

Prosecution of Hate Crimes in
the United States
(Emphasizing Prosecutions of Crimes
Against LGBTQI+ Victims)

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The Criminal Section of the Civil Rights Division enforces federal *criminal/civil rights* laws

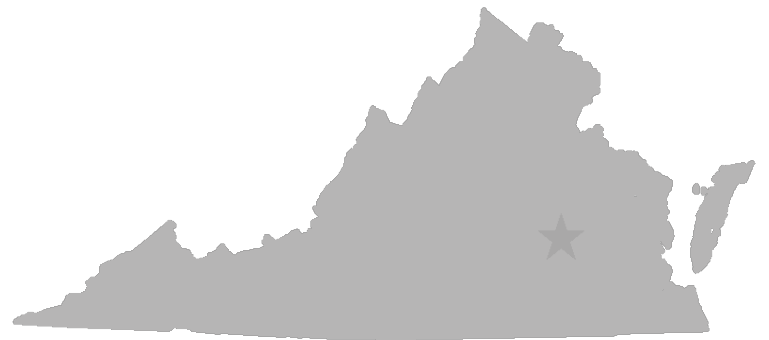
- **Hate Crimes**
- **Official Misconduct (Color of Law)**
- **Human Trafficking**



Federal & State Law Enforcement

Each state has broad authority to make criminal laws.

Most states have hate crime laws although not all protect LGBT status.



What is a Hate Crime?

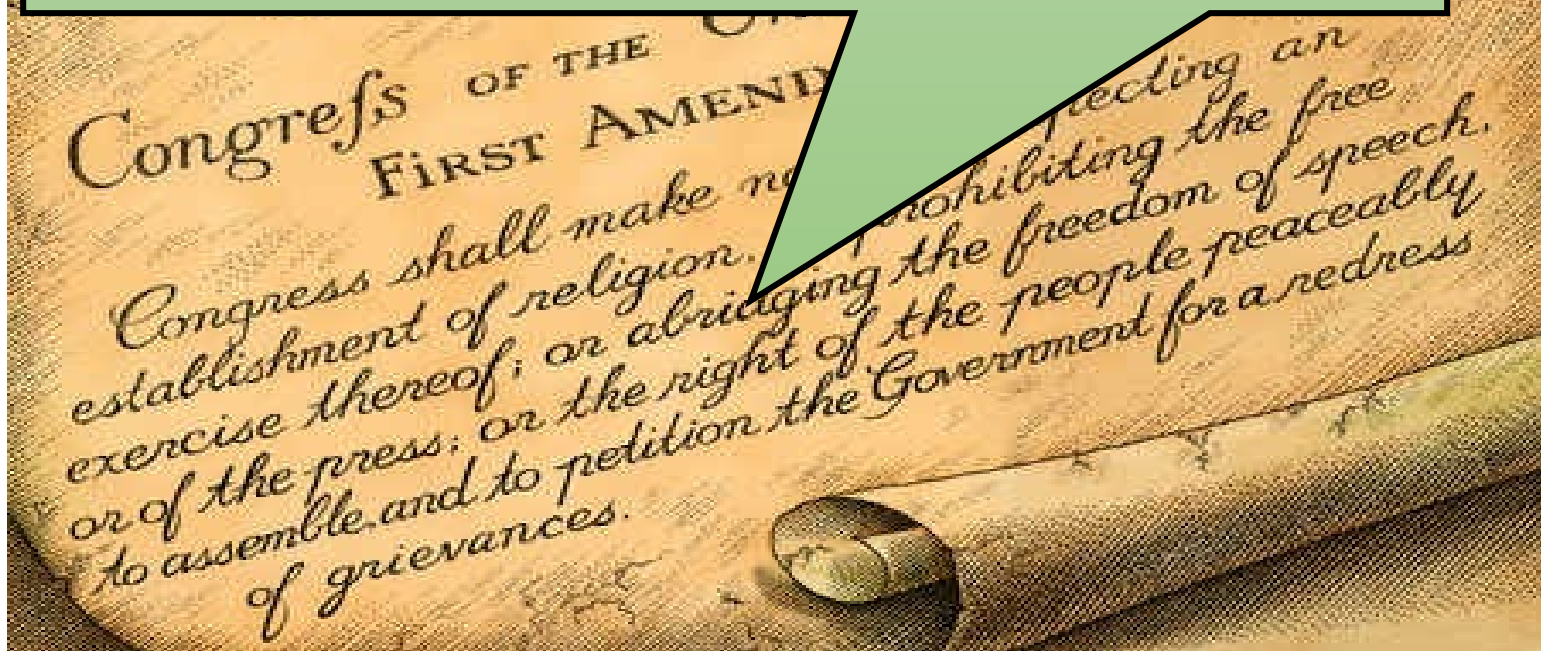
HATE + **CRIME**

Hate = Bias Motivation

“BECAUSE OF”

Crime

**“Congress shall make no law * * *
abridging the freedom of speech, or of
the press.”**



Protections for LGBTQI+ Community

The Shepard –Byrd Hate Crime
Prevention Act

The Fair Housing Act

Hate Crime Sentencing Enhancement

**HATE CRIME
PREVENTION ACT
18 U.S.C. § 249(a)(2)**

Matthew Shepard-James Byrd, Jr. Hate Crimes Prevention Act **18 U.S.C. § 249**

For the first time,
sexual orientation
and gender identity
are protected by
federal hate crime
laws.



§ 249(a)(2) Elements

- Willfully causing bodily injury (or attempting to do so with a weapon)
- Because of actual or perceived:
 - Religion
 - National Origin
 - Disability
 - Sexual Orientation
 - Gender
 - Gender Identity

Of any person

**IF: In / Affecting
Interstate or Foreign
Commerce**

FAIR HOUSING ACT
42 U.S.C. § 3631

42 U.S.C. § 3631

Elements

- The defendant used force or threatened to use force
- To willfully injure, intimidate, or interfere with the victims (or attempt to do so)

42 U.S.C. § 3631

Elements

- Because of

- Race,
- Color,
- Religion,
- Sex,
- Handicap,
- Familial Status, or
- National Origin, and

42 U.S.C. § 3631 Elements

- Because the victim was exercising a housing right (usually the right to occupy a dwelling).



42 U.S.C. § 3631 Elements

- Because of

- Race,
- Color,
- Religion,
- Sex,
- Handicap,
- Familial Status, or
- National Origin, and



Interpreted to
include LGBTQI+
status

**HATE CRIME
SENTENCING
ENHANCEMENT**

SENTENCING GUIDELINES

- **Courts use a set of Federal Guidelines to calculate a sentence after conviction.**
- **Guidelines provide for increase whenever there is proof that the crime was motivated by bias (including anti-LGBT bias).**
- **Applies to almost any federal offense (e.g. bank robbery).**

INVESTIGATIVE CHALLENGES

Talking to victim

- Trauma from crime;
- Gathering accurate information about words/slurs;
- There may be concern about family/friends learning about their LGBTQI+ status.

Talking to eyewitnesses

- People who are not direct victims may --
based on demographics/shared identity -
- feel victimized.

Talking to associates

- Friends and associates of the perpetrator (many share objectionable beliefs).