

# **Hate Crimes Law**

By Zachary J. Wolfe

**2025 Edition**

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## Highlights of Updates in the 2025 Edition

New features and recent developments in this edition include:

- The Ninth Circuit cited this treatise in holding that “the fact that the victims are from a protected group does not necessarily mean the defendant was motivated by animus toward that group,” where the appellant used Grindr to connect with his robbery victims. (*U.S. v. Patterson*, § 2:21)
- The Ninth Circuit also reversed a district court decision to apply the hate crime motivation sentence enhancement on a disparate impact theory, in a case involving a shooting at Planned Parenthood. (*U.S. v. Chamberlin*, § 2:21)
- Despite consistent precedent, defendants continue to challenge the constitutionality of the Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act. Such challenges were rejected by the trial court in a prosecution under § 249(a)(1) involving the racially motivated shooting at a Tops Grocery Store in Buffalo, New York (*U.S. v. Gendron*, § 3:4) and by the Ninth Circuit in a prosecution under § 249(a)(2) involving a shooting motivated by anti-gay bias in Basin, Montana (*U.S. v. Howald*, § 3:5)
- In post-trial litigation in the lawsuit arising out of the 2017 Unite the Right events in Charlottesville, Virginia, the Fourth Circuit reviewed the damages award, upholding joint-and-several liability but reversing and remanding to recalculate damages after holding that the state statutory punitive damages cap applied to the hate crime statute but should be calculated on a per-plaintiff basis and the district court erred in reducing the punitive damages award to a total of \$350,000 for all plaintiffs collectively. (*Sines v. Hill*, § 8:14)
- The Illinois statutory definition of disorderly conduct, which includes making a false police report, meant that a woman had stated a claim under the Illinois Hate Crime Act (in which disorderly conduct is a listed offense) against a car dealership when its employees called the police to report that plaintiff had attempted to purchase a car with a fraudulent check, despite earlier speaking with plaintiff and the issuing bank, allegedly motivated by animus against the plaintiff because of her race. (*Crockett v. WKM Auto., Inc.*, § 4:3)
- Where a complaint by fire academy recruit alleged that he was assaulted with a noose and the fire district covered it up, the allegations stated a claim of conspiracy under 42 U.S.C.

§ 1985 sufficient to survive a motion to dismiss but the court cautioned that the plaintiff would have to prove that the cover-up was “because of” race. (*Page v. Clark Cnty. Fire Dist. 6*, § 8:7)

- Fully updated case law, statutes, and statistics.

Westlaw Database Identifier: HATECRIMES

## About the Author

### Zachary J. Wolfe

Zachary J. Wolfe is a professor, attorney, and author in Washington, DC. An honors graduate of the George Washington University Law School (J.D.) and the University of California at Santa Cruz (B.A. Politics), he also attended the Oxford/George Washington University International Human Rights Law Programme. While attending George Washington University Law School, he was the managing editor for “The Environmental Lawyer” and founded the National Lawyers Guild, GWU Law School Chapter. Professor Wolfe has clerked for the Migrant Legal Action Program, the National Labor Relations Board, and a labor law firm. In 2000, he joined the Partnership For Civil Justice, Inc., as a staff attorney, litigating complex civil matters involving discrimination, consumer rights, and Constitutional torts. Since 2005, he has devoted himself to teaching and writing, as a professor at GWU, where he teaches advanced legal writing courses as well as a first-year writing course. He also has served in various administrative capacities for GWU’s University Writing Program. Professor Wolfe is admitted to practice before the U.S. Supreme Court and the D.C. Circuit Court of Appeals, and is a member of the District of Columbia bar and associate member of the Virginia bar.

Professor Wolfe actively participates in a wide range of professional conventions, scholarly conferences, and community fora. His publications likewise range from legal treatises and scholarly journal articles to broadly accessible newsletter articles and advocacy pieces. He is a frequent author of *amici curiae* briefs for a wide range of organizations, in addition to academic journal articles.

For Thomson Reuters, in addition to this publication, Professor Wolfe is the updating editor for *Sexual Orientation and the Law*.



## Preface

This handbook provides a practical guide to hate crimes laws. While the final product is immediately useful to attorneys and even accessible to lay advocates, it is a result of comprehensive analysis of the federal and state statutes that have been enacted to address the problem of hate or bias-motivated crime, the cases that have applied and interpreted those laws, civil law that might be invoked in incidents of hate offenses, and the complex dynamics between legislators and advocates on all side of this controversial and developing area of law. When this project was begun in the mid 1990's by the original author, Lu-in Wang, she believed that a treatise on the subject would be useful in helping to sort out developments in the law because the problem of hate crime was on the rise and the law related to this type of crime was growing steadily and was constitutionally uncertain. Since the 2008 release, Zachary Wolfe has brought his considerable expertise to the handbook, providing detailed analysis of the whirlwind of activity in this area of the law.

Beyond annual updates, the book was substantially reorganized for the Second Edition to be more useable for practitioners and to reflect the evolution of hate crime law. That reorganization reflected that today, especially compared with when the treatise was first released, the constitutional limits surrounding hate crime as a concept are relatively clear and the existence of hate crime laws is hardly novel, although a relatively recent federal hate crime law raises new and distinct constitutional and federalism questions. Most significantly, the content has been reorganized and structured around types of events and circumstances that more closely match real-world cases. Additional content provides due attention to hate crimes in the workplace and at universities, elementary, and secondary schools, and addresses the importance of civil litigation. This organization also allows for seamless integration of new developments with each year's release.

The public is increasingly aware of the concept of hate crimes, leading to extensive policy debates whenever apparent hate crimes gain media attention. Attitudes of acceptance appear to be gaining ground, but hate groups are increasing in number and activity. Even as some still question the wisdom of hate crimes laws, others seek to expand the groups protected and the types of conduct reached.

Definitive resolution of these and other debates will not be quick in coming. However the legislatures and courts resolve them, one thing is certain: This area of law will continue to grow and change.

A note about usage: The language of identity is at least as dynamic as the law that is the subject of this text. Please understand that the prose in this book may use the terms for groups that are generally preferred at the time of writing, or it may adopt the language of the courts or other source being discussed.



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