

MINUTES

**MONTANA HOUSE OF REPRESENTATIVES
53rd LEGISLATURE - REGULAR SESSION**

COMMITTEE ON JUDICIARY

Call to Order: By VICE-CHAIRMAN RANDY VOGEL, on February 10,
1993, at 8:00 a.m.

ROLL CALL

Members Present:

Rep. Randy Vogel, Vice Chairman (R)
Rep. Dave Brown Vice Chairman, (D)
Rep. Ellen Bergman (R)
Rep. Jody Bird (D)
Rep. Vivian Brooke (D)
Rep. Dave Brown (D)
Rep. Bob Clark (R)
Rep. Duane Grimes (R)
Rep. Scott McCulloch (D)
Rep. Jim Rice (R)
Rep. Tim Sayles (R)
Rep. Liz Smith (R)
Rep. Bill Tash (R)
Rep. Howard Toole (D)
Rep. Tim Whalen (D)
Rep. Karyl Winslow (R)
Rep. Diana Wyatt (D)

Members Excused: Rep. Russell Fagg, Chairman
Rep. Angela Russell

Members Absent: None

Staff Present: John MacMaster, Legislative Council
Beth Miksche, Committee Secretary

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

Committee Business Summary:

Hearing: HB 370, HB 416, HB 433
Executive Action: No executive action

HEARING ON HB 370

Opening Statement by Sponsor:

REP. BRAD MOLNAR, House District 85, Laurel, said this bill attempts to procure medical positions in areas in Montana in which there are no physicians. There are currently 29 areas listed in the Federal Register as being medically deprived in Montana. EXHIBIT 1

Proponents' Testimony:

Jerry Loendorf, Montana Medical Association (MMA), stated the MMA supported the bill but recommended the following changes:

PAGE 5, LINE 2 indicates the bulk of the bill is to attract semi-retired physicians. He suggested removing the language "semi-retired," because neither a physician practicing medicine now the people who hire the doctor to provide medical services in their rural area want him/her to be considered "semi-retired."

PAGE 2, LINES 21-22 indicates physicians are able to practice in this state or any other state. He suggested deleting the words "or any other state." People who move from state to state can be on the run. These people should have a valid license from another state; and in order to practice medicine in Montana, they need to be licensed by the Board of Medical Examiners.

PAGE 3, LINES 15-18 grants immunity for malpractice suits. The bill should spell out what the notice should say to the doctor's patients before he/she can be granted immunity to malpractice suits.

PAGE 3, LINE 24 deals with house calls. The bill should spell out how notice will be given in terms of any act of house call or away from the primary place of practice where the sign is posted.

Dr. Van Kirke Nelson, physician, Kalispell, addressed the fact that physicians are not only needed in rural areas, but urban areas as well. Many doctors who provide free care, i.e., immunization shots in Indian reservations, don't have immunity from liability. Dr. Nelson suggested amending the bill to grant immunity for physicians who are willing to serve in rural areas without compensation.

Russell Hill, Montana Trial Lawyers Association, presented written testimony. EXHIBIT 2

The following proponents supported HB 370:

Tom Edgram, Attorney, St. Edwards Hospital, Billings

Lorna Frank, Montana Farm Bureau

Jim Harris, Montana Hospital Association

Opponents' Testimony: None.

Closing by Sponsor: None.

HEARING ON HB 416

Opening Statement by Sponsor:

REP. BILL STRIZICH, House District 41, Great Falls, stated that HB 416 seeks to enact a Montana statute parallel to a federal statute signed by President Bush, April 23, 1990. EXHIBIT 3 There is strong evidence that "hate crimes" are on the rise. This law deals with the definition of hate crimes.

Proponents' Testimony:

Beth Baker, Assistant Deputy Attorney, Department of Justice, referred to the fiscal note regarding the costs of training personnel for this particular law enforcement. The law enforcement academy already incorporates two hours of training on this issue into its basic curriculum; the Department of Justice presently trains 112 officers a year on this issue in accordance with FBI guidelines. Since they will continue that practice, there is no fiscal impact to the Department of Justice. In addition, the County Prosecutors Services Bureau is responsible for two annual training sessions each year to Montana county attorneys, and the Department of Justice could incorporate that session on this issue with the Department of Justice's training.

Ms. Baker discussed the Department of Justice's amendments.
EXHIBIT 4

Ed Hall, Montana Board of Crime Control, presented written testimony. EXHIBITS 5 and 5A

Ann MacIntire, Attorney, Board Member, Northwest Coalition Against Malicious Harassment, presented written testimony.
EXHIBIT 6

Scott Creighton, Executive Director, American Civil Liberties Union, Montana, presented written testimony. EXHIBIT 7

Opponents' Testimony:

Rev. Rick DeMato, Pastor, Montana Liberty Baptist Church, presented written testimony. EXHIBIT 8

Questions From Committee Members and Responses:

REP. WINSLOW asked Rev. DeMato to explain the difference between physical and verbal abuse. Rev. DeMato said that, while physical abuse is self-explanatory, verbal abuse needs to be specifically classified in the bill in accordance to hate crimes. REP.

WINSLOW asked whether Rev. DeMato would find this bill more acceptable if the words "sexual orientation" were deleted. Rev. DeMato said it would be more acceptable. He also commented that the gay rights movement is largely involved with human rights organizations which will have a huge input in this bill.

REP. CLARK asked REP. STRIZICH to define the word "accurate" as it is used in this bill. He also asked how this bill could produce accurate records when it doesn't enforce reporting. REP. BILL STRIZICH agreed there ought to be some kind of consequence for not turning in these reports. The only records that have been available for the people who collect this data is withholding federal grants, etc. REP. STRIZICH added there's really no way that anyone is going to report all hate crimes; they are operating on good faith that law enforcement officers will uphold the law and follow through and report as they should.

REP. BILL TASH asked Mr. Hall what percentage of hate crimes are reported. Mr. Hall said that, in the last year, 35,000 cases were reported on a voluntary systems, and that voluntary system covers 9 percent of the population of the state, even though not all agencies participated.

REP. JIM RICE noted that this bill requires the reporting of crimes, and an act is not a crime until there has been a conviction. He asked REP. STRIZICH if the intent of the bill is to report those crimes which are run through the criminal justice system for which there would be a conviction. REP. STRIZICH said reporting hate crimes is no different than what is currently being reported in the criminal justice system. There are guidelines about prosecution and the outcomes of prosecutions of those crimes. This bill is talking about actual reports of crimes, and these are not new crimes.

REP. RICE said the language in this bill is vague. REP. STRIZICH agreed it's going to be difficult, and what people have to do is rely on experience and professionalism of law enforcement agencies. He said that what is learned from the statistical analysis is provided to the Montana Board of Crime Control and is some objective picture of criminal activity. REP. RICE related that the federal language requires 45 incidents involving manifest evidence of prejudice based upon their guidelines. He also pointed out that REP. STRIZICH mentioned sexual orientation as a hot button, and there are those people who feel very strongly about not legalizing sodomy, for instance. REP. RICE said he doesn't necessarily believe that having a reporting system for hate crimes against people because of sexual orientation isn't the same thing as legalizing sodomy. REP. STRIZICH said this bill is one of objectivity and gaining information, nothing more. He also added that the kinds of

violence listed by the FBI were taken into account for religious or racial violence, anti-religious or anti-atheist groups, or agnostic groups. The bill is looking for some narrow identification of membership in these groups.

REP. TIM WHALEN asked Ms. Baker if the Department of Justice had any input into the drafting of this bill. Ms. Baker said the bill as originally drafted had some other requirements including medical training for all existing law enforcement officers. The Department of Justice did participate in tailoring and drafting so that it wouldn't have to duplicate training already included in the curriculum.

REP. LIZ SMITH asked Mr. Hall how effective this program has worked for Oregon. Mr. Hall said that Oregon is reporting 200 to 300 hate crimes a year throughout the state.

REP. SMITH believes this bill will set a precedent to open all sorts of areas that should not be reported and asked REP. STRIZICH his opinion of this. REP. STRIZICH said this bill does not do that. He said law enforcement will follow the FBI guidelines, and what REP. SMITH just listed is not in the FBI guidelines.

REP. JODY BIRD wanted to know if anti-abortion and pro-choice crimes are included in this bill, and REP. STRIZICH said they are. He then explained that people's rights should not be infringed upon regardless of their thoughts.

Closing by Sponsor:

REP. STRIZICH reminded the committee that there are no new crimes created under this law. He emphasized that people need more knowledge to understand how the dynamics of hate crimes are affecting our culture.

HEARING ON HB 433

Opening Statement by Sponsor:

REP. ALVIN ELLIS, JR., House District 84, Red Lodge, introduced this bill to clarify laws related to horse racing.

Proponents' Testimony:

Bob and Lynn DeArmond, owners, Bearcreek Saloon, Bearcreek, presented written testimony. EXHIBIT 9

Opponents' Testimony:

Sam Murfitt, Executive Secretary, Montana Board of Horse Racing, presented written testimony. EXHIBIT 10

Bill Chiesa, General Manager, Metro Park, Billings, said the issue of this bill is sports betting and the impact it will have on gaming and gambling of the state of Montana. Specifically, he is referring to horse racing, which he manages in Billings.

Ms. Judith Fenton, Treasurer, Federation of Human Societies of Montana, presented written testimony. EXHIBIT 11

The following individuals rose in opposition to this bill and all forms of gambling:

Harley Warner, Montana Association of Churches
Gloria Hermanson, Don't Gamble With The Future
Dr. James Bailey, Montana Veterinary Medical Association

Questions From Committee Members and Responses:

REP. DAVE BROWN asked Mr. Murfitt if he was familiar with sports pools and how they're played, and whether this bill allows a numbers game, not a "who wins the competition" game like horse racing. REP. BROWN also commented that this bill has nothing to do with horse racing; it has to do with legalizing gambling on three groups of animals, according to the amendments, purely random chance. The race, itself, is a fun event, but it matters not in the least as to the winner of the contest. REP. BROWN assumed that the main reason Mr. Murfitt was testifying against this bill is because he thinks any additional gambling is bad for horse racing.

Mr. Murfitt stated in his testimony that he is trying to "condemn the possibility of a potential gambling nightmare." He is concerned about three species of animals in one location. If the committee can amend this bill to limit those three species of animals and establish humane security of those animals, the Board of Horse Racing would immediately support this bill. The Board is concerned about all the other scheduled sites for this type of gambling and racing.

REP. BROWN asked Mr. Murfitt whether what the Board of Horse Racing is really worried about is the survival and image of horse racing. Gambling has gone up and horse racing has gone down.

REP. BROWN asked Mr. Murfitt if he believes the legislature should somehow try to legislate the Board of Horse Racing's market share of gambling in Montana or whether that should be determined by the public and what it prefers. Mr. Murfitt said that horse racing in Montana is a seasonal sport, and it is now competing with all sorts of gambling throughout the year.

REP. BILL TASH asked REP. ELLIS who will benefit from this gambling and whether that individual would be receptive to an

amendment that would define it strictly for non-profit purposes. REP. ELLIS said that the DeArmond's business would shut down if they didn't include this type of gambling in their business. The money made from this gambling would go towards scholarships and charity. It's the novelty of this event that draws people in.

REP. SCOTT McCULLOCH said he is concerned that opponents have the committee believing that, if this bill passes, the DeArmond's will buy gerbils and pigs to set up racing. REP. McCULLOCH asked Mr. DeArmond if he would ensure the committee that the animals are treated humanely. Mr. DeArmond assured the committee that, although he makes a living off these animals, they are never mistreated. It takes a lot of money to train and give proper care to these animals. He also said to keep in mind that the general public is aware that the Bearcreek Saloon participates in animal racing and that these animals are treated humanely.

REP. BROWN questioned whether the language "or animals" in section 2, page 3, line 2, means mules and horses. He thinks this section should be amended to specifically mean mules and horses. He said the committee can pass this bill as is to regulate other animals, but it's not clear to REP. BROWN that this statute allows the Board of Horse Racing to regulate anything but horses and mules.


Closing by Sponsor:

REP. ELLIS passed around a picture of the Mr. DeArmond's establishment to demonstrate how well maintained it is. This sort of racing/gambling has been on the law books for a long time. Sports pools consist of the betting of humans or animals, and he reminded the committee of his testimony that the outcome of sports pools are randomly decided.

ADJOURNMENT

Adjournment: 11:30 a.m.


REP. RANDY VOGEL, Vice Chairman


BETH MIKSCHKE, Secretary

RV/bcm

HOUSE OF REPRESENTATIVES

Judiciary

COMMITTEE

ROLL CALL

DATE

2-10-93

NAME	PRESENT	ABSENT	EXCUSED
Rep. Russ Fagg, Chairman			✓
Rep. Randy Vogel, Vice-Chair	✓		
Rep. Dave Brown, Vice-Chair	✓		
Rep. Jodi Bird	✓		
Rep. Ellen Bergman	✓		
Rep. Vivian Brooke	✓		
Rep. Bob Clark	✓		
Rep. Duane Grimes	✓		
Rep. Scott McCulloch	✓		
Rep. Jim Rice	✓		
Rep. Angela Russell			✓
Rep. Tim Savles	✓		
Rep. Liz Smith	✓		
Rep. Bill Tash	✓		
Rep. Howard Toole	✓		
Rep. Tim Whalen	✓		
Rep. Karyl Winslow	✓		
Rep. Diana Wyatt	✓		

HR:1993

wp.rollcall.man

CS-09

Amendments to House Bill No. 370
First Reading Copy

Requested by Rep. Brad Molnar

Prepared by Sheri S. Heffelfinger
February 3, 1993

1. Page 2, line 3.
Following: "the ""
Strike: "Physician Procurement"
Insert: "Doc Smith"

Montana Trial Lawyers ASSOCIATION

Directors:

Wade Dahood
Director Emeritus
Monte D. Beck
Thomas J. Beers
Michael D. Cok
Michael W. Cotter
Karl J. Englund
Robert S. Fain, Jr.
Victor R. Halverson, Jr.
Gene R. Jarussi
Peter M. Meloy
John M. Morrison
Gregory S. Munro
David R. Paoli
Paul M. Warren
Michael E. Wheat

Executive Office
#1 Last Chance Gulch
Helena, Montana 59601
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February 10, 1993

Officers:

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Monte D. Beck
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Governor
Paul M. Warren
Governor

Rep. Russell Fagg, Chair
House Judiciary Committee
Room 325, State Capitol
Helena, MT 59620

RE: HB 371

Mr. Chair, Members of the Committee:

Thank you for this opportunity to express MTLA's qualified support for HB 370, which provides tax and other incentives to attract doctors to medical-shortage areas. MTLA expresses several concerns about particular provisions of the bill, however, and strongly opposes subsection (c) of Section 4.

1. MTLA supports efforts such as HB 370 which directly target rural areas of Montana. MTLA believes that limited access to health care in rural Montana essentially results from extremely low population densities, low per capita incomes among residents, and the demonstrable preference of those increasingly mobile residents to seek major health care from large, well equipped, well-staffed facilities located in urban areas. Consequently, any effort to improve rural access to health care by across-the-board legislation which equally benefits urban doctors and specialists fails to influence and may even aggravate these underlying economic dynamics.

2. MTLA believes that the genuine public interest in rural access to health care can and should be measured by the extent of public investment in improving rural access. Income and property tax incentives cleanly and efficiently focus that public interest. Additionally, direct public subsidies for the liability premiums of rural doctors would insulate them from the consequences of medical malpractice without exposing rural residents to horrendous injuries without hope of compensation.

3. MTLA believes that the intent of HB 370 can be served equally well by any doctor, including new doctors, and should not limit itself to "semi-retired physicians"

(page 2, line 5) "who are willing to operate a limited, part-time medical practice" (page 1, lines 22-23).

4. MTLA notes that federal guidelines categorize "health professional shortage areas" (page 2, line 16-17) according to various health care professions, including dental, psychiatric, vision, pharmacy and veterinary care as well as primary medical care. In addition, federal guidelines which designate health professional shortage areas for primary medical care exclude hospital staff doctors and doctors unwilling to accept Medicaid. Consequently, MTLA suggests that HB 370 require the department of health to designate Montana shortage areas independently.

5. MTLA believes that the state should not abdicate its responsibility to license and supervise doctors who practice medicine in Montana (page 2, line 22).

6. MTLA believes that HB 370 unnecessarily limits its potential to increase access to health care in rural areas by excluding (from the definition of "practice" at page 2, lines 23-24, and from the scope of subsection (1), Section 4) those Montana doctors who establish satellite clinics in rural areas. MTLA suggests that income and property tax incentives could be proportionally applied to doctors who provide health-care services in rural areas even when those services do not constitute their "primary place of providing medical services to the public."

7. MTLA believes that the immunity provided by subsection (c) of Section 4 will increase the incidence of medical malpractice in rural areas and deprive rural victims of any recourse. Tort liability serves two purposes: it compensates victims of wrongdoing, but it also deters wrongdoing. Within the context of a bill which expressly encourages semi-retired doctors to continue practicing medicine, this provision immunizes doctors who delay the painful but necessary admission that age can disqualify any doctor from continuing to practice medicine.

8. MTLA believes that democracy necessarily prohibits the sale of certain fundamental rights of Montana citizens--such as the right to vote and right to compensation for wrongful injury--no matter how pressing the need for goods or services. Consequently, MTLA opposes Section 4, subsection (3), which essentially permits doctors to sell negligent, even grossly negligent, health care to citizens in desperate need of competent health care.

Thank you for considering these comments. If I can provide additional information or assistance, please contact me.

With best regards,

A handwritten signature in black ink, appearing to read "Russell B. Hill". The signature is fluid and cursive, with the first name "Russell" being more prominent and the last name "Hill" following in a similar style.

Russell B. Hill
Executive Director

104 STAT. 140

PUBLIC LAW 101-275—APR. 23, 1990

Public Law 101-275
101st Congress

An Act

Apr. 23, 1990
[H.R. 1048]

To provide for the acquisition and publication of data about crimes that manifest prejudice based on certain group characteristics.

Hate Crime
Statistics Act.
28 USC 534 note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) this Act may be cited as the "Hate Crime Statistics Act".

(b)(1) Under the authority of section 534 of title 28, United States Code, the Attorney General shall acquire data, for the calendar year 1990 and each of the succeeding 4 calendar years, about crimes that manifest evidence of prejudice based on race, religion, sexual orientation, or ethnicity, including where appropriate the crimes of murder, non-negligent manslaughter; forcible rape; aggravated assault, simple assault, intimidation; arson; and destruction, damage or vandalism of property.

(2) The Attorney General shall establish guidelines for the collection of such data including the necessary evidence and criteria that must be present for a finding of manifest prejudice and procedures for carrying out the purposes of this section.

(3) Nothing in this section creates a cause of action or a right to bring an action, including an action based on discrimination due to sexual orientation. As used in this section, the term "sexual orientation" means consensual homosexuality or heterosexuality. This subsection does not limit any existing cause of action or right to bring an action, including any action under the Administrative Procedure Act or the All Writs Act.

Research and
development.

(4) Data acquired under this section shall be used only for research or statistical purposes and may not contain any information that may reveal the identity of an individual victim of a crime.

(5) The Attorney General shall publish an annual summary of the data acquired under this section.

Appropriation
authorization.

(c) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section through fiscal year 1994.

28 USC 534 note.

SEC. 2. (a) Congress finds that—

(1) the American family life is the foundation of American Society,

(2) Federal policy should encourage the well-being, financial security, and health of the American family,

(3) schools should not de-emphasize the critical value of American family life.

(b) Nothing in this Act shall be construed, nor shall any funds appropriated to carry out the purpose of the Act be used, to promote or encourage homosexuality.

Approved April 23, 1990.

EXHIBIT # 4
DATE 2-10-93
HB 416

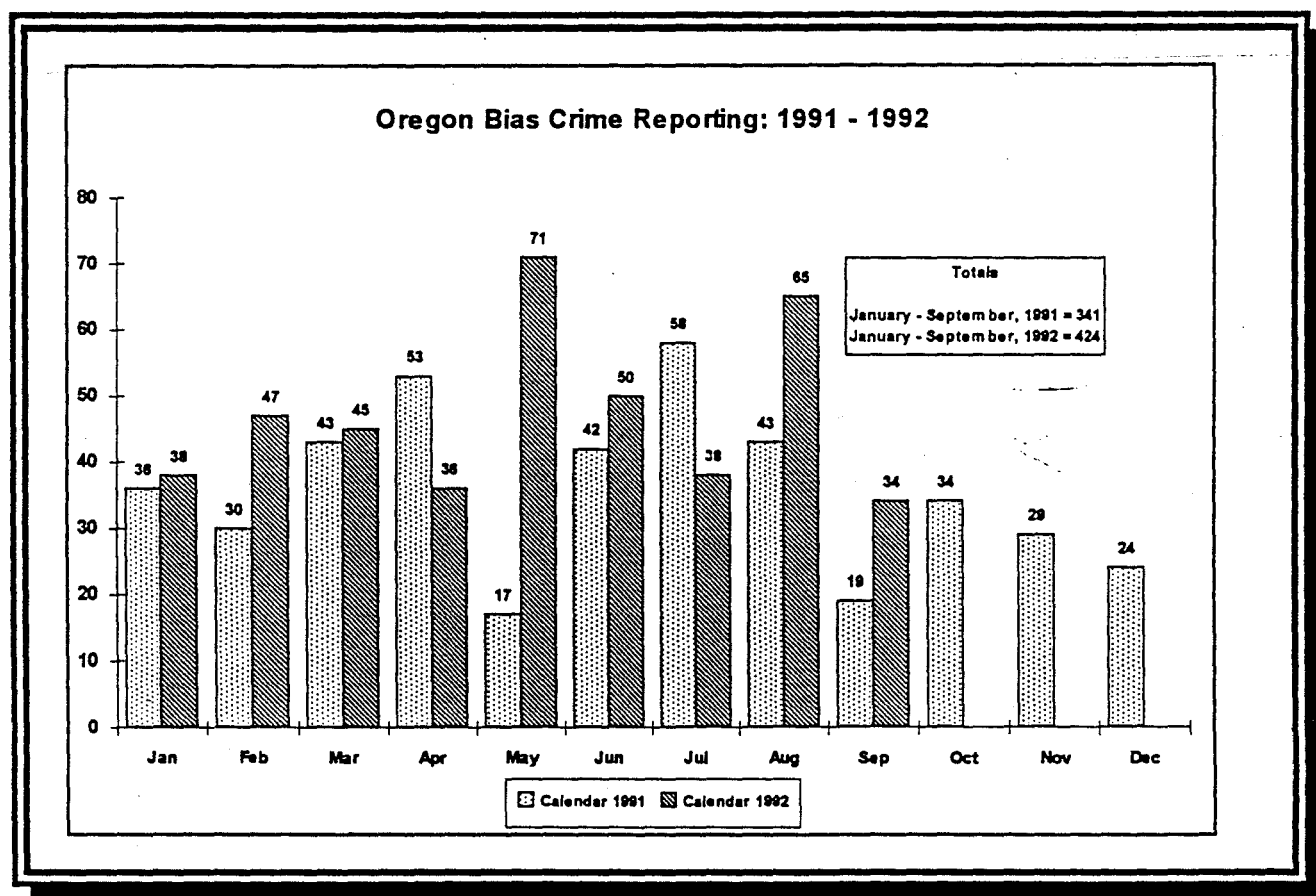
Amendments to House Bill 416
First Reading Copy

Prepared by Department of Justice

1. Page 1, line 23.
Following: "control"
Strike: "cooperate with"
Insert: "seek the cooperation of"
2. Page 2, line 6.
Following: "of"
Insert: "statistical"
3. Page 2, line 21.
Following "governor."
Strike: remainder of line 21 through "information." on line 23
4. Page 2, line 24.
Strike: Section 3 in its entirety

State of Oregon

Bias Crimes



Oregon Executive Department
Criminal Justice Services Division
Crime Prevention Resource Center
Uniform Crime Reporting

155 Cottage Street, N.E.
Salem, Oregon 97310

(503) 378-4123

OREGON BIAS CRIME STATISTICS SUMMARY

January through December 1991

The 1989 Oregon legislature passed Senate Bill 606 requiring law enforcement agencies to report crimes motivated by prejudice to the State Executive Department. The Law Enforcement Data System (LEDS) in the Criminal Justice Services Division is the collecting agency. Law Enforcement agencies report these Bias Crime incidents by sending a copy of the police report to LEDS.

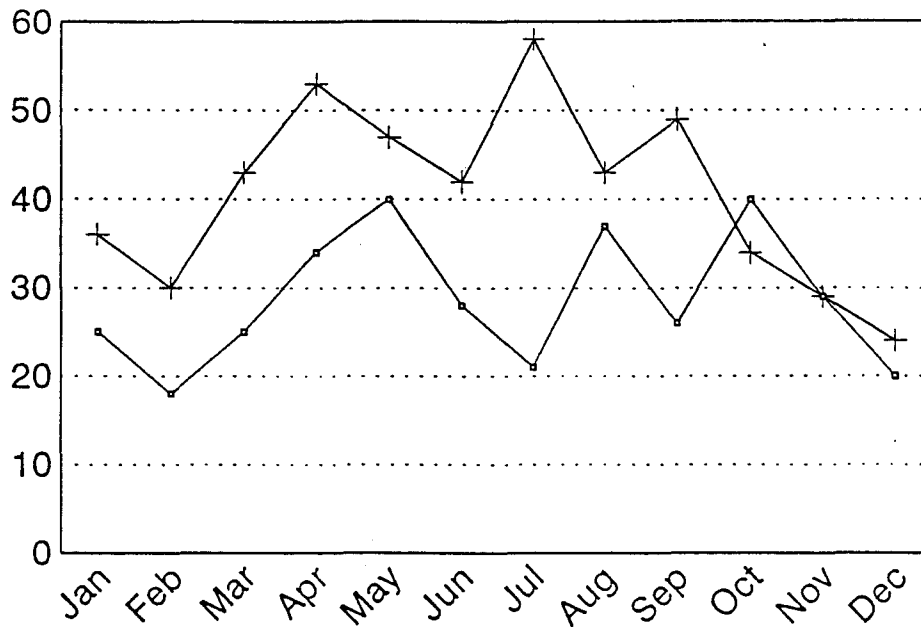
The number of bias crimes reported for the year of 1991 is considerably higher than the year of 1990.

There are several possible reasons for this apparent increase:

- An actual increase in the number of crimes committed where prejudice is the primary contributing factor.
- Media publicity, social awareness, and increasing willingness of victims to report to the local police agencies.
- Increased local police agency training and sensitivity regarding the identification, handling, and reporting of bias motivated crimes.

Bias Crime

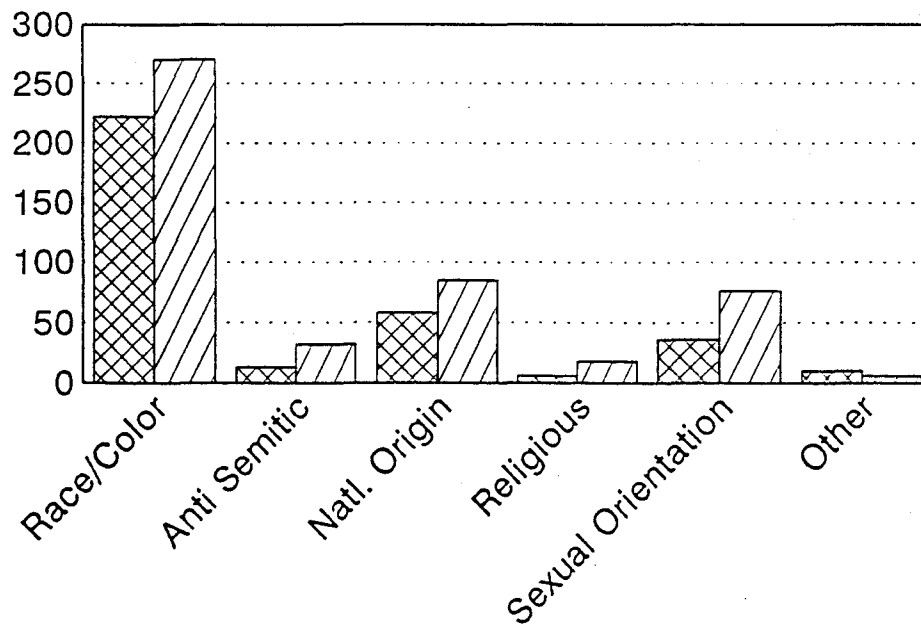
Total By Month



1990	25	18	25	34	40	28	21	37	26	40	29	20
1991	36	30	43	53	47	42	58	43	49	34	29	24

By Type of Prejudice

Jan-Dec 1990 Compared to Jan-Dec 1991



1990	222	13	58	6	36	10
1991	271	32	85	18	76	6

EXHIBIT #5
 DATE 2-10-93
 # HB-416

	January through December 1990	January through December 1991
A. Reported incidents per month:		
January	25	36
February	18	30
March	25	43
April	34	53
May	40	47
June	28	42
July	21	58
August	37	43
September	26	49
October	40	34
November	29	29
December	20	24
Total	343	488

B. Reported incidents by type of crime:

Forcible Rape		2
Aggravated Assault	64	87
Simple Assault	68	89
Robbery	10	19
Theft	3	4
Vandalism	65	97
Intimidation	49	65
Other	84	122
Burglary		3
Total	343	488

C. Reported Property Loss Values: \$15,739 \$8,512

D. Reported incidents by type of prejudice:

Race/Color	222	271
Anti-Semitic (Jewish)	13	32
National Origin *	56	85
Religious	6	18
Political/Beliefs	10	6
Sexual Orientation	35	76
Labor Union	1	
Total	343	488

* Includes 13 incidents related to Arab/Middle East prejudice.

E. Number and description of victims:

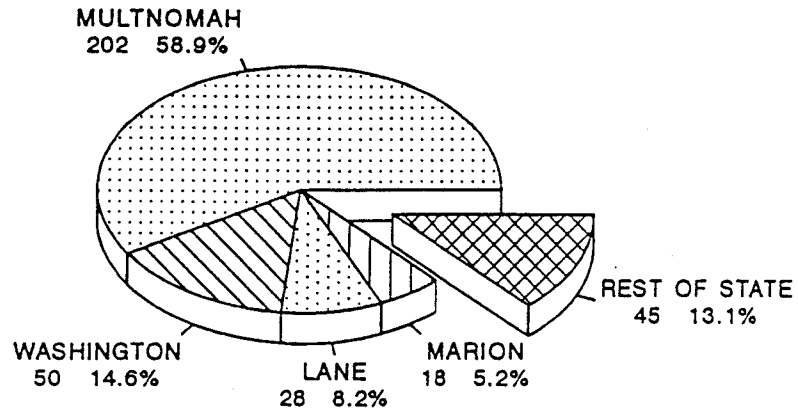
		January through December 1990	January through December 1991
Asian Male		8	36
Asian Female		12	15
Total		20	51
Black Male		90	134
Black Female		35	52
Total		125	186
Hispanic Male		51	82
Hispanic Female		4	15
Total		55	97
Indian Male		3	4
Indian Female		1	1
Total		4	5
White Male		148	175
White Female		39	98
Total		187	273
Schools		4	9
Churches		5	16
Parks & other sites		25	32
Total		34	57
Victim Total		425	669

F. Number and description of offenders:

		January through December 1990	January through December 1991
		<hr/>	<hr/>
Asian Male		2	11
Asian Female			1
	Total	<hr/> 2	<hr/> 12
Black Male		136	109
Black Female		11	37
	Total	<hr/> 147	<hr/> 146
Hispanic Male		10	24
Hispanic Female			4
	Total	<hr/> 10	<hr/> 28
Indian Male		1	4
	Total	<hr/> 1	<hr/> 4
White Male		461	480
White Female		161	42
	Total	<hr/> 622	<hr/> 522
		<hr/>	<hr/>
Offender Total		782	712

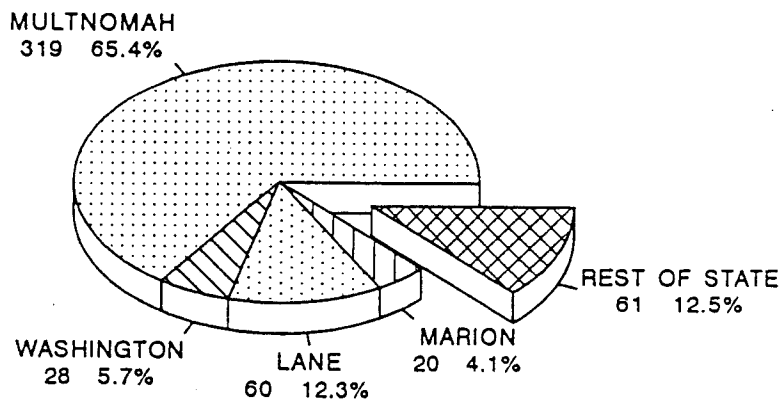
CRIMES MOTIVATED BY PREJUDICE by AREA 1990 and 1991

1990



1990 Total = 343

1991



1991 Total = 488

G. REPORTED OFFENSES BY COUNTY OF OCCURRENCE

County	January through December 1990	January through December 1991	January through December 1991 - by Type					
			Race	National Origin	Anti- Semitic	Sexual Orienta- tion	Religion	Other
Baker								
Benton	5	9	4	3	1		1	
Clackamas	5	3	3					
Clatsop	3	2	1		1			
Columbia	2	2	2					
Coos	2	1	1					
Crook		2		1		1		
Curry		1	1					
Deschutes	2							
Douglas	6	9	6	2		1		
Gilliam								
Grant		1	1					
Harney								
Hood River								
Jackson	5	11	6	3	1	1		
Jefferson	1							
Jospehine								
Klamath	1	6	5	1				
Lake								
Lane	28	60	29	8	2	16	4	1
Lincoln	3	2	2					
Linn	4	6	3	3				
Malheur								
Marion	18	20	12	5	1	2		
Morrow								
Multnomah	202	319	185	43	26	50	10	5
Polk	1	2	2					
Sherman								
Tillamook		1				1		
Umatilla								
Union	1	1		1				
Wallowa								
Wasco	2	1		1				
Washington	50	28	10	12		3	3	
Wheeler								
Yamhill	2	1		1				
TOTAL	343	488	273	84	32	75	18	6

A SAMPLING OF THE 488
BIAS CRIME INCIDENTS FOR 1991
BY OFFENSE DESCRIPTIONS

Rape: A White female adult was forcibly raped by two young White male adult offenders who said they did it because they knew she was a lesbian.

Harassment: A sticker bearing the words "WE ARE THE KNIGHTS OF THE KU KLUX KLAN, WE ARE WATCHING YOU AND WE DON'T LIKE WHAT WE SEE" was left on the door of a local health club with obvious multi-racial membership.

Simple Assault: A young Asian female juvenile was pushed to the ground, kicked in the head, called a "gook" and told to go back to her own country, by a young Black male adult.

Harassment: Several White youths and one Black youth were confronted by a group of White Supremacists. There were racial slurs and other insults yelled by the supremacist group. A fight started and several people were reportedly injured in the altercation which broke up before the police arrived.

Aggravated Assault: During a Party at a private residence, a young Black male adult was struck in the head with a beer bottle by one of a large group of Skinheads that crashed the party. The assault escalated into a fight between 30 to 50 persons fighting with sticks, clubs and bottles.

Harassment: A Jewish Commission office received a phone call where the caller identified himself as a member of the "Anti-Jewish-League" and went on to advise that all members of the organization would be killed the next Saturday.

Harassment: After publicly stating his political and social views on a television talk show a White male adult homosexual was verbally threatened by another White male adult talk show participant.

Simple Assault: An adult Hispanic male was verbally harassed and then assaulted by another Hispanic adult male for being gay.

Harassment: Messages were left on the answering machine of a Jewish synagogue including obscenities, anti-Jewish statements and threats to blow up the synagogue.

Aggravated Assault: Three male adult Laotians were standing in their driveway when a car that had been following them returned. One of the passengers opened fire with an automatic or semi-automatic weapon and sprayed the immediate area with about eight shots which struck the garage door and two automobiles. The victims stated that the offenders were Vietnamese and the only plausible reason for the attack was that there was no love lost between the two cultures.

Harassment: Two Hispanic male juveniles in a city park were confronted by five White male juveniles. The victims were physically assaulted and called anti-Hispanic names and told not to return to the park.

Aggravated Assault: A White male adult was kicked and struck in the face by five Asian males upon leaving a night club. The offenders yelled anti-white slurs and threats towards the victim.

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Robbery: A young White male adult was approached by six young Black males, told that this was a "CRIP" block and that his kind was not wanted around there. They demanded money and then beat him badly before taking his pocket change. They then grabbed his White female companion and searched her purse, clothing and underclothing for money.

Robbery: A Black female adult was approached by two young White male (Skinhead Appearing) adults who called her anti-racial slurs and put what felt like a knife to her back while they took her purse and ran off.

Harassment: A White male adult received a phone call where the caller advised that he had been hired to kill him for being a "Prejudiced White Boy" who made life miserable for lots of people.

Aggravated Assault: A young Hispanic male juvenile, on his way to school, was called racial slurs, struck with fists, knocked to the ground, and then repeatedly kicked by four older White males with shaved heads and wearing black combat boots and bomber jackets.

Aggravated Assault: Two Black male adults were assaulted and injured by three White males swinging clubs and using anti-racial slurs and yelling "White Power".

Vandalism: A Black male adult, who had been racially harassed by a White male adult neighbor, had a swastika, the words "White Power", and a strange symbol chalked onto his driveway.

HATE CRIME INCIDENT REPORT

Initial ☐ Adjustment ☐ ORI Date of Incident / / Month Day Year

Incident No. Page of of Same Incident

UCR Offense

UCR Code # of victims	UCR Code # of victims
#1 <input type="text"/> <input type="text"/> - <input type="text"/> <input type="text"/>	#4 <input type="text"/> <input type="text"/> - <input type="text"/> <input type="text"/>
UCR Code # of victims	UCR Code # of victims
#2 <input type="text"/> <input type="text"/> - <input type="text"/> <input type="text"/>	#5 <input type="text"/> <input type="text"/> - <input type="text"/> <input type="text"/>
UCR Code # of victims	UCR Code # of victims
#3 <input type="text"/> <input type="text"/> - <input type="text"/> <input type="text"/>	#6 <input type="text"/> <input type="text"/> - <input type="text"/> <input type="text"/>

Offense Code

- | | |
|-----------------------|-------------------------------------|
| 01 Murder | 07 Motor Vehicle Theft |
| 02 Forcible Rape | 08 Arson |
| 03 Robbery | 09 Simple Assault |
| 04 Aggravated Assault | 10 Intimidation |
| 05 Burglary | 11 Destruction / Damage / Vandalism |
| 06 Larceny-Theft | |

EXHIBIT # 5
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Location (Check one for Offense #1)

- | |
|--|
| 01 <input type="checkbox"/> Air / Bus / Train Terminal |
| 02 <input type="checkbox"/> Bank / Savings and Loan |
| 03 <input type="checkbox"/> Bar / Night Club |
| 04 <input type="checkbox"/> Church / Synagogue / Temple |
| 05 <input type="checkbox"/> Commercial / Office Building |
| 06 <input type="checkbox"/> Construction Site |
| 07 <input type="checkbox"/> Convenience Store |
| 08 <input type="checkbox"/> Department / Discount Store |
| 09 <input type="checkbox"/> Drug Store / Dr.'s Office / Hospital |
| 10 <input type="checkbox"/> Field / Woods |
| 11 <input type="checkbox"/> Government / Public Building |
| 12 <input type="checkbox"/> Grocery / Supermarket |
| 13 <input type="checkbox"/> Highway / Road / Alley / Street |

- | |
|---|
| 14 <input type="checkbox"/> Hotel / Motel / etc. |
| 15 <input type="checkbox"/> Jail / Prison |
| 16 <input type="checkbox"/> Lake / Waterway |
| 17 <input type="checkbox"/> Liquor Store |
| 18 <input type="checkbox"/> Parking Lot / Garage |
| 19 <input type="checkbox"/> Rental Storage Facility |
| 20 <input type="checkbox"/> Residence / Home |
| 21 <input type="checkbox"/> Restaurant |
| 22 <input type="checkbox"/> School / College |
| 23 <input type="checkbox"/> Service / Gas Station |
| 24 <input type="checkbox"/> Specialty Store (TV, Fur, etc.) |
| 25 <input type="checkbox"/> Other / Unknown |

Enter Location
Code if Different
from Offense #1

#2 <input type="text"/> <input type="text"/>
#3 <input type="text"/> <input type="text"/>
#4 <input type="text"/> <input type="text"/>
#5 <input type="text"/> <input type="text"/>
#6 <input type="text"/> <input type="text"/>

Bias Motivation (Check one for Offense #1)

Racial

- | |
|---|
| 11 <input type="checkbox"/> Anti - White |
| 12 <input type="checkbox"/> Anti - Black |
| 13 <input type="checkbox"/> Anti - American Indian / Alaskan Native |
| 14 <input type="checkbox"/> Anti - Asian / Pacific Islander |
| 15 <input type="checkbox"/> Anti - Multi - Racial Group |

Religious

- | |
|---|
| 21 <input type="checkbox"/> Anti - Jewish |
| 22 <input type="checkbox"/> Anti - Catholic |
| 23 <input type="checkbox"/> Anti - Protestant |
| 24 <input type="checkbox"/> Anti - Islamic (Moslem) |
| 25 <input type="checkbox"/> Anti - Other Religion |
| 26 <input type="checkbox"/> Anti - Multi - Religious Group |
| 27 <input type="checkbox"/> Anti - Atheism / Agnosticism / etc. |

Enter Bias Motivation
Code if Different
from Offense #1

#2 <input type="text"/> <input type="text"/>
#3 <input type="text"/> <input type="text"/>
#4 <input type="text"/> <input type="text"/>
#5 <input type="text"/> <input type="text"/>
#6 <input type="text"/> <input type="text"/>

Ethnicity / National Origin

- | |
|--|
| 31 <input type="checkbox"/> Anti - Arab |
| 32 <input type="checkbox"/> Anti - Hispanic |
| 33 <input type="checkbox"/> Anti - Other Ethnicity / National Origin |

Sexual

- | |
|---|
| 41 <input type="checkbox"/> Anti - Male Homosexual (Gay) |
| 42 <input type="checkbox"/> Anti - Female Homosexual (Lesbian) |
| 43 <input type="checkbox"/> Anti - Homosexual (Gay and Lesbian) |
| 44 <input type="checkbox"/> Anti - Heterosexual |
| 45 <input type="checkbox"/> Anti - Bisexual |

Victim Type: For each offense code listed above, check all applicable victim types.

Victim Type:

Offense Code #1 #2 #3 #4 #5 #6

- | | | | | | | |
|-------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|
| 1 Individual* | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 2 Business | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 3 Financial Institution | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 4 Government | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

- | | | | | | | |
|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|
| 5 Religious Organization | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 6 Society / Public | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 7 Other | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 8 Unknown | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

Total # of Victims

*Indicate the total number of individual victims involved in the incident.

Number of Offenders (Use "00" for "Unknown")

Suspected Offenders' Race as a Group (Check one)

- | | | |
|----------------------------------|---|---|
| 1 <input type="checkbox"/> White | 3 <input type="checkbox"/> American Indian / Alaskan Native | 5 <input type="checkbox"/> Multi - Racial Group |
| 2 <input type="checkbox"/> Black | 4 <input type="checkbox"/> Asian / Pacific Islander | 6 <input type="checkbox"/> Unknown |

Exhibit #6
February 10, 1993
HB 416

Exhibit No. 6 is a booklet called "Training Guide for Hate Crime Data Collection". The original is stored at the Historical Society at 225 North Roberts Street, Helena, MT 59620-1201. The phone number is 444-2694.

HATE CRIMES LEGISLATION POLICY

[adopted by the ACLU Board of Directors on January 24, 1993]

There has been a rising tide of violence directed at people because of their race, religion, gender, national origin, sexual orientation, or other group characteristics. In response, various legislative approaches have been proposed to augment existing criminal laws when a crime victim is targeted because of a group characteristic. Historically, the ACLU has supported legislation intended to protect civil rights and civil liberties by providing remedies against invidious discrimination. It is ACLU policy that discrimination by private organizations be made illegal when it excludes persons from access to fundamental rights or from the opportunity to participate in the political or social life of the community.

At the same time, the ACLU has consistently opposed legislation that would punish the mere expression of thoughts, opinions or beliefs, including expressions with which we vigorously disagree, such as the advocacy of racial supremacy or religious bigotry.² The ACLU has also opposed legislation that would criminalize associating with other persons in order to advocate or discuss these or other beliefs. Just as these constitutionally protected activities cannot be made the subject of a criminal law, they also cannot be made the justification for an enhanced penalty.

These traditional ACLU positions can and should provide guidance in devising hate-crime legislation that passes constitutional muster. The serious problem of crime directed at members of society because of their race, religion, gender, national origin, sexual orientation, or other group characteristic merits legislative action, but in writing these laws, First Amendment principles should not be sacrificed.

Proposals intended to punish hate crimes must be carefully crafted to prevent police and prosecutors from making constitutionally problematic inquiries into speech, association, or beliefs that may be sufficient to establish the existence of hate, but have no direct relationship to the criminal violation charged. Detailed safeguards are necessary to assure that expressive and associational rights are not infringed and that additional punishment is not meted out simply because the government disapproves of the defendant's beliefs or expressions.

Generally, hate-crime statutes take the form of laws that enhance the grade and/or penalty for criminal conduct when the criminal act is directed at a person because of his or her race, religion, gender, national origin, sexual orientation or other group characteristic. They may also establish a separate crime.

¹ See ACLU Policy #303 (Private Organizations).

² See ACLU Policy #72a (Free Speech and Bias on College Campuses).

If properly drawn, such laws do not punish protected speech or associations; rather, they reflect the heightened seriousness with which society treats criminal acts that also constitute invidious discrimination and are intended to or have the effect of depriving persons of legal rights or of the opportunity to participate in their community's political or social life simply because of their race, religion, gender, national origin, sexual orientation, or other group characteristic.

Enhancement of punishment is permissible for hate crimes because these crimes convey a constitutionally unprotected threat against the peaceable enjoyment of public places to members of the targeted group. That threat constitutes an additional ground for culpability on the part of the perpetrator and justifies additional legal sanctions.

At the same time, the ACLU continues to be concerned that some of these laws are used to punish constitutionally protected communicative or associational activities. In Florida, for example, hate-crime prosecutions have been instituted against criminal suspects merely because they have uttered a racial or religious epithet without further evidence of intent to commit a hate crime.³ In Massachusetts, a Catholic group filed a criminal complaint under the state's hate-crime law against gay protestors who had demonstrated against church officials "due to their religious beliefs." Prosecutions, such as these, that focus on communicative conduct that does not constitute a criminal threat violate constitutional principles. A properly drafted hate-crime law should not be susceptible to such uses.

STANDARDS:

Hate-crime legislation and prosecutions can pose serious dangers to free speech and association, as well as to important due process protections, but the ACLU does not consider them to violate those constitutional principles if:

1. Hate-crime legislation must be narrowly drawn and must clearly specify the criminal conduct subject to punishment or to

³ In 1991, Michael Hamm, an African-American, was arrested for assaulting his wife, which carried a potential one-year sentence. Because he called the arresting officer a "white cracker," he was also charged with violating the state hate crimes law, potentially tripling his sentence even though the new charge was unrelated to the original criminal accusation.

Pending before the Florida Supreme Court is State v. Stadler, a constitutional challenge to the hate-crimes law that involves a defendant charged with simple misdemeanor battery for allegedly pushing another person. Because he also allegedly made derogatory ethnic remarks during the confrontation, the hate crimes law transformed the misdemeanor into a third-degree felony, without any proof of discriminatory intent.

enhanced grade or penalty. To pass constitutional muster, the statute must focus on conduct that intentionally selects the victim on the basis of invidiously discriminatory factors. When such statutes are vague or overbroad, as in the case of R.A.V. v. City of St. Paul, the ACLU will oppose them.⁴

2. The discrimination element, like every other element of a crime, must be established by proof beyond a reasonable doubt. This proof must establish that the defendant intentionally selected the victim⁵ on the basis of the victim's actual or perceived race, religion, gender, national origin, sexual orientation, or other group characteristic. All of the procedural safeguards that are required in proving elements of a crime must apply to the determination of the hate element. In addition there must be strict adherence to rules of evidence.

3. Hate-crime legislation should be limited to situations where the underlying criminal conduct involves harassment, injury, or threat of physical injury to the victim, or the damage or threatened damage to the victim's property.

4. In prosecutions under a hate-crime statute, First Amendment principles prohibit conviction based on the defendant's constitutionally protected expressions of belief or the defendant's general associations. Thus, no evidence of expressions or associations may be introduced at trial unless this evidence is specifically related to the crime charged. If the evidence is thus related, it may be admissible even if the expressions or associations are not precisely contemporaneous with the allegedly criminal conduct. In such cases, it will be necessary for the prosecution to establish that those expressions or associations are probative of intent to commit the specific hate crime charged and are part of the chain of events that led to the crime. The mere utterance of epithets without additional evidence of intent to commit a hate crime will always be insufficient proof.

5. Hate-crime legislation must not be used as a pretext to investigate or punish constitutionally protected thoughts, opinions, beliefs, expressions or associations.

⁴ There may be situations in which the ACLU will oppose bias crime prosecutions for reasons other than the First Amendment. For example, consistent with our policies on sentencing, we would oppose such laws if they contain mandatory sentencing provisions or if they otherwise impose excessive sentences. See ACLU Policy #242 (Sentencing).

⁵ An arresting police officer who is the subject of racial or other epithets at the time of arrest is not a "victim" under this policy.

The ACLU supports the collection of data with respect to the incidence, nature and prosecution of hate crimes. Police departments and prosecutors should maintain and disseminate statistical information, including whether prosecution of hate crime laws has a disproportionate impact on historically persecuted groups. We also urge that special training be provided to police and prosecutors in the investigation and prosecution of these crimes. We are aware that the discrimination that infuses our criminal justice system and that has, in fact, contributed significantly to the need for such hate crimes statutes, may well result despite safeguards to the contrary in enforcement patterns that discriminate against minorities. Therefore, we will continue to monitor the actual implementation of enhancement statutes and review our position if experience warrants.

Re: HB 416

Written testimony in opposition of HB 416.

Testimony of Rev. Rick DeMato.

Mr. Chairman, committee members, my name is Rev. Rick DeMato.
My residence for the last 19 years has been Helena, MT.

I am representing the position of the membership of the Liberty Baptist Church, along with 10 other independent Baptist churches with a combined membership of 1080 here in Montana.

We the above mentioned are opposed to HB 416 for the following reasons:

1. Because of the phrase "sexual orientation", we feel that this is another attempt by the sodomites and lesbians to further their agenda, which as HB 215 clearly stated was to decriminalize the act of homosexuality in Montana.
2. This bill would address hate crimes perpetrated against anyone or any group, however it is certain that this bill has been generated by Montana gays and their supporters.
Note: The outpouring of opponents to HB 215, SB 236, and President Clinton's attempt to legalize homosexuality within the military, clearly reveals the majority of Montanans and Americans view the practice of sodomy and those of lesbians to be deviate sexual conduct.
3. On p.1, line 10 of HB 416 the word "identifying" is a cause of concern. In order to identify anything the one doing the identifying must have a clear understanding of the subject. We are not talking about identifying rocks and plants, which involves objective observation. We are talking about identifying "thought processes of the mind" that result in the formation of words. Identifying someone's "thought processes" is for the most part very subjective.
Note: In other words utilize caution before arresting someone for what you think they are thinking.

4. On p.4, lines 5,6 of HB 416 it is stated that the department of justice shall designate the educational material from among other things "identifying" the perpetrator of a hate crime. Lines 12-15 indicate that the department of justice shall consult with the human rights commission and other human rights organizations regarding content of the training material. Our concern is, because the gay agenda is a large part of the human rights movement, that the gay influence will have an enormous input into the subject of identifying hate crimes. This is unacceptable!

Note: Homosexual people usually are plagued with an identity factor outside their own circle, proven by being "in the closet" for so long. Therefore we believe their zealot-like repression may overflow through the justice department's material on identifying hate crimes. Material which they **SHALL** influence as per lines 12-15.

5. Page 2, line 7 of HB 416 contains the word **APPARENTLY**. This seems to us to be an extremely vague word. In Noah Webster's 1828 dictionary his third definition of the adjective "vague" defines the word as "proceeding from no known authority". Thus how does one determine what is **APPARENTLY** a hate crime?

Note: During the McCarty era J. Edgar Hoover collected large dossiers on persons he felt **APPARENTLY** were or may become involved in subversive activities.

House representatives, advance with caution!

In closing:

We want to encourage this committee to **NOT PASS** HB 416.

Sincerely,

Rev. Rick DeMato

Rev. Rick DeMato

Addendum:

One closing thought - As the pastor of Liberty Baptist Church for the last 18 years, I believe from my reading of the Bible that homosexuality is wrong. As I stated when I questioned the wording of SB 236 regarding the interpretation of the words **INTENT** and **OFFEND**, I ask you now Mr. Chairman, if I offend a homosexual by stating my belief from my pulpit, do I stand in jeopardy if HB 416 becomes law?

Exhibit #9
February 10, 1993
HB 433

Exhibit #9 is written testimony presented by Bob & Lynn DeArmond, Bearcreek Saloon, Bearcreek MT, in support of HB 433 that clarifies the laws relating to horse racing. The original is stored at the Historical Society at 225 North Roberts Street, Helena, MT 59620-1201. The phone number is 444-2694.

EXHIBIT # 10
DATE 2-10-93
HB 433

BOARD OF HORSE RACING
DEPARTMENT OF COMMERCE

STAN STEPHENS, GOVERNOR

1520 EAST 6TH, ROOM 50

STATE OF MONTANA

(406) 444-4287

HELENA, MONTANA 59620-0407

Testimony presented to the House Judiciary Committee opposing H.B. 433 - Sam Murfitt, Executive Secretary, Montana Board of Horse Racing.

The Board of Horse Racing is responsible for the overall regulation of the parimutuel animal racing industry within the State of Montana. Through this regulation, the integrity of the industry which the industry itself requires and the wagering public demands is insured.

Of specific concern to the Board is the day to day regulation of 8 live race tracks totalling 90-100 live race days and 8 simulcast network wagering sites located throughout the state offering approximately 150 days of simulcast wagering.

The Board is charged with the responsibility of licensing and determining licensure of 66 occupational categories which translates into approximately 4000 licenses issued annually.

In 1992 the Board was responsible for insuring the correct distribution of approximately \$10,000,000 wagered live and through simulcast wagering. The Bureau is responsible for the adoption, administration and enforcement of all racing rules, including but not limited to licensing, permissible medication, drug testing, auditing, supervision and investigations pertaining to all parimutuel racing.

The Board is funded by a state revenue fund tax (1% of parimutuel handle). It's other sources of revenue include medication fees, fines imposed and the sale of annual licenses.

The Board of Horse Racing did not just occur. Its presence was demanded by the wagering public as well as by industry participants. Historically, horse racing has always been a part of Montana. Originally races were run primarily as a form of fun and entertainment. Match races between friends and foe alike were the focal point of many pioneer social gatherings. Soon, however, the fun and entertainment was joined inevitably by wagering on the contest. With this wagering came the propensity for some to gain an "edge" on their competition both from a participant as well as a wagering stand point hence race-fixing, running ringers, drug use etc. reared its ugly head.

It was soon recognized by all involved that for the sport to survive, control of the sport had to be gained. Statutes and

rules were passed racing commissions were formed and regulatory personnel employed in this endeavor.

Without this control or regulation the industry would quickly revert to its status prior to regulation; the integrity which the sport now enjoys would be lost and it would only be a matter of time before racing would go the way of the dinosaur.

The statutes under which the Board of Horse Racing operates are quite broad. Specifically, the Board is responsible for the regulation of all animal contests of speed, endurance and skill. Since its original inception the Board has concerned itself only with contests involving horses and mules. The primary reason for this involvement has been the lack of interest in conducting other types of racing. As an example, in the past 10 years only 2 requests have been received to involve other animals - both from the same individual.

The fact that parimutuel racing is in itself an expensive proposition the desire or interest to conduct "other" animal races has been nil. The current race day fixed costs to run one day of horse racing in Montana is approximately \$8,000 - 10,000. This money is paid by the Board and the management of each track basically to cover the cost of regulation.

This substantial amount is the primary reason that one hears so much concerning the "tough" times racing is having to survive these days. However without this regulation its survival is surely doomed as states previously.

Apparently, the reason for the drafting of HB433 transferring regulation authority of (ANIMALS - PIGS, GERBILS OR HAMSTERS) to the Department of Justice, Gambling Control division is to escape the very regulation that animal racing must possess. Live animal races are different than events designed to be participated in through sports pools. World Series or Superbowl event scores are beyond the control of the individual participants in the pools and thus tampering with, drugging, etc. of individual participants is not potential. Such is not the case however, with a box, cage, pen or tank full of live animals under direct and immediate control of one or more individuals. It would be pleasant to assume that fun and entertainment is racing these critters would be all that anyone would expect. As stated previously, history has not borne this fact out. Anyone wagering on these controllable events, the fun and entertainment will soon take a back seat to greed. Enters regulation.

The Board of Horse Racing is primarily concerned about H.B. 433 from a regulatory stand point. Under sports pools administered through Gambling Control, no controls which are a prerequisite for animal events would be employed. There would be none of the customary regulations followed as there are in horse racing.

Who would determine the state of health of participant animals?

EXHIBIT #10

DATE 2-10-93

HB-433

Who would insure that performance enhancing or damaging substances were not in these animals systems during competition? Who would be responsible for determining placing of these animals during races? The questions could continue forever.

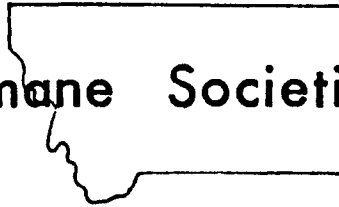
The bottom line is "NO ONE" can insure the integrity of the races or well being of participants without regulations such as those employed in horse racing.

The potential for expansion thence the cost of regulation of these events is limitless. How can one develop a fiscal note for regulation of an activity that may involve 10 to 1000 facilities. During an economic period such as we are all faced with now in Montana, I find it difficult to believe that a fiscal note requesting from \$10,000 to \$300,000 for regulation of gerbil, mouse, etc. races would be well received by any legislative committee. But yet without the regulation and without the cost despite the best intentions of all concerned, the activity is doomed from the start.

If regulatory control of all animal racing is left under the jurisdiction of the Board of Horse Racing, the door would not necessarily be slammed shut on endeavors such as those presented by the BearCreek Saloon. It would be possible based on interest of participants to develop rules somewhat less stringent than those required for parimutuel horse racing and still keep intact the basics to insure this demanded integrity. However, in this vein the cost of the regulation will have to be borne by the regulated not the regulator.

Therefore, the Montana Board of Horse Racing requests that you issue an unfavorable committee report on H.B. 433.

Federated Humane Societies of Montana



HB433
House Judiciary Committee
Room 212-1, 8AM, February 10, 1993

Testimony by Judith Fenton, Treas. Federated Humane Societies of Montana, Blue Sky Heights, Clancy, MT 59634 (933-5922)

Please do not expand gambling in Montana by allowing wagering on races using various kinds of small animals. Exploiting living creatures in this manner can only lead to abuse. Who will see that whatever animals that are used are all housed, fed, trained and disposed of humanely? For example, how many people even know how to properly care for an iguana?

Although the County Sheriff is the humane officer for each County in Montana, I'm afraid they are so overburdened with people problems that the welfare of these animals to be used for wagering would be left up to us. The Federated Humane Societies of Montana is made up of only 11 humane organizations plus some concerned animal welfare individuals. These humane organizations have very limited financial support, which is already spread thin, and they are manned by mostly volunteers. Even with the help of some very good animal control agencies in Montana, it will be difficult to protect all the animals that will be involved in this wagering. If HB433 passes we can only try our best to see that the animals involved are protected from thoughtless or intentional abuse.

I'm really afraid this is going to lead to more adverse national publicity for Montana.

Thank you for your kind attention to my comments on this matter.

Judith Fenton

HOUSE OF REPRESENTATIVES
VISITOR REGISTER

Judiciary COMMITTEE BILL NO. HB 370
DATE Feb. 10, 1993 SPONSOR(S) Molnar
PLEASE PRINT PLEASE PRINT PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Jean Thierdorf	MT. HOL. 63414	✓	
Lorna Frank	MT. Barn Bureau	✓	
Russell B Hill	MTLA	qualified support	
Patricia L. England	Bd. of Medical Examiners	"	
Rammi Kontnik	self	✓	

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS
ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

HOUSE OF REPRESENTATIVES
VISITOR REGISTER

COMMITTEE

BILL NO.

DATE

SPONSOR(S)

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
RICK DEMATO PO BOX 911 59624	MT. BBF		X
LAURIE KOUTNIK 921 Euclid Hebna 59601	Christian Coalition of MT		X
HARLEY WARNER BOX 745	ASSOC. OF CHURCHES	X	
STEVE WHIT	SELF		X
Edwin Hall	MBCC	✓	
Christine Kaufmann	Mt. Human Rights Network	X	
LORETTA ARENDT	SELF	X	
NICK TURNER	SELF		X
Pat McCurdy	SELF		X
Diane Gards	MT Women Lobby	X	
Tootie Welker	MAPP	X	

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS
ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

HOUSE OF REPRESENTATIVES
VISITOR REGISTER

Judiciary COMMITTEE BILL NO. HB 433
DATE Feb. 10, 1993 SPONSOR(S) A. Ellis

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
<u>Ray Tracy Mironla</u>			<input checked="" type="checkbox"/>
<u>Gary Koppala</u>			<input checked="" type="checkbox"/>

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS
ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

HOUSE OF REPRESENTATIVES
VISITOR REGISTER

Judiciary COMMITTEE BILL NO. *HB 433*
DATE *Feb. 10, 1993* SPONSOR(S) *A. Ellis*
PLEASE PRINT PLEASE PRINT PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
B. H. Chiesa Billings MT	Yellowstone Cntry		✓
Bernie Harrington Blgs	Yellowstone County		✓
Jill Bonan	also here - call-in 2/8/93		✓
HARLEY WARNER	MONT. ASSOC. OF CHURCHES		✓
Judith Fenton	Fed. Humane Societies of Mt		✓
SAM MURFITT	Mont. Board of Horse Racing		✓
JANET Bramblett	Mont. Board of Horse Racing		✓
Maynard Vorensberg	Marias Fair		✓
LAY L CLARK	MARIAS FAIR		✓
Jim Scott	MT BD OF HORSE RACING		✓
Don Waldron	Mt Rural & Assn.		
SAM YEWUSIAK	WESTERN MOUNT. FAIR - MSLA ROCKY MOUNTAIN ASSOCIATION OF FAIRS PRES.		✓
Dr. James H. Bailey	Mont. Veterinary Med. Assoc.		✓
Gloria Hermanson	Doit Doit Gamble of the Future		✓

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS
ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.