

**Testimony of Executive Assistant District Attorney**

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**Chief, of Civil Rights, Rackets Division**

**Office of Charles J. Hynes**

**Kings County District Attorney**

**November 1, 2007**

Oral Testimony before the New York City Counsel Civil Right, Public Safety and Immigration Committees on combating hate crimes: safety for all New Yorkers.

**November 1, 2007**

Good morning, Chairs Larry Seabrook, Peter Vallone, Jr. and Kendall Stewart and council members. On behalf of the office of Kings County District Attorney, Charles J. Hynes, I would like to thank the Civil Rights Committee, the Public Safety Committee and the Immigration Committee for inviting us to present our views on combating hate crimes.

My name is Charles M. Guria and I am an Executive Assistant District Attorney and the Chief of the Civil Rights Bureau of the Kings County District Attorney's Office. The Civil Rights Bureau has the primary responsibility within the District Attorney's Office for investigating and prosecuting hate crimes occurring in the borough of Brooklyn.

The Civil Rights Bureau is part of District Attorney Charles J. Hynes' Rackets Division. Michael Vecchione is the head of the entire Rackets Division which consists of the special prosecutions units of the District Attorney's Office. The Kings County District Attorney's Civil Rights Bureau is currently headed by myself, a chief, with eighteen years of prosecutorial experience and is comprised of a deputy bureau chief and four assistant district attorneys. Prosecutors and personnel from the Rackets Division and other areas of the Kings County District Attorney's Office augment the staff of the Civil Rights Bureau as needed on a case by case basis.

District Attorney Charles J. Hynes was a pioneer in hate crimes prosecution. As a special prosecutor appointed by then Governor Mario Cuomo, Hynes led the successful investigation and prosecution of the racial assault in the original Howard Beach case twenty years ago. His investigation and prosecution has been a model for other hate crimes prosecutors to follow. Once elected to District Attorney, Joe Hynes created the first Civil Rights Bureau in a New York City District Attorney's Office more than eighteen years ago.

The Kings County District Attorneys' Civil Rights Bureau prosecuted bias crimes for approximately ten years before New York State had a hate crimes statute on the books. During that time, DA Hynes prosecuted bias cases, which included the 1989 shooting death of a African-American teenager in Bensonhurst and the 1997 stabbing death of a Hasidic Jewish man in Crown Heights. During this period, prior to the year 2000, prosecutors and law-makers endeavored to craft hate crimes legislation.

The Hate Crimes Act of 2000 (Chapter 107 of the Laws of 2000) was signed into law on July 20, 2000 and took effect October 8, 2000. This law added a new Article 485 to the Penal Law entitled "Hate Crimes" and provided that a person commits a hate crimes when he or she commits a "specified offense" (as defined by the law) and either intentionally selects a person and/or intentionally commits an act against a person in whole or in substantial part because they belong to or are perceived to belong to a particular race, color, natural origin, ancestry, gender, religion, religious practice or disability or sexual orientation, whether that belief or perception is correct.

When a person is convicted on a hate crime, pursuant to Article 485, the law provides for the level of the hate crimes to be deemed one category higher than the specified offense.

The legislative history of the law is clear: penalty enhancements are appropriate because hate crimes affect the entire community in profound ways: "crimes motivated by hatred towards particular groups not only harm individual victims, but send a powerful message of intolerance and discrimination to all members of the group to which the victim belong. Hate crimes can and do intimidate and disrupt entire communities and vitiate the civility that is essential to healthy democratic process."

Hate crimes laws recognize that we as a society value tolerance over intolerance. Yet the challenge for any hate crimes legislation is to protect the rights of those who may be victimized without trampling on the civil liberties of everyone else. Anyone has the right to express their likes, dislikes and opinions, no matter how offensive they may be to other. The hate crimes laws must not punish ideas or thoughts, but do punish hate-based actions, actions that should not be tolerated in any society.

Since Penal Law 485 was passed in 2000, the New York Police Department Hate Crimes Task Force has investigated approximately 2,000 crimes and determined that 95% of them were motivated by hate. This includes 20% that involved physical attacks.

As we close out 2007, there have been approximately 260 confirmed hate crimes incidents in New York City. There were 256 in 2006 and that was an 8% increase from the previous year. The NYPD reports that Anti-Gay attacks are up 20% and Anti-Jewish attacks are up 28%. Those same reports show that race plays a role in 20% of all hate crimes.

There are some small indicators that successful prosecutions have sent a message that bias incidents will not be tolerated. The New York City Gay and Lesbian Anti-Violence Project has noted a significant decline in violence against members of Brooklyn's Lesbian, Gay, Bisexual and Transgender community in 2006. There was a 13% drop in violence when compared to statistics collected in 2005. There were 566 violent acts against the LGBT Community in the New York area in 2005. According to the project, 16 percent occurred in Brooklyn. This is compared to Manhattan, where 50% of the attacks against the LGBT Community occurred during the same period.

The study shows that the number of victims fell by 14% - from 804 to 689- while the number of offenders only declined by 7%. The data collected by the Anti-Violence Project shows declines in both the number of Latino and African-American victims. The number of reports fell 22 and 25% respectively, while the number of white victims fell only 2%. During a similar period, the number of Arab, Middle Eastern, and Asian victims rose, according to the study.

The year 2003 marked the highest increase in anti-LGBT violence with statistics reflecting a 26% bump from prior years. Experts say that while assaults are down over the past two years they are still 10% higher than ten years ago. Some note that 2002 was the year that a heightened atmosphere of violence for the LGBT community began in earnest.

Another reason that could account for the increase is that more members of the LGBT community are coming forward to report the violence. Members of LGBT community have long suffered from discrimination and often did not report bias attacks.

We need continued community support. The leaders of the LGBT community have and will continue to play an important role in bringing these matters to our attention. The perpetrators of hate crimes against the LGBT community act in hate and ignorance and they rely on fear. Fear instilled in a victim or a witness not to come forward. Fear of ridicule and being judged for their lifestyle. We are not here to judge our victims. We are here to help them. Yet, we cannot help a victim that we do not get to meet. We cannot prosecute an incident that we are not told about. Your help may be instrumental in helping victims and witnesses feel comfortable enough to come forward so that justice may be done.

The Kings County District Attorney's Office has long worked with members of the community and has made some inroads in getting victims of hate crimes to come forward. The Kings County District Attorney's Office has more victim counselors than any other district attorney's office in the country. These counselors work hand in hand with the Civil Rights prosecutors to create a supportive environment for the victims to go forward during the prosecution of these serious cases.

However, the most disturbing statistic related to hate crimes is regarding age. The average offender in a bias incident is between 13 and 22 years of age. In the past ten years, more than 500 hate crimes were committed in New York City by children between the ages of 10 and 15. Many hate crimes offenders are not old enough to qualify for a New York State Learner's Permit, yet they may be involved in a hate crime. This is

compared to about 300 hate crimes incidents committed by individual from the age 20 to 32.

Also, juveniles are more likely to become the victim of a hate crime. 81% of the juvenile victims were between 12 and 17. Males made up 69% of the victims of Hate Crimes.

The Police Department and the various prosecutors offices have had to deal with the rise of reported hate crimes. The Hate Crimes Task Force brings the results of their Brooklyn investigation to the Kings County District Attorney's Office for prosecution. We have had to implement procedures to effectively evaluate, investigate and prosecute hate crimes. We utilize victim counselors to work along side investigators and prosecutors to help the witnesses and victims deal with these traumatizing events. We engage in the use of community liaisons to educate the public and assist in uncovering witnesses.

The Kings County District Attorney's Office does not inquire or report the immigration status of any witness or victim of a crime. Criminals often rely on the fear that many immigrants have any authority . Those same criminals may also rely on a fear that undocumented persons may have of being reported to Homeland Security. The Brooklyn District Attorney's Office has prosecuted numerous cases of defendant who preyed on immigrants regardless of the victims status in this country We cannot investigate or prosecute the hate crime that we never find out about. We need the help of responsible community leaders and clergy to help reluctant victims come forward.

The Kings County District Attorney's Office investigates and prosecutes these matters using the model originated by Charles J. Hynes in the first Howard Beach case.

Close cooperation between the NYPD investigators and the prosecutors to insure that these important cases are handled effectively. The majority of these cases have involved incidents of harassment and assault. I cannot discuss pending cases. However, one of the more significant past prosecutions undertaken by the Kings County District Attorney's Office was the prosecution of Steven Pomie, for his 2005 attack on Devon Prince, outside the victim's home on 94<sup>th</sup> Street and Kings Highway. Prince was taking out his garbage outside his home on a June night, 2005 when several men, including Pomie, rolled up in a car and set upon their victim. The men hurled anti-gay epithet at Prince and punched and kicked him repeatedly. Pomie was identified as a key player in the vicious attack. He refused to name the other assailants. He stood trial and was convicted of Assault in the First Degree as a Hate Crime. He received the maximum 25 year sentence under the law.

Prosecutions like the one of Steven Pomie send a message that bias attacks will not be tolerated by the Chief Law Enforcement Officer of Kings County. Yet incidents like these still occur. Police and prosecutor will have to remain proactive in the area of dealing with hate crimes. A major component of the Civil Rights Bureau's response to hate crimes is community involvement and understanding. Myself and many of my staff appear regularly before community organization to speak on the subject of hate crimes. I lecture regularly along with the staff of the NYPD Hate Crimes Task Force, the New York Anti-Defamation lawyer on this important subject.

These efforts are necessary due to the extensive impact of a bias crime on the public. hate crimes go far beyond the criminal act itself. Becoming the victim of any crime is traumatic. However, if the act was committed because of who you are or what



you believe in, the violation is even more senseless. When a hate crime is committed, the immediate victim is not just affected, but so is anyone who belongs to or identifies with the group that was targeted.

Yet if these crimes have such far reaching consequences are traditional concepts of prosecution and punishment enough. The answer is "no". You can prosecute one who acts on hate, but one cannot remove hate simply through punishment alone. Hate is taught and education about bias crimes and their consequences must be a part of the war on hate. If 80% of the perpetrator of Hate Crimes are between the ages of 13 and 22 then we address this subject in our schools otherwise they will only be heard in our courtrooms.

District Attorney Charles J. Hynes has also pioneered programs like project Legal Lives where the young people of Brooklyn learn anti-drug and anti-bias messages from D.A.'s staff in classrooms all over the county. This successful program which has also been running for eighteen years is now being replicated in other jurisdictions. Other programs that focus on providing an anti-hate message to our children must be developed is part of a multi-disciplined response to hate.

As prosecutors, we must include alternate sentencing programs designed to re-educate those youth who can be directed away from acting on their bias-based impulses. These programs would not be for violent cases like Steven Pomie, but they may be useful with non-violent youthful offender with offenses mainly related to property damage. In Brooklyn we've had some success utilizing program like the Holocaust Park Museum to supervise special community service sentences of young people convicted of hate crimes. The Anti-Defamation League has worked on similar projects to assist

prosecutions bring youth back to the mainstream. While these programs may not be appropriate in every case it is an additional tool for prosecutions and courts to your youth involved in hate crimes.

The Local Law Enforcement Hate Crimes Prevention Act of 2007 (H.R. 1592) and the Matthew Shepard Local Law Enforcement Hate Crimes Prevention Act of 2007 (S.1105) would authorize the Attorney General of the United States to award grants to assist state and local programs designed to combat Hate Crimes committed by juveniles. These initiatives would make it possible to develop and fund youth programs to combat hate.

I hope the information that I have provided has been helpful to you in your important work for the City of New York. It is only through education and understanding, that of this subject that we will increase our ability to deal with the challenge in this important area.

**STATEMENT OF  
DEPUTY INSPECTOR MICHAEL J. OSGOOD  
COMMANDING OFFICER  
HATE CRIME TASK FORCE  
NEW YORK CITY POLICE DEPARTMENT  
BEFORE THE NEW YORK CITY COUNCIL  
PUBLIC SAFETY COMMITTEE**

**NOVEMBER 1, 2007**

**Good morning, Chairman Vallone and members of the Council. I am Deputy Inspector Michael J. Osgood, the Commanding Officer of the NYPD's Hate Crime Task Force. On behalf of Police Commissioner Raymond Kelly, I would like to thank you for this opportunity to discuss hate crimes and the Hate Crime Task Force.**

**I will address several areas, including this unit's history and current procedures, training within the Police Department regarding hate crimes, outreach efforts with various community and civic groups, statistics regarding the commission of hate crimes within the City, and of course, I will be available to answer any questions you may have. First, I will begin by briefly describing the history of the Hate Crime Task Force.**

**In December of 1980, the Department created the Bias Incident Investigation Unit, the predecessor of today's Hate Crime Task Force, with the specific purpose of investigating unlawful acts committed against a person, group, or place, which were motivated by a victim's race, religion, or ethnicity.**

**In July of 1985 the Unit's jurisdiction was expanded to include unlawful acts motivated by a victim's sexual orientation. Then, in April of 1993, the Police Department further expanded its definition of bias incidents to include those motivated by a victim's disability. For the purpose of inclusion as a bias incident, the Department has defined disability as the possession or perceived possession by a person of a physical, medical, mental or psychological impairment, or a history or record of such impairment.**

**In April of 2000, the Bias Incident Investigation Unit was renamed the Hate Crime Task Force. Later that year, New York State's enactment of the Hate Crimes Act of 2000 brought welcome attention to these reprehensible types of criminal acts, and along with the attention, significantly enhanced penalties for those convicted of crimes within its scope. This Act characterizes a large number of specified offenses as hate crimes if they are committed in whole or substantial part because of a belief or a perception regarding an individual's race, color, national origin, ancestry, gender, religion, religious practice, age, disability or sexual orientation. At the time the law became effective, we did not include age and gender among our categories of hate crime, but in response to the passage of this law, in early 2001, the Police Department expanded its definition of bias incident to specifically include both age and gender as qualifying motivating factors. It had been the**

policy of the Hate Crime Task Force, and before that of the Bias Incident Investigation Unit, to investigate incidents involving bisexual or transgender victims as bias incidents ever since sexual orientation had been added to the definition of Bias Incident, and in 2001, this policy was formalized by the Department, when these terms were specifically added to the definition of Bias Incident. Since these last additions in 2001, the NYPD's definition of Bias Incident has remained constant.

The mission of the Hate Crime Task Force can be clearly stated – we are responsible for the criminal investigation and apprehension of persons who have committed hate crimes. The policies and procedures that govern the Hate Crime Task Force are unique within the Police Department. Within the organizational structure of the Police Department, the Hate Crime Task Force reports directly to the Chief of Detectives, facilitating direct contact between myself and top Department officials. All investigations undertaken by the Task Force are treated as “major cases,” receiving the full support of any and all resources within the Department in order to assist in the investigation.

There are several avenues through which an investigation may be commenced by the Hate Crime Task Force. The most common way is through referral by a Captain on patrol who has been alerted to a possible bias incident, initiated by a call to 911 or by a complaint made directly to a local precinct. Officers respond to investigate the crime, and ultimately the responding Captain will make the initial notification to the Hate Crime Task Force, and will follow up with a written report outlining what steps were taken at the scene. Sometimes, this initial investigation into a crime does not reveal the element of bias that may have been a motivating factor. Detectives at the precinct level who follow up on the initial investigation may thereafter determine that the incident does constitute a possible bias incident. At this point, these detectives will contact the Hate Crime Task Force and our investigation will begin.

There are several less common avenues that nonetheless remain open for the reporting of hate crimes to this unit. In the event that a criminal matter reaches the District Attorney's Office in any of the five boroughs, and the Assistant handling the case identifies a possible bias incident, that ADA may contact the Hate Crime Task Force and an investigation will be commenced. Advocacy groups are sometimes the first to have contact with victims of hate crimes. In these cases, the advocacy group may reach out to the Hate Crime Task Force directly to request that an investigation be undertaken. As another option, either advocacy groups or hate crime victims themselves may call 311, which will in turn connect them to the Hate Crime Task Force.

Once a possible bias incident comes to the attention of the Task Force, a detective within the unit is assigned to the case and, as the need arises, the resources of the entire Task Force, the entire Detective Bureau, indeed the entire Department, are made available to assist in the investigation. As the Commanding Officer of the Hate Crime Task Force, I oversee each of these investigations and I am ultimately responsible for ensuring that a possible bias incident is properly classified and most importantly, that in all possible cases, a thorough investigation leads to an arrest and successful prosecution of the perpetrator.

In order to ensure such positive results, it is important that our front-line officers are provided with the training they need to identify a bias incident when they respond to one. To this end, training is provided in several tiers. First, new recruits receive extensive training in the Police Academy. This training includes substantive discussions on the topics of prejudice and bias and how these underpinnings of hate crimes may be recognizable in various scenarios. The Police Academy reviews with these new police officers the procedures to be employed when they respond to the scene of a possible bias incident, including the style and substance of the questions officers should ask during preliminary interviews with victims.

For those officers already assigned to patrol precincts or transit or housing facilities, "command-level" training is provided on a regular basis. Just this past January, I assisted in the production of the Command Level Training Program on hate crimes. This lesson concisely provides officers with up-to-date procedures and responsibilities regarding their response to possible bias incidents. The lesson also provides officers with additional tools and resources they can use to assist victims of hate crimes.

Newly promoted Sergeants, Lieutenants, and Captains also receive specialized training, according to their various levels of supervisory responsibilities, at their respective promotional schools. Either I, or a veteran member of the Hate Crime Task Force, directly address all of these newly promoted supervisors, with up-to-date training in the areas of bias incident recognition, proper response, and the importance of the immediate preliminary investigation. Within the Detective Bureau, all precinct detective squad members, as a part of their Criminal Investigations Course, receive training on the subject and nature of bias incidents and the importance of conducting immediate preliminary investigations.

The Hate Crime Task Force also undertakes outreach efforts with numerous community organizations. In the past four years, we have made over one hundred presentations at schools, colleges, and before civic groups in order to educate members of the public about the nature of hate crimes and the existence of our Task Force within the NYPD. We also maintain a relationship with numerous community groups and leaders as well as advocacy groups and school officials in an effort to keep the lines of communication open and head off possible bias incidents before they occur.

Our outreach efforts are complemented by the resources and community contacts of the Community Affairs Bureau within the NYPD, which is of invaluable assistance in ensuring that there is always a dialogue between investigators from the Task Force and any segment of our diverse community. Units such as the New Immigrant Outreach Unit within the Community Affairs Bureau provide a steady and ongoing resource to the community. In the aftermath of a hate crime these units give victims and their communities a familiar, informed and understanding presence from within the law enforcement community.

Despite the fact that any hate crime is one too many, it should be noted that the overall number of hate crimes committed within the City is relatively low when observed

within the context of the millions of people living in, working in, and visiting the City of New York. As of October 21<sup>st</sup> of this year, 237 hate crimes have been committed in New York City. These can be broken down by the type of bias involved: 125 crimes involving bias against a religion, including 103 involving an anti-Semitic bias; 46 crimes involving bias against a race or ethnicity; 44 crimes involving bias against sexual orientation; and 22 crimes involving other types of bias. The largest number of hate crimes, 87, constituted criminal mischief, followed by 79 crimes of aggravated harassment, and 44 assaults. A total of 115 arrests for hate crimes have been effected so far in 2007.

In closing, I would like to thank you for your interest in the Hate Crime Task Force, and I will be pleased to answer any questions you may have.

FOR THE RECORD

# New York City Amalgamated Professional Employees



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**Testimony of Juan Fernandez, President, Local 154,  
District Council 37, AFSCME  
Before the Immigration, Public Safety and Civil Rights Committee**

**Combating Hate Crimes: Safety for all New Yorkers  
November 1, 2007**

Good morning Chairmen Peter F. Vallone, Jr., Kendall Stewart, Larry Seabrook and fellow Committee members. My name is Juan Fernández. I am the President of Local 154, District Council 37, AFSCME. Today, I would like to share some of the concerns of the workers I represent at the New York City Commission on Human Rights (CCHR). These workers represent the titles of Human Rights Specialist, Associate Human Rights Specialist, and Principal Human Rights Specialist, which work in the Law Enforcement Bureau and the Community Service Centers of the Human Rights Commission. At the Commission's Law Enforcement Bureau, they handle and process discrimination complaints under the Jurisdiction of the City's Human Rights Law. In the Community Service Centers, they work with diverse ethnic and religious communities, schools, community organizations and service providers to bring information about the Human Rights Law and its protections for all New Yorkers. The Human Rights workers provide workshops on the Human Rights law, assist people with disabilities in obtaining accommodations, provide employment rights workshops to immigrant communities and train high school students in the concepts of peer-mediation and conflict resolution. In doing so, they make sure that New Yorkers are offered the protections under the City's Human Rights Law, one of the broadest in the USA. This is all part of the Commission's community outreach efforts which for many years has proved to be an effective tool to help integrate and mediate among the diverse communities of New York City.

The Human Rights Commission was well known for its work against hate crimes. In the mid 1990's the Commission would evaluate and study patterns of hate crimes and would work with the respective communities to respond to each bias incident. Between 1990 and year 2000, the Commission prepared dozens of studies on hate crime in New York City, including periodic reports on bias incident activity and studies concerning specific communities such as "End the Hate", which portrayed incidents against gays and lesbians, "Documenting the Hate", which provided an overall assessment of bias incidents and hate group activities in New York City, and "Tarnishing the Golden Door"

which documented discrimination against immigrants. Also, the data produced and maintained by the Human Rights Commission served as a sort of clearinghouse for academics and scholars throughout the U.S.A. for its contribution in understanding patterns and the "copy cat" effect of high profile bias cases.

The Commission on Human Rights also worked with the Communities affected by bias crimes. The Commission was respected and appreciated by community leaders. It is a well-known fact that hate crimes impact the victim's and the perpetrator's communities. The Human Rights' Bias Team would work with the communities in establishing community mediation and training programs and creating the links to prevent future conflicts. Dramatic examples of the importance and quality of this approach were clearly demonstrated during the Crown Heights and Washington Heights incidents of 1991 and 1992 respectively. The leaders of the communities in conflict responded to the mediation initiated by the Commission's staff.

Since access to housing was also known to create inter-group tensions, the Human Rights Commission was at the forefront of some of the important housing issues for many years. For example, the Commission's staff was instrumental in helping community organizations understand the extent of the discriminatory impact of predatory lending, redlining, and steering among communities of color and the elderly. The Commission's staff had the skills and the expertise to do so. Today, the public understands predatory lending but the Commission's work in the community helped to make it possible for the community-based organizations and government agencies to take some of the relatively early actions against the predators.

These are some of the concerns that my members and I have regarding the current situation at the Human Rights Commission:

1. Due to continued underfunding and staff reduction, the Commission on Human Rights has lost its capability to perform efficient community outreach work and bias prevention activity.
2. Since the early 1990's to 2007 the Commission has lost over half of its staff. In the year 2002, there was slightly over 120 staff working at the Commission. Since then the Commission has lost over 40 staff members, including 17 Human Rights Specialists of which only five positions have been filled. Today only 80 plus staff works at the Human Rights Commission. At this pace, the Commission is destined to close its doors or to become an ornamental presence.
3. The enormous diversity of communities in New York City requires the presence and the purpose of a Human Rights Commission. One of the best Human Rights laws in the country could only be effective when there is support and a full mandate to enforce it.



To address some of these concerns, we recommend the following:

1. Hire additional Human Rights Commission staff to perform community related work, and law enforcement work.
2. Add staff that will develop anti-hate and anti-bias work, including outreach to communities affected by hate crime. The Commission needs to look into the impact of hate crimes in the community. It needs to work with the community to heal wounds. The impact of hate crimes goes beyond the victim, it also opens wounds in the community.
3. Add staff to study patterns of housing discrimination and predatory lending.
4. Add staff to develop outreach to immigrant communities.
5. Provide the funds to staff a research unit able to study and analyze bias crimes, housing, and employment discrimination patterns in the City.
6. Create staff lines in the Law Enforcement Bureau to make possible the full litigation of discrimination and bias harassment cases.

We commend and thank the City Council for holding this public hearing on Combating Hate Crimes.

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## Human Rights Commission Hearing City Hall

November 1, 2007

Thank you, members of the Human Rights Commission and City Council, for inviting the Anti-Defamation League to testify today at this important legislative hearing on hate crimes.

The Anti-Defamation League has a two part mission: to stop the defamation of the Jewish people and to secure justice and fair treatment to all citizens alike. As a result, ADL is greatly disturbed by the recent wave of hate crimes sweeping New York. We are equally concerned by the increase in anti-Semitic incidents – swastikas, assaults, anti-Semitic slurs – as we are by the number of nooses plaguing our city. These crimes demand priority attention because of their special impact. Bias incidents are designed to intimidate the victim and members of the victim's community, leaving them feeling isolated, vulnerable, and unprotected by the law. Failure to address this unique type of crime could cause an isolated incident to explode into widespread community tension.

As we confront these numerous acts of hate, we wish to applaud the actions of New York's District Attorneys, the NYPD, and particularly the Hate Crimes Task Force, for relentlessly pursuing the perpetrators and focusing on these crimes which have a particular and damaging effect on New York City's communities. We commend the Mayor for making it known to all groups concerned his zero tolerance policy toward hate crimes. We also thank Speaker Quinn for calling a press conference and hearing, and stand in solidarity with her against such bigotry.

The Anti-Defamation League would like to offer its name and programs to the Anti-Hate Day scheduled in New York City on November 16, 2007. Through our partnership with the Department of Education, we will be asking over 25,000 students and educators to sign and abide by the principles outlined in the ADL's Resolution of Respect.

Finally, we would like to touch upon the subject of this hearing: the proposed amendments to chapter one of title ten of New York City's administrative code. As an organization which led the effort to implement federal hate crimes legislation, we recognize the importance of amending the current law to include a civil penalty, and applaud the City Council's efforts to recognize the repercussions of a hate crime on a community in doing so. We suggest, however, that the words "annoy" and "alarm" be stricken from the record and the word "intimidate" added, as we believe such changes will strengthen the legislation against constitutional challenges. In addition, we recommend that a line be included to require city data collection on hate crimes, and provide training to police officers handling such acts of bias. Finally, regarding Resolution No. 773-A, we commend the Council of the City of New York for calling upon Congress to enact the Local Law Enforcement Hate Crimes Prevention Act of 2007, and hope to see these efforts come to fruition in the near future.

Testimony of the  
**JEWISH COMMUNITY RELATIONS COUNCIL OF NEW YORK**  
to a joint meeting of the  
COMMITTEES ON IMMIGRATION, PUBLIC SAFETY AND CIVIL RIGHTS  
**COMBATING HATE CRIMES: SAFETY FOR ALL NEW YORKERS**  
November 1, 2007

Thank you for inviting us to testify today.

Hate crimes have a special effect on our society. They are crimes that transcend their immediate victims and can weaken or even rend the very fabric of our society. They are contagious. Racial slurs beget more racial slurs, swastikas beget additional swastikas, and nooses beget other nooses.

Hate crimes against property are bad enough because of the psychological harm they wreak. Hate crimes against individuals, particularly those that involve assaults, beatings and worse cause even longer lasting damage. The JCRC has learned that to combat hate; police, political, religious, civic and educational leaders must work together to address this cancer that gnaws on our society.

One of the first significant goals of the Jewish Community Relations Council after its founding in 1976 was to seek the establishment of what became the Bias Incident Investigating Unit (BIIU) of the NYPD. From its inception in 1980 the BIIU made a difference. Busy precinct detectives no longer were forced to choose whether to investigate

racially charged graffiti or to pursue a robber or a killer. Moreover, the detectives of the BIIU were not only exceptional investigators, but they were recruited because of their sensitivity for the victims of these heinous acts. This incredible balance continues today. Through the BIIU the NYPD sent a clear message that hate crimes would not be tolerated in New York City.

At the same time the JCRC worked with others, including Speaker Quinn before she entered public life, to give prosecutors in New York the tools to effectively prosecute hate crimes.

During its 27 year history the BIIU has grown into the Hate Crimes Task Force and improved on an already stellar record. It is both responsive and effective. Commissioner Kelly has made it clear that they can secure the resources that they need to investigate hate crimes and to prosecute the offenders.

It is sometimes frustrating to remind ourselves that the NYPD and the Hate Crime Task Force can only act if there is a crime. The Hate Crime Task Force now trains NYPD commanders and supervisors to recognize possible hate crimes and brings its resources to bear on the investigation. Sometimes people are frustrated that they "know" that hate is a motive, but the evidence does not support that

conclusion. We understand that the underlying act is still a crime and that those responsible should be prosecuted to the full extent of the law.

The NYPD can and does make our streets safe but they cannot meet the challenge of hate alone. Last month a person or persons unknown drew 22 swastikas and wrote hateful messages in the heart of Brooklyn Heights between 8 and 9 PM. A similar number of hate messages were scrawled around Murray Bergtrum High School during class changes. To date, no witnesses have come forward with information about either event. Even after the JCRC, ADL and American Jewish Committee offered a \$10,000 reward and the NYPD distributed thousands of circulars, there is no information forthcoming. As leaders and as citizens we have to send a crystal clear signal that those who know something and opt to withhold information are themselves guilty.

The aftermath of a recent incident at the Young Israel of Hillcrest is an excellent example of how we, as leaders can react. Political, civic, ethnic, educational and religious leaders stood together to denounce the act and sent a message that they absolutely reject such intolerance in their community. It is incumbent upon leaders to speak out utilizing all available forums.

Finally, New Yorkers must look to their schools – public, private and parochial. Public expressions of hate by some perceived as leaders, such as some of the words spewed by Iranian President Ahmadinejad, can be viewed by young people as permission to commit more acts of hatred. Sadly, most of the perpetrators of hate crimes are teenagers. We should work together to develop programs to teach tolerance and respect for others.

In truth, our society has traveled a long, long way; but these recent acts of hate show how much further we need to go. Together we can, and will, build a more civil society and a New York for all to share.



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TESTIMONY OF KIM FOUNTAIN, PhD, DIRECTOR OF COMMUNITY  
ORGANIZING AND PUBLIC ADVOCACY

Before the New York City Council, Thursday, November 1, 2007

Twenty-seven years ago, the New York City Gay and Lesbian Anti-Violence Project came into existence in order to address the lack of response by the NYPD to hate-motivated violence against gay men.

We have learned a great deal over the ensuing decades and hope that our work has contributed to a generally improved social climate as well as an improved NYPD response to hate-motivated violence.

One of the the most important things we have learned is that confronting hate is ongoing and constant work. Efforts to end hate violence did not begin with us at the Anti-Violence Project and sadly, will not end with us. Our annual LGTB Hate Violence reports clearly indicate that hate-motivated violence is alive and well in this country and more specifically, in this great city of ours. Anecdotal evidence from the immense number of hours spent within the LGTB communities also indicates that in addition to what is reported, there are a frightening number of incidents that remain unreported due to everything from fear of revictimization to the fact that making such reports might be an endless process for those who are continually victimized.

Regarding this hearing, what the Anti-Violence Project wants to make clear is that we have great hope in our ability to enact measures to confront this horrific and cowardly form of violence. In large part, this hope stems from the city's support of the Hate Crimes Task Force. The Hate Crimes Task Force has acted as a true partner to community based organizations such as ours, allowing victims of hate crimes to more fully experience justice.

The current issue that the Anti-Violence Project has been working to resolve occurs during the initial NYPD response to a hate crime. Officers bring their own biases to work just as we all do. The difficulty for our communities, especially those affected by hate-motivated violence, is that too often, the exchange between the officers and the victims leads to

revictimization and a report that does not reflect the bias motivation during a crime. What has been brought to our attention through our work is that:

- Responding officers have a lack of training concerning State, City and NYPD Hate Crimes laws, protocols and policies. Because of this lack of training combined at times with a lack of willingness to classify a clear incident of bias, reports are incomplete
- Additionally, when some reports are made to the NYPD that include information about the use of anti-LGTB language, officers often aggressively and accusatorily respond with, “well, are you,” effectively shutting victims down.
- For instance, recently in a case in which two young men were attacked and robbed in broad daylight, as their attackers punched, kicked, and yelled anti-gay epithets at them, people who watched did not get involved, fearing for their own safety. This case was originally not classified as a hate crime and may not have received this classification if not for the intervention of the Hispanic AIDS Forum.

The Anti-Violence Project in collaboration with the Hate Crimes Task Force and the Community Affairs Unit is doing its part through roll call trainings and aggressive follow-up with precincts in which officers have had poor responses to LGTB hate victims, but we simply do not have the human, material and time resources to effect the level of change truly necessary with respect to hate crimes.

At the Anti-Violence Project, we are fully aware that a comprehensive strategy that will address hate motivated violence is necessary. To this end, we seek to accentuate already existing services as well as the development of new linkages that will include community based agencies working on anti-oppression strategies, the criminal justice systems, law enforcement, city leadership, and the NYC community at-large. We must work together if we have any hopes of making this city a safe place for all its residents and communities.

Finally, we are fortunate here in New York State and New York City that we have a political leadership with the will to create specific mechanisms to address hate violence – this hearing is one example of that, and our City and State hate crimes statutes are another. However, in so many places across this country, hate crimes and hate violence have not even begun to be effectively addressed and in other places, some of us – such as LGTB people have been left out of those protections. We applaud the Council's willingness to make its voice heard in support of the federal hate crimes law now pending in Congress.