

Florida's Hate Crimes Law:

Remains inadequate and does not provide equal protection

Research shows that without inclusion of victims targeted based on gender, existing law is lacking

Florida's hate crimes law offers protection for race, color, ancestry, ethnicity, religion, sexual orientation, national origin, mental or physical disability, or advanced age of the victim — but not gender and gender identity. This glaring omission reflects a departure from federal hate crimes law and is inconsistent with similar legislation in many other states.

When gender-based hate crimes happen in our state, there is no recourse to address them legally for what they are. On November 2, 2018, Scott Paul Beierle entered a hot yoga studio in Tallahassee, killing two women and injuring four others. Beierle had a documented history of violence and anger, especially towards women, as he noted in his online manifesto “My Twisted World” and several YouTube videos. Yet, the crime was not recorded as a hate crime.

Research has demonstrated <<link to hate crimes policy brief>> that gender exclusion significantly reduces the effectiveness of the existing law. If we seek real protections for all hate crime victims, Florida's hate crime statute must be amended immediately to include gender as a protected category.

Hate crimes are different — and often worse.

- Hate crimes are more likely to result in serious injury than crimes not motivated by hate. They are also more likely to result in the hospitalization or death of the victim.
- Hate crimes result in greater psychological and emotional impact on victims. Adverse psychological symptoms are more intense and last longer than those experienced by other victims.
- Hate crimes have a more significant community impact. They are often committed to “send a message” to a targeted group, with intent to intimidate, much like acts of terrorism. In fact, many hate crimes are considered acts of domestic terrorism.

Punishments should fit the crime — no more, no less.

- Not every crime perpetrated against a member of a protected class is a hate crime. But true hate crimes deserve commensurate justice.
- Our justice system functions on a basic principle that the most serious and harmful instances of crime should be punished more severely than others.
- Hate crimes have more severe impacts on victims and the community than other crimes.



Because our hate crimes law is incomplete, Floridians are suffering.

- Florida reported no gender or gender identity motivated hate crimes to the Federal Bureau of Investigation in 2019, and no gender-motivated hate crimes in 2018. This omission is, in part, the result of a gap in existing legislation.
- When a victim group is not protected, it sends a symbolic message to the community that protection of that group is not important to the state.
- By excluding gender from a hate crime law, as in Florida, women perceive that they are less deserving of society's protection. Women are the victims of the vast majority of gender bias-motivated crime.
- Hate crimes laws express social condemnation of bias-motivated crimes and affirm the social value of victim groups. Floridians want to live in a state where all bias-motivated crimes are condemned.

An inclusive hate crime statute will provide the necessary data to address hate crimes.

- If all hate crimes against all victims are not correctly reported and classified as such, efforts to study them are limited in their effectiveness.
- We can't develop and implement truly effective policy to address hate crimes without comprehensive and accurate information.

HATE CRIMES AND HATE CRIME LAWS

SUMMARY BACKGROUND INFORMATION SUBMITTED FOR THE PURPOSE OF CONSIDERATION BY THE FLORIDA SENATE

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Introduction

On November 2, 2018, Scott Paul Beierle entered a hot yoga studio in Tallahassee, killing two women and injuring four others before killing himself. Beierle had a documented history of violence and anger, especially towards women, as he noted in his online manifesto "My Twisted World." He also posted several YouTube videos expressing his hatred of women, including one video titled "The Rebirth of my Misogynism." Following the attack, the Tallahassee Police described Beierle as "a disturbed individual who harbored hatred towards women."¹ Yet, the crime was not recorded as a hate crime, because Florida's hate crime statute does not include gender as a protected category in its current form.

Alongside targeted violence against women, violence against the transgender community is increasingly being recognized as a prominent social problem in contemporary America.² Recent research on the subject has indicated that this issue is particularly problematic in Florida, where the number of instances of fatal violence targeting the transgender population are as high, or higher, than the rest of the country. A substantial portion of these incidents further involve some speculation—either by law enforcement, the media, or those close to the victim—that the crime was motivated by hate. Yet these incidents are rarely recorded as such, again because the Florida hate crime statute does not include gender identity as a protected category in its current form.

Indeed, Florida reported no gender or gender identity motivated hate crimes to the Federal Bureau of Investigation in 2019, and no gender-motivated hate crimes in 2018. This omission is, in part, the result of a gap in existing legislation. Current federal law, titled the Matthew Shepard and James Byrd Jr. Hate Crimes Prevention Act, provides federal protections for those who are victimized due to actual or perceived race, color, religion, national origin, gender, sexual orientation, gender identity, and disability, among others. Current Florida law includes many of these same categories, with the important exception of gender and gender identity. These omissions have important consequences.

The "Difference" Hate Makes

Hate crimes, which are crimes wherein a victim is targeted because of group membership (i.e.,

¹ Burlew, J., & Ethers, K. (2019). Tallahassee yoga studio shooting: TPD report reveals gunman planned 'horrific event' for months. *Tallahassee Democrat*.

² National Coalition of Anti-Violence Programs. (2018). *Lesbian, Gay, Bisexual, Transgender, and HIV-Affected Hate and Intimate partner Violence in 2017*. Retrieved from: <http://avp.org/wp-content/uploads/2019/01/NCAVP-HV-IPV-2017-report.pdf>.

race, religion, sexual orientation, gender, etc.), are qualitatively different from other crimes in at least three ways.³ First, hate crimes are often associated with more serious physical consequences than other crimes. A number of studies have demonstrated, for example, that hate crime injuries are more severe than other crimes, and are more likely to result in broken bones, missing teeth, severe lacerations, unconsciousness, and other major injuries. Hate crimes are also more likely than other crimes to result in victim hospitalization and death.⁴

Second, hate crimes have a greater psychological and emotional impact on victims than other crimes. Importantly, these effects are not solely because of the excessive brutality associated with hate crimes; even minor forms of hate crime victimization can induce negative psychological impacts because many victims report that such incidents suggest the possibility for further (potentially more serious) attacks in the future. Research has also shown that hate crime victimization often has significant adverse consequences for victim mental health. Hate crime victims report significantly more emotional and psychological distress, even compared to victims of other crimes. Hate crime victims also frequently report fears of revictimization and often make changes to their everyday lives and routine behavior in order to avoid this revictimization. These adverse symptoms also tend to be more intense in nature and to last longer than those experienced by other victims.⁵

Third, hate crimes have a more significant impact on the community than other crimes. Hate crimes often function as “message crimes,” much like acts of terrorism, which are intended to send a broader message of intimidation to both individual victims and those who identify with or share the victim’s same characteristics. Put simply, when individuals hear about a hate crime incident in which the victim was targeted because of some shared characteristic, they often exhibit symptoms similar to the primary victim. Learning that another person was targeted for an immutable characteristic that one shares can have a profound impact on mental well-being, and people who learn that someone was targeted because of shared characteristics often experience despair and depression. Put simply, when confronted with the victimization of others, one is confronted with the difficult truth that such an incident could have happened to anyone with those same targeted characteristics.⁶

Increased Impact, Increased Punishment

Importantly, the differences outlined above mean that hate crimes are not the same as other crimes, even when the characteristics of the crime are otherwise identical. As an example, an assault committed for the purpose of taking someone’s money or property is not the same as one committed because the perpetrator hates the victim’s religion or gender, because of the different (i.e., more severe) impacts associated with hate crimes. Hate crimes are more severe than other

³ Iganski, P. (2001). Hate crimes hurt more. *American Behavioral Scientist*, 45, 626–638.

⁴ Lantz, B., & Kim, J. (2019). Hate crimes hurt more, but so do co-offenders: Separating the influence of co-offending and bias on hate-motivated physical injury. *Criminal Justice and Behavior*, 46, 437-456.

⁵ Herek, G., Gillis, J. R., Cogan, J., & Glunt, E. K. (1997). Hate crime victimization among lesbian, gay, and bisexual adults: Prevalence, psychological correlates, and methodological issues. *Journal of Interpersonal Violence*, 12, 195-215.

⁶ Perry, B., & Alvi, S. (2011). ‘We are all vulnerable’: The in terrorem effects of hate crimes. *International Review of Victimology*, 18, 57-71.

crimes by their very nature, and a basic function of the American criminal justice system is to punish serious instances of criminal behavior more severely than less serious forms of criminal behavior. Because a hate crime is not identical in nature to other crimes, even when their characteristics are otherwise similar, the penalty enhancements associated with hate crime laws cannot, ipso facto, be said to treat identical crimes differently.

That said, hate crime laws serve many functions, just like any other criminal statute. Hate crime laws also have symbolic effects, the importance of which cannot be overstated. Hate crime laws express social condemnation of bias-motivated crimes, affirm the social value of victim groups, and reinforce community commitment to equality. But when a victim group is not protected, it sends a symbolic message to the community that protection of that group is not important to the state. As an example, the majority of states which have hate crime laws include gender as a protected category in those laws; Florida is one the states that does not. Given that the majority of gender-motivated hate crimes target women, this exclusion sends a message to women in the state that crimes motivated by bias toward one's gender are less deserving of society's protection than other crimes.

The Broader Implications of Inclusive Hate Crime Legislation

Hate crime laws are also an important part of a larger matrix of policies needed to address hate crimes. Put simply, hate crime laws facilitate the accurate identification of hate crimes, thus enabling more effective responses to hate crime. If a hate crime law does not include a certain group, it is unlikely that hate crimes against that group will be effectively identified. The tragic shooting at the hot yoga studio in 2018, for example, was unequivocally motivated by hatred toward women; yet, the crime was not recorded as such in the state of Florida, nor was it included in the FBI's annual hate crime statistics.⁷ Even if the crime had been properly recorded as a gender-motivated hate crime, it could not be prosecuted as such under the current law.

If a state hate crime law does not include a specific group, it is unlikely that law enforcement will identify targeted crimes against this group, and tracking of these crimes will be inaccurate. As a result, reliable estimates of incidence, prevalence, and changes in trends cannot be generated. Some victims may not receive the help they need, and criminal justice resources cannot be deployed where they are most necessary. At the state and national level, hate crime statistics will be inaccurate, the effect of hate crimes on communities cannot be accurately determined, and prevention efforts may be inappropriate, since crime rates are often used to allocate resources.⁸

Yet in its current form, Florida's hate crime law does not conform to the Federal hate crime statute which guides the reporting of hate crime statistics. Legislation expanding current law to include additional categories would strengthen, rather than dilute, existing laws by aligning Florida with these federal provisions, as well as those laws in place in many states throughout the country. This would, in turn, support more effective policy, by facilitating better information on which to base policy decisions.

⁷ Hassanein, N. (2019). Hot Yoga shooting isn't in the FBI annual hate crime count. *Tallahassee Democrat*.

⁸ Ruback, R.B., Gladfelder, A.S., & Lantz, B. (2018). Hate crime victimization data in Pennsylvania: A useful complement to the Uniform Crime Reports. *Violence and Victims*, 33, 1-21.

Conclusion

Hate crimes have more severe impacts than other crimes, for both the individual victims and the larger community, necessitating the need for laws that punish them accordingly. But, in order for these laws to be effective, they must be enforced and recorded uniformly and consistently. Uniformity and consistency are unlikely, however, if existing legislation excludes important victim groups. In its current form, Florida hate crime law protects many of these groups, but not all of them. This exclusion significantly reduces the effectiveness of the existing law. If we seek real protections for all hate crime victims, and effective policies for identifying and responding to hate crime victimization, there must also be concerted efforts to incorporate commonly targeted victim groups into existing legislation.