# The Hitler Legacy

A Dilemma of Hate Speech and Hate Crime in a Post-Holocaust World



by

Richard F. Flaim and Harry Furman, Editors

The New Jersey Commission on Holocaust Education
100 Riverview Executive Plaza
P.O. Box 500
Trenton, New Jersey 08625

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#### Dedication

Dr. Dennis J. Foreman

The New Jersey Commission on Holocaust Education and Richard F. Flaim and Harry Furman, the editors of *The Hitler Legacy: A Dilemma of Hate Speech and Hate Crime in a Post-Holocaust World*, join in dedicating this curriculum guide in memory of Dr. Dennis J. Foreman, former Principal of Oakcrest High School, Mays Landing, New Jersey, and a career-long advocate for Holocaust and genocide studies. Following a courageous battle with cancer, Dr. Foreman died on February 14, 2002. We dedicate this curriculum guide in Dr. Foreman's memory to honor his indelible contributions to education and, in particular, to the study of the Holocaust and genocide.

This dedication acknowledges the qualities of true leadership that enabled Dennis Foreman to influence and affect the lives of thousands of students, teachers and parents during his remarkable career as a teacher and administrator. Among these qualities were his vision of education as a means to effect the improvement of humankind; his belief in the basic goodness of people; his understanding of the complexities involved in bringing about change; his encouragement and support of teachers in their quest to extend their own learning; his commitment to democratic principles; and the high standards he held for himself, his students and everyone with whom he has worked.

In addition to the qualities described above, Dennis Foreman played an influential role in the promotion of Holocaust and genocide studies in the State of New Jersey for nearly two decades. He was one of the original turnkey trainers who studied with the editors of this guide during a State-sponsored weeklong training seminar on the teaching of the Holocaust and genocide during the summer of 1984 at Trenton State College. In an area of study that attracts many good and caring teachers, Dennis demonstrated a special sensitivity to Holocaust education and its potential relevance to the intellectual and affective growth of students. Following that training, Foreman became an official consultant on Holocaust education for the New Jersey State Department of Education. He made a commitment to use his newly acquired knowledge in ways that affected others around him and throughout the State. He conducted workshops in which hundreds of teachers received badly needed training in this subject area. He visited schools for the purpose of assisting fellow educators who were struggling to find ways to introduce this new and difficult subject into the curriculum in a manner that engaged students in real learning. Always the learner, Dennis continued the expansion of his own knowledge through extensive reading, attendance at Holocaust and genocide related workshops and conferences and frequent interactions with scholars in the field.

As Principal of Oakcrest High School, Dennis Foreman encouraged and supported the development of an interdisciplinary curricular approach to the Holocaust and genocide. In addition, he provided consistent administrative leadership and support for individual teachers who have made their own commitment. In the words of Oakcrest teacher, Doug Cervi, "Denny often said that the impact of teachers is profound. It is like dropping a pebble into a calm ocean. The ripples created go on into infinity. So it is with our respective impact upon one another and with students." The ripples created by Dennis Foreman shall go on forever.

# Acknowledgements

No project can be completed without the cooperation of a small but forthright group of supporters. The editors thank Steven E. Some, former Chairman of the New Jersey Commission on Holocaust Education, for the initial inspiration for this curriculum unit and for his persistence in seeing it come to fruition. Dr. Paul B. Winkler, Executive Director of the Commission, is thanked for his leadership, patience and immeasurable good deeds that span four decades in Holocaust education. My legal secretary, Ania Korczewska, is to be applauded for her very competent word processing of multiple drafts of this work.

Richard F. Flaim, my co-editor, former teacher, colleague and friend of so many years, is thanked for his good sense and willingness to put up with my quest for perfection and my incessant desire to add "just one more point." The editors also give a very special thank you to their families, particularly our wives, Vicky Furman and Arleen Flaim, for their perseverance and love.

Finally, a thank you to all the educators who we have met over the last thirty years who continue to believe that what happens in a classroom matters.

Let it be.

Harry Furman, Co-Editor 2002

# From the deepest desires often comes the deadliest hate.

**SOCRATES** 

Darkness cannot drive out darkness, only light can do that. Hate cannot drive out hate, only love can do that.

MARTIN LUTHER KING JR.

#### To the Teacher

The New Jersey Commission on Holocaust Education, in response to legislation that mandated the teaching of the Holocaust and genocides at the elementary and secondary school levels in New Jersey, created and disseminated to all districts copies of recommended curriculum materials in 1995. These original materials are currently being reviewed and revised to include the most recent scholarship in the field, new issues and instructional materials and activities. The updated materials will be available to districts in 2002.

Several of the issues currently being examined for addition to the recommended materials relate to the recent tragic and dramatic incidents of school violence, hate speech, hate crimes and the phenomenon of the fascination among some young people with Hitler and Nazism. While the tragic incident at Columbine High School in April of 1999 has presented a timely example of the effect of hatred, educators recognize that the root causes of such a tragedy are not only complex, but are found in many of our nation's communities. Thus, the potential for such tragedies is disturbingly real for all of us.

One result of the recent acts of school violence has been a focus by school officials, parents and various governmental agencies, on finding ways to improve the safety and security of schools, children and staff. Some of the responses have included the installation of video cameras, employment of additional security personnel, use of metal detectors, and identification badges. Advocates of such measures hope they will serve to improve the security and safety of our students and staff.

We believe that while such measures are presented in good faith, they are insufficient in confronting the salient causes of hatred and violence in our communities. The education of our children should encourage the development of beliefs and behaviors that respect human life and diversity. For this reason, the Commission has supported the creation of this instructional unit, *The Hitler Legacy: A Dilemma of Hate Speech and Hate Crime in a Post-Holocaust World.* It consists of seven extensive lessons that can be implemented or adapted by teachers of grades 7-12 to stimulate thoughtful discussion among students regarding questions that relate to the issues of hatred, hate speech, hate crimes and the fascination that some young people have with Hitler and Nazi ideology. These lessons include goals, objectives, essential questions, activities and materials/resources and are but a small part of the total effort required in our schools to address this complex subject. The lessons incorporate references to very recent events and make use of film and graphics

analysis. The unit is designed to supplement the materials and activities that you and many successful teachers are already using.

It must be noted that *the issues involved in a study of contemporary hate are very provocative* and potentially controversial. One cannot study the subject of hate speech and hate crime without confronting actions, language and visual and artistic representations that are offensive to many people. Some of the readings in this unit include cartoons, literature and lyrics that are graphic and/or may be considered shocking and disturbing to some students and adults in your school and community. Thus, it is advised that you exercise professional judgment in the use of these materials with students. Prior to the use of these materials, we recommend that you thoroughly familiarize yourself with the unit's goal, objectives, essential questions, activities and all materials; consult with appropriate school officials and board of education policies; inform parents of the purposes and nature of this instructional unit; and assure that the planned instruction is appropriate to the level of maturity of your students. Finally, since this unit is designed to stimulate thoughtful discussion and meaningful interaction among students, the classroom climate must be one that encourages the expression of diverse points of view and mutual respect.

Ultimately, classroom instruction about the very important issues that are embodied in this unit can make a difference in the lives of our students. The Commission invites you to use this guide with your students and welcomes your feedback on the usefulness of the plans in your work. Feedback may be sent to Dr. Paul B. Winkler, Executive Director of the Commission via E-mail at **holocaus@doe.state.nj.us** or it may be sent to Dr. Winkler at N.J. Commission on Holocaust Education, CN 500, Trenton, N.J. 08625. Thank you for your assistance.

#### An Introduction to Students

We can sometimes use a word so much in our daily lives that it loses any real meaning. So it is with "hate." We live in a society in which people do not just dislike something, they hate a particular TV show or fashion or movie or person. When co-editor Harry Furman's eleven-year old daughter uses "hate" to describe some impulse she has about a person or event, he gently reminds her that hate, like love, is very special.

The lessons in this Unit are NOT about that kind of superficial feeling. The hate that haunts these readings and activities all too often represents a hostile and single-minded anger and rage that find expression and speech in actions that brutally jar our sense of decency. It is the hate of several young men who dragged James Byrd behind a pick-up truck or tethered Matthew Shepard to a fence. It is the hate of white supremacists who bomb African-American churches and encourage blind disrespect and intolerance on the Internet. It is the hate of two teenagers whose suppressed rage exploded in the carnage of Columbine. It is the hate that drove a highly educated German nation and its collaborators to murder six million Jews. It is the hate of some writers who recreate history to deny the memory of injustice. If there is one central lesson to this Unit, it is that hate should NEVER be ignored.

It is often difficult to distinguish between impromptu and unflattering remarks and words that reflect an iceberg of real hate. For example, in 1999, John Rocker, then an Atlanta Braves baseball player, became embroiled in a controversy about remarks he made to a *Sports Illustrated* writer. Rocker verbally attacked Asians, African-Americans, immigrants and others who he associated with his unpleasant experience of riding the New York City subway. His comments brought him public condemnation and a period of suspension by Major League Baseball.

We should analyze the Rocker matter with cautious uneasiness. Rocker was not a politician, writer or artist expressing social commentary. He was only a ballplayer and yet his words ignited a major reaction. Critics demanded that Major League Baseball discipline Rocker harshly. Others asserted that in a nation that lives within the foundation of the First Amendment, Rocker's words should be perceived as protected speech.

The statements of John Rocker and the ensuing debate about the appropriate response are a good starting point for thinking about hate. Were Rocker's comments an example of hate speech? Were his remarks any different from the statements of radio disc jockeys who skewer the same groups targeted by Rocker? Are his comments any different from the very popular teen icon and rap artist Eminem whose lyrics assail women and gays? Where do we draw the line between humor at the expense of others, just getting attention and hate speech? Is it all just a matter of intent?

This Unit is an open-ended exploration of hate. As you examine the readings and many questions and activities that accompany each lesson, think about the following overriding issues;

- 1. When does "dislike" become hate and when does hate become dangerous and destructive?
- 2. How do we know when we are hearing hate speech?
- 3. How do we differentiate between hate speech and hate crime?
- 4. How should government, legal institutions and you deal with hate?
- 5. Why do people hate others?
- 6. How is hatred shown in the denial of history?
- 7. Is hate best left expressed, exposed or submerged?
- 8. Is it possible to reduce hate or the potential consequences of hate?

You will also see that this Unit is based on a core of educational beliefs. A variety of educational tools are used from readings to film to music to graphic art. More than anything else, the success of this Unit relies upon the creation of a classroom setting in which students can engage in thoughtful and trusting discussion and debate with fellow students.

In July 2001, we were fortunate to spend almost two weeks in Europe with a group of caring New Jersey educators on a study tour sponsored by the New Jersey Commission on Holocaust Education. Our time included a visit to the idyllic villa in Wannsee, Germany where the decision to kill every Jew in Europe was embraced. Our trip also took us to Auschwitz-Birkenau at which the death process reached its peak of efficiency. The experience was a cautionary reminder of what can happen if hatred is justified and bolstered by governmental power. After all, the teachers of Nazi Germany served hate in what they perceived to be the best interest of the State. In the United States, that is reason enough to make the study of hate one of the most critical lessons of the classroom.

We hope you will find this introductory exploration into the face of hatred to be both stimulating and provocative. However, your study of the themes of this Unit should be a lifetime contemplation supported by personal experience and growing wisdom. Consider this study a first step down that road.

Richard F. Flaim and Harry Furman, Editors

# Unit Goal and Lesson Objectives

The following unit goal and lesson objectives inspired the design and development of *The Hitler Legacy: A Dilemma of Hate Speech and Hate Crime in a Post-Holocaust World*, and are suggested as a guide to teachers and students who use this instructional unit. Teachers may use the unit goal and lesson objectives as a basis for designing appropriate instruction and assessments to measure student learning. Students may use these to check their own learning.

#### **Unit Goal:**

To develop an understanding of the nature of hate speech, hate crimes, the fascination of some young people with Hitler and Nazism and the challenges of responding to hate in a democratic society.

# Lesson 1: HATRED — A SEARCH FOR UNDERSTANDING AND APPROPRIATE RESPONSES

*Objective*: After analyzing a variety of recent hate crimes in the United States, and studying the different responses to such crimes, student will (a) develop a definition of the term "hatred" and (b) evaluate the effectiveness of various possible responses.

#### Lesson 2: HATE SPEECH AND THE FIRST AMENDMENT

*Objective:* Given a review of the First Amendment to the United States Constitution and a series of readings, photographs and cartoons, students will draw conclusions about the scope and limits of free speech in a democratic society.

#### Lesson 3: IMPLICATIONS OF HATE CRIME LAWS

*Objective*: After studying the theory of hate crime laws and examining a recent case in New Jersey, students will discuss the difficulties involved in defining a hate crime and determining appropriate punishment.

#### Lesson 4: THE DENIAL OF HISTORY

*Objective:* Given a series of readings, students will recognize the reality of denial of the Holocaust, and formulate views on appropriate student responses to the deniers within the principles of a democratic society.

#### Lesson 5: THE HITLER FASCINATION

*Objective*: After analyzing various readings, films and dilemmas, students will draw conclusions about the reasons for the attraction among some people to Hitler and Nazi ideology.

# Lesson 6: THE MASSACRE AT COLUMBINE: AN EXAMINATION OF COMPLEXITY AND A SEARCH FOR MEANING

*Objective*: After reviewing readings on the April 20, 1999 tragedy at Columbine High School in Littleton, Colorado, students will examine the complex causes, and draw conclusions regarding ways to deal with such factors in their own school and community.

#### Lesson 7: DRAWING CONCLUSIONS

*Objective*: Through the use of a survey and other creative activities, students will express their own views about hatred, hate speech, hate and the Internet, hate crime laws, the denial of history, the fascination with Hitler, and the tragic events at Columbine, and discuss how to confront hate in their lives now and in the future.

Love must be learned again and again...

Hate needs no instruction, but waits only to be provoked.

KATHERINE ANNE PORTER

Hatred is the madness of the heart.

LORD BYRON

Hatred is like fire—it makes even light rubbish deadly.

**GEORGE ELIOT** 

# Lesson 1: Hatred—A Search for Understanding and Appropriate Responses

#### Introduction

According to the Southern Poverty Law Center's Intelligence Project, every hour, someone commits a hate crime; every day, eight African-Americans, three whites, three gays, three Jews and one Latino become victims of hate crimes; and every week a cross is burned (Southern Poverty Law Center, 1999; also, see SPLC web site: <a href="http://splcenter.org/intelligenceproject/ip-index.html">http://splcenter.org/intelligenceproject/ip-index.html</a>).

Unfortunately, we are reminded almost daily of the existence of hatred. The dragging death of James Byrd, an African-American, in Jasper, Texas; the brutal beating and crucifixion of Matthew Shepard, a gay man, in Laramie, Wyoming; the murder of 168 citizens of Oklahoma City; the tragedy at Columbine High School in Littleton, Colorado; the wounding of five people at a Los Angeles area Jewish community center; and the carving of a swastika in a cornfield in New Jersey, are but a few recent examples of hatred in our midst. While each of theses cases is widely known, similar incidents remain all too common, as MTVs recitation of hate crimes during seventeen hours of programming on January 11 and 12, 2001 starkly displayed.

As we survey the pages of American history, we can identify numerous cases in which bias or prejudice against groups and individuals because of their race, religion, disability, sexual orientation, gender or other differences, have led to differential treatment or active discrimination. In spite of some major progress in dealing with and outlawing discrimination, stereotyping and unequal treatment continue to be a problem in our society.

*Prejudice* is often the basis for decisions to treat someone in ways that are hateful. Author Gordon Allport has defined it as "an antipathy based upon a faulty and inflexible generalization. It may be felt or expressed. It may be directed toward a group as a whole, or toward an individual because he [/she] is a member of that group" (Allport, 1988, p. 9). Prejudice can be expressed in a variety of ways such as *antilocution* (bad-mouthing: jokes, direct insults and epithets, stereotyped statements), *avoidance*, *segregation*, *discrimination*, *physical attack*, and *genocide*. Allport found that prejudice grows out of personal

frustration, which, in turn, generates aggressive feelings. If a person is unable to direct this aggression against the real cause of the frustration, the aggression is displaced onto relatively defenseless people, who become *scapegoats*, through blaming, projecting and stereotyping.

Because of the frequency with which we use the terms *bias incident* and *hate crime*, it is important that we distinguish their meanings as they relate to human behavior. For example, a *bias incident* is any act that is motivated in whole or in part by some form of prejudice based upon race, ethnicity, religion, gender, sexual orientation or disability. Generally, a *hate crime* is a criminal offense against certain peoples that is motivated in whole or in part by some form of prejudice or bias. Not all kinds of bias-motivated violence are classified as hate crimes, only those for which a law has been violated. For example, while racial groups, Jews, gays and lesbians, women and those with disabilities are more commonly recognized as victims of hate crimes, the elderly, children, union members and police officers are not. In addition, because of variations in state laws, a bias-motivated act may be an "incident" in one state and a "hate crime" in another.

As you engage in the activities of this lesson, you may discover that hate is a very complex human phenomenon. The excerpt from Andrew Sullivan's *New York Times* article *What's So Bad About Hate?* describes three different kinds of hate. You will also read about Buford Furrow, follower of Aryan Nations, who fired over seventy shots in a childcare center in California and killed a Filipino American. T.J. Leyden, a former Skinhead, describes his entrance into the shadowy world of hate. You will also review a "Hate/Violence Pyramid" that describes the possible expressions of hatred.

The Essential Questions and Activities found below may be used to guide your reading and analysis in this lesson. They will assist in your review of various perspectives on the topic of hate, and in reflection upon your own beliefs and behaviors. You are encouraged to think about the meaning of hate, the degree to which it affects our lives and our society and alternative ways to deal with feelings and acts of hatred that we all encounter in our daily lives.

### Essential Questions and Activities

1. Complete the following sentence: "When I think about *hatred*, the first thought that comes to mind is..." When each student in your class has completed this sentence, chart all responses on the board / transparency / or computer projection. When all students have had their responses recorded, join a small group and categorize the responses in ways your group feels are logical. You may categorize those that are of little, medium or great importance to you. Each group should report its categories and the rationale for each.

You may use some of the following questions to guide a discussion of the results of the categorization:

- What do all of the words in each of the categories have in common?
- Can you identify an incident that you have observed that is related to any of the words on this list? Share with the class the nature and impact of the hateful behavior on the victim(s) and yourself.

The purpose of this activity is to enable you to use your own prior knowledge and experience with the subject of hatred as a basis for the beginning of new learning.

- 2. Read the following questions and develop a brief hypothesis for each of them based upon your current knowledge. At the conclusion of this unit, you will be asked, to reassess each of your hypotheses.
  - What exactly is hate?
  - How does hate differ from a dislike or a prejudice?
  - What is the origin of hatred? Is it learned or inborn?
  - What are some examples of hateful acts in recent times?
  - What are some possible motivations that could lead someone to commit a hateful act?
  - What are some ways you as an individual can combat hatred and those who perpetrate it?
  - Do you believe such responses to hatred can make a difference?
- 3a. Read the excerpt from the article *What's So Bad About Hate?* by Andrew Sullivan. How does the author respond to the belief by some that hate that comes from knowledge is always different from hate that comes from ignorance? Do you agree? In small groups, discuss the three distinct kinds of hate proposed by Elisabeth Young-Bruehl. (Your teacher may assign one of the kinds of hate to each of three groups as an alternative.)

Apply the kinds of hatred to situations you have observed or experienced. What characteristics distinguish the hate of Furrow from the prejudice of an Archie Bunker, the main character in the television program *All in the Family?* Do you believe Young-Bruehl's typology is helpful? Explain.

- 3b. Read the article *Furrow Had Deep Roots in Hate Groups* by Jim Morris. Apply the typology to Buford O'Neal Furrow, a 37 year-old who murdered a Filipino American postal worker and wounded five people at a Los Angeles area Jewish community center. Discuss your conclusions with the class. What is the relationship between the theology and ideology of groups such as Aryan Nations, Christian Identity and the Phineas Priesthood and their potential actions? Use Internet sources or other materials to research what happened in the Furrow case.
- 3c. Read LA Skinhead Forms Unlikely Alliance and describe how and why T.J. Leyden became a Skinhead? What drew him to Tom Metzger and White Aryan Resistance? Why did he decide to leave that group?
- 4. Invite a member of the N.J. Attorney General's Office, your County Prosecutor's Office, or the N.J. Anti-Defamation League to speak to the class on the subject of bias and hate, and to review the trends in the State and county regarding the reporting of such incidents. Prepare a series of questions to be sent to the speaker in advance of the visit.
- 5. Read the document *Ten Ways to Fight Hate* published by the Southern Poverty Law Center (see web-site address above to review this document). These include (1) Act; (2) Unite; (3) Support the Victims; (4) Do Your Homework; (5) Create an Alternative; (6) Speak Up; (7) Lobby Leaders; (8) Look Long Range; (9) Teach Tolerance; and (10) Dig Deeper. Examine the case studies depicted and evaluate the advice given in relationship to your role as a citizen of your school and community.
  - Identify any issues involving bias or hatred in your school or community setting and determine which of the *Ten Ways to Fight Hate* would be appropriate responses. In making this decision, think about and discuss the questions: (1) What are the implications of taking some action? (2) What are the implications of remaining silent?
- 6. Read *Slim Shady Comes to Town: Leda Johnson's Dilemma* using the questions at the end of the story as a guide. Then, join a small group and share your responses. Review your group's conclusions with the class.

- 7. Investigate the theme of hatred as it is reflected in an area of your choice: art, music, and/or poetry. Present your findings in an oral or audio-visual presentation, an exhibit in the library or other appropriate public place, or in a reflective essay in which you describe the piece(s) you identified, and offer an interpretation of its meaning and relevance to your understanding of the subject. How did the artist (lyricist and/or poet) express his/her findings about hatred? Do you believe such expressions have an impact upon people? Explain.
- 8. Interview people in your community who were victims of acts of hatred. In preparation, formal questions should be developed to guide the interviews. (Your teacher will provide clear guidelines on the proper conduct of an interview.) The focus of the interview should be the subject's direct experience(s) with hatred. Such interviews may be audio or videotaped with the permission of the subject. The results should be shared with the class, with the student interviewer leading the discussion.

The following interview questions are offered as samples; however, you are encouraged to develop your own list:

- Would you describe an incident in which you were the target of prejudice and hatred? (What happened? Where? When?) Discuss why you believe the incident demonstrated hate by the perpetrator.
- Why do you believe you were the target? Were you the only target, or were others also involved?
- What do you believe were the motives of the perpetrators?
- How were you affected by the incident? Your family? Friends?
- Were you able to take any action against the perpetrators? Do you believe it made a difference?
- What advice would you give to a person who harbors hatred? To those who are potential targets? To those who may witness acts of hatred?
- 9. "I imagine one of the reasons people cling to their hates so stubbornly is because they sense, once hate is gone, they will be forced to deal with pain." Taken from the 1955 novel *Notes of A Native Son*, what did American writer James Baldwin mean by this?

10. Review the following lyrics by three well-known artists:

We've made houses for hatred
It's time we made a place
Where people's souls may be seen and made safe
Be careful with each other
These fragile flames
For innocence can't be lost
It just needs to be maintained.

—Jewel, "Innocence Maintained"

And the blood poured off the pulpit The blood poured off the picket line Yeah, the hatred was immediate And the vengeance was divine...

— Ani Difranco, "Hello, Birmingham"

This shepherd young and mild
This unassuming one
We all gasp this can't happen here
We're all so civilized
Where can these monsters hide?
But they're knocking on our front door
They're rocking in our cradles
They're preaching in our churches
And eating at our tables
I search my soul...

— Melissa Etheridge, "Scarecrow"

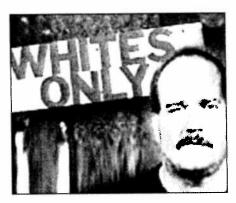
Listen to each of these songs. Discuss the point of view of the lyricist about the causes and the effects of hatred.

- 11. As an introductory exercise, view portions of the film *American History X* in which actor Edward Norton portrays Derek Vinyard, a reformed white supremacist. Discuss how and why the main character becomes a racist agitator, the effect it has on his younger brother and the process by which he, like T.J. Leyden, left the racist world.
- 12. Your teacher may show a portion of one or more of the following films which depict post-World War II expressions of hatred in the United States:
  - School Ties a student hides his Judaism in an atmosphere of prep school anti-Semitism.
  - Anatomy of A Hate Crime MTV dramatization of the Matthew Shepard murder.
  - 4 Little Girls Spike Lee documentary about the 1963 Birmingham church bombing that killed four young girls.
  - *Mississippi Burning* dramatization of efforts to track down the murderers of three civil rights workers.
  - Do The Right Thing Spike Lee's explosive depiction of racial tension in New York.
  - Ghosts of Mississippi feature film story of the murder of Medgar Evers, civil rights leader, and the trial of his killer, Byron de le Beckwith.
  - A Time To Kill story of the trial of an African-American father who kills racist murderers of his daughter.
  - *Twilight Zone* (first segment). This portion of the film depicts a xenophobic character portrayed by Vic Morrow.
  - Snow Falling on Cedars a recent film that deals with a post-World War II village in the American Northwest that is wracked by the murder of a fisherman and the accusation of a Japanese-American as the killer.

How is hatred expressed in the films you viewed? Review the "Hate/Violence Pyramid" and apply it to the actions portrayed in the film(s).

13. Reflect upon the hypotheses that you developed at the beginning of this lesson in Activity #2. Revise them, if necessary, to demonstrate any change in your views as a result of your readings and discussions. You may express your thoughts in a journal, a reflective essay or in a discussion in class.

# Furrow had deep roots in hate groups



(CNN) — The man suspected of wounding five people at a Los Angeles area Jewish community center — and of killing a Philippines-born postal worker has a long history with hate groups operating in the Pacific Northwest.

Buford ONeal Furrow. a 37-year-old native of Washington state:

- Has ties to the Aryan Nations, a group known for its hatred of blacks and Jews.
- Was once married to the widow of the founder of The Order, an offshoot of Aryan Nations.
- Is a follower of the Christian Identity movement, which considers whites a superior race.

David Harris, executive director of the American Jewish Committee, sees a "common thread" to these and other white supremacist hate groups.

"They seek to demonize Jews and other minority groups in this country and, inspired by that theology and ideology, believe that violence is the answer." Harris told CNN. Ultimately their aim is to create a white Christian nation that has no Jews, no minorities living here whatsoever."



## Excepts of comments made Thursday by Attorney General Janet Reno:

- These shootings appear to have been motivated by hate. Hate crimes represent an attack, not just on individual victims, but also on the victims' communities. They tear at the very fabric of a peoples' lives. But the victims, their families and their communities do not stand alone.
- "In these days I ask you to reach out to the Jewish and Asian communities and to others who have been the victims of hate. Leet us stand as one nation, united in respect for each other and united against threats to any one of us."
- "We must act now. We must do more to teach our children tolerance and make sure they accept all people, regardless of their race, religion, nationality or sexual orientation. We must pass stronger hate crime legislation that will enhance the federal government's ability to prosecute and to help states prosecute those who commit crimes because of their prejudice. Finally, we must do more to keep dangerous firearms out of the hands of criminals, children and others who should not have them."

# Aryan Nations: 'Jewish people are evil'

Furrow was a frequent visitor to the Aryan Nations headquarters in Hayden Lake, Idaho, and often acted as a security guard, said Morris Dees of the Southern Poverty Law Center.

The center, based in Montgomery, Alabama, tracks hate groups.

"(Furrow) may have acted alone when he took his gun to target those Jewish children," Dees told CNN, "but it's the (Aryan Nations) teachings of violence against Jews and the fear of Jews among its members that directly led him to do this."

The centerpiece of Aryan Nations is the Church of Jesus Christ Christian, which adheres to a religious-styled racist philosophy called Christian Identity.

Followers believe "that Jewish people are evil and that Aryan white people are God's chosen people," Dees said.

## Christian Identity linked to violence



Dees says Christian Identity followers believe 'Jewish people are evil.'

A book found in a van believed abandoned by Furrow, titled "War Cycles, Peace Cycles," was written by Richard Kelly Hoskins, one of the principal ideologues of Christian Identity.

"Hard-line Identity adherents believe that in order for Christ to return to Earth, the globe must be swept clean of satanic forces — meaning Jews, homosexuals and a whole laundry list of other enemies," said Mark Potok, also from the Southern Poverty Law Center.

"So it's a belligerent religion...that demands that its followers take up the gun," Potok said.

Also believed to be an Identity member is Eric Rudolph, one of the FBI's Ten Most Wanted fugitives. Potok said. Rudolph is accused of the Atlanta Olympics bombing and three other blasts, including one at an Alabama clinic where abortions are performed.

Members of Christian Identity groups also are tied to the recent arsons at three synagogues in Sacramento, California, the murder of a gay couple near Redding, California, and other violent crimes across the country.

## Phineas Priesthood follower?

Furrow's actions also suggest he is a believer in the Phineas Priesthood, a shadowy sect of Christian Identity named for a figure in the Old Testament who killed a mixed-faith couple.

The group is violently opposed to marriages between Jews and gentiles and the charging of interest by banks, and seeks the extermination of Jews, said Michael Reynolds of the Southern Poverty Law Center.

"What we see here with Mr. Furrow would be acting out of a calling as a Phineas priest," Reynolds said.

In 1996, four men identified as members of the Phineas Priesthood set off a series of bombs at a newspaper office and a Planned Parenthood clinic in the Spokane. Washington, area as covers for two bank robberies.

Three men were sentenced to life in prison without parole and the fourth got 55 years.

# 'Sympathetic' to The Order

Furrow was not a member of the notorious group called The Order, a neo-Nazi group that acquired \$4 million through bank robberies and armored car heists in the early 1980s.

But, said Dees, "he certainly followed the philosophy of Supremocist The Order and by being part of the Aryan a shoot-out Nations…indicated that he was sympathetic to The Order's views."



Robert Matthews, founder of the white supremacist group The Order, was killed in a shoot-out with federal agents in 1984.

Furrow also was married for a while to Debbie Mathews, widow of The Order's founder, Robert J. Mathews.

Matthews was killed in 1984 in a shoot-out with federal agents on Whidbey Island, north of Seattle. His group also was involved in the 1984 murder of Alan Berg. a Jewish talk-radio host in Denver.

Aryan Nations founder Richard Butler said he believes he married Furrow and Debbie Mathews around 1996, though the union was not recorded with authorities.

Correspondent Mike Boettcher and The Associated Press contributed to this report, written by Jim Morris



# Hate is only foiled when the hated are immune to the bigot's power, not when the haters are punished. A hater cannot psychologically wound if a victim cannot be psychologically wounded. And that immunity to hurt can never be given; it can only be achieved.

Hate, like much of human feeling, is not rational, but it usually has its reasons. And it cannot be understood, let alone condemned, without knowing them. Similarly, the hate that comes from knowledge is always different from the hate that comes from ignorance. It is one of the most foolish cliches of our time that prejudice is always rooted in ignorance, and can usually be overcome by familiarity with the objects of our loathing. The racism of many Southern whites under segregation was not appeased by familiarity with Southern blacks; the virulent loathing of Tutsis by many Hutus was not undermined by living next door to them for centuries. Theirs was a hatred that sprang, for whatever reasons, from experience. It cannot easily be compared with, for example, the resilience of anti-Semitism in Japan, or hostility to immigration in areas where immigrants are unknown, or fear of homosexuals by people who have never knowingly met one.

The same familiarity is an integral part of what has become known as "sexism." Sexism isn't, properly speaking, a prejudice at all. Few men live without knowledge or constant awareness of women. Every single sexist man was born of a woman, and is likely to be sexually attracted to women. His hostility is going to be very different than that of, say, a reclusive member of the Aryan Nations toward Jews he has never met.

In her book "The Anatomy of Prejudices," the psychotherapist Elisabeth Young-Bruehl proposes a typology of three distinct kinds of hate: obsessive, hysterical and narcissistic. It's not an exhaustive analysis, but it's a beginning in any serious attempt to understand hate rather than merely declaring war on it. The obsessives, for Young-Bruehl, are those, like the Nazis or Hutus, who fantasize a threat from a minority, and obsessively try to rid themselves of it.

For them, the very existence of the hated group is threatening. They often describe their loathing in almost physical terms: they experience what Patrick Buchanan, in reference to homosexuals, once described as a "visceral recoil" from the objects of their detestation. They often describe those they hate as diseased or sick, in need of a cure. Or they talk of "cleansing" them, as the Hutus talked of the Tutsis, or call them "cockroaches," as Yitzhak Shamir called the Palestinians. If you read material from the Family Research Council, it is clear that the group regards homosexuals as similar contaminants. A recent posting on its Web site about syphilis among gay men was headlined, "Unclean."

Hysterical haters have a more complicated relationship with the objects of their aversion. In Young-Bruehl's words, hysterical prejudice is a prejudice that "a person uses unconsciously to appoint a group to act out in the world forbidden sexual and sexually aggressive desires that the person has repressed." Certain kinds of racists fit this pattern. White loathing of blacks is, for some people, at least partly about sexual and physical envy. A certain kind of white racist sees in black America all those impulses he wishes most to express himself but cannot. He idealizes in "blackness" a sexual freedom, a physical power, a Dionysian release that he detests but also longs for. His fantasy may not have any basis in reality, but it is powerful nonetheless. It is a form of love-hate, and it is impossible to understand the nuances of racism in, say, the American South, or in British Imperial India, without it.

Unlike the obsessives, the hysterical haters do not want to eradicate the objects of their loathing; rather they want to keep them in some kind of permanent and safe subjugation in order to indulge the attraction of their repulsion. A recent study, for example, found that the men most likely to be opposed to equal rights for homosexuals were those most likely to be aroused by homoerotic imagery. This makes little rational sense, but it has a certain psychological plausibility. If homosexuals were granted equality, then the hysterical gay-hater might panic that his repressed passions would run out of control, overwhelming him and the world he inhabits.

A narcissistic hate, according to Young-Bruehl's definition, is sexism. In its most common form, it is rooted in many men's inability even to imagine what it is to be a woman, a failing rarely challenged by men's control of our most powerful public social institutions. Women are not so much hated by most men as simply ignored in nonsexual contexts, or never conceived of as true equals. The implicit condescension is mixed, in many cases, with repressed and sublimated erotic desire. So the unawareness of women is sometimes commingled with a deep longing or contempt for them.

Each hate, of course, is more complicated than this, and in any one person hate can assume a uniquely configured combination of these types. So there are hysterical sexists who hate women because they need them so much, and narcissistic sexists who hardly notice that

women exist, and sexists who oscillate between one of these positions and another. And there are gay-bashers who are threatened by masculine gay men and gay-haters who feel repulsed by effeminate ones. The soldier who beat his fellow soldier Barry Winchell to death with a baseball bat in July had earlier lost a fight to him. It was the image of a macho gay man — and the shame of being bested by him — that the vengeful soldier had to obliterate, even if he needed a gang of accomplices and a weapon to do so. But the murderers of Matthew Shepard seem to have had a different impulse: a visceral disgust at the thought of any sexual contact with an effeminate homosexual. Their anger was mixed with mockery, as the cruel spectacle at the side of the road suggested.

In the same way, the pathological anti-Semitism of Nazi Germany was obsessive, inasmuch as it tried to cleanse the world of Jews; but also, as Daniel Jonah Goldhagen shows in his book, "Hitler's Willing Executioners," hysterical. The Germans were mysteriously compelled as well as repelled by Jews, devising elaborate ways, like death camps and death marches, to keep them alive even as they killed them. And the early Nazi phobia of interracial sex suggests as well a lingering erotic quality to the relationship, partaking of exactly the kind of sexual panic that persists among some homosexual-haters and anti-miscegenation racists. So the concept of "homophobia," like that of "sexism" and "racism," is often a crude one. All three are essentially cookie-cutter formulas that try to understand human impulses merely through the one-dimensional identity of the victims, rather than through the thoughts and feelings of the haters and hated.

This is deliberate. The theorists behind these "isms" want to ascribe all blame to one group in society — the "oppressors" — and render specific others — the "victims" — completely blameless. And they want to do this in order in part to side unequivocally with the underdog. But it doesn't take a genius to see how this approach, too, can generate its own form of bias. It can justify blanket condemnations of whole groups of people — white straight males for example — purely because of the color of their skin or the nature of their sexual orientation. And it can condescendingly ascribe innocence to whole groups of others. It does exactly what hate does: it hammers the uniqueness of each individual into the anvil of group identity. And it postures morally over the result.

In reality, human beings and human acts are far more complex, which is why these isms and the laws they have fomented are continually coming under strain and challenge. Once again, hate wriggles free of its definers. It knows no monolithic groups of haters and hated. Like a river, it has many eddies, backwaters and rapids. So there are anti-Semites who actually admire what they think of as Jewish power, and there are gay-haters who look up to homosexuals and some who want to sleep with them. And there are black racists, racist Jews, sexist women and anti-Semitic homosexuals. Of course there are.

# "LA Skinhead Forms Unlikely Alliance"

The Los Angeles Times, August 12, 1996

Duke Hefland

Even among his fellow skinheads, Tom Leyden stood out as an angry warrior.

Leyden recalls prowling the streets of Redlands at night, pummeling "blacks, Hispanics and longhairs" with his steel-toed boots. In the Marines, he kept a copy of Adolf Hitler's "Mein Kampf" next to his bunk. At home, he hung a Nazi flag over the baby's crib.

Leyden, 30, might seem like a dubious candidate to lead a crusade against white supremacists. But this tattooed high school dropout has broken with a racist past and joined ranks with an unlikely ally — the Simon Wiesenthal Center.

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Leyden is the first skinhead to voluntarily lend his expertise to the Wiesenthal Center since it opened in West Los Angeles 19 years ago. Skeptical leaders of the center — a watchdog organization that fights anti-Semitism and other forms of prejudice — greeted his arrival last month with suspicion. Was he a spy, they wondered?

But Leyden offered inside information about neo-Nazi methods: how they recruit young members by inciting racial violence on school campuses and by distributing music that preaches the death of Jews, blacks and other groups.

He also recounted his disillusionment with a movement that labeled his own mother inferior because she was handicapped. He spoke about the angst of watching his sons—ages 4 and 2—grow up as hatemongers saluting the Nazi and Confederate flags.

And he recounted his decision to leave his wife of six years for a chance to redeem himself.

"I got the impression that this was a person who has had a profound change of heart and who is willing to tell the world, "I was wrong," recalled Rabbi Marvin Hier, the Wiesenthal Center's founder. "He is saying, 'Everything I've stood for in the last decade was for nothing.' That's admitting to a life's mistake."

Now the Wiesenthal Center and Leyden are putting his firsthand knowledge of neo-Nazi activities to work- a plan that has earned Leyden a "traitor" label among former skinhead associates.

The center has arranged for Leyden to address a national hate conference in Miami in October, Leyden also is scheduled to speak about hate groups in the military during an upcoming visit to Fort Bragg, the North Carolina Army base where swastikas were found last month painted on the doors of rooms occupied by black soldiers.

And, within days, Leyden is expected to begin sharing his information on the Internet.

"Skinheads love to hate," the San Bernadino County resident said of the philosophy he followed for more than a decade. "They feed each other on anger. When you're in the movement, you don't care about how much pain you inflict on anybody."

Leyden was not born a bigot.

Tom Leyden grew up in a close-knit Irish Catholic family in Fontana, the oldest of three boys who attended church regularly. It was a disciplined, working-class home where the blond Leyden and his brothers were required to be present for dinner every night and be back inside by curfew at night.

"it was middle America," said Leyden's mother, Sharon, 48. 'We were just like every other family on the block.

The only omen of the racism to come, Tom Leyden recalled, was a grandfather who told him as a teenager "never to bring a 'darkie' home."

Life began to unravel around age 15, when Leyden's parents divorced.

Leyden dropped out of school and began hanging out with punk rockers. He was angry, lonely and, most important to skinhead recruiters, vulnerable, "I needed to lash out," he explains. "They look for young, angry kids who need a family." On weekends, he'd escape the shouting at home by running off to concerts where he could vent his rage by slam-dancing and fighting.

I could release anger against people and they wouldn't care," he recalled, "Probably every show I went to, I punched somebody in the face."

Leyden's penchant for violence won him friends among skinheads at the shows, and he began hanging out with them, adopting their violent attitudes.

Soon he helped start a skinhead group with about 20 teenagers in Redlands.

"We'd drive down the street and if we saw a black kid or Hispanic kid, we'd throw beer bottles at him or yell a racial epithet," he said. "If he yelled back at us or flipped us off, it was reason enough to stop the car, get out and beat him up."

At 21, Leyden joined the Marines and turned his attention to recruiting. He showed fellow soldiers videos about white supremacist groups such as White Aryan Resistance, an organization founded by nationally known racial separatist Tom Metzger. He played the music of groups with names like Brutal Attack and Screwdriver.

Leyden earned his high-school diploma at night. But the Marines kicked him 'out with an "other than-honorable" discharge, citing off-duty alcohol-related incidents and his association with skinheads.

Back home, he married a woman introduced to him by friends. (The two had corresponded by mail during his military service.) The young family actively participated in white supremacist activities, attending "Aryan youth fests" in Idaho and at one point planning an "Aryan fest" near Barstow. Leyden began recruiting on school campuses for several neo-Nazi groups, including Hammerskin-Nation, and earned a reputation as a shrewd operator.

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#### HATRED — A SEARCH FOR UNDERSTANDING AND APPROPRIATE RESPONSES

"He was a nice young guy. Sharp," recalled Metzger, who met Leyden at various white power gatherings," I liked the guy."

During his 13 years as a skin-head, Leyden was arrested three times, once on suspicion of possessing a loaded firearm, court records show. The other arrests were for drunken driving. He never served any jail time, instead paying fines and performing community service.

Leyden's family rejected his neo-Nazi involvement and refused to entertain his discussions about such topics as the Holocaust being a hoax.

"I hated it and he knew it," recalled his mother. I couldn't condone what he did. He went against everything that was a part of me."

Leyden began to question his life after his sons were born. "Daddy," the boy said, "we're not allowed to watch shows with Negroes on."

Leyden stepped back.

"All the stuff I had been perpetuating was coming out in my son," he said. "He's not going to be a doctor finding a cure for cancer. He's not going to be a lawyer on the Supreme Court. He's going to be a mindless burn beating people."

Leyden faced other troubling dilemmas. He knew the teachings of the white power movement called for a new world order in which minorities were eliminated. But handicapped people and police officers (often referred to by white supremacists as Zionist Occupational Government storm troopers) also would have to be done away with. Leyden's mother walked with a pronounced limp from polio, and his brother, Phil, was a police officer.

The questions ultimately drove Leyden out of the movement. In April, he announced that he was giving up his neo-Nazi ways. Soon after, he and his wife split. He also decided to seek custody of his boys. His wife, reached by phone, declined to comment.

All along, Leyden had not thought about contacting the Wiesenthal Center. His mother did that for him. She was concerned that he might return to his old ways, so she called the organization, which she had seen on news shows a few times.

Soon, Leyden was telling his story to a hate-group specialist at the center and arranging a meeting with its rabbis.

Leyden's involvement with the Wiesenthal Center has brought scorn from his former

friends and associates, including Metzger, who called him a "traitor."

Leyden's family now fears for his safety. He said late-night callers frequently hang up or leave obscene messages.

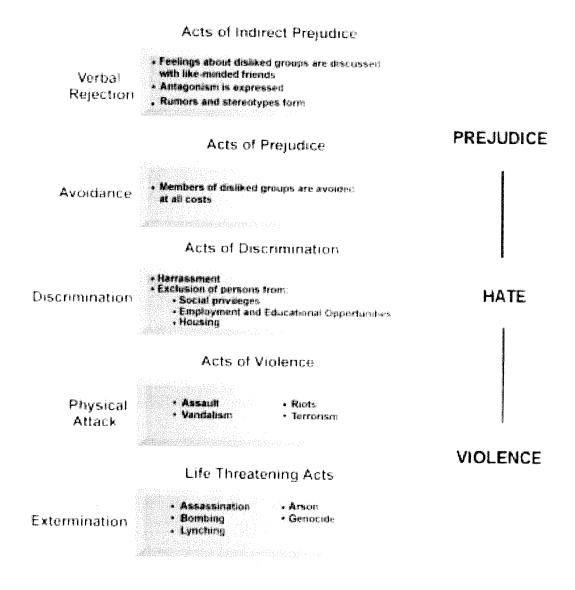
"You're involved in this. You know things happen. So you gotta be prepared for things to come back your way," he said.

But Leyden refuses to let the threats scare him. During his last visit to the Wiesenthal Center, he asked its associate dean, Rabbi Abraham Cooper, about arranging a visit to a synagogue. Cooper, obviously pleased with the request even floated the idea of Leyden attending a service during the upcoming High Holy Days.

"I think Tom has already removed the tattoos inside," Cooper said. "He's made some really severe errors. But he has my respect, which is the last thing I thought I'd be saying about someone who spent years in the skinhead movement."

# The "Hate/Violence" Pyramid

Law enforcement officers have noticed a continuum in the escalation from prejudice to violence:



Hate Crimes in Canada: In Your Back Yard Canadian Association of Chiefs of Police, 1996. Republished with permission.

# Slim Shady Comes to Town: Leda Johnson's Dilemma

By Harry Furman and Richard F. Flaim

When a dude's gettin' bullied and shoots up his school And they blame it on Marilyn — and the heroin Where were the parents at?... I am whatever you say I am If I wasn't, then why would I say I am In the paper, the news, everyday I am I don't know, it's just the way I am."

The Way I Am, by Eminem

Leda Johnson is a high priced executive employee for Comcast-Spectacor, a communications corporation that owns the Spectrum and the First Union Center in Philadelphia, Pennsylvania. Johnson's responsibility includes the approval of musical acts that are booked for tour dates at the corporation's entertainment sites in the area. A promoter who is booking dates for a hip hop tour headlined by controversial artist Marshall Mathers, better known as Eminem, calls Johnson. Having taken note that Eminem had released an album that sold almost two million copies in the first week, the promoters want to book Eminem into the First Union Center on short notice.

Johnson knows that Eminem is very much in public demand. But she also knows that there are conflicting attitudes towards the rising artist. Some critics describe him as violent, foul-mouthed, a gay-basher and a woman hater. They refer to his homophobic lyrics and other songs that openly describe domestic violence. On the other hand, there are others who see him as the most compelling figure in Pop music and one who is tapping into a rising consciousness in young people.

Johnson is also aware that in the Philadelphia area there are particular interest groups that would be upset if Eminem were to be booked into the First Union Center. After all, there were open denunciations of Eminem in Toronto and other cities with demands that he not be permitted to perform.

Johnson knows that bringing Eminem to Philadelphia would be profitable to Comcast-Spectacor. There is little doubt that the First Union Center would be filled to capacity. She also knows that Eminem can be disturbing to some who will be critical if he appears in Philadelphia.

#### **Questions for Discussion**

- 1. What should Johnson do? What responsibility, if any, does Johnson have about the acts she books into the First Union Center? Does she have any moral responsibility with regard to the artists she brings for public performance?
- 2. What responsibility does an artist have for what he or she says or does? Is there any special obligation that an artist bears to the public? Eminem has stated that he should not be taken seriously. What does he mean by this?
- 3. What do you believe is the attraction of Eminem? Is his "rebellion" part of that attraction? Do you perceive Eminem to be expressing hate? Why or why not? When does an artist make statements that are sufficiently hateful to be taken seriously?
- 4. Comment on the following statement made by writer Richard Goldstein that appeared in a *Village Voice* article of July 18, 2000:

The First Amendment does not require silence in the face of outrage...freedom demands a constant assertion of values. Sixty years ago, a cadre of fascist thugs nearly destroyed our civilization. They would never have gotten so far if more people had taken their hate speech seriously from the start. Let's not make that mistake in the name of entertainment. Stop the celebrity bigots before it happens again.

- 5. Several years ago, government hearings were held in Washington on the issue of "gangsta rap." Critics charged that lyrics by such artists promoted hatred, cop killing, abuse of women and generated an attitude of racial antagonism. Such critics argued that such music, although admittedly popular, was destructive to the moral fiber of the society and especially of youth. What do you make of this? (Consider other lyrics such as Bruce Springsteen's *American Skin: 41 Shots* and Ice-T's *Cop Killer* in your discussion.)
- 6. Can artists influence the attitudes of the public towards antagonism or tolerance of certain persons or groups? In what ways? Can you think of some examples of artists who have had a tremendous influence on the tolerance or intolerance of the public towards certain groups or persons? Would it be fairer to say that artists only reflect rather than create the attitudes of the public?

7. Read the following statements by Boy George and C. Michael Greene. Do you agree with either of them? Write a defense of the one with which you agree. If you do not agree with either, write a critique of their ideas in which you explain your disagreement.

"I worry that if Hitler or Pol Pot made a good dance record, people would probably buy that as well. Where do you draw the line?"

— Boy George

"If music is to remain in the voice of rebellion, it's got to unnerve and upset parents."

— C. Michael Greene of National Academy of Arts and Sciences

8. In January 2001, Eminem received four nominations for Grammy awards. Defending the nominations, Grammy officials asserted that Eminem's artistry was to be separated from the content of his message. Do you agree? Should the content of Eminem's lyrics influence whether he is nominated or selected for an award?

# Lesson 2: Hate Speech and the First Amendment

## Introduction

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof or abridging the freedom of speech, or of the press, or the right of the people peaceably to assemble, and to petition the government for a redress of grievances.

— First Amendment, U.S. Constitution

On the night of June 21, 1990, in a mostly white working class neighborhood on St. Paul's east side, a crude cross made from two chair legs and a scrap of terry cloth was planted and set ablaze on the lawn of Russell and Laura Jones, a black couple with five children, who had moved in months earlier. Police arrested two White youths, 17 and 18, who lived on the same street. They were shortly charged under St. Paul Ordinance section 292.02 making it a misdemeanor to place...(on public or private property a symbol, object, appellation, characterization, or graffiti, including, but not limited to, a burning cross or Nazi swastika, which one knows or has reasonable grounds to know arouses anger, alarm or resentment in others on the basis of race, color, creed, religion, or gender...)

The older youth pleaded guilty: the younger, Robert Anthony Viktora, a self-proclaimed white separatist, denied involvement. Because he was a juvenile, only his initials, R.A.V., were used in the proceedings which followed. Two years and a day to the date of the cross burning, the U.S. Supreme Court unanimously found the ordinance to violate the First Amendment's guarantee of freedom of speech.

—Richard S. Randall from review of Beyond the Burning Cross

Sticks and stones may break my bones But words will make me go in the corner And cry by myself for hours

— Eric Idle from Monty Python.

He that would make his own liberty secure, must guard even his enemy from oppression, for if he violates this duty, he establishes a precedent that will reach to himself.

— Thomas Paine

Any debate on the issue of hate speech in the United States begins with the reality of the *First Amendment* that limits the power of the government to control speech. A central issue of this lesson is how Americans should confront the expression of hate in the face of the protection afforded even distasteful language under the U.S. Constitution.

This is not the case in the overwhelming majority of nations. For example, in Germany, the Nazi Party is outlawed and public display of the swastika is banned. Any public expression of support for the Nazis is illegal. You will see several examples in this lesson of persons being criminally prosecuted under German law for just such offenses. This policy mirrors the public attitude of many European nations that some expressions of speech that incite hatred are *dangerous* and against public policy and that government should remain sensitive to the hypnotic power of neo-fascist and/or extreme public expression.

To what extent can hate speech in the United States be controlled? Is it even desirable to attempt to control the expression of hate speech? How are we to even define what hate speech is? Hate speech can involve more than words as it is sometimes conveyed through "symbolic speech" which is communicative conduct that carries a message such as wearing an armband or wearing a certain symbol. An example of these issues is found in the case of the American Nazi Party in the city of **Skokie**, **Illinois**. In the spring of 1977, Frank Collin, the local head of the Nazi Party, determined that he wanted to march in a neighborhood in Skokie, a community that was heavily Jewish and in which many Holocaust Survivors lived. The goal of the Nazis was to stimulate and encourage hatred among those already sympathetic to their cause and to incite the feelings of the Jews of Skokie.

Despite legal efforts taken by the community to prevent the march, the Illinois Appellate Court ruled that the Nazis could march but that they could not wear the swastika, as that symbol was not protected under the First Amendment. However, the Illinois Supreme

Court then overruled the Appellate Court and held that "the display of the swastika, as offensive to the principles of a free nation as the memories it recalls may be, is *symbolic political speech* intended to convey to the public the beliefs of those who display it." Ironically, despite its legal victory, the Nazi Party never marched in Skokie.

As you will see, there are very contrasting positions about how to respond to hate speech. Those positions are represented in the following readings and the ESSENTIAL QUESTIONS AND ACTIVITIES that follow. One position asserts that no hate speech should be controlled and that the First Amendment protects even the most hateful expression. This view can best be represented in the words of former Supreme Court Justice Louis Brandeis, who said, "...sunshine was the best disinfectant." The other position warns that hate speech is dangerous and that words and symbols can be a catalyst for hatred which may lead to violence, especially for those minorities who have been subject to a history of discrimination and other conduct based in hate. That view asserts that sticks and stones and words do hurt others and should be controlled in some circumstances as a matter of public good. It also asserts that the First Amendment, when it comes to the subject of speech, is in conflict with the Fourteenth Amendment to the U.S. Constitution, which emphasizes equality. Under this argument, equality should be deemed more important than unregulated speech.

The readings and activities below provide an overview of the issues of hate speech. Several representations of "symbolic speech" are offered, including a burning cross and cartoons designed to elicit a shocking response. Two writers offer very different positions about hate speech. Varying definitions of what is meant by hate speech are offered by a host of authors and by censorware companies that attempt to block hate speech. Finally, you are presented with several dilemmas that explore the subject of campus speech and other issues involving the response to the expression of hate speech. As you review the materials, think about what makes speech hateful and when speech ever gets to the point of being so hurtful that an outside authority must control it.

#### **Essential Questions and Activities**

- 1. Look at the photograph of the Skinheads. Describe what you see in the picture. How do you react to their act of saluting? Is the fiery swastika an example of "symbolic speech?" Is this hate speech? Use the definitions of hate speech provided in this lesson.
- 2. Review the cartoons/drawings that are contained in this lesson. Can such cartoons incite hatred or violence? As you look closely at each of the cartoons, comment on the following:

bolocowski deelstoteleini 2

- What is "Aryan culture"? Where would one find it in the world or in history?
- Describe what is being depicted in cartoon "A"? What group also displayed such figures in their propaganda?
- What is cartoon "B" saying about being "born White"? How do you react to this?
- Examine cartoon "C" closely. What is being said here and what is your reaction to this? Discuss its similarity with cartoons you may have seen of another historical era.
- In cartoon "D", what exactly is being taken back? From whom?
- Overall, do you find these cartoons to be hate speech? Is it propaganda? Are the cartoons convincing? Threatening? Effective? Why or why not?
- 3. Do you agree that members of the American Nazi Party should have been permitted to march in Skokie in 1977? (View the 1981 telemovie *Skokie* which explores the issue.) Should they have been permitted to wear the swastika? Should members of the Ku Klux Klan or members of other racist organizations be permitted to march in a black neighborhood and display Confederate flags or racist symbols?
- 4. Examine the cartoon published in 1994 concerning the *R.A.V. versus St. Paul* case about a white supremacist who burned a cross on a black family's lawn. What is your reaction to the statement of the boy in the third frame? Analyze the contrasting positions of the two persons in the fourth frame and comment on the central issue raised in the R.A.V. case. Who was right?
- 5. How do you feel about the lawyer who defended the rights of Nazis to march in Skokie or attorney Edward Cleary who defended Robert Anthony Viktora, the white separatist who burned the cross on a black family's lawn? Were their actions noble? Foolish? Just plain wrong? Did their legal representation of Nazis and white separatists have a positive or negative effect on the public?
- 6. Read the Hate Speech Controversy and Hate Speech Creates Climate in Which Violence is Accepted. Compare the authors' positions about hate speech and the basis of each writer's argument. Writer Chuck Stone states that hate speech is a catalyst and he refers to "merchants of venom." What does he mean by this? What types of speech does Stone say are not protected? What examples does Stone use to describe the relationship between hate speech and a violent response?
- 7. To what extent should students be able to express themselves freely on a college campus? For example, in September 2000, a swastika was prominently displayed on a wall near a dormitory at the campus of the College of New Jersey. Is this an act or form of hate speech? A hate crime? How should a college deal with something like this? Research how the college dealt with the issue.

- 8. Franklyn Haiman, a professor of communications at Northwestern University, has written that "speech is not the same as action...and if it were, we would have to scrap the First Amendment." In contrast, First Amendment scholar Maria Matsuda has argued that hate groups should not be protected by the First Amendment when they use "assaultive speech," or "communications intended to have the effect of wounding, terrorizing and degrading certain groups." Matsuda states that hate speech is uniquely dangerous because of the historic connection between racism and genocide. Who is right?
- 9. In March 2000, a publisher brought out a new Czech edition of Hitler's *Mein Kampf*. Under the law in the Czech Republic, it is a criminal offense to distribute Nazi or Communist ideology. Why do you believe that country has such a law? Should the U.S. have such a law? Why or why not?
- 10. Professor Stanley Fish has written "the only way to fight hate speech is to recognize it as the speech of your enemy and what you do in response to the speech of your enemy is not prescribe medication for it but attempt to stamp it out." Fish goes on to disagree with Justice Brandeis' pronouncement that "sunshine is the best disinfectant." In contrast, Professor Lawrence Tribe of Harvard has stated "if the Constitution foresees Government to allow people to march, speak and write in favor of peace, brotherhood and justice, then it must also require Government to allow them to advocate racism and even genocide." Whose position represents the best response to hate speech? Why?
- 11. In 1968, Sara Baird, an aspiring African-American attorney, refused to answer a question on an Arizona State Bar questionnaire which read as follows: "Are you now or have you ever been a member of the Communist Party or any organization that advocates overthrow of the United States by force or violence?" She wrote "N/A" and Arizona refused to grant her a law license.

In 1966, Julian Bond, elected to the Georgia House of Representatives, was refused a seat based on his strong opposition to the Vietnam War. His fellow legislators asserted that his opposition was inconsistent with an oath he would take to uphold the Constitution. Research what happened in each of these cases. How does each case relate to the issues probed in this lesson?

- 12. Discuss the extent to which any of the following acts of symbolic speech should be restricted:
  - · burning a draft card
  - wearing a black armband in school during the Vietnam War
  - burning or defacing the American flag
  - picketing an abortion center

- 13. Read Campus Speech Codes: James Weinstein's Dilemma, Up Against The First Amendment: The School Board President's Dilemma and In Your Face: The Community's Dilemma. Use the questions at the end of the reading as a guide to analysis and follow up discussion.
- 14. Review: *Speech: A Legal Overview.* Using the overview and some additional research. relate the issue of regulating speech to the following concepts:
  - · fighting words
  - group libel
  - clear and present danger
  - · symbolic speech
  - · content based restrictions
  - · vagueness or over-breadth
  - · chilling effect

Describe the current status of U.S. laws that regulate hate speech. How is this different from Canadian law? What conclusions can you draw about the way free speech cases are decided by the courts? Use your Internet skills to read one of the opinions listed in the Overview and report your conclusions to the class.

15. As a final activity, discuss when hate speech can and/or should be subject to control by government, schools or private institutions?

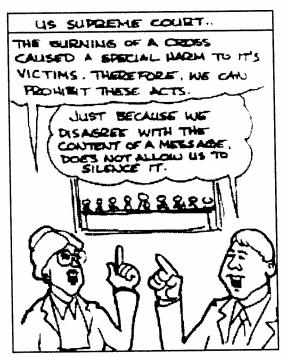


Skinheads promote the idea of white supremacy and are responsible for many hate crimes.









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## Speech: A Legal Overview

By Harry Furman

**SCHENK v. UNITED STATES** (1919) — a person distributed pamphlets urging insubordination by members of the military — a violation of the Espionage Act. The Court held that there is no protected speech for a man "falsely shouting fire in a theater and causing a panic." The words used created "a clear and present danger."

**HAGUE v. COMMITTEE FOR INDUSTRIAL ORGANIZATION** (1939) — Jersey City, N.J. is challenged about a municipal ordinance that prohibited public assembly that led to "riots, disturbances or disorderly assemblages." The Court held that the City cannot stop public assembly in parks and on streets based upon this ordinance.

**CHAPLINSKY v. NEW HAMPSHIRE** (1942) — A member of Jehovah's Witnesses publicly condemned a specific organized religion as a "racket." The Court held that words that "by their very utterance, inflict injury or tend to incite" are not permissible. They are "fighting words."

**TERMENIELLO v. CHICAGO** (1949) — An ex-priest gave a racist, anti-Semitic speech that "invited disruption." The man was convicted of the charge of disorderly conduct. The conviction was overturned by the Supreme Court which held that there has to be a "clear and present danger" to stop speech.

**FEINER v. NEW YORK** (1951) — Member of Young Progressives was prosecuted for denouncing President Truman on the street. The Court held that the speech was about to cause a violent reaction and can be restrained.

**BEAUHARNAIS v. OHIO** (1969) — A segregationist distributes leaflets that called for "halting encroachment and invasion of Whites by Blacks." The Court held that the statement was group libel and that speech that has a tendency to cause a breach of the peace can be punished.

**BRANDENBURG v. OHIO** (1969) — A Ku Klux Klan leader gave a hostile speech about Blacks and Jews and then burned a cross. The Court held that speech is permissible unless it is especially directed to inciting or producing imminent lawlessness and is likely to produce such actions.

**TINKER v. DES MOINES** (1969) — Students were suspended for wearing black armbands as a protest in school of the Vietnam War. The Court held that students can wear armbands as a freedom of expression and as symbolic speech.

**SMITH v. COLLIN** (1978) — The American Nazi Party wanted to march in Skokie, a suburb of Chicago with a large Holocaust Survivor population. The Illinois Court held that although the speech of the Nazis was "repugnant," any ban on the march would be unconstitutional.

**TEXAS v. JOHNSON** (1989) — Texas passed a law making it a crime to burn the American flag. The Court held that the state law was unconstitutional as the act of burning a flag may be "communicative conduct" even if repugnant.

**REGINA v. KEEGSTRA** (1990) — A Canadian teacher was accused of promoting racial hatred in the public schools. The Canadian Court held that free speech may be limited when hatred is promoted.

**R.A.V. v. ST. PAUL** (1992) — Several young men, including juveniles, burned a cross on a Black neighbor's lawn and were prosecuted under a local ordinance. The Court held that the ordinance was unconstitutional as the words of the ordinance were overbroad, vague and create a chilling effect on speech.

**WISCONSIN v. MITCHELL** (1993) — After seeing the film "Mississippi Burning," a group of young Black men and boys decided to beat up a White boy who was severely injured. They also stole the victim's tennis shoes. The Court held that the "enhanced penalty," the increased punishment, given to the offenders is constitutional.

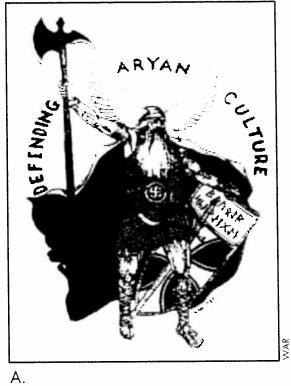
**RENO. v. ACLU** (1997) — A defendant was charged with making obscene or indecent material available to people under the age of 18 on the Internet under the Communications Decency Act. The Court held that the 1996 law was unconstitutional.

**PLANNED PARENTHOOD v. AMERICAN COALITION OF LIFE ACTIVISTS** (1999) — A web site entitled "Nuremberg Files" listed the names of abortion providers and other personal information. When one doctor was murdered, an X was placed on his photograph. A trial occured with the result of a \$107 million verdict based on the finding that the web site was a "true threat to bodily harm." A higher court overturned the verdict and held that the web site was not a "true threat" as defined by prior Supreme Court cases.

**APPRENDI v. NEW JERSEY** (2000) — A judge increases the criminal penalty to a man convicted of shooting a gun at the house of an African-American neighbor. The Court held that the portion of the New Jersey law that gives discretion to the trial judge is overturned, as there must be a jury finding beyond a reasonable doubt of the motivation to commit a hate crime.

What issues seem to keep being raised in these cases? What values come into conflict? Do research to determine how Courts decide what is a "clear and present danger," a "true threat," "symbolic speech," or an "overbroad" or "vague" law? Under current law, what kinds of speech are not permitted under American law?

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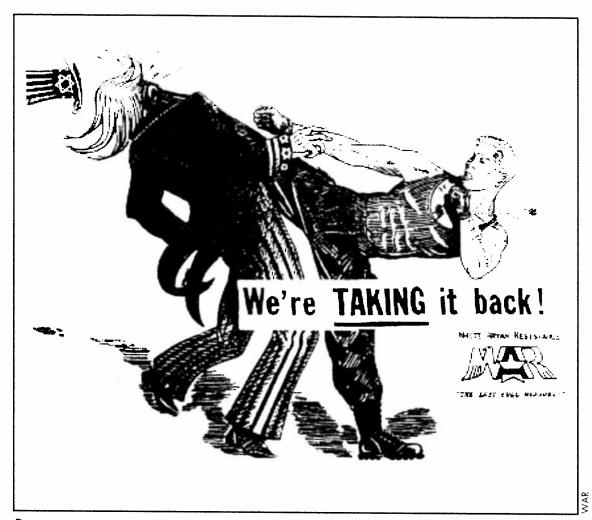


It is simple reality that...

To be born WHITE is an honor and a privilege

В.





D.

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# THE HATE SPEECH CONTROVERSY Statement of Position: Hate Speech

Freedom of speech rests on the principle that in and of themselves, words can never be a bad thing. To paraphrase the playground saying: "sticks and stones may break my bones, but words will never hurt me." As long as we are free to judge the importance of what is being said for ourselves, then words should never be banned.

Speech enjoys a privileged position in modern democracies. There is no other kind of activity which is as relatively unregulated. Despite attempts by conservatives to restrict speech through laws against obscenity, sedition, defamation and incitement, free speech has remained a key principle for civil libertarians.

Recently, however, the idea that words can never hurt you has come under attack. Free speech has come to be viewed by some not as a democratic right to be cherished, but as a dangerous weapon which can fall into the wrong hands. Free speech is all very well, runs the argument, but what if it means free speech for racists, Nazis, and anti-Semites? What if it facilitates violence, slaughter, and war?

The unprecedented freedom of expression facilitated by the Internet has become the focus for much of this criticism. The Simon Wiesenthal Centre, for instance, has voiced concern that according to their research the number of sites featuring racist propaganda and hate material has doubled in a year to around 600. Many others have protested at the number of racially abusive and threatening postings that are made in newsgroups.

These concerns have led many to demand that hate material should be removed from the Net. Already some Internet Service Providers are starting to suspend sites which harbour what they consider to be extreme material. Organizations like the Internet Watch Foundation have proposed that all Net material should be rated, by analogy with cinema films classification, to make it easier to control and block access to anything deemed unsuitable.

Many opponents of free speech now argue that at least in some circumstances words can hurt you. For them, speech is sometimes not simply abusive or insulting but leads to violence, hatred, discrimination and slaughter. Or in its simplistic and most stark formulation: speech can kill.

This sounds convincing in that acts of violence often follow threats or abusive speech. But In actual fact even a little consideration reveals it to be completely ridiculous. The idea that "words can never hurt you" does not imply that words are without consequence or that they are unimportant. The point is that it is not the words themselves that hurt you. It is the people who act on those words. Words are serious, not because they have any direct effect in their own right, but because words, and the ideas they express, are what we use to weigh up our own decisions, their likely effects, and our responsibilities.

Words have consequences only if we choose to give them consequences. It is not the words themselves that cause things to happen, but our estimation of the value, and truth, of those words.

Freedom of speech is often misunderstood to be a gift to crackpots, racists, or demagogues. But the truth is the opposite. The people who are really empowered by free speech are not the speakers but the audience. Free speech puts a premium on the decision-making ability of each of us to weigh up all the arguments and draw our own conclusions.

The idea that speech can kill implies that the responsibility for acts of killing lies not just with the individual who carries out the act, but also with the words themselves. Rather than particular social circumstances influencing the interpretation and value put on words, the words themselves are portrayed as bearing some responsibility for acts. It means that the words have a certain power of their own which makes people accept them. At the end of this line of thought is in fact a judgement about other people today. It portrays people who commit acts of violence as victims or empty vessels who lack the intellectual capacity to critically assess what they hear and do the right thing. Instead they are too often portrayed as less than ignorant and consumed by an irrational passion to assault, maim, or kill.

Even in its own terms, the idea that speech needs to be restricted because people lack the capacity to make correct judgements does not make sense. The only way to enhance anybody's ability to form a correct opinion is to inform them with more speech. Restricting speech can only disempower people more. Freedom of speech is actually the best device we have to shape our decisions and justify our acts.

Source: www.netfreedom.org

# Hate Speech Creates Climate in Which Violence is Accepted

By Chuck Stone, Guest Columnist

"Sticks and stones may break my bones, but names will never hurt me."

In today's First Amendment-protected environment of hate speech, names do hurt, sometimes, even kill.

But words are like guns. Somebody must pull the trigger. In hate crimes, the merchants of venom pull the triggers, creating a hate climate that demonizes targets and then rhetorically urges their assassinations.

Whether the bigot-designated target is a gay college student in Wyoming, a black self-employed man in Jasper, Texas, an Israeli prime minister, a 52-year-old Buffalo obstetrician or a Jewish businessman on Harlem's 125th Street, they share one horrifying common destiny.

Hate speech was a catalyst for their deaths.

First Amendment absolutists reject the etiology of hate speech to murder as unconstitutional "mind control." But others disagree and couple hate speech with crimes.

In a letter to *The Herald-Sun* of Durham, Martin K. Smith, in effect, responded to the Virginia pro-life minister who praised the obstetrician's assassination as morally justified.

"To all Christian conservatives," Smith's letter summoned. "Every time you vote for an antigay politician or give money to an anti-gay preacher, you perpetuate a climate of hatred in which lynchings are inevitable."

Chicago Tribune Media Services columnist Deborah Mathis echoed Smith's sentiments in her column, which drew 10,000 angry phone calls after a conservative radio talk show host read it on air.

Mathis cited several anti-homosexual conservative organizations and politicians which she eloquently contended "poisoned the air which poisoned the minds which connived to destroy" Matthew Shepard in Wyoming.

But the question persists: do words kill?

A New York Times five-column headline on Nov. 1 answered that question: "Israelis Get an Eerie Reminder That Words Do Kill." (emphasis added).

The article recalled the death threats and 1995 assassination of Israeli Prime Minister Yitzhak Rabin. Rabin's widow, Leah, accused Rabin's political opponent, Benjamin Netanyahu, of incitement in the climate that inspired Rabin's assassin.

Ironically, Prime Minister Netanyahu required heavy security a few days ago at a Rabin memorial service because of the same threats.

A majority of Israelis now believe Netanyahu might be assassinated.

In America, 26 states have laws against hate-aggravated crimes. North Carolina is not one of those states. The 26 states include New York, where a white woman jogger in Central Park was brutally beaten by a gang that yelled racial and gender epithets during the attacks.

But First Amendment absolutists are consistent. In also opposing hate-aggravated crime laws, they fail to answer a simple question: at what point does life-threatening hate speech cross the speech-action thin line and require legal intercession?

One answer is found in a 1982 Harvard Law Review article's definition of hate speech as an attempt to "inflict real harm" to "injure a person's dignity" and to "foster violence and harassment (that) is life-threatening."

New York City Judge Harold Tompkins accepted that definition in establishing "the Tompkins standard" for hate speech crimes. The case involved a Jewish businessman in Harlem whose store was under siege by an angry mob.

After hearing and seeing evidence of life-threatening protesters who vowed to "kill the Jew bastards" and "Burn down the Jew store," Tompkins signed a restraining order against the protesters at 12:50 p.m.

He was two hours and 45 minutes too late. At 10:05 a.m., one of the protesters had burst into the store, set the store ablaze and fired a gun. He killed himself and seven employees, including the store sugard, who had begged police for protection.

College campuses, which should be America's most protected comfort zone for ideological disagreements instead have become, in some instances, a vexatious battleground of hate speech.

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A 1982 USA Today survey of students at 128 colleges and universities reported that 57 percent believed race or gender orientation intolerance "posed a problem" on their campuses.

A survey by the National Institute Against Prejudice and Violence confirmed those findings.

During the 1980s, two public universities, the University of Michigan and the University of Wisconsin, and two private universities, Stanford University and Brown University, were national leaders in adopting campus codes regulating hate speech.

Their good intentions were short-lived. After the Supreme Court in R.A.V. v. St. Paul (1992), declared unconstitutional a St. Paul Bias-Motivated Crime Ordinance that had indicted Robert A. Viktora's cross-burning on a black family's lawn, both Michigan and Wisconsin reconsidered their hate speech regulations.

But constitutional limitations have always circumscribed freedom of speech. The First Amendment does not protect "low value speech," Holmes' "clear and present danger," or "crying fire in crowded theater," libel, pornography, obscenity, "fighting words" (Chaplinsky v. New Hampshire, 1942), the shaky group libel (Beauhamais v. Illinois, 1952) or in 1998, hate speech aggravated crime.

On university campuses, students expect certain rights to be protected and secured personal safety, absence of physical harm or, mental distress, and the exercise of freedom of speech, as long as it does not inflict harm on others. This "harm principle," from John Stuart Mill's "On Liberty," protects unrestricted freedom of speech, but prohibits the "instigation of some mischievous action."

When a gay-hating or race-baiting hoodlum kills a gay student or brutalizes a black woman, then a society guided by the principles of civility should re-examine those moral priorities that permit infliction of harm under First Amendment-protected freedom of speech.

The University of North Carolina as a public university is democracy's finest arena for this re-examination.

It can nurture the Miltonian clash of truth and falsehood and guarantee that all students shall have the right to learn and sit under their academic vine and fig tree of humanity and "none shall make them afraid."

Chuck Stone is Walter Spearman Professor of Journalism. Stone teaches Journalism and Mass Communication 144, "Censorship."

# Definitions of "hate speech" used by censorware companies included in the study:

The following definitions were taken from the Web pages of the respective blocking software companies, and are current as of 5/21/2000. Only SmartFilter and WebSENSE use definitions of "hate speech" that do not explicitly mention sexual orientation.

#### SurfWatch:

(from http://www1.surfwatch.com/about/body-filter-core.html)

#### Hate speech:

- sites advocating or inciting degradation or attack of specified populations or institutions based on associations such as religion, race, nationality, gender, age, disability, or sexual orientation
- sites which promote a political or social agenda which is supremacist in nature and exclusionary of others based on their race, religion, nationality, gender, age, disability, or sexual orientation
- Holocaust revision/denial sites
- coercion or recruitment for membership in a gang\* or cult\*\*
  - \*A gang is defined as: a group whose primary activities are the commission of felonious criminal acts, which has a common name or identifying sign or symbol, and whose members individually or collectively engage in criminal activity in the name of the group.
  - \*\*A cult is defined as: a group whose followers have been deceptively and manipulatively recruited and retained through undue influence such that followers' personalities and behavior are altered. Leadership is all-powerful, ideology is totalistic, and the will of the individual is subordinate to the group. Sets itself outside of society.

### **Cyber Patrol:**

#### (from http://www.cyberpatrol.com/cybernot/criteria.htm)

Pictures or text advocating prejudice or discrimination against any race, color, national origin, religion, disability or handicap, gender, or sexual orientation. Any picture or text that elevates one group over another. Also includes intolerant jokes or slurs.

### **Net Nanny:**

No published criteria.

#### Bess:

(go to http://www.n2h2.com/products/bess/index.html then click on "Filtering Methods," the server blocks visitors from loading sub-frame pages directly)

Hate/Discrimination: Advocating discrimination against others based on race, religion, gender, nationality, or sexual orientation.

#### **SmartFilter:**

(from http://www1.securecomputing.comindex.cfm?skey=86#hs)

This category is dedicated to any sort of propaganda that encourages the oppression of a specific group of individuals, including such content as derogatory speech against women, minorities, and the disabled. Sites include:

- Ku Klux Klan Page
- Aryan Nations
- National Socialist Movement
- Did Six Million Really Die?

#### WebSENSE:

 $(from\ http://www.websense.com/products/categories/cat4.cfm)$ 

Racism/Hate

Ethnic impropriety, hate speech, anti-Semitism, racial clubs/conflict.

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## Campus Speech Codes: James Weinstein's Dilemma

By Harry Furman and Richard F. Flaim

James Weinstein is a student at the University of Pennsylvania. One night, James was in his room studying when he heard a barrage of loud shouting and a commotion outside of the dormitory. Yelling out of their windows, Weinstein and other students asked that the persons making all the noise quiet down. Weinstein, after seeing that these persons did not stop, then made the following statement: "Shut up, you water buffaloes. If you want a party, there is a zoo a mile from here." Other students yelled racial slurs. It appeared that the persons making the noise were a group of African-American sorority sisters. They were angry by what they heard and they called the campus police who proceeded to conduct an investigation.

Not surprisingly, no one admitted to yelling out of their window except James Weinstein, who assumed that he had nothing to fear from his actions. He openly told the police that he did call the noisemakers "water buffaloes" as he explained that the Yiddish word for "water buffalo" meant a "noisy oafish person" similar to the English word "cow." What Weinstein did not understand was that the University of Pennsylvania maintained a campus speech code, which disciplined any student who made "racially insensitive remarks." Because Weinstein had openly acknowledged his remarks, the university found him guilty, although it was unclear if what he said was really insensitive. Weinstein was also asked to accept a settlement in which he would write a letter of apology, present a program on "living in a diverse community" to other persons living in his dorm, be on residential probation and receive a notation to be placed in his transcript stating "Violation of the Code of Conduct and Racial Harassment Policy."

In response, Weinstein refused and insisted that he had done nothing wrong. A University representative stated that "water buffaloes" were "primitive, dark animals that lived in Africa" and thus, the remark was perceived by the alleged victims as a slur which should result in punishment. Faced with the unwillingness of Weinstein to accept punishment, the university scheduled a hearing to decide whether Weinstein should be expelled from the University of Pennsylvania.

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#### **Questions for Discussion**

- 1. Some scholars and administrators have argued that the university should be an environment in which students are protected from racially and ethnically insensitive speech. A speech code insures that students will not be subject to intimidating speech that will diminish the quality of education. Are these people right? If not, should there be any restriction as to what is acceptable speech on a college campus?
- 2. What if friends of Weinstein had told him that he would be better off just attending the sensitivity classes? After all, it would be better to obtain a degree from an Ivy League school than risk expulsion. Are they right?
- 3. Should Weinstein have admitted that he made a remark to the sorority sisters? Do you find that remark to be "racially insensitive"?
- 4. Leonard Jeffries is a professor at City College in New York. Jeffries has been accused of being anti-Semitic and made critical remarks about the "Jewish slave trade." Should speech codes be applied to university professors?
- 5. How should a university deal with a case like that of Weinstein?
- 6. What does the term "politically correct" mean? How is this term applicable to the current environment in which we live?
- 7. Read more about the issue of speech codes and the particular story of Eden Jacobowitz upon which this dilemma is based in *The Shadow University: The Betrayal of Liberty on America's Campuses* by Harvey A. Silverglate and Allen Charles Kors, the professor who aided Jacobowitz in the case. Find out what happened to Eden Jacobowitz.
  - The authors describe another incident at the University of Pennsylvania in 1990 when black students kidnapped a young white student who they believed to be a racist. The students drove the young white man to a secluded park, handcuffed him to a metal structure and engaged in a mock trial in which he was subject to verbal abuse and references to lynching and death. Blindfolded, he was returned to a campus area street and left to believe he was dropped off in the middle of a highway. Discuss how the university should have dealt with this incident and find out what really happened.

- 8. Some colleges, including the University of Mississippi and the University of California at Berkeley, are now creating "speech free zones" that permit free speech only in a particular area. Such schools are asserting that they can regulate the time, manner and place of the expression of speech. Are they right? Should the right to speak in such "zones" be only for students or persons associated with the school or for all people?
- 9. In March 2001, the *Brown Daily Herald*, Brown University's college newspaper, published an advertisement entitled "Ten Reasons Why Reparations for Slavery is A Bad Idea and Racist Too" by the conservative and former radical David Horowitz. While opposing reparations, the ad stated that Black Americans owed more to the U.S. than the country owed to them. Many other college newspapers, including the Columbia Daily Spectator and the Harvard Crimson, had rejected the ad. In response to the decision of the Brown editors to publish the Horowitz ad, angry students stole most of the copies of the paper and attempted to enter a barricaded newsroom to retrieve the remaining copies. The students also demanded an apology from the editors. Discuss this incident as a current free speech issue and relate it to our study of hate speech.

## Up Against the First Amendment: The School Board President's Dilemma

By Harry Furman and Richard F. Flaim

Henry Sendin is the President of the Seneca School Board of Education. A former teacher and now an attorney, Sendin is sensitive to the needs of a very diverse school system in which almost one-half of the students are African-American and Latino. As a practicing lawyer, he is also aware of the potential legal implications of Board of Education actions.

The Board maintains a policy that members of the public may rent a school facility such as an auditorium for the purpose of promoting a public or community interest. Sendin learns that a local organization has rented the high school auditorium and has invited Khalid Abdul Muhammad to be the featured speaker for an evening event. A fiery orator, Muhammad is known for his alleged anti-Semitic and anti-white positions as to the state of current American society.

After the invitation becomes public knowledge, some persons in the community strongly suggest that what they describe as demagogues like Muhammad have no right to speak in the public schools. They argue that every legal step should be taken to block Muhammad from appearing at Seneca High School.

The Board's solicitor advises Sendin that the Board President alone makes the decision as to whether the Board should take any action about Muhammad's visit. Sendin knows that regardless of what he decides to do, there will be persons who will be critical of his action or inaction. Sendin speaks with other members of the school board and many other persons in the community, but he realizes that he alone must make this decision.

#### **Questions for Discussion**

- I. Should Sendin's ethnic or religious heritage influence his decision?
- 2. What should be the reaction of Muhammad if he is barred from speaking? Does Sendin have any sound reason for doing this? Is there any legal basis upon which Muhammad can be stopped from speaking?

- 3. Should Sendin make this decision based upon the law, community response, personal interest or any other criteria?
- 4. If the speaking engagement is not stopped, should Sendin and members of the school board attend the speech? Why or why not?
- 5. How should the community respond to the presence of such a speaker in their community? What options are available?
- 6. Would your advice to Sendin have been different if the intended speaker was
  - a Nazi leader?
  - a national leader of a gay rights organization?
  - a "right to life" speaker?
  - a member of a militia group?
  - a sympathizer with the Taliban?
- 7. To protect the public peace at such an event, should the community provide additional security? Who should be responsible for the cost of it?

*Note:* This dilemma is loosely based upon the appearance of Khalid Abdul Muhammad at Vineland (NJ) High School in 1994, and co-editor Harry Furman's own involvement in the dilemma. Muhammad died in 2001.

## In Your Face Hate: The Community's Dilemma

By Harry Furman and Richard F. Flaim

Edward Rehorn is the local leader of the Ku Klux Klan and is affiliated with the New Jersey Nazi Party. Inspired by events which had occurred in Skokie, Illinois, Rehorn decides that he wants to organize a rally to be held in a public park in his home community. He requests a permit to conduct the demonstration and he solicits the efforts of the American Civil Liberties Union to protect his rights. Rehorn believes that persons of like anti-Semitic and "pro-white" mind will travel to the rally where speakers and musicians will entertain the crowd with their "White Pride" message. It is fully expected that some marchers will be wearing Klan and Nazi garb and Rehorn encourages his people to come with T-shirts for sale which will display confederate flags, runic symbols and swastikas.

A multiethnic community that includes many African-Americans, Asians and Jews, the community is horrified by the prospect of a public demonstration by such persons. The Mayor and the city fathers are concerned that such a rally will only result in violence, consume valuable police resources and generate a bad public image for the town. The community hopes that it can stop the rally by denying Rehorn a permit to hold the rally in the park.

Everett Jones hears about the rally and tells his friends that if this "bunch of nuts" is permitted to invade the park, he and his friends will be there to meet them. Jones, a Veteran of the Second World War and Korea, explains that he did not fight in Europe to allow such people to spit on the real meaning of America. He begins organizing his friends with the full intention of confronting Rehorn and his cohorts in the park.

#### **Questions for Discussion**

- I. Does the community have the right to refuse a permit to Rehorn to rally in the park?
- 2. What resources should the government expend to try and stop the rally? Control the rally? Respond to the rally?
- 3. How do you feel about the intended actions of Everett Jones?
- 4. Should Rehorn be permitted to display multiple symbols like the swastika, confederate flag, runic symbols or White Pride t-shirts at the rally?

- 5. How would you react to the argument that the best response of the community to Rehorn is to ignore him and his rally?
- 6. Assume that Rehorn lives in the community in which he intends to hold this rally. How should individual members of the community deal with Rehorn when they see or hear him? Should Rehorn's expressed philosophy matter to persons who come in contact with him? Why or why not?
- 7. If such a rally were to be held in your community, how would you deal with it? Would you want to be at the rally? What action, if any, would you take?
- 8. Nations such as Germany do not permit the open expression of racial hatred. In June 2001, Manfred Roeder, a 72 year-old former lawyer and neo-Nazi, was sentenced by a German court to more than two years in prison for anti-Semitic and racist comments he made at a meeting of the National Democratic Party. Previously, Roeder had been jailed for eight years for the bombing of a hostel, which killed two Vietnamese refugees. In 1999, he was found guilty of inciting racial hatred by denying that Jews had been murdered in the Holocaust. German law does not permit speech that denies the Holocaust or encourages racial hatred. Should Rehorn be subject to the same restrictions?

## Should Hate Speech Be Regulated?

## HATE SPEECH SHOULD BE REGULATED

- 1. Necessary to reduce real and potential harassment of victim groups.
- 2. Hate speech is hurtful.
- 3. Hate speech intimidates other speech.
- 4. Hate speech is a potent weapon that is used to gain support of like-minded haters and to threaten victims.
- 5. Hate speech represents ideas not worthy of protection in a democratic society.
- 6. Helps to deter negative acts (crimes) that flow from hate speech.
- 7. Hate speech undermines equality. The 14th Amendment is just as important as the 1st Amendment.
- 8. Hate speech is connected to systemic patterns of domination of victim groups.
- 9. Necessary to promote a respect for different people in a multicultural society.

# HATE SPEECH SHOULD NOT BE REGULATED

- 1. Free speech is the best friend of social reform.
- 2. Regulating hate speech will be used against the persons and groups who were to be protected by such regulation "reverse enforcement" theory.
- 3. It is better to see hate in the open than drive it below the surface.
- 4. Controlling hate speech will increase the harm and danger to groups that are victimized—"pressure valve" theory.
- 5. More speech is always better.
- 6. Regulating hate speech will adversely identify certain people as "victims."
- 7. Hate speech is difficult to define.
- 8. Regulations for hate speech will be difficult to to apply uniformly.
- 9. Regulating hate speech will inhibit other "non-hate" speech it will create a "chilling effect."

#### **Questions for Discussion**

- I. What values are most represented by those who would regulate or not regulate hate speech?
- 2. Can you think of any other reasons to place on either side of the chart?
- 3. Which of the reasons are the most convincing to you? Explain why.

# Lesson 3: Implications of Hate Crime Laws

## Introduction

The term "hate crime" became popular in the 1980's to describe certain illegal actions committed against particular persons or property which were motivated by an intense hostility to the victim as a member of a group. By the early 1990's most states had some laws that concerned hate related actions, although the states differed on which groups were covered. Because of the lack of uniformity and the fact that some states had little or no hate crimes protections, the United States Congress considered passage of a federal Hate Crimes Prevention Act in 1999. Although the bill passed in the House of Representatives, as of February 2002, it had not yet cleared the Senate. Consequently, the bill had not yet become the rule of the land.

As the readings below demonstrate, there is considerable discussion in the United States, both at the state and federal levels, about the legitimacy of hate crime laws. Those debates extend to the practical question of *defining* when a hate crime has occurred, *who* is to decide whether a hate crime has been committed, and the potential *punishment* for the commission of a hate crime.

Various opponents of hate crime laws have contended that 1) such laws treat certain crimes differently from others; 2) hate crime laws are fundamentally anti-Christian because they protect gays over other groups; 3) such laws provide special treatment to certain groups; 4) they are contrary to states rights principles; 5) they are ultimately ineffective in deterring crime as such laws are merely symbolic or redundant in nature; and 6) people should not be punished for their thoughts.

In contrast, advocates of hate crime laws have claimed that 1) there is a special quality to hate crimes which requires special treatment; 2) such actions are against not only individuals but entire groups; 3) differences among the states require federal law to make protection against hate crime uniform; 4) certain crimes motivated by group hatred deserve enhanced punishment over others; and 5) hate crime laws have a deterrent effect against bias-motivated actions.

Below you will review several articles and dilemmas that probe some of the central issues involved in hate crime laws. Rocco Siasoco's *Defining Hate Crimes* provides an overview to the subject of hate crime laws. James Hall, in *Are Hate Crimes Regular Crimes?* and *What Is Hate Crime?* by James J. Jacobs and Kimberly Potter, offer two very different positions about such laws. As you will see, Jacobs and Potter differentiate various acts based upon the extent to which a biased motive is central to the alleged crime. *Administering a Hate Crimes Law: The Charles Apprendi Case* and Laurie Asseo's article consider the procedural issue of who decides what was the motivation of the actor in an alleged hate crime. *Evaluating a Hate Crime: State of Idaho v Rae* questions how an existing state hate crime law might be applied to a particular circumstance. Last, in *Politics Aplenty Senator Ojeda's Dilemma*, you are confronted with a legislator who must decide whether to vote for a federal hate crime bill.

The debate over hate crime laws presents a *prism* through which our society's attitudes about the appropriate use of law and government in the arena of civil liberties for both perpetrators and victim are projected. That is a debate central to the issues raised in this unit.

#### **Essential Questions and Activities**

- 1. Read *Defining Hate Crimes* and *Are Hate Crimes Regular Crimes? How* does the scope of hate crime laws vary from state to state? Who is most likely to commit a hate crime? How was Timothy McVeigh connected to hate groups?
- 2. To what extent do you believe there should be a relationship between criminal conduct and a prejudiced motivation for a hate crime to be prosecuted? (totally? primarily? substantially? slightly?) Describe the four cells created by Jacobs and Potter to characterize different criminal offenses. According to the authors, what is required for an act to constitute a hate crime?
- 3. Can the scrawling of graffiti in a public place be considered a hate crime? When? Can the use of disparaging epithets and threatening conduct be considered a hate crime? When does "offensive speech" become criminal conduct? Is there a difference between a hate crime and harassment or intimidation?
- 4. What are examples of a "clear-cut unambiguous hate crime"?
- 5. Who is Colin Ferguson? Were his actions a hate crime? Can one be mentally ill and still commit a hate crime?
- 6. Describe the case of David Dawson. To what extent should a person's prior history affect the nature of the punishment he or she receives for a particular crime?

- 7. What do Jacobs and Potter mean, by "unconscious" prejudice or "relatively law abiding Archie Bunker types"?
- 8. Describe the case of Stephen Vawter of Rumson, New Jersey. In what category does Jacobs and Potter place him? Can a single act of hate be explained?
- 9. What do Jacobs and Potter mean by crimes that are "situational"? Should such acts be considered hate crimes?
- 10. What are the purpose and the basic tenets of the Hate Crimes Prevention Act of 1999?
- 11. Should an organization be held legally responsible for the criminal actions of its members? Research the work of Morris Dees, referred to in a photograph in Lesson 1, and his lawsuit against Aryan Nations based upon the concept of "vicarious liability."
- 12. Read the novel *Brain Storm by* Richard Dooling in which an irascible judge challenges a lawyer who desires to prosecute the killer of a "disabled person of color" for a hate crime. Judge Whittaker Stang makes the following statement: "You want to make hatred illegal?…I've set up here for 50 years and seen nothing but hatred. Everybody they drag in here is full of it. I'm full of it. You're full of it, and now what? You want to make certain varieties illegal? What are we going to do? Get some samples of hate and send them off to the forensic lab?" Comment.
- 13. View and discuss one of the following films that depict acts which some have described as hate crimes:
  - Made in Britain—a 1982 British movie about a pathological and racist Skinhead
  - White Lies—a Canadian film about an alienated girl who connects with a National Identity movement through the Internet
  - Who Killed Vincent Chin?—a documentary about the 27 year-old Chinese-American who was brutally killed by two white men in 1982
  - Forgotten Fires—a documentary about the 1995 burning of two African-American churches in South Carolina by four white men. (A lawsuit about the fire ended in a \$20 million judgment against the Ku Klux Klan and others in 1998)
- 14. What is Hall's argument in *Are Hate Crimes Regular Crimes?* Should a defendant's motivation for committing a criminal act be considered in judging that act? What does the author say to critics who assert that hate crime laws punish a person for thoughts and beliefs?
- 15. Do you agree with Hall that hate crimes are message crimes? That they have more serious effects on the victims than comparable crimes?

- 16. In his book *Punishing Hate*, Frederick Lawrence argues, "A bias crime harms the spirit and soul. Bias crimes are also worse than otherwise similar crimes because members of the targeted community are directly affected, and that they often show a great sense of withdrawal and separation from society and bias crimes impact society at large." Do you agree? How does this affect your attitude towards the creation of hate crimes legislation?
- 17. Read *Evaluating a Hate Crime: State of Idaho v. Rae* and answer the questions that follow the story.
- 18. Read *Politics Aplenty: Senator Ojeda's Dilemma* using the questions at the end of the story as a guide to your analysis and discussion.

## **Defining Hate Crimes**

## No longer a Black and White issue

by Ricco Villanueva Siasoco

"... Until justice rolls down like waters and righteousness like a mighty stream."

These powerful words were uttered by Martin Luther King, Jr. in the midst of the racial unrest of the 1960s. Decades later, it seems the unrest of that period has resurfaced—but this time with a broader target. Last week's rampage on a Jewish community center in Los Angeles reminds us that crimes once driven solely by hatred for one's race now stem from opposition to one's religion, gender, disability, or sexual orientation.



Buford O. Furrow opened fire at a Jewish community center. The avowed White supremacist will be prosecuted for hate crimes.

According to the Southern Poverty Law Center, a non-profit organization which tracks hate crimes, there were over 500 hate groups operating in the U.S. in 1998. The Simon Wiesenthal Center in Los Angeles tallies even more, monitoring over 2,100 hate sites on the Internet.

The term "hate crime" is a part of our everyday vernacular. But what's the definition of a hate crime? What are the issues facing legislators, law enforcement officials, and the American public?

More importantly, why the proliferation of these violent crimes?

### Seeking a definition

The dictionary defines a hate crime as "any of various crimes...when motivated by hostility to the victim as a member of a group (as one based on color, creed, gender, or sexual orientation)." But the term doesn't always carry a commonly understood meaning.

In the on-line magazine *Slate*, Eve Gerber writes, "The definition of a hate crime varies. Twenty-one states include mental and physical disability in their lists. Twenty-two states

"What is really being punished, as (critics) see it, is a criminal's thoughts, however objectionable they may be. The actions — incitement, vandalism, assault, murder — are already against the law."

-Clyde Haberman

include sexual orientation. Three states and the District of Columbia impose tougher penalties for crimes based on political affiliation."

#### **Evolution of hate crimes**

In *Hate Crimes: Criminal Law & Identity Politics*, authors James B. Jacobs and Kimberly Potter recount the introduction of the term **hate crime** in 1985, coined in legislation centered around the Justice Department's collection of "hate crime statistics." The media picked up on the term and quickly began to write about an epidemic before these statistics had even been gathered.

**Current legislation** allows federal prosecution of a hate crime only if the crime was motivated by race, religion, national origin, or color. In addition, the assailant must intend to prevent the victim from exercising a federally protected right. The Hate Crime Prevention Act of 1999, passed by the Senate in July 1999, seeks to expand federal jurisdiction over these crimes.

#### **Controversial legislation**

Dissenting opinions mar even **a seemingly black and white issue** such as hate crimes. Jacobs and Potter argue that hate crimes legislation is redundant, as these offenses are already punishable under the law.

Clyde Haberman of *The New York Times* described the views of hate crimes critics in a recent column. "What is really being punished, as they see it, is a criminal's thoughts, however objectionable they may be. The actions — incitement, vandalism, assault, murder — are already against the law."

#### Understanding perpetrators, victims

Last year the American Psychological Association issued the report *Hate Crimes Today: An Age-Old Foe in Modern Dress.* In the report Dr. Jack McDevitt, a criminologist, stated, "Hate crimes are message crimes. They are different from other crimes in that the offender is sending a message to members of a certain group that they are unwelcome."

The National Institute of Mental Health has funded the first major study of the consequences of hate crimes on victims, narrowing in on anti-gay hate crimes. Preliminary research indicates that hate crimes have more serious psychological effects than non-bias motivated crimes.

#### Lone wolves, strong packs

Understanding the nature of those who commit hate crimes may be the most difficult aspect to grasp. Contrary to the notion of hate group conspiracies, most offenders act as lone wolves: small cells, pairs, or individuals acting alone.

**Identifying individuals planning hate crimes** is a formidable task. One common trait is membership in a hate organization. The majority-and perhaps most recognizable-are fringe neo-Nazi or Ku Klux Klan groups, but some organizations such as the *Council of Conservative Citizens* (CCC) have reached a level of positive acceptance. At a recent CCC's national conference, Senate Majority Leader Trent Lott—whose support of hate crimes legislation falters only because of its inclusion of homosexuality—was a keynote speaker.

In fact, a copy of *Hunter*, a novel by William Pierce (the leader of the neo-Nazi National Alliance) was found with the belongings of Oklahoma City bomber McVeigh. Pierce, like others involved with hate groups, has cultivated ties with other white American ethnic groups within our borders and abroad.

The Internet has undeniably contributed to alliances among these hate groups. According to the Southern Poverty Law Center's estimates—more modest than the Simon Wiesenthal Institute's—hate sites rose from 163 web sites in 1997, to 254 in 1998.

#### Where do we go from here?

Changes in hate crime legislation—whether viewed favorably or negatively—are simmering. The Hate Crimes Prevention Act of 1999 was passed by the Senate, and awaits a vote in the House.

In the words of Vice President Al Gore: "We must send a clear and strong message to all who would commit crimes of hate, it is wrong, it is illegal, and we will catch you and punish you to the full force of our laws."

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### The Causal Link

By James J. Jacobs and Kimberly Potter

For criminal conduct to constitute a hate crime, it must be motivated by prejudice and there must be a causal relationship between the criminal conduct and the officially designated prejudice. Must the criminal conduct have been totally, primarily, substantially, or just slightly caused by prejudiced motivation? If the criminal conduct must be motivated by prejudice to the exclusion of all other motivating factors, there will not be much hate crime. Contrariwise, if the hate crime designation is satisfied by a showing of merely a slight relationship between prejudice and criminal conduct, a great deal of crime by members of one group against members of another group will be labeled as hate crime.

### Which Crimes, When Motivated by Prejudice, Constitute Hate Crimes?

Vandalism or criminal mischief involving the defacement of public and private property presents another complicated problem. A great deal of graffiti in public and private expresses disparaging opinions of women, gays and lesbians, Jews, blacks, and other minorities, whites, and other social categories. Should the act of scrawling such graffiti be included in the hate crime accounting system and trigger special condemnation and extra punishment? For example, should anti-homosexual graffiti scrawled on a bathroom wall be counted as a hate crime, or should it only count as hate crime if the graffiti is directed at an individual, institution, or place identified with a particular group (e.g., anti-homosexual graffiti on a gay man's home, anti-homosexual vandalism on an AIDS center, or anti-Semitic graffiti in a Jewish cemetery)?

Should hate crimes include the use of racist, sexist, homophobic, and other disparaging epithets combined with in-your-face shouting, gesticulating, and threatening conduct that occurs all too often in the context of ad hoc arguments and fights on playgrounds, streets, and in the workplace? Consider the following incident involving two neighbors, a white woman and a Hispanic woman, which was reported to the New York City Bias Incident Investigating Unit. According to the Hispanic woman, her white neighbor insulted her and harassed her with anti-Hispanic epithets. After investigating, the police declined to label the incident a "bias crime" because the neighbors had been engaged in an on-going dispute over building code violations and the epithets had been uttered during a heated argument on this same subject. In Queens, New York, the following incident was treated as a bias crime. A gay male couple knocked on their neighbor's door and asked him to turn down the music, which was so loud it shook the walls. The neighbor refused and hurled anti-gay epithets. Is this a hate crime?

Some instances like this do not qualify as crimes at all because they do not pass the threshold that separates offensive speech from criminal conduct. But other instances could be classified as criminal harassment or intimidation. Does hate crime include or exclude mixed speech/conduct?

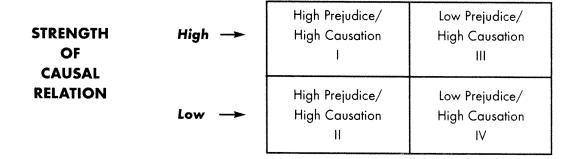
#### The Many Faces of Hate Crime

Hate crime is a potentially expansive concept that covers a great range of offenders and situations. We can see this more clearly with the aid of Table 1. On the horizontal axis we classify the offender's prejudice (high/low) and on the vertical axis the strength of the causal relationship between the officially designated prejudice and the criminal conduct (high/low). The table shows that a broad definition of hate crime includes many run-of-the-mill crimes that look far different from the ideologically driven acts of extreme violence that often color thinking about this subject.

#### **High Prejudice/High Causation**

When we think about clear-cut, unambiguous hate crimes, we call to mind the Ku Klux Klan's 1963 assassination of Medgar Evers or the June 1984 assassination of Colorado Jewish radio show host, Alan Berg, by five members of Bruder Schweigen ("the Silent Brotherhood"), a neo-Nazi group. If hate crimes included only cases like these, the concept would not be ambiguous, difficult to understand, or controversial. But it would also not cover many cases and would have little, if any, impact on case outcome, because such crimes are already punished with the most severe possible sentences.

Table I — Labeling Hate Crime: The Prejudice and Causal Components



Cell I on our table also includes hate crimes by individuals whose prejudices are emotionally intense, but who are not part of any organized group. Consider Colin Ferguson, the black man who murdered six white commuters and wounded 19 others on the Long Island Railroad in December 1993. After the shooting, police found a note in his pocket explaining that he chose Long Island as the venue because it was predominantly

white. In the note Ferguson expressed hatred for Asians, whites, and "Uncle Tom Negroes." Some commentators said Ferguson's murders were not hate crimes because he was mentally ill or because he was prejudiced against "Uncle Tom Negroes" as well as whites and Asians. According to Bob Purvis, legal director of the University of Maryland's Center for the Applied Study of Ethnoviolence, the Ferguson rampage was not a hate crime: "By its nature, a mass murder is a crime born of immense psychiatric disturbance... Mass murder is mass murder, it's not a hate crime." This argument, in effect, says that bona fide prejudice is irrational but not so irrational as to lead to crimes of grand scale. Such reasoning might lead to the bizarre conclusion that Hitler was not prejudiced and the Holocaust not the ultimate hate crime. In short, we are quite prepared to accept that prejudice often includes extreme irrationality and even mental instability.

Here are some other cases that we think fall easily into cell I of the table.

- In November 1995, Robert Page, a white man, attacked Eddy Wu, an Asian man, stabbing him twice in the back puncturing a lung, in the parking lot of the Lucky Food Center. In a statement to police, Page said, "It all started this morning. I didn't have anything to do when I woke up... So I figured, what the f——, I'm gonna go kill me a Chinaman."
- In September 1990, a group of Kentucky youths beat a gay man with a tire iron, locked him in a car trunk containing snapping turtles and then tried to set the car on fire. The victim suffered severe brain damage.
- In December 1995, Roland Smith, a protester who participated in a boycott of Freddy's, a Jewish-owned clothing store, entered the store, shot four white people, and set the store on fire, killing the owner and six other white and Hispanic people. Smith also died in the fire. Before the attack, he reportedly said, that he would "come back and burn and loot the Jews." Upon entering the clothing store, Smith ordered all blacks to leave and started shooting the whites.
- Serial killer Joel Rifkin admitted to killing at least seventeen women from the late 1980s until 1993. According to psychiatrists who testified at his trial, since childhood Rifkin was obsessed by violence against women.

Some commentators would not label Rifkin a hate criminal because of his mental instability or because they believe misogyny should not be a hate crime trigger. It seems to us that psychosis or mental pathology cannot negate prejudice without stripping the concept of some of its meaning. Moreover, it is very difficult to imagine an intellectually coherent hate crime category that would include crimes motivated by racism but not crimes motivated by sexism/misogyny.

#### **High Prejudice/Low Causation**

In cell II, we find crimes committed by extremely prejudiced offenders whose crimes are not solely or strongly motivated by prejudice. Generally, these crimes, including the following examples, are not classified as hate crimes. However, we include this category to present a more complete picture of the configurations that prejudice, crime, and causation can take. It should not be presumed that every law violation committed by highly prejudiced individuals is a hate crime and it is not sound to use the hate crime laws to persecute persecutors. Suppose that the neo-Nazi leader, Tom Metzger, was to shoplift merchandise from a store owned by Jews? He might contest the hate crime designation by saying that although he abhors Jews, his primary motivation was to acquire some goods for free and that had a Jewish store not been available he would have stolen the merchandise from a non-Jewish store. The fact that the victims were Jewish was only of secondary importance.

- In 1986, David Dawson escaped from a Delaware prison. Dawson, while burglarizing the home of Richard and Madeline Kisner, murdered Mrs. Kisner. After a conviction for first degree murder, the prosecution attempted at the capital punishment sentencing stage to introduce evidence of Dawson's membership in the White Aryan Brotherhood. The Supreme Court held that introduction of this evidence violated the First and Fourteenth Amendments because "the Aryan Brotherhood evidence was not tied in any way to the murder of Dawson's victim."
- In 1996, federal agents arrested a gang of four men, who committed 22 bank robberies throughout the Midwest during a two-year period. Law enforcement officials dubbed the gang, "the Midwestern bank bandits," but the men called themselves the "Aryan Republican Army." The Aryan Republican Army used money from the bank robberies to finance their revolution against the federal government and the extermination of all Jews.

#### Low Prejudice/High Causation

Cell III includes the majority of **hat**e crimes covered by the new wave of American **hate** crime laws. The offenders in this category are not ideologues or obsessive haters; some may be professional or at least active criminals with short fuses and confined psyches; some may be hostile and alienated juvenile delinquents; others may be ignorant, but relatively lawabiding Archie Bunker types. The prejudices of such individuals are to some extent unconscious. Whether or not the authors of **hate crime** legislation meant to cover these offenders, these are the individuals who dominate the statistics. The following cases are good examples:

- During a two-year crime spree, which culminated in a 1993 conviction for kidnapping, murder, and attempted murder, Dontay Carter targeted white men as his favorite robbery victims. Carter used his victims' credit cards to rent expensive hotel rooms and purchase jewelry and other luxury items for himself and his friends. No racial epithets were uttered during the crimes. According to Carter, who characterized himself as a victim of white oppression, he targeted white men because they are all rich.
- In May 1991, in Rumson, New Jersey, a 19 year-old male who had been drinking and smoking marijuana painted a swastika and the words "Hitler Rules" on a synagogue, and then proceeded to paint a satanic pentagram on the driveway of a Christian church. During the sentencing hearing, the defendant, Steven Vawter, told the judge, "I want to apologize. This is not the crime you think it is. I don't have a racist bone in my body. I don't hate anybody." The judge sentenced Vawter to four months imprisonment, but stated that Vawter's behavior was an aberration. The judge explained that during the trial evidence about Vawter's character and letters of support from "people of all walks of life" showed he was not a hatemonger.
- In December 1995, in Fayetteville, North Carolina, Randy Lee Meadows, a soldier stationed at Fort Bragg, was charged with conspiracy to commit murder in the shooting deaths of a black couple. Meadows joined fellow soldiers Malcolm Wright and James Burmeister, both avowed white supremacists, at a local bar. According to the police, Meadows drove the car and "was apparently just along for the ride and did not share the racist views of the other two men." When he heard the gun shots, Meadows ran out of the car to where the victims lay on the ground.

### Low Prejudice/Low Causation

Many crimes which fall into cell IV are "situational"; they result from ad hoc disputes and flashing tempers. Sometimes these incidents are counted as **hate** crimes, but sometimes they are not.

• In 1993, an on-going dispute over grass clippings in San Jose, California culminated in a hate crime conviction. William Kiley, a gay man, lived across the street from the H. family and also owned the house next door to the H's, which he rented to a tenant. The trouble began in 1988 when Kiley's tenant's dog bit Mrs. H. She sued and Kiley was forced to pay damages; his tenant had to have the dog destroyed. Three years later, animosity between the H's and Kiley came to a head after Kiley purchased a lawnmower that had no grass

catcher. When Kiley mowed the tenant's lawn, grass clippings blew onto the H.'s driveway. The H's frequently complained about the grass clippings. After six months, arguments over the grass clippings became so unpleasant that Kiley stopped mowing the lawn. The first time Kiley resumed mowing the lawn Mr. H. yelled at Kiley, "You c----, I'm tired of your f---games." Kiley interpreted this as harassment because of his sexual orientation. Later that day, Joshua, the H's son, asked Kiley to clean the grass off the driveway. Kiley agreed and swept the grass clippings into the street. Later in the day, Kiley discovered a pile of dirt and grass clippings on his front porch. When H. saw Kiley throwing the clippings back in their driveway, Mrs. H. said that all she wanted was for him to be "a reasonable neighbor." Yelling ensued and Mr. H. called the police. Joshua H. started shouting at Kiley to clean up the grass, calling him a "faggot," a "queer," and a "punk." Joshua, with his fists in the air, challenged Kiley to "come on, let's get it on you faggot queer." When Kiley ordered Joshua to get off his property, Joshua hit him. In retaliation, Kiley squirted Joshua with a hose. Enraged, Joshua hit and kicked Kiley several times. Joshua was convicted of bias-motivated assault — a felony.

• On December 23, 1993, the theft of a winter solstice banner depicting a yellow sun that said "Solstice is the reason for the season" was investigated by Wycoff, New Jersey police as a hate crime against atheists. The banner, erected by the New Jersey Chapter of American Atheists, was part of a holiday display open to all groups — Christian, Jewish, atheist, or any other group that wished to put up holiday decorations. A spokesperson for the American Atheists stated that the theft sends a message that "atheists will not be tolerated in Wycoff. It's like burning a cross on an African-American's lawn." No anti-atheist graffiti or other evidence indicating prejudice accompanied the theft.

#### Conclusion

"Hate crime" is a social construct. It is a new term, which is neither familiar nor self-defining. Coined in the late 1980s to emphasize criminal conduct motivated by prejudice, it focuses on the psyche of the criminal rather than on the criminal's conduct. It attempts to extend the civil rights paradigm into the world of crime and criminal law.

How much hate crime there is and what the appropriate response should be depends upon how hate crime is conceptualized and defined. In constructing a definition of hate crime, choices must be made regarding the meaning of prejudice and the nature of the causal link between the offender's prejudice and criminal conduct.

"Prejudice" is an amorphous term. If prejudice is defined narrowly, to include only certain organized hate-based ideologies, there will be very little hate crime. If prejudice is defined broadly, a high percentage of intergroup crimes will qualify as hate crimes. If only a select few crimes, such as assault or harassment, can be transformed into hate crimes, the number of hate crimes will be small. If vandalism and graffiti, when motivated by prejudice, count as hate crimes, the number of hate crimes will be enormous. If conduct must be completely or predominantly caused by prejudice in order to be termed hate crime, there will be few hate crimes. If prejudice need only in part to have motivated the crime, hate crime will be plentiful. In other words, we can make the hate crime problem as small or large as we desire by manipulating the definition.

There are many different types of prejudices that might qualify for **hate crime** designation. Some civil rights and affirmative action legislation speaks in terms of "protected groups," but this does not easily apply in the **hate crime** context because when it comes to crime, all victims are a protected group. Why should some victims be considered more protected than others?

## Are Hate Crimes Regular Crimes?

By James Hall

Those who dislike the notion of "hate crimes" will be unhappy that the US House of Representatives is now considering a bill passed in the Senate last July called the Hate Crimes Prevention Act of 1999. It would fine or imprison those who cross state or national lines to perform "violence, motivated by the actual or perceived race, color, national origin, religion, sexual orientation, gender or disability of the victim…" and would issue grants to train local law enforcement to investigate, prosecute, and prevent such crimes.

Since the term "hate crime" was coined in 1985, 39 states have established some form of hate crime laws. Between 1992 and 1997, the Justice Department documented over 20,000 cases of these crimes. But critics say that hate crimes punish free speech, are redundant, unfair, and divisive. Crime laws already on the books are sufficient to take care of so-called "hate criminals." I disagree. Laws like the Hate Crimes Prevention Act of 1999 are a vital component of our efforts to live together in peace, and should be supported by us all.

Opponents of hate crimes laws argue that they punish a person for thoughts and beliefs, a punishment that is a violation of the First Amendment. But as written, hate crime laws punish people who believe only if they act on those beliefs and do violence motivated by hatred. How do you prove motivation? By examining the evidence statements that the defendants have made, actions they have taken, written materials in their possession, witnesses.

Do we ever consider a defendant's motivations for ordinary crimes? Constantly. The difference between first and second-degree murder, for example, frequently rests on the defendant's motivations — did he commit murder coldly, with premeditation, or was it a spur-of-the-moment, emotional decision? Did he discuss the murder beforehand? Act in perceived self-defense? These are questions that call for an analysis of a defendant's beliefs, attitudes, and opinions, and the prosecution's success in convincing a jury of the defendant's motivations can be the difference between a conviction of first or second degree murder or an acquittal if the jury is not convinced.

The First Amendment has never protected speech involved in crimes like murder, arson, or assault from being used as evidence. In the same fashion, prosecutors of a hate crime may use the defendant's speech as evidence, but must prove beyond reasonable doubt to a jury that a defendant was motivated by hatred to commit violence in order to convict the defendant of a hate crime.

Does this create a "chilling effect" then, on free speech? No. A person can preach hatred and

division all day and face no prosecution — unless he or (she) acts violently on that hatred.

Opponents argue that hate crimes legislation is redundant, since violent offenders are already punished under the law. But hate crimes are different from the more severe versions of the crimes they are compared to. The American Psychological Association in a report called "Hate Crimes Today: An Age-Old Foe in Modem Dress," characterized hate crimes as message crimes, different in that the offender's purpose is to send a message to groups of people — that they are not wanted. Think of Buford Furrow's call for a nation-wide pogrom against Jews, or the symbolism behind burning churches that are the center of their community and you immediately see the difference between hate crimes and normal crimes.

Preliminary research funded by the National Institutes of Mental Health indicates hate crimes have more serious psychological effects on their victims than comparable crimes, effects that extend far beyond the individuals involved to the community at large. This finding is supported by the greater attention that we pay to these crimes when they do occur in our communities.

What of the argument that hate crimes legislation protects only certain groups, giving them special treatment at the expense of others? Laws like the Hate Crimes Prevention Act are written and applied to protect any individual attacked by another because of actual or apparent membership in a group. In *Wisconsin v. Mitchell* (1993), the U.S. Supreme Court upheld the constitutionality of hate crimes statues in a case involving an attack by a group of black teenagers on a white victim. And in hate crime statistics reported to the FBI in 1996, 20% involved white victims.

Do hate crime laws create divisions instead of healing them? The Hate Crimes Act neither names nor protects specific groups; rather, it protects individuals who are being singled out as members of a group. By deterring these acts of violence, the Act works to establish harmony and peace in society. It's not the law that divides our society, but the threat of criminals performing crimes that create fear and hatred in response.

Would this federal law override state and local laws? It would not — it simply provides a way to charge defendants who cross state lines and national boundaries, and provides assistance for local authorities to identify and prosecute hate crimes.

The deterrent effect of the Act is important. What begins as harassment of individuals who are different often escalates into greater and greater acts of violence towards individuals who are different from the perpetrator. By passing this act, we send our own message to people who commit message crimes motivated by hate — that they will be punished in proportion to the acts they commit.

# Administering A Hate Crimes Law: The Charles Apprendi Case

By Harry Furman

In 1994, Charles Apprendi, a pharmacist living in the multicultural community of Vineland, New Jersey, fired a rifle on two occasions into the home of a neighbor. According to court records, a bullet entered the third floor bedroom of one of the neighbor's children and the front door and windows were bullet-ridden. No one was injured by any of the shots fired by Apprendi.

Apprendi was white and the neighbor was African-American. Police later searched Apprendi's home and discovered an arsenal of weapons including an anti-personnel bomb. A police officer later testified that Apprendi told him that he shot at the house because. "he knew Blacks were living there and he wanted to give them a message that they were in his neighborhood." Apprendi explained that he shot at the door because "the glass and the purple door" caught his eye and he was under the influence of drugs and alcohol. He denied that he was a racist or a member of 'any racist group, or that he desired to keep Blacks out of his neighborhood. Apprendi also stated that he lied to the police about the shooting because the police officer threatened him and he just wanted to end the questioning as soon as possible.

On July 24, 1995, Apprendi plead guilty to the second-degree crime of possession of a firearm for an unlawful purpose and the third degree crime of unlawful possession of a prohibited weapon, the anti-personnel bomb. The judge determined that he was satisfied that the crime was the result of racial bias and that Apprendi would be subject under New Jersey law to an enhanced penalty for commission of a crime in which he "acted, at least in part, with ill will, hatred or bias towards, and with purpose to intimidate, an individual or a group of individuals because of race, color, religion, sexual orientation or ethnicity." Apprendi was sentenced to an enhanced punishment of twelve years and would have to serve at least four years in prison before being eligible for parole.

Attorneys for Apprendi appealed the case first to the New Jersey Supreme Court and then to the United States Supreme Court where, on March 27, 2000, attorneys representing the Attorney General of New Jersey and Apprendi argued the case. The case attracted national attention not only because it focused on an alleged hate crime, but also on how such laws are to be administered. The article, *Juries Must Decide Hate* by Laurie Asseo, describes the finding of the United States Supreme Court.

#### **Questions for Discussion**

- I . Review the language of the hate crime statute as described above. Does the motivation for the action have to be only "ill will, hatred or bias"? What does the state have to show is the purpose of the act? What groups does the law cover?
- 2. What is an enhanced penalty? Should certain crimes receive additional punishment because of the motivation of the actor? Should "ill will, hatred or bias" towards the groups referred to in the law result in greater punishment?
- 3. Using the criteria described in the article by Jacobs and Potter, how would you describe the kind of "hate crime" committed by Apprendi?
- 4. Of what relevance should Apprendi's psychological state at the time of the crime be in the decision to sentence him to enhanced penalties?
- 5. Mr. Apprendi's attorney asserted before the United States Supreme Court "if a person is to be stigmatized as a racist, that should be found by the broadest cross-section of the community and that is the jury." Do you agree?
- 6. According to Justice Stevens, what procedure should be followed in cases involving a person accused of committing a hate crime? What was the vote of the Court? Do you agree with the decision?
- 7. What standard should be used by a jury in deciding whether an act was motivated by "ill will, hatred or bias" toward a particular group? How is this standard different from "preponderance of the evidence"?
- 8. What does Apprendi's lawyer say is the law in 41 states concerning the power of the judge in hate crimes cases? Is this unfair? Why or why not?
- 9. One of the controversial issues in administering hate crimes laws is the degree to which persons who commit the same crime can receive different sentences. Research and consider whether any of the following factors should play a role in the punishment given to a defendant who has been found guilty. Should any of these factors have been considered in the Apprendi case? Why or why not?

- The number of prior convictions
- The age of the defendant
- The family and social background of the defendant
- The defendant's level of education
- The defendant's psychological state at the time of the commission of the crime
- Whether the defendant is employed
- Whether the defendant has any dependents
- The brutality of the act
- Any words spoken during the act



# Juries Must Decide Hate

Supreme Court Overturns 12-Year Sentence for N.J. Man

Charles Apprendl Jr. sits in a halfway house in Camden. N.J., March 14. He was convicted for firing a gun Into a black family's home. (Sabina Louise Pierce/AP Photo)

By Laurie Asseo
The Associated Press

W A S H I N G T 0 N, June 26 — Juries, not judges, must decide whether someone charged with a hate crime was motivated by bias and therefore can be given a higher maximum sentence, the Supreme Court ruled today.

The 5-4 decision overturns a 12-year prison sentence imposed on a white New Jersey man who fired shots into a black family's home. The man is entitled to a jury trial on whether he acted out of racial bias, the justices said.

Writing for the court, Justice John Paul Stevens said the case was a question of procedure. The justices previously ruled that any factor, except for a prior conviction, "that increases the maximum penalty for a crime must be charged in an indictment, submitted to a jury, and proven beyond a reasonable doubt."

"The New Jersey procedure challenged in this case is an unacceptable departure from the jury tradition that is an indispensable part of our criminal justice system," Stevens said.

Almost all states have some type of hate-crime law, although many already specify that a jury, not a judge, must decide whether a defendant was motivated by bias.

#### **Defendant Denied Racial Intent**

Earlier this month, the justices ruled unanimously in a case involving five members of the Branch Davidian cult that a jury, not a judge, must decide whether people deserve extra punishment for using a machine gun during their crimes.

New Jersey was one of the first states to adopt a hate-crime law, in 1981. It bans acts of racial or ethnic intimidation, such as burning crosses or painting swastikas.

The law was expanded in 1990 to provide stiffer sentences for such common crimes as assault and harassment if the defendant acted with a "purpose to intimidate" because of factors such as race, sex or religion.

Charles C. Apprendi Jr. was arrested in December 1994 after eight shots were fired into the home of a black family living in his otherwise all-white neighborhood in Vineland, N.J. No one was injured.

Apprendi admitted the shooting, and at first he told police he wanted to send a message to the black family that they did not belong in the neighborhood. Later, he said he was pressured into making a false statement, and that he had no racial intent but fired into the house when its purple front door caught his eye.

#### 'Highest Legal Standard'

Apprendi pleaded guilty to a firearm violation and possessing a bomb in his house, which carried a maximum 10-year sentence.

Prosecutors sought a longer term under the hate crime law. The judge imposed a 12-year sentence, saying prosecutors showed by a "preponderance of the evidence" that Apprendi's act was racially motivated.

Apprendi contended such decisions must be made by a jury using the highest legal standard: whether prosecutors offered proof beyond a reasonable doubt.

But the state's lawyers said the hate crime law punished motive, which traditionally is a sentencing issue to be decided by the judge.

The New Jersey Supreme Court ruled against Apprendi and upheld his sentence. Today, the nation's highest court reversed.

Stevens noted that the jury convicted Apprendi of an offense with a maximum 10-year penalty, adding that the effect of the "sentencing enhancement here is unquestionably to turn a second-degree offense into a first-degree offense, under the state's own criminal code."

#### Implications Throughout the Nation?

Apprendi's lawyer, Joseph D. O'Neill, said the court's ruling that juries, not judges, must make such decisions, and that prosecutors must prove their case beyond a reasonable doubt "has grand implications throughout the country."

He said New Jersey and 40 other states and the District of Columbia had laws permitting judges without juries to impose extended prison terms for hate crimes, requiring only the lesser burden of proof, "preponderance of evidence."

O'Neill said he was thrilled by the decision.

"I never talked to anyone who won a gold medal in the Olympics, but I imagine my feeling is very much the same," he said.

Stevens' opinion was joined by Justices Antonin Scalia, David H. Souter, Clarence Thomas and Ruth Bader Ginsburg.

Dissenting were Chief Justice William H. Rehnquist and Justices Sandra Day O'Connor, Stephen G. Breyer and Anthony M. Kennedy.

Writing for the four, O'Connor said, "Our court has long recognized that not every fact that bears on a defendant's punishment need be charged in an indictment, submitted to a jury, and proved by the government beyond a reasonable doubt." Instead, she said, "legislatures can define the elements of an offense."

The case is Apprendi vs. New Jersey, 99-478.

## Evaluating a Hate Crime: State of Idaho v. Rae

By Harry Furman

The state of Idaho has a hate crime law which criminalizes malicious harassment. The law reads as follows:

It shall be unlawful for any person, *maliciously* and with the *specific intent* to *intimidate or harass* another person because of that person's race, color, religion, ancestry, or national origin, to (a) cause physical injury to another person; or (b) Damage, destroy, or deface any real or personal property of another person; or (c) *Threaten*, by word or act, to do the acts prohibited if there is *reasonable cause* to believe that any of the acts described in subsections (a) and (b) of this section will occur. (emphasis added)

Kimberly Rae is employed by an Idaho newspaper, the *County Record*, and was assigned to report on a high school football game. The loss suffered by the local team knocked them out of the state playoffs. Because of all the penalties called during the game, Rae wanted to take a photograph of the referees who worked the game.

After taking one photo, a referee requested that pictures not be taken. One referee, who was Afro-American, tried to take the camera away from Rae who yelled for her husband. Lonny Rae came upon the scene just as the struggle between the referee and his wife had ended. Mr. Rae told the referee not to put his hands on his wife again. The referees returned to their locker room.

However, Lonny asked his wife what had happened and Kimberly proceeded to show her husband some burn marks on her neck from abrasive contact with the camera strap. Lonny became very angry and stormed to the locker room to confront the referee. At the door, Lonny was met by a County Commissioner to whom he made the statement; "You bring that n——— up here. I want to kick his...ass." Mr. Rae later stated that the Commissioner knew he was angry and since the referee was much bigger than he was, he really was not going to harm the referee.

The Raes went home and Lonny called the police whereupon a statement was taken. Lonny took Kimberly to the hospital for treatment and she was given painkillers.

Weeks later, Lonny Rae was *charged* with a criminal violation of the Idaho malicious harassment law.

#### **Questions for Discussion**

- I . Review the language of the Idaho law. Who can be a victim and who cannot be a victim under the law? Discuss the meaning of the words in bold type. Compare this language with the New Jersey law in the Apprendi case. Is this a good law?
- 2. If the facts as described above were accurate, did Lonny Rae violate Idaho law? Were his actions a hate crime?
- 3. A violation of the Idaho malicious harassment law carried a penalty of up to five years in prison and a \$5000 fine. How would you apply this range of punishment to this case?
- 4. Edgar Steele, the lawyer representing Rae, has also represented Aryan Nations, a white supremacist group that had been headquartered in Idaho. Steele claims that Idaho is overly sensitive about its public image as a haven for white racists and this explains why Rae was charged with this crime. Comment.
- 5. Were the words, supposedly stated by Rae, "fighting words"? (Remember this concept from Lesson II?) They are words likely to cause a person to whom they are addressed to act violently. Should this be a basis for punishing Rae? Why or why not?
- 6. Discuss how the prosecutor in the Rae case would try to prove the intent of Rae's words and actions towards the referee.
- 7. If you could make any change in the Idaho malicious harassment law, what would it be? Rewrite the law to reflect your own attitudes about the scope of hate crimes law.

# Politics Aplenty: Senator Ojeda's Dilemma

By Harry Furman and Richard F. Flaim

Howard Ojeda has been the junior United States Senator of a northeastern state for five years. Having defeated his opponent in a razor-thin election, Ojeda can be described as a moderate who attempts to represent the pulse of his state, which is diversely populated and possesses a significant minority population. The state has a history of controversy with regard to police conduct and symbolic and direct attacks on African-Americans, Asians, gays and Jews who reside there.

Ojeda expects a tough election fight for a second term in the Senate and he knows that he will be under scrutiny from his opponent who he narrowly defeated previously. Ojeda has been careful not to be tripped up by controversy and he is concerned that negative publicity will be averse to his reelection hopes.

Some of his fellow Senators have proposed a bill for consideration by the Senate that deals with the issue of hate crime. The bill proposes to expand the current federal hate crime law to reach violent acts committed "because of the actual or perceived race, color, religion, national origin, sexual orientation, gender, or disability" of the victim. The law would also allow federal prosecutors to act even if the state in which the alleged crime occurred did not have a hate crime law. The law would provide penalties for actions that were proven beyond a doubt to have been motivated by hate. The state already has a hate crimes statute that was recently struck down in part because the law permitted the judge to make the determination as to whether a hate crime had been committed and to hand out additional punishment.

An amendment to the bill has been proposed by the American Civil Liberties Union (ACLU) that would limit the evidence that could be presented at trial about the motivation of the defendant who is being prosecuted for a hate crimes law violation. Evidence based on past associations or prior statements would not be permissible. All evidence would have to be directly related to the crime itself. That the victim was chosen because of his group status would have to be proven beyond a reasonable doubt.

Ojeda is under intense pressure from groups on both sides of the bill. Some favor the bill and demand that all the groups referred to in the bill, including gays and disabled people, must receive protection under federal law. Other critics of the proposed federal legislation

assert that the federal government should not become involved in this area, that it is a states rights issue and the groups receiving protection are either too inclusive or not inclusive enough. Ojeda understands that regardless of what decision he makes, there are groups that will attack his vote in the coming election.

The bill is scheduled for a vote on the Senate floor on February 25. Ojeda has informed his constituents that he will advise them of his position prior to his vote on the Hate Crimes Bill.

#### **Questions for Discussion**

- 1. What should Ojeda do? Should he favor the bill or vote against it? Why?
- 2. What factors should go into whether Ojeda could support the Hate Crimes Bill? What values come into conflict in the support of such a hate crimes statute?
- 3. Describe your attitude towards the coverage of the statute. Is it satisfactory to you?
- 4. Is there any way that you would modify the bill through an amendment?
- 5. What is your reaction to the argument that this is a states rights issue in which the federal government should play no role?
- 6. What benefits to the nation would you foresee by the passing of a federal hate crimes law?
- 7. On what basis should Ojeda make this decision? Should he consult public opinion polls in the state? the attitudes of his constituency in letters and telephone calls? the opinions of his political advisors? the position of the President? Other factors?
- 8. What is your reaction to the amendments proposed by the ACLU? How difficult should it be to convict a defendant in a hate crime case? Should a person's prior statements or past associations be admissible in such a case?
- 9. Should private or public institutions face civil liability if a hate crime is committed on their property? For example, the parents of Benjamin Kadish, the five-year-old boy injured by Buford Burrow, sued the Jewish Community Center at which the violent attack occurred based on the assertion that the JCC maintained inadequate security to deal with such situations. What is your reaction to this?

"What is really being punished, as they see it, is a criminal's thoughts, however objectionable they may be.

The actions — incitement, vandalism, assault, murder — are already against the law."

CLYDE HABERMAN, THE NEW YORK TIMES

# Lesson 4: The Denial of History

## Introduction

Students often mistakenly see the study of history as a pointless recitation of names, places and dates about events well before their own lives had begun. What students sometimes do not recognize is that there are spirited debates among historians about how to evaluate the objective meaning of historical events, why certain actions occurred and why certain persons made particular decisions about their conduct with others. But, those disputes do not ordinarily involve a challenge to the *reality* of the events themselves.

One of the most damaging and far-reaching expressions of hate is the attempt to *distort*, *obscure*, *minimize* and *deny* history. In the face of the growing awareness of the history of the Holocaust and its centrality as a seminal event of the twentieth century, there are people who seek to undermine the fact that the Holocaust even happened. To deniers, the Holocaust is a conspiratorial hoax created by Zionist-Jewish groups. They believe Jews did not die in gas chambers in concentration camps and the Holocaust is merely a tool to promote Jewish interests in the world. They claim there was no systematic mass murder and that Hitler was unaware of what his underlings were doing. It is also asserted that the Nazis were legitimately responding to historical conditions.

Thus, for Arthur Butz, a professor at Northwestern University, Jews were not killed by gas but by disease. Bradley Smith, founder of the Committee For Open Debate on the Holocaust, attempts to place ads in university newspapers and argues that Jews made up the Holocaust to gain sympathy.

In 2000, the issue of the denial of history was international news with the English libel trial involving David Irving and Deborah Lipstadt. Irving, a controversial British writer of a number of books that deny Hitler's leadership role in the Holocaust and described the Allied bombing of Dresden as worse than Auschwitz, sued Lipstadt, a historian and author of the 1993 book *Denying The Holocaust: The Growing Assault on Truth and Memory*, and her publisher Penguin Books. Irving alleged that his reputation had been damaged by statements made by Lipstadt who described Irving as "one the most dangerous spokespersons for Holocaust denial" and that he was a *denier* and *falsifier* of history. Under American law, Irving would have to prove that Lipstadt maliciously defamed Irving with a reckless disregard for the truth. However, British libel law places the burden of proof on the defendant to show that the claimant had not been libeled. Irving proceeded with a very

expensive trial that, after months, ended with his total defeat as the Court concluded that he was exactly what Lipstadt said he was — a denier of history.

Despite the efforts of some nations and persons to escape their own history, we cannot *hide* from our past. Thus, the ongoing debate in modem Germany about how to remember history is a reflection of that nation's recent struggle to come to terms with the reality of the history of the Holocaust. If we are wise, we will learn from history even when the face of our past is hard to endure.

As you read the accounts below, consider the implications of the Irving trial on Holocaust denial in the future when there will be no Survivors alive to testify about their experiences.

#### **Essential Questions and Activities**

- 1. Read *The Holocaust On Trial* and *British Court Hands Victory to Holocaust Author.* What exactly was Irving's charge against Lipstadt? What were the three Holocaust issues challenged by Irving? What was Judge Gray's finding? Do you agree with the judge's statement "that no objective, fair-minded historian would have serious cause to doubt that there were gas chambers at Auschwitz...?" In addition to Irving, identify five groups or persons who have been described as Holocaust deniers.
- 2. In October 1999, the college newspaper at Hofstra University in New York published an ad paid for by Bradley Smith in which the historical reality of the Holocaust was questioned. Smith had run such ads in other college newspapers. Should an editor of a college newspaper agree to publish a paid ad that denies the reality of the Holocaust or is openly anti-Semitic? What if the ad was openly anti-Asian?
- 3. View the documentary movie, *Mr. Death* by director Errol Morris. The film is about Fred Leuchter, who claims to be an engineer and believed he had scientific evidence to prove that gas chambers in concentration camps contained no residue of cyanide gas and, thus, could not have possibly been used to murder people. Morris subtlety shows that Leuchter's theories are based on total error, although his theories have been accepted in the world of Holocaust denial. How do you explain the motivation to attempt to find scientific evidence to deny the reality of gas chambers in the death camps? Is Leuchter aware that he is wrong? Do you think he seeks to manipulate the public or does he really believe his theories?
- 4. In the novel (or the film) *QB VII* by Leon Uris, a doctor sues a writer for libel in the English courts. Abraham Cady is accused by Dr. Adam Kelno of damaging his reputation. Cady had written about Kelno's unnecessary surgeries on healthy people for experiments in Jadwiga concentration camp. The Court finds that he was libeled and awards one halfpenny as damages. What is Uris' point in this conclusion?

- 5. Robert Faurrison is a French writer who denies that there was a systematic plan of the Nazis to murder Jews. His ideas were so despised that some persons believed that his right to make such statements should be restricted. Noam Chomsky, a prolific writer and professor at MIT, argued that despite his despicable ideas, Faurrison should be permitted to say and write what he wanted. How do you feel about this? Are there any limits on what a person should be permitted to say?
- 6. The French philosopher Voltaire wrote the following: "I disapprove of what you say, but I will defend to the death your right to say it." Do you agree with Voltaire?
- 7. Should professors, scientists or writers who work for a public institution be limited in what they can say at work and outside of work? How would you react to a high school teacher who states that African-Americans are genetically inferior to whites, or that the Holocaust is a myth?
- 8. Research the recent case of Eustace Mullins, a Virginia writer of such works as *The Biological Jews* and *The Federal Conspiracy*, who sued three persons including a pastor for conspiring to stop a series of lectures to be given by Mullins. One of the defendants, Charles Porteous, admitted that he had threatened to organize the Jewish community in the Berkshires of Massachusetts to picket the speaking engagements. Once made aware of Mullins' real views, backers of the lectures canceled the speeches. Was there anything wrong in what Porteous did?
- 9. In 1991, David Irving made the following statement: "I say, quite tastelessly in fact, that more people died on the back seat of Edward Kennedy's car at Chappaquidick than ever died in a gas chamber at Auschwitz." Is this an example of hate speech? How do you react to this kind of comment?
- 10. How do you explain Irving's desire to suppress the right of Lipstadt to comment on Irving and his ideas? Where is the line to be drawn between freedom of speech and libeling someone's reputation?
- 11. Writer Ron Rosenbaum has argued that the first Holocaust denier was Adolf Hitler. What does he mean by that?
- 12. Philosopher and writer Berel Lang has argued that Holocaust denial is an artful level of evil designed to murder the dead all over again and in doing so, to both erase the victims from history and assassinate their character and memory afresh. Comment.
- 13. In June 2000, German historian Ernst Nolte won the prestigious Konrad Adenauer prize for literature, an honor reserved for works that "contribute to a better future."

Nolte had been at the center of the mid-1980s controversy called the "historian's debate," in which he had argued that the gulags of Stalinist Russia were "more original" than Hitler's plans for racial extermination and that Jews were indebted to Hitler for explaining the need for an independent Jewish state. In accepting the prize, Nolte claimed that Hitler's anti-Semitism maintained a "rational core," that Nazism was fundamentally anti-Bolshevik and that Jews had supported Bolshevism. How do you respond to Nolte's comments and his winning of the prize?

- 14. Some countries have very different policies towards Holocaust denial. For example, in April 2000, Dariusz Ratajczak, a Polish history professor, was fired by his university and was banned from teaching elsewhere for publishing a book, *Dangerous Themes*, which included an assertion that gas chambers were really intended to kill lice on prisoners. Polish law makes it a crime to publicly deny Nazi and Communist-era crimes. How do you feet about Polish state policy towards denial?
- 15. Does an historian have a responsibility to portray history in a certain manner? Irving has been charged with manipulating history to serve the ends of an agenda of denial. How can a reader tell if a writer is manipulating the material he writes about? As an assignment, find a book or article by an historian that you believe attempts to manipulate the reader. Bring the material into class and discuss why you believe this is the case.
- 16. In 1987, a French right-wing leader, Jean-Marie Le Pen, caused an uproar in France when he referred to the Holocaust as a "detail in history." In response, a French court fined him 1.2 million francs for the remark. In 1997, Le Pen made the same comment and stated that history books would relegate the gas chambers to a few lines. Le Pen had won 15% of the vote in a campaign for the Presidency of France in 1993. Research why someone like Le Pen was able to get that many votes in France.
- 17. Read *The Survivor's Dilemma* using the questions at the end of the story as a basis for your analysis and discussion of the issues.



Warsaw ghetto identity card of Zulman Friedrich. In 1942 he smuggled himself into Treblinka and reported to ghetto inhabitants what he saw. He died in the Warsaw uprising. (YVIO Institute)

# HOLOCAUST ONURIAL

#### The trial

Summary | The issues | David Irving | Deborah Lipstadt

#### SUMMARY

The Irving v Lipstadt and Penguin Books trial was a libel case in which David Irving accused Deborah Lipstadt of damaging his reputation.

Irving argued that because Lipstadt — in her book, *Denying the Holocaust* — had called him 'one of the most dangerous spokespersons for Holocaust denial,' this had damaged his reputation as a historian, making it difficult for him to find a publisher for his books and to earn a living as a writer.

Irving decided to represent himself at the trial, and fought his case without legal support. By contrast, the defence team was led by Richard Rampton QC, and had worked for more than a year to assemble the evidence. But the defendant, Lipstadt, did not speak, refusing on principle to debate with Holocaust deniers.

The trial took three months, involved more than 6,000 pages of witness testimony and cost the defence more than £5 million. Because of the complexities of the issues and evidence, there was no jury, and the case was heard by a judge alone, Mr Justice Charles Gray, who announced his verdict on 11 April 2000.

He found Lipstadt not guilty of libel and condemned Irving in outspoken terms, saying: 'The charges which I have found to be substantially true include the charges that Irving has for his own ideological reasons persistently and deliberately misrepresented and manipulated historical evidence; that for the same reasons he portrayed Hitler in an unwarrantedly



Containers of Zyklon B gas pellets and a gas mask found at Majdanek in Poland after the camp's liberation (Archiwum Akt Nowych)

favourable light, principally in relation to his attitude towards and responsibility for the treatment of the Jews; that he is an active Holocaust denier; that he is antisemitic and racist and that he associates with right wing extremists who promote neo-Nazism...

'In the result therefore the defence of justification succeeds.'

#### WHAT ARE THE ISSUES?

The case of David Irving v Deborah Lipstadt and Penguin Books is very complex and the trial has been full of technical and historical detail, but the issues can be summed up as follows:

Irving claimed that he had been libelled by being falsely accused of being a Holocaust denier.

Lipstadt and Penguin Books defended themselves in the only way possible, which was to say that what they had printed in Lipstadt's book. *Denying the Holocaust*. was true and factually accurate.

In Denying the Holocaust. Lipstadt called Irving 'one of the most dangerous' historical 'revisionists', who is 'familiar with the historical evidence' of the Holocaust but 'bends it until it conforms to his ideological leanings and political agenda.'

In other words, she argued that Irving consciously misused historical evidence for his own ideological ends.

Irving insisted that he did not deny the fact that the Holocaust happened but, based on his extensive knowledge of the archives, he challenged three vital aspects of the history of Hitler's extermination of European Jews:

- 1. That Jews were killed in gas chambers at Auschwitz concentration camp in Poland;
- 2. That Hitler directly ordered the mass murder of the Jewish population of Europe;
- 3. That there was any systematic plan by the Nazis to destroy European Jewry.

During the trial, much of Irving's case rested on whether the gas chambers at Auschwitz had been used to kill Jews. He claimed that they had simply been used to delouse the corpses of people who had died of typhus. After hearing extensive evidence from historians and experts, the judge disagreed and ruled that Irving's questioning of the existence of gas chambers at Auschwitz constituted Holocaust denial.

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Holocaust News: distributed by racist groups in Britain in the late 1980s.

# HOLOCAUST ON TRIAL

#### The trial

Introduction | Other Holocaust deniers

#### OTHER HOLOCAUST DENIERS

Institute for Historical Review (IHR)

The IHR is a pseudo-academic body based in the United States which is dedicated to denying that the Holocaust happened. It was set up in 1979 by the late Ulster-born Dave McCalden, a former National Front member, and Willis Carto, the founder of the Liberty Lobby, an antisemitic and racist neo-Nazi group in the United States.

The IHR disseminates material in a manner that purports to be academic, and hosts regular revisionist conferences. It produces the pseudo-scholarly *Journal for Historical Review*. During the 1980s and 1990s, David Irving became the IHR's keynote speaker, along with other Holocaust deniers: Robert Faurisson (France). Fred Leuchter (USA), Arthur Butz (USA), Bradley Smith (USA). Carlo Mattogno (Italy) and Ahmed Rami (Sweden).

In 1993. Carto broke with the IHR, which is now run by Mark Weber, the editor of the *Journal for Historical Review*. In recent years, the organisation has been split by internal feuds and financial difficulties.

In 1985, the IHR issued a \$50,000 offer to anyone who could prove that Jews had been gassed at Auschwitz by submitting evidence that members of their family had been killed. Mel Mermelstein, a Holocaust survivor, took up the challenge. When the IHR refused to pay, he filed a lawsuit and won \$40,000 damages plus \$50.000.

#### **ERNST ZUNDEL**

Zundel is the most notorious Holocaust denier. Born in Germany in 1939, he has lived in Canada since 1958. In 1985, he was sentenced to 15 months imprisonment by an Ontario court for disseminating and publishing material denying the Holocaust, This included *Did Six Million Really Die?* written by Richard Harwood, a former leader of the British neo-Nazi group, the National Front.

Zundel also distributed his own books, *The Hitler We Loved and Why.* published by White Power Publications in West Virginia, and, more bizarrely, *UFOs: Nazi Secret Weapons.* Zundel set up his own publishing house, Samisdat Publications, to disseminate Holocaust denial material. He also hosts a prolific website, the Zundelsite, which is dedicated to Holocaust revisionism and antisemitism.

#### FRED LEUCHTER

The American Leuchter is a self-styled 'scientific expert' on the use of gas chambers at Auschwitz. Despite having no professional qualifications, Leuchter travelled to Auschwitz and conducted tests on the site, concluding that its gas chambers could not possibly have been used to kill people.

From the findings of the trip, Leuchter wrote the *Leuchter Report*, which has no scientific validity. Leuchter was not allowed to testify at the Zundel trial because he has no relevant qualifications. Irving claims to have been converted to the idea that there were no gas chambers at Auschwitz after meeting Leuchter. He published the *Leuchter Report* in Britain through his own publishing company, Focal Point.

At the Irving v Lipstadt trial, the report was dismissed as 'bunk' and Irving's reliance on it was denounced by the judge, who concluded that no objective historian would use such material.

Leuchter is an expert in constructing and installing execution apparatus in the United States.

#### **ROBERT FAURISSON**

Faurisson, a former professor of literature at the University of Lyons-2, is the main propagator of Holocaust denial in France. One of the most prominent revisionists, Faurisson uses the idea of a Jewish conspiracy to account for the 'myth' of the Holocaust.

Faurisson's Testimony in Defence: Against those who accuse me of falsifying history, published in 1980, created more controversy than almost any other revisionist text, partly because his right to free speech was defended in a foreword by the left-wing campaigner and linguist Noam Chomsky.

Faurisson denies that gas chambers were used for mass extermination at Auschwitz, and claims instead that typhus was the real killer.

#### **ARTHUR BUTZ**

Butz occupies the post of Associate Professor of Electrical Engineering and Computer Sciences at Northwestern University, Illinois, and has been influential in the United States. He has been regarded as far more academic and rigorous in style than many of his predecessors or followers.

He is the author of the revisionist bible, *The Hoax of the Twentieth Century: the case against the presumed extermination of European Jewry* (1976). Cloaked in the language of academia, the book argues that Zyklon-B gas was used not for extermination purposes, but for delousing.

Butz is now published by Noontide Press, a branch of the IHR. He regularly speaks on an IHR platform, as well as occupying a position on the editorial board for their regular journal, the *Journal for Historical Review*. Although his work

has brought Butz notoriety, it has not affected his position at Northwestern University, where he has taught since 1966.

#### **PAUL RASSINIER**

Rassinier, a French historian, was one of the first revisionists. Himself a Holocaust survivor, he used his book, *The Drama of the European Jews* (1964), to minimise the numbers that had been killed. He also claimed that there was no Nazi policy of genocide against the Jews, and argued that no gassings took place.

Rassinier is the acknowledged pioneer of the revisionist movement and is revered for his unique position as a Holocaust survivor, having been imprisoned in Buchenwald and Dora for his socialist beliefs.

The notion that Rassinier speaks with the 'voice of experience' lends much authority to Holocaust denial as espoused by extremist right wing groups. So although his work appeared more than 30 years ago, it is still often cited by revisionists.

## British Court Hands Victory To Holocaust Author

By BERT ROUGHTON JR. / Cox Washington Bureau 04-12-00

LONDON — Emory University professor Deborah Lipstadt on Tuesday said she had no illusions that her resounding court victory over maverick historical writer David Irving will have much influence with Holocaust deniers and other extremists.

"But that's not who I'm writing for," Lipstadt told a packed news conference at a London hotel after the verdict was delivered. "It's to convince the people who might be influenced by people like David Irving."

Lipstadt and her publisher Penguin Books won a nearly complete victory over Irving, who had sued them for libel over characterizations of him in Lipstadt's 1994 book "Denying the Holocaust: The Growing Assault on Truth and Memory."

In the book, Lipstadt described Irving as a dangerous leader of the movement to minimize the Holocaust. She portrayed him as a false academic who manipulates history to support his extremist political views. During the trial, her attorneys described Irving as dishonest and deeply anti-Semitic.

The judge ruled that this portrayal, while damaging to Irving, was substantiated by evidence presented during the three-month trial.

While it was argued that the case did not amount to a test of the accuracy of the traditional account of the Holocaust, the case turned on historical evidence and the testimony of experts.

By demonstrating that the weight of historical record overwhelmingly supports accepted understandings of the Holocaust, Lipstadt's lawyers showed that Irving's misrepresentations in books and speeches must have been deliberate.

In a 66-page, detailed ruling, Justice Charles Gray assailed Irving for his 30-year record of attacking long-held accounts of the Holocaust, which Irving often has dismissed as fiction.

Gray said the evidence showed that Irving "persistently and deliberately manipulated historical evidence" and that he portrayed Nazi leader Adolf Hitler in a favorable light that is unsupportable by the historical record.

"The picture of Irving which emerges from the evidence of his extra-curricular activities revealed him to be a right-wing pro-Nazi polemicist," said Gray, who read much of his ruling in a calm, even voice. "It appears to me to be incontrovertible that Irving qualifies as a Holocaust denier."

"Not only has he denied the existence of gas chambers at Auschwitz and asserted that no Jew was gassed there, he has done so on frequent occasions and sometimes in the most offensive terms," said the judge, wearing a periwig and robes.

The trial featured the testimony of several highly respected historians who presented reams of documentation about the Nazi campaign to exterminate the Jews.

"It is my conclusion that no objective, fair-minded historian would have serious cause to doubt that there were gas chambers at Auschwitz and that they were operated on a substantial scale to kill hundreds of thousands of Jews," Gray said.

Lipstadt said her victory might help stem the tide of historical revision at a time when the ranks of people who remember the Holocaust is dwindling.

"Soon there won't be people to tell the story in the first-person singular," she said. "That's why I think today's judgment is so important."

"Whatever steam they may have built up, I hope was dissipated by this judgment."

Irving contended that Lipstadt's portrayal was false and cost him his lucrative career as a historical writer and lecturer. He also said that he has been exposed to scorn and perhaps personal danger because of Lipstadt's work.

Irving depicted himself as an unconventional researcher who is simply challenging conventional wisdom. Seeing himself as a David battling a Goliath, Irving has argued that he is the victim of an international Jewish conspiracy.

Although he waffled somewhat during the trial, Irving maintained for years that he didn't believe the Nazis killed as many 6 million Jews in a systematic extermination effort. However, he accepts that the Nazis were responsible for the deaths of many Jews, maybe a million, most of whom died from malnutrition, disease or by firing squad.

heloess@ebe.simbo.ef.ss. 89

Furthermore, he contended the scope of the Holocaust has been overblown by Jews seeking to boost reparations payments from Germany.

Irving sat silently, staring straight ahead as the judge read the ruling. He was in shirt-sleeves because he was hit by an egg as he entered the court house.

Before the ruling, Irving told reporters that he would be a winner regardless of the outcome. "My reputation is bound to be enhanced because of my ability to stand up to the experts — to take them all on single-handed," he said.

Irving's decision to sue turned out to be catastrophic for him, however. Not only did Gray say that the evidence supported the book's depiction of Irving, he also said it is likely that the English author will be asked to pay US\$3.2 million in court costs.

Gray also rejected Irving's request for an appeal. He nevertheless advised him that he was welcome to take his case to the court of appeals anyway.

During the news conference, Lipstadt singled out Emory University for standing by her through the five-year ordeal. "Emory has been exceptionally supportive in many ways," she said.

In a statement, Emory President William M. Chace said the university "celebrates Deborah Lipstadt's victory in this case as a victory for free inquiry."

The American Jewish Committee also applauded the verdict. Members of the Atlanta chapter were in the courtroom throughout the trial. "We were witnesses to the truth, lending our emotional support to Dr. Deborah Lipstadt, a revered member of our Atlanta community," said Sherry Frank, the committee's Southeast area director. "David Irving's distortion of historical facts and despicable hatred of Jews received full light of inspection in this courtroom. Justice, truth and free speech prevail."

Lipstadt never testified during the trial. She said this was the course advised by her attorneys. "They thought the book spoke for itself," she said.

While she believes the case was an important moment in her struggle against Holocaust deniers, she said that it was a conflict she would have happily avoided. "This has wreaked havoc on my life," she said. "There are books I haven't written, articles I haven't written and students I've neglected."

But she said it was worth it. "The most moving moment in the trial was when I walked out of the court and was enveloped by Holocaust survivors," she said, nearly breaking into tears. "Survivors who said, 'Thank you'."

## The Survivor's Dilemma

By Harry Furman and Richard F. Flaim

Samuel Lublin and his wife Rachel reside in Teaneck, New Jersey. A prominent real estate developer, Lublin is nothing less than a self-made man. Active in the Teaneck community, Lublin immigrated to New Jersey after World War 11. The Nazis killed his entire family after transport to Auschwitz, a death camp in Poland. Undaunted, Lublin started anew in America and rebuilt his life while always remembering the ashes upon which his youth was sacrificed.

In the 1980's, Lublin became active in a Holocaust survivor group whose members speak on a regular basis in schools and other community events at which they describe their experiences in wartime Europe. Overall, the response to Lublin has been very positive as students are captivated by the personal experiences of a man who had actually seen life and death in a Nazi death camp.

On April 15, 2001, Lublin appears at a local high school for a Holocaust seminar to be conducted before students at an assembly. Lublin had previously been involved in such seminars in which a number of speakers including survivors, veterans and other persons described their personal experiences.

However, on this day, Lublin is surprised to learn that on the seminar panel is David Turner, a self-styled investigator and writer who is known in the North Jersey area as a Holocaust denier. Turner openly avows that six million Jews did not die in the Holocaust and that the assertion of the existence of gas chambers is a myth promoted by those who seek sympathy and support for Jews in Israel. Lublin is informed by the Social Studies Coordinator that the presentation of Turner would provide an opportunity for students to see different points of view about the Holocaust and that Lublin would have his chance, like others on the panel, to express his position, including his opposition to Turner.

Lublin is shocked that the school has invited Turner to speak at the seminar in which he was to participate. Thirty minutes before the seminar is to begin, Lublin contemplates what action he should take in light of the apparent appearance of a Holocaust denier on the same stage.

Whoever denies the crimes and the genocide of the past paves the way for the murders of the future.

SIMON WIESENTHAL

If I had two souls,
I'd use one to hate the Nazis
and one to love my fellow
human beings. But since
I only have one soul, I won't
waste it on hate.

RABBI SHLOMO CARLBACH

### **Questions for Discussion**

- 1. Should Lublin refuse to participate in the seminar? Why or why not?
- 2. How do you feel about a public school inviting a Holocaust denier to participate in a seminar on the Holocaust?
- 3. What is your reaction to the response of the Social Studies Coordinator?
- 4. If Lublin had been told one week before the planned appearance of Turner, would that change your opinion as to what he should do?
- 5. How do you think students should respond to a Holocaust denier? How would you respond?
- 6. Do you believe there can be any legitimate historical debate about the existence of Holocaust or of the use of gas chambers for the murder of millions of Jews? Some people would argue that there is no objective history but only a history based upon the frame of reference of the "storyteller." This is a historical relativism in which all history is "up for grabs" and based upon a debate about the motivation of the historian. Some would describe this as the influence of post-modernist thinking in which nothing in history is absolute or certain and that history is more a presentation of points view rather than a provision of truth. What do you make of this in relation to the debate about how to confront Holocaust denial?
- 7. View the 1993 television movie *Never Again* about a Holocaust Survivor, Mel Mermelstein, who accepted a challenge from the Institute for Historical Review, a Holocaust denier group, that offered to pay \$50,000 if he could prove that Jews were gassed in gas chambers at Auschwitz. The Institute reneged and Mermelstein sued in United States District Court in Los Angeles for breach of contract. Ultimately, Mermelstein received \$90,000 and a written apology from the Institute.
- 8. Some believe that the best action we can take in response to Holocaust deniers like David Irving is to ignore them and not give them a respectable stage upon which they can express their hateful views. Others contend that Holocaust denial should be openly challenged and exposed. Explain why you either agree or disagree with each of these views.

9. In the summer of 2001, the German government began an aggressive campaign to raise funds for the construction of a Holocaust memorial. The campaign included the public display of large posters. The following was written in large letters on the face of the posters: *The Holocaust Never Happened*. As was further explained on the posters, these words were intended to shock the public into recognizing that such attitudes about the Holocaust exist in 2001 and needed to be confronted. The visceral reaction by some Survivors led to the removal of the posters. Discuss your reactions to this situation.

# Lesson 5: The Hitler Fascination

### Introduction

When Dylan Klebold and his friend, Eric Harris, began a shooting rampage at Columbine High School in April 1999, the incident ignited a wave of national attention as to why two middle class teenagers would commit such a violent public act of multiple murders. Early analysis of the Columbine tragedy pointed to an interest of these boys in Adolf Hitler and the Nazis. The act occurred on April 20, the date of Hitler's birthday.

The issue raised by the Columbine murders brings to deadly focus the larger question of a societal *obsession* with Adolf Hitler and the Nazis. Since the 1970's, there has been an explosion of interest in the Holocaust in the United States. Simultaneously, there has been a genuine interest in understanding the motivations of the Nazis who committed genocide as well as a probing of Adolf Hitler and the people who followed him. In the past decade, there has been a dramatic outpouring of books about Hitler that reflects a legitimate interest in understanding the nature of uncompromising evil. That interest extends to young people who find no greater representative of *depraved* conduct than Hitler.

The History Channel and other networks regularly run documentaries on Hitler and the Nazi period of history to the point that one author has described one channel's programming as "all Hitler, all the time." This fascination with Hitler has extended into literature as was satirized in author Dom DeLillo's *White Noise* which described a professor who specialized in "Hitler studies." Other authors, like Susan Sontag, have commented about our modem fascination with fascism.

The interest in Hitler and the Nazis has raised many questions about how much information (and what lens) should be provided to the public about this subject. For example, some European nations do not allow the publication of Hitler's *Mein Kampf*. Some Internet providers will not permit the sale of Nazi paraphernalia in auction rooms. We are likely to soon see a full scale debate about Hollywood making a feature film about German filmmaker and propagandist, Leni Reifenstahl.

Some of the unseemly fascination with Adolf Hitler may be attributed to his ultimate evil status that may be associated with a rebellion against organized authority. Much of that fascination with evil is intermixed with confusion and doubt about the place of right and wrong in the modem world. Some students may see Hitler as a man of action who broke

the oldest moral codes without experiencing self-doubt. They are fascinated with the fiery speeches, the torchlight parades and the flashy symbols.

For most teenagers, there is a desire for answers in a confusing world. Most young people have sufficient external restraints and internal understanding to prevent them from seeking quick and easy solutions. Their families, their religious faith or democratic institutions guide some. Even with limited knowledge, these young people are able to make sense of an uncertain world and appreciate the meaning of tolerance and complexity. However, some teenagers are not so fortunate and are influenced by authoritarian beliefs in which racism seems to answer the need for superiority over someone. For these young people, authoritarian leadership and beliefs provide answers to their quest for clarity and certainty, and the authoritarian leader's appeal to emotion provides the glue for the illusion of belongingness and community.

For those young people who are attracted to Adolf Hitler, his expression of radical evil is a badge of courage. He had the brashness to stick it in the eye of Judeo-Christian thinking. He maintained the courage to break the Ten Commandments and not look back. To such persons, he is a rock in an age of cynicism and ambiguity. He is the model for those who resent tolerance, moderation. flexibility and complexity. In a multicultural society of past and future immigration, with rapid change and social dislocation, Hitler is an attraction for those who feel anxiety about change and those who see the future with alarm and long to bring the sands of time to a halt.

If their criticism is materialism, then some find solace in Hitler's anti-materialism. If they long for a world long past, some feel security in Hitler's anti-modernism. If they distrust people, some perceive the anti-democratic instincts of Hitler as comforting. If they resent the presence of various ethnic and racial groups in their backyard, some take cover in the supremacist claims of the Nazis. If they feel uncertainty in their lives and values, some long for the inflexibility and infallibility of Hitler. If they see the United States as declining, then some take stock in the super-nationalism and myth of national redemption of the Nazis.

There is a difference, however, between individuals attracted to the study of Hitler and the Nazis because of what it says potentially about human beings, especially in the 21st century, and others who are attracted to Hitler because they see admirable qualities in his actions and ideas. If we really believe that individuals make their own choices and that there is *individual responsibility* for those choices, then the battleground with regard to hate will be about the *choices* that people make and with providing individuals with the tools to understand the *consequences* of those actions. Those choices extend to an understanding of the deadly result of Hitlerian thinking.

Below you will read an essay prepared by writer and Holocaust Survivor Elie Wiesel, in which he contemplates the meaning of Hitler and analyzes the relationship of the German people to the infamous dictator. You will then examine *Hitler Was Right*, another example of propaganda that is deserving of analysis. You will read a series of moral dilemma stories that explore multiple issues related to the fascination of some with the Nazis. Finally, you will read journalist Richard Scheinin's newspaper account of the Columbine massacre and the "godlike" status of Hitler to some persons.

### **Essential Questions and Activities**

- 1. How do you feel and/or react when you see a swastika on a desk or a wall?
- 2. In an essay written on October 29, 1998, columnist George Will, exasperated about all the theories about Hitler's motivation, states: "Why did Hitler kill the Jews? Because he wanted to...there is an unending process of discovering reasons why Hitler could not help himself. Half the people cannot bear the theory that Hitler is being himself ..." What does Will mean by this?
- 3. Why do you believe there is so much interest in Adolf Hitler? Do research in a public library or on the Internet and review how many references exist on Hitler. Compare the number of books written about Hitler between 1945 and 1977 and the number written after that date. How do you account for this?
- 4. Are we paying too much attention to Hitler as a central figure of the Holocaust and not enough to other forces?
- 5. In 1999, there were rumors that *Time* was considering Hitler as "Person of the Century." Why would he have received such consideration? Research whether *Time* had previously named Hitler "Man of the Year." If so, why do you believe *Time* gave Hitler this recognition?
- 6. What does Elie Wiesel mean when he writes that under Hitler "humanity crossed a threshold from which one could see the abyss?" Wiesel refers to the response of the German people as "idolatry on a national scale." He then writes, "Did they not see the hateful mask that covered his face?" Explain.
- 7. The author concludes, "Hitler sold the soul of his people to the thousand demons of hate and death." What does Wiesel mean by this?

- 8. Review *Hitler Was Right*, found on the American Nazi Party web site. Analyze the document in light of the concepts discussed in lessons 2 and 3. Discuss the basis of the writer's support for Hitler. Is the document factually accurate? Is it ambiguous? Does it make use of words that are polarizing? Is it convincing?
- 9. Describe some persons both in your own life and in history who you admire. What character traits do they possess that are the source of your admiration. Now, describe some persons, both in your life and in history, who you do not admire. What character traits do they possess that you do not admire?
- 10. After research, make a list of the character traits that describe Adolf Hitler. Are any of these traits worthy of admiration? Which? Why or why not?
- 11. View the feature film *Apt Pupil*. Why is the central character fascinated by the Nazis? Describe the change in his personality and his attitudes toward others that occurs over the course of this film. How do you explain that change?
- 12. Comment on this statement by writer Susan Sontag: "To those born after the 1940's, fascism represents the exotic and the unknown." What is the attraction of fascism to some persons?
- 13. In 2000, the news media carried stories about restaurants in Korea that displayed large pictures of Hitler and decorated their establishments with eagles and Nazi memorabilia. How do you explain this?
- 14. Read Flirting with Hitler: Allen's Dilemma; Responding to a Teacher of Hatred: A Parent's Dilemma; and Triumph of the Film: Jodie Foster's Dilemma, and use the questions at the end of the readings to stimulate your discussion.
- 15. Read Richard Scheinin's *Century's symbols of hate resurrected by massacre*. In what ways does the author compare the personalities of Harris and Klebold with Hitler? What does the author mean when he describes Hitler as "the god of evil"? Do you agree with Scheinin's main point? Is it appropriate for the author to describe Columbine within the backdrop of Nazism and Hitler? Discuss.

## **Adolf Hitler**

The avatar of fascism posed the century's greatest threat to democracy and redefined the meaning of evil forever.

BY ELIE WIESEL

ot being a professional historian, I take on this essay with fear and trembling. That's because, although defeated, although dead, this man is frightening.

What was the secret of his power over his listeners? His demagogic appeal to immoderation, to excess and to simplifying hate? They spoke of his intuitive powers and his "luck" (he escaped several attempts on his life).

Adolf Hitler or the incarnation of absolute evil; this is how future generations will remember the all-powerful Fuehrer of the criminal Third Reich. Compared with him, his peers Mussolini and Franco were novices. Under his hypnotic gaze, humanity crossed a threshold from which one could see the abyss.

At the same time that he terrorized his adversaries, he knew how to please, impress and charm the very interlocutors from whom he wanted support. Diplomats and journalists insist as much on his charm as they do on his temper tantrums. The savior admired by his own as he dragged them into his madness, the Satan and exterminating angel feared and hated by all others, Hitler led his people to a shameful defeat without precedent. That his political and strategic ambitions have created a dividing line in the history of this turbulent and tormented



SIDEBAR: Genocide's Hall of Shame

BORN April 20,1889, in Braunau, Austria

1919 Helps form the Nazi Party in war-weakened Germany

1923 Leads an abortive putsch in Munich beer hall

**1924** Starts writing Mein Kampf in prison

1933 Becomes dictator of Germany, prepares the nation for war and a "Final Solution" to the "Jewish problem"

1939 Invades Poland and starts World War 11

1945 Commits suicide

century is undeniable: there is a before and an after. By the breadth of his crimes, which have attained a quasi-ontological dimension, he surpasses all his predecessors: as a result of Hitler, man is defined by what makes him inhuman. With Hitler at the head of a gigantic laboratory, life itself seems to have changed.

How did this Austrian without title or position manage to get himself elected head of a German nation renowned for its civilizing mission? How to explain the success of his cheap demagogy in the heart of a people so proud of having inherited the genius of a Wolfgang von Goethe and an Immanuel Kant?

Was there no resistance to his disastrous projects? There was. But it was too feeble, too weak and too late to succeed. German society had rallied behind him: the judicial, the educational, the industrial and the economic establishments gave him their support. Few politicians of this century have aroused, in their lifetime, such love and so much hate; few have inspired so much historical and psychological research after their death. Even today, works on his enigmatic personality and his cursed career are best sellers everywhere. Some are good, others are less good, but all seem to respond to an authentic curiosity on the part of a public haunted by memory and the desire to understand.

And yet. There are, in all these givens, elements that escape us. How did this unstable paranoid find it within himself to impose gigantic hope as an immutable ideal that motivated his nation almost until the end? Would he have come to power if Germany were not going through endless economic crises, or if the winners in 1918 had not imposed on it conditions that represented a national humiliation against which the German patriotic fiber could only revolt? We would be wrong to forget: Hitler came to power in January 1933 by the most legitimate means. His Nationalist Socialist Party won a majority in the parliamentary elections. The aging Field Marshal Paul von Hindenburg had no choice but to allow him, at age 43, to form the new government, marking the end of the Weimar Republic. And the beginning of the Third Reich, which, according to Hitler, would last 1,000 years.

From that moment on, events cascaded. The burning of the Reichstag came only a little before the openings of the first concentration camps, established for members of the opposition. Fear descended on the country and squeezed it in a vise, Great writers, musicians and painters went into exile to France and the U.S. Jews with foresight emigrated toward Palestine. The air of Hitler's Germany was becoming more and more suffocating. Those who preferred to wait, thinking that the Nazi regime would not last, could not last, would regret it later, when it was too late.

The fact is that Hitler was beloved by his people-not the military, at least not in the

beginning, but by the average Germans who pledged to him an affection, a tenderness and a fidelity that bordered on the irrational. It was idolatry on a national scale. One had to see the crowds who acclaimed him. And the women who were attracted to him. And the young who in his presence went into ecstasy. Did they not see the hateful mask that covered his face? Did they not divine the catastrophe he bore within himself?

Violating the Treaty of Versailles, which limited the German army to 100,000 men, Hitler embarked on a rearmament program of massive scale: fighter planes, tanks, submarines. His goal? It was enough to read *Mein Kampf*, written in prison after the a bortive coup of 1923 in Munich, to divine its contours: to become, once again, a global superpower, capable and desirous of reconquering lost territory, and others as well.

And the free world let it happen.

His army entered the Rhineland in 1936. A tangible reaction from France and Britain would have led to his fall. But since nothing happened, Hitler played on the "cowardice" of democratic principles. That cowardice was confirmed by the shameful Munich Agreement, by which France and Britain betrayed their alliance with Czechoslovakia and abandoned it like a dead weight. At every turn, Hitler derided his generals and their lack of audacity. In 1939 he stupefied the entire world by reaching a nonaggression pact with Stalin. Though they had never met, the two dictators appeared to get along perfectly; it was said that a sort of empathy existed between them. Poland paid the price of this unnatural "friendship": cut in two, it ceased to exist as a state.

# Adolf Hitler TIME ARCHIVES:



January 2, 1939 Adolf Hitler

#### **WEB RESOURCES:**

#### The Rise of Adolf Hitler

A 24-chapter biography of Adolf Hitler from The History Place

### The Nazi Olympics: Berlin 1936

Contains extensive photo history of life under The Third Reich

### Yad Vashem

The Holocaust Martyrs and Heroes Remembrance Authority And yet, in his own "logic," Hitler was persuaded for a fairly long time that the German and British people had every reason to get along and divide up spheres of influence throughout the world. He did not understand British obstinacy in its resistance to his racial philosophy and to the practical ends it engendered.

In fact, he wanted to swallow up Russia, Poland, Ukraine and the Baltic countries to augment lebensraum: Germany's vital space. But then why did he launch his destructive war against London? Why did he declare war against the U.S.? Solely to please his Japanese ally? Why did he mandate a policy of cruelty in the Soviet territories occupied by his armies, when certain segments of the population there were ready to greet them with flowers? And finally, why did he invest so much energy in his hatred of Jews? Why did the night trains that took them to their death have priority over the military convoys that were taking badly needed troops to the front? His dark obsession with the "Jewish question" and its "Final Solution" will be long remembered, for it has evocative names that paralyze men's hearts with terror: Auschwitz, Treblinka and Belzec.

After Rommel's defeat in North Africa, after the debacle at Stalingrad and even when the landings in Normandy were imminent, Hitler and his entourage still had the mind to come up with the Final Solution. In his testament, drafted in a underground bunker just hours before his suicide in Berlin, Hitler returns again to this hatred of the Jewish people that had never left him. But in the same testament, he settles his score with the German people. He wants them to be sacked, destroyed, reduced to misery and shame for having failed him by denying him his glory. The former corporal become commander in chief of all his armies and convinced of his strategic and political genius was not prepared to recognize his own responsibility for the defeat of his Reich.

His kingdom collapsed after 12 years in a war that remains the most atrocious, the most brutal and the deadliest in history. But which, by the same token, allowed several large figures to emerge. Their names have become legendary:

Eisenhower, De Gaulle, Montgomery. Zhukov, Patton...

But when later we evoke the 20th century, among the first names that will surge to mind will be that of a fanatic with a mustache who thought to reign by selling the soul of his people to the thousand demons of hate and of death.



### The Hitler Phenomenon

## **HITLER WAS RIGHT!**

# That's right. This most extraordinary figure of modern time was indeed right!

**He was right** when He raised the banner of Aryan truth against alien corruption and lies.

**He was right** when He proclaimed anew the eternal laws of life to a world which had forgotten.

**He was right** when He opposed the crass materialism of both communism and finance capitalism.

**He was right** when He gave a hungry, humiliated people work and bread and raised it up.

He was right when He showed mankind a better way.

He was right when He gave the world a vision of a nobler future.

**He was right** when He sought peace among the peoples of Europe and the world.

**He was right** when He fought against overwhelming odds for that which is right and true.

**He was right** when He gave His life for a better world to come.

Yes, indeed. Hitler was right! And not only was He right, but He is right. His message of racial idealism is every bit as relevant and vital today as when it was first announced.

If you feel the same way, we invite you to join His timeless Cause.

http://www.theneworder.org/hitler\_phenom/hitler\_was\_right.html

8/27/01

# Century's symbols of hate resurrected by massacre

BY RICHARD SCHEININ San Jose Mercury News, April 25, 1999

There was something terribly familiar, about the actions of Eric Harris and Dylan Klebold, who rampaged through Columbine High School in Colorado last week and then committed suicide. Like so many mass murderers, the so-called "Trench Coat Mafia" students identified with — and drew strength from, it seems — symbols of evil. They drew swastikas on their arms and murdered 12 fellow students and a teacher on Hitler's birthday, shocking the nation into collective grief.

Their violence seems mysterious, hinting that something dangerous lurks wide and deep in American society. It can be attributed to feelings of alienation, of course, as well as the easy availability of guns, and the callousness of a culture that sells murder as entertainment.

But the young men also seem to have understood the power of associating themselves with Adolf Hitler: They bonded, at least in part, through identification with the ultimate symbol of evil in this century.

The 20th century has been defined by violence and alienation. Hitler was himself an outsider and a failure as a young man: poor, bitter and eventually jailed for participating in riots against the state. That he should be adopted as a role model by Harris and Klebold school pariahs, according to other students — carries with it some irony. Excluded by a peer group and mainstream culture that defined itself as "good," the teens apparently sought an identity and payback by aligning themselves with what was "evil."

### Hate behind actions

This sort of association typifies much criminal behavior: Gangs, occult groups and "white pride" killers all adopt codes or symbols as shorthand for expressing group identity and purpose.

"You look at the incident in Texas where a black man was dragged to his death behind a truck," said Kurt Kumli, supervising deputy district attorney for Santa Clara County's juvenile division. "That's an unspeakable crime, regardless. But then when you see pictures of the perpetrator, and you see his tattoos and you read the racist literature he was espousing, it becomes especially chilling. Because he is saying, 'This sign is what stands behind my action.'"

The Nazis constructed their own mythical universe. Enamored of symbols, they borrowed the swastika from ancient mythologies and made it a symbol of destruction. Half a century after his death, **Hitler** has attained a mythic status. He has been called the visible embodiment of archetypal evil. His legacy bleeds at times into the thinking of people who set themselves apart from the crowd, shunned by and lost in the masses.

In Littleton, Colo., Harris and Klebold were part of a group that skulked through school hallways wearing dark trench coats as cover.

"The first time I heard about it, I told my mom, 'It's like society's outcasts seeking revenge'," said Vanessa Bravo, 16, a sophomore at Independence High School in San lose.

Bravo is reading "Lord of the Flies," the novel by William Golding, in which a group of boys paint their faces and turn murderously on other children on an otherwise uninhabited island.

"When they painted their faces, they covered up who they were to become someone else," Bravo said. "And what normally should be wrong, now seemed right. And when I heard about the black trench coats the boys wore in Colorado, I thought it almost was like their security blanket. It gave them strength to go and kill these people, which was so wrong, but in their minds it was right because they had become totally different people." Benign symbols.

Of course, symbols abound throughout society, not just among criminals. Adults define themselves by wearing expensive wristwatches and driving fast cars.

"People burn the flag to make a symbolic statement, and then somebody starts a fight with the people who are burning it," said Cleveland Prince, a county probation officer.

"Law enforcement people wear an insignia. That's a symbol, too, and it represents a belief system: 'This is what motivates me and this is why I'm going to do what I do.' It's this whole issue of identity. For kids, gothic kids, gang kids, Aryan kids, it is an issue of belonging, too. But it can become concentrated, exaggerated, because they're so young and impressionable."

### Hitler's legacy

It is more than 50 years since the Holocaust, but Hitler lives on as a symbol and reference point in Western society, Every day, one hears references to Hitler in conversations and the news: Earlier this decade, Iraqi President Saddam Hussein was "Hitler." Today it is Yugoslav President Slobodan Milosevic, whose "ethnic cleansing" of ethnic Albanians from Kosovo conjures up images of Nazi war crimes.

"Hitler opened the door to evil which today seems normal," said Arnost Lustig, Auschwitz survivor, novelist, and professor of literature at American University in Washington, D.C. 'The Nazis proved it is possible — and now we have had millions dead in Cambodia, Rwanda, the Balkans. And America? The United States is vital and decadent at the same time. On one hand, it provides people with comfort unseen in the history of man. But at the same time, this comfort begets evil. People are simply spoiled by this good life and are trying to touch something which is more interesting, and this is evil."

Which is not to say that every outsider — every man or woman who feels marginalized by society — will join that cult. The majority of outcasts are not destroyers; many become artists, a few prophets. Beethoven, as an example, was isolated "by his deafness and by his personality," said Richard Tarnas, author of "The Passion of the Western Mind."

The composer had "virtually no intimate relationships and yet he brought forth this magnificent musical expression of the human spirit. His isolation served as a kind of spiritual matrix for creative profundity," Tarnas said.

Classically, the outsider has insights that transform society for the better: Jesus in the desert was an outsider in a fundamental way.

### 'Compelling evil'

But occasionally there comes along the outsider who is a scourge and whose status attains mythic heights. It is unclear how thoroughly Harris and Klebold delved into Hitler's ideology: Was it something they embraced in totality, or used opportunistically? They may have been impressed by images of Hitler speaking to tens of thousands of people who would literally have followed their Fuhrer into hell.

They may have asked how it was possible "that someone could be that powerful and malignant," said Jonathan Bush, a Holocaust historian at the National Humanities Center in Raleigh-Durham, N.C. "Fascism made use of symbols and charismatic trappings — the swastikas, the helmets, the trench coats. If you look at the old films...this is all arranged to be compelling, and it is compelling — compelling evil. And American high school students can fall for it just like German voters."

In an American society over-stimulated by violent media and entertainment, there's not much that shocks anymore. But there's always the touchstone of evil that symbols of Nazism embody. **Alienated** young people may or may not know the history of those symbols. But they understand that the swastika and the SS thunderbolt still provoke a visceral reaction, and a few sad souls still put them to use.

"In the pagan world, every country had its own god," said Rabbi Marvin Hier, dean of the Simon Wiesenthal Center in Los Angeles. "In modern America, there is the god of evil. And if you are a disciple of evil, you want to pay homage to your god.

"Hitler is the titan of evil."

## Flirting with Hitler: Allen's Dilemma

By Harry Furman and Richard F. Flaim

For as long as he could remember, Allen Blake could never quite fit in with others. A child of a broken home, Blake grew up in Burlington Township in a single-parent home with his mother and sister. A hard-working woman, Blake's mother labored extra and long hours to keep the Blake household financially afloat. Despite not having enough time for her son, she loved him greatly and provided him with all the necessities that she could possibly provide.

In tenth grade, Blake befriended a group of boys who all seemed to be "outsiders" in the school. The one characteristic that appeared to bind the group was anger at other students who seemed to be popular; blacks and other minorities who they believed received special treatment and a break they did not get; "good students," particularly the Jewish and Indian students who seemed to be unwilling to break the rules or "to let loose" and, as the group perceived, had fathers who were doctors and lawyers and businessman who could get them out of any tight jam.

One of the boys, Stephen Robins, was particularly sharp in his resentment of these groups. He was fascinated with the Second World War and with the memorabilia from the 1940's, particularly German armbands, posters and symbols. Robins spoke openly about his admiration for Adolf Hitler because he knew how to get things done and he understood that certain people should get what they deserve.

One night, Robins tells the group that he wants to show others that they also can demonstrate a will to power. He proposes that the boys enter into a secret pact to show that they are capable of arbitrary action. This would be their right of passage before graduation. First, he tells them that they should each write a portion of a secret code under their photographs in the school yearbook which, when decoded, would reveal their admiration for Hitler and their hatred for minorities in the school. Only they would know the code and its meaning. However, for public expression, Robins proposes that the boys go out to an old abandoned farm his neighbor's family owns in Burlington County. He then suggests that using a tractor, they cut a large swastika in the cornfield that only could be seen by air, but which they would know symbolized their adherence to "Aryan supremacy."

Allen is intrigued by Robins' plan but he also is fearful of what might happen if they are caught. In the back of his mind, he also thinks about his mother who he knows would be shocked if she knew what Allen's group was planning to do.

### **Questions for Discussion**

- I . Aside from obscenity or slander, should there be any restrictions on what students can say or write in a school yearbook? Explain.
- 2. Robins argues that anything that is a secret code really harms no one. Comment.
- 3. Is either of the actions an expression of hate speech? A hate crime? Explain.
- 4. Should Blake participate in either of these proposed actions? What would motivate a person to participate in an action like this? Could you ever imagine yourself doing anything like this? Why or why not?
- 5. Assume that Blake actually participates in these actions and, because of rumor, the boys are found out. How should the community and the legal system deal with Blake? How should the school deal with his actions? What if he says in his defense that he only went along with Robins, the leader, and that he was only a follower?
- 6. Assume that Blake, for whatever reason, chooses not to participate in either action. After the swastika is discovered, the Police Department conducts an investigation and offers \$1,000.00 reward for information leading to the apprehension of the perpetrators. Blake sees that there is anger in the community about the swastika in the cornfield. What should Blake do?

# Responding to a Teacher of Hatred: A Parent's Dilemma

By Richard F. Flaim, Harry Furman and Kenneth E. Tubertini

Brian and his family live in a small rural community in which everyone knows each other. There are no Jews living in the community. Lockwood High School has a very good reputation and its football team has been among the best in the State for four years. The townspeople are very proud of their school and team. Brian is a member of the varsity team and his coach, Lee Mangelardo, is his role model. He is also his European History teacher. Brian has decided that he would like to become a teacher someday because of Mr. Mangelardo's influence.

Over the past ten years, Brian's mother, Marcia, has had a number of concerns about her son's education and the school district. However, these concerns related to Board of Education policies, which were corrected relatively quickly. She recognizes that the new problem is very different because it does not relate to school policy but to certain information that Brian is being taught in his European History class.

That problem first became noticeable several months into the school year when Brian made several prejudicial remarks about Jews. These remarks startled Marcia because Brian had studied about prejudice and discrimination in the Social Studies class in past years. Also, Marcia and her husband had raised Brian to respect all groups of people. She responded by expressing her disappointment to Brian and urged him not to repeat those remarks again. She assumed that Brian's comments did not represent deep-seated feelings.

However, Marcia realized that the problem was more serious than she had first believed. His slurs against lews continued. Marcia asked Brian where he was obtaining his information about Jews. Brian stated that his teacher, Mr. Mangelardo, whom he considered to be an expert in history, had been giving the class many readings which dealt with the great power and influence that American Jews had on national policy. Brian said that the "authorities" who wrote the articles asserted that the American press, the Congress and the most powerful corporations were under the control of Jews. Mr. Mangelardo also said that it was about time that high school students learned the truth about Jews. Brian was surprised to learn that "the Holocaust never really happened." The teacher explained that it was a hoax and he used readings to support his view. From this course, students learned that the Holocaust was created by Jews to gain sympathy for them and for the State of Israel.

Marcia was appalled and outraged about what her son was taught and that he apparently accepted Mangelardo's interpretation of history without question. It appeared as if the teacher had used his authority and popularity in order to indoctrinate students with his own bigotry.

She informed Brian that she would confront Mangelardo the next day. Brian strongly objected. He believed that his teacher was teaching the truth. All the students like Mr. Mangelardo and, if they found that Brian's mother was trying to make trouble, they could take it out on Brian. He also worried whether his teacher will take out his mother's objections against him in class and on the football team. He remembers how strongly the teacher had reacted when several classmates challenged his view of history in the past. Brian begs his mother not to go through with it. After all, the end of the school year is only a few months away and the issue will be over for them.

Marcia thinks about the situation. She does not want to damage Brian's chances for good grades and a chance on the football team. Neither does she want to embarrass Brian in the eyes of his classmates. Lee Mangelardo has been a dedicated coach and spent many hours with the boys after school. However, she cannot accept the fact that this teacher is teaching information that is incorrect and has already created negative attitudes in her son about a minority group.

#### **Questions for Discussion**

- 1. Summarize the dilemma faced by Marcia.
- 2. What should Marcia do about this situation? What values are in conflict in reaching a determination as to how to act in this situation?
- 3. Can a teacher damage students by how he or she teaches?
- 4. Should there be limits on what a teacher can say or do in the classroom? How far does academic freedom extend?
- 5. This dilemma is loosely based upon the story of a Canadian teacher, James Keegstra, which was retold in the movie *Incident at Clear River*. Students may view the film and discuss how the community should have dealt with a teacher like Keegstra.

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- 6. You've got to be taught to hate and fear You've got to be taught from year to year... You've got to be carefully taught You've got to be taught to be afraid Of people whose eyes are oddly made And people whose skin is a different shade...
  - You've Got To Be Carefully Taught, from the musical South Pacific

Is there something about the classroom and the education of children that requires a special scrutiny of what teachers are teaching? Should a teacher be free to teach hatred to children? What values are in conflict in responding to this question?

# Triumph of the Film: Jodie Foster's Dilemma

By Harry Furman and Richard F. Flaim

Jodie Foster is a popular American actress who has appeared in numerous well known movies and won an Oscar for her performance in *The Accused*. She has rarely surfaced in any political controversy and she has not been the subject of criticism based upon issues outside the judgment of her acting. However, she now plans to produce and star in a feature motion picture about Leni Riefenstahl, the German filmmaker and propagandist who was known as "Hitler's favorite movie maker." Ms. Foster describes Riefenstahl as a "tremendously gifted woman" who "made a lot of ugly choices at a terrible and horrible time in history." She went on to say that "she needs to be portrayed. There is no other woman in the twentieth century who has been so reviled and so admired simultaneously."

Riefenstahl is now 99 years old. She was born in Berlin in 1902 and began her career as a ballet dancer and actress in German cinema. In 1933, she was appointed by Hitler as a top film executive of the Nazi Party. She went on to make a series of legendary propaganda films, including *Triumph of the Will* (1935), which celebrated a mass rally at Nuremberg, and *Olympia*, about the Berlin Olympics. She made great use of melodramatic camera techniques and the effects of Wagnerian opera to display Hitler and the merging of German individuals into a mass as shown in torchlight parades and marches.

In her defense, Riefenstahl has said that she was naive and was only an artist. She stated that she didn't "notice that one could not shop in Jewish shops. I never noticed people being taken away or that a Jew was being abused...I never said anything, let alone heard anything of a concentration camp...I am ashamed that I didn't notice at the time."

Marvin Hier of the Simon Wiesenthal Center in Los Angeles has stated that Riefenstahl should not be glorified or glamorized. He is critical of what he calls Riefenstahl's attempts at "classic revisionism" to distance herself from Hitler when, in fact, she was infatuated with Hitler and the movement. Others suggest that making a movie about Riefenstahl would defame the memory of Holocaust Survivors.

### **Questions for Discussion**

1. Why would some people be so concerned about the portrayal of Riefenstahl in a Hollywood film? What does Hier mean when he says that he is afraid of such an effort becoming "classic revisionism?"

- 2. There are those who suggest that a person like Riefenstahl needs to be studied and portrayed for the public and that there is real public benefit in doing so. Comment.
- 3. Discuss whether you have ever seen a film that you believed did not accurately describe a period of history or a particular historical figure. In what way was the film not an authentic portrayal? Did it matter? Did the film influence the way people looked at a period of history or that individual?
- 4. Riefenstahl's defense is that she was not a believer but only an artist. Can this distinction be made? What role do artists play in mirroring or creating cultural attitudes?
- 5. View a portion of the film Triumph of the Will. What techniques does Riefenstahl use? What mood does she create? Describe why this film is or is not propaganda.
- 6. Some critics argue that when it comes to the subject of recent history, documentaries more accurately reflect the truth about a particular subject and are thus better teaching tools. According to this view, documentaries that include interviews and original film footage are more appropriate for a study of the Holocaust than fictionalized stories, even those based on real events. Thus, the life of Leni Riefenstahl is better told through a documentary and not in some melodramatic Hollywood film. What do you think of this argument? Discuss the limits of depicting history through a documentary or a screenplay as it relates to the issue of a movie about the life of Leni Riefenstahl.

# Lesson 6: The Massacre at Columbine High School: A Search for Meaning

### Introduction

On April 20, 1999, Columbine High School, a suburban school of approximately 2000 students in the Denver suburb of Littleton, Colorado, experienced an act of terror that traumatized the entire country. Two Columbine students, Eric Harris and Dylan Klebold, entered the school and murdered 12 classmates and a teacher and injured many others before ending their own lives. It was one of the worst massacres in recent memory and has led to considerable debate and soul-searching in schools and communities throughout the country. People everywhere asked themselves, "Why did it happen?" and "Could it happen here?"

In the aftermath of Columbine, it was common for schools and communities to take measures to assure that such a tragedy would not occur in their schools. These included the expenditure of vast sums of money to strengthen the security systems of schools. These included the installation of metal detectors, video cameras, special locks on exterior doors. adoption of identification badges and hiring additional security guards. The assumption was that if the buildings could be made more secure a Columbine-type tragedy could be avoided.

Another response by some schools was to increase surveillance of the activities of students who seemed to fit the profile of Harris and Klebold, which included the wearing of black clothing and whose behaviors were non-conformist and alienated. Some schools adopted dress codes and "zero-tolerance" weapons policies that resulted in the suspensions and expulsions of students, many of whom posed no real danger to themselves or their classmates.

While these approaches have resulted in greater security in many school buildings, some people began to explore the motives of Harris and Klebold. They have asked questions about those factors in these students' daily lives, at home and at school, which may have contributed to the hatred that led to the tragedy. People asked questions about the perpetrators' beliefs and values; their habits and home life; their fascination with the Internet and Adolf Hitler (April 20 was Hitler's birthday); the way they were perceived and treated by classmates in school; the clothes they wore; and the groups to which they

belonged. These questions are more difficult to answer than those that ask how to make buildings more secure because they deal with the complexities of human behavior. However, it may be that these are the questions that must be answered if we are really interested in the kind of understanding that will enable us to prevent future tragedies of this kind. These may be the questions that will guide our search for meaning.

The Essential Questions and Activities that follow present you with a small sampling of the many views of the Columbine tragedy that have been written. You are encouraged to do additional research into this complex event in an effort to better understand its causes and to draw some conclusions regarding ways to deal with such factors in your own school and community.

### **Essential Questions and Activities**

- 1. In the articles that follow, identify the various views offered by the writers regarding the possible motives of Harris and Klebold that led them to commit the murders at Columbine. Which of these views do you feel are most plausible? Which impressed you the least. Explain why.
- 2. Some have indicated that Harris and Klebold's fascination with Hitler and Nazism was a part of their reason for planning and carrying out the massacre. They planned the tragedy on April 20, Hitler's birthday, and Harris made references to "natural selection," a part of Nazi philosophy. If these were a part of the motivation for their acts, did the result fulfill their vision of the kind of world they desired? Explain.
- 3. What are some of the views offered in the readings regarding ways the tragedy could have been prevented? What suggestions would you offer?
- 4. One of the factors that has been studied is the impact of various student "cliques" on the attitudes of young people. Examine the various formal and informal groups of students in your school. What distinguishes each of the groups from one another? Why do students affiliate with these groups? How do the groups view themselves in relation to the others? Are these views always healthy? Explain. What can be done to assure that groups of students develop respectful attitudes toward one another?
- 5. Have you ever been the target of criticism, isolation, teasing or violence because of what you believe or who you are? If so, what was the basis for this treatment? How did it affect you? your friends? your family? How did you handle it? Who in the school, home and/or community setting was helpful to you? Was there anything else that you feel

- could have been done? What advice would you offer to fellow students who become targets of such behavior? to those who are the perpetrators?
- 6. What are some of the measures that have been taken by your school to assure the safety of students from the kind of violence that occurred at Columbine? How effective do you believe these measures are? How do you feel about the use of such measures? What else would you suggest be done to improve overall student relations in your school? Do you believe that some restrictions on individual freedoms in the schools are necessary to create a safe school environment?
- 7. What does Andrew Vachss mean by "...preventing the deadly flower from reaching full bloom?"
- 8. What is "geek profiling?" What role does it play in what happens in school?
- 9. How do the authors of the readings use the following concepts to analyze the motivations of those like Klebold and Harris?
  - The culture of cruelty
  - Emotional illiteracy
  - The absence of adult presence
  - Marginalization and alienation
  - "The enemy"
  - The desire for "symbols of power"
  - The need for belonging
- 10. In January 2000, Holocaust Survivor Gerda Weissman Klein visited Columbine High School. Following her visit, one student remarked, "After hearing Gerda speak, I realized that scars never really go away, but it is possible to make them smaller." Discuss with a small group what you believe this student meant by this. Can you relate this to an experience you have had in life?
- 11. Do you agree with the author who asserts that our schools function within a "culture of cruelty?" If so, how could we help to change the environment of schools to improve student interaction and tolerance? If you disagree, describe what you believe to be the quality of student interaction, tolerance and acceptance of diverse students in your school.
- 12. After the incident at Columbine, Elliot Aronson, author of Nobody Left to Hate, made the following comment: "If we cannot succeed in teaching our children to be more compassionate, more caring, more empathic toward one another, gun control and metal detectors will never make them safe. The beauty is that the tools for teaching

compassion exist. The tragedy is that they are not being utilized." What does Aronson mean by this? How does one teach compassion? Do you agree with Aronson?

13. Read Brave New World: The Principal's Dilemma, using the questions at the end of of the story as a basis for analysis and discussion.

### "Kill Mankind. No One Should Survive."

By Dave Cullen

Many of [Eric] Harris' writings convey his expectation that his words would be discovered after the murders. Some read like an extended suicide note: "Don't blame the school," one entry said... "If there's any way in this...universe we can come back as ghosts, we'll haunt the life of any one who blames anyone besides me and V [vodka]."

That passage was among the evidence investigators shared with Columbine faculty and administrators last month [August 1999]. ... Teachers and administrators found the revelations difficult to hear, even while finding some relief, said school district spokesman, Rick Kaufman. "It did dispel quite a few myths or embellishments of certain stories that have taken on a life of their own in the community."

But it was unsettling for faculty to learn the brutal details of the plan hatched by two high-achieving students, and to see the extent of the facade Harris and Klebold foisted upon them. "These are people that knew the two killers as well as those who were killed," Kaufman said. "It's a sense that you know in some way how they were killed, and perhaps the tragic circumstances that went behind their deaths."

The texts offer extensive details about the assault plan, tremendous insight into Harris' torturous state of mind and no clear indication as to why they converted their fantasy into reality. They do offer some clues, but Kiekbusch [investigator] says his team will avoid drawing any conclusions from them.

...But individual investigators are drawing conclusions, and not all of them agree. Some sources focused on the killers' belief in their own superiority, as though they constituted a two-man master race. Some point to the fact that as the killing began, Harris tore off his trench coat to expose a white T-shirt reading "Natural Selection." Their writings stress their bond, including statements like "We're the only two who have self-awareness," "Nobody else is like us" and "We're the only two people who seem to understand the meaning of life."

"They do consider the human race beneath them," one investigator said. Harris "talks a lot about natural selection and that kind of leads into his admiration of Hitler and Nazism and their 'final solution' —that we, the human race have interrupted or disrupted natural selection by inventing vaccines and stuff like that. In one of his writings, he talks about that: "It would be great if there were no vaccines, because people who should have died would have died, and we wouldn't be perpetuating this kind of stuff."

Following the tragedy, students widely reported Harris' fascination with Hitler and Nazism. But sources said that Harris adopted Hitler's concept of a master race in a general sense, without his particular distaste for Jews or blacks. To Harris, the master race seems to have consisted only of himself and Klebold, though they set out to kill themselves in the attack as well. He stated explicitly that while Hitler's "final solution" was to kill the Jews, his was to kill all mankind...Kiekbusch...said the writings showed "they put themselves above everyone else."

...One thread running consistently through the texts is the desire for glory, the expectation of fame. "Like many of the school shooters, they seem to be expecting some sort of notoriety, in addition to wanting the vengeance." one source said. "Because they felt they have been mistreated by a number of people, they're going to strike back at the human race.

"But they also kind of expect notoriety." Harris' writings contain statements like "When you [the media] write about this...When you read about this...We were planning this before the kids in Jonesboro, and we're going to die in there," the source said.

Battan actually believes fame was the single biggest reason Harris and Klebold ultimately went through with the plan. "That's my personal opinion," she said. "And all the rest of the justifications are just smoke." Other key investigators backed that assessment.

The texts were littered with comments about their expected glory, Battan said. "They certainly wanted the media to write stories about them every day. And they wanted cult followings. They're going to become superstars by getting rid of bad people. And you know, it worked. They're famous...

Source: Dave Cullen. "'Kill Mankind. No One Should Survive'." News. Salon.com News. 23 Sept 99. httpj/www.salon.com/news/feature/1999/09/23/journal/index1.htmI

## Learning from Littleton

By Fiona Morgan

Michael Thompson, Ph.D., co-author of "Raising Cain: Protecting the Emotional Life of Boys"

As a psychologist, I've had boys who've carved swastikas into their shoulders. To me, it's always a warning — how could it not be? They [Harris and Klebold] were saying, "Nobody comforted us. But we're going to prove we're strong. We'll make the people who teased us pay."

All boys are teased between the ages of 11 and 15. Boys are very, very tough on each other. I call it the culture of cruelty. The main insults are "gay" and "faggot." There is a process of sorting through who's in and who's out. Kids who are really cast out are at risk. Most American boys are not given enough practice in articulating their inner lives.

They're emotionally illiterate... You get some boys who are more gripped by violence in the media, and then if they also get too severely alienated or depressed, or their only company is another boy who is also depressed and alienated, then they can just spiral downward. These were two suicidal boys. I think they had a suicidal pact when they went in there. They knew they were going to be dead at the end, and they were going to take a lot of people with them. We know boys are vastly more at risk for suicide.

It's terrifying that they had so little adult presence in their lives that nobody checked on them that nobody knew what they were up to. Kids need to be known. My wish is that every child in school would have to say hello to an adult, shake his or her hand, look her in the eye every day, so that the same adult would see a child every day, right up until the end of high school...

**Jack Levin**, director of the Brudnick Center on Violence and professor of sociology at Northeastern University in Boston.

What people are confused about is, how can it be a hate crime when most of the victims were white? There's no contradiction at all. Hate mongers don't specialize. They go hunting for a black to kill, but if they don't find him, they'll take someone who's gay or target a woman or maybe someone with a disability. Teenagers who are marginalized and alienated commit the largest numbers of hate crimes. They're not members of organized hate groups, but they go out on a Saturday night looking for "the enemy." The more they bash and assault and attack, the more important they feel, the greater their sense of belonging.

All of the symbols that these two youngsters were enamored of were symbols of power, the power that they lacked and wanted so desperately. Targeting athletes — the most powerful, the most popular, the most prestigious members of the school. The attack against the one black student is a hate crime, and I think it does qualify legally. (Isaiah Shoels) embodied everything that they wanted. He was strong, athletic, popular — and he was black. The last things that these assailants wanted to see was a member of the "inferior race" have a position at the top of the class, the people who are supposed to be the weakest actually being the strongest. That infuriated them.

We can reduce hate crimes and reduce these attacks at schools if we provide our young people with healthy alternatives to hatred and violence, so they can feel important and special and a sense of belonging without hurting anyone. That's a tough thing for people to understand, because it's a long-term preventive solution. It's not as easy as putting metal detectors in schools and stationing guards around the hallways. What we tend to do is go toward short-term solutions that don't work because they're politically expedient and because they make people feel better. Adults have to get back into the lives of youngsters so that they no longer raise themselves, as they have been for 20 or 30 years. They haven't been doing a very good job of it, and sometimes, they explode.

### **Andrew Vachss**, attorney who represents only juveniles

...Any expressed interest in an extermination philosophy such as Nazism is enough of a warning sign for anybody. Nazism has always appealed to inadequates and defectives, because it always explains all their problems. It wasn't a Jewish school, it wasn't heavily populated with people of color, so they did what a lot of disturbed people do with Nazism, morph it a little bit. "We're superior, the rest of these people are...oppressing us because of our superiority. They need to be exterminated."

I'm not convinced that any new get-tough measures would have had any effect at all at Littleton... What you need to talk about is preventing that deadly flower from reaching full bloom. When you come across the extermination philosophy, I think you have to step in right then. It would be a confrontative intervention. Although there's a First Amendment and people can say whatever they want, it's not difficult to engage young people to the point where they're going past speech.

Source: Morgan, Fiona. "Learning from Littleton." Mothers Who Think. Salon.com, 27 April 99. http://www.salon.com/mwt/hot/1999/04/27Littleton reactions/index2.html]

## Brave New World: The Principal's Dilemma

By Harry Furman and Richard F. Flaim

Dr. Tanya Young is the Principal at Davidson High School in central New Jersey. Like other educators, she was shocked by the events at Columbine High School in Littleton, Colorado in 1999.

In the wake of Columbine, the Superintendent of Schools informs Dr. Young that the community will not accept anything less than a zero tolerance policy to any potential threat to security. Davidson High School is a typical semi-urban school with a multi-cultural student body. A group of parents lobbies the Board of Education and demands that effective security measures be taken to make certain that nothing like the tragedy at Columbine could happen in their school system.

With that in mind, Dr. Young is informed that the Superintendent and the Board will offer a security plan that will include the following provisions:

- metal detectors located at the only two entrances into the school;
- video cameras to be placed strategically in the interior of the building and to monitor the parking areas;
- the institution of a zero tolerance policy in which any student found with a weapon as defined under New Jersey law will be subject to expulsion from the school for at least one year;
- creation of a dress code policy in which students will select a uniform from a number of clothing designs so that strangers to the school can easily be identified; and
- the institution of a policy that any threat made by one student upon another will be dealt with harshly by the Administration including but not limited to at least ten days suspension from school.

The proposed new policies and plans dismay Dr. Young. Educated at Howard University, and remembering her own experience with inner city violence, she rues the implementation of this proposed policy. Additionally, as a potential test of the impending policy, Dr. Young is made aware of a student who just created a web site that openly mocks other students by name and identifies them as students who should be subject to student humiliation and harassment. An educator of thirty years experience in public education, Young ponders how to confront this new development and the new plans of the Board of Education and the Superintendent.

#### Questions for Discussion

- 1. Of the five proposals made by the Superintendent, are there any that you believe the school would have no right to institute? Why or why not? Which of the policies, if any, would you favor?
- 2. A central motive of the Superintendent and the School Board is that these measures would improve student safety and decrease the possibility of events like Columbine. Are they right? Does that matter to you?
- 3. Would your own school benefit from any of these proposals?
- 4. If you were commissioned with the responsibility of creating a series of proposals to reduce the risk of a tragedy like that at Columbine at your school, what would you propose? Break up into groups of five in the class and then compare and debate proposals.
- 5. What should or could Dr. Young do about the web site? Is there a point at which such a web site would become "hate speech" or a "hate crime"? Conduct research on the issue of Internet speech and the right of schools to discipline students for both oncampus and off-campus communications on the Internet. What did you find? Are there circumstances in which students can be disciplined for statements made on the Internet while sitting at home? What do you think of this?
- 6. Since Columbine, there have been many controversial incidents involving the disciplining of students. For example, a seven year old boy in Hahokia, Illinois was suspended for having a nail clipper in school, a tenth grader at Curry County High School in Virginia was removed for having blue-dyed hair. Also, a fifteen-year-old youth was told to bring an object from home to use in a report for English class and, when he came to school with a large cane, he was expelled for bringing a weapon. How do you explain these kinds of developments? How do you feel about a zero tolerance policy? What does this say about the issues that are facing public education today?

# Lesson 7: **Drawing Conclusions**

### Introduction

This unit, The Hitler Legacy: A Dilemma of Hate Speech and Hate Crime in a Post-Holocaust World, was developed for the New Jersey Commission on Holocaust Education for the purpose of encouraging middle and high school students to think seriously about some very important issues. The various essential questions, activities and readings that were presented should have enabled you to develop a better understanding of the complex nature of hate speech, hate crimes and those who deny the existence of the Holocaust. You were asked to explore the reasons why some young people are fascinated with Adolf Hitler and Nazi ideology and you explored a tragic example of how hatred resulted in the murder of students and a teacher in an American high school.

As a result of your study, you may have come to realize how difficult it is to confront the problem of hate speech and hate crime. The same First Amendment to the United States Constitution that guarantees the right of free expression of ideas also protects those who wish to express ideas that are hateful, whether in speech, print or on the Internet. Thus, we have choices that are difficult ones. To what extent can we protect the right of free expression while identifying those expressions that cross the line into "dangerous" speech?

We hope that this unit has led you to discover some very specific actions that you and your peers can take when you either observe or become aware of hateful acts that threaten the life, safety or integrity of any person or group, regardless of their race, ethnicity, religion, gender, sexual orientation or disability. Perhaps these materials and activities served as a catalyst to an examination of serious social issues, but also to an examination of your own attitudes and behaviors. You are encouraged to ask yourself whether any of your beliefs rise to the point of hatred and, if so, to examine the reasons for such beliefs and consider whether they should be reevaluated and changed.

Edmund Burke once wrote: The only thing necessary for the triumph of evil is for good men (people) to do nothing. It is a simple but profound statement. Its message can cause each of us to think about our respective responsibility to one another, and to the development of a more humane world. If a part of Hitler's legacy is the hatred that still haunts the world, we must decide how we can create a present and a future based upon mutual respect for one another. It is up to you...and all of us.

### **Essential Questions and Activities**

- 1. Complete Survey: A Final Assessment of Hate Speech and Hate Crime. Read the statements and indicate in the spaces provided the degree to which you agree or disagree, using the four-point scale indicated. When finished, join your classmates in a small-group discussion of responses. Conclude by each group reporting its findings to the class.
- 2. Reflect upon your study of the powerful issues that were the focus of this unit. Using whatever medium you choose, (e.g.: art, music, poetry, essay, etc.) express your view about the most effective ways our society can respond to hatred. Include what you believe your contribution to this challenge will be. Share this with the class.
- 3. Participate in a class discussion on the implications for yourself and society-at-large of hate crimes and the fascination of some young people with Hitler and the Nazi philosophy. Write an essay in which you incorporate those implications you found to be most compelling.

The highest result of education is tolerance.

HELEN KELLER

# Survey: A Final Assessment on Hate Crime and Hate Speech

By Harry Furman and Richard F. Flaim

Directions: This activity is designed to stimulate thought and discussion about the major issues raised in this unit. Read the statements below and indicate in the spaces provided the degree to which you agree or disagree, using, the four-point scale. When finished, join your classmates in a small-group discussion of responses. Conclude by each group reporting its findings to the class.

	1 = Strongly Agree	2 = Agree	3 = Disagree	4 = Strongly Disagree		
1	There are times wh	There are times when hate can be a constructive motive for behavior.				
2	Expressing hatred	is an inherent pa	art of human natur	e.		
3	Hatred is more of	a learned behavi	or than inborn bel	navior.		
4	There are good rea			ads, express the positions		
5		Hate groups should be watched closely by the government and by the general population because of their potential threat to our society.				
6	No action should the First Amendme		hate speech witho	ut primary consideration for		
7	The origins of why family dysfunction		in hate groups rela	tes to some psychological or		
8	No one should un	derestimate the	threat of hate grou	ps.		
9	Crimes substantial our society.	lly motivated by	hatred should rece	ive greater punishment in		
10.	There should be d	istinct limits as t	o what people can	say to each other.		
11.	The Internet shoul	d not be subject	to government reg	ulation in the area of hate		

2	_People who threaten others on the Internet should be subject to criminal sanction.
13	Groups that challenge the historic reality of the Holocaust are motivated by anti- Semitic beliefs that have nothing to do with objective history.
14	_People who are really enamored with Adolf Hitler and the Nazis scare me.
15	_There is nothing about the life or actions of Adolf Hitler that is deserving of praise.
16	_Columbine was caused primarily by a couple of sick kids who refused to abide by social convention.
17	_The reality is that Columbine can happen in any environment in which there is insensitivity and cruelty between competing self-interests.
18	I would favor hate crime laws that would severely punish actions committed ou of a sense of hatred for a particular sexual orientation, gender or disability.
19	People who wear hoods or swastikas or other symbols of hatred should not be able to march or display such regalia in my community.
20	There are some ideas that are so powerful that they should not be permitted public expression, such as publication of <i>Mein Kampf</i> or demonstrations by members of the American Nazi Party.

# A Postscript to Terror: The Clock Strikes Twelve

On September 11, 2001 I was traveling to a meeting of the New Jersey Commission on Holocaust Education at the Governor's mansion in Princeton, New Jersey. One of the matters on the agenda was a report on the final completion of this Unit on hate crime and hate speech and its potential release for student use.

On the way up Route 295, I thought about how I needed to call my sister who lived in New York City. After all, it was her birthday and I wasn't sure when I would be able to reach her. I mindlessly turned on the radio and flipped over to the Howard Stern morning show. Howard and his cohorts were babbling about what they were watching on the television screen. At this point, there was confusion and only suspicion about what had happened at the World Trade Center and whether it was an act of terrorism. By the time I arrived in Princeton, that grim reality had been confirmed with the unprecedented flying of a second plane into the other tower of the Trade Center. Before 10:30 A.M., with the news of the assault on the Pentagon, our meeting abruptly and solemnly adjourned as we implicitly realized that we were on the drawbridge of a groundbreaking historical event. So began a new era in every American's consciousness.

This Unit has focused on the malignant expression of hate in modern society. We have studied how the words and deeds of those like Buford Furrow, Matthew Hale, Aryan Nations and others can wreak terror on innocent people simply because they are perceived to be representatives of a particular group. Although it was never clearly stated, one of our goals as editors was to help students understand and feel empathy for the victim of the expression of hate. This is not easy as many people simply have difficulty comprehending another person's plight until they themselves have experienced a similar fate. The attack on all Americans that occurred on September 11 should result in a renewed understanding that we can *all* become the indiscriminate victims of hate and that we are *all* vulnerable.

Much will be said and written about this atrocity and the motives of the terrorists. Their actions left a gaping hole in the lives of thousands of innocent families who did not know that they had touched their loved ones for the very last time. We will not forget the actions of firefighters and police officers that risked their lives in the face of this moment of fanatical madness. As students of history, we should never cease to remember.

This country experienced only recently, in 1995, an act of mass terror in the bombing of the Alfred P. Murrah building in Oklahoma City at the hands of Timothy McVeigh who believed that the taking of civilian life for his cause was simply "collateral damage." But that

### A POSTSCRIPT TO TERROR: THE CLOCK STRIKES TWELVE

moment in American history did not have the impact on American thinking as did the terrorist action on the World Trade Center. No one foresaw the use of a fully loaded commercial airliner as a weapon of mass destruction and death. Americans now understand the full measure of terror. It is the terror that comes with the ruthless and intentional attack on everyday people at anytime and on a massive scale. It was an alarm bell that hate has no boundaries. It was a message that hate unchecked and unheeded awaits a merciless expression. It was a lesson that *none* of us is really safe in a world of hate.

As teachers and students, we have the responsibility to view these events with sober reflection. We should understand that we have been detached from terrorism in a way that few nations have been insulated. Terrorism tells us that our lives are fragile and that unless we learn to confront the origins of hate, we will inevitably know its venom.

As has been a goal of this Unit, we owe it to ourselves to carefully study the origins and expression of hate and how it is to be confronted. Teachers should not hesitate to explore the historical underpinnings of the actions of Osama bin Laden and other terrorists. The classroom should be a place in which students can freely talk about how they feel about hate and acts of terror. They also need to be given the tools to understand those issues through curricular materials that explore what terrorism is, its historical use, the ethical and philosophical questions underlying the actions of terrorists, and the psychology that drives the terrorist. We can see the beginning of this discussion in the mass media with the question, "Why do they hate us?" It is a question worth thinking about.

Much of this Unit on hate has pondered the conflict between confronting hate speech and hate crime with the effect that might have on civil liberties. You have been asked many questions that relate to the First Amendment and the extent to which individual liberty should be curtailed in the attempt to curb hate speech or hate crime. Much of that same discussion is occurring now in the debate about the fight against terrorism and the potential erosion of civil liberty in the name of national security. An echo of that debate can be seen in the discussion about zero tolerance policies in the wake of Columbine. We can also see the issues of this Unit as we witness the outburst of hate against persons who appear to be Muslims or Arabs. The stakes are much bigger in the discussion about national security and the civil liberties of all Americans. That is a debate that should be fully explored in the classroom. That debate is the best expression of good citizenship.

We have entered a new age. Let us make certain that the classroom remains a haven for free expression and real learning. In that manner, the fight against terrorism, the ultimate attempt to destroy individual liberty, will have its strongest ally.

Harry Furman October 9, 2001

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"The Hate Speech Controversy," at www.netfreedom.org

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Anti-fascism.org, www.anti-fascism.org

The Hate Debate, <a href="http://crime.about.com/culture/crime/library">http://crime.about.com/culture/crime/library</a>

The Hate Directory, <a href="http://www.bcpl.net/~rfrankli/hatedir.pdf">http://www.bcpl.net/~rfrankli/hatedir.pdf</a>

Hate on the Net, www.sociology.org/content/vol003.002/kallen.html

Hate Crimes, www.gofer.com/top/423935375.shtml

Hate Groups and Extremists, www.rickross.com/groups/hategroups.html

Hate on the Internet, http://stop-the-hate.org

Hate Speech and the First Amendment, www.bsos.umd.edu/gypt/gypt339/Street.htm

HateWatch.org., www.hatewatch.org

The Irving Libel Suit, www.news.unlimted.co.uk

Irving v. Lipstadt, www.dac.neu.edu/holocaust/IrvingvsLipstadt.htm

Interview With Jack Levine, www.annonline.com/Interviews/970728/biography.html

The Multiracial Activist, www.multiracial.com/issues/issues-hatecrimes.html

The Multiracial Activist, www.multiracial.com/issues/issues.nazi.html

Nizkor Project, www.nizkor.org

Poisoning The Web: Hatred Online, www.adl.org.

Prejudice Reduction in the Classroom, www.joefahs.net/chase/prejudice/prejudice.htmn

Reason Over Hate Series, www.infidels.org/godlessheathen/Reasonhome.html

Southern Poverty Law Center, www.splcenter.org

Stop The Hate Resources, www.stopthehate.net/resources.htm

United Against Hate, www.unitedagainsthate.org/main.cfm

White Racialism and The Crimes, http://people.moreheadst.edu/fs/p.becker/raceb.html

Students are encouraged to use the Internet as a resource for hundreds of articles that deal with issues of prejudice, hatred, hate speech, cyberspace freedom, Holocaust denial and post-Columbine debates about the causes of school violence and zero tolerance policies.

Invaluable resources for relevant articles on current issues include the search engine at www.excite.com/search/news and the New York Times, Washington Post and other local and regional newspapers

# About the Editors

**Richard F. Flaim** is the Chairperson of the Curriculum and Education Committee of the N.J. Commission on Holocaust Education. He is a co-author of *The Holocaust and Genocide*: A Search for Conscience—An Anthology for Students and A Curriculum Guide and has served as a consultant, workshop presenter and speaker on Holocaust and genocide education throughout the United States and in Israel. He is a 2000 recipient of the Honey and Maurice Axelrod Award for his work in Holocaust education. Until his retirement in 1999, he served as Assistant Superintendent for Curriculum and Instruction, teacher and supervisor of instruction in the Vineland (NJ) Public Schools. Currently, he serves as Executive Director of the N.J. Association for Supervision and Curriculum Development (NJASCD).

Harry Furman, Esq., is a member of the N.J. Commission on Holocaust Education and a pioneer in the development of Holocaust and genocide studies. He is the editor-in-chief of *The Holocaust and Genocide: A Search for Conscience—An Anthology for Students*, which has served as a model curriculum for New Jersey and various states. He is a passionate speaker on Holocaust and genocide education, and has conducted teacher-training workshops, keynote addresses and seminars throughout this country and Israel. He is a partner in the Vineland, N.J. law firm Eisenstat, Gabage, Berman and Furman and was a teacher of social studies at Vineland High School for 13 years. In 1976, while at Vineland High School, Furman introduced *The Conscience of Man*, one of the first high school courses on the Holocaust and genocide in the nation. The Anti-Defamation League of B'nai Brith and numerous national, state and local organizations have honored him. He is a past member and President of the Vineland Board of Education.

# Special Acknowledgment

The editors wish to acknowledge assistance provided during the development of this unit. Without the perspective of teachers who teach the Holocaust and genocide on a daily basis, the development of effective curriculum materials and activities is difficult at best. **Kenneth E. Tubertini,** a recently retired teacher of United States history and *The Conscience of Man*, the first course on the Holocaust in New Jersey, provided valuable suggestions during the developmental process. In addition, he field-tested materials and activities and provided feedback that enabled the editors to shape a more effective instructional unit.

While his contributions to this project were important, they constitute only a small part of Ken's career-long commitment to Holocaust and genocide studies. He served as an associate editor and contributor to *The Holocaust and Genocide: A Search for Conscience—An Anthology for Students*, and has conducted seminars, workshops and other major presentations on the subject throughout the United States. He is the founding Director of the Vineland High School Demonstration Site for Holocaust and Genocide Education. To extend his own learning, Ken has traveled to Europe and Israel on Holocaust-related study tours. He has received honors from the NJEA, ADL and the N.J. Council for the Humanities, among others, for his work in this area. It has been a privilege and an honor to have benefited from his counsel and friendship.

# Hate is Baggage. It's Just Not Worth It.

-American History X