush framed his opposition within states' rights and tough-on-crime discourses, which left the dominant frame unchallenged.

“WE WANT TO KEEP AMERICA NUMBER ONE:” DEFINING HATE CRIMES AS UN-AMERICAN

“[Hate crimes are] not the American way,” asserted President William J. Clinton in his 2000 State of the Union Address.¹⁰⁶ A year earlier, in a statement addressing a hate crime murder, President Clinton insisted that “intolerance is Un-American.”¹⁰⁷ In similar terms, the Assistant F.B.I. Director for the District of Columbia, Joseph Persichini Jr., stated that the actions of the man who killed a security guard at The United States Holocaust Memorial Museum in 2009 were “not what this country stands for.”¹⁰⁸ As President Clinton and Assistant F.B.I. Director Persichini’s statements make obvious, hate crimes have been deemed un-American. Even in occupying oppositional stances on the issue of anti-hate crimes legislation, national political figures, the news media, law enforcement officials, academics, and advocates have consistently defined the problem of hate crimes as un-American. In depicting hate crimes as un-American, this range of social actors and organizations co-opt popular figures from the African American Civil Rights Movement, broadcast American exceptionalism, and bizarrely frame the problem of hate crimes within overarching concerns about America’s continued ability to compete in the global economy.

While President Clinton and Assistant F.B.I. Director Persichini clearly state that hate crimes are un-American, the news media’s repeated refrain that the occurrence of a specific hate crime has “shocked the nation” serves a similar dissociative function. Through personification, the nation is said to have responded to hate crimes within a single emotional register: shock. After the murder of James Byrd Jr. in Jasper, Texas in 1998, *NBC News at Sunrise*’s Jim Cummins reported, “it was an awful hate crime that shocked the nation.”¹⁰⁹ Two separate *CBS Evening News*’s reports, one by Dan Rather and one by John Robert, noted that the Byrd case had “shocked the nation.”¹¹⁰ Rather

added that the crime was also “vicious and ugly.”¹¹¹ The 1998 murder of Mathew Shepard in Laramie, Wyoming was similarly shocking for the nation. *NBC Nightly News*’s Tom Brokaw observed, “it has all the marks of a hate crime, and it has shocked the nation.”¹¹² *CBS Morning News*’s Mika Brzenski explained, “the death of Matthew Shepard shocked the nation.”¹¹³ In two different reports, Rather described Shepard’s murder as “a terrible hate crime that shocked the nation.”¹¹⁴ After the widely publicized killings of Byrd, Shepard, and the slightly less well-publicized killing of Billy Jack Gaithers, *Newsweek* reporter Daniel Pedersen wrote, “three brutal murders have shocked the nation.”¹¹⁵

Vesting the nation with a particular emotional response to hate crimes works to create the perception of moral consensus. Repeatedly stating that the nation has been “shocked” by a particular hate crime implies that the nation is figuratively removed from and ethically elevated above hate crimes. Unlike a more general negative emotion, such as anger or sadness, the term shock defines a state of aversion and horror; what shocks us scandalizes our sensibilities, producing a vigorous sense of disapproval.¹¹⁶ In noting shock, the news media sources quoted above assume that the nation is already characterized by tolerant sensibilities and has already achieved significant progress towards post-difference ideals. These same suppositions inform how the nation has been characterized within political discourse about hate crimes.

Politicians from both sides of the aisle and the experts they invited to testify have used the occasion of anti-hate crimes legislation to celebrate America’s history, heritage, and ideals. “Hate crimes are the most subversive form of lawlessness in a democracy,” testified Reverend Charles Bergstrom during hearings before the Senate Committee on

the Judiciary on the Hate Crimes Statistic Act of 1998, “nothing is more abhorrent to our American heritage of tolerance and community spirit.”¹¹⁷ During hearings on the Jena Six case held in 2007 by the House Committee on the Judiciary, Congressman John Conyers (MI, D) argued that hate crimes were “a stain on our nation's history.”¹¹⁸ In similar terms, President Clinton spoke out against hate crimes in 1997 by arguing that “this kind of savage, senseless assault, driven by nothing but hate, strikes at the very heart of America’s ideals.”¹¹⁹ Reverend Bergstrom’s reference to “American heritage,” Congressman Conyers’ reference to “our nation’s history,” and President Clinton’s reference to “America’s ideals” all rhetorically distance hate crimes from the nation — an act of rhetorical dissociation President Clinton took even further by playing on the dichotomy between savagery and civilization. Words like “stain” further accentuate the imagined distinction between our nation’s clean history and the filth of hate crimes victimization. Each of these statements hinges on an idealization of the nation’s past and the nation’s values.

Beyond simply asserting that hate crimes are un-American, national political figures have incorporated more complex, idealized images of the nation into hate crimes discourse. These fuller reflections co-opt popular figures from the African American Civil Rights Movement and suggest that the nation’s past has been characterized by steady progress towards tolerance. President George H. W. Bush’s speech at the signing of the Hate Crimes Statistics Act of 1990, Congressman John Conyers’ statement made during hearings on “Hate Crimes Violence” in 1999, and most recently, President Barack H. Obama’s statement at the enactment of The Matthew Shepard and James Byrd, Jr. Hate Crime Prevention Act of 2009 all connect anti-hate crimes legislation, civil rights

memory, and national identity.

On the occasion of signing into law the first piece of federal anti-hate crimes legislation, The Hate Crimes Statistics Act of 1990 (HCSA), President George H. W. Bush was reminded of a memorial to Dr. Martin Luther King, Jr.:

When I first heard that this bill had passed both Houses of Congress, I thought of a photograph in the news recently. And it's of the plaza near a Montgomery, Alabama, church where Dr. Martin Luther King, Jr., preached during the '55 bus boycott. And in that plaza stands a new civil rights memorial inscribed with the names of 40 brave Americans who died in the civil rights struggle, each one the victim of a hate crime.¹²⁰

In the introduction to this speech, quoted above, President Bush naturalized the connection between anti-hate crimes legislation and the African American Civil Rights Movement in several ways, all the while claiming the “struggle” for the nation. By explaining that the bill’s passage in the house evoked the photographic image of a memorial to Dr. Martin Luther King, Jr., President Bush suggested that the very synapses of his brain inevitably bound the HCSA to Dr. King’s legacy. He then rebranded victims of the struggle for civil rights as “brave Americans” and labeled “each one a victim of a hate crime.” Within this framework, contemporary victims of hate crimes were conflated with the civil rights era’s nonviolent protestors, who were often subject to state-sponsored brutality. President Bush’s reductive classification suggests that the suffering of hate crimes victims, whose ranks now include civil rights era casualties, should be understood as a matter of national pride. Like members of the American military, these victims’ trauma, as defined by President Bush, are patriotic acts.

During hearings on “Hate Crimes Violence” held in 1999, Congressman John Conyers made similar connections between national identity, the cultural memory of the

African American Civil Rights Movement, and federal anti-hate crimes legislation. In advocating for contemporary anti-hate crimes legislation, Congressman Conyers likened anti-hate crimes laws to anti-lynching laws. “What we are doing here today is extending in my view a long tradition of the civil rights organizations, particularly the NAACP,”

Congressman Conyers explained:

The whole notion that hate crimes should be federalized because they go against the national grain. . . I remember when Roy Wilkins, the executive director of the NAACP, used to lobby Lyndon Johnson, who was then a Congressman, about hate crimes legislation. It was called then ‘The-Federal Anti-Lynch Law’ and when you drag someone with a truck down a road, that is a lynching, and it takes many modern forms.¹²¹

Congressman Conyers’ description of dragging “someone” behind a truck is a reference to the 1998 murder of James Byrd, Jr. in Jasper, Texas, which is one of the most widely publicized hate crimes in the history of hate crimes reporting. In this statement, Congressman Conyers, like President George H. W. Bush, conflates hate crimes with earlier forms of identity-based victimization, specifically lynching. Congressman Conyers retroactively labels anti-lynching laws as hate crimes legislation and then incorporates a contemporary hate crime, the Byrd murder, into the history of lynching, thus erasing necessary distinctions between the two types of legislation and the two distinct groups of victims. Congressman Conyers’ decision to position new anti-hate crimes legislation within the NAACP’s legacy of anti-lynching campaigns opens problematically anti-historical possibilities for the nation. In arguing that lynching and hate crimes are interchangeable and that both “go against the national grain,” Congressman Conyers’ statement, through omission, erases the as-yet-un-reconciled history of the state’s role in lynching.¹²²

On the occasion of signing the most recent piece of federal anti-hate crimes legislation, President Barack H. Obama made similar connections to Dr. Martin Luther King, Jr.'s legacy. "As a nation we've come far on the journey towards a more perfect union," stated President Obama:

In April of 1968, just one week after the assassination of Martin Luther King, as our nation mourned in grief and shuddered in anger, President Lyndon Johnson signed landmark civil rights legislation. This was the first time we enshrined into law Federal protections against crimes motivated by religious and racial hatred, the law on which we build today.¹²³

While President Obama similarly emphasized progress and naturalized the connection between the African American Civil Rights Movement and anti-hate crimes legislation, overall, his remarks struck a different chord than President Bush's remarks quoted above. Where President Bush described America as a nation defined by preexisting tolerance, President Obama argued that American history has been characterized by the struggle to "live up to our founding ideals." However, the reference to Dr. King's assassination similarly blurred the real differences between civil rights activists and hate crimes victims. President Bush, Congressman Conyers, and President Obama all situated hate crimes within the legacy of the African American civil rights movement. This framing grants hate crimes' contemporary political advocates a potent connection to civil rights memory. However, this framing conflates social movement actors with crime victims and obscures the distinction between changes in the state's own discriminatory practices with changes in criminal law.

Beyond co-opting the cultural memory of the African American Civil Rights Movement, legislators have incorporated the idiom of American exceptionalism into their

debates over anti-hate crimes legislation to achieve markedly different effects. Conservative Senators Orin Hatch (UT, R) and Henry J. Hyde (IL, R) and liberal Congressman Charles Schumer (NY, D) each drew on the nation's past legacy and imagined future as a means of framing the contemporary problem of hate crimes. Many speakers, including experts, legislators, law enforcement officials, academics, and victims, have evoked national ideals during the almost two-decade-long federal legislative debate over anti-hate crimes legislation. I selected the following statements because they were offered as opening remarks during congressional and senate hearings. From this authoritative position, these statements set the tone for the hearings that followed and succinctly summarized how each legislator framed the overarching issue.

During hearings before the Senate Committee on the Judiciary held in 1998 to debate the Hate Crime Prevention Act, Senator Orin Hatch presented an image of the country that served his existing sense of racial politics. "The country we have built together is the most successful multi-ethnic, multi-racial and multi-faith nation in the history of the world, and we have reason to be proud of it," argued Senator Hatch. In reference to the hearing's topic, hate crimes, Senator Hatch conceded, "there are imperfections, of course":

Some have argued that hate crime arises out of the very mainstream of our society. I personally don't believe that. . . violence based on hate is unacceptable to Americans of all races, ethnicities, and religious beliefs. Unfortunately, there are some individuals in American society still consumed by hatred. If we are to continue to be proud of this great Nation of ours, we must confront these acts of violence and we must do what needs to be done to eradicate them.¹²⁴

Senator Hatch's statement utilizes American exceptionalism to frame hate crimes as a problem of individual criminal pathology and as a means of recasting the fight against

hate crimes in nationalistic terms. Instead of being part of a minority rights project, Senator Hatch casts his support for federal anti-hate crimes legislation as a matter of sustaining national pride.

Offering opening remarks at The House of Representatives Committee on the Judiciary hearing on “Hate Crimes Violence” in 1999, Senator Henry J. Hyde similarly used an idealized image of the nation to frame his own decision to support federal anti-hate crimes legislation, while still underscoring his disdain for contemporary minority rights endeavors. Similarly to Senator Hatch’s emphasis on American exceptionalism, Senator Hyde focused attention on what he viewed as America’s inevitable progress towards tolerance, which within these narratives is one mode through which America is perceived to mark its exceptional nature. He began:

Discrimination has been significantly erased from the landscape of our American society. We have made great progress in coming together for the good of ourselves, our children, and our country but we are yet far from a perfect harmonious society. We still have too many events that shock the conscience of the country.¹²⁵

In this statement, Senator Hyde emphasized his belief that bigotry was a problem, almost perfectly, transcended. The cartographic metaphor of erasure used here suggests that “discrimination” was wiped off the surface of the American landscape; like chalk off a chalkboard, “discrimination” was merely a lingering residue without significant, current legacies. As bigotry was not a relevant contemporary concern for Senator Hyde, hate crime was instead a nifty coinage of “sociologists and mass media” that he explained as “an unfortunate and offensive byproduct of a heightened consciousness of race, religion, gender, and sexual orientation.”¹²⁶ Senator Hyde concluded his remarks in sweeping, near

biblical terms: “despite our universal condemnation and continual attempts to stop hate crimes in America, this unspeakable behavior continues to occur. These are senseless acts of inhumanity. Let us not look away. Let us try to determine how best to root out this evil.”¹²⁷

Both Senator Hatch’s and Senator Hyde’s opening statements contain the same glowy patriotism and aloof racial politics. Each draws on national imagery to craft a distinction between support for anti-hate crimes legislation and opposition to contemporary political projects that demonstrate an awareness of difference. For Senator Hyde and Senator Hatch, the nation’s unified condemnation of hate crimes underscores their own perception that bigotry is no longer a relevant political concern. For Senator Hatch, hate crimes are an “imperfection” of the few, not an indictment of the many. For Senator Hyde, the nation’s shared condemnation of hate crimes evidences his own presupposition that tolerance has already been achieved and that continued minority rights agitation, or color-aware politics, are “unfortunate” and “offensive.”

While idealized images of the nation’s past are evoked in Senator Hyde’s and Senator Hatch’s statements, both senators’ comments also contain a more forward-looking, international angle. Senator Hyde and Senator Hatch both implied that eradicating hate crimes was a matter of sustaining national pride and a necessary arena for future national action. President Clinton framed the fight against hate crimes in similarly future oriented, global terms on numerous occasions. During remarks on proposed anti-hate crimes legislation in 1999, President Clinton described his efforts to “bridge” America’s many divisions between groups of people, he then explained that the proposed legislation was a necessary means of setting an example globally. Referencing

Kosovo, President Clinton argued, “over the long run, America will not be able to be a force for good abroad unless we are good at home.” Again framing hate crimes as a twenty-first century issue, President Clinton stated, “we’ve got a chance to reaffirm America at its best. And I hope we can do it, because the most important thing, if we want to make the most of all this modern, wondrous economy we have, is to get rid of our oldest demons and build one America.”¹²⁸ In these statements President Clinton positions hate crimes as a challenge to America’s twenty-first century global economic prospects.

Similarly, in his opening statement for hearings on “Bias Crime” held in 1992 before the House of Representatives’ Subcommittee on Crime and Criminal Justice, Congressman Charles Schumer positioned the problem of hate crimes as a challenge to American exceptionalism:

I would say to my colleagues that if America is going to be a world leader in the twenty-first century — we want to keep America number one. Democrats, Republicans, all of us want to keep America number one. Well, if we are going to be torn apart by hatred, if we are going to spend all our time, blacks fighting with whites and whites fighting with blacks, Christians fighting with Jews and Jews fighting with Christians, every group in society fighting with someone else, there are other societies beyond our borders that are going to gain on us. And so this is not simply a message of care about one another and live and let live, the great American tradition, but a message that relates to the survival of this country as the leading country of this world. But all the energy and time we spend hating one another could be productively spent toward making the country better and helping us compete.¹²⁹

In this quotation, Congressman Schumer, like his more conservative colleagues, subsumes the problem of hate crimes within the broader, quite different, problem of America’s ability to sustain its international dominance. Later in 1999, during “Remarks on the Proposed ‘Hate Crimes Prevention Act,’” President Clinton made a parallel

argument, “America will not be able to be a force for the good abroad unless we are good at home.”¹³⁰ As Congressman Schumer argued and President Clinton implied, hate crimes are not “simply” an issue of “car[ing] about one another.” Instead, hate crimes present a challenge to American exceptionalism; the real issue is “the survival of this country as the leading country of this world.” Congressman Schumer’s and President Clinton’s approach notes the nation’s past dominance, while emphasizing current vulnerabilities and future threats. The nation was exceptional. But, its future is as-yet undetermined. Similar language of embattlement and threat characterizes the second main theme employed to write the nation into hate crimes discourse: contagion, disease, and destruction.

“AN EPIDEMIC OF HATE CRIMES IN OUR COUNTRY:” THE NATION AFFLICTED

When the nation enters into hate crimes discourse it tends to either be held at a moral elevation above the issue of hate crimes, which are depicted as un-American, or the nation is cast in the role of hate crime victim. The exceptional nation can also be the afflicted nation. In both distinct scenarios, the nation plays a figurative role that resists ascriptions of blame. Using epic medical rhetoric, political discourse and news media describe hate crimes as an “epidemic,” a “sickness,” a “disease” and, more specifically, as a “cancer.” As President Clinton succinctly stated in a 1997 radio address, “they [hate crimes] are acts of violence against America itself.”¹³¹ Within this theme, hate crimes are described as crimes against the nation. This theme has been developed within political discourse and news media production with equal zeal, although the news media

occasionally switch gears and interrogate the language of “epidemic” as being overly alarmist, as have academics who oppose federal anti-hate crimes legislation.¹³²

When hate crimes are described as maligning the national body, the term “epidemic” is frequently evoked. Newscasters, legislators, law enforcement officials, advocates, and academics alike use the idea of epidemic to emphasize the scope and scale of the hate crimes problem and to relate hate crimes’ negative effects to the health of the nation. “America is in the grip of an epidemic,” reported Jacqueline Adams for *CBS Evening News* on January 23, 1993, “an epidemic of hate.”¹³³ “[There is] evidence of an epidemic of hate crimes in our country,”¹³⁴ stated Congressman Charles Schumer during hearings on the Hate Crimes Sentencing Enhancement Act of 1992. On May 4, 1994, *The New York Times*’s National Desk quoted David M. Smith, a spokesman for the National Gay and Lesbian Task Force, who stated that violence against homosexuals had become an “out-of-control epidemic.”¹³⁵ During an interview with Connie Chung, gay rights activist David Mixner claimed, “we’re about to enter, it appears, another time of great struggle. We’ve seen it in increased epidemic of hate crimes directed towards gays and lesbians.”¹³⁶ After a series of church burnings in 1996, *The New York Times* quoted then Assistant Attorney General of the Justice department, Deval Patrick, “Mr. Patrick says that the nation is facing an ‘epidemic of terror.’”¹³⁷ In the months after Matthew Shepard’s murder, on October 18, 1998, *The New York Times* published an editorial by fiction writer David Leavitt titled simply “The Hate Epidemic.”¹³⁸ Most recently, in 2009, *The New York Times* quoted a passage from a letter sent to the Justice Department by an organization called LatinoJustice that stated that a series of assaults on Long Island represented “an epidemic of hate crimes against Latinos.”¹³⁹

Placing a premium on the nation's health, the terms "sickness" and "disease" are also deployed to illustrate the nature of the hate crimes problem. As an unidentified female protester explained to *CBS Evening News*' Richard Schlesinger on February 26, 1992, "[anti-gay violence] is part of--of a sickness, you know. It's just one symptom of a sickness."¹⁴⁰ Similarly in opening hearings on The Hate Crimes Statistics Act of 1988, Senator Paul Simon (IL, D) suggested, "where there is sickness and poison in our society, let's find out about it."¹⁴¹ In broader terms, President Clinton lamented that bias-motivated violence is "the disease that seems to afflict human hearts everywhere."¹⁴² Editorialist Bob Herbert similarly insisted that hate crimes had become a national sickness. Writing for *The New York Times* about a prominent hate crime that occurred in 1998, during which Buford Furrow shot a postal worker and children at a Jewish day camp in California, Herbert stated:

Buford Furrow Jr. is the symptom. We can deal with him. Lock him up. Convict him. Kill him. But how do you deal with that sickness in the nation's soul that will still be there even after a fiend like Buford Furrow is gone, a sickness that is already spawning future Furrows? Oh, it's a sickness all right. . . . We express our horror and indignation and move on, carefully avoiding that something in ourselves that nurtures the attitudes that create the environment that produces the man with the gun. We should not allow ourselves to be the hostages of violence and hate. Tolerance is not so bad once you get used to it. And a healthier society is a lot easier on the children.¹⁴³

In this quotation, Herbert describes hate crimes, or their perpetrators, as one symptom of a socially entrenched disease. In Herbert's terms, the "sickness is in the nation's soul." But, as individuals we are still called upon to consider our own complicity and tacit support for the "attitudes" that bolster bias-motivated violence. Within Herbert's framework, a healthy society is a tolerant society.

Occasionally, instead of the vague terms “sickness” and “disease,” speakers more pointedly describe hate crimes as a “cancer.” In introducing a *Dateline* special, titled “Web of Hate: Hate Sites on the Web Affect Everyone,” Tom Brokaw argued, “we cannot ignore the reality that hate crimes are a fact of life in America. Some 8,000 reported every year, and now there's a powerful new way to spread this cancer.”¹⁴⁴ “These hate crimes become a cancer,” explained Zeke Sandy, the father of a gay hate crime victim, to *The New York Times*’ Michael Brick, “it's a disease.”¹⁴⁵ In an early example of this metaphor, the National Council of Churches chose to describe hate crimes as “a cancer eating away our communities and social institutions” in a report they prepared for federal hearings on hate crimes in 1988, which was read and publically discussed by the legislators leading up to the hearings.¹⁴⁶ In each of these statements, the term cancer viscerally evokes a perception of the hate crimes problem as alarming and indiscriminating.

Within discussions of how hate crimes affect the nation, the words “epidemic,” “sickness,” and “cancer” serve multiple, discordant functions. But, each similarly presents a universally threatening, universally maligning force. Considering anti-hate crimes legislation’s fraught legislative history and partisan public equivocation on the issue, politicians and members of the news media’s decision to label hate crimes as a cancer and an epidemic is a notably well-crafted rhetorical tactic. These medical metaphors suggest that the national body, not any one particular minority community, suffers from hate crimes victimization.

In particular, the terms epidemic and cancer imply a sense of universality; an epidemic, unlike a more discrete disease outbreak, is severely widespread.¹⁴⁷ Further, the

terms epidemic and cancer both resonate deeply with Americans from across the political spectrum. Fighting cancer and combating epidemics have become all-American battles: the National Football League honors National Breast Cancer Awareness Month, pink ribbons adorn everything from cereal boxes to ipods, and the recent wave of concern over H1N1 has vacillated between hysterical and apoplectic — public service announcements regarding the spread of swine flu elevate hand washing to the status of national service. In many of the preceding quotations, the term epidemic simply emphasizes the seriousness of the problem, thus legitimizing news coverage, garnering political support, and lending an air of heroism to the legislators most active within hate crime's policy field.

Beyond framing the problem in urgent terms, metaphors of contagion seek to reinvent hate crimes as a bipartisan legislative priority. As pressing public health issues, epidemics and cancer present a noncontroversial call to action. Unlike the bigoted perpetrators of hate crimes or the difference-conscious minority rights and identity-politics advocates, an epidemic, cancer included, sees no difference between people based on heritage, sexual orientation, race, religion, color, national origin, or ability. The actors who employ medical rhetoric to condemn hate crimes tap into these contagions' universalizing effects. These metaphors enable politicians, newscasters, and journalists to vocally condemn hate crimes to mainstream national audiences without having to acknowledging the continued significance of identity-based differences these crimes manifest.

As President Clinton made clear, this erasure of difference has explicit political ambitions. In a 1999 statement, President Clinton argued, “hundreds of Americans have

been injured or killed, simply because of who they are. In response to this epidemic of violence, people around the country have joined me in calling on Congress to pass this important legislation . . . the nation cannot afford to wait.”¹⁴⁸ In this quotation, President Clinton explains that hate crime victims have been intentionally selected “simply because of who they are,” not as minorities but as “Americans.” As hate crimes are an “epidemic” that targets “Americans,” in President Clinton’s framework, it is the nation, not the specific victims’ communities, who “cannot afford to wait” for legislative action. This rhetoric operates under savvy sensibilities; the specific plight of real victims and their communities is erased and supplanted with a national community of potential victims. Given reluctance on the part of social conservatives to grant “special” protections to racial and sexual minority groups, the rhetorical tactic of supplanting these specific minority communities with a national pool of potential victims works towards making the issue of federally legislating against hate crimes more palatable to a broader national base.

In general, the metaphor of epidemic renders the nation as a passive victim of hate crimes. However, in Deval Patrick, David Mixner, and Bob Herbert’s statements, quoted earlier in this section, the nation’s affliction is rooted within the state structure and within the overarching social “atmosphere.” Mixner began by noting that levels of anti-gay hate crime had increased to the point of being an “epidemic.” But he concluded his statement by implicating members of the government, “we’ve seen the majority leader of the United States Senate compare us to kleptomaniacs and sick people.”¹⁴⁹ Like Mixner, Patrick argued that the nation was experiencing an “epidemic of terror.” But, he continued by explaining that the epidemic was “precipitated in part by an extreme atmosphere of racial

hostility.”¹⁵⁰ As with Herbert’s broad social critique, Mixner and Patrick used familiar metaphors of contagion without granting empowered social actors in the state and media immunity from the cause of the epidemic.

The language of contagion analyzed above plays into an existing supposition about the nature of hate crimes victimization. Anti-hate crimes advocates and much of the existing scholarship on hate crimes argues that hate crimes demand enhanced penalties because, as a distinct criminal category, these offenses are more harmful than parallel non-bias motivated offenses. The American Psychological Association contends that hate crimes victimization has more serious psychological effects than non-bias motivated victimization.¹⁵¹ These findings have been extrapolated into arguments about the detrimental effect of hate crimes victimization on entire minority communities with which the victim most identifies. In the metaphors of contagion analyzed above, yet another layer of extrapolation occurs: hate crimes are represented as not only adversely affecting entire minority communities, but as harmful to the nation. These multiple acts of removal work to make the issue of hate crimes relevant to a wider audience of news consumers and voters, but they problematically lose sight of real hate crime victims and minority communities.

Statements made by President Clinton and by Michael Riff, during his tenure as the Associate Director of the New York Regional Office of the Anti-Defamation League, illustrate this slippage. Riff explained during hearings before the House of Representatives Subcommittee on the Judiciary held in 1992, “hate or bias crimes . . . not only have a special emotional and psychological impact on individuals and communities, but carry the potential for tearing apart the fabric of our society through escalating

violence and turmoil.”¹⁵² *CBS Evening News* quoted President Clinton making a similar argument while advocating for anti-hate crimes legislation again in 1999. President Clinton stated, “hate crimes victimize not only the victim, but they victimize society as a whole in a special way because they contradict the very idea of America we’re trying to build.”¹⁵³ In President Clinton’s and Riff’s statements, hate crimes prey on our sense of our national identity and our national ideals. The very texture of our social fabric is at stake. Yet, as President Clinton’s phrase “trying to build” illuminates, these proclamations of harm entail a degree of aspiration. The victim in these statements is not any one particular minority community or individual, but our collective ability to *invent* the nation as a space of post-difference accomplishments.

“THE NECESSARY HORIZON:” HATE CRIMES, THE NATION, AND POST-DIFFERENCE IDEOLOGY

In commending the nation on its progress towards “a more perfect union” through the passage of federal anti-hate crimes legislation in 2009, President Obama succinctly enshrined the oxymoronically compromised logic at work within the politicization and cultural construction of hate crimes — a troubled process of meaning making which is rendered most perplexed within depictions of the nation’s relationship to hate crimes victimization. In analyzing representations of the nation within hate crimes discourse, this study demonstrates that the cultural elaboration of hate crimes within the mainstream news media and within national politics has perversely occasioned speech saturated in American exceptionalism and various strains of nationalistically inflected post-difference ideology. I began this chapter from the simple assertion that the nation functions as a character within hate crimes discourse. Now that the paired themes of un-Americaness

and affliction have been deconstructed, I want to offer a revised sense of the relationship between hate crimes discourse, the figure of the nation, and the salience of post-difference ideology and further elaborate on the cultural work these paired rhetorical tactics seek to perform.

The nation is not simply a character within discursive performances about hate crimes. Instead, to again borrow Nikhil Pal Singh's terminology, the nation functions as "the necessary horizon" upon which the binding of post-difference ideology and national identity are publically staged. References to the nation's elevation above or affliction by hate crimes profoundly alter the meanings ascribed to this category of criminality within the public sphere and the context in which that meaning making is invested. As discussed in the preceding sections, describing the nation as elevated above and victimized by hate crimes works to create a false perception of moral consensus; both themes suggest that as a nation we stand in opposition to hate crimes, *whatever* the phrase implies. In terms of specific cultural work, these representations conjure idealized images of the nation's pasts and the nation's values, reiterate the stale narrative of national progress towards an ever "more perfect" state of tolerance, and further hollow the cultural memory of the African American Civil Rights Movement into a narrative of triumph through criminal victimization and state rescue. In prioritizing the image of the nation within hate crimes discourse, the social, economic, political, and cultural vulnerability of minority communities as well as the lived experiences of these crimes' actual victims tends to be omitted. Patriotic aggrandizement accompanied by the omission of minority groups' concerns bolsters the false perception that even within the discrete realm of bias-motivated victimization ascriptive differences are unimportant.

While metaphorically ambidextrous, the way in which the nation is imagined within discursive performances about hate crimes participates in the recitation of post-difference ideology on two fronts: these representations seek to define both the nation itself and the nation's imagined community of citizens as always already tolerant, if unaware of — or perhaps blind to — ascriptive differences. These representations are a surprising site within which to observe the hybridization and rampant propagation of what sociologist Tyrone Forman defines as “color-blind racism” and “racial apathy” and what sociologist Paul Wachtel terms “[racial] indifference.”¹⁵⁴ As hate crime is itself an umbrella concept that encompasses a host of ascriptive differences, including not only race and ethnicity, but also religion, nationality, and more recently and inconsistently sexual orientation, sexual identity, and ability, I have expanded upon the construct of racial apathy by coining and further conceptualizing of post-difference ideology and its accompanying modes of apathy towards minorities.

Forman defines racial apathy as a “lack of feeling or indifference towards societal racial and ethnic inequality and lack of engagement with race-related social issues.”¹⁵⁵ Within Forman's framework, racial apathy is one manifestation of the post-civil rights era's dominant racial ideology: color-blindness. Colorblindness nourishes racial apathy and disarticulates calls for structural social change. As sociologist Ashley W. Doane explains, color-blindness is an “organized set of claims about race [that] rests on the seemingly unassailable moral foundation of ‘equality,’ which is the basis for its political strength.”¹⁵⁶ “What is overlooked — or deliberately masked,” argues Doane, “is the persistence of racial stratification and the ongoing role of social institutions in reproducing social inequality.”¹⁵⁷ As a limiting discourse, colorblindness allows for the

public condemnation of individual racist acts and public performances of white supremacy, without recognizing these outbursts' relationship to racial inequality.

Sociologists, social geographers, economists, and cultural theorists have marked out a range of consequences for racial and ethnic minorities stemming from color-blindness in education, employment, housing, cultural production, and politics. For the current study, the most relevant consequence of racial apathy is what sociologist Lorraine Kenny terms "sanctioned ignorance." Building on Kenny's concept, Forman argues that the racially apathetic's lack of empathy functions as a "strategic evasion of responsibility . . . the construct of racial apathy represents a way to capture these kinds of deliberate evasions, destructive indifferences, and powerful inactions."¹⁵⁸

Several scholars, including sociologists Joachim J. Savelsberg and Ryan D. King, legal theorist and human rights expert Martha Minow, and historian Sherrilyn Ifill, have observed similarly problematic patterns within hate crimes policy and memory in the United States. In a comparative article on institutional collective memories of hate and the development of anti-hate crimes laws in Germany and the United States, sociologists Joachim J. Savelsberg and Ryan D. King explain that in the U.S. context, "the plea for the engagement against hate remains decontextualized from American life and elevated to general principles of humanity and citizenship." Salvsberg and King's analysis points to the institutional, legal, and law enforcement consequences of excusing domestic evils. Regarding American anti-hate crimes laws, Salvsberg and King explain:

Civil society groups who are carriers of cultural trauma were most active in American legislative processes, and they were heard. Yet, the absence of domestic group trauma in sanctioned national collective memory, in combination with a political philosophy that stresses individual rights and formal legal procedures, did not allow

for the protection of particular group rights in American law. The compromise was an enumeration of several dimensions of social organization (eg., gender, race, sexual orientation) that establishes the protection of individuals on both sides of the dividing lines from hate crimes (eg., whites and blacks, gay and straight persons), while simultaneously indicating to mobilized minority groups (eg., blacks and gays) that their memory was recognized.

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In this passage, King and Savelsberg explain that in the United States anti-hate crimes laws indicate to the minority groups that actively worked for these laws' passage that the state's criminal justice apparatus officially recognized their traumatic histories. However, the actual legal codification of anti-hate crimes laws makes no distinctions based on differences between minority and majority groups. These laws gesture at difference, without actually acknowledging any significance these differences might still play within contemporary American life. While political philosophy and legal culture partially explain why anti-hate crimes legislation nods at minority interest groups without codifying or commemorating the social vulnerabilities experienced by these groups, the pervasiveness of post-difference ideology contributes to the subtext within which this kind of compromise appears acceptable. Legal culture and political philosophy have a clear impact on law making. However, until the dominant quality of post-difference ideology is taken into account, it is less readily apparent why mainstream discursive performances about hate crimes mimic these patterns of dismissal.

What King and Savelsberg describe as a "compromise" might better be deemed theft or, more moderately, bait-and-switch. Where the nation appears idealized and victimized in hate crimes discourse it functions as a "conceptual cloak" over the everyday lived realities of hate crimes victimization and against the social, cultural, and political

subtexts of these crimes. As Historian Sherrilyn Ifill explains, conceptual cloaks “allow institutions to justify disconnection from responsibility for systemic racial and ethnic violence.”¹⁶⁰ Ifill finds this kind of disconnection politically problematic, but psychologically ameliorative. “The project of addressing institutional complicity in racial and ethnic violence is a critically important one,” Ifill posits, “it can also be overwhelming. Our willingness to see racial and ethnic violence solely in terms of individual accountability may reflect our unconscious desire to reduce the project of racial reconciliation to manageable proportions.”¹⁶¹ Martha Minow similarly argues that “the most powerful defect in the push to regulate hate crime and hate speech, however, is how such regulation detracts from other efforts to address the sources and effects of group hatred.”¹⁶² Both Minow and Ifill argue that the fight against hate crimes makes little sense when detached from institutional, systemic, state-sponsored, and historically entrenched modes of intergroup animus. For both scholars, the desire to police hate crimes as a separate category of criminality often misses the larger point, which is that these crimes are an expression of broader social forces.

In agreement with Savelsberg, King, Minow, and Ifill, this study further demonstrates that deflecting attention away from institutional complicity and everyday expressions of bigotry is one of hate crimes’ most concerning and most psychologically obvious political pitfalls. However, the stakes involved in the wide distribution of these rhetorical patterns have less to do with hate crimes as a policy field and legal category and more to do with the status and substance of minority rights and civil rights political projects since the 1980s and with the difficulty of using hate crimes as a symbolic, normative domain outside of the courtroom.

In equal measures of approval and chagrin, scholars, politicians, and advocates have noted the symbolic potential of anti-hate crimes laws. Scholars who support anti-hate crimes legislation insist that these laws serve a necessary symbolic function. As Professor Lawrence Friedman, a legal scholar and hate crimes expert, explained during a personal interview in 2008, anti-hate crimes laws function as an “outgrowth of our legal culture,” as such they become valuable normative tools.¹⁶³ In recognizing hate crimes as inherently entrenched within extended histories of oppression, discrimination, and exclusion, these scholars argue that anti-hate crimes laws are a necessary authoritative means of acknowledging the “greater harm” wrought on minorities by criminal acts of bias-motivated victimization.

The most vocal academic resistance to anti-hate crimes legislation begins from the same supposition but arrives at the opposite conclusion. These scholars accuse politicians of using anti-hate crimes laws as occasions to lavish symbolic attention on a range of different identity groups that have successfully organized themselves into resourceful interest groups. “Hate crime policies and implementation efforts are largely attempts by politicians to satisfy organized interest in competitive political systems,” argues political scientist Donald P. Haider-Markel, “minority groups may push for hate crime legislation simply as a reaction to the threat but they may also use the issue as a means to expand their political agenda.”¹⁶⁴ Within this paradigm, expressed by Haider-Markel, anti-hate crimes laws are a reflection of identity groups’ excessive political capital.

Both perspectives begin from the presupposition that hate crimes and the laws designed to combat them signify a broader social recognition of difference. While I am

firmly in agreement with the first group of scholars and advocates who support federal anti-hate crimes legislation, my findings uncover rhetorical patterns that thwart hate crimes' symbolic connection to minority rights, civil rights, and identity politics. Where Haider-Markel observes an opening for minority groups to "expand their political agenda" through anti-hate crimes advocacy, my research demonstrates that this kind of parlay is largely inaccessible within the public sphere. The critique of the anti-hate crimes policy field as being overly appeasing to minority groups is flatly inaccurate within a broader cultural context.

In uncovering a very different relationship between minority rights politics and hate crimes discourse, my findings undermine how both supporters and opponents of anti-hate crimes legislation perceive these law's symbolic principles to function. While I find these patterns troubling, I am less concerned with how they affect the policy field of hate crimes and more concerned with what they underscore about our current ability to meaningfully discuss difference and bigotry on a national stage. While hate crimes and the laws designed to combat them are publically vested with heightened symbolism, they are not merely decorative. Regardless of rhetoric, anti-hate crimes laws are made to be used. There is a growing body of evidence that these laws, when operationalized with care and vigor, meaningfully shift policing practices. Proper enforcement of anti-hate crimes laws prompt police to take seriously low-level offenses that amount to patterns of discriminatory, criminal behavior.¹⁶⁵ Even when news coverage and political discourse focuses on shocking hate crimes murders, well-informed law enforcement officials and community members approach hate crimes as an everyday, misdemeanor-level problem, which is significantly more likely to undermine the quality of residents' lives, than end

their lives. As the original architect of anti-hate crimes legislation, former Anti-Defamation League attorney David Raim, explained to me during an interview in 2008:

No legislation is going to deal with the psychopaths. These kinds of crimes — lynchings, brutal beatings — don't affect most people in everyday life. It [hate crimes legislation] is aimed at dealing with the kinds of situations people encounter everyday, slurs written on doors, in cemeteries. Crimes that otherwise wouldn't get investigated or prosecuted because they are third degree misdemeanors.¹⁶⁶

These mundane traumas are hardly what rhetorics of nationalism and affliction draw attention to, but they are exactly what a real commitment to combating hate crimes entails. As Raim's statement clarifies, anti-hate crimes legislation is intended to operate within modest, everyday bounds. Despite the sensationalized label, hate crimes were originally conceived of as criminal expressions of everyday racism, homophobia, anti-Semitism, and xenophobia. Given this limited field of action, it is plausible to surmise that anti-hate crimes legislation functions as a sound criminal justice practice while representations of hate crimes in the public sphere share the same damning cultural consequences for minorities as other expressions of color-blind racism and post-difference ideology.

CONCLUSION

“The fact of racism does not explain everything about how and why race matters.”¹⁶⁷

This study concludes that representations of the nation within hate crimes discourse serve two principle, equally counterintuitive functions. First, these representations render national culpability and institutional complicity illogical. Second, they work against the recognition that identity-based differences continue to hold a great

deal of significance within all major facets of American life. The dualistic cultural tendency to condemn hate crimes while ignoring these crimes' social and historical imbrications indicates that the ideological patterns termed "new racism" and "racial apathy" have come to characterize, not only racial thinking, but also other forms of identity-based differentiation and even mainstream efforts to combat bigotry. The result being that the bigotry manifest in hate crimes is unequivocally defined as criminal, while the differences that initiated these crimes in the first place are rendered moot. In sum, bigotry appears deviant, while the status of being in a minority group is viewed as either neutral or irrelevant. What remains is a double helix of recognition and denial, perpetually spiraling back into itself. The myth of the color-blind society transmogrifies within these narratives into the myth of the post-difference society.

CHAPTER 3

“ONLY THE HATER LOSES”: THE CULTURAL CRIMINALIZATION OF THE BIGOT¹⁶⁸

The deviant and the conformist, then, are creatures of the same culture, inventions of the same imagination.

-Kai Erikson, *Wayward Puritans*

INTRODUCTION

This chapter analyzes the cultural construction of the figure of the white hate crimes perpetrator, or “the hater.” During the 1990s, hate crimes became a widely recognized social problem and a source of moral panic. Portraits of prominent haters sensationally dramatized the issue, skewing its political potential and piquing public interest. Building on sociologist Kai Erikson’s sense of the relationship between deviance and cultural imagination, quoted in the epigraph, I begin from the premise that the hater is a creature of the post-civil rights era’s imagination. This is the story, to be told both thematically and episodically, of a “new” folk devil coming into being during the ascendance of victim’s rights sympathies, the institutionalization of tough-on-crime politics, and during a period where certain minimalist conceptions of tolerance are policed in the public sphere.

I qualify “new” here because if the figure of the white hate crimes perpetrator is read as a new folkdevil then it is important to observe that he — and it is almost always a *he* — arrives wearing hand-me-down clothes. Representations of white hate crimes perpetrators reincarnate earlier representations of lynchers as “out-of-towners” and “white trash.” As journalist H. L. Mencken wrote for the *Evening Sun* on December 17,

1931, communities where lynchings had occurred had regrettably “succumbed to poor white trash.”¹⁶⁹ Paradigmatic modern day haters refigured these historically entrenched representations of extreme racists to suite the post-civil rights era’s novel identity-based formations, ideologies, and practices.

The figure of the hater embodies modern day bigotry through terse stereotype: “skinheads, typically sporting shaved heads, storm trooper boots, and other Nazi paraphernalia;”¹⁷⁰ “disturbed people desperate for attention;”¹⁷¹ “cowards and nuts;”¹⁷² “criminal thugs;”¹⁷³ transients;”¹⁷⁴ “troubled high school dropouts from broken homes;”¹⁷⁵ “hate-filled racist killer;”¹⁷⁶ “ex-con;”¹⁷⁷ “heavily drinking mental patient with a passion for guns;”¹⁷⁸ and “dysfunctional loser.”¹⁷⁹ This array of deficiency-highlighting characterizations can be parsed into five interrelated themes: 1) poor white trash, 2) failed performances of masculinity, 3) hate group membership; 4) “ex-con” or preexisting criminal history, and 5) mental illness. Combined, these themes work to create an image of the hater as a peripheral evil.

Through a discourse analysis of these five themes, I argue that the figure of the hater and the degradation rituals performed upon him play a singularly essential role within representations of hate crimes that sustain a post-difference worldview in three ways. First, discursive performances about white hate crimes perpetrators create rhetorical opportunities to define bigotry as an individualized problem with law enforcement remedies, as opposed to a social, structural, and historically grounded system of inequalities. Second, this figure masks differences between expressions of anti-minority bias. There are no consistent, notable differences between the types of haters who target Jews, African Americans, homosexuals, Arab and Muslim Americans, or

other minority group victims. By appearing in a singularly deviant form, the figure of the hater works to bolster the perception that bigotry itself lacks nuance. Finally, the hater's intense criminality frames the problem of hate crimes in extreme violent terms: the figure of the hater, who is inevitably also a murderer, performs a central role in normalizing extreme hate crimes cases. Inversely, the focus on murder cases also promotes the image of the monstrous hater. Not only are the crimes themselves unfathomably violent, but the people who commit them are also depicted as being fundamentally at odds with the norms and values of mainstream American life. In concluding, I critically reconsider the hater's prescribed role as evildoer and outsider.

By analyzing representations of white hate crimes perpetrators within the public sphere, this study builds on recent findings from the fields of cultural criminology and whiteness studies, particularly criminologist Robert Reiner's work on representations of criminals since the late 1960s and anthropologist John Hartigan, Jr.'s work on the label "white trash."¹⁸⁰ In part, this study responds to Hartigan's call for scholarship that critically recognizes the role of intra-white stereotyping in exiling racism to the social margins. This chapter integrates Hartigan's call to research with other, more specifically criminological observations about neoliberal representations of crime. Further, I build on theorist Karl Marx's definition of the lumpenproletariat to engage these contemporary lines of theoretical invention. In recognizing a new application for Marx's work, this chapter considers the cultural, opposed to economic, necessity of binding contemporary bigotry to images of an already stigmatized underclass. In opening a dialogue between these distinct disciplinary debates, I underscore each field's shared interest in social

justice and generate new theory on the implications of culturally, if not legally, criminalizing haters.

THEMES AND FIGURES

This chapter has both a thematic and episodic organization. While I have chosen to focus my analysis on representational themes, I then both illustrate and complicate each theme with a more detailed analysis of a prominent American hater. The hate crimes perpetrators selected for these in-depth case studies were the focal point of sustained news media coverage and were subject to outspoken public condemnation. These perpetrators — namely, James Burmeister, Buford O. Furrow, Jr, John William King, Aaron J. McKinney, and Russell A. Henderson — achieved paradigmatic status within the cultural history of hate crimes. The crimes committed by these men were the most intensely covered hate crimes in the history of reporting on hate crimes; several of their offenses were prosecuted during the peak years of hate crime news coverage, 1997-1999. Reporting on King, McKinney, and Henderson’s crimes alone sent aggregate coverage of hate crimes to an all time high in 1998. The mediated personas of these men draw on and reproduce the central themes, tropes, and “truisms” that have come to define the figure of the hater. Within the public sphere, these men’s tattoos, trailers, and menacing courtroom presences superficially stand in for deeper understandings of the hate crimes problem. Given the primacy assigned to class status in the United States, examining the terms used to mark hate crimes perpetrators as members of the lumpenproletariat offers one useful point of entry into this chapter’s broader inquiry.

WHITE TRASH

Representations of prominent white hate crimes perpetrators foreground both blunt and subtle suppositions about the codependency of bigotry and impoverishment. In many ways, the figure of the hater can be read as a subspecies of poor white trash. As white trash, the hater is not a working-class figure so much as an example of what theorist Karl Marx defines as the “lumpenproletariat.” “The lowest segment of the surplus population” in Marx’s framework, the lumpenproletariat is comprised of “vagabonds, criminals, prostitutes” and the “mutilated, the sickly, [and] the widows.”¹⁸¹ In sum, the lumpenproletariat, or capitalism’s “paupers,” exist as the “dead weight of the industrial reserve army.”¹⁸² Descriptions of white hate crimes perpetrators’ residences “in the poor part of town,” their educational non-attainment, and unemployment history all demarcate lumpen-white-trash affiliation.

Within mainstream representations of hate crimes, perpetrators’ living situations tend to be considered notable, particularly when these residencies reflect social isolation, spatial marginality, and poverty. For example, in 1993, *CBS Morning News*’ Milo Geyelin explained that Charles Rourk and Mark Kohut, suspects in a 1993 Florida hate crime, were not “true locals, but rather displaced and disaffected.”¹⁸³ In similar terms, *The Wall Street Journal* noted that Rourk and Kohut were “shiftless troublemakers.”¹⁸⁴ In reference to Ronald Gay, the perpetrator of a hate crime shooting spree in Roanoke, VA in 2002, which resulted in the death of one person and serious injuries to six others, Ted Koppel stated that Gay was “a drifter from out of town.”¹⁸⁵ The choice of the words “displaced,” “shiftless,” and “drifter” work to create the perception of involuntary social isolation. These perpetrators are not seen as simply relocating away from their

hometowns; instead, they are described as misfits and exiles, whose fundamental rootlessness predated, and perhaps predetermined, their bigoted criminality. As these examples begin to illustrate, when the perpetrator of a well-publicized hate crime is a “drifter,” a “loner,” or a “hillbilly hick,” these become loaded, class-coded details within the crime’s narrative.¹⁸⁶

Trailer parks are similarly weighted and similarly classed signifiers. The landscape of trailer parks enters into how hate crimes perpetrators are understood. In the wake of the widely publicized 1998 killing of Matthew Shepard in Laramie, Wyoming, reporters were quick to observe that the crime’s perpetrators, Aaron McKinney and Russell Henderson, lived in a trailer park in the “poor part of town.” On October 2, 1998, *NBC Nightly News* reported that McKinney and Henderson “lived in this mobile home on the outskirts of Laramie.”¹⁸⁷ During a February 5, 1999, revisiting of the crime, NBC’s *Dateline* elaborated, “neither from the university. Both [McKinney and Henderson] were high school dropouts from a poor part of town.”¹⁸⁸ Within both *NBS News* stories, McKinney and Henderson’s marginal class status was situated in direct contrast to the university town’s more prosperous community — their trailer was tellingly “on the outskirts.”

Descriptions of hate crime perpetrator Mark Kohut’s life in a Florida trailer park contain an even more pointed emphasis on criminal marginality. “Neighbors described him [Kohut] in interviews with sheriff’s investigators as the ‘mean one’” reported Milo Geyelin for *The Wall Street Journal* on August 24, 1993. Kohut was said to have:

Wandered about the trailer park with a semiautomatic handgun strapped in a shoulder holster or shot at stray chickens with a crossbow. When sheriff’s deputies led him away in handcuffs . . . neighbors burst into cheers.¹⁸⁹

As this vignette illustrates, Kohut expressed his monstrosity within the setting of a trailer park, where his bizarrely anti-social behavior was apparently witnessed with disdain.

The word “wandered” underscores Kohut’s aimlessness, while the scene of his neighbors cheering his arrest further highlights his lack of social integration. Within this narrative, the space of the trailer park opens up possibilities for random unattended poultry, antiquated weaponry, and an unbridled hater. Just as the chickens and the arsenal seem at odds with popular images of suburbia, so too does the constructed image of the extreme racist mismatch cultural images of middle-class American life.

These images of externality, animated through references to trailer parks, enter onto the field of play even when hate crimes perpetrators do not themselves reside in trailers. For example, when soldiers in North Carolina shot down an African American couple, Forrest Sawyer reported for *ABC World News* on December 8, 1995 that the perpetrators “rented a room in this mobile home” to store their Nazi paraphernalia.¹⁹⁰ Similarly, *The New York Times*’ reporting on an abduction-related hate crime in West Virginia in 2007 emphasized that, while the crime’s perpetrators lived in a house, the crime was committed next door in a “backwoods”¹⁹¹ and “ramshackle trailer.”¹⁹² As these examples illustrate, mobile homes, or “trailers,” are used as character-building details within public understandings of who commits hate crimes. When hate crimes perpetrators do not live in, or rent, trailers their housing situation is not deemed newsworthy.

Descriptions of hate crimes perpetrators employment and educational attainment similarly entangle ideas about class with explications for hate crimes. “Dropout” and “unemployed” are the two most frequently used terms to describe haters’ education and

employment. Aaron McKinney and Russell Henderson were described as “high school dropouts.”¹⁹³ Charles Rourk was said to be “a former paper-mill worker,” meanwhile his accomplice, Mark Kohut’s, career path was outside of the legal economy. “Mr. Kohut has a criminal record for selling cocaine in Illinois and for prostituting his teenage wife in Pennsylvania.”¹⁹⁴ John William King, another prominent hate crime perpetrator, was described as having “dropped out of high school in 9th grade” to do “manual labor”¹⁹⁵ before being incarcerated. King was also branded as a “two-bit Texas thief.”¹⁹⁶ As these examples highlight, hate crimes perpetrators’ occupations become news worthy when they reflect underlying stereotypes about the nature of recidivism, deviance, educational non-attainment, and marginalized kinds of manual labor.

The conflation of bigoted criminality and unemployment has even overshadowed the facts of actual cases. After the killing of Vincent Chin in Detroit in 1982, newscasters and journalists described Chin’s killers, Ronald Ebens and Ted Nitz, as “unemployed Detroit auto workers.”¹⁹⁷ On September 13, 2000, CNN explained that, “Vincent Chin, a Chinese-American, was beaten to death by unemployed Detroit auto workers angered over Japanese car imports.”¹⁹⁸ This same narrative appeared everywhere from congressional hearings on Anti-Asian violence to speeches made by Ronald Reagan and Jesse Jackson and again during Chin’s grieving mother’s appearance on *The Phil Donahue Show*. Even National Public Radio’s *Morning Edition* host Alex Chadwick reported on February 27, 1992 “ten years ago in Detroit Vincent Chin an Asian-American, was killed by two unemployed autoworkers who apparently blamed Chin for their economic plight.”¹⁹⁹ However, at the time of the attack, Ebens worked as a foreman for Chrysler and Nitz was a part-time student.²⁰⁰

AARON MCKINNEY AND RUSSELL HENDERSON

Up until now, I have been examining how suppositions about class, bigotry, and criminality participate in determining what kind of information is included within the public profile of prominent hate crimes perpetrators. Ideas about class are central to understanding why McKinney's and Kohut's trailers matter. However, there is a certain difficult subtlety to class coding within representations of hate crimes perpetrators that, perhaps, reflects a broader cultural discomfort with ideas about binding class to identity too tightly. The terms "drifter," "high school dropout," and "trailer" all perform the significant cultural work of forming an Othered identity for haters, which is inflected by presuppositions about class. But these terms, like the bigoted identity they conjure, hover skittishly above the surface of classist determinism. Further, these terms are nested within an overarching culture of poverty narrative, which muddles personal misfortune and poor decision making with economic deprivation.

In 1999, McKinney and Henderson were convicted in the beating death of Matthew Shepard in Laramie, Wyoming. On the night of the attack, they offered to give Shepard a ride home from a local bar, the Fireside Lounge. Once in their truck, McKinney and Henderson beat Shepard with the butt of their gun repeatedly in the head, neck, hands, and genitals and stole his wallet and shoes. They then left him outdoors in numbing winter temperatures. Many accounts of the case describe Shepard as lashed to a fence, like a crucified scarecrow. Shepard, discovered the next morning by a mountain biker, was hospitalized for four days before passing. The case became a rallying call for anti-hate crime laws and Shepard is still widely viewed as a gay rights martyr. The perpetrators' consecutive life sentences were described as "stiff and proper."²⁰¹

McKinney and Henderson were not officially charged with committing a hate crime.

Wyoming has yet to pass state-level anti-hate crime legislation. Despite this lack of legal legitimization, the news media, political figures, the victim's family, and advocacy groups all labeled the Shepard's killing a hate crime.

More detailed biographies of Aaron McKinney and Russell Henderson illustrate the way in which culture of poverty narratives refigure suppositions about class and bigotry within representations of haters. As perpetrators of the single most widely covered hate crime in the history of hate crimes reporting, McKinney and Henderson have come to represent the figure of the hater for a wide range of different audiences. Since 1998, their crime has been reenacted everywhere from local playhouses to MTV studios. Even after the case was closed, news specials and made-for-TV movies continued to air "new" information on McKinney and Henderson. Commenting on the crime in 1999, President William J. Clinton argued, "we cannot surrender to those on the fringe of our society who lash out at those who are different."²⁰² The idea that Henderson and McKinney existed on the outside, or "fringe," of society spatially, economically, and ideologically was repeated throughout the news media's attempt to explain these men and the crime they committed. A *New York Times* article on the killers titled "Men Held in Beating Lived on the Fringes" sums up the public consensus that McKinney and Henderson were peripheral evils.

As described above, McKinney's and Henderson's employment, education, and residences were used to mark them as despised members of the lumpenproletariat. In fuller biographies, these class-coded details were woven into story lines about the men's upbringings, personalities, and life choices. Despite the intense publicity afforded their

crime, McKinney and Henderson remain surprisingly elusive public figures. More so than any of the other paradigmatic white hate crimes perpetrators, who will be discussed in later sections, the news media has yet to settle on a single interpretation of McKinney's and Henderson's identities. The breadth of inconsistency is itself telling. McKinney and Henderson have been described as average hometown boys, as severe drug addicts, as volatile, as dumb, as new parents, as victims of physical and sexual abuse, as employed, and as unemployed. Mostly, their humanity has been overlooked. Very few stories bothered to include any background information on either convict. The only consistently included information concerned the men's age — they were described as “young.” The next most frequently cited fact regarded their educational attainment; they were “high-school dropouts”²⁰³ In distinguishing between the two convicts, McKinney tended to be depicted as the “ringleader”²⁰⁴ and Henderson as the “quiet follower.”²⁰⁵

In the mid-October limbo between when McKinney and Henderson beat Shepard, on the night of the 6th, and when Shepard died, on the 12th, the men's public image was negative, but lenient. As *NBC News*' Soledad O'Brien reported from Laramie, WY on October 10, 1998:

People who know them paint a picture of Henderson and McKinney that seems, if anything, small-town ordinary. Co-workers at a local fast-food restaurant describe Henderson as a good employee. He lived in a house trailer on the edge of town. There are bags of empty beer cans against the fence there. Neighbor Ward McClelland says he complained to the police at least three times of Henderson shooting fireworks and throwing bottles.²⁰⁶

In this liminal moment, the mess and noise around Henderson's trailer were deemed news worthy. But, the men were still seen as “ordinary” and Henderson was even praised as a being a “good employee.”

After Shepard's death, representations of the men's characters hardened. Four days after Shepard's death, journalist James Brooke wrote for *The New York Times*:

Mr. McKinney, known around Laramie for his short temper and willingness to brawl, was awaiting sentencing for burglarizing \$2,500 from a Kentucky Fried Chicken restaurant . . . A 22-year-old roofer who dropped out of high school . . . Mr. McKinney, the father of a new baby . . . Mr. Henderson dropped out of Laramie High School, taking jobs, and most recently, repairing roofs. By the time of his arrest last week, he had committed several driving offenses and had two convictions for drunken driving.²⁰⁷

Newsweek's Joshua Hammer similarly highlighted McKinney's and Henderson's criminality. In his November 8, 1999 report on Henderson's trial, Hammer described both men as "high-school dropouts and methamphetamine users who worked as sometime roofers." "[They lived an] aimless existence," elaborated Hammer concluding, "it was a life of drifting through bars and convenience stores, struggling to support their infant son in a hole-in-the-wall apartment, and snorting and smoking eight balls of crystal methamphetamine."²⁰⁸

A widely repeated description of the McKinney's and Henderson's behavior at the bar where they met Matthew Shepard similarly situates their bigoted criminality within performances of cultural and economic impoverishment. In an interview with *NBC Nightly News*, bartender Matt Galloway explained that after ordering a pitcher of beer, "McKinney and Henderson] paid for it with nickels and dimes. They dug through their pockets and, you know, put the change out on the bar."²⁰⁹ Galloway's description of Henderson and McKinney walking up to the bar and having to root around in their pockets for change was repeated in numerous news broadcasts and articles at the time, and again in later news specials and made for TV movies.²¹⁰ This simple, semi-private

moment was used to demonstrate McKinney's and Henderson's lack of finances, poor decision making abilities, and bad priorities. These character judgments were then worked into how the crime was understood and situated within extended narratives about McKinney's and Henderson's "troubled" childhoods.

As *ABC News* reported on November 26, 2004, McKinney and Henderson came from "classically troubled backgrounds":

Russell Henderson was born to a teenage alcoholic and raised without a father. He saw his mother being beaten by a series of boyfriends, some of whom also assaulted Russell. Aaron McKinney's childhood, too, was less than picture-perfect. His father, a long-haul trucker, was rarely around. He eventually divorced Aaron's mother, a nurse who died when Aaron was 16, as a result of a botched surgery.²¹¹

This discussion of Henderson's and McKinney's childhoods implies a correlation between economic deprivation, abusive, tragic parenting, and the eventuality of criminal bigotry. Even though the men openly confessed to the killing, the news media further solidified their guilt by highlighting their and their parents' failures to live up to middle-class norms of family life. In drawing attention to the absence of father figures from McKinney and Henderson's childhoods, these widely distributed biographies suggest that the breakdown of the traditional family, with all of its veiled economic and moral implications, were perceived as pertinent details in forming an understanding of the crime's brutality. Class here becomes less about actual economics and more about the reproduction of limiting cultural stereotypes that coningle ideas about poverty, masculinity, age, and criminality. **FAILED PERFORMANCES OF MASCULINITY**

As the preceding references to Mark Kohut prostituting his "teenage wife" and Aaron McKinney's and Russell Henderson's broken homes, dead beat dads, and illegitimate children suggest, profiles of prominent hate crimes perpetrators belabor these

criminals' inadequate performances of masculinity. Haters that garner significant news media attention are not only killers, they are also abusive husbands, poor providers, or weaklings. The peak expression of romantic love for the most prominent hate crime perpetrators are filtered through the criminal justice system: John William King's multiple girlfriends dated him through prison letters, and Aaron McKinney and Russell Henderson's girlfriends at the time of Matthew Shepard's murder showed their loyalty by lying to the news media and to local law enforcement officials on their boyfriends' behalfs. In all three cases, the women's contributions were damning. Descriptions of hate crime murder James Burmeister as a "weakling" reveal how the non-accomplishment of masculinity has been woven into the cultural construction of the figure of the hater.

JAMES BURMEISTER

In the company of two friends, James Burmeister gunned down an African American couple out enjoying an evening walk in 1995. The killing was described as "execution style" because it was planned in advance and committed with precision. The prosecution rallied testimony that Burmeister committed the double murders in the interest of proving himself to other racist skinheads and to earn the right to wear a spider web tattoo, which in some circles symbolizes the taking of a life. The defense argued that Burmeister's brain had been "soaking in alcohol for 12 or 13 hours" before the attack and that, with two gallons of beer in his system, Burmeister was in a blackout state during the shootings. Burmeister was convicted of the killings and assigned a life sentence. He served the first eight years of his sentence in the state prison system. After being repeatedly attacked, he was moved into protected custody in a federal prison, where he

died at the age of 31. An autopsy was performed, but its findings were not reported publically.

At the time of the attack, Burmeister and his co-conspirators were serving in the 82nd Airborne Division at Fort Bragg in Fayetteville, North Carolina. The perpetrators' military status forced the army to "look at extremism" within its ranks. The ensuing internal investigation concluded that the slaying was a "random case of racism"²¹² committed by "a tiny fringe element."²¹³ Published descriptions of Burmeister worked to further distance the crime's underlying values from the military's, and in turn the nation's, conscience. Reports of Burmeister's lack of masculine attributes played a central role within the strategies of rhetorical dissociation deployed by military officials and reiterated by the national news media.

In covering the case, journalists and newscasters depicted Burmeister as ensnared in organized white supremacist subculture, as comfortable in spaces of white poverty, and as a weakling in the military's ranks. Burmeister was "arrested in a trailer where the police found a Nazi flag, literature praising Adolf Hitler, and what police officers described as pamphlets from ultra-right-wing groups."²¹⁴ This statement emphasizes that Burmeister's racism was a part of his identity and that the physical evidence of that deviant belonging had to be materially kept apart from his military life in a trailer, not in the barracks. A wide range of news sources reported on the fact that Burmeister housed his racist literature and white power music in a trailer. The intense attention paid to this arguably irrelevant detail further underscores the perceived intersectionality of spaces of white poverty and white supremacy, elaborated upon in the previous section.

Beyond this merged ideological and spatial slumming, Burmeister's superiors described him to the media as a biologically predetermined loser. As CBS News' 48

Hours reported on June 22, 1997, Burmeister was considered to be weak:

Capt. Barker (Burmeister's commanding officer): The unit I was in at that time was a good, solid, tight unit.

Spencer: But Burmeister wasn't part of it. Physically he couldn't cut it.

Specialist Savoy Wilson: He couldn't even run half a mile. Burmeister was just the – the weakest person in the unit. So we kind of pushed him away and like I said, idle hands are the devil's workshop.

Spencer: So Burmeister found acceptance in a different quarter.

Spc. Wilson: All the weakest people in the whole unit hung out together and they all called them selves racist Nazi skinheads.²¹⁵

This narrative simultaneously objected to one mode of supremacist thinking, white supremacy, while operating within another mode of supremacist thinking based on physical ability. Burmeister was cast as weak, unfit, and rejected. His superiors explained that Burmeister was an outcast due to his own personal failings, which in turn led to a deviant quest for acceptance within a circle of similarly inferior individuals. This framework draws on Burmeister's character and capabilities to both justify his social isolation on the base and to explain his criminal, bigoted actions.

As one example of a paradigmatic hater, Burmeister was depicted as being genetically inferior and bound up with the trappings of white power and white trash. This report's emphasis on Burmeister's physical weakness and his rejection by fitter military males rests upon suppositions about masculinity. While all of the most prominent hate crimes perpetrators are males, they are depicted as failing to properly perform masculinity. This failure, along with the other inadequacies and exclusions, is then

written into explications of the perpetrator's motivation for committing these otherwise "unthinkable" crimes. Beyond simply noting Brumeister's physical weakness, or inadequate manhood, the above description connects his being a loser and a loner with his choice to join a hate group.

HATE GROUP MEMBERSHIP

Hate group membership is another pervasive theme within representations of hate crimes perpetrators. Prominent perpetrators have been described as "hard core haters"²¹⁶ and as "Aryan Nations security guards."²¹⁷ Indeed, the hate crimes problem is often reported on as part of a broader problem with hate groups, or organized white supremacy. Vernacular knowledge tends to explain rising rates of hate crimes victimization in relation to the proliferation of hate groups. This faulty correlation has been consistently reinforced by the news media who tend to include information about rates of reported hate crimes and statistics regarding shifts in hate group membership within the same stories.²¹⁸

For example, in the aftermath of the shooting at the Holocaust Museum in Washington, DC in 2009, *NBC Nightly News*' Brian Williams explained, "right now hate groups are at an all time high." "This shooting today at the Holocaust Museum in Washington" Williams argued, "[is] the latest disturbing reminder that hate crimes are on the rise of late in this country, along with a number of groups that preach such messages."²¹⁹ The program went on to air footage of members of the National Socialist Movement (NSM), "the nation's largest and most active neo-Nazi group," chanting "Sieg heil! Sieg heil! Sieg heil!" and "White power!"²²⁰ When *ABC News* aired a "Closer Look" segment

titled “Hate Crimes” on May 2, 2007, Charles Gibson quoted Mark Potok, from the Southern Poverty Law Center, who claimed, “since the year 2000, the number of hate groups is up 40%, from 602 to 844 today.”²²¹ In the aftermath of Mathew Shepard’s death, Potok made similar connections during an interview with *ABC World News Tonight’s* correspondent Lisa Salter. Asked to consider the environment surrounding Shepard’s death, Potok noted, “the number of hate groups was up about 20 percent just last year, and the level of propaganda, the sort of hate noise out there is very high.”²²²

Similarly, in the wake of the shooting at the Jewish Community Center in California in 1999, John Miller of *ABC’s World News Tonight With Peter Jennings*, reported, “the shootings yesterday are the latest in a series of violent attacks on Jews in Los Angeles and across the country.” “The number of hate groups in the country went up by 25 percent over the last two years,” noted Miller before concluding “in most cases, it is impossible to link the crimes to the hate groups. The groups apply their rhetoric. The members act as individuals.”²²³ As Miller’s final comment makes clear, even when a perpetrator appears to be acting outside the mandate of an organized hate group, said groups should still be considered culpable.

Such sentiments are not limited to network news broadcasts. In an editorial published in *The New York Times* on February 28, 1999, columnist Bob Herbert related the “increasing frequency and viciousness” of hate crimes to heightened hate group activity. Herbert argued, “much of the hatred is fueled by the growing number of organized hate groups and the proliferation of Internet sites devoted to racism, anti-Semitism, homophobia and other forms of intolerance.”²²⁴ As these examples show,

when confronted with a particularly shocking hate crime the mainstream news media seeks out information about membership in hate groups.

This correlation has led to faulty labeling practices, flawed policy objectives, and humorous lapses in active listening. The case of Bryan and David Freeman is illustrative. In 1995, the Freeman brothers, two neo-Nazi skinhead teenagers, murdered three members of their immediate family, including their sleeping younger brother. Their crime is clearly not, legally or logically, a “hate crime.” Parents and siblings are not included in hate crime law’s protection and there are separate laws regarding child and spouse abuse. But, because the teenagers were poster children for the racist skinhead movement — two weeks before stabbing their sleeping parents and younger brother the boys tattooed their foreheads with the phrases “Seig Heil” and “Berzerker” — the news media labeled their offense a hate crime. This faulty labeling underscores the significance of white power symbols in defining how hate crimes are perceived. In visibly claiming a white power identity, the Freeman brothers rewired how their crime was understood. The correlation that led to this faulty labeling has, at times, been challenged.

In Mark Potok’s defense, while he is frequently quoted discussing statistics about hate group membership in the United States, when given the opportunity he, and other hate crimes experts, duly note that most hate crimes are not committed by members of hate groups. Based on the Southern Poverty Law Center’s findings, Matt Lauer explained to NBC *Today’s* audience on January 27, 2003, “the vast majority of hate crimes are committed by people who look like our neighbors.”²²⁵ However, these reasoned, empirically grounded cautions are often filtered out of the media’s hate crimes frame.

For example, on August 12, 1999, Katie Couric, also reporting for NBC's *Today*, interviewed hate crimes expert Professor Brian Levin. The interview was prompted by a recent hate crime shooting, during which Buford O. Furrow, Jr. opened fire at a Jewish Community Center and then shot a United States Postal worker to death in California. During the interview, Couric enquired of Levin, "from what you know so far about this man, does he fit the typical profile of someone who commits a hate crime?":

Mr. LEVIN: Well, most hate crimes are committed by people who are not hard-core hate mongers or members of organized hate groups. Only about five percent of hate crimes are committed by people who are hard-core hate mongers or members of organized hate groups. That being said, at least half the homicides, and many of the more serious, more violent hate crimes, are disproportionately represented by the hard-core hate mongers. About 50 percent.

COURIC: How many hate crimes currently exist in this country--or hate groups--I'm sorry--hate groups, currently exist?²²⁶

This brief, slightly fumbled verbal exchange can be read as a loaded moment within hate crimes discourse. In this moment, Couric chose to ignore Levin's statement that the overwhelming majority of hate crimes — around ninety five percent — are committed by people who are not involved with hate groups and instead returned the interview's focus to hate groups.

For the rest of the interview, Couric and Levin discussed the proliferation of hate groups nationally; these groups' savvy exploitation of the internet; and the societal dangers posed by extremists:

COURIC: You, I know, are a former NYPD officer, a New York City Police officer, and you worked with law

enforcement in terms of educating them about these groups. What kind of problem do they pose to police officers across the country?

Mr. LEVIN: They pose a serious problem. These people hate cops. And they also, obviously, have no morals because they'll go out and kill young schoolchildren. The problem that we see is we have these hate mongers who are insulated from criminal and civil prosecution because they inspire people with a proclivity towards violence, but they don't necessarily orchestrate the violence that they commit.²²⁷

Levin's comment reveals how the news media's interest in "hard-core hate mongers" and extreme cases skews the issue. By framing hate crimes as a murder problem, "hard-core hate mongers," who are not typical hate crimes' perpetrators, become central figures. Within this frame, people with "no morals" who hate cops and kill children cause the hate crimes problem.

JOHN WILLIAM KING

As the preceding examples demonstrate, the culturally constructed correlation between hate crimes and hate groups plays a decisive role within vernacular knowledge about hate crimes. However, as a theme, hate group membership rarely stands alone within portraits of prominent perpetrators. It is often the first detail included. But, as only one dimension within fuller portraits, hate group membership is later woven into more complex renderings. Prison culture, inter-racial gang activity, white power tattoos, mental health problems, and simply being a teenager are all enmeshed within depictions of hate crime perpetrators as active members of white supremacist organizations. Combined, these character flaws produce a potentially stigmatized white power identity. John William King, one of the three men convicted of killing James Byrd, Jr. in 1998, has been

defined within these terms. As King became a paradigmatic hate crime perpetrator, examining his public persona in greater depth helps elucidate how hate group membership functions within the biography of a hater.

Of the white-on-black crimes that have been reported on since hate crime's codification, one crime in particular captured the nation's undivided attention: the dragging death of James Byrd, Jr. in Jasper, Texas. On June 7, 1998, John William King, 23, Shawn Berry, 23, and Lawrence Russell Brewer, 32, stopped their truck under the auspices of offering James Byrd Jr., 49, a lift home. In the one-sided fight that ensued, the three white men drank beer and smoked cigarettes while beating and kicking Byrd, slashing his throat, and spray painting his face. They then chained him to the back of their truck and drove down a three-mile stretch of road, maiming Byrd's body to the point of decapitation. King, Brewer, and Berry left Byrd's partial remains in Jasper's then racially segregated cemetery.²²⁸

Who did what the night of the crime remains unknown. Each of the accused pleaded not guilty. During their separate trials, each man's state assigned attorney posited theories that the other defendants were more actively involved in the beating and chaining. Their client had simply been in the wrong place, at the wrong time, with the wrong people. None of these defenses were successful. All three men were convicted of federal capital murder, including an additional kidnapping charge. Brewer and King received death sentences. Meanwhile, Berry, whose defense managed to depict him as less obviously involved with organized white supremacy, escaped with a life sentence. As Texas had not yet passed anti-hate crime legislation in 1998, none of the men was

officially charged with committing a hate crime. This did not prevent the news media and politicians from labeling the offense a hate crime.

In the emotional turmoil that followed publicity of this case, everyone from President Bill Clinton to NBA star Dennis Rodman was moved to words and action: President Clinton issued a strong, condemnatory public statement, Rodman volunteered to pay for Byrd's funeral. Even a south Texas Klavern of the Ku Klux Klan published a letter condemning the killing. For a number of arbitrary and rote reasons, this case was a perfect storm for news coverage. Because the crime took place in 1998, a year when President Clinton was actively advocating for the passage of the Federal Hate Crime Prevention Act, politicians and news media producers were already primed to focus on the topic of hate crime. Because the perpetrators chose to plead not guilty, very dramatic trials were staged. With the overwhelming evidence mounted against the perpetrators, the trials were more media event than judicial volley; prosecutors showed video footage of the blood stained three-mile stretch of road and displayed the full length of chain as evidence before the jury. Because the crime happened in Texas, the very real possibility of seeing the death penalty applied added suspense to the sentencing phase of the trials. And, because the accused were unrepentantly guilty, watching their reckoning with the law was like imbibing a strong, restorative cocktail of retributive justice.

Due to the timing and publicity of King's offense, King became a — if not *The* — paradigmatic American hate crimes perpetrator. *The New York Times* alone ran thirty-four stories that included King's name. Combined, ABC, CBS and NBC aired one hundred and twenty-two stories dedicated to his case. The public and law enforcement officials first met King through his own self-destructive decision to write into local

newspapers. In his letters, King claimed he was riding in the truck on the night of the crime, but had gotten out of before the dragging took place.²²⁹ Before sending in these letters, King had not been identified as a suspect. After sending the letters, local authorities, with help from the FBI, investigated his property.

During the investigation, they found clothing and shoes stained with Byrd's body fluids; handwritten racist writings, including bylaws for a new white supremacist group King had named the Texas Rebel Soldier; and a KKK flag. After King was taken into custody, two young women he had corresponded with during his previous incarceration, two years prior, came forward with letters he had sent them filled with racist remarks. A KKK lighter discovered at the scene of the crime was also later identified as his. As these details emerged within coverage of the crime, King's public image began to solidify. King's paradigmatic hater-criminal status leaned heavily on the visibility of his affiliation with organized white supremacy and that affiliation's roots within the prison system.

As King's trial was held first, he became the central figure representing the crime to the widest audience. In the courtroom and in coverage of the case, prosecutors and the press rallied evidence of King's monstrousness. More accurately, they simply asserted that King was evil: King was described variously as a "haunting monster"²³⁰ and as a "man without friends, without a future."²³¹ During an interview with *NBC News*'s Ann Curry, the state's prosecuting attorney, Guy James Gray, found one of King's motives to be "just being evil or Satanic."²³² Sharing this biblical interpretation, local Jasper resident Charlotte Hillard told *CBS Evening News*'s Dan Rather, "he's evil. He's the clearest picture of Satan that I think I've ever seen."²³³ In the same summer when parents were already having to explain oral sex to their children thanks to President Clinton's oval

office affair with Monica Lewinski, Jim Axelrod informed *CBS Evening News*'s audience that "murderer and thief [King] robbed a town full of children of their innocence."²³⁴

As the preceding quotations underscore, the task of amplifying King's demonization required minimal creativity. And very little was expended. Despite the quantity of coverage dedicated to King's crime and trial, descriptions of King himself tended to be flat. Instead of reporting on information about King's background, lifestyle, and character, reporters instead chose to speak with experts on extremism about racists in general or reiterate the same phrases and details from previously aired reports. The most reductive descriptions simply stated that king was "a white supremacist."²³⁵ Offering a touch more detail, *NBC Nightly News*'s Dawn Fratenglo described King as "an ex-convict who wears racist tattoos and allegedly belonged to white supremacist gangs while in prison."²³⁶ CBS's Dan Rather depicted King as "a young man full of deep-seated anger and racial hate who wanted attention from the Ku Klux Klan. . . white ex-convict."²³⁷ And CBS's *This Morning*'s early risers were told that King was an "ex-convict with ties to prison white supremacist groups."²³⁸ These limited depictions focused on King's previous convictions, tattoos, and affiliations with white supremacist organizations.

King's tattoos became a defining feature of his public persona and were widely perceived to be a reflection of his "overflowing racial hate."²³⁹ As *CBS Evening News* reported, "today prosecutors added more evidence to their portrayal of John William King as a hate-filled racist killer with photos of how, from head to toe, King's body was a canvas for neo-Nazi and white supremacist tattoos."²⁴⁰ "Hidden underneath his bulletproof vest and long-sleeve shirt, prosecutors told the jury, is a patchwork of white

supremacist tattoos,” reported Steven Osunami for *World News Tonight with Peter Jennings*, “a friend described one tattoo on King's arm. It depicts a lynching.”²⁴¹ In a *New York Times* article, the Jasper County Prosecutor explained, “this young man is full of hate and he has tattoos all over his body that reflect that hatred”.²⁴² “All over King's body, prosecutors told the jury, are white supremacist tattoos. A friend testified he has a picture of a lynching tattooed on his arm,” reported Sara James for *NBC's Today*, “prosecutors on Wednesday showed jurors pictures of dozens of racist, Satanic, and neo-Nazi tattoos on King's body, saying they were evidence King was capable of torturing a black man to death.”²⁴³ In describing King's tattoos, these reports similarly dwell on both the placement, “all over his body,” and the selected symbols, “a lynching.” Throughout this coverage, King's tattoos were interpreted as signs of his white supremacist identity and his guilt.

As with his tattoo choices, King's demeanor in the courtroom was interpreted as evidence of his sub-human callousness and guilt. “Throughout the trial, John William King showed no fear or shame. If anything, he was proud. For a man facing death row, he smiled more than he should;”²⁴⁴ “Racist murderer Bill King was defiant to the end.”²⁴⁵²⁴⁶ “Unrepentant.”²⁴⁷ As the verdict was read he “slumped slightly.”²⁴⁸ *The New York Times*’ “Quote of the Day,” published on February 26, 1999, two days after King was sentenced to death, was spoken by a member of the jury, Karen Flowers. “He showed no signs of remorse for his actions,” Flowers explained, “it's so terribly sad. When I first came here I kept looking at him, how young and handsome he is. I have a son about the same age. I wanted to find something to save him.”²⁴⁹ The words “young and handsome” do not appear in any other descriptions of King. Even within Flowers' stated desire to find

redemptive qualities, Kings' lack of visibly expressed remorse was too damning for even a matronly figure.

These quotations demonstrate the prosecution, the jury, and the media's interest in settling on a label for King's nature and using it as a way of defining the crime itself. Further, these statements reveal an underlying interest in placing value judgments on emotional performance. King was judged for not acting appropriately repentant in public, even though his legal strategy was to plead innocent. Public interest in the visibility of King's guilt clashed with his own defensive legal tactics. Put differently, the emotional mandates of a degradation ritual proved ill suited to the alternate performative realities of an adversarial trial system.

More detailed profiles of King tended to focus on his time in prison and his hate group membership. His two years of incarceration were described as a transformative period during which King changed from being a blue-collar dropout to being the "ultimate racist."²⁵⁰ In a *New York Times* article titled "Unfathomable Crime, Unlikely Figure," Rick Bragg wrote that King was remembered as "a mannerly boy, quiet around grown-ups. His family was blue-collar Baptist. The only vice he had as a boy was snuff:"

He dropped out of school in 10th grade and did manual labor . . . he was just one of the sunburned young men who cruised town in ragged pickups with a six-pack. If he was overtly racist then, the people who remember him say they do not recall.

Then King was incarcerated for robbery:

[King] learned to hate in prison. Mr. King joined the Confederate Knights of America, a loosely organized prison gang for white supremacists . . . Texas prisons have powerful black and Hispanic gangs, in particular one called the Mexican Mafia. They, and their white counterparts, espouse racial hatred. 'The level of racism in prison is very

high,' said Mark Potok, a spokesman for the Southern Poverty Law Center. 'The truth is, you may go in completely unracist and emerge ready to kill people who don't look like you.'²⁵¹

The narrative arch from unassuming, blue-collar kid to prison to virulent racist was reiterated in other reports about King. These narratives implicitly argue that learning to hate is something that occurs on the criminal margins, well outside of mainstream tolerant America.

Reporting for *NBC Nightly News*, Tom Brokaw explained:

King's slide from being a two-bit Texas thief to racist killer did not, by all accounts, begin at home. King was raised the adopted son of blue-collar Baptists in the tall pines of East Texas, on a racially mixed street in Jasper. And his father, Ronald King, has said there was no racial hate in their home, that their son's best friend was actually a black child who lived a few houses down.

After King returned home from prison, his father was "stunned" to hear his son "spewing the dogma of white supremacy:"

Unidentified Woman #1: He just came back somebody totally different.

Unidentified Woman #2: You could tell he was different.

A two-year transformation that shocked virtually everyone who knew him. A cousin described a younger Bill King as quiet kid, really very sweet. But he came out of this Texas prison, she said, really very big with tattoos all over him, and none of them said "Mom." So, what happened here, where 2/3 of the inmates are minorities? In a letter he wrote that he joined the Confederate Knights of America, a white supremacist group, most likely, experts say, to keep himself from being beaten or raped. Once embraced and protected by the Aryan brotherhood, the largest group, King became a devoted member, painting his body with symbols of racism, including a black man being hung. He became someone, belonged to something, and he brought that back home.²⁵²

ABC News's Dina Temple-Ratson, the reporter who spent the most one-on-one time interviewing

King during the trials, spoke in similar terms about the significance of King's previous incarceration:

Dina Temple-Ratson: Well, I mean, what the defense said, and certainly after talking to a lot of Bill King's friends and people who knew him, prison did something to him. Certainly there was a kernel of hate in him to start with, because prison couldn't have done all of this. But certainly something happened to him in prison. And we talked a lot about his time in prison and how he was beaten up there and things like that. And the theory is that something much worse happened to him, but he's not willing to tell anyone.²⁵³

Notable across these depictions is the starting point: before being a racist killer, King was a small time thief from a blue-collar background who dropped out of high school. These three different versions of King's prison conversion from "quiet kid" to "racist killer" also emphasized the high rate of minorities within Texas' prison population and the likelihood that King suffered some unspeakable abuse at the hands of minorities while in prison. Temple-Ratson was the only reporter who insisted that King's racism, in an undeveloped "kernel," predated his time in prison. If the prison system itself was being critiqued here, so too were the minority inmates who, it was hypothesized, forced King to associate with white racists in order to protect himself from assault and rape. In this framework, the prison's minority gangs actually produced the white racist killer and white racism was read as a reaction to aggressive anti-white sentiments. The supposition here being that if minority inmates organize around identity-based differences, so too must white inmates. In this framework, white racism is defined as a natural reaction to minorities organizing around their own ascriptive differences.

One of the underlying assumptions articulated in Tom Brokaw's account of King's period of incarceration was that King's interest in white supremacy was part of a desire to "belong to something."²⁵⁴ In this statement, Brokaw suggested that before joining the Aryan Brotherhood King was socially isolated. However, there is evidence to suggest that King was not a social outcast in Jasper prior to his arrest. Joe Collins, the jury foreman during King's trial, was also a former classmate of King's. Collins explained to *ABC World News Saturday's* weekend audience that during high school, "he [King] didn't get into any trouble. He was always quiet, stayed to himself, but he also had friends."²⁵⁵ This minor discrepancy reveals a familiar myth in the making around King's persona. Within the news media's existing frame, racist and loner are intertwined character traits.

King appears to have automatically been read as an outsider, even though he may or may not have been a socially well-integrated teenager. "Mr. King seems abandoned by Jasper," Rick Bragg reported for *The New York Times* the summer of the killing, "even his father, Ronald King, has conceded his guilt . . . While people here acknowledge knowing John King, they refuse to have their names attached to any recollection about him, if they talk about him at all."²⁵⁶ By suggesting that residents who knew King "refuse" to be associated with any memories of his life, Bragg's report revealed that, while King may have been socially well integrated before the crime, after his arrest, collective memories of his belonging were actively erased. This process of erasure retroactively created King in the image of the loner — a chronology that goes squarely against the bulk of coverage that argued that King's isolation and lack of social status in part motivated the crime.

As these examples demonstrate, the cultural construction of King's identity hinged on the interconnected deployment of demonization and marginalization. This dual process was consistently illustrated with images of white power and violent crime. As King's case underscores, organized white supremacy, or hate groups, provide the visible signs that brand the figure of the hater. These loaded brands, with all their horror and clique, make the embodiment of hatred legible. They are one hook upon which stigma can hang.

MENTAL ILLNESS

Mental illness offers a similarly stigmatized point of reference within the cultural construction of the hater. Within the previously discussed personality traits that have come to characterize American haters lies a set of assumptions about mental health. Given the extreme nature of the hate crimes that garner news media and political attention, the people responsible for these crimes' commission clearly lack mental normalcy. Different hate crimes perpetrators have been variously described as being "violently prone mentally ill,"²⁵⁷ as being a "heavily drinking mental patient with a passion for guns,"²⁵⁸ as having "had a history of mental illness,"²⁵⁹ and as being an "emotionally disturbed man, extremely paranoid, possibly even schizophrenic."²⁶⁰ Of the top five most prominent hate crimes perpetrators, Buford O. Furrows, Jr.'s had the most significant history of mental illness. An analysis of Furrow's public persona demonstrates how stereotypes about the mentally ill participate in both amplifying the demonization of haters and medicalizing bigoted belief systems.

BUFORD O. FURROW, JR.

On the morning of August 10, 1999, Buford O. Furrow, Jr. opened fire at the North Valley Jewish Community Center in Granada Hills, California. He fired seventy bullets, non-fatally wounding seven people, including three children under the age of seven. Upon leaving the community center, he carjacked a Toyota and fatally shot a Filipino-American postal worker. Furrow then successfully eluded a police dragnet overnight, during which time he shopped for a baseball hat and took a cab from Los Angeles to Las Vegas, only to turn himself in and confess the next morning.

In the months leading up to the shooting, Furrow was on probation for an incident nine months prior at the Fairfax Psychiatric Hospital. Furrow had gone to the hospital to check himself in, telling police at the time that he had been “having suicidal and homicidal thoughts.” During the signing in process, Furrow seems to have changed his mind and ended up waving a knife at the staff members. He was arrested, pleaded guilty, and served a five-and-a-half month jail sentence followed by probation. Eighteen days after the shooting, in the hospital where Furrow’s victims were treated, then Gov. Gray Davis signed additional gun safety measures into law, including the most comprehensive ban on Saturday Night Specials — discounted, poorly made handguns most often associated with street crime.

Furrow’s case received in-depth, sustained news media coverage from the crime scene through to his sentencing.²⁶¹ In the media frenzy surrounding the case, Furrow emerged as a paradigmatic hater, whose identity and life history could be used to teach a range of different moral, political, and cultural lessons. For those interested in the case’s relevance to gun control laws, Furrow was described as “a deranged gunman”²⁶² who “used a former police gun to murder”²⁶³ and who had assembled an arsenal stocked with

“an Uzi submachine gun . . . an assault rifle, hand grenades and more than 5,000 rounds of ammunition.”²⁶⁴ For those interested in framing the case within debates over state policy on involuntary commitment for the “violent mentally ill,” Furrows was “the latest example of a violently prone mentally ill man who snaps and attacks innocent people.”²⁶⁵ And for those who saw the case as a straight forward hate crime, Furrows was “a hard core hater”²⁶⁶ and a “former Aryan Nations security guard.”²⁶⁷ Across these diverse characterizations, Furrow emerged as an amalgamation of different evils, weakness, and proclivities. A “heavily drinking mental patient with a passion for guns,” Furrow was a natural born folkdemon.²⁶⁸

Aside from *Newsweek*'s Richard Turner, who opted out of the pomp of psychological profiling jargon and instead simply stated that Furrows was a “dysfunctional loser,” most coverage of the crime succinctly described Furrows as “white supremacist.”²⁶⁹ Over twenty separate articles and segments used the exact phrase “white supremacist Buford Furrow.”²⁷⁰ More detailed character sketches drew attention to Furrows' nasty temperament, affiliations with white supremacist organizations, previous criminality, and affinity for weaponry. The repetition of the words “loser” and “loner” throughout these descriptions unsubtly mark Furrows as both isolated and inferior. “What distinguishes Furrow from other stressed-out loners,” argued *Newsweek*'s Andrew Murr, “is his avowed belief in the violent racism and anti-Semitism of the American Nazi movement.”²⁷¹

Widely distributed portraits emphasized that Furrows' fit into a “familiar” profile. Reporting for *NBC Nightly News* on August 11, 1999, Fred Francis explained, “a man whose personality profile is familiar, unfortunately. He was a loner with a bad temper,

racist views, and he did have ties to neo-Nazi organizations.”²⁷² On the same evening, Peter Jennings stated for *Word News Tonight*’s viewers that “Buford Furrow also fits a profile that is familiar. A loner with racist views and a bad temper. He is a convicted criminal with a history of violence and weapons violations.”²⁷³ Notably, both Jennings and Francis argued that Furrows’ profile was “familiar.” The use of the word “familiar” here situated what was a shockingly rare criminal act within a field of existing knowledge about the criminal, racist mind. This kind of framing relied on the supposition that racists are recognizable deviants. It also facilitated what would become a more bluntly stated critique of the State’s mental health and criminal justice systems. The critique hinged on the State’s perceived failure to recognize the full danger of Furrows’ “familiar” type and, in ignoring these obvious signs, wrongly granted Furrows parole.

Reports printed in *The New York Times* and aired on *NBC* and *ABC* all emphasized similar aspects of Furrow’s profile in ways that made the State’s mental health and criminal justice professionals appear negligent. Ted Koppel, reporting for *NBC’s Nightline*, explained that Furrow’s “trail led to a mental institution, prison, and hate groups:”

Buford Furrow was known to be a deeply troubled man who publicly proclaimed his racism and anti-Semitism and who had engaged in violent behavior before. He'd been identified. He'd been in and out of the justice system and in and out of the mental health system. Still, he was able to acquire massive quantities of weapons and ammunition.²⁷⁴

Similarly, Timothy Egan reported in *The New York Times* on August 14, 1999:

What the experts saw was a man who twice slashed his arms so deeply that they required stitches, drank alcohol until he blacked out and espoused a deep hatred for anyone who is not white . . . Mr. Furrow was an avowed racist who told a

court last year that he fantasized about committing a mass killing.²⁷⁵

These descriptions draw attention to Furrow's known mental health and alcohol problems, his explicit racism, and his history of institutionalization and incarceration. As both Koppel and Egan emphasized, the specifics of Furrow's derangement were "publically proclaimed," "identified," seen by "experts" and courts, and "espoused." Read together, these character sketches depict Furrow as an example of a known type and present his crime as something a properly punitive State could have prevented — if only a more preemptive penal logic had been properly deployed.

Furrow's public persona was further shaped by the two most widely circulated visual images of him. In one 1999 photograph, Furrow is being led, handcuffed, out of federal court in Las Vegas.²⁷⁶ In the second photograph, taken in 1995, he is standing guard at an Aryan Nation's outdoor event.²⁷⁷ Taken four years apart, Furrow's expression appears unaffected by time, space, and context. He has the same husky physique, the same slumped posture, the same only-slightly-amused half smile, the same Hitler mustache, and the same receding pale orange hairline. In handcuffs, Furrow wore a yellow polo shirt, jeans, and a fleece vest. At the Aryan Nation's event, he wore a custom made, royal blue uniform complete with an iron cross patch and leather bandolier. Despite differences in attire, Furrow's jovial expression in both pictures reads as decidedly inappropriate to anyone not sympathetic with The Aryan Nation's agenda. In handcuffs he was a criminal, in an Aryan Nation's uniform he was a deviant. He appears mentally unwell in both.

These two images prompted *The New York Times*' editorial desk to describe Furrow as, "something of a throwback, even among white supremacists." An outcast

even among outcasts, “Mr. Furrow embodies the attributes, amounting nearly to a stereotype, that have made it all too tempting to regard white supremacy as a fading peripheral interruption within normal society.”²⁷⁸ The use of the word “tempting” implies that such easy assessments should be resisted. The full editorial warned readers that a younger, hipper racist right was gaining momentum. However, as the preceding examples have demonstrated, the vast majority of news media coverage of Furrow failed to resist the temptation to regard him as a stereotype or as a “peripheral interruption.”

Further, the majority of law enforcement officials, politicians, newscasters, and journalists who spoke out against Furrow’s crimes reveled in crafting this stereotyping, or “profile,” and perpetuating it in unproblematized terms. Images of Furrow earning a degree in engineering and working for Boeing, two aspects of his biography that might have changed how he was pigeonholed, were not widely publicized. Despite *The New York Times*’ mild cautions, Furrow’s case was predominately represented in terms that supported the supposition, or “white racial nonsense,” that racism is a “fading peripheral interruption.”

DISCUSSION

Do you find any element of humanity in him? Do you find any explanation for what happened?

-Charles Gibson inquiring about John William King²⁷⁹

In *Capital*, Marx argued that the lumpenproletariat serves an invisible, yet essential, role within capitalist systems that seek to maximize the production of surplus capital. The pauperized underclass, Marx argues, is held in a constant state of neediness

on the social margins in order to fulfill the needs of the capitalist classes. To wit, “its [the lumpenproletariat’s] necessity is implied by their [the capitalist’s] necessity.” The hater’s degraded status appears to serve no immediate economic function. Yet, culturally constructing the hater as a member of the lumpenproletariat is one rhetorical tactic, within an arsenal of similar directives, that masks the role of empowered social actors, institutions, and ideas in reproducing our society’s identity-based system of inequality.

The criminalized, pathologized hater embodies modern day bigotry within an easily disposable, easily dismissible form. As Charles Gibson’s paired questions quoted in the above section epigraph underscore, the hater’s presumed lack of humanity substitutes for deeper engagement with the social causes of hate crimes victimization. Analyzing the figure of the hater and the content of his stigmatized identity reveals a cultural investment in marginalizing particular expressions of modern day bigotry that play into, but also exceed, stereotypes about poor white trash. The political stakes of this cultural investment are historically specific, ideologically inconsistent, and intimately related to the perpetuation of post-difference ideology.

Before unpacking the hater’s figurative powers, it is important to note that we know that the hater is a cultural construct because his defining characteristics, analyzed in the preceding sections, barely resemble empirically observed profiles of known hate crimes perpetrators. Sociological and psychological studies of hate crimes perpetrators undermine stereotyped popular images of the hater. This body of research demonstrates that hate crimes perpetrators are, by and large, disturbingly conformist. As psychologist Edward Dunbar explains, “less than five percent of hate crime perpetrators were identified as members of organized hate gangs or associations.”²⁸⁰ Similarly, The

American Psychological Association has concluded that the majority of hate crimes perpetrators “do not fit the stereotype of the hate-filled extremist.” Instead, “they are average young people who often do not see anything wrong with their behavior.”²⁸¹ Along similar lines, it is worth reiterating that as the vast majority of all recorded hate crimes are minor offenses perpetrated against property, not against people, these crimes’ perpetrators are not hardened, psychopathic murderers, so much as they are petty vandals and macho teenagers. Given these findings, the hater appears to be a clever news media construct whose amplified demonization mirrors both stereotypes about poor white trash and reflects overarching trends in the recent history of reporting on crime.

In order to understand the significance of the hater within a society that actively seeks to define itself as being “post-difference,” the intersecting processes of intra-white stereotyping and neoliberal constructions of crime are both essential. In explaining how the terms “hillbilly,” “redneck,” and “white trash” function as racial markers, anthropologist John Hartigan, Jr. argues that these degraded white identities become receptacles within which to dump the remainders of racism. “These are the figures whites use to delimit an attention to the subject of racism,” Hartigan explains, “consistently, these are the images and people whites turn to when they need to think about or are confronted with the reality of racism in this country.” Hartigan further argues:

Part of what the epithet white trash expresses is the general view held by whites that there are only a few extreme, dangerous whites who are really racist or violently misogynist, as opposed to recognizing that racism is an institutional problem pervading the nation and implicating all whites in its operation. In this naming operation, ‘bad’ whites perform as examples by which the charges of racism can be contained.²⁸²

As these figures work against a broader recognition of racial and racist social forces, Hartigan suggests that recognizing “the important work these stereotypes perform in maintaining a prevailing image of whiteness as racially unmarked and removed from the blot of racism” is a critically important task.²⁸³ Representations of haters offer one specific point of entry into this process of intra-white stereotyping and its embeddedness within post-difference thinking.

However, fully comprehending the figure of the hater’s cultural and political work within the public sphere requires attention to more than class-based stereotypes. Where whiteness studies has demonstrated that stereotyped images of the white underclass have been made to carry the stigma of contemporary racism, my research reveals a more multifaceted cultural construct being asked to do the same work of removal. While haters are certainly depicted as being white trash, they are also the carriers of non-class-based modes of deviance: their criminality, mental illness, hate group membership, and questionable manhood compete with their economic impoverishment as signs of stigma. These representations perform tolerance through tough-on-crime rhetoric that is inflected with not only classism but also ageism, sexism, and indifference towards the mentally ill. This blending of biases is best understood as nested within historically specific shifts within representations of crime.

Recent scholarship from the fields of cultural and critical criminology, particularly the work of criminologists Vincent Sacca, David Surette, and Robert Reiner, has shown that since the late 1960s, representations of crime generally have become increasingly dichotomized between victims and perpetrators and increasingly skewed towards hyper-violent crimes. This body of scholarship demonstrates that before the

mobilization of tough-on-crime politics and the institutionalization of a victim's rights agenda, news stories about crime were more attentive to perpetrators' perspectives.²⁸⁴ Since the late 1960s up until our current economic crisis, representations of criminals became increasingly less sympathetic in ways that ideologically legitimated neoliberal crime policies, which include funding an increasingly putative criminal justice system and expanding law enforcement and security industries.²⁸⁵

As criminologist Martin Innes explains, the news media amplifies the demonization of perpetrators.²⁸⁶ This process of amplified demonization tends to tread along familiar cultural pathways. "Ideal type criminals," argues criminologist David Altheide, are often "members of the despised and powerless groups in society."²⁸⁷ The cultural construction of the hater falls within the purview of this overarching shift within representations of crime and criminals generally.

Haters, like other criminals, tend to enter into the public sphere only if they have committed extreme, violent offenses. Once they become objects of public fascination, they are depicted in ways that amplify their demonization. The hater stands at this crossroad between images of the criminal and images of the white underclass. As the most well-articulated and most publically punished embodiment of modern day bigotry, the hater's figurative powers draw on existing neoliberal suppositions about both the white underclass and about violent crime.

CONCLUSION

Ultimately, this chapter problematizes hate crime perpetrator's culturally constructed monstrosity. I aim to denaturalize the way in which particular embodiments

of white bigotry bear stigma. While haters are seemingly irredeemable cultural figures, acknowledging the nasty stereotypes that underwrite their demonization is a necessary means of fully conceptualizing how intangible expressions of violence thwart our efforts to combat bigotry and promote tolerance. In knowing this figure we are less likely to accurately comprehend the reality of bias-motivated victimization in our everyday lives. Or acknowledge the actionable seriousness of non-bodily expressions of bias-motivated harm. We are, however, encouraged to perpetuate familiar stereotypes about class, mental health, age, recidivism, and extremist activism. This process of stereotype affirmation does little good for the necessary, difficult task of mitigating identity-motivated harms. Indeed, the fuss and drama surrounding this figure hints at a broader disenchantment with the project of promoting tolerance. As the next chapter will elaborate, the cultural construction of popular hate crimes victims is similarly crafted to bolster the ideological mandates of a post-difference worldview.

CHAPTER FOUR

“I WISH WE WERE ALL THE SAME COLOR”: *COVERING** DIFFERENCE WITHIN REPRESENTATIONS OF HATE CRIMES VICTIMS

It is without question that articulations of victimization have become an important cultural device that arguably masks the problem of real victimization.

-Sandra Walklate, *Imagining the Victims of Crime*

INTRODUCTION

On January 16th, 1992 *The New York Times* published an article titled “Young Bias-Attack Victim Tries to Laugh Off the Pain.” Twelve-year-old Bryan Figuero, quoted in the chapter title, was the “young” victim. “On his way to school on Monday morning,” reported *New York Times* journalist Maria Newman, “[Figuero] was set upon by several teen-agers who roughed him up and smeared his face with white makeup.” Figuero described being kicked, punched, and feeling that the menacing teenagers were “laughing and making fun of my culture.” In reporting on the crime, Newman caught up with Figuero, his mother, Diane Figuero, and his best friend, eleven-year-old Ahmed. During the interview, Figuero stated, “I wish we could all be the same color.” In response, Figuero’s mother inquired, “and what color would that be?” “Maybe a little bit of orange,” Figuero decided. Ahmed instead chose turquoise. Perhaps “a collage, like Star Trek” would be the ideal universal skin color concluded Figuero’s mother. At which point she joined the boys in “laughter.”²⁸⁸

* When the word *covering* appears in italics, I am using it to refer to the process of managing a stigmatized identity trait, not in the more traditional journalistic sense of “reporting on” or “coverage of.”

Moments like this matter to the cultural history of hate crimes because they draw to the surface the often-submerged consequences of recognizing hate crimes victims within a post-difference frame. In Figuero’s case, being targeted because of his “culture” sparked a psychological desire to eviscerate visible differences in skin color. His wish that we could all be “the same color” is itself a longing, not for color-blindness, but for the eradication of visible differences. The element of humor stems from the two boys’ outlandish choice of colors, orange and turquoise. Where the older teens used humor to menacingly make Figuero the butt of their sadistic ethnic joking, Figuero used humor recuperatively. For the two boys, this kind of joking can be read as a plausible sign of their emotional triumph over trauma. At least this is how *The New York Times*’s journalist perceived the situation. But, the content of Figuero’s longing — the wish for sameness — is a mark of our political and cultural failure to combat bigotry and promote tolerance in ways that unconditionally acknowledge both the persistence and meaning of ascriptive differences in American life. Within the public sphere, hate crimes victims are depicted in terms that contribute to the reification of this failure. While narratives about the nation and about haters contain within them post-difference suppositions, stories about prominent victims make the problematic nature of these ideological patterns even more readily apparent.

This chapter analyzes how the mainstream news media *covers* the significance of ascriptive differences within representations of hate crimes victims. The term *covering*, as defined by sociologist Erving Goffman and applied more recently by legal theorist

Kenji Yoshino, is used here to label the practice of toning down a disfavored identity trait in order to conform to social norms.²⁸⁹ *Covering* traditionally refers to adaptive behaviors utilized by individuals to downplay their own potentially stigmatizing attributes. I adapt the term *covering* to refer to a specific set of rhetorical tactics deployed by the mainstream news media in reports on hate crimes victims. “In our increasingly diverse society, all of us are outside the mainstream in some way,” explains Yoshino, “nonetheless, being deemed mainstream is still often a necessity of social life.”²⁹⁰ Yoshino argues that countering the social compulsion to *cover* should be at the forefront of contemporary civil and minority rights platforms because the ability to fully express mutable differences is a fundamental, yet easily dismissed, human right. Compulsory *covering* can be understood as a pervasive form of alienating violence, especially when it is systematically practiced by the news media in depictions of minorities. “The notion of alienating violence,” explains sociologist Jamil Salmi, “refers to denying a person the right to psychological, emotional, cultural, or intellectual integrity.”²⁹¹ Mainstream depictions of hate crimes victims are rife with alienating denials that reaffirm post-difference ideology.

In fitting the reality of hate crimes victimization within a post-difference worldview, the mainstream news media utilizes a closely related set of *covering* narrative devices. These rhetorical tactics include the infantilization and desexualization of homosexual hate crimes victims; giving voice to color-blind, forgiving victims of racially motivated hate crimes; and giving voice to patriotic victims of anti-Arab/Muslim hate crimes. Each of these tactics downplays the significance of identity-based differences in ways that bind hate crimes victimhood to performances of post-difference citizenship. I

define “post-difference citizenship” as the process whereby members of minority groups and their allies make claims on the state by condoning post-difference ideology.

In unpacking the content of the rhetorical tactics listed above, I observe that hate crimes victims are produced within the public sphere in ways that nourish a post-difference worldview. By contributing to the robustness of post-difference thought, these representations undermine the relevance of contemporary civil rights and minority rights endeavors, re-victimize actual hate crimes victims, and bolster retributive criminal justice policies. Given the underlying politics of these cultural tendencies, I argue that hate crimes victimhood is constructed through processes of *covering* difference. When hate crimes victims are made visible to mainstream audiences, the aspects of their identity that are perceived to be mutable are *covered*. Their differences are downplayed. Overall, this is a story about the limited cultural terrain within which members of minority groups gain access to victim status.

This chapter participates in ongoing debates within the fields of victimology, harm studies, and research on the post-civil rights era. I put sociological and psychological findings on hate crimes victimization into dialogue with critical victimologists Basia Spalek’s and Sandra Walklate’s recent work on the state’s role in defining victimhood and citizenship. I then apply insights from these two debates to generate new theory of the cultural context within which social harm circulates.²⁹² Ultimately, I highlight the myriad ways in which cultural production and political speech are both implicated in the perpetuation of hate crime’s social harm.

WHO SPEAKS FOR HATE CRIMES VICTIMS?

One of the most salient shared characteristics of “popular” hate crimes victims is death: all of the most well-known hate crimes victims have been murdered. This happens as a result of the news media’s tendency to normalize extreme cases, thus representing the issue of crime generally, and the issue of hate crimes more specifically, as problems of extreme violence. One consequence of this spectacularly morbid reporting trend is that victims’ own self-representation is not part of the everyday epistemology of hate crimes victimization. In place of self-representation, the public gets to know victims of hate crimes through information shared by law enforcement officials, actors within the criminal justice system, and through the victim’s friends, family members, and advocates. These more intimate associates of the victim have access to what can cynically be described as grief capital. Social actors savvy enough to rally grief capital exert an, albeit limited, agency within media framing of their loved-one’s case, solicit vocal public support for legislative action, and apply public pressure during criminal proceedings.

A taught flirtation between these actors’ interest in the media and the media’s interest in these actors develops over the lifespan of the case. The most adept grief capitalists claim voice on behalf of their victimized loved ones within legal, political, and cultural fields and are able to change the political content of their message. Overtime, spokesmen for popular hate crimes victims can, if they so choose, revise their public message. Some of the most publically visible spokesmen for hate crimes victims, including the families of both James Byrd, Jr. and Mathew Shepard, underwent processes of radicalization. After verdicts were reached in each criminal trial, these spokesmen shifted from espousing a universal message about the tragedy of crime and began, in

more partisan tones, to position Byrd and Shepard respectively as martyrs for minority rights. This pattern suggests a tension between winning sympathy from the broadest possible audience, which translates into pressure for a harsh verdict during the trial phase of the crime's public life, and then creating an enduring cultural memory of the victim within particular social movement circles. However, once a victim has gained popularity, his or her spokespeople are not able to control fictive or journalistic reimaginings — the victim, as a known cultural figure, is subject to and subject of multiple, creative reinventions beyond their loved ones' preferred framing.

“MATT DID NOT FLAUNT HIS SEXUALITY”: VICTIMS OF HOMOPHOBIC AND SEXUAL-IDENTITY BASED HATE CRIMES²⁹³

No single hate crime victim has been subject to and the subject of more cultural visibility than Matthew Shepard. Shepard's exceptional case is best understood as nested within a broader contest over visibility and victimhood. As sexual orientation and gender-identity are the two most contested categories within anti-hate crimes laws protections, I will begin by examining how this diverse group of victims is portrayed within the public sphere. The debate over whether to include language pertaining to sexual orientation and gender identity within anti-hate crime laws is an important backdrop to these victims' political and cultural visibility, as is the history of gay rights activism in the U.S.

In the late 1980s and 1990s, the ability to both politicize and publicize victims of sexual-orientation and gender-identity motivated hate crimes became tentatively possible. During this period, strong opposition from the Religious Right and from a vocal neo-conservative “family values” platform confronted the recently mobilized gay rights movement. The legal status of sexual minorities was actively contested across the entire

political spectrum. New patterns and practices of visibility were being met with firm denials of full citizenship. In popular culture, out gay and lesbian sitcom characters and celebrities were, for the first time, reaching mass audiences. Meanwhile, radical activists in Act Up and Queer Nation were staging acts of civil disobedience to raise awareness about the AIDS epidemic, anti-gay violence, and prejudice in the media. Despite this heightened visibility, even the most basic equal rights amendments securing non-discrimination in employment and housing were running aground against staunch political opposition.²⁹⁴

While anti-hate crimes legislation generally enjoyed bipartisan support prior to President George W. Bush's election in 2001, the inclusion of sexual orientation and gender identity under the protected group membership categories (i.e. race, ethnicity, and religion) created political static at both state and federal levels. In order to avoid being perceived as supporting "the gay lifestyle" or affording "special" protections to homosexuals and gender deviants, the majority of states that passed anti-hate crime laws in the 1990s chose to exclude the category of "sexual orientation" from their legislation. Of the twenty-two states that passed anti-hate crime laws in the 1990s, only nine states chose to include sexual orientation in their statutes and an additional five states found their amendments effectively blocked or revised to delete the phrase "sexual orientation." By enacting The Matthew Shepard and James Byrd, Jr, Hate Crimes Prevention Act (HCPA of 2009) on October 22, 2009, President Barak H. Obama granted federal protection to victims of hate crimes motivated by sexual orientation and gender identity who had previously been excluded from state-level legislation. In order to resist

opposition, the HCPA of 2009 was folded into the National Defense Authorization Act for Fiscal Year 2010, H.R.2647.

Prior to the HCPA of 2009, legislators excluded the categories of sexual orientation and gender identity from anti-hate crimes laws despite the Justice Department's own findings. Research conducted by the Justice Department in 1990 found that homosexuals were a highly victimized population that was underserved, if not further victimized, by law enforcement officials. Resistance to evidence of homophobic victimization was particularly pervasive in Washington. The Justice Department suppressed its own initial exploratory report on law enforcement's ability to respond to bias-motivated crimes. The decision to suppress the report came immediately after news media outlets leaked the report's conclusion that "homosexuals are probably the most frequent victims of hate violence in America today."²⁹⁵

As gay and lesbian victims were being written out of the concept of hate crimes legally, the battleground for inclusion moved into hate crime's cultural and political life. In this contest for control over the meaning of hate crimes, or the belongingness of homosexuals under the concept's umbrella, the figure of the victim was singularly essential. But, the process of selecting an ideal-type homosexual, transgender, or transsexual victim — one who would appear both innocent and sympathetic to a mainstream audience — was problematic. The limited coverage of these victims focused largely on single, young, white gay males, the most prominent example being Matthew Shepard.²⁹⁶

More than any other single hate crime, Shepard's 1998 murder captured news media attention, activist energy, and political clout. Labeled a martyr for gay rights,

Shepard was mourned in vigils nationwide, which attracted both adamant support and equally adamant protestation from the Religious Right (see GodHatesFags.com).

Shepard's death became a rallying call for a number of celebrities and the subject of multiple news specials. His death was creatively commemorated by Ellen DeGeneres, Barbara Streisand, Melissa Etheridge, Elton John, The Tectonic Theater Project, and MTV, among others. Outside of Hollywood elites, a foundation exists in his honor and Lambda grants college scholarships to openly gay students in his name. As Shepard remains the paradigmatic homophobic hate crime victim, understanding the content of his mediated persona reveals a great deal about the fraught dynamics of politicizing anti-gay hate crimes victimhood.

Aspects of Shepard's personality, life history, and physical comportment have all been rallied as character evidence in the court of public opinion. In shorter television news segments about the crime, Shepard was described as "the gentle young man from Wyoming"²⁹⁷ and as "the gay college student"²⁹⁸ with a "clean-cut image."²⁹⁹ "Kind" and "polite," were the first two words that came to the mind of the bartender who served Shepard on the night he was killed. During a *20/20* broadcast hosted by Diane Sawyer, the bartender elaborated, "very few people do you find in a bar that say, 'please,' say 'thank you' religiously. Matthew did that."³⁰⁰ These short descriptions mildly amplify Shepard's claim to innocence by noting that he was open about his sexual orientation, productively engaged in higher education, in possession of a tidy personal appearance, and exceptionally well-mannered.

It is important to note at this point that Shepard, like the other most well-known hate crimes victims, is a murder victim. As such, Shepard is a mute cultural figure. In the

inevitable absence of Shepard's own voice, Shepard's parents were given voice to speak on their son's behalf. The selection of heterosexual parents as spokesmen for victims of homophobic hate crimes, instead of lovers or gay and lesbian friends, is a primary tactic in shaping cultural memory of these victims.

Longer profiles of Shepard further magnify his innocence by erasing his history of consensual gay sex, by describing him in child-like terms, by highlighting his conformity to heterosexual norms of self-presentation, and by focusing attention to his role as son within a heterosexual family. Shepard tended to be remembered publically as a "sensitive child" and as "a young man with dreams." In reporting on Shepard's funeral for NBC's *Saturday Today*, Roger O'Neil paraphrased Dennis Shepard, Matthew Shepard's father, saying, "he made no mention of his son's homosexuality . . . But, as the young boy's mother, Judy, sobbed, the father spoke not of hate, but his son's loving heart."³⁰¹

Similarly, during a *Dateline* news special dedicated to Shepard's case aired on February 5, 1999, Katie Couric noted, "Matt did not flaunt his sexuality."³⁰² "My son, Matthew paid a terrible price to open the eyes of all of us who live in Wyoming, the United States and the world," implored Dennis Shepard while delivering his victim impact statement, "you [the jury] may have prevented another family from losing a son or daughter."³⁰³

Each of these statements focuses attention on Shepard's role as child within a heterosexual family. Despite being twenty-one years old at the time of this death, Shepard was still described as a "young boy."

Stories about Shepard being suspended in a state of perpetual immaturity were woven into subtle arguments about his claim to innocence. In the same *Dateline* special

mentioned above, Katie Couric interviewed Judy Shepard, Matthew Shepard's mother.

The interview cast Shepard in the role of winsome Pater Pan:

Couric: The many ironies of Matt Shepard's star-crossed life are not lost on his parents, beginning with his physically small stature. When he died, he was little more than five-two and 105 pounds . . . He was always sort of a scrappy little kid, wasn't he? A bit of a fighter?

Ms. Shepard: Growing up, you know, the small size, to see everybody else grow up bigger than he was. He had braces when he was 13. Well, when he — when he died, he still had his braces on. Everything seemed to take longer for him.

Couric: While he didn't excel at sports, he liked camping and fishing. And his parents say that from an early age, Matt was drawn to theater.³⁰⁴

The emphasis on Shepard's small physical build and delayed puberty work against narratives of the night of the crime, rallied by the defense, that cast Shepard in the role of sexual aggressor. In his mother's memory, directed by Couric's existing sense of the crime and of Shepard as an increasingly relevant cultural figure, Shepard's homosexuality was expressed through his interest in theater — not his interest in sex with other men. In this quotation, Shepard's gayness fit into existing stereotypes about male homosexuals being more theatrical than athletic. But, he was not so gay as to forgo the masculine fun of fishing and camping. These examples illustrate that as Shepard became an iconic hate crimes victim he aged backwards from a college student out drinking to a stunted son being mourned by his parents.

Similarly, descriptions of homophobic hate crimes victim Billy Jack Gaither mirror representations of Shepard. Gaither, like Shepard, was a comparatively prominent hate crimes victim. He was violently killed less than a year after Shepard, which was still well within the peak period of hate crimes new coverage nationally. Like Shepard,

Gaither's murder was reported on by numerous national news media outlets and became the subject of President William J. Clinton's public condemnation. Both Shepard's and Gaither's claims to innocence were predicated within national news media reports on each man's role as good son and non-flamboyant homosexual. Each man's gayness was determined by non-sexual habits; where Shepard was described as being naturally drawn to theater, Gaither's home decorating skills were duly noted.³⁰⁵ Gaither's choice to adorn his bedroom with pink curtains and *Gone With the Wind* memorabilia were loaded details within his perceived performance of suppressed homosexuality.

Coverage of Gaither's case focused attention on his role within his parent's household. Numerous reports explained that the thirty-nine-year-old Gaither lived in his childhood home in order to provide care to his elderly parents. "Until the day two weeks ago when he was beaten to death and burned, Mr. Gaither lived with his disabled parents in their white clapboard house," reported David Firestone for *The New York Times* on March 16, 1999, "[Gaither] tended to their needs, cooking dinner, and cleaning up."³⁰⁶ "Billy Jack Gaither was a devoted son," explained Jane Pauley during an NBC *Dateline* special aired on March 10, 1999, "he had a steady job, cared for his elderly parents, went to church."³⁰⁷ "He was a real nice," remembered one local woman during an interview with *The New York Times*' Kevin Sack, "loving boy, good hearted."³⁰⁸ Ruminating on his son's cultural memory, "Mr. Gaither said he hoped his son would not be remembered as a gay murder victim, but as 'one of the finest sons a man could want,'" reported *The New York Times* on August 6, 1999.³⁰⁹

Beyond being a devoted son, reports highlighted Gaither's wholesome lifestyle. Significantly, Gaither's decision to keep his sexual orientation private from his family

was positively incorporated into stories about his being a good son and devout Christian. In an ABC *20/20* special dedicated to Gaither's case aired on March 10, 1999, John Quinones reported that Gaither was a "deeply religious man who sang in the church choir, loved country music, and dancing, and just happened to be gay." One local woman interviewed for the same *20/20* special elaborated, "[Gaither] wasn't ashamed of who he was, but he wasn't flamboyant about it."³¹⁰ "A few friends knew that Billy Jack was very discreetly gay," explained journalists Daniel Pedersen and Arlyn Tobias Gajilan in a March 15, 1999 article for *Newsweek* titled "A Quite Man's Tragic Rendezvous With Hate."³¹¹ Similarly, *The New York Times*' Editorial Desk on March 9, 1999 explained that Gaither "never troubled his devoutly Baptist parents with the truth about his homosexuality."³¹² The phrases "just happened," "very discreetly," and "never troubled" all underscore Gaither's decision to put his commitment to his parents over-and-above expressions of his sexual orientation.

A more detailed article on Gaither's family life further relates his role as good son with his choice to "not flaunt" his homosexuality. Reporting for *The New York Times* on March 16, 1999, David Firestone stated that Gaither's parents were unaware of their son's homosexuality:

His parents swear they had no idea he was gay, and his father, Marion Gaither, is still half in denial, desperately pointing out that his son once had a girlfriend in Birmingham whom he almost married. Mr. Gaither's parents had barely absorbed the horror of his gruesome death before they were forced to learn the motive for his murder, and the secret life that he had led for so long. They knew him as the kindest of their four boys, the one who read his big illustrated Bible every night before going to bed, who never came home late on those rare occasions when he did go with friends to one of the local bars (all of them straight).

‘If he was gay, he sure never showed it,’ his mother, Lois Gaither, said this morning. ‘He never flaunted himself as being gay or talked about it. And whether he was or not, it don't make me love him any less. He was my young'un.’ She added, in a kind of rueful acknowledgment of the truth, ‘Whatever he did, he never brought it home.’³¹³

This report depicts Gaither in child-like terms. He is remembered for being devout from a young age and for protecting his parents from his sexual orientation. The image of Gaither as a “young-un” reading an illustrated bible nightly underscores a perverse cultural tendency to idealize desexualized, infantilized homosexual victims of hate crimes.

In renderings of both Gaither and Shepard, the innate innocence of childhood is parlayed into a narrow image of victimhood. Despite being adults, both Shepard and Gaither were remembered primarily for their role as children within straight families. Read together, these narratives situate the problem of homophobic hate crimes within the parameters of heterosexual family life. In doing so, they distinguish between an essentialized, acceptable gay identity, which is characterized by mild effeminacy, and irredeemable homosexual sex. By reiterating that Shepard was drawn to theater from an early age and that Gaither used interior decorating as a creative outlet, these narratives reproduce stereotypes about gay men’s kitsch sensibilities. Ultimately, these reports amplify Shepard’s and Gaither’s claims to innocence by celebrating the fact that neither victim flaunted his sexuality.

The tacit support for not “flaunting” affects which victims are and are not the subject of public recognition. National political figures and the national news media have yet to extend in-depth, individual attention to victims who are lesbians, bisexuals, people

of color, intersexed people, people in homosexual relationships, people who have a history of participation in gay and lesbian “lifestyle” activities and associations, or elderly homosexuals. These victims’ sexuality and gender identities disrupt stereotypes and call attention to the intersectional nature of society’s identity-based privileges and oppressions. As such, their experiences of victimization do not fit within existing news themes about hate crimes or within well-mobilized, resource-rich political projects. This complex marginality means that these victims’ plight remains largely invisible in the public sphere. Advocacy organizations, documentary and independent filmmakers, and a small handful of academics draw a more limited audience’s attention to these victims. The most highly acclaimed example being the 1999 Academy Award winning film *Boys Don’t Cry*, which dramatized the circumstances leading up to the murder of transgendered man Brandon Teena.

Despite being one, if not *the*, most highly victimized population, violence against transsexual, intersex, and transgender people is rarely afforded national attention, as in the exceptional, and graphically violent, murder cases of Brandon Teena, Gwen Guerro, and, most recently, Angie Zapata. Despite the tremendous violation suffered by Teena, Guero, and Zapata, public debate over these cases equivocated between discourses of sympathy versus victim precipitation. If extended, sympathy was doled out in stingy allotments. These victims’ transgression of gender norms was read as discrediting. Their ability to achieve innocence was tarnished by their performance of gender (read as a lie), which mismatched their biological sex (read as truth). They were also embedded within narratives about desire and sex, where they were read as seductive, deceptive, and victimized.

Reporting for *The New York Times*, Dan Frosh titled his story on Zapata “Death of a Transgender Women is Called a Hate Crime.” As the title reveals, what was most notable about Zapata’s killing was the fact that it was being “called” a hate crime. The article contains a biographic sketch of Zapata that juxtaposes her physical beauty — “her long hair, baby-smooth face and distinctive looks, Ms. Zapata cut a glamorous figure” — with details about her drug abuse, prostitution, and dishonesty. Unlike coverage of idealized, popular hate crimes victims such as Shepard and Gaither, coverage of Zapata emphasized her “troubled,” “lonely” past and placed her as an active agent in her own social rejection. Her killing may have been labeled a hate crime, but she was not depicted as a fully sympathetic, fully innocent victim.³¹⁴

The way in which Teena’s, Guero’s, and Zapata’s innocence was undermined by their gender identity and active sexuality begins to hint at the underlying cultural work involved with crafting the myths and images necessary to politicize certain, carefully chosen, victims of hate crimes. In the case of sexual-orientation and sexual-identity motivated hate crimes, being “innocent of sex” is perceived as a necessary determinant in being innocence of the crime. As literary scholar Beth Loffreda explained in her analysis of the Shepard’s case, “Matt was an innocent victim — of which there is no doubt — [that] doesn’t mean that we need to see him as innocent of sex, of desire; but in the minds of many I spoke to . . . the latter seemed to taint the former.”³¹⁵

“I THOUGHT ALL THIS RACIAL STUFF WAS OVER WITH”: VICTIMS OF RACIALLY MOTIVATED HATE CRIMES

Spokesmen for popular victims of racially motivated hate crimes similarly construct an image of themselves and their victimized loved ones as innocent of racial

difference. When victims of racially motivated hate crimes, or these victims' surviving relatives, are given voice within the public sphere, they tend to speak in color-blind terms. Spokesmen for these victims perform innocence of racial difference in three ways. First, these spokesmen define racism as a problem history has solved, except in the case of a few criminally bigoted individuals. Second, they prioritize forgiveness over anger. Third, they empty skin pigmentation of social meaning. Racism's social saturation and institutional lodging are notably absent from these narratives, as is emotional angst. When these victims' spokesmen connect their loss to struggles for civil rights, they do so through nonpolitical terms of inevitable sacrifice. The speakers who utilize these discursive tactics largely distance victims of racially motivated hate crimes from contemporary racial politics, thus affirming the salience of post-difference ideology.

Given the opportunity to speak to mainstream audiences, victims of racially motivated hate crimes define racism as an individual criminal problem, which history progressively resolves. When racism violently erupts into the present it is regarded with shocked surprise. For example, after the hate crime murder of twenty-six year old J.R. Warren on February 8, 2001, in Grant Town, West Virginia, Warren's closest friend told Ted Koppel on ABC's *Nightline* that "J.R was not killed because he came from a racist town. He was killed by two people who are part of an element which is not tolerant."³¹⁶ "Fighting back tears," the mother of fourteen-year-old hate crime murder victim Charlene Lovett was quoted in *The New York Times* on January 7, 2007, saying, "I never thought something like this could happen here in L.A."³¹⁷ In each statement racism was perceived to be both an individual criminal problem and a surprise.

Relatives of the most prominent racially motivated hate crimes murder victim, James Byrd, Jr, made similar public statements in the period leading up to the convictions of Byrd's three killers. After the convictions had been achieved and harsh sentences assigned, Byrd's relatives spoke out in more partisan political tones. However, during the period before the convictions when they were the subject of intense mainstream publicity, the Byrd family distanced themselves from contemporary anti-racist activism. "[Rene Mullins, James Byrd's daughter] says she didn't experience racial bigotry growing up in Texas," reported Gwen Iffil for *NBC Nightly News* on July 8, 1998, "Ms. Mullins, 'I never encountered racial matters one-on-one, in person.'"³¹⁸ In a *CBS Morning News* interview with Jim Axelrod aired on July 12, 1998 titled "Daughter of James Byrd Says Jasper Does Not Have Racial Problems," Mullins explained, "this is the first time I've ever encountered any kind of racial tendencies. I am 27."³¹⁹ "You know, it's not the color that did it to my father," Mullins argued later in the broadcast, "it was three individuals."³²⁰ Mullins' statements model color-blindness by defining the problem of racism within individual, criminal terms.

In a 1999 interview with *NBC Nightly News*, Jamie Byrd explained her emotional and intellectual response to her father's murder in similar terms. Listen for the echo of Rodney King's "why can't we all just get along":

Ms. BYRD: I know. It was just--I never would think anything would happen. I thought all this racial and all this stuff was over with, and I never did think anything like this would happen.

CURRY: How would you like--what--let me ask you this. After all that has happened, what do you come away with in terms of racism in America?

Ms. BYRD: Everyone needs to just come together and forget about black and white, and we're all the same inside. We have the same blood. And I just think it's--it's stupid to

still have this in today's 1999, going on another century. I just do not think that we should still go on with this.

CURRY: You don't think this is a symptom of everything that's happening in the world...

Ms. BYRD: Mm-hmm.

CURRY: ...but rather these particular people? Well, thank you. And I think, Jamie, that your father would have been very proud of your courage today.³²¹

In this quotation, Jamie Byrd struggled to find a language of generalization from the experience of losing her father to the experience of “racism in America.” She shifted, seemingly unprepared, between expressing frustrated surprise to advocating for color-blindness. The message from her own words is somewhat hazy; she seems eager to assert her own lack of prejudice and her personal inexperience with white racism. But, she was also, albeit with minimal clarity, issuing a wake-up call. Significantly, Curry read a more direct, less radical racial politics in the teenager’s misty conclusions. In Curry’s paraphrasing, Byrd’s murder was not reflective of society’s racial problems or, “a symptom of everything that's happening in the world.” Instead, the killing was simply the sorry outcome of “these particular people’s” deviant malady.

Beyond defining racism as an individualized criminal problem, those given voice to speak on behalf of racially motivated hate crime victims bask in forgiveness while shunning hatred. For example, after a Jamaican-American tourist was abducted and set on fire in Tampa, Florida in 1993, Milo Geyelin reported for *The Wall Street Journal* that the victimized tourist, Mr. Wilson, was “by all accounts remarkably devoid of hate.”³²² “I have no hate for no one tonight,” J.R. Warren’s mother asserted.³²³ Similarly, Renne Mullins stated on *CBS This Morning*, “there’s no hate in me whether you’re black, brown, blue, or pink. You know, it’s not the color that did it to my father. It was three individuals.”³²⁴ Unless we are talking about Sesame Street, Mullins’ cutesy insistence

that she does not hate people who are “black, brown, blue, or pink,” makes absurd the problem of skin color discrimination. Each of the statements listed above actively favors forgiveness over hatred. The rhetoric of forgiveness espoused by spokesmen for popular hate crimes victims, who are predominantly female, subtly distances these speakers from more overtly masculine, activist, and militant African American voices, such as the New Black Panthers. The refrains “there’s no hate in me” and “I have no hate” can also be read as affirmations of Christian theology.

Even victims of egregiously sadistic hate crimes have been publically quoted insisting on their lack of animosity. Roy Smith’s disturbing case is illustrative. Over a period of several years in the early 1990s in Colorado, an African American, Roy Smith, was the victim of severe racial harassment, which was ignored by local law enforcement agents. During the period of abuse, Roy Smith had acid poured onto his clothing, had dynamite thrown into his home, was attacked repeatedly by a neighbor’s dogs, was hit by a car, and was hung upside down, naked inside his own home and threatened with castration. The police file documenting these assaults was labeled and filed under the name “Nigger Roy.” “I have no hatred against none of them,” explained Smith during an episode of *20/20* dedicated to his case, “anyone that I thought was my enemies. I don’t hate any one of them. Hate ain’t any good. It tears you apart, and only the hater loses.”³²⁵

As these examples highlight, the cultural construction of racially motivated hate crimes victimhood creates rhetorical opportunities to further legitimize the post-civil rights era’s dominant white racial ideology: color-blindness. Spokesmen for these victims model post-difference citizenship through the use of three rhetorical tactics. First, they relegate racism to the social margins and to the outdated pages of history. Second, they

occupy a moral high ground in a quality of forgiveness that transcends anger. Lastly, they conflate actual differences in skin pigmentation with imaginary colorations, thus masking the social significance of skin color. While these tactics influence how hate crimes are understood within the public sphere, their saturation is itself notable. Obvious truths do not usually require constant verbal reinforcement. The reiteration of these themes within news media coverage of anti-African American hate crimes unintentionally highlights the real possibility of alternate readings of these crimes' meaning and significance, which have been pointedly articulated by groups such as the NAACP, The New Black Panthers, and by cultural figures such as Al Sharpton and Louis Farakan.

The brutalized figure of the victim of racial violence has historically functioned as a powerful motif in the African-American Civil Rights Movement, the archetypal model being the young lynching victim Emmitt Till. In accord with his mother's wishes, Till's corpse was shown to the public and photographed as an undeniable sign of racism's most visceral depravity. Images of Till's corpse were said to have "sparked" the African-American Civil Rights Movement.³²⁶ In contrast, victims of racially motivated hate crimes tend to be represented in ways that undermine the relevance of contemporary civil and minority rights work. When given voice to speak to mainstream audiences, spokesmen for these victims assuage white fears and white guilt. Victims of anti-Arab/Muslim hate crimes are depicted within the public sphere in ways that similarly ameliorate fear and guilt.

**“I LOVE AMERICA”: VICTIMS OF ANTI-ARAB AND MUSLIM HATE CRIMES AFTER
SEPTEMBER 11, 2001**

In contrast to representations of homosexual and African American hate crimes victims, the rhetorical strategies applied to anti-Arab and Muslim hate crimes is less intimately sympathetic to victims and less directly punitive towards perpetrators. Considering the sheer number of stories about the rise in anti-Arab and Muslim hate crimes in the wake on September 11, 2001, intuitively the victims and perpetrators of these crimes should have been included within mainstream discourse. However, victims and perpetrators of these crimes remained anonymous. Victims tended to be buried in mathematically impersonal narratives about “rising rates” and “troubling trends.”³²⁷ Meanwhile, perpetrators of these crimes did not become objects of public disgust. No rituals of status degradation were performed during the public adjudication of these cases.

Anti-Arab and Muslim hate crimes were not verbally condoned. But, unlike Byrd’s dragging or Shepard’s beating, the motivation driving Anti-Arab and Muslim hate crimes was comprehensible to mainstream audiences of news consumers. Politicians and newscasters spoke out against these crimes. But, they did not spend ink pondering “why” questions. The absence of individual Anti-Arab and Muslim hate crimes perpetrators and their victims from the public’s gaze suggests that these criminals actions, while reprehensible, were not unthinkable and that the victims of these crimes were difficult for mainstream American audiences to sympathize with.

The select few Arab and Muslim-American hate crimes victims whose stories received sympathetic publicity were hard working, fully assimilated, non-radical, loyal American patriots. These victims achieved sympathy through mediated performances of patriotism, labor, and consumption. News coverage of hate crimes victims Balbir Singh

Sodhi, Mr. Hasan, and Dean Hachem are illustrative. A few days after the September 11, 2001 terrorist attacks, Balbir Singh Sodhi was killed in Mesa, Arizona. He was an Indian Sikh who was perceived to be either Muslim or Arab by his assailants. In an *NBC Today* segment about the murder, Matt Lauer spoke with a friend of Sodhi's who explained, "he [Sodhi] called to his son in San Francisco, and he say, 'I want to go to New York to help those people to, you know, move those debris, all those things. And he said, 'No, daddy, you can't do that. This is a professional people who does those kind of work.'" Lauer concluded by reporting that Sodhi, heeding his son's advice, instead, "went to his local Costco to buy American flags for the gas station he owned. And before leaving, donated all of the money in his pocket, \$75, to a victim of September 11th fund. He was shot and killed less than an hour later."³²⁸

Descriptions of a Pakistani hate crime victim, Mr. Hasan, contain similar themes. Shortly after the September 11th, 2001 terrorist attacks, Mr. Hasan was murdered in Texas, leaving his family vulnerable for deportation. Representative Rush Holt (D, NJ) took a personal interest in the case and drafted legislation to help the family become United States citizens. Holt chose to advocate on behalf of the Hasan family because "they are working to make it in America. They're the kind of people we want in America." Mr. Hasan's widow, Durre Hasan, was also quoted publically saying, "they [neighbors] were very supportive and they came to my house and give me comfort . . . it is easier to work in America as a women. Nobody cares if you are a man or a woman."³²⁹ In this statement, Durre Hasan stakes a claim to post-difference citizenship by arguing that sex and gender differences no longer matter in the United States. This statement

covers the role of sex and gender differences within a U.S. context and then uses that *covering* as a launch pad for American exceptionalism.

As these examples underscore, victims of Anti-Arab and Muslim hate crimes tend to receive public attention when they give voice to patriotic sentiments, are perceived to be hard workers, and when they take action against terrorism through consumption. Overall, these reports draw attention to Arab and Muslim American voices that keep a positive outlook. “While acts of kindness don’t get as much attention,” lamented *ABC World News’s* Dan Harris during a September 27, 2001 report on retaliatory hate crimes, “Muslims say, even in times of tension, they’ve found decency, not bigotry, is the norm.”³³⁰

The *Wall Street Journal’s* detailed report on hate crime victim and small business owner Dean Hachem further highlights the cultural tendency to sympathize with pro-American victims of anti-Arab/Muslim sentiment. On March 13, 2002, The *Wall Street Journal* published an article titled “How A Rumor Spread By Email Laid Low an Arab’s Restaurant — It Said the Staff Was Jubilant on Sept. 11; Detroit Rallies Behind the Sheik, to No Avail.” Written by journalist Jeffrey Zaslow, the article detailed how internet slander, reportedly started by a local nurse, affected one Middle Eastern restaurant’s reputation and decreased business by a noticeable fifty percent. Zaslow described the restaurant’s patriotic décor, “American flags hang in the windows and around the dining room;” noted that Mr. Hachem had resided in the United States for over twenty-four years and had become an official U.S. citizen in 1985; and quoted Hachem stating, “I love America . . . Until you’ve been on the other side of the world, you don’t know to appreciate the United States, to kiss the ground here.” In conclusion,

the article related that “Mr. Hachem, meanwhile, has a request: If a nurse did see something in his restaurant, he wishes she would come to him. ‘I’ll ask her, ‘who did it?’ If someone really cheered, he should be in jail, because down the road, he could hurt our country.’”³³¹ In this statement, Hachem explicitly marked his Americanness by modifying the term country with “our” and articulating emphatic support for preemptive criminal justice policies designed to combat terrorism.

Hachem’s statements, read in conversation with the preceding examples, underscore the significance of expressed patriotism and anti-terrorist sentiment in defining Anti-Arab and Muslim hate crime victims’ claim to innocence. These victims’ ability to achieve sympathy was contingent upon a particular performance of Americanness that was pro-government power, unwaveringly positive about the United States, especially when in direct comparison to their country of origin, and eager to define citizenship in terms of work and consumption — not political participation. *The Wall Street Journal* article’s stated purpose was to expose the financial damage caused to Hachem’s restaurant by the false accusation. Yet in reporting on this economic malice, the article labored to amplify Hachem’s innocence by drawing in details about his citizenship status, patriotism, and support for preemptive, ideologically based law enforcement policies. These are all details that fit into an overarching pattern of defining which victims of Anti-Arab and Muslim hate crime deserve sympathy — all details that should arguably be irrelevant.

As these examples demonstrate, publically acknowledged victims of Anti-Arab and Muslim hate crimes were perceived to be patriotic workers, consumers, and members of assimilated families. Not only were they out heeding President George W. Bush’s

advice to shop the nation out of trauma, but they were buying American flags and donating to the New York relief effort. Despite the reported pervasiveness of anti-Arab sentiment during this moment in American history, which would have lent itself to substantive critiques of the broader socio-political context, publically audible victims of anti-Arab/Muslim hate crimes gave voice to a resoundingly pro-America message. Cultural anthropologist Nazia Kazi argues that Islamophobia is matched by an equally powerful cultural process of Islamophilia that celebrates representations of the “good” American Muslim. In her framework, stereotypes of Arab and Muslim Americans are binarily divided between “good” and “bad,” with goodness being contingent upon assimilation through labor and consumption.³³² As the examples analyzed above highlight, the victims of Anti-Arab and Muslim hate crime whose stories were deemed news worthy were all “good” Arabs.

VICTIMHOOD AND POST-DIFFERENCE CITIZENSHIP

The representational patterns described in this chapter have significant ramifications for understanding the relationship between post-difference ideology and the cultural construction of hate crimes victimhood. Where I have previously shown that representations of hate crimes legitimate a post-difference worldview, I now want to critically examine the social harm implicit within this cultural work. The conditional, exclusive process of recognizing who constitutes a sympathetic hate crimes victim described in this chapter contributes to rendering victim status inaccessible to the aching majority of everyday hate crime victims — who show up at the scene of the crime and in

life as politically complex, identity-laden, visibly different, and perhaps even unangelically miffed, unforgiving, or traumatized.

There is evidence to suggest that, as a society, we are miserly when it comes to empathizing with real hate crime victims. In a recent study of how young adults perceive hate crimes victims, sociologists Kellina M. Craig and Craig R. Waldo's found that "less than a quarter of all respondents indicated that victims of hate crimes were innocent." In essence, the overwhelming majority of young adults surveyed felt that the victims of hate crimes were implicated in the harm done to them. Similarly, sociologist Christopher J. Lyons argues that hate crimes victims are confronted by a wall of "social ambivalence" that is as likely to produce stigma and blame as it is to grant sympathy. For gay and lesbian victims in particular, Lyons' states that "sympathy is not evident."³³³

Within victimology's professional lexicon, ascribing blame to victims is termed "victim precipitation." Victim precipitation theory, while intellectually outdated, clearly still has a mass audience when it comes to defining the problem of hate crimes. As hate crimes are nested within social contexts, the prevalence of skeptical and accusatory attitudes towards victims troublingly suggests that victims cope with their experiences within a less than compassionate environment. Indifference, if not outright blame, is the norm. When victims are not perceived to be innocent, the way in which their colleagues, co-workers, classmates, and family members respond to them may worsen their experiences of victimization. This process has been labeled "secondary victimization" and it has been identified as one of the central harms caused by hate crimes. As Craig and Waldo explain, "responses to victims may represent a secondary form of victimization either through ignorance or rejection."³³⁴ The representational patterns I detail in this

chapter are part of the overarching cultural and political context within which this kind of ignorance and rejection retains legitimacy.

While secondary victimization may seem like an unintended consequence of unwieldy social and cultural forces, new research within the field of critical victimology posits a more functional relationship between defining victimhood and the state. Critical victimologists Basia Spalek and Sandra Walklate highlight the complex interplay between the state's investment in defining citizenship and its interest in controlling access to victim status. In elaborating the way in which our society has come to individualize emotionality, Spalek argues, "victims' needs have been framed and used by the government. . . victims' emotional reactions to the harms that they have experienced have been translated into individual need using the discourses of consumerism and active citizenship."³³⁵ "Victimhood has become elided with citizenship," Walklate explains. "In this sense victimhood is the status whereby the state, through increasingly subtle and not so subtle global and local processes is reasserting its power over citizenship," Walklate then insists, "victimhood is harnessed as a source of oppression in the interests of the increasingly diverse and hegemonic (capitalist) state."³³⁶

Spalek's and Walklate's assessments of the state's role in eliding victimhood with consumptive citizenship has disturbing implications for the way in which hate crime victims are represented within the public sphere. The state and the news media's involvement in designating who counts as a legitimate hate crime victim can be read, in part, as a process of renegotiating the terms through which minority constituents are able to make demands on the state. This renegotiation relegates more radical demands for structural, institutional changes to the margins while prioritizing criminological reforms.

As this chapter has underscored, difference is reduced to a meaningless liability within mainstream representations of hate crimes victimization. Given this post-difference premise, these representations implicitly question the logic of valuing identity-based differences as sources of positive identification and as sites of group action.

CONCLUSION

In an effort to illuminate the role of culture in circulating social harm, this chapter has uncovered the saturation of post-difference ideology within depictions of hate crimes victimhood. I find that cultural images of hate crimes victims offer one specific site where minority group members and their allies make status claims, not through an assertion of identity politics, but through a disavowal of identity politics.

The experience of hate crimes victimization is lived within both the actual moment of being victimized and again in the broader world of community, citizenship, and everyday life. Crime is a layered social experience that filters through cultural meanings. Cultural context is particularly crucial to hate crimes victimization because it delimits the terms of recognition and denial. Culture mediates between access to emotional and legal resources and the denial of these same resources. In covering popular hate crimes victims' mutable differences, the public sphere indirectly validates indifference towards everyday hate crimes victims and underwrites secondary victimization.

CONCLUSION
CULTURAL FUTURES FOR CHALLENGING HATE CRIMES

Evil should not be unrecognized merely because it is as banal as indifference.

-Simon Pemberton, "A Theory of Moral Indifference: Understanding the Production of Harm by Capitalist Society"

INTRODUCTION

This dissertation produces a cultural theory of hate crimes victimization. I have detailed the political content of widely distributed hate crimes narratives for two primary reasons. First, I have been engaged with the transdisciplinary project of articulating a cultural theory of a social problem. Second, I have used hate crimes narratives as a site within which to develop the construct post-difference ideology. I use the term post-difference ideology to label the dominant cultural tendency to publically condemn bigotry in terms that undermine the contemporary relevance of both ascriptive differences and identity politics. Post-difference ideology saturates hate crimes discourse in ways that deform the issue's meaning and warp its political relevance.

While hate crimes stories tend to be perceived as drawing awareness to current civil rights and minority concerns, my work underscores how these crimes' cultural elaboration instead occasions expressions of American exceptionalism and celebrations of our nation's inevitable march towards tolerance. Prominent white hate crimes perpetrators are demonized in ways that reify existing prejudices against convicts, poor white trash, and the mentally ill. Meanwhile, hate crimes victimhood is constructed in ways that *cover* these victims' differences, reify existing social relations, and assuage

white-straight-Christian guilt. In sum, mainstream political discourse and news media production are both culpable for the social harm attributed to hate crimes.

While my dissertation has been largely a project of critique and deconstruction, I want to conclude by examining some promising cultural futures for anti-hate crimes policy and by further theorizing the relationship between post-difference ideology, denial, and moral indifference. In considering how hate crimes stories can become a useful anti-bias technology, I pay special attention to a single poem: Mark Doty's "Charlie Howard's Descent."³³⁷ My close reading of this piece draws attention to the immense potential of subaltern and counter-discursive practices to redefine the hate crimes problem in ways that are of great value to the future of civil and minority rights in the U.S. Doty's work invites optimism that hate crimes stories can be told in ways that undercut the salience of post-difference ideology and that challenge moral indifference.

CULTURAL POLICY: HATE CRIMES STORIES AS ANTI-BIAS TECHNOLOGY

My research makes apparent one policy reform: tell different stories about hate crimes. In his 1999 book *The Holocaust in American Life*, historian Peter Novick interrogates the Holocaust's taken-for-granted educational value. "The problem with most of these lessons," argues Novick, "is not that they are wrong, but that they're empty, and not very useful." The same critical sentiment applies to mainstream stories about hate crimes. When the retelling of a brutal hate crime murder occasions vocal support for color-blindness, American exceptionalism, and retributive criminal justice practices, then the story lacks social utility. Not only are these stories of little value, they

are in and of themselves a form of alienating violence and a detriment to contemporary civil and minority rights efforts.

The problem presented by hate crimes could productively be culled for stories of greater social value. The representational patterns analyzed throughout this dissertation — which include normalizing extreme cases, *covering*, stereotyping, identifying scapegoats, and national myth making — are pervasive without being hegemonic. Post-difference ideology is omnipresent with mainstream depictions of hate crimes. But, it is certainly possible to see beyond these limiting rhetorical devices. As empowered social actors and institutions have chosen to write post-difference ideology into hate crimes stories, these same actors and institutions could revise their way into a new narrative landscape.

I am in favor of dismantling the dominant representational structures that build up a distorted image of hate crimes. If each hate crime story that has been told is understood as a window from which to observe the problem, I would like to see the entire house's fenestration redone. Mainstream audiences should be made aware of state-sponsored hate crimes, white-collar hate crimes, and environmental hate crimes with greater frequency. News producers should regularly incorporate contextual information about hate crimes' historical precedent and social underpinning during coverage of relevant cases. The issue of hate groups and hate crimes should be drawn apart to reveal the different kinds of harm each problem presents. Classism, ageism, and stereotypes about convicts and the mentally ill should be removed from anti-hate crimes discourse. Any form of *covering* hate crimes victims' ascriptive differences or masking these victims' political investments in minority rights should also be exiled from

mainstream hate crimes discourse. Actual victims and perpetrators should be given opportunities for self-representation and new anti-hate crimes policies should develop directly out of both groups' insights into hate crimes' causes and consequences. Where abundant attention to extreme cases has resulted in desensitization, we should ruminate on comparatively mundane hate crimes stories that rekindle empathy.

Importantly, advocates and allies can jump start this process without awaiting marco-level reforms. Advocacy organizations, including the Anti-Defamation League and The Southern Poverty Law Center, have already initiated projects that perform valuable cultural work, as have PBS and MTV. The Anti-Defamation League's "A World of Difference Institute" and The Southern Poverty Law Center's "Teaching Tolerance" curriculum both usefully focus on creating classroom environments that value student diversity and promote anti-bias learning objectives.³³⁸ Similarly, PBS's documentary film "Two Towns of Jasper," originally aired on "Point of View" on January 22, 2003, captures the racially-divided local response to James Byrd, Jr.'s death. The film integrates footage from all-white and all-African American film crews who each spent a year in Jasper, Texas examining the town's complex matrix of race relations, racial politics, and racial history. Utilizing this in-depth reporting, the film situates Byrd's murder within a previously unseen social milieu. Christine Choy and Renee Tajima-Pena's Oscar nominated documentary "Who Killed Vincent Chin?" accomplishes a similar level of sociological and historical depth.

Media conglomerate and mainstream teenage tastemaker MTV has also produced exceptional public service announcements, special reports, and documentaries that take on the issue of bias-motivated harassment and intimidation in teen life. In 2001,

MTV was under fire from both women's and gay and lesbian's rights activists to censor popular rapper Eminem. While the station was already engaged with anti-violence projects, it created additional anti-gay violence programming at the time to further distinguish between its own moral compass and that of the artists' whose videos it aired. As part of MTV's "Fight for Your Rights" campaign, the station produced and broadcast a documentary titled "Hate in the Hallways." "Hate in the Hallways" encouraged high school students to take a stand against "routinely ignored everyday abuse."³³⁹

In 2001, MTV also aired a series of brief public service announcements titled "MTV Fight For Your Right Snaps." By compellingly depicting scenes of everyday bigotry, these snaps encourage teens to take action. The spots are defined by a raw tone and uncomfortable banality. In one snap, a girl is shown crying softly in her bedroom. The agitated voices of her parents can be heard from another room saying, "What did I do wrong?," "Did I love her too much?," "You need to find the right kind of guy," "I am going to call a psychiatrist," "No daughter of mine could be a *dyke*." In another snap, two stylishly punk teenage boys are shown building a half-pipe together and then passionately making out. The screen reads "You Never Know." In another snap, a high school football player scratches the word "dyke" into his desk. In the next shot, an African American girl sits down at the same desk and adds "proud to be a" in front of the word dyke. In the final frame, her smile is defiantly broad.³⁴⁰ As these examples underscore, MTV's "Fight for Your Rights: Take a Stand Against Hate" campaign insistently drew the station's audience's attention back to direct action in everyday settings.

Part of what makes these snaps such a well-designed anti-bias technology is their narrow focus on low-level offenses and their modeling of everyday activist-heroism. In making public a range of small interpersonal moments, these snaps reveal the kinds of private anguish endured by teenagers whose identities fall beyond the bounds of their peers' and parents' normative expectations. As such, these snaps are useful provocations to empathize across lines of identity-based difference.

MARK DOTY'S "CHARLIE HOWARD'S DESCENT:" WRITING CONTEXT INTO HATE CRIMES STORIES

While I am strongly in favor of publicizing hate crimes as a problem primarily comprised of low-level offenses, it is possible to retain a focus on hate crimes murders while still illuminating the interconnectivity of individual hate crimes and socially diffuse expressions of bigotry. Acclaimed American poet Mark Doty's 1986 Theodore Roethke Prize winning poem, "Charlie Howard's Descent," eloquently relates the story of a hate crime murder as an extension of a life lived in the ever-present company of homophobia. Doty's poem sheds light on the immense potential for subaltern and counter-discursive practices to reinvent the meaning of hate crimes in profoundly relevant ways for minority and civil rights futures.

Doty's poem is based on the true story of Charlie O. Howard. On July 7, 1984, Howard was killed at the age of twenty-three by three teenage boys between the ages of fifteen and seventeen. The teenagers threw Howard off of a bridge into the Kenduckeag Stream in Bangor, Maine. Unable to swim, Howard drowned. Howard was wearing a woolen, rainbow colored poncho the night he was killed. On July 13, 1984, *The Boston Globe's* Michael Kranish reported that the teenagers had "bragged afterwards to a friend

that they ‘jumped a fag,’ ‘beat him up, ‘and threw him into the stream.’”³⁴¹ As part of a plea bargain arrangement, the three assailants pled guilty to a reduced charge of manslaughter. One was released after serving two years; another served only twenty-two months.³⁴²

Doty begins his poem with the scene of Howard falling: “Between the bridge and the river/ He falls through/ a huge portion of night;/ it is not as if falling/ is something new. Over and over/ he slipped into the gulf/ between what he knew and how/ he was known.” The word “fall” takes on a double meaning. Doty connects the fall that occasioned Howard’s death with the multitude of daily “falls” commissioned by the difficult space between how Howard perceived himself and how he was perceived by others —the classic experience of living with an unmanageable stigma.

Doty continues:

What others wanted
opened like an abyss: the laughing
stock-clerks at the grocery, women
at the luncheonette amused by his gestures

What could he do, live
with one hand tied
behind his back? So he began to fall
into the star-faced section
of night between trestle

and the later, because he could not meet
a little town’s demands,
and his earrings shone and his wrists
were as limp as they were.

In this passage, Doty rhetorically questions Howard’s life chances and life choices. The impossible choice between self-expression and self-denial lies at the core of Doty’s question: Howard can either be himself and “fall” or live a life impaired by others’

suffocating demands. For Doty, this is clearly not a choice at all so much as an incitement to “fall” with flair.

In the next passage, Doty begins to imagine Howard’s life from different angles. “I imagine he took the insults in/and made of them a place to live.” By selecting the word “imagine” Doty deferentially acknowledges the absence of Howard’s own voice. As distant witness to Howard’s death, Doty is left to speculate, to imagine — at best partial and imperfect ways of knowing. Doty continues by further developing his sense of how bias-motivated insults can be “made into” the furniture of life:

we learn to use the names
because they are there,
familiar furniture: *faggot*
was the bed he slept in, hard
and white, but simple somehow,
queer something sharp

but finally useful, a tool,
all the jokes a chair,
stiff-backed to keep the spine straight,
a table, a lamp.

The metaphor Doty develops in these lines underscores a sense of utilitarian survival. By selecting the personal pronoun “we,” Doty draws Howard’s individual life experiences within a broader experience of sexual difference. When Doty states “we learn” he refers to the untenable process of being a homosexual socialized into a heterosexual society. From Doty’s perspective, undergoing this process of socialization requires finding repose within homophobia’s regime.

Having transformed insults into the tools of life, Doty’s imagined Howard is then prepared, without morbidity, for his own violent death. At this point, the poem turns and splits. Howard begins to appear in spectacular Christ-like forms. “And because/ he’s

fallen for twenty-three years,” states Doty, “despite whatever awkwardness / his flailing arms and legs assume/ he is beautiful/ and like any good diver/ has only an edge of fear/ he transforms into grace.” As homophobia was transformed into everyday furnishings earlier in the poem, the reader is now prepared for yet another transformative leap in which Doty rewrites the chaos of Howard’s final fall into a moment of sheer divinity.

By adding another turn, Doty complicates his own authorial authority and Howard’s voice:

Or else he is not afraid,

and in this way climbs back
up the ladder of his fall,
out of the river into the arms
of the three teenage boys

who hurled him from the edge –
really boys now, afraid,
their fathers’ cars shivering behind them,
headlights on — and tells them

it’s all right, that he knows
they didn’t believe him
when he said he couldn’t swim,
and blesses his killers

in the way that only the dead
can afford to forgive.

These final stanzas offer an antidote to mainstream depictions of hate crime murders. As Doty has already established the pervasive intrusion of homophobia in Howard’s life, he is able to conceive of a quite different relationship between victim and perpetrator. In casting his gaze onto the killers, Doty instructs his reader to reconceive of the relationship between masculinity, gay bashing, and bravery. In wearing earrings that “shone” and letting his wrists be “as limp as they were,” Howard displays bravery by

refusing to *cover* his gayness and in doing so draws to the surface increasingly menacing forms of homophobia.

For Doty, Howard's outward presentation of homosexuality manifests the best qualities associated with masculinity. Meanwhile, the "boys" attempt at proving their adult masculinity by assaulting Howard, only extenuates their own immaturity and fear. Gay bashing renders them childish and afraid. Doty's sensitive description of the three killers' highlights their youth, their vulnerability, and their normalcy. Not even the owners of their own means of transportation, the killers are literally carried by their fathers' cars to the scene of the crime. The same cars cast a quivering light on their actions. The image Doty evokes of the scene of the crime suggests a hovering parental presence.

Remarkable here is the nature of forgiveness Doty allows. Only Howard can afford to forgive. Doty permits for the possibility that the crime may have been an accident. That Howard, as a divine figure capable of resurrection, would fearlessly, compassionately forgive his own killers for their brutal mistake. All this Doty presents explicitly as his own fantasy, his own reimagining. And even in this space of infinite grace, the victim alone possesses a legitimate right to forgiveness. Society is not only still culpable, but is also positioned as an illegitimate source of adjudication.

In many ways the conclusion to Doty's poem mirrors mainstream representations of idealized hate crimes victimhood. Like James Byrd, Jr.'s color-blind daughters or the resolutely patriotic victims of anti-Arab and Muslim hate crimes after September 11th, 2001, Howard comes to fully embody forgiveness. What distinguishes between the quality of forgiveness in Doty's work, opposed to the quality of forgiveness celebrated in

the mainstream news media, is the content of the narrative that precedes it. The angle of redemption is inverted. In Doty's poem, Howard chooses to forgive his killers. However, Howard's act of forgiveness is predicated within the poem by an acknowledgment of the damaging role homophobia had played throughout Howard's life. The boys' criminal actions arise in the poem as yet another act within an ongoing life of degradations. The boys themselves are pathetic bit players on homophobia's grand stage. If Howard forgives the boys it is only because their actions demonstrate a kind of social conformity. The poem leaves question of blame, of just punishment, and of forgiveness unresolved. In insisting that these questions remain adrift, Doty's work complicates the notion of getting "tough-on-hate."

THE POST-DIFFERENCE FEEDBACK LOOP: DENIAL, MORAL INDIFFERENCE, AND HATE CRIMES STORIES

While Doty's poem successfully relates the story of a hate crime murder in terms that counter post-difference ideology, there are thick social reasons why this kind of representation is atypical. Mainstream representations of hate crimes are not hegemonic. But, they are not patterned randomly either. The political content of popular hate crimes stories participates in the reification of existing social relations and these relations cultural legitimization. Drawing on sociologist Ivy Ken's recent theoretical innovation in the field of race-class-gender studies, I find that post-difference ideology frames how hate crimes stories are told to serve a particular social function. As Ken would say, these narratives are "made to be used."³⁴³

Discursive performances about hate crimes are caught up in a post-difference feedback loop that is endemic to the post-civil rights era.³⁴⁴ Given the expansive

recirculation of post-racial white nonsense, post-difference ideology becomes fundamentally a technology of denial and moral indifference. “The more progress a society has made in denouncing racism as a social and political evil, the more vehemently its continued existence is denied,” argues legal scholar Dimitrina Petrova, “ironically, the denial of racism is a product of the progress of the struggle against it.”³⁴⁵ Petrova describes the tension between the success of past anti-racist projects and the present normative climate these projects have created for contemporary anti-racist work. In the U.S. context, significant progress has been made in denouncing numerous forms of identity-based bias, including homophobia, xenophobia, and anti-Semitism. Fraught and fortuitous, the nature of this progress is itself now an impediment to acknowledging the potency of contemporary bigotry.

Discursive performances about hate crimes can be understood as one specific site within the post-difference feedback loop that allows for the denouncement of bigotry to be articulated within the denial of said bigotry’s contemporary relevance. As such, these stories conform to critical criminologist Simon Pemberton’s definition of the relationship between culture and the production of social harm. In his work on moral indifference, Pemberton argues that “symbolic machinery” promotes cultures of indifference and creates bystanders to harm: “There are compelling reasons to envisage a theory of denial as part of a theoretical continuum with indifference because the notion of denial allows analysis of the symbolic machinery required by capitalist society to ensure indifference to harm.”³⁴⁶ In their most widely-distributed form, stories about hate crimes function as the “symbolic machinery” that ensures indifference to the social harms caused by everyday acts of bias-motivated crime, that justifies moral indifference towards hate crimes

victims, and that revels in the ritualized degradation of these crimes' already marginalized perpetrators.

In their seminal work on racial formation in the U.S., sociologists Micheal Omi and Howard Winant state that "today more than ever, opposing racism requires that we notice race, not ignore it, that we afford it the recognition it deserves and the subtlety it embodies."³⁴⁷ Until hate crimes stories further this kind of recognition, they will be a source of social harm, an entryway into moral indifference, and an excuse for denial.

¹ The “FBI Uniform Crime Report Hate Crime Statistics for 2008,” which is based on data from the Federal Bureau of Investigations’ *Unified Crime Report*, shows that the single most frequently reported hate crime is “Damage/Destruction/Vandalism” committed against property. See http://www.fbi.gov/ucr/hc2008/data/table_02.html (May 7, 2010).

² Jeannine Bell, *Policing Hatred: Law Enforcement, Civil Rights, and Hate Crimes*, (New York: New York University Press, 2002).

³ Linda Greenhouse, “Consequential Cases Are Likely to Test the Supreme Court’s New Majority,” *The New York Times*, October 7, 1991. LexisNexis Academic (January 9, 2010).

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⁵ James B. Jacobs and Kimberly Potter, *Hate Crimes: Criminal Law and Identity Politics*, (Oxford: Oxford University Press, 1998), 4; Barbara Perry, “Where Do We Go From Here? Researching Hate Crime,” *Internet Journal of Criminology* (2003), 2.

⁶ Memorandum, Jeffrey P. Sinensky and David M. Raim to Justin J. Finger, “ADL ‘Model’ Religious Vandalism Statute, Confidential. New York, Anti-Defamation League. December 22, 1981; Memorandum, Jeffrey P. Sinensky and David M. Raim to ADL Regional Offices, “ADL ‘Model’ Religious Vandalism Statute,” New York, Anti-Defamation League. December 28, 1981.

⁷ The term was likely in use at the ADL before 1990. But of the documents I have been given access to, the first use of the term hate crimes appeared in a 1990 policy brief. As the term hate crimes appears in the title of the brief, it seems likely that the term had already been adopted into full usage at the ADL prior to the preparation of the report. See, Anti-Defamation League of B’nai B’rith, “Hate Crimes Statutes: Including Women as Victims,” *Civil Rights Division Policy Background Report*, prepared by Steven M. Freeman, 1990.

⁸ Interview with David Raim, former Anti-Defamation League attorney, conducted by Clara S. Lewis, April 9, 2008, Washington D.C.

⁹ *The Oxford English Dictionary Online* (January 2, 2010).

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