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**QUESTIONING BIAS:**  
**VALIDATING A BIAS CRIME VICTIM ASSESSMENT TOOL IN**  
**CALIFORNIA AND NEW JERSEY**  
**SUMMARY OVERVIEW**



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## QUESTIONING BIAS: VALIDATING A BIAS CRIME VICTIM ASSESSMENT TOOL IN CALIFORNIA AND NEW JERSEY -- SUMMARY OVERVIEW

**Purpose of Study.** Hate crime victimization is significantly under-reported both by victims and by law enforcement agencies in the United States (Berk et al., 2003; Herek et al., 1999, Levin & McDevitt, 1993; 2002; McPhail, 2002; Perry, 2001; Perry, 2002; Shively, 2005, Shively et al., 2014; Shively & Mulford, 2007). In the absence of better ways to support victims and to identify and respond to hate crime victimization, hate crimes may go unrecognized and unpunished, particularly among certain at-risk groups. The purpose of this two-year study (2016-2017) was to investigate experiences of hate incidents, crimes and factors affecting underreporting among youth and adults in LGBT, Hispanic, Black, Muslim communities in New Jersey and Los Angeles. Based on the research findings, the Vera Institute of Justice (Vera) has developed an assessment tool to improve the identification of hate crime victimization, the Bias Crime Assessment Tool (BCAT),<sup>1</sup> which aims to better reflect victims' experiences, increase confidence in the reporting process, increase the ability of these groups to identify hate crime victimization and help to record more accurate data. Accompanied by Guidelines for users, the BCAT is intended for law enforcement, schools and community groups who wish to increase the likelihood that victims will feel encouraged to report, and to help authorities respond to hate incidents and crimes in a meaningful way. This summary uses the terms bias crime and hate crime interchangeably.<sup>2</sup>

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<sup>1</sup> See Appendix 1 for the draft *Bias Crime Assessment: A Tool and Guidelines for Law Enforcement and Concerned Communities*. Vera Institute of Justice, 2018.

<sup>2</sup>Hate crimes are any criminal offenses motivated by bias, hostility, or prejudice against a protected class. Protected classes under federal law are disability, ethnicity, gender, gender identity, national origin, race, color, religion, sexual orientation, and in some states, political affiliation. (Legally protected classes vary from state to state.) Hate incidents do not involve criminal behavior. For example, it is not criminal to yell racial slurs. Hate incidents are an important part of the hate crime landscape to be identified and responded

The study had three objectives: 1) To investigate experiences of bias crime and reasons for under-reporting. The research entailed collecting original qualitative and quantitative data from under-reporting populations; examining correlates of hate crime among important sub-groups; identifying specific reasons for under-reporting to police; reviewing existing tools, historical records and incident reports; and conducting statistical analysis of more than a decade of hate crime data from the National Crime Victims Survey (NCVS); 2) To develop a bias crime victimization assessment tool using the above evidence; and 3) To initiate a validation process by seeking feedback from experts regarding the BCAT's content and potential implementation.

The two study sites, Los Angeles County and New Jersey, were selected because both have significant numbers of police-reported hate crimes and large, diverse populations that met study criteria. The study populations of focus were young people, immigrants, LGBTQ, and Latino. In each site, there are law enforcement and community leaders who have knowledge and experience of hate crime laws and police practices. Both California and New Jersey have similar legal frameworks. Both states have the same protected classes under bias crime legislations and a similar history of courts interpreting bias crime law to allow mixed motives and crimes based on biased target selection in addition to expressed hostility.

**Study Design** The general goals of this research were to understand why hate crimes against some populations are underreported, and to address this problem by creating valid reporting tools and protocols.<sup>3</sup> The development of the BCAT involved connecting ideas about hate crime and reporting behaviors with facts and observations. As we cannot presuppose that bias or hate crime is understood or operationalized by various actors (e.g. by authorities and by victims) in the same

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to as a serious matter. All hate crimes involve bias-incidents, but not all bias incidents constitute a hate crime. The key factor in identifying hate-based crimes or incidents is differential selection of a victim.<sup>3</sup> The process of validation, which is continuous, arises from a pragmatic research tradition of triangulation, which approaches validity as a product of operational definitions that are developed from multiple sources over time (Adcock and Collier 2001). Dellinger and Leech (2007) define validation as “an overall evaluative judgment of the extent to which empirical evidence and/or theoretical rational support the adequacy and appropriateness of interpretations and actions on the basis of data general through any means” (p. 316).

way, it was necessary to examine hate crime victimization from many perspectives using multiple methods of inquiry. To ensure the quality and rigor of study results, we therefore used an integrated research design combining qualitative and quantitative methods to gather interview and survey data from diverse perspectives of local experts and underreporting populations of interest as explained in detail below.

We began by contacting leading community organizations representing vulnerable communities, knowledgeable law enforcement professional specializing in bias crimes, and state- and county-level government prosecutors in both study sites to orient them to the study's purpose and to learn initially from them about current hate crime issues from their various perspectives. These experts expressed the view that official definitions of, and responsiveness to, hate crimes are unfamiliar to affected communities and do not necessarily reflect communities' concerns, we wanted to learn how vulnerable communities themselves understand hate crime and barriers to reporting. To understand the perspective of community members, we conducted focus group interviews with vulnerable communities in New Jersey and Los Angeles, including groups of adults and university students of diverse gender, age, race and ethnicity, including Black, Muslim and mixed-status Latino immigrants. Participants described their experiences and consequences of recent hate crimes, including the process of reporting or attempting to report crimes, from the perspective of individual victims' and their communities' perspectives. This information provided insights into views of hate crime and why the number and type of crimes reported by community members might diverge from official reports. Qualitative methods were crucial for accessing the hard-to-reach community members victimized by hate incidents and crimes that were the focus of the study. Using an inductive approach Vera was able to acquire detailed knowledge from those officials and community advocates who had direct knowledge of hate crimes and barriers that contributed to under-reporting. The interviews and focus groups also provided an in-depth understanding of daily experiences of specific victimized groups for whom hate crimes are a particularly grave concern, for example, minority transgender adults and recent immigrants with

precarious legal status, who would be underrepresented in the survey sample comprised predominantly of university students, even though the sampled student population is highly diverse. Using information from the interviews and focus groups, the research team developed a survey instrument as described in detail below.

**Subjects and data collection.** The interview sample was purposive, as we aimed to gather evidence from the particular perspectives of local experts and sub-populations at high risk of experiencing and under-reporting hate crime in these locations. Following ethics reviews and planning meetings (January to June 2016), we began data collection by exploring bias crime experiences and reasons for underreporting in specific social groups and communities.<sup>4</sup> Vera conducted 12 semi-structured key informant interviews (6 in New Jersey and 6 in Los Angeles) from July 2016 to July 2017. Key informants included federal law enforcement, prosecutors and bias crime officers (3 in each site); community advocates, civil rights and human relations commission members; LGBTQ leaders, youth and staff; and members and staff of ethno-specific and religious community organizations (3 in each site). These interviews focused on key informants' roles and experiences with the topic, bias crime issues and trends in their communities, reporting protocols and practices and reasons for underreporting. Vera researchers also conducted 12 focus groups, six in each site, with 155 participants, who were offered a small cash stipend. The populations of interest in this research are typically hard-to-reach; therefore, Vera organized the focus groups with the aid of those visible community organizations that were able to connect with highly marginalized minority groups. Participant recruitment was facilitated by key informants' organizational networks and informal networks where there were no formal organizations to represent populations of interest. The group interviews took place in formal (offices) and informal (community-based locations and homes) settings during the same period.

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<sup>4</sup> The researchers obtained ethics approvals from the IRBs of four institutions (Vera Institute of Justice, Rutgers University, California State University at Los Angeles and the University of California at Irvine) in addition to approval from an ethics committee of a Los Angeles-based coalition of advocacy groups.

Focus group members (for whom the following identities were not mutually exclusive) included youth, LGBTQ, Hispanic, Black, and Muslim community members in New Jersey and Los Angeles County.

Several topics related to hate crime experiences and reporting barriers were investigated during qualitative data collection. Key informant interviews generally inquired about knowledge of hate incidents/crimes, impacts on victims and communities, reasons for underreporting, official and community responses to hate incidents/crimes, and recommendations to improve reporting and victim's services. Focus group questions elicited perspectives on community-specific challenges and trends; concerns about, experiences and impacts of, hate crime occurrences; reasons for under-reporting based on personal or shared experiences in the community; ways to improve reporting, and needs and services for victims.

Vera fielded a survey to corroborate the qualitative evidence from interviews and focus groups among youth, students and the larger communities and develop a sample of particular bias crimes and bias incidents for analysis. The 30-page print and online survey about hate crime experiences collected detailed data about hate crime events, as well as reporting experiences. The results of the survey, informed the development of the BCAT. The survey included seven sections with 85 multiple choice questions and skip patterns organized as follows: 1) *Introduction*, including 10 questions regarding concerns about crime, and concerns about hate crime specifically; relevant identity characteristics; and actual, direct or witnessed experiences of hate incidents); 2) *Most Recent Hate Incident Experiences*, including 22 items regarding type, location and time of incident; presence of witnesses or authorities; offender characteristics (gender, age, race/ethnicity); perceptions of reasons for being targeted; and six questions about what happened after the incident (if reported, to whom; if not reported, reasons why not); 3) *Most Upsetting Hate Incident Experience* (repeating the same series of questions for the "most recent experience"); 4) *How much were you bothered by....?*, a 20-item stress scale to measure impact of the most upsetting incident on the respondent's well-being in the last month; 5) *Hypothetical Hate Crime*

*Victimization*, including six questions measuring perceived likelihood of bias victimization, perceived impact of current sociopolitical climate, and the likelihood of reporting the event to police or others; 6) *Concluding Questions*, including two questions about steps taken to maintain personal safety, and a 9-item scale to measure perceptions of the police and the law; and 7) *Demographics*, including 20 items. The survey took approximately 20 minutes and was in the field from February 2017 to December 2017. The survey, which was translated and made available to those whose preferred language was Spanish, was administered at universities and in relevant community settings. Community members were recruited by advocacy, legal services and civil rights organizations at meetings in Los Angeles and by law enforcement officials at public hate crime training events in New Jersey. The survey was also administered by study co-investigators to diverse undergraduate students 18 years and older at Rutgers University, New Jersey; California State University at Los Angeles, and the University of California at Irvine. A total of 1326 surveys were completed--more than twice the anticipated survey sample size.

**Data Analysis.** Key informant interviews and focus group recordings were first transcribed verbatim, coded by interview topics using qualitative software (QDA Miner), then summarized and analyzed thematically (Braun & Clark, 2006) to identify important emerging themes, as described in the following section on qualitative findings.

Cleaning and analysis of survey data was performed with standard statistical software. Vera researchers produced descriptive statistics and crosstabs for each question, in particular looking at whether those that reported or did not report bias crimes to law enforcement varied in terms of personal characteristics, types of hate crime, circumstances and impacts of incidents; reasons for reporting (or not), and related responses. Further analyses in preparation by study co-investigators will focus on gaps in hate crime reporting relating to gender; analysis of legal cynicism and willingness to report hate crimes; psychological impacts of institutional betrayal and implications for poly-victimization; behavioral changes in response to hate crime; the role of social support in



reporting, perceptions of police and the law in relation to reporting, and police-community relations.

**Qualitative Findings.** Participants in interviews and focus groups described specific hate incidents and crimes that they had personally experienced, witnessed or were directly informed of because of their roles in relevant institutions or in community organizations. They also spoke extensively about community-specific issues, underlying social factors that put them at risk, and reasons for underreporting, as well as offering ideas for improvements.

*Key informant interview themes:* Both those key informants affiliated with law enforcement and those affiliated with community organizations emphasized the need to improve police-community relations in order to improve reporting of hate crimes. Many had specific suggestions for improving the process of reporting of hate incidents and also offered suggestions for preventing hate crimes. Specific themes emerging from key informant interviews are summarized below in terms of *problems* identified (how hate crime is defined, social factors related to underreporting) and *solutions* proposed (law enforcement and community-level recommendations to improve hate crime reporting):

*Problems* Universally, key informants in both law enforcement and community organizations identified problems with the way hate crimes are defined and identified in practice. As they stated, hate crime is crime committed with bias intent, and so it requires identifying the bias motivation of the offender through the targeting of the victim; however, they felt that many police officers do not understand the definition of hate crime or how to apply it. They are often unable to recognize how underlying bias is manifest, or do not acknowledge the fact that a person is targeted because of their identity. For their part, prosecutors also tend to deemphasize motivation and focus on the nature of the offense. As a result, informants told us that offenses may be erroneously identified as “crimes of opportunity,” rather than hate crimes, which neglects the fact that victims are targeted because of their identity. Almost all key informants highlighted

the need for training to improve knowledge of bias crime law and practice. For example, this experienced bias crime officer stated,

*I say to the officers, when you come upon a scene, first of all, you have to be able to respond. You have to recognize. And you have to report. Those are the three R's when dealing with a bias crime or bias incident. You have to be able to recognize [a bias incident] and not blow it off as if these are just people talking trash to each other. You have to look deeper.... The number one thing is education and awareness. What you can and can't do. People say 'I have freedom of speech' and I say, yeah, but when you pick on somebody [who is in] these protected classes, [you] are going to get charged.* -- Bias crime enforcement officer, New Jersey

Generally, it was agreed, certain social conditions contribute to the escalation of hate crime. Many key informants noted that a climate of daily harassment of individuals in minority groups and ongoing discrimination are indicative of heightened risks of hate crime victimization. These conditions tend to be accepted by at-risk communities as normal and difficult to change. At the same time, an intolerant social climate is perceived to affect policing and other social institutions: community leaders felt that bias and racial profiling are unfortunately common in policing, though many acknowledged the real challenges faced by those officers on the front lines. Some highlighted that the social problems begin with schools that are seen as insensitive or non-responsive to bias incidents. Underlying issues such as local competition among minority communities, economic insecurity also elevate the risks. In this context, it was generally observed, hate incidents in a community should be taken as seriously as hate crimes; law enforcement informants concurred.

Most key informants talked about the role that fear and expectations of mistreatment play in a victim's unwillingness to report hate crime. It was often noted that it was not worth reporting to the police any but the most violent hate crimes, for example, "when life is threatened." The reason given was that people, particularly in the Hispanic, Black, Muslim and LGBTQ communities, feel they cannot trust the police and are not respected by them. To support these assertions, many references were made to past negative interactions and responses to hate crimes.

Solutions Improving police-community relations and other crime prevention efforts are prominent among key informants' recommendations. Many of the recommendations seek to address underlying social conditions that contribute to hate crime incidents and to underreporting, while others specifically address an unmet need for professional training, improved public relations and better reporting protocols. Generally, key informants recommended community engagement, bias reduction efforts, thorough investigation and follow up, and above all, more extensive training and education.

In both study sites, key informants were in agreement, saying, for example:

*The challenges are--training for police officers--that is number one, because they're the first responders. Also, on the part of the community, knowing that they are going to be supported should they report a hate crime. I think that empowering community members or community-based organizations to serve as a support for that victim or that particular community with a particular case would go a really long way.*

*–Federal law enforcement officer, New Jersey*

*It comes down to educating the community, educating the police officers. If we had funding, in the form of a grant or whatever, to not just to do the sensitivity training for the officers, but to make it part of their professional development.*

*–NGO representative, Los Angeles*

Some key informants acknowledged that law enforcement's time and resources are currently too limited; for example, an official in Los Angeles said,

*There's very uneven training within law enforcement, so the larger agencies...have some mandatory, but limited, hate crime training. But for many of the smaller jurisdictions, budgets are tight and they don't have the luxury of providing much in the way of training. I remember going one time and providing a training in a smaller city... while we were having our training there was a police call, so several officers had to get up and leave in the middle, because there was no coverage.*

*–County government official, Los Angeles*

With respect to improving reporting of hate crimes, key informants recommended promoting more respectful interactions with victims, using improved reporting instruments and providing more victim support. One key informant in New Jersey described how police typically respond, and what could be done better, with this illustration,

*[Say] I am a police officer on the street. I come and I interact with the victim. I take the report and I'm done with it. I file. That is what I am taught to do. Now, if there is a training component in there--another set of questions that you should ask--then I have to ask them. There might be some check boxes on the report that I am required to fill out. That would help everyone in the process, because that adds another component and a potential for better reporting, data collection, and analysis, and you might find where the needs are.*

*--New Jersey, Latino community leader*

Many recommendations offered by key informants pointedly depend upon police-community collaboration, and include efforts such as encouraging mutual respect, recognizing the harm done by hate incidents, responding to hate incidents early so that problems do not grow, making reporting structures more accessible, improving communication and building coalitions with community and law enforcement organizations, and generally combating bias and racism. Many agree that police-community meetings would be an important problem-solving tool. Generally, community members do not know how police work, make decisions and prioritize crimes. Community-based key informants in particular also frequently noted a need for leadership and transparency, such that accountability for hate crime responses should come from the top. Additionally, in every agency and prosecutor's office there should be personnel who are responsible for hate crime reporting and who are identifiable and accessible to victims. In some cases, key informant reported, prosecutors' offices and community service providers/advocates have worked together to successfully report, support a victim and resolve crimes. Despite some good experiences and many positive recommendations that came out in the interviews, there was a common, observation that victimized communities feel they are not taken seriously by police. Furthermore, they tend to perceive the police as a threat as much as a source of help. Key informants all concurred that it is vital to acknowledge hate incidents and crimes, because it sends a public message of support and may help prevent hate crimes from occurring. For example, one key informant in Los Angeles said,

*I think that the messages that are sent by law enforcement, [and] by elected officials, about what are their expectations of police conduct would make a difference in terms of reducing some*

*fear and anxiety. Also for people to understand that, by reporting bias-related crimes, that there may actually be longer jail sentences or more serious penalties that prosecutors can seek for suspects or defendants in these cases.*

*–County government official, Los Angeles*

Focus group themes: The focus groups discussions were naturally more personal than the interviews with key informants, who tended to be professionals. Focus group participants described individual stories, experiences of bias and various group-specific reasons for not reporting, rather than offering explicit recommendations. Regardless of specific incidents or reasons for underreporting that were shared in the focus groups, the strongest overall recommendation offered by participants was to improve policing practices. This included improving community relations, offering cultural training, showing greater respect toward persons reporting and demonstrating that victims of hate incidents will be “taken seriously.”

Problems According to most focus group participants, a common reason for not reporting a hate incident was the perception that the costs of going to the police outweighed the benefits. Participants expressed expectations of being discriminated against by law enforcement and other authorities based on past experiences. In fact, several participants who reported previous bias incidents or crimes to law enforcement had experienced dismissive treatment or verbal abuse, and so said they were discouraged from reporting again. Lack of helpful follow-up to past reports also contributed to increased distrust and decreased belief in the value of reporting. That prior experiences *predisposed* victims to underreport hate incidents became clear in the discussions.

Focus group participants tended to see hate crimes as extreme instances of the widespread, normal discrimination they experienced in workplaces, schools, public spaces and when seeking health care. Having intersecting identities (e.g. Black or Hispanic *and* transgender) contributed to hyper awareness of risk. Specific historical events, such as 9/11 for Muslims, pervasive anti-immigrant rhetoric, and recent disputes over transgender bathrooms, were cited as giving offenders “permission” to perpetrate bias victimization. At the same time that participants felt

there is extensive ignorance and long-standing systemic bias against racial, gender and religious minorities, the specific problem of mistreatment by law enforcement and the justice system was a recurring theme supported by many examples.

Solutions Focus group participants recommended cultural competence training and facilitating closer liaisons with police, who “have to know the communities they are policing.” A general desire was expressed by the plea “to be taken seriously” when reporting a hate incident. But for some participants, there was a sense of fear of authorities so strong that they were adamant that they would not even try to report a hate crime to police unless the victim was gravely injured. Most participants stated that they would rather deal with an incident themselves or would feel more comfortable going to friends for help, except perhaps in extreme cases of violence. In almost all cases where a hate incident had been reported to authorities, participants felt that the right questions had not been asked and a sense of respect for the victim had been lacking. Authorities’ attitudes toward persons reporting ranged from disregard and dismissiveness to blaming the victim and mockery. A few positive experiences were reported where a good relationship between the community and police existed and due process was followed. Focus group participants readily acknowledged that reporting of hate crimes *should* occur, although it is difficult, as it is important for a community’s “voice to be heard,” and they expressed hopes that it could make a difference in the future for their community as a whole.

Summarizing themes Given this emerging evidence, we produced a detailed analytical framework to describe a hate crime reporting process comprising *expectations-experiences-responses*. These themes are depicted as cyclical in the figure below:



As study participants described the circumstances of hate incidents and associated public and professional attitudes, it became clear that hate incidents and crimes should be understood *not* as isolated interpersonal offenses or rare crimes, but rather as generated by discrimination and marginalization. In general, their fears of victimization were realistic in that bias incidents were not uncommon in the study sample. Participants felt that the actual and perceived costs of reporting tended to outweigh any benefits. Low expectations, prior experiences of mistreatment and dissatisfaction with official reporting processes mutually re-inforce the decision to not report.

*Community-specific findings* While common experiences emerged, different social groups experienced varying types of hate crime incidents, and also stated distinct reasons for not reporting to law enforcement. For instance, for Latino/a LGBTQ communities, cultural factors such as religion and family ties were mentioned as antecedents of negative attitudes and behavior within the community toward their lifestyle. Hate incidents ranged from experiencing discrimination and denial of services (e.g. at the workplace, in hospitals) to crimes such as verbal and physical assault. Among Latino/a LGBTQ participants, reasons for not reporting hate crimes alluded to feelings of exclusion, shame about culturally “deviant” identity and language barriers. Additionally, for Latino/a immigrants, another prominent reason for underreporting was the fear of deportation. As one Latino focus group participant commented:

*“The fear [is] to ask police for help, because of their discrimination against Latinos, especially when they don’t speak English. They are biased...the distrust of law enforcement if you want to report something, if somebody assaulted you and you call them, they’re going to call immigration....this is the fear of interacting with law enforcement.”*

On the other hand, African American/Black participants perceived hate crimes against their group as an undeniable part of the country’s history, and expressed both anger and resignation about ongoing systemic bias. Many hate incidents cited in group discussions included descriptions of mistreatment by authorities. Distrust toward law enforcement was particularly high among African Americans and LGBTQ individuals. For example, one focus group participant related an incident that exemplified a not uncommon experience of violence and subsequent dismissive attitudes on the part of authorities:

*“I had a friend, [who]’s trans-identified. She was beaten up in the bathroom to the point that she couldn’t walk. They broke her rib. This was in [city]. She had reported it to the police, and they told her to leave... ‘Don’t go to parties. Don’t get drunk. Don’t be stupid and don’t go to the bathroom yourself.’ That is their answer.”*

Salient historical events were also perceived to affect the prevalence and willingness to report hate crimes. For example, the 9/11 attack and the 2016 US Presidential election were mentioned by Muslim and Arab participants, as well as other study participants, as events that contributed to a perceived increase in hate crimes. Participants cited instances of vandalism, threats, physical assaults, and verbally harassment as increasingly common experiences after these events. Their perception that the majority in society considered them dangerous, coupled with fears that their names would be entered in a database for future use by law enforcement, in turn hindered them from reporting bias incidents, although they felt unsafe. As one key informant explained,

*“The targeting of mosques has definitely gone up since the [2016 presidential] election. The atmosphere just in general has gotten, you know, more toxic. For those that help to manage mosques, we get the phone calls, we get the emails. We’re dealing with police all the time saying, please increase the patrols... actually in [city] what I asked them to do was increase the patrols at the public schools that have heavy Arab and Muslim populations, because the kids are as worried as everybody else.”*



Indeed, as the characteristics of hate crimes are sometimes specific to a community, participants asserted that solutions and policies to address underreporting have to reflect cultural awareness. Almost across the board, study participants also proposed improving police-community relations as a solution to the problem of underreporting of hate incidents and crimes. The majority of participants, however, no matter their social group or perception of law enforcement, recognized the importance of reporting. Whether an act of reporting would lead to consequences for the perpetrator or not, participants stated that reporting hate crimes was beneficial to the whole community, as it gave them a voice, established a record, and could empower others to report in the future. Additionally, they felt, reporting “isolated” incidents helped promote the understanding that a single act of hate crime was, and is, in essence, an attack on the community.

In sum, key recommendations derived from qualitative interviews with key informants and focus group participants are these:

- Prioritization of hate crime training and better reporting in law enforcement agencies.
- More community outreach by police, including liaisons with specific communities.
- Use of improved reporting protocols, including more respectful interactions with victims.

**Survey findings.** Survey results supported and gave breadth to our qualitative findings. The final survey sample comprised **1,326** respondents. The respondents were 25 percent from NJ and 75 percent from California, with 506 respondents collected on CSULA campus, 280 from UCI campus, and 205 from LA community based collections. 239 respondents were collected at Rutgers campuses, and 96 from NJ community based collections. (See appendix table 1.)

Each survey site had similar proportions of respondents that have been targets of bias motivated discrimination (average 71 percent, range 68 percent to 76 percent) and proportions that have been targets of bias motivated crime (average 33 percent, range 30 to 45 percent). (See table 2.) In terms of witnessing bias motivated incidents and crime, there was little difference

across sites, or across crime / non crime events: 71 percent of respondents reported witnessing both bias motivated crime, and 74 percent reported witnessing bias motivated discrimination.

Most respondents were young – 56 percent were aged 18 to 24, with only 7 percent 50 or older (16 percent did not answer age). The modal age response was 18. One-third of the respondents were male. The respondents self-described as 40 percent Hispanics, 16 percent white, 12 percent Asian or Pacific Islander, and 7 percent Black (with 13 percent not answering race or ethnicity). Of the total, 20% were immigrants or “first generation.” (See table 3.1 and table 3.2 for more information on demographics.) About a quarter of the sample was from New Jersey, and three-quarters from Los Angeles. Approximately, two-thirds of the sample was university students and the rest, members of the communities of interest.

In the section on most recent experiences of bias crime, we received reports of hate crimes by 114 respondents, and reports of hate incidents by 302 respondents. About **half of the respondents indicated experiencing some kind of bias event**. Of those, **27% -- 114 respondents -- experienced a clear bias crime** (i.e., threatened with harm, property vandalized, robbed, sexually assaulted, or physically attacked). These proportions are at odds with official estimates of bias crime victimization, which suggest that bias crimes are quite rare. About **half of victimized respondents cited race (54%) and ethnicity (49%) as reasons for being targets** of hate crimes and incidents. Other factors such as sex/gender (25%) and dress/appearance (24%) were also perceived as common reasons. The most common reason given for believing a recent experience was a hate crime was the use of slurs or derogatory comments by the perpetrators. In most cases, there were witnesses, and most of those witnesses were family, friends or acquaintances. Almost one-third of hate crimes were perpetrated by people the victim knew.

Respondents that experienced a hate crime or incident were directed to complete the basic PTSD checklist (PCL-5), and 255 did so. Estimates of the prevalence of PTSD depend on whether one uses a quantitative cut-point criteria score of 33 or the DSM-5 diagnostic rule, either

12 percent or 29 percent of the sample qualifies as suffering from PTSD. (For more information on the PTSD checklist, see Blevins, et al 2015).

With respect to post-hate incident reporting behaviors, in fact, only about **one-fifth of hate crime victims reported the most recent incident to law enforcement**. The majority of victims ignored the event or exhibited some type of self-reliance; about one quarter fought back. Notably, as many people told someone *other than* the police (21%) about the event as those who reported to the police (21%). Victims who did *not* report to the police told their family (52%) or their friends (50%). Among those who reported to the police, **only 20% stated that the police responded satisfactorily**. For those who did *not* report the incident, 28% said that they did not think the police would do anything as the *primary* reason for not reporting; about one quarter said they did not think the incident was serious enough, and 23% said that they dealt with the problem themselves. Additional factors may influence reporting behavior. For instance, characteristics of the perpetrator(s), relationship with the perpetrator(s), and reasons why respondents perceive the incident as a hate crime (i.e. strength of evidence) were shown to affect whether participants reported to law enforcement or not. Respondent were somewhat less likely to report to the police if the attacker was not a stranger, and were more likely to report a robbery to the police than a physical or sexual attack. More whites than non-whites would recommend reporting a hate crime to the police.

When asked what they would do if a hate crime occurred in the future, responses clustered into two key groups, the 45 percent that imagine that they would report to law enforcement, and the remaining that would not. Of the 55 percent that would not report to police, 95 percent would tell someone, with 85 percent saying that they would tell a friend or family member, and smaller percentages for more institutional reporting options. (See table 4.) The primary reasons for not contacting the police ranged from lack of confidence in police (47 percent) to not thinking it was serious (25 percent). Smaller proportions would report to someone else (10 percent) or deal with the problem themselves (15 percent) rather than go to police. (See table 5).

A third of respondents were not concerned about being a victim of a hate crime, however many others have done things to feel safer, both in the past and currently. Of the 2/3rds of respondents that are concerned, 58 percent avoid walking in certain places, 43 percent avoid certain people that threaten them, and 35 percent avoid going out at night. 32 percent carry personal security devices like whistles, pepper spray. Just over 1 in 5 (22 percent) said that they either hide an aspect of their identity or change the way that they look or dress in order to feel safer from being the target of a hate crime.

We asked questions about trust in law enforcement and legal cynicism, primarily for the purposes of multi-variate analysis. (See table 6.) In general, both sites scored similarly on these two metrics, however, on average, the Los Angeles sample was less trusting of police than the New Jersey sample. Los Angeles also reported less legal cynicism.

*The problem of mixed motives.* The legal definition of hate crime generally depends upon a crime having evidence of motivation such as targeting victims because of certain features of a person's or group's identity, traditionally defined in terms of race (anti-black), religion (anti-Jewish) or sexual orientation (anti-gay). However, our study provides evidence that many people with hate crime experiences see their victimization as a combination of multiple factors – including both multiple types of legally relevant bias such as racism or gender bias, as well as bias that is not legally relevant. The extra-legal bias – factors like age, class, and appearance – were clearly part of how participants in focus groups and survey respondents understood their victimization. This indicates that existing frameworks for bias crime may be too limited and may underestimate both rates of victimization and its complexities.. As an added complication, gender-related bias factors are still poorly articulated and institutionalized in reporting practices and policies. In this study, **extralegal biases and/or plural biases were associated with the large majority of hate crimes reported** in the survey, suggesting that a valid definition of hate crime should be expanded to include far more mixed motivations than official data currently show. Most hate crime training materials tend to present one-dimensional cases – those with a

clear, single motivation. These simple kinds of single bias cases were only 13 percent of hate crimes in our sample. An additional 16 percent of cases had more than one legally relevant bias motivation (but not extra legal aspects). In contrast, 6 out of 10 cases involved at least one kind of extralegal bias. (For more information, see table 7.)

### **Developing the Bias Crime Assessment Tool**

The BCAT incorporates questions about hate crimes used in recent research and law enforcement efforts, such as those recently updated by the Los Angeles Police Department; however, its scope is more expansive, because it is also based on information collected as part of the current study, describing barriers to reporting hate crimes and recommendations for improving the reporting process. Vera designed the Bias Crime Assessment Tool (BCAT) based on a thorough review of existing hate crime reporting tools and analysis of the quantitative and qualitative collected as part of this study. Specifically, we employed three methods:

- 1) *Systematically displaying study data and constructing an analytic framework.* With immersion in the data, it became clear to us that study participants conceptualized hate crimes and often actually experienced hate-related offences as discrete events, but also that attitudes about reporting hate crimes were influenced by future expectations as well as by past experiences of responses by authorities to an offense reported by oneself or another member of a community. Therefore, to organize the qualitative and quantitative data in a thematic framework, we developed a detailed analytical template of the hate crime reporting *process*, which included the categories of Fears/expectations, Experiences, and Responses. For each of the three categories, specific survey items and/or qualitative themes were identified to support inclusion of important topics within the assessment tool. For example, under Fears/expectations, one relevant survey item examined was “In general how often are you worried about being a target of a hate crime?” A pertinent qualitative theme in this same category was description of tensions between different minority groups in a given locality. Under the category of Experience,

one quantitative measure was the survey question, “Thinking about the most recent experience, which of the following happened to you because of some aspect of who you are/your group identity?” The comparable qualitative data were the highest counts for types of incidents related by participants in focus groups and key informant interviews, including discrimination, verbal harassment, unfair treatment by police, physical assault and denial of services. Similarly, under the category of Responses, survey items included “What happened after the incident? And “Who, if anyone, did you talk to?” The main qualitative theme in this category was mistreatment by police when the victim tried to report the offence.

- 2) *Cross-checking and annotating the draft tool.* In addition to reviewing and discussing qualitative themes and ongoing statistical analyses of survey responses to inform the tool’s format, we also considered initial theoretical rationales used in constructing standard hate crime reporting tools, for example, the idea that the person taking a hate incident report is able to accurately observe and record a victim’s identity or that superficial factual information is sufficient to identify mixed motivations for a hate offence. As part of this exercise, the researchers annotated the draft tool to indicate how supporting evidence informed the sections of the tool.
- 3) *External expert review.* After preparing multiple versions of the BCAT and producing written Guidelines for administering the tool, which was necessary to ensure its effective use, we obtained feedback from select key informants (see below for details). We also requested and discussed comments from Vera’s multi-disciplinary LGBTQ Workgroup.

To summarize, the main themes arising from study data that were considered in developing a valid assessment tool were first, the need to improve the nature of interaction between a victim and law enforcement, and by extension, police-community relations, and second, the need to understand and document the actual complexities of bias motivated offenses in a serious, useful manner. The theme of a pervasive sense of discrimination against the at-risk communities was prominent in both

the qualitative and the quantitative data. The survey findings suggest that some populations experience widespread harassment, and within that universe a much higher proportion experience hate incidents and even crimes than are suggested by officially-reported statistics. Moreover, only a small proportion were willing to go to police, yet a larger proportion were willing to seek help from others. Overall, the need for trust-building and more careful reporting is clear.

Police generally lack awareness of how to recognize hate crimes, do not typically acknowledge bias, and tend to focus selectively on crimes rather than incidents. As well, many individuals are highly influenced by past negative experiences with reporting. Therefore, the lessons for developing a better assessment tool for bias victimization are to employ techniques that are educational and have the capacity to record sensitive, detailed information about offenses from the victim's perspective, while reinforcing the need for respectful interactions and follow-up. Thus, the sections of the BCAT incorporate factual questions about bias-motivated events, but also detailed sections that elicit victims' self-identification and perceptions of the offenders' motives, and pay attention to confidentiality, victims' safety, service needs and social circumstances of the offense.

*Guidelines for using the BCAT* To promote effective and appropriate use of the BCAT in law enforcement and community agencies, Vera researchers have prefaced the tool with detailed Guidelines that are based on practices recommended by law enforcement specialists in bias crime, and community input on victim-centered approaches that can improve reporting. The Guidelines provide basic information about the nature and types of bias crime and essential victim-centered interview techniques to enable assessors to improve understanding, trust and reporting of bias crime victimization. The Guidelines therefore help serve an educational purpose whether or not users have prior experience with hate crime or reporting protocols; however, they also include suggestions for gathering in-depth information and follow up that may be useful for more experienced law enforcement personnel and knowledgeable community advocates.

Preliminary content validation For the purpose of initial content validation, Vera interviewed three experts (New Jersey key informants in bias crime law enforcement and Latino and Muslim community leadership positions) who had reviewed the BCAT and Guidelines. We asked them to answer a general validation question, *does the BCAT adequately capture a reasonable operational definition of hate crime?* We also asked specific questions such as, *how well does the BCAT match your knowledge and experience of hate crime? Are the items helpful? Has anything been left out? How would you suggest using this tool?* Overall, expert reviewers' opinions were positive, with some specific suggestions offered to improve wording. This step in validation helps ensure the BCAT's relevance and utility for future pilot testing and implementation. It was generally agreed that the BCAT would be a useful training tool, especially for law enforcement personnel who have not received hate crime training, as almost all key informants had suggested.

As a result of this development process and preliminary validation process, the BCAT is more victim-centered than standard hate crime reporting tools. It also elicits contextual details and information on the progression of incidents and crimes to encourage the reporting of information that may be used to determine motivation and identify patterns of hate incidents and crime in the community. Finally, it includes detailed questions on victims' perceptions of bias motivations and incidents and more detailed questions for follow up with the victim, which study findings suggest can help gather accurate information and address barriers to reporting, because this approach can increase the confidence of victims and law enforcement in the value of reporting.

**Discussion of study findings in relation to existing knowledge.** Vera's research on bias victimization deepens existing evidence of experiences of discrimination and perceptions of law enforcement, which contribute to under-reporting of hate crimes in marginalized populations. Research since the early 1990s has identified barriers to reporting victimization for many people,



including gay and lesbian (Berrill & Herek, 1992; Herek, Cogan, & Gillis, 2002) or transgender individuals (Meyer, 2012), immigrants (Davis & Henderson, 2003; Umemoto, 2006) and young people (Stewart, Baumer, Brunson, & Simons, 2009). Recent victimization research has found that for many people, bias victimization is a routine part of life, as Vera's research has vividly demonstrated. In many marginalized, under-reporting communities, individuals may be victimized, but when they do not expect authorities to respond appropriately or ignore or blame the victims, they may choose to avoid contact with law enforcement. Moreover, even if victims do wish to report an incident, many victims are unfamiliar with bias crime laws, what reporting entails, and how to access legal assistance and appropriate victim or social services (Chakraborti, Garland, & Hardy, 2014).

Our study also confirms that barriers to reporting, ranging from fear of law enforcement authorities, feelings of helplessness and the perceived powerlessness of police, to threat of further harm from the process of the criminal justice system (Kidd & Chayet, 1984), still exist. As our study demonstrated, victims in these cases may not believe the crime will be taken seriously if reported, may not recognize the incident as a crime, and may feel reluctant to report due to fear of repercussions for reporting the crime (Berrill & Herek, 1993; Craig & Waldo, 1996; Chakraborti, Garland, & Hardy, 2014; Meyer, 2012). These common barriers to crime reporting among vulnerable groups may be more acute in bias crime cases (Lyons, 2006).

While this study confirms and extends our understanding of hate crime patterns and reporting experiences, it also raises serious questions about the limited approach currently taken in hate crime reporting. Very few agencies report hate crimes with multiple types of bias motivations – say, a case with both a race and a gender bias. Nevertheless, our study shows that people tend to see hate crime events as motivated by multiple types of bias. Further, in a majority of cases, respondents identified other kinds of bias – like biases related to age, class or appearance – that were motivating factors in their cases. While not legally relevant, these are important to address to retain a focus on the victim's needs. Failing to do so will likely reinforce a

cycle of under-reporting. An understanding of the complexity of bias motivation, especially extra-legal bias motivations, is necessary to respond more effectively to victims of hate crimes and therefore to increase confidence in reporting by victims. Various organizations and other scholars have critiqued hate crime laws as inadequate in addressing the harms caused by bias victimization (Brown, Bakshi, & Lim, 2011; Haritaworn, 2010; Meyer, 2014; Sylvia Rivera Law Project, 2010; Whitlock, 2001). Currently, the vast majority of jurisdictions across the U.S do not report hate crimes in their localities to the FBI as they are supposed to, leading to a distorted picture of hate incidents and a discrepancy between the official view and the reality for affected victims and communities. When bias victimization is acknowledged by authorities, it is usually without addressing underlying social tensions or inherent institutional biases, which may fuel the sense of misunderstanding and communities' dissatisfaction with outcomes. Because hate crime not sufficiently understood as a complex problem, police and legal responses are often perceived as inadequate and therefore questioned or rejected by victimized communities.

One specific issue is that law enforcement records seldom capture bias *incidents*, defined as *non-criminal* conduct motivated by hatred or bigotry because of the victim's real or perceived race, nationality, religion, sexual orientation, gender, or disability. Despite not rising to the level of a reportable crime, bias incidents may produce the same direct and indirect harms for individuals and communities, and responses to incidents shape a community's relationship with law enforcement. Prior research on bias victimization has found evidence of both direct harm (to the victim) and indirect harm (to the larger community) (Noelle, 2002; Perry & Alvi, 2012; Lannert, 2014; Levin & McDevitt, 2002; Lim, 2009; McDevitt et. al. 2001). This spread of harm makes it all the more important that there exist a system that links agencies across the community to address both criminal and non-criminal actions motivated by the perpetrator's bias. In many cases, non-criminal justice interventions could be helpful.

**Implications for Criminal Justice Policy and Practice.** The evidence from this study strongly suggests that improving underreporting of hate crimes depends upon having a better

understanding of the complexity of bias motivation and taking a more victim-centered approach when gathering information about hate incidents. Communities have an important role to play in encouraging hate crime reporting by victims, but the need for greater accountability to report hate crimes accurately and to respond to victims respectfully is a clear responsibility of law enforcement. Implementing the BCAT and Guidelines can be instrumental in gathering useful information and developing better protocols for hate crime reporting.

This study has helped to demonstrate what is being missed when the reporting process breaks down, and to point to remedies, one of which is implementing the BCAT and Guidelines in training and practice. Some leading law enforcement agencies already conduct bias crime training and such efforts are important to replicate and support. Community advocates, schools and service organizations should be encouraged to use the BCAT in tandem with law enforcement; such complementarity can bring valuable crime prevention information to the attention of law enforcement, and bias crime victims will feel better supported in the reporting process. Finally, the development of the BCAT is only a first phase of validation; collaborative field testing with law enforcement and other organizations is needed.

Police and prosecutors have a difficult task when called upon to respond to hate crimes, and they do take many cases of hate crime seriously. However, the problem dealt with by this research is why hate crime is underreported and unaddressed in specific communities that may be severely affected by hate crimes, where improvements still need to be made. Clearly, there is more work to be done by law enforcement agencies to provide professional education about making response to hate crime more victim-centered, thus ensuring the safety of vulnerable communities and generating more accurate information and good will.

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