



**American Friends
Service Committee**

Quaker values in action

Hate Crimes & the Threat of Domestic Extremism

**Hearing before the Senate Judiciary Subcommittee on the
Constitution, Civil Rights, and Human Rights**

**Wednesday, September 19, 2:30 p.m. Dirksen Senate Office
Building, Room 226**

**Written Testimony submitted by:
American Friends Service Committee
1501 Cherry Street
Philadelphia, PA19003**

As long as we are on earth, the love that unites us will bring us suffering by our very contact with one another, because this love is the resetting of broken bones. Even saints cannot live with saints upon this earth without some anguish, without some pain at the differences that come between them. Hatred recoils from the sacrifice and the sorrow that are the price of this resetting of broken bones. It refuses the pain of reunion.

-Thomas Merton, "A Body of Broken Bones," New seeds of Contemplation

**Written Testimony Submitted by American Friends Service Committee
Hate Crimes & the Threat of Domestic Extremism:
Hearing before the Senate Judiciary Subcommittee
on the Constitution, Civil Rights, and Human Rights
September 19, 2012**

AFSC is concerned that too often nations, institutions, communities and individuals respond to hate with hate, or respond to violence with even greater violence. Addressing hate crimes calls for a much deeper, more nuanced, and more thoughtful process.

The first hate crimes laws established race, national origin, and religion as protected categories. Today, LGBT people, women, and people with disabilities are also calling for attacks against them to be recognized and condemned as hate crimes. Partly in response to such calls, many civil rights, progressive, and faith-based organizations have come together with political leaders to work for passage of new federal and state hate crimes legislation, as well as expansion of existing laws.

In recent years, in the wake of a series of horrific hate-motivated slayings, these efforts have gained a special sense of urgency. Hate crimes include not only murder but many other forms of harassment, intimidation, and violence. In the United States, attacks are directed most often against people of color; lesbian, gay, bisexual, and transgender (LGBT) people; immigrants; people of Middle Eastern or Asian descent, Jews; women, the homeless, and people with disabilities. Such violence is widespread and demands a powerful public response.

When the possibility of peaceful and compassionate relationships among different groups in our society is shattered by hate violence, we are right to call for the healing presence of justice. **But what is justice in a time of broken bones?**

In 2001 AFSC published [In a Time of Broken Bones: A Call to Dialogue on Hate Violence And the Limitations of Hate Crimes Legislation](#), by Katherine Whitlock. This document is available [here](#).

Now, in 2012, in the face of repeated acts of disrespect of religious practices and symbols of religious belief, or hate-motivated violence in the US, along with ready transmission of hateful speech and images around the world, AFSC believes it is necessary to ask searching questions about appropriate responses. If our goal is to confront hate violence effectively, what forms of law and accountability can help us to do so? In a culture that values free speech and freedom of expression, would it ever be possible, desirable, or effective for limits to be placed on expressions that are clearly hateful or intended to provoke violence? What types of legal mechanisms can encourage us to work together, across our differences, to dramatically lessen the scope and impact of these violent expressions of racism, sexism, homophobia, anti-Arab, anti-Muslim, anti-Semitic attacks, and other forms of oppression? What approaches will ultimately work against hate-motivated violence?

[In a Time of Broken Bones](#) challenged people and institutions advocating hate crime legislation to consider the limitations and probable unintended harmful consequences of many hate crimes laws - consequences that compound rather than counteract the systemic violence of racism, misogyny,

homophobia, poverty, and economic exploitation. This AFSC working paper examined key elements of hate crimes laws, particularly the central role of penalty enhancements. It went far beyond a simple critique of hate crimes laws, however, lifting up a vision of "healing justice," rooted in an ethic of interdependence, nonviolence, radical generosity, and openheartedness. AFSC believes the principles it laid out are still relevant, and perhaps more relevant today. These same principles should also be applied to other responses to hate which seek to weaken civil rights and constitutional protections within the US and permit extrajudicial killings through drone strikes, and other mechanisms that by-pass due process.

We cannot uphold freedom and democracy by by-passing the very provisions that protect them. Alternatives are available but they are not easy. Victims and perpetrators of hate crimes both require healing through processes that provide transformative examples of the just, accountable and inclusive society we aspire to be.

AFSC draws on its long-term programmatic experience in such areas as criminal justice, Middle East peace work, economic justice, immigrant; rights, youth action, indigenous peoples' struggles for sovereignty and human rights, and LGBT movements seeking rights and recognition. Our understanding is unfinished and evolving. Hate violence must be understood within a larger context of political, social, and economic systems that have supported discrimination and promoted fear of those whose race, gender, sexual orientation or religious beliefs are "different" from one's own.

Key features of this larger context include the shift of public spending away from investment in human needs and civic infrastructure to prisons, policing, and militarization; the increasing transfer of public resources into the hands of private interests with little or no accountability to the communities they serve; and the increasing institutionalization of social and economic inequality. We also see the impact of political groups' scapegoating and use of "wedge politics," to gain advantage, particularly against immigrants, gay, lesbian and transgendered people, the poor, the incarcerated -- and people following the teachings of Islam, to obscure a broader assault upon the entire legal framework of civil rights.

Similarly, attacks on due process rights and other constitutional protections target communities of color, both immigrant and U.S.-born, utilizing the coded, powerful imagery of "illegals," "criminals," or "terrorists." These larger trends threaten individuals, communities, cultures, and the very possibility of democracy. We urgently need an effective community-based response to counter the lethal efficacy of the politics of polarization and multi-faceted origins of hate crimes in all their forms. Communities that have been denied political, social and economic justice must be given access to the tools to build their future as part of an inclusive, respectful democracy.

To contribute to the discussion, AFSC here repeats three primary recommendations, drawn from the 2001 publication, [In a Time of Broken Bones: A Call to Dialogue on Hate Violence And the Limitations of Hate Crimes Legislation](#), by Katherine Whitlock, the full version of which is appended to this written testimony (available [here](#)):

1. Most hate crimes laws are seriously flawed by their emphasis on penalty enhancements, which produce consequences antithetical to the good intentions of their proponents. In every area of criminal justice policy, penalty enhancements, like mandatory minimum sentences, three-strike laws, and similar measures, are applied in an unjust and disproportionate way against people of color and poor people. As a result, over the past thirty years they have fueled a broad social process of mass incarceration, which falls most heavily on communities of color, particularly youth. Further, law-

Written Testimony Submitted by American Friends Service Committee
Hate Crimes & the Threat of Domestic Extremism

Hearing before the Senate Judiciary Subcommittee on the Constitution, Civil Rights, and Human Rights September 19, 2012

enforcement authorities such as police or prison guards are themselves frequent perpetrators of hate crimes, a systemic reality that is neither acknowledged nor addressed by current hate crimes legislation. We believe that ignoring the deep-seated structural violence of the criminal justice system is a shortsighted and misguided strategy. We agree with proponents of hate crimes legislation that hate violence must be named and that perpetrators must be held accountable for their actions. Our work gives us a keen appreciation for the importance of law in holding both individuals and institutions accountable to baseline standards of humane, just, and democratic conduct.

We also affirm the role of the federal government in protecting civil and human rights where state governments are unwilling or unable to do so or are themselves violating those rights. Nonetheless, AFSC's engagement with the U.S. criminal justice system over the past fifty years leads us to the inescapable conclusion that this system is itself a key institutional perpetrator of violence and hatred and is responsible for massive abuses of civil and human rights. We believe that attempting to address hate violence in ways that reinforce the structural violence of this system will only fuel the cycle of violence, hatred, and polarization. Finally, we note that many, if not most, perpetrators of hate violence are young men under the age of thirty, a great many under the age of twenty-five. AFSC believes that our society's response to hate violence must be based on an attempt to reclaim youth and young adults, not "throw them away into a system permeated by violence and corruption. Long, harsh periods of incarceration, in which maintenance of meaningful family and community ties is rendered difficult or impossible, offer youthful perpetrators of hate violence little opportunity to rebuild their lives.

2. Justice must provide healing from the harms of a hate crime, as in the resetting of broken bones. Any approach to justice must be judged by the integrity of its means and ends. Responses to hate violence must create an environment for healing from the harm caused by violence. We need justice practices that will redeem the lives of those affected by hate crimes and reduce the likelihood of recurrence. When the rights, dignity, and sacred worth of all parties we have a much better chance at creating a loving, just, and sustaining communities.

Recent violent responses to protest events perceived as desecrating a faith group or religious icon, illustrate the danger of fighting hate with hate. We now live in a society where social media, and easy access to technology, makes it possible to spread hate, intolerance, prejudice, throughout the globe in minutes. If images disseminated in these ways ignite fury, and instigate violent responses, we ourselves must not respond in kind. It is the role of the state to represent our better selves, and to act with a cooler head. A criminal justice system that relies on isolation, breaking of community ties, and violence becomes part of the problem, dehumanizing those who fall under its control, instead of preparing the incarcerated to return to society ready for mutual accountability and engaged relationship.

AFSC understands justice in the wake of hate violence as a call to do the sustained work over time necessary to foster, where possible, the creation of "right relationships" among the victims, the perpetrators, and the larger community. Such a vision of justice would require us to:

- Openly identify the harm and dissolve any atmosphere of threat that keeps it from being named and confronted. Similarly, to help dissolve any atmosphere of guilt, shame, or self-accusation felt by victims who mistakenly believe they brought on the attacks themselves.
- Protect victims from immediate danger and provide sustained emotional, physical, and economic support and assistance. Hold accountable the individuals, public and private institutions, and appointed and elected officials who may be implicated - whether because they directly caused the harm, contributed to a climate of hate, or failed to take appropriate steps to prevent acts of violence.

Written Testimony Submitted by American Friends Service Committee
Hate Crimes & the Threat of Domestic Extremism

Hearing before the Senate Judiciary Subcommittee on the Constitution, Civil Rights, and Human Rights September 19, 2012

- Create a community environment in which those sectors of the community that are most directly affected by hate violence can live in peace and dignity, without intimidation or the threat of violence or economic reprisals. AFSC believes that community recognition and affirmation of the civil and human rights of each person and all peoples is an essential part of creating such an environment.
- Support people who have committed acts of violence to understand the physical, emotional, cultural, spiritual, and economic consequences of the harm they have caused; to accept responsibility for their actions; and to rebuild their lives in ways that create strong and positive ties to the larger community, whether or not they are incarcerated.
- Support people who commit acts of violence to take steps to repair or atone for the harm they have caused, with such steps being determined in a way that includes the input of the victim, the offender, and the larger community. Such acts of repair should cause no further harm or destruction, psychologically or otherwise, to offenders or anyone else.
- Create opportunities for dialogue, direct or indirect, between victims and offenders and foster the establishment of right relationships between them in the wake of the harm. Strengthen the ability of the larger community to address underlying social, economic, and spiritual conditions that encourage acts of violence, including the complicity of the community in creating such conditions.
- Strengthen the capacity of the larger community to identify and rectify any unintended harmful consequences of its justice practices. This evolving vision of justice by no means discounts the power of law to serve as an instrument for the protection of human rights and dignity, but neither do we place all of our hopes in the law, or indeed on government institutions exclusively

We challenge communities to take greater responsibility for the creation of law and justice so that the dialogue between community and government is engaged, mutual, creative, and ongoing. The existing criminal justice system, based primarily on a vision of justice as punishment and retribution, is an essential part of a broader culture of domination that requires the perpetuation of inequality and violence. In the end, this constricted vision has nothing more to offer us than a world consumed by warfare and policing: a world in which the semblance of security rests on violence and exclusion. In such a world, while we do not even know our neighbors, we are deeply suspicious and resentful of them nonetheless. We will do anything, permit anything, in exchange for the promise of protection: for ourselves, our value systems, and our possessions. We will willingly sacrifice the human rights and even the lives of others, if we are led to believe that is what it takes.

A different understanding of the meaning of justice, based on a culture of love and inclusion, is urgently needed. To that end, we must take seriously a vision of restorative justice (also known as distributive justice, transformative justice, or under various other names). Such a vision, we believe, contains immense promise, and many of its basic concepts help point the way to healing justice. Too often, however, the initial positive vision is overtaken by "pragmatic" compromises that leave the violent and coercive foundation of the criminal justice system intact.

The proliferation of reform efforts that reduce restorative justice concepts to a mere embellishment of existing punitive systems has provoked deep-seated skepticism and mistrust among those who suffer the greatest violence and abuse at the hands of the criminal justice system. It is important to understand this contradiction which will require further exploration and dialogue before it can be resolved. We stand on trembling ground as we lift up our hopes and concerns for this transformed approach to justice. The contradictions are apparent. The system as it exists is corrupt and founded in violence. Healing justice practices have not yet come into being in a sustained way. AFSC cannot accept the premises of the current system of retributive justice, but neither can we refuse to engage with it.

Written Testimony Submitted by American Friends Service Committee
Hate Crimes & the Threat of Domestic Extremism

Hearing before the Senate Judiciary Subcommittee on the Constitution, Civil Rights, and Human Rights September 19, 2012

3. The AFSC believes that redemptive and healing justice practices must be rooted in the communities in which we live. Hate violence calls the question on the ideal of inclusive community, because it sheds light on how the dominant or majority segment of a community acts toward less powerful groups. Hate crimes are committed by specific individuals, but they target those within a community who are seen as expendable or unworthy.

The US exacerbates those attitudes when it singles out certain categories of people for harsher treatment, less due process, and withholds traditional civil and political rights from them. It also contributes to the atmosphere when it is overly zealous in its patriotism, assuming that we are superior to all other countries and deserving of greater respect. Not only the individual who commits an act of violence but the entire community is implicated in hate violence - and so the community must also help to heal it. AFSC seeks to offer a more nuanced exploration of the dynamics of hate violence, including its role in the displacement of class, gender, and racial anxieties as well as religious intolerance.

Only by shouldering one another's burdens of injustice along with our own can we transform the curse of fear, hatred, and human brokenness that afflicts our society into the blessing of just, generous, and compassionate community. Organizing "anti-hate" rallies or creating programs promoting tolerance and appreciation for diversity is not enough, so long as power and privilege continue to be inequitably distributed and used to deny rights and recognition. We must speak to the transforming possibilities of love, generosity, and justice in a community context.

Possibilities arise when suffering is not ignored, but is met with spiritual as well as political solidarity and sustained community action. AFSC believes that God calls us not only to seek justice, but to be justice, and we understand justice to be the societal expression of love which knows no boundaries. We believe that love and justice must come to replace fear and insularity. We are called to work in partnership with many others to replace the corrosive politics of fear, greed, and resentment which seem so firmly in the ascendant - with compassionate and emancipatory practices rooted in the moral vision and ethical integrity of spiritually centered nonviolence. This is how we are called in our own day to follow the ancient practice, found in every major spiritual and ethical tradition, of transforming adversity into compassion, compassion into love, and love into justice.

#####

Written Testimony Submitted by American Friends Service Committee
Hate Crimes & the Threat of Domestic Extremism

Hearing before the Senate Judiciary Subcommittee on the Constitution, Civil Rights, and Human Rights September 19, 2012