

Hate Crimes on the Internet*

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ABSTRACT: The Internet serves as a channel for electronic communication on an international level. While communication on the Internet has grown exponentially, the proliferation of crimes in cyberspace has become rampant. Hate crimes, in particular, have become increasingly prevalent on the Internet. In this past decade, the United States government has taken significant measures to combat the proliferation of hate crimes. This paper reports six cases of “cyberhate” crimes and emphasizes pertinent legal issues surrounding them. Current modes of intervention are discussed, ranging from local to national levels. The forensic psychiatrist may undertake a challenging role in the interpretation of the hateful criminal mind at the interface of psychiatry and the law.

KEYWORDS: forensic science, forensic psychiatry, hate crimes, cyberhate, Internet, cyberspace, cyberstalking, stalking, World Wide Web

In 1994, Congress defined a hate crime as “a crime in which the defendant intentionally selects a victim, or in the case of a property crime, the property that is that object of the crime, because of the actual or perceived race, color, national origin, ethnicity, gender, disability, or sexual orientation of any person (1).” Over the last decade, the United States government has made great strides in combating hate crimes. The Hate Crimes Statistics Act of 1990 required the Justice Department to collect and publish statistics on hate crimes in the United States (2). The Juvenile Justice and Delinquency Prevention Act of 1974, as amended in 1992, was directed towards youths committing hate crimes (3). Congress passed the Hate Crimes Sentencing Enhancement Act in 1994 which increased sentencing for hate crimes by approximately 30% (4). In 1996, the Church Arson Prevention Act extended the Hate Crimes Statistics Act to the year 2002 (5).

In a 1997 White House conference on hate (6), President Clinton endorsed the Hate Crimes Prevention Act (7) which would amend Section 245 of Title 18 U.S.C., one of the initial statutes implemented in 1968 against racial and religious bias-motivated violence. He identified acts of bias and bigotry as crimes and announced a national hate crimes network to include federal, state, local law enforcement, community groups, educators, and anti-violence advocates. In addition, Clinton urged federal hate crime laws to include more potential victims, stiffer penalties, and improved reporting.

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Between 1994 and 1996, there was a 48% increase in the annual number of reported hate crimes (8). Of those reported in 1996, approximately 60% of hate crimes were racial in origin, 14% dealt with ethnicity, and 12% were directed towards sexual orientation. The number of hate groups also increased to 537 in 1998, from 474 in 1997 (9). Hate groups have found a haven in cyberspace; there are currently at least 254 known hate sites (9) on the World Wide Web, whereas four years ago there was only one. After the Oklahoma City bombing of the Federal building, while some Internet sites featuring hate materials shut down, many thrived and continue to flourish (10). The Internet has revolutionized communication internationally while providing a new medium for the propagation of hate groups and “cyberhate” crimes. To date, there are no reports of hate crimes on the Internet in the forensic psychiatric literature. This paper will review six cases of hate crimes on the Internet. Specific hate organizations will be discussed as well as measures of intervention.

Relevant Cases

Case 1—In the United States’ first successful prosecution of a hate crime on the Internet, Richard Machado (11), a former student at the University of California, Irvine, was convicted of violating the civil rights of 59 mostly Asian students by sending threatening electronic mail (e-mail) messages (signed by “Asian hater”). His message stated, “I personally will make it my [life’s work] to find and kill everyone of you personally. OK. That’s how determined I am. Do you hear me?” He threatened to kill them if they did not withdraw their enrollment from school. Initially, a jury was deadlocked nine to three in favor of acquittal. After serving a year in jail and undergoing a second trial, he was fined \$1000 and was given one year of probation that prohibited his use of the University computer laboratories. His attorney argued that the threat was a “classic flame” (online slang for an angry message that is more annoying than harmful). However, many disturbed recipients of the e-mail message were prepared to arm themselves with pepper spray, became suspicious of strangers, and refused to go out alone in the dark.

Case 2—Kingman Quon, a 22-year-old Chinese American man was charged with sending threatening Internet e-mail messages to scores of Latino faculty members at the California State University, Los Angeles and other university, corporation, and government, agencies across the United States (12). He pled guilty to seven counts of violating a federal hate crime law and faces up to seven years in prison.

Case 3—Felix Somm (13), the head of the German division of CompuServe was arrested for Internet trafficking of pornography and neo-Nazi propaganda (illegal in Germany). It was said that he

knowingly allowed images of child pornography and violent sexual acts including bestiality to be made accessible to customers of Compuserve on Internet newsgroups in Germany. Subscribers were also given access to computer games containing forbidden images of Hitler and Nazi symbols such as swastikas.

Case 4—Bernard Klatt, a British Columbia man operated a site on the World Wide Web for a group known as the Charlemagne Hammer Skinheads (14). Thirteen people in France and England were charged with crimes promoting racial hatred, uttering death threats and desecrating a grave. Their computers were confiscated because they were used to spread hate. Authorities were unable to shut the web site because the operations took place in Canada.

Case 5—Ernest Zundel, a holocaust revisionist, operated a World Wide Web site in Canada dispersing hate propaganda and information denying the holocaust of millions of Jews by the Nazis (15). His estranged ex-wife testified that he supplied material from his Toronto office to the operator of the web site in the United States. Since hate speech is illegal in Canada, he used an American Internet service provider to operate his web site.

Case 6—One of the perpetrators of the 1999 shootings at Columbine High School in Littleton, Colorado, Eric Harris, had posted a series of online threats dating back to early 1998 (16). The parents of the boy who received the messages notified the county sheriff's department eight times that year and complained about Harris's threats against their son. After Harris chipped the windshield of his victim, he created a computer game revolved around destroying his classmate's house and also created a web site featuring a death threat against him. One of these messages read, "I can't wait until I can kill you people. I'll just go to some downtown in some big city and blow up and shoot everything I can."

Discussion

Cyberspace law encompasses safety issues on the Internet, such as hate or cyberhate crimes. As widespread use of the Internet continues to rise, the prevalence of crimes in cyberspace is expected to rise accordingly. Statistics accumulated by the Southern Poverty Law Center reveal that 60% of hate crimes are monitored by thrill seekers, 35% by turf defenders, and 5% by hate organizations (8). Hate groups such as the Ku Klux Klan, Stormfront, Will of the Aryan Nation, White Aryan Resistance, and Women for Aryan Unity are propagating hate information through their sites on the World Wide Web and various links between the sites. Hate organizations and individuals alike are communicating hate information and committing cyberhate crimes.

As in cyberstalking, the Internet provides a medium in which perpetrators of hate crimes are offered anonymity. Multiple anonymous remailers allow communication to the masses while concealing the identity of the sender. Computer access in public domains also hides a perpetrator's location. Hate groups can "convene" on the Internet, often incurring less financial expense by eliminating the need for a geographic meeting place.

The absence of geographical borders in cyberspace may complicate the application of territorial legal doctrine. In the case of Bernard Klatt and the Charlemagne Hammer Skinheads, since the crimes were committed in different countries, the authorities were unable to control the future operation of the web site. Since the Internet is worldwide, convictions become more difficult because it

must be determined whose laws apply and whether extradition can be accomplished.

Since the Supreme Court struck down the Communications Decency Act of 1996, and it was determined that the First Amendment applies to the Internet, the distinction between hate information and hate crime must be made. While freedom of speech applies to hate speech and propaganda, hate crimes are not protected by the First Amendment. In addition, each nation's laws must be applied to the case at hand. For example, in the case of Felix Somm, the head of the German division of Compuserve, while the distribution of neo-Nazi propaganda is illegal in Germany, it may be legal in other nations. Hate organizations, such as Stormfront and the Ku Klux Klan, are careful in their wording of hate information on their web sites. Hate material is frequently disseminated in a subtle manner with innuendo in order to avoid violation of anti-hate crime laws. It is clear that threatening behavior, as in cases of cyberstalking (17), is illegal on the Internet. Had Eric Harris's online threats and hate material, in retrospect, been considered as serious criminal offenses when reported to local authorities, perhaps Harris could have received the appropriate retribution or treatment and possibly could have avoided the consequences of mass murder and suicide at Columbine High School.

Mental health professionals can play an important role in the assessment of perpetrators of cyberhate. Forensic mental health professionals, in particular, can be involved in the psychiatric assessment of perpetrators in a court psychiatric clinic. Understanding a defendant's motivation for committing hate crimes can play a pivotal role in the criminal adjudication process. Often forensic psychiatrists and psychologists are asked to determine whether psychiatric factors were involved in a crime. The forensic mental health professional who understands the Internet and the potential for cyberspace crimes, such as cyberhate, can offer pertinent information to the legal proceedings.

Various means for intervention of cyberhate crimes are available. Federal and local law enforcement agencies can establish hate crimes task forces to battle cyberhate criminals. In addition, law enforcement officials can be specifically trained to recognize and handle such cases appropriately. National hate crimes registries can monitor closely hate crimes on the Internet. Organizations, such as the Anti-Defamation League, the Southern Poverty Law Center and its division Klanwatch, and the Militia Task Force, are groups devoted to detection of hate crimes, including cyberhate. Locally, education outreach and community regional awareness programs can help identify cyberhate. Specific examples of intervention include highlighting victim impact on web sites and training educators, such as teachers and librarians to identify hate sites on the World Wide Web. In addition, anti-hate curricula can be introduced into schools. Finally, the creation of anti-cyberhate web sites, such as www.civilrights.org, www.hatewatch.org, and antiracist.org can serve as instruments in combatting cyberhate crimes within the very medium in which they thrive.

Conclusions

As the Internet gains widespread exposure internationally, the prevalence of crimes on the Internet becomes an unavoidable reality. Consequently, hate crimes are being channeled through a new medium known as cyberspace. This paper presents six illustrative cases of cyberhate crimes, pertinent legal issues, and current modes of intervention. The forensic psychiatrist must gain an understanding of the hateful minds of perpetrators of cyberhate and may be of considerable assistance in evaluating these cases.

References

1. Section 280003(a) of the Violent Crime Control and Law Enforcement Act of 1994, P.L. 103-322.
2. Hate Crimes Statistics Act of 1990, P.L. 101-275.
3. Juvenile Justice and Delinquency Prevention Act of 1974, as amended in 1992, P.L. 93-415; 42 U.S.C. 5601 ET SEQ.
4. Hate Crimes Sentencing Act of 1994, 28 U.S.C. 994 note.
5. Church Arsons Prevention Act of 1996, P.L.104-155.
6. Bennet J. Clinton convenes conference on hate crimes. *New York Times* 1997 Nov. 11; Sect. A14(N).
7. Hate Crimes Prevention Act of 1998.
8. Federal Bureau of Investigation. Hate Crime Statistics 1996.
9. Southern Poverty Law Center. The year in hate. Hate group count tops 500, Internet sites soar. *Intelligence Report*. Fall, 1998.
10. Lorek LA. Since Oklahoma City bombing, some Internet sites featuring hate materials shut down, others flourish. *Fort Lauderdale Sun-Sentinel* 1995 May 11.
11. *U.S. v. Machado*, No. SACR 96-142-AHS (S.D. Ca. 1998).
12. Rosenzweig D. Man charged in sending hate e-mail to Latinos across the U.S. *Los Angeles Times* 1999 Jan 2; B1.
13. Cowell A. Head of German web sentenced for pornography. *New York Times* 1998 29 May;A3(N).
14. Middleton G. B.C. Man Spins 'Net Nazis' Web. www.antiracist.com; 23 23 March 1998
15. Canada tries to bar pro-Nazi view on Internet; can one nation regulate a web site based on another? *New York Times* 1998 2 Aug;8(N).
16. Biegel S. Reassessing the issue of online threats. *The UCLA Online Institute for Cyberspace Law and Policy*. 4 May 1999.
17. Deirmenjian JM. Stalking in cyberspace. *J Am Acad Psychiatry Law* 1999;27:407-13.

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