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**Organization for Security and Cooperation in Europe
Tolerance Implementation Meeting: Addressing the Hate Crime Data Deficit
Recommendations of the Anti-Defamation League
Hofburg, Vienna
9-10 November 2006**

Over nearly a century, as part of the fight against anti-Semitism and all forms of bigotry, the Anti-Defamation League has been at the forefront of the campaign to combat hate crime. ADL pioneered the development of model hate crime laws and developed anti-prejudice education models to address all forms of prejudice and to prepare the next generation to live in our increasingly diverse society. ADL is pleased to be involved in this experts meeting to put forward recommendations, to highlight models that have worked well in the United States, and, also to exchange experiences and learn about efforts in other parts of the OSCE region.

The tolerance promotion efforts of the OSCE Permanent Council and by the Office for Democratic Institutions and Human Rights (ODIHR) have been vital in shining a spotlight on the problem of anti-Semitism, intolerance and hate violence across this region. The two reports on hate crime, the launch of the Tolerance and Non-Discrimination Information System are concrete examples of the fine efforts of the ODIHR to fulfill its tasking to monitor and report on hate incidents and to share promising programs with states. This activity and the convening of expert meetings like this one are vital to help focus states on the need to address the problem and crafting the necessary tools. In addition, just as government efforts against hate crime increases public awareness and promote increased reporting, ODIHR's efforts can reinforce and invigorate civil society efforts against hate crime throughout this region.

The Participating States of the OSCE have made important commitments to address hate crime through legislation, education and law enforcement training. A starting point for these activities is monitoring and states have committed to collect hate crime data, and to share this information with ODIHR and with the public. To date, 43 Participating States have nominated national points of contact to communicate with ODIHR.

What follows is an overview and a summary of just some recommendations the Anti-Defamation League believes could move these efforts to the next level and help states fulfill their commitments as well as help ODIHR assist states in developing the capacity to collect and maintain more reliable and comparable data.

The Importance of Data Collection Mandates

National hate crime data collection mandates have proved to be powerful mechanisms to confront violent bigotry against individuals on the basis of their race, religion, sexual orientation, disability, gender, or ethnicity. The establishment of data collection mechanisms also creates a dynamic that highlights the issue of hate-motivated violence for policymakers and the public -- and prompts police training and outreach to community-based non-governmental organizations.

In the United States, for example, the Hate Crime Statistics Act of 1990 (HCSA) requires the Justice Department to acquire data on crimes which "manifest prejudice based on race, religion, sexual orientation, or ethnicity" from law enforcement agencies across the country and to publish an annual summary of the findings. Congress expanded coverage of the HCSA to require FBI reporting on crimes based on "disability" in 1994. Though still incomplete, the HCSA now provides the best national picture of the magnitude of the hate violence problem in America.

Importantly, the HCSA has also increased public awareness of the problem and sparked improvements in the local response of the criminal justice system to hate violence. For example, in recent years, dozens of American law enforcement agencies have promulgated new policies and procedures for addressing hate violence -- complementing their participation in the FBI's national HCSA data collection initiative with the development of agency protocols for their own officers on how to identify, report, and respond to hate violence. These multi-agency responses enhance the public's perception that acts of hate are being

monitored and will elicit a strong response from law enforcement and prosecutors. Increased public awareness coupled with an effective response strategy may help reduce hate violence.

Advancing Police-NGO Relations

In fact, police officials in the United States have come to appreciate the law enforcement and community benefits of tracking hate crime and responding to it in a priority fashion. Law enforcement officials now better understand that they can advance police-community relations by demonstrating a commitment to be both tough on hate crime perpetrators and sensitive to the special needs of hate crime victims. By compiling statistics and charting the geographic distribution of these crimes, police officials may be in a position to discern patterns and anticipate an increase in community tensions in a given jurisdiction.

However, the obstacles to comprehensive data collection by police – and the disincentives for reporting for victims of these crimes – are significant. Studies have revealed that some of the most likely targets of hate violence are the least likely to report these crimes to the police. In addition to cultural and language barriers, some immigrant victims, for example, fear reprisals or deportation if incidents are reported. Many new immigrants come from countries in which residents would never call the police – *especially* if they were in trouble. Gay, lesbian, transgender, and bisexual victims, facing hostility, discrimination, and, possibly, family pressures because of their sexual orientation and gender identity, may also be reluctant to come forward to report these crimes. These issues present a critical challenge for improving law enforcement response to hate violence.

1. Collect Detailed Incident-Based Data

- Law enforcement officials should collect detailed information about the race, religion, national origin/ethnicity, sexual orientation, gender, and age of both the victim and the suspected offender. Where it is readily obtainable, the personal characteristics of the suspected offender, as well as the victim, would be highly relevant facts to include as part of a participating state's data collection program.
- To encourage reporting by ethnic and racial minorities, states should fund the creation of pamphlets and other resources for language minorities explaining how to report a hate crime and rights and responsibilities under the law.
- Law enforcement officials should collect data concerning hate-motivated gender-based hate crimes. In the United States, forty-five states and the District of Columbia now have hate crime penalty enhancement laws. In 2006, the clear trend has been to include gender-based crimes in these laws. Today, including the District of Columbia, twenty-eight states with penalty-enhancement hate crimes statutes include gender. And nine states, including the District of Columbia, now include gender in their hate crime data collection mandate. Gender-based crimes are also subject to United States Federal sentencing enhancements under 28 U.S.C. 94 http://lii.law.cornell.edu/uscode/html/uscode28/usc_sec_28_00000994---000-.html
- Collecting age information is essential for a better understanding of the nature and magnitude of the juvenile hate crime problem – and for crafting specific education and policy responses to this problem. Studies in the United States and elsewhere indicate that a disproportionately-high percentage of both the victims of hate violence and the perpetrators were young people under 18 years of age. See, for example: <http://www.ojp.usdoj.gov/bjs/abstract/hcrn99.htm>

2. Model Policies and Operating Procedures for Law Enforcement Officials

ODIHR should convene an experts group to craft model data collection policies and procedures for law enforcement.

For example, Standard Crime Incident Report Forms should provide space to encourage a narrative about the crime and record any bias motivation present. The facts surrounding these crimes are all-important in determining whether the crime was, in fact, motivated by bias. Responding officers should

be encouraged to provide specific, relevant background information that documents why he or she believes the crime to be bias-motivated. In addition, studies demonstrate that more detailed reporting can reduce the occurrence of "information disconnect" between the on-site investigating officer and crime analysis officials. See, for example, <http://www.ojp.usdoj.gov/bjs/abstract/iqabcsn.htm>.

The standard hate crime incident report forms should provide opportunities for detailed information about the target of the attack. In addition to the broad categories (race, religion, ethnicity, gender, sexual orientation), police should be encouraged to provide detailed incident-based information about the specific personal characteristics of the target or victim -- such as "anti-Hispanic," "anti-Roma," "anti-Arab," "anti-Sikh," "anti-Jewish," "anti-male homosexual," or "anti-Catholic."

3. Training for Law Enforcement Officials

States should provide funding to promote comprehensive data collection efforts by national and local law enforcement officials including prosecutors. Training police officers to identify, report, and respond to acts of hate-motivated violence demonstrates a resolve to treat these inflammatory crimes seriously. Including prosecutors within the training framework helps assure police officers that their efforts will be acted upon. These positive steps can be amplified by involving representatives of civil society organizations and minority communities in the training sessions.

State data collection mandates must be accompanied by training for law enforcement officials on how to identify, report, and respond to hate-motivated criminal acts. In the United States, for example, the enactment of the federal data collection requirement, the Hate Crime Statistics Act of 1990, 28 U.S.C. 534 Note, http://lii.law.cornell.edu/uscode/html/uscode28/usc_sec_28_00000534----000-notes.html was accompanied by the development and distribution of two detailed manuals on how to collect data and why it was important for law enforcement officials to do so:

"Training Guide for Hate Crime Data Collection," <http://www.fbi.gov/ucr/trainingd99.pdf>, and "Hate Crime Data Collection Guidelines," <http://www.fbi.gov/ucr/hatecrime.pdf>.

These FBI publications provided information well beyond how to fill out the crime incident report form -- including information on the nature and impact of hate violence, the social psychology of prejudice, investigative strategies, and examples of hate crimes.

4. Create the Expectation of Leadership from Political and Civic Leaders

Government officials and civic leaders should seek opportunities to use their "Bully Pulpit" to speak out against hate-motivated incidents and criminal activity. It is hard to overstate the importance of outspoken leadership in opposition to bigotry and criminal activity motivated by prejudice. It is critical for law enforcement officials to know that their efforts are being supported by the state's highest officials. Government and civic leaders set the tone for national discourse and have an essential role in shaping attitudes. Their support is critical to the success of reducing hate violence.

5. Provide Incentives for Law Enforcement Agencies to Encourage Reporting

States should provide incentives for police departments that begin to train their officers and begin to collect data on hate-motivated incidents. Incentives could include national recognition, state grants for training, a national network to promote replication of successful programs, and awards for exemplary departments.

6. Partner with NGOs to Implement Programs and Promote Reporting

Government partnerships with civil society organizations with subject matter expertise are critical to actualizing commitments made by Participating States. Events like the September 11 terrorist attacks, and rifts cause by hate violence in many states demonstrate the growing need for innovative and nimble collaborations between governments, NGOs, and community-based organizations to leverage each institution's experience, networks, and on-the-ground resources to create programs to address community tensions, increase school safety, and reduce juvenile hate-motivated violence. NGO's can act as an important resource for law enforcement officials, particularly during the initial phases of implementing data collection and training programs. NGO's may be in the best position to encourage individuals -- especially their own constituents -- to report incidents to the police.

Implementing hate-motivated data collection efforts in partnership with community-based groups can greatly enhance police-community relations. Community groups can often act as the voice of credibility during the implementation phase.

In too many states, government and law enforcement efforts to address hate crime are inadequate and victim communities lack proper frameworks for communication with relevant officials. Those states should find ways to build the capacity of NGOs and community organizations to monitor and respond to hate violence and to provide victim assistance where other sources of support may be lacking.

Conclusion

The Sofia and Lubljana Ministerial Decisions, resolutions of the OSCE Parliamentary Assembly and declarations of the Berlin and Brussels Conferences in 2004 on anti-Semitism and xenophobia, and the Cordoba Conference on Anti-Semitism and Intolerance in 2005 codified important commitments for action against anti-Semitism, intolerance and hate violence by Participating States and OSCE institutions. The implementation challenges and legal contexts vary in each of the 56 Participating States but states across the region share a fundamental responsibility for protecting their citizens from hate violence. We look forward to continued engagement with the ODIHR in developing tools and mechanisms to assist states in addressing these challenges.