Hate Crimes Legislation: Question and Answers

What is the YWCA position on hate crimes?

- The YWCA supports the passage of hate crimes legislation that protects people from harassment, violence and other crimes on the basis of race, color, sex, gender, religion, national origin, ethnicity, age, disability, sexual orientation or gender identity.

Why does the YWCA support hate crimes legislation?

- The YWCA supports hate crimes legislation because it will improve the lives of women, girls and people of color.
- The YWCA believes that bringing hate crimes legislation into the 21st century is long overdue.
- The YWCA believes the legislation currently pending in Congress will for the first time address crimes against women and men who are victims of hate crimes that have been committed because of their actual or perceived gender, sexual orientation, gender identity or disability.
- The YWCA believes that more needs to be done on the federal level to help states and communities address hate crimes in their towns and cities.

Why are these crimes so important? Compared to murders, sexual assaults and other heinous crimes, these crimes seem menial in nature.

- Over 100,000 hate crimes have been reported since the FBI started tracking the incidents in 1991. However, a 2005 government study shows that hate crimes are vastly underreported. The study, conducted by the Bureau of Justice Statistics at the U.S. Department of Justice, estimated that the actual number of hate crimes committed per year is about 191,000. If that number is correct, that would mean that almost one in eight crimes committed in the United States is a hate crime.
- Today, a confluence of factors is likely to make it difficult to reduce the rate of hate crimes. The historic inauguration of our country’s first African-American president, the ongoing economic downturn, increasing resentment of illegal immigrants and a focus on the immigration debate in the media and in Congress, and the continued reverberations of 9-11 are all factors that may increase the rate of hate crimes.
- Finally and most importantly, hate crimes affect more people than just the victim of the crime. Hate crimes spread fear and intimidation into entire communities, which can ultimately disempower entire groups of people. In addition, hate crimes are vastly underreported, particularly among the illegal immigrant community. The Bureau of Justice Statistics at the U.S. Department of Justice estimates that the true number of hate crimes per year is around 191,000. These types of crimes are on the rise for some groups – since 2003, hate crimes against Latinos have risen by 40%.
Why do we need special legislation for these crimes? A crime is a crime. Hate crimes legislation just elevates one kind of victim over another.

- It’s not unusual for the law to carry harsher punishments for one type of crime than another based on our interests as a society. For example, we punish attacks on police officers more harshly than attacks on other people. We have decided that hate crimes, like crimes committed against police officers, are particularly damaging to society and we have created laws that reflect that.

Some argue that hate crimes legislation make a person’s thoughts a crime. Doesn’t that violate First Amendment rights?

- Hate crimes legislation punishes motive. Punishing someone for their motive in a crime is not unusual. In fact, in many instances of the law, we based the punishment on motives. For example, if someone is caught trespassing on your property, the prosecutor will decide whether to charge the trespasser with simple trespassing, or with the more serious charge of attempted burglary, based on evidence that points to the trespasser’s motive (e.g., whether the trespasser was carrying tools to break locks).

Why do we need a federal hate crime law? States have their own hate crime laws, so isn’t a federal law repetitive?

- While 45 states and the District of Columbia have hate crimes laws, they vary in strength, scope and enforcement.

- Most state laws address crimes that are related to one or more of the following: a victim’s race, religion, ethnicity, sexual orientation, gender, gender identity or disability. Because each state law covers different classes of individuals, there is no uniform protection for individuals from hate crimes. For example:
  - 11 states and the District of Columbia cover bias against gender identity; 39 do not
  - 26 states and the District of Columbia cover bias against gender; 24 do not
  - 31 states and the District of Columbia cover bias against disability; 19 do not
  - 42 states and the District of Columbia cover bias against sexual orientation; 18 do not

- Many local jurisdictions will not prosecute a hate crime as a hate crime in order to avoid the negative publicity that accompanies a hate crime. Many local jurisdictions don’t have the resources to prosecute a hate crime. It’s important for federal law enforcement to be allowed to assist local law enforcement in these cases.

Why is this federal legislation so important?

- Significant federal legislation combating hate crimes was established as part of the Civil Rights Act of 1968. The law permits the federal prosecution of a hate crime if the crime meets two conditions: first, if the crime was motivated by bias based on race, color, national origin or religion, and second, if the perpetrator intended to prevent the victim from exercising a “federally protected right,” such as the right to vote or attend school.
The Local Law Enforcement Hate Crimes Prevention Act (LLEHCPA)/Matthew Shepard Act (H.R. 1913) would take a number of additional steps toward addressing hate crimes, bringing hate crimes laws into the 21st century. The legislation would:

- expand the legal definition of a hate crime to cover crimes committed because of a victim’s actual or perceived gender, sexual orientation, gender identity or disability, correcting the fact that not all state hate crime laws protect these victims;
- remove the requirement that the federal government can only prosecute a hate crime if the perpetrator intended to prevent the victim from exercising a “federally protected right,” such as the right to vote or attend school;
- grant the Department of Justice (DOJ) the ability to prosecute a crime when the crime was committed because of prejudice against a victim’s actual or perceived gender, sexual orientation, gender identity, or disability;
- provide local law enforcement officials important resources, including federal training and direct assistance, to combat violent, bias-motivated crime;
- allow the Department of Justice to help local and state governments investigate and prosecute hate crimes and/or allow federal investigations and prosecutions when local authorities are unwilling or unable; and
- demonstrate the federal government’s resolve to deal with violence based on prejudice.

Is there public support for this legislation?

- Polls have consistently demonstrated broad public support for hate crimes legislation. According to a May 2007 Gallup Poll:
  - 78% of the public favors the prosecution of hate crimes on the basis of the victim’s race, color, religion, or national origin
  - 68% of the public favors expanding hate crime legislation to include sexual orientation, gender, and gender identity
  - 60% of self-identified Republicans and 57% of self-identified Conservatives support the expansion
  - 64% of people who go to church weekly support the expansion, only a slightly lower percentage than people who attend church monthly (67%) or people who seldom or never attend church (73%)
- A 2007 Hart Research poll showed large majorities of every major subgroup of the electorate – including such traditionally conservative groups such as Republican men (56%) and evangelical Christians (63%) – expressed support for strengthening hate crimes laws to include sexual orientation and gender identity.
- This legislation is endorsed by over 300 organizations.
Is there support in Congress for this legislation?

- Legislation expanding existing hate crime laws has received significant bipartisan support repeatedly since it was first introduced in 1997. In 2007, hate crimes legislation to expand the definition of a hate crime and allow the Department of Justice to assist local jurisdictions in prosecuting hate crimes passed the House of Representatives by a vote of 237-180.

Is there support in the Administration for this legislation?

- In addition to support in Congress, the legislation has the support of President Obama and United States Attorney General Eric Holder.