Mean Streets: Violence against the Homeless and the Makings of a Hate Crime

Raegan Joern

Follow this and additional works at: https://repository.uchastings.edu/hastings_race_poverty_law_journal

Part of the Law and Race Commons

Recommended Citation

Raegan Joern, Mean Streets: Violence against the Homeless and the Makings of a Hate Crime, 6 HASTINGS RACE & POVERTY L.J. 305 (2009).

Available at: https://repository.uchastings.edu/hastings_race_poverty_law_journal/vol6/iss2/4

This Note is brought to you for free and open access by the Law Journals at UC Hastings Scholarship Repository. It has been accepted for inclusion in Hastings Race and Poverty Law Journal by an authorized editor of UC Hastings Scholarship Repository. For more information, please contact wangangela@uchastings.edu.
Mean Streets: 
Violence Against the Homeless 
and the Makings of a Hate Crime

RAEGAN JOERN*

Introduction

On January 12, 2006, a surveillance camera in Fort Lauderdale, Florida, caught two teenagers in the act of beating a homeless man in an unprovoked attack.1 In the footage, the victim, later identified as Jacques Pierre, attempted to defend himself while his assailants beat him with baseball bats.2 The recorded assault on Jacques Pierre was one in a string of three violent attacks against homeless people committed that night by three teenagers acting together.3 The attacks left two homeless men hospitalized, including Jacques Pierre, and a third homeless victim, Norris Gaynor, dead.4 After the incidents, the Fort Lauderdale footage quickly spread across national media, igniting public outrage and drawing legislative attention to what looked like attacks on homeless people for no reason other than sport.5

* Raegan Joern is a 2009 Juris Doctor candidate at the University of California, Hastings College of the Law. Prior to law school, Raegan worked for six years in San Francisco supportive housing programs. She would like to thank her former clients and the clients and staff at the General Assistance Advocacy Project for inspiring this piece. She would also like to thank the outstanding members of the Hastings Race and Poverty Law Journal and her family, especially her husband, Jacob Schultz.


5. Linda Kleindienst, Beatings of Homeless Spur Sentencing Bill; Proposal Intends to Toughen Penalties, SUN-SENTINEL, Jan. 26, 2006, at 4B.
The Fort Lauderdale surveillance footage finally drew public attention to a disturbing trend that was affecting the nation’s homeless long before 2006. In 1999, the National Coalition for the Homeless (“NCH”) began documenting incidents of hate crime and violence against the homeless in order to foster public and governmental awareness of this growing problem. Each year, the NCH releases its data in an annual report. The annual reports gather and compile information related to violent crimes committed against the homeless, excluding crimes committed by the homeless on the homeless, in order to specifically capture data about those acts which may be defined as hate crimes. Like the Fort Lauderdale attacks, most of the violent crimes documented by the NCH since 1999 were committed by offenders with no prior connection to the victim. The data shows a pattern of violence whereby the offender arbitrarily, but intentionally, chose the victim because he or she was homeless.

Crimes committed against homeless people because they are homeless are, by definition, hate crimes. NCH data shows a level of violence against homeless people that has prompted some homeless advocates to call the violence “epidemic.” Between the years 1999 and 2006, the NCH documented 189 murders of homeless people and 425 incidents of non-lethal attacks on homeless people spanning 44 states. Many of the attacks were gruesome and displayed a strong animosity towards the victim. These cases included such reprehensible acts as: killing a wheelchair-bound homeless man by setting him on fire in Spokane, Washington; beating a homeless man to death and then smearing feces on his face in Milwaukee.

---


7. NAT’L COALITION FOR THE HOMELESS, supra note 6, at 12-3.
8. Id.
10. NAT’L COALITION FOR THE HOMELESS, supra note 6, at 25.
Wisconsin; and killing a sleeping homeless woman by pushing her off a dock into the river below in Nashville, Tennessee.\textsuperscript{11}

The nature and prevalence of hate crimes against the homeless is alarming, but equally alarming is the likelihood that this epidemic is much worse than the data shows. A significant portion of violent crime against the homeless goes unreported.\textsuperscript{12} The homeless hesitate to report crime due to a tenuous relationship in many communities between law enforcement and homeless people.\textsuperscript{13} A slow response on the part of the public and state legislatures to identify these crimes against the homeless as hate crimes results in a lack of law enforcement attention to and awareness of the problem.\textsuperscript{14} And a deficit of public, governmental and law enforcement attention to discriminatory violence against homeless people reinforces the perception that homeless victims cannot rely on protection under the law.\textsuperscript{15}

The rise in hate crimes committed against homeless individuals requires public and legislative attention. Legislatures should respond by adding homeless or housing status to the list of characteristics that receive protection under hate crime statutes.\textsuperscript{16} Almost every state has a statute that punishes hate crime.\textsuperscript{17} The scope of state hate crime statutes differ, but every hate crime statute specifically addresses crimes committed for bias reasons, contains an intent standard which focuses on the intent of the offender in committing the crime, and specifies a list of protected victim characteristics.\textsuperscript{18} Adding homeless status to the list of characteristics protected by hate crime statutes is a necessary means of deterring violence against the homeless.

\begin{itemize}
  \item 11. See Assoc. Press, Disabled Homeless Man Who Was Set on Fire in Spokane Dies, SEATTLE TIMES, June 27, 2006, at B3 (death of Douglas R. Dawson); Fantz, supra note 3 (death of Rex Baum); Kate Howard, Two Men Arrested in Homeless Woman’s Death, THE TENNESSEAN, Aug. 25, 2006, at 1A (death of Tara Cole).
  \item 12. NAT’L COALITION FOR THE HOMELESS, supra note 6, at 7.
  \item 13. Id.
  \item 15. See NAT’L COALITION FOR THE HOMELESS, supra note 6, at 9.
  \item 16. This Note does not maintain that every crime with a homeless victim will be a hate crime. Rather, certain crimes against the homeless fit a definition for hate crimes and it is those crimes that should be protected by hate crime law. The definition of a hate crime will be discussed in greater detail in Part III of this Note.
\end{itemize}
Protecting homeless status will communicate a normative social value that homeless people's lives matter to society and are guaranteed safety under the law. This legislative message will deter crime by discouraging would-be offenders, encourage homeless victims to report crime, and enable law enforcement to better identify and address violence against the homeless that is motivated by bias.

A handful of state legislators have already introduced legislation in response to hate crimes against the homeless. In 2006, Maine became the first state to pass a homeless protection bill. The bill allows a judge to stiffen penalties for a violent crime if the offender chose the victim because he or she was homeless. Legislation has been introduced to amend existing hate crime law and protect homeless status in Alaska, California, Florida, Maryland, Massachusetts, Nevada, Ohio and Texas. For example, proposed California Senate Bill 122 would add homeless status to an existing state hate crime statute which covers "criminal acts committed, in whole or in part, because of" gender, nationality, race, ethnicity, religion, sexual orientation or disability. State legislators should be commended for introducing legislation to protect homeless people. But legislative bodies must respond in kind, as the Maine legislature did, by enacting the introduced legislation to better protect homeless individuals from hate crime.

This Note advocates for the inclusion of homeless status to hate crime law. This Note begins, in Part II, with a brief overview of the history of hate crime law in the United States. Part III defines the term hate crime and applies the definition to crimes committed against the homeless, where the offender's motivation for choosing the victim is the victim's homeless status. Part IV discusses the social context that perpetuates negative stereotypes and fuels biases against homeless people, drawing from two specific examples: the criminalization of homelessness and a video series entitled, Bumfights. Part V analyzes homeless status as a characteristic, deserving of inclusion under hate crime law. Lastly, Part VI of this

Note examines the purpose of hate crime statutes, which is to redress the unique harm associated with hate crimes, and finds that protecting homeless status under hate crime law aligns with this purpose. This Note concludes with the recommendation that government respond to hate crimes against the homeless by protecting homeless status under hate crime law. Not only is this affirmative step necessary to increase protection of homeless people, but it will socially condemn violence committed against those who are most vulnerable in society.

I. A Brief Legal History of Hate Crime Law: Congress, State Legislature and Courts

The first law to resemble a modern hate crime statute was passed by the United States Congress in 1968. The 1968 civil rights statute, 18 U.S.C. § 245(2) (1968), made interference with an individual's exercise of certain federally protected activities by force, threat or intimidation on the basis of "race, color, religion or national origin" a punishable offense. The emergence of hate crime policy reflected in the 1968 statute expanded significantly in the 1980s and 1990s. This expansion was due in part to a convergence of advocacy efforts on the part of civil rights movements and the crime victims' movement. During this time, hate crime policy developed a statutory framework for identifying and punishing crime motivated by bias. Federal and state governments passed legislation to expand the domain of characteristics protected by hate crime statutes, enhance sentences for hate crimes and mandate law enforcement training. Today, almost every state has some type of legislation that identifies and punishes hate crime.

In 1990, Congress enacted the Hate Crime Statistics Act ("HCSA"). The HCSA was the first federal law to use and define the term "hate crime." Under the Act, a hate crime is a crime, "that manifest[s] evidence of prejudice based on race, religion, sexual

25. See generally JENNESS & GRATTET, supra note 14 (detailing the emergence of hate crime policy as a governmental response to hate crime).
26. Id. at 31, 156.
27. Id.
28. Id.
29. ADL, supra note 17.
31. JENNESS & GRATTET, supra note 14, at 44.
Four years after the HCSA was passed, Congress added disability to the list of characteristics enumerated in the Act. The purpose of the HCSA is to compile empirical data about hate crimes from local law enforcement agencies across the country that may be used to inform policy making. HCSA does not provide enhanced penalties for hate crimes or legal recourse to hate crime victims. Instead, the HCSA mandates that the United States Department of Justice collect national hate crime data, which is released every year by the Federal Bureau of Investigation’s Uniform Crime Reporting Program (“UCR”).

In 2006, the FBI received reports from local law enforcement of 9,080 criminal offenses that were motivated by bias against a particular race, religion, sexual orientation, ethnicity, national origin, or disability. This number is significant, yet the HCSA has been criticized by some as incapable of accurately reflecting hate crime incidents that occur in the United States each year. Local law enforcement participation in the UCR is voluntary, therefore a number of local agencies do not participate in the UCR and hate crime statistics from those jurisdictions are not captured in the FBI’s annual report. In addition, local law enforcement agencies do not apply a uniform definition of hate crime. One agency may identify a crime as a hate crime that another agency would not identify as such, yielding inconsistent results. Given the possible discrepancies in reporting, it is likely that national hate crime incidents are much higher than those reported to the FBI’s UCR.

Four years after the HCSA, Congress passed the Hate Crimes

32. Id.
33. ADL, supra note 17.
34. See 28 U.S.C. § 534 (1990); JENNESS & GRATTET, supra note 14, at 44.
35. JENNESS & GRATTET, supra note 14, at 44.
39. Discounting Hate, supra note 38.
40. Id.
41. Id.
Sentencing Enhancement Act. \(^\text{42}\) The Act added a Hate Crime Motivation provision to the United States Sentencing Guidelines to impose enhanced penalties for hate crimes. \(^\text{43}\) The provision increases the sentence of a defendant who “intentionally selected any victim or property as the object of the offense of conviction because of actual or perceived race, color, religion, national origin, ethnicity, gender, disability or sexual orientation of any person.” \(^\text{44}\) The Guidelines also include a “vulnerable victim” provision that enhances a defendant’s sentence when a “defendant knew or should have known that a victim of the offense was a vulnerable victim.” \(^\text{45}\) “Vulnerable victim” is defined as a person who is, “unusually vulnerable due to age, physical or mental condition or who is otherwise particularly susceptible to criminal conduct.” \(^\text{46}\) The “vulnerable victim” sentence enhancement is less than the enhancement for a hate crime. \(^\text{47}\) The Hate Crime Motivation provision is also limited to defendants who have been found guilty of a federal crime. \(^\text{48}\)

In response to hate crime, state legislatures have enacted hate crime statutes of their own. The first state hate crime laws were adopted in 1981, and almost every state has followed with hate crime legislation since then. \(^\text{49}\) All state hate crime statutes criminalize, enhance penalties, or amend an existing statute to punish crime motivated by bias towards a victim because of a protected characteristic. \(^\text{50}\) Some state statutes expand the domain of protected characteristics beyond the “core” hate crime characteristics of race, ethnicity, nationality, religion, gender, sexual orientation and disability, to include such characteristics as political opinion, age, creed, or marital status. \(^\text{51}\)

Courts have played an important role in the development of hate crime law as well. \(^\text{52}\) In 1992, the United States Supreme Court decided the case *R.A.V. v. St. Paul*. \(^\text{53}\) At issue in *R.A.V.* was a local
ordinance used to punish a racially motivated cross burning.\textsuperscript{54} The ordinance was drafted to punish speech that the offender knew would “arouse anger, alarm, or resentment” in others based on “race, color, creed, religion, or gender.”\textsuperscript{55} Nine justices invalidated the ordinance under the First Amendment because it was overbroad.\textsuperscript{56} A five-justice majority also held that the ordinance violated the First Amendment because it prohibited only certain “fighting words” which the city found particularly offensive.\textsuperscript{57} The ordinance was unconstitutional because it punished “otherwise permitted speech solely on the basis” of the idea the speech expressed.\textsuperscript{58} The \textit{R.A.V.} decision invalidated any state hate crime law where the offense was tied solely to an idea expressed and questioned the validity of many others.\textsuperscript{59}

One year after \textit{R.A.V.}, another type of state hate crime statute was affirmed when the Court unanimously upheld a Wisconsin penalty enhancement statute.\textsuperscript{60} The Wisconsin statute at issue in \textit{Wisconsin v. Mitchell}, enhanced the penalty of a crime if the defendant intentionally selected the victim, “because of the race, religion, color, disability, sexual orientation, national origin or ancestry of that person.”\textsuperscript{61} The Court held the statute was constitutional because it prohibited bias-inspired conduct, rather than speech.\textsuperscript{62} The Court distinguished the statute in \textit{R.A.V.}, which punished expression, from one that punished conduct motivated by bias.\textsuperscript{63} The defendant’s motive was a permissible consideration, just as it is permissible in criminal sentencing and anti-discrimination law.\textsuperscript{64} In addition, the Court acknowledged a state interest in enhancing the penalty for conduct which inflicts “greater individual and societal harm,” recognizing that “bias-motivated crimes are more likely to provoke retaliatory crimes, inflict distinct emotional harms on their victims, and incite community unrest.”\textsuperscript{65} After the Court’s validation of the Wisconsin penalty enhancement statute, many states

\textsuperscript{54} \textit{Id.} at 379-80.
\textsuperscript{55} \textit{Id.} at 380.
\textsuperscript{56} \textit{Id.} at 397 (White, J., concurring).
\textsuperscript{57} \textit{Id.} at 390-92.
\textsuperscript{58} \textit{Id.} at 381.
\textsuperscript{59} Levin, supra note 52, at 9.
\textsuperscript{60} Wisconsin v. Mitchell, 508 U.S. 476, 479 (1993).
\textsuperscript{61} WIS. STAT. § 939.645(b) (1989-90).
\textsuperscript{62} Mitchell, 508 U.S. at 487.
\textsuperscript{63} \textit{Id.}
\textsuperscript{64} \textit{Id.} at 485-87.
\textsuperscript{65} \textit{Id.} at 487-88.
drafted hate crime laws that modeled the statute at issue in *Mitchell*.

**II. Crimes Against the Homeless Whereby the Offender Selects the Victim Because of Homeless Status are Hate Crimes by Definition**

A hate crime is a discriminatory crime whereby an offender intentionally targets the victim because of “actual or perceived membership in a particular group” of people. Generally, from the perspective of the offender, a hate crime victim is interchangeable as long as he or she shares the group characteristic. The victim usually will have no pre-existing relationship to the offender that could give rise to a motive for committing the crime other than bias.

An example of how the definition of a hate crime may be written into law is the Federal Hate Crimes Sentencing Enhancement Act of 1994, which defines a hate crime as a crime where, “the defendant intentionally selected any victim or any property as the object of the offense of conviction because of the actual or perceived race, color, religion, national origin, ethnicity, gender, disability, or sexual orientation of any person.” A hate crime is distinguished from a parallel crime — the same crime committed without bias — by the offender’s motivation for committing the criminal act. All hate crime laws consider the intent of the offender to be an integral part of the making of a hate crime.

Two distinct, yet overlapping, analytical models for crafting hate crime statutes exist: the “discriminatory selection model” and the “racial animus model.” Both models distinguish a hate crime from a parallel crime by the offender’s motivation for selecting the victim.

---

66. Levin, *supra* note 52, at 6, 11.
67. *Id.* at 6-7.
68. LAWRENCE, *supra* note 38, at 14.
69. *Id.*
71. LAWRENCE, *supra* note 38, at 4 (the author uses the term “parallel crime” for a similar crime which lacks a bias motivation).
victims. In addition, both models do not punish motive alone — the prohibited motive must manifest in an illegal act committed against the victim to constitute a hate crime. Although similar in some respects, the integral difference between the discriminatory selection model and racial animus model is the criteria that each model uses to assess whether or not the motive of the offender constitutes the requisite motive for a hate crime.

The discriminatory selection model identifies a hate crime, "on the basis of the offender's discriminatory selection of the victim, regardless of why the selection was made." The motive required by the discriminatory selection model is that the offender intentionally selects the victim because of a characteristic protected by statute, such as race, or like the crimes at issue here, homeless status. The reason why the offender makes the intentional selection based on a characteristic, such as race or homeless status, is irrelevant. The discriminatory selection model does not require that the offender be motivated by hate or hostility towards the protected group. For example, homeless individuals may be targets of hate crimes because offenders believe that their homeless status makes them more vulnerable and therefore, easy to victimize. Under a discriminatory selection model, these acts are hate crimes because the offender intentionally selected the victim based on a belief about the victim's homeless status. It does not matter that the offender selected the victim because of perceived vulnerability instead of hatred or hostility. All that matters is that the offender discriminated against the victim by selecting him or her on the basis of homeless status.

Unlike discriminatory selection, the racial animus model, "focuses attention on the reason for discriminatory selection" of a victim. To commit a hate crime under the racial animus model, the offender must be motivated to harm the victim by animus, or hostility, towards the group that shares the actual or perceived

74. Id.
76. Grattet & Jenness, supra note 18.
77. Id. at 687.
78. Id. (for purposes of analysis, assume that states have enumerated homeless status as a protected characteristic under hate crime law).
79. LAWRENCE, supra note 38, at 30.
81. Id.
82. Grattet & Jenness, supra note 18, at 688 (emphasis added).
characteristic of the victim protected by statute. For example, homeless individuals may be targets of hate crime because offenders perceive them as worthless and deserving of victimization. Offenders may be hostile towards the homeless because they believe the homeless are to blame for their own condition. The offenders' hostility is fueled by a perception that the homeless refuse to “fit in” to cultural norms and choose to live as social outcasts. This hostility exists in a social context, discussed in more detail below, which deems the homeless worthy of scorn and victimization. Under an animus model, these acts are hate crimes because the reason the offender selected a homeless victim was animus or hostility toward homeless people.

As illustrated in the examples above, crimes against homeless individuals may fall under either a discriminatory selection or an animus model, but the discriminatory selection model is becoming the dominant model in hate crime legislation. The Wisconsin statute, upheld by the Court in Wisconsin v. Mitchell, uses a discriminatory selection model. Partly in response to Mitchell, and a desire to write statutes that would withstand constitutional challenge, most states have drafted hate crime statutes similar to the statute in Mitchell. Under these statutes, a crime is a hate crime if the offender was motivated to act “because of” a characteristic protected by the statute. The language, “because of,” has been consistently interpreted to require a motive of discriminatory or intentional selection. Animus may certainly be evidence that an offender intentionally selected a victim “because of” a protected characteristic, but animus motive is not required. In the majority of states, if homeless status were enumerated in hate crime law as a protected characteristic, the intentional selection of a victim because

---

83. LAWRENCE, supra note 38, at 34-35; Grattet & Jenness, supra note 18, at 687-88.
84. TODD DEPASTINO, CITIZEN HOBO: HOW A CENTURY OF HOMELESSNESS SHAPED AMERICA 247-71 (The Univ. of Chicago Press 2003) (2003) (discussing how homeless men are perceived as “non-masculine” because they are considered failed breadwinners and how “poor people who reject or are rejected by the nuclear family face a gruesome existence where the protections and immunities of citizenship do not include housing” at 271).
85. See Grattet & Jenness, supra note 18, at 689 (comparable analysis for the racial animus model applied to crimes against person with disabilities).
86. LAWRENCE, supra note 38, at 30.
87. Grattet & Jenness, supra note 18 at 692.
88. Mitchell, 508 U.S. at 489; see Wis. STAT. § 939.645(b) (1989-90).
89. Grattet & Jenness, supra note 18, at 690; Levin, supra note 52, at 11.
90. Grattet & Jenness, supra note 18, at 691-92.
91. Id.
92. See LAWRENCE, supra note 38, at 35-39.
he or she is homeless would make a crime a hate crime. Hate crimes are often termed "bias crimes" because a discriminatory selection model does not require that an offender be motivated by hate.\textsuperscript{93} From this point on, this Note will use the term "bias crime" instead of hate crime, because the term better represents the motive required by law.

National Coalition for the Homeless data shows an increase, since 1999, in crimes committed against homeless victims whereby the perpetrator intentionally selected the victim because they were homeless.\textsuperscript{94} Bias crimes against the homeless are committed by a variety of perpetrators, including members of organized white supremacist groups motivated by hostility towards homeless people.\textsuperscript{95} Yet, possibly the most disturbing of these bias crimes, and those which draw media attention, are crimes committed against the homeless by thrill-seeking youth. A thrill-seeking offender may commit a crime because of boredom, the search for a psychological thrill, or a desire to impress his or her peers.\textsuperscript{96} Under the discriminatory selection model, these crimes are bias crimes if the thrill-seeker specifically chooses to target a homeless victim for thrill-seeking because he or she is homeless.\textsuperscript{97} Thrill-seekers may be motivated to select a homeless victim because of a belief that homeless people are more vulnerable, deserving of humiliation, or that the offender is less likely to get caught if the victim is homeless.\textsuperscript{98} A thrill-seeker may exhibit animus towards homeless people in the selection of a homeless victim as well, but the intentional selection of a victim because he or she is homeless is sufficient by itself to make the thrill-seeking crime a bias crime in most states.\textsuperscript{99}

Some critics of adding homeless status to bias crime statutes

\textsuperscript{93} See Dobbins, 605 So. 2d at 925; LAWRENCE, supra note 38, at 9.

\textsuperscript{94} NAT'L COALITION FOR THE HOMELESS, supra note 6, at 25.


\textsuperscript{97} See LAWRENCE, supra note 38, at 73-79 (discussion of the nexus between the "Violent Show-Off" and the racial animus motivation requirement).

\textsuperscript{98} Id.; NAT'L COALITION FOR THE HOMELESS, supra note 6, at 12-13.

\textsuperscript{99} See LAWRENCE, supra note 38, at 73-79. This example again hypothetically assumes that states have enumerated homeless status as a protected characteristic under hate crime law.
argue that homeless people are targets of violent crime because their lack of secure housing makes them available targets, rather than intentional targets. In In re M.S., the Supreme Court of California addressed the issue of how much an offender needs to be motivated by a protected characteristic when selecting a victim for the crime to constitute a bias crime under California law. The California bias crime statute had a “because of” motivation requirement similar to the statute upheld in Mitchell. The statute enhanced the penalty for a criminal act “committed, in whole or in part, because of one or more of the actual or perceived” characteristics of the victim protected by the statute. The Supreme Court of California held that “because of” required a causal connection between the perpetrator’s bias and the criminal conduct, but recognized that a perpetrator may have more than one reason for selecting a victim. The court interpreted the statute’s “because of” motivation requirement to mean that the prohibited bias must be a “substantial factor in the commission of the crime” but did not require that it be the sole reason for committing the crime.

Applying the holding of In re M.S. to bias crimes against the homeless, it is not necessary that crimes committed against the homeless be solely motivated by bias to constitute a bias crime. As long as homeless status is a substantial factor in the perpetrator’s selection of the victim, the crime is a bias crime. Therefore, a perpetrator’s motivation to target homeless people because they are available, does not necessarily bar the crime from being classified as a bias crime. The perpetrator may have a mixed motive and still be culpable for a bias crime under a “because of” statute. For example, a perpetrator may vandalize a homeless person’s property because it is readily accessible. In this way, the perpetrator’s motivation is simply opportunistic and unrelated to the victim’s homeless status. However, under In re M.S., if, for example, a substantial reason for choosing to vandalize a homeless person’s property is, in addition to opportunity, the perpetrator’s belief that he or she won’t be caught because homeless people do not deserve the

100. Mock, supra note 96.
103. Id.
104. In re M.S., 10 Cal. 4th at 716.
105. Id.
106. Id.
107. Id.
108. Id.
full protection of the law, the criminal act would be a bias crime.\textsuperscript{109}

III. Criminalization and \textit{Bumfights}: Two Examples of the Social Context that Facilitates Bias Against the Homeless

Bias crimes stem from a prejudice or prejudices towards the victim.\textsuperscript{110} Prejudices may be fueled by negative stereotypes about the group of which the victim is a member.\textsuperscript{111} The prejudice underlying a bias crime offender’s motivation does not exist in a vacuum, but is bred by a social context that identifies a certain group of people as suitable victims.\textsuperscript{112} Like the social contexts that breed prejudice against other groups protected by bias crime law, society shares prejudices against the homeless that identify them as acceptable targets for aggression.\textsuperscript{113}

Generally, changes in public policy, such as welfare reform, which has shifted focus from financial support to emphasize return to work, and a decrease in funding for social service programs across the country, illustrate a growing intolerance and frustration with the poor. But two specific examples best exemplify the social context that breeds negative biases against the homeless. First, policies that respond to homelessness by criminalizing activities necessary to homeless survival foster the stereotype that the homeless are criminals, deserving of punishment and undeserving of protection.\textsuperscript{114} Second, popular culture, such as the video series, \textit{Bum Fights}, depicts homeless people as degenerates, endorses their objectification and glorifies harassment of the homeless for sport.\textsuperscript{115} These examples,

\textsuperscript{109} Id.
\textsuperscript{110} LAWRENCE, supra note 38, at 11.
\textsuperscript{111} Id.
\textsuperscript{112} Wang, supra note 48, at 1413.
\textsuperscript{113} See id.; NAT’L COALITION FOR THE HOMELESS, supra note 6, at 12-13.
\textsuperscript{115} CBS, supra note 97; Aimee Molloy, Degradation Inc., N.Y. TIMES MAG., Aug. 6, 2006, at 16.
discussed in more detail below, facilitate biases against homeless people by sending a message to offenders that the homeless are suitable targets for victimization.

A. Policies that Criminalize Homelessness Breed the Stereotype that Homeless People are Criminals, Worthy of Social Scorn

Over the past twenty-five years, cities have increasingly relied on the criminal justice system to respond to the issue of homelessness. Every major city in the United States has passed anti-nuisance and quality of life laws that target the homeless. Quality of life laws make certain life-sustaining activities, such as eating, sleeping, sitting, panhandling, and storing belongings in public space, illegal. Law enforcement “sweeps” city streets, the sole purpose of which is to cite the homeless for occupying public space. Facial neutrality disorderly conduct or loitering statutes are selectively enforced against homeless individuals. At the same time that municipalities criminalize activities associated with homelessness, they fail to provide services to assist the homeless, including adequate shelter. The unavailability of appropriate shelter leaves homeless people with little alternative but to occupy public space and break the law.

The criminalization of homelessness contributes to a negative perception of the homeless. If a homeless individual violates a quality of life statute, law enforcement may issue them a citation. A homeless individual will almost certainly be unable to pay the citation and a failure to pay will lead to arrest. The consequences, for homeless people, of jail time and a criminal record are grave,

116. NLCHP, supra note 115, at 8-9; see also Donald Saelinger, Note, Nowhere to Go: the Impacts of City Ordinances Criminalizing Homelessness, 13 GEO. J. POVERTY LAW & POL’Y 545, Fall 2006 (for an overview of criminalization policies and effects on the homeless across the country).
117. NLCHP, supra note 115, at 14-18, 135-45.
118. Id.
119. Id. at 9, 14-18.
120. Id. at 8, 14-18.
121. Id.
122. NAT’L COALITION FOR THE HOMELESS, supra note 6, at 13, 77.
124. Id.
affecting eligibility for employment and public benefits. The resulting barriers to accessing a stable income only perpetuate a cycle of homelessness and lead to further criminalization.

Criminalization policies do not address the structural problems that cause homelessness, but they do require significant city resources, and they cost the homeless even more. Criminalization of activities associated with homelessness marks homeless people as criminals for merely trying to survive. By marking the homeless as criminals, criminalization policies also mark them worthy of social scorn. In addition, criminalization contributes to underreporting of violent crime by homeless victims because it creates distrust between homeless communities and the police. If a homeless person has a warrant out for his or her arrest because of an unpaid quality of life citation, he or she will be less likely to report bias crime to the police. And the discriminatory enforcement of facially neutral laws results in law enforcement harassment of homeless people, rather than protection. Not only do criminalization policies devalue homeless people and mark them as appropriate victims, they also leave the impression that an offender will not be punished for the commission of a crime if the victim is homeless.

B. Popular Videos, Accessible on the Internet, Facilitate Negative Biases Against the Homeless by Portraying Homeless People as Objects that May be Abused and Harassed for Entertainment

A significant number of bias crimes against the homeless are committed by youth offenders. In 2006, 84 percent of those arrested and accused of violently attacking the homeless were under the age of 25 years old, and 62 percent were youth between the ages of 13 and 19. In 2007, three boys were arrested in Daytona, Florida for attacking a homeless man, two of whom were as young as ten years old. One of the ten-year-old boys hit the homeless victim in the face with a cinder block, causing severe injury. Like the attacks in

125. Id.
126. Id. at 6-8.
127. Id. at 7.
128. Id. at 16-19.
129. NAT’L COALITION FOR THE HOMELESS, supra note 6, at 17.
131. Id.
Daytona and Fort Lauderdale, many of the violent crimes documented by the NCH were committed by middle-class, teenage boys who had no previous criminal record, acted together as a group and cited boredom or fun as their motivation for committing the crime.\(^\text{132}\)

The rise in "sport killing" of the homeless among young people has been attributed in part to a video series called *Bumfights*.\(^\text{133}\) The first *Bumfights* video, "Cause for Concern #1," was released in 2002 and three installments have followed.\(^\text{134}\) On the video homeless people, plied with small amounts of cash and alcohol, fight one another in front of the camera and engage in such self-destructive behavior as lighting their hair on fire, branding themselves, eating frogs, and pulling out their own teeth with pliers.\(^\text{135}\) The *Bumfights* series has been very successful and has a wide audience. The series earned $600,000 within six months of being featured on "The Howard Stern Show" in 2002 and has sold over 300,000 copies.\(^\text{136}\) After the success of the first video, the creators sold the rights to the series for 1.5 million dollars.\(^\text{137}\)

Videos like *Bumfights* have turned the homeless into a "vogue target."\(^\text{138}\) In *Bumfights* fashion, videos of homeless people fighting one another, shot by amateur "filmmakers," can be found on the Internet. One popular video character, *The Bum Hunter*, models himself after "The Crocodile Hunter."\(^\text{139}\) He dresses in safari gear and "hunts" homeless people as if they were prey.\(^\text{140}\) The video shows him surprise attacking homeless people in their sleep, duct taping their mouths, tying them up, netting them and throwing them into the back of a van.\(^\text{141}\) In one scene, *The Bum Hunter* ties a homeless man to a tree, rips off his shirt and scrubs him with a mop,

\(^{132}\) Fantz, *supra* note 3.


\(^{135}\) Id.

\(^{136}\) Id.

\(^{137}\) Id.

\(^{138}\) CBS, *supra* note 97.

\(^{139}\) Id.; Squires, *supra* note 135.

\(^{140}\) Id.

\(^{141}\) See Video: *The Bum Hunter*, http://www.youtube.com/watch?v=kzVBgsB6OoU (last visited Apr. 7, 2009) (for an example of one of many Bum Hunter videos that can be viewed on YouTube).
“for the good of society.” 142 The Bum Hunter videos are easily accessible and free on YouTube. 143 Posted on the site are numerous comments from viewers which display a disturbing animosity towards the homeless people in the videos. 144

Inspired by these scenes, teens set out on “bum hunting” missions of their own. 145 Attacks on the homeless across the country have been linked to teenagers who watched Bumfights. 146 In May 2005, four teenagers, ages fourteen to eighteen, beat a fifty-three-year-old homeless man named Michael Roberts to death with their fists, sticks, and a two-by-four in Holy Hill, Florida. 147 The offenders came across Mr. Roberts in the woods while they were smoking marijuana. 148 They returned to the woods three times to continue beating Mr. Roberts until he was dead. 149 When asked why they had committed the crime, the offenders stated they had done it for fun and because they had nothing to do. 150 One of the four teenagers convicted of killing Roberts, Jeffrey Spurgeon, told Ed Bradley of 60 Minutes that he and his friends watched Bumfights hundreds of times prior to the killing. 151 And in February 2007, a twenty-two-year old man and two teenagers planned and filmed themselves beating a homeless man in Corpus Christi, Texas. 152 On the tape, the attackers can be seen kicking the homeless man and showing off his injuries to the camera. 153

The portrayal of homeless people in the Bumfights videos is degrading and damaging. Rufus Hannah, a homeless man prominently featured in the first Bumfights video, sued and settled a lawsuit against the filmmakers for emotional and physical damages connected to the film. 154 Hannah stated that he was never sober
during the filming and received at most ten dollars per stunt. Videos such as *Bumfights* and *The Bum Hunter* dehumanize homeless people and exploit them for entertainment. The videos reflect a social context that portrays homeless people as acceptable targets for harassment, humiliation, and violence. Youth who are inspired by these videos commit bias crimes against the homeless when they intentionally seek out a victim, based on biases about homeless status, for harassment or attack.

**IV. Homeless Status is a Characteristic That Deserves Inclusion Under Bias Crime Law**

A bias crime is distinct from a parallel crime because it is, "motivated by a specific, personal, and group-based reason: the victim’s real or perceived membership in a particular group." Bias crime statutes account for "membership in a particular group" by specifying a list of protected social statuses or characteristics. The "core" characteristics protected by the first state and federal bias crime statutes were race, religion, color and nationality. These characteristics reflect "the oldest, most established, and most recognized axes of oppression." In the late 1980s bias crime domain, or the breadth of characteristics covered by bias crime statutes, expanded to include sexual orientation, gender and disability. The most common characteristics covered by state and federal statute reflect not only, "the oldest, most established, and most recognized axes of oppression," but also the corresponding social movements that advocated for the adoption of bias crime policy to protect groups of people who shared those characteristics.

In the book, *Punishing Hate: Bias Crimes Under American Law*, Frederick M. Lawrence proposes a two-part analysis for determining which characteristics should fall within the scope of bias crime law. First, bias crime statutes should protect characteristics that,

---

158. *JENNESS & GRATTE*, *supra* note 14, at 48-54, 94-98.
159. *Id.* at 162.
160. *Id.* at 54-70, 97-98.
161. *Id.* at 158-62.
162. *LAWRENCE*, *supra* note 38, at 12.
“yield self-regarding groups” and not “random collections of people.” 163 In other words, “do the discriminators and those discriminated against understand themselves to be members of a group?” 164 Second, “characteristics that yield self-regarding groups” should be protected when the legislature determines that they “implicate social fissure lines, divisions that run deep in the social history of a culture.” 165 An inquiry into social divisions need not be limited to national issues; state bias crime statutes may address characteristics that implicate deep social divides on a local level. 166

Following the two-step analysis, homeless status is a characteristic that should fall under the scope of bias crime law. As discussed in more detail below, homeless status is a characteristic which society and the homeless themselves identify as that of a “self-regarding group.” Violence and discrimination against the homeless is increasing and gaining visibility in a way that implicates social divisions and requires governmental response, albeit the social divisions do not run as deep as some other characteristics protected under bias crime law, such as race. 167

Ryken Grattet and Valerie Jenness’s article on the inclusion of disability as a protected characteristic under bias crime law, Examining Boundaries of Hate Crime Law: Disabilities and the “Dilemma of Difference,” states that, “for a group to be recognized under hate crime law . . . some portion of society [must] view such a collection of people as an identifiable group of persons who, to some degree, maintain a collective identity.” 168 Grattet and Jenness define collective identity as, “common interests, experiences, and solidarity.” 169 Like persons with disabilities, homeless people make up a self-regarding group with a collective identity. By its very nature, homelessness is a characteristic that is apparent and identifiable by the rest of society because it forces people to live in the public domain. Homeless people share common experiences that are unique to the daily struggle to survive without access to secure housing, storage for personal belongings, economic resources, food and water. Advocacy organizations and coalitions, which include homeless members, identify issues specific to the homeless

163. Id.
164. Id.
165. Id.
166. Id. at 13.
167. Grattet & Jenness, supra note 18, at 682.
168. Id.
169. Id.
community.\textsuperscript{170} Publications, written and distributed by homeless people, advance a “homeless perspective.”\textsuperscript{171}

In addition, homeless people have been recognized as a class in court in order to bring suit against city policies that adversely affected or discriminated against them as a group because they were homeless.\textsuperscript{172} A Florida court in one such case, Pottinger v. City of Miami, found that homelessness was an involuntary status.\textsuperscript{173} Legally recognizable status implies an identifiable group characteristic. The Pottinger decision held that because homelessness was an involuntary status, arresting the homeless for performing life-sustaining acts associated with that status, such as sleeping, sitting or eating in public, was cruel and unusual punishment.\textsuperscript{174} Pottinger followed a United States Supreme Court opinion, Robinson v. California, which invalidated a California statute that made addiction to narcotics a criminal offense.\textsuperscript{175} The Court held that the California statute violated the Fourteenth Amendment because punishing someone for their “status” as a drug addict was cruel and unusual punishment.\textsuperscript{176} The recognition of homelessness as a status, as well as legal action brought by homeless people as a class, supports a conclusion that homeless people make up a self-regarding group. Homeless status is an appropriate characteristic for inclusion in bias crime law because it identifies a specific group of people and not a “random collection of people.”\textsuperscript{177}

The second part of Lawrence’s analysis, which focuses on social divisions, is grounded in the purpose of bias crime statutes, which is, in part, to “protect frequently victimized groups.”\textsuperscript{178} In their article on the inclusion of disability under bias crime law, Grattet and Jenness state, that unlike other characteristics included in bias crime law for which there is “ample evidence of a long term pattern of discrimination and violence,” documentation of disability as a factor

\begin{itemize}
  \item \textsuperscript{171} \textit{Id.}
  \item \textsuperscript{172} See Pottinger v. City of Miami, 810 F. Supp. 1551 (S.D. Fla. 1992); see also Tullah v. City and County of San Francisco, 846 F. Supp. 843 (1994).
  \item \textsuperscript{173} Pottinger, 810 F. Supp. at 1562-65.
  \item \textsuperscript{174} \textit{Id.} at 1564.
  \item \textsuperscript{175} Robinson v. California, 370 U.S. 660, 677-78 (1962); Pottinger, 810 F. Supp. at 1562.
  \item \textsuperscript{176} Robinson, 370 U.S. at 666-67.
  \item \textsuperscript{177} Lawrence, \textit{supra} note 38, at 12.
  \item \textsuperscript{178} \textit{Id.} at 18.
\end{itemize}
in discriminatory violence had only just begun. Although the documented history of discrimination against persons with disabilities was not as deep as other bias crime characteristics, emerging research on violence against the disabled and the passage of the Americans with Disabilities Act, which recognized a pattern of unequal treatment, were evidence that visibility of violence against persons with disabilities had become a public problem which required governmental response.

Similar to disability, homelessness or homeless status is a characteristic about which there is not as much “evidence of a long term pattern of discrimination and violence” as other characteristics protected by bias crime law. But, like disability, documentation and visibility of discrimination and violence against the homeless is growing. The National Coalition for the Homeless started documenting bias crimes against the homeless in 1999 as a response to growing reports of victimization of homeless people. From 1999 to 2005, the NCH documented 169 murders of homeless people, a figure over twice that for bias-motivated murders documented in the FBI’s UCR Program for all the HCSA protected characteristics combined. Media coverage of bias crime and violence targeting the homeless has increased, portraying violence against the homeless as a public problem. Media sources such as 60 Minutes, CNN, the New York Times, and the Los Angeles Times have all covered the rise in bias crimes against the homeless. And at least eight states have responded to the growing visibility of violence against the homeless by introducing bias crime legislation that would provide further protections to homeless individuals.

Hate crimes against the homeless have occurred in at least 44 states and are a national problem that deserves national attention, but the quantity of violence in certain states implicates even deeper social divides. Forty-eight of the 144 violent attacks and murders against homeless people in 2006, including some of the most disturbing and

179. Grattet & Jenness, supra note 18, at 683.
180. Id. at 684-85.
181. See id.
183. NAT’L COALITION FOR THE HOMELESS, supra note 6, at 26.
184. See Assoc. Press, supra note 153; CBS, supra note 97; Fantz, supra note 3; Green, supra note 21.
185. Id.
186. Green, supra note 21.
187. LAWRENCE, supra note 38, at 13; NAT’L COALITION FOR THE HOMELESS, supra note 6, at 12.
violent episodes, occurred in Florida. The high prevalence of violence against the homeless in certain localities makes this issue even more pertinent for governmental response. Like disability, a growing awareness and response to violence against the homeless, especially in certain states, implicates social divisions.

Some characteristics protected by bias crime law, such as race, gender and sexual orientation, are immutable or unchangeable. But there is no legal requirement that the characteristics protected by hate crime law be immutable. Some state statutes protect political opinion, marital status, creed or military service, none of which are immutable. Religion, a core characteristic of hate crime legislation, is not immutable either, but undoubtedly deserves inclusion under hate crime law given the deep history of discrimination against people based on religion. No one would reasonably expect a person to avoid discrimination by giving up his or her religion. Homelessness is also not an immutable characteristic, but like religion, it is unreasonable to expect that a homeless person could give up homelessness to avoid discriminatory violence. Homelessness is, in almost every case, involuntary, caused by a myriad of issues including physical and mental illness, a deficit of affordable housing and shelter space, circumstances that aggravate an individual’s ability to find employment, increased social isolation and a lack of social support.

Ultimately, the choice whether or not to include a characteristic in bias crime law is value-driven. Society condemns discriminatory violence against vulnerable groups and makes a normative statement about social values by punishing discriminatory violence against certain people. The choice whether or not to add a characteristic to bias crime law is a policy choice. Homeless status is an appropriate characteristic for inclusion under bias crime law because homelessness is an identifiable group characteristic, for which homeless people are increasingly experiencing violence and discrimination. By adopting a policy that protects

---

188. NAT'L COALITION FOR THE HOMELESS, supra note 6, at 21, 24.
189. See LAWRENCE, supra note 38, at 17-20 (for an interesting discussion of immutability applied to inclusion of sexual orientation under bias crime law).
190. JENNESS & GRATTET, supra note 14, at fig. 4.6, 96.
191. LAWRENCE, supra note 38, at 19.
192. See generally Pottinger, 810 F. Supp. 1551 (S.D. Fla. 1992) (for a discussion of factors that lead the Florida court to find homeless status was involuntary).
193. LAWRENCE, supra note 38, at 19.
194. Lawrence, supra note 157, at 225.
homeless people against bias crime, the government will send an important message — that preying on the homeless is condemned. Conversely, a failure to protect homeless status under bias crime law, especially in states where the social division is deep, will also send a message that the government does not consider bias crime against the homeless a grave enough social harm to warrant protection.  

V. The Harm Caused by Bias Crimes Against the Homeless Can Only be Redressed by Protecting Homeless Status Under Bias Crime Law

In Wisconsin v. Mitchell, the United States Supreme Court recognized a state interest in identifying and punishing bias crimes more harshly than parallel crimes because bias crimes "inflict greater individual and societal harm." First, bias crimes are more likely than parallel crimes to involve excessive violence, multiple offenders, serial attacks, and cause greater psychological trauma to the victim. Second, bias crimes have a ripple effect on people that share the same characteristic for which the victim was singled out by the offender, causing fear in the entire community and lessening trust that they will be protected by society. Third, bias crimes inflict a public injury because they are more likely to spur copycat crimes and retaliation than parallel crimes. Finally, bias crimes injure the public by offending our social morals and belief that all citizens should be guaranteed protection and safety regardless of their identity. Like bias crimes committed against groups already protected by bias crime law, bias crimes committed against the homeless inflict harm on each of these levels. The addition of homeless status to bias crime statutes will align with the purpose of bias crime law, which is to punish the offender in proportion to the harm caused and redress the injury to the individual, the individual's community, and the public.

The harm caused to a homeless victim of bias crime is

196. Lawrence, supra note 157, at 225 (discussing how bias crime law sends a social message by which characteristics are excluded, as well as included).
198. Levin, supra note 52, at 15.
199. LAWRENCE, supra note 38, at 63.
200. Levin, supra note 52, at 18.
201. Id. at 18-19.
202. LAWRENCE, supra note 38, at 45-51; Levin, supra note 52.
substantial. Reports of bias crime committed against the homeless show a pattern of excessive violence which includes: severe beating, inhumane treatment, setting the victim on fire and murder. In addition, much of the violence against homeless people is committed by multiple offenders acting as a team, hindering the victim’s ability to defend him or herself. Like other victims of bias crimes, homeless victims also experience enhanced emotional and psychological trauma associated with bias crime.

In general, many bias crime victims suffer from Post Traumatic Stress Syndrome ("PTSD") as a result of the crime. The psychological trauma to victims of bias crime lasts longer than trauma to victims of other kinds of crime, but can be abated with appropriate care. The harm experienced by homeless victims of bias crime may be extensive given the difficulty of obtaining appropriate treatment for injuries. Psychological trauma may be exacerbated by a lack of access to low-cost medical and mental health treatment, transportation, and secure housing. Prolonged, untreated trauma may also affect a homeless individual’s ability to gain stable housing and employment, thereby perpetuating a cycle of homelessness.

Bias crimes against homeless individuals cause harm to the entire homeless community. Due to the nature of bias crimes, whereby a victim is intentionally, but randomly chosen because he or she is homeless, an attack on one homeless person will increase a fear of victimization among other homeless people. At least one homeless community has responded to the increased threat of violence, by establishing a tent city to provide a “safe zone of mutual protection.” A heightened sense of vulnerability will further marginalize and socially isolate homeless communities from the rest of society. In addition, bias crime against homeless individuals will increase mistrust of law enforcement in the homeless community because they will not feel protected, adding to an underreporting of bias crime.

203. See Nat’l Coalition for the Homeless, supra note 6 at 6.
204. Id.; Fantz, supra note 3.
206. SOR, supra note 14, at vii-viii.
207. Id.
208. Lawrence, supra note 38, at 63; Levin, supra note 52, at 15-19.
209. Mock, supra note 96.
211. Levin, supra note 52, at 15-19.
Bias crime against the homeless also inflicts public harm because it offends society’s moral belief that those who are most vulnerable in society deserve protection and the guarantee of safety. The Fort Lauderdale surveillance footage caused outrage because the public was offended by the notion that some in our society would attack the homeless for no other reason than sport. In Maine, a representative of the state governor stated that the legislation passed there, providing specific protection to homeless people, sent a message that Maine would not tolerate those that prey on the most vulnerable citizens in the community, the homeless.

Passing bias crime legislation to redress the harm caused by discriminatory violence against homeless people is in the state’s interest. The state has an interest in punishing bias crimes against the homeless because the severity and breadth of harm caused by bias crime is significant. In addition, the state has an interest in preventing homelessness. Emotional and physical trauma caused by bias crime will inhibit a homeless victim’s ability to secure stable housing and employment. The state also has an interest in deterring crime and fostering public safety. Protecting homeless status under bias crime law will encourage homeless communities to report crime and law enforcement to pursue bias crime offenders. Finally, the state has an interest in reflecting society’s cultural values and norms through the development of criminal law. Adding homeless status to bias crime law will rightly condemn violence against the homeless and begin to redress the public harm caused by these crimes.

Bias crime against the homeless can only be appropriately addressed with legislation that adds homeless status as a protected characteristic under bias crime laws. Vulnerable victim enhancements, like that in the United States Sentencing Guidelines, may be another way to redress harm caused by bias crimes against the homeless, but are an imperfect response. The federal vulnerable victim provision provides for a sentence enhancement if the defendant knew or should have known the victim was vulnerable due to “age, physical or mental condition,” or “is otherwise particularly susceptible to criminal conduct.” Homeless people may be covered under this provision because a lack of secure housing

212. See id. at 17-18.
213. Kleindienst, supra note 5.
215. See LAWRENCE, supra note 38, at 210.
216. Id.
makes them “particularly susceptible to criminal conduct.” \(^{219}\) Yet protecting homeless people under a vulnerable victim provision will fail to address the harm caused by bias crime. \(^{220}\) Homeless people are not targeted because they are considered “weaker;” they are targeted because they are homeless. \(^{221}\) Vulnerable victim provisions cannot respond to the prejudice evident in bias crimes against the homeless.

**VI. Conclusion**

Crimes against the homeless, whereby the offender selects the victim because of homeless status, are bias crimes. The epidemic of discriminatory violence targeting the nation’s homeless mandates legislative response. Protecting homeless status, as an enumerated characteristic under bias crime law, is a necessary means of deterring future bias crime against the homeless and preventing the harm caused by bias crime. Legislative action alone may not change the social prejudices and biases that label homeless people as deserving targets for aggression, but only legislative action can provide the necessary legal framework to protect homeless people from discriminatory violence. In addition, criminal sanction carries with it a powerful social condemnation. \(^{222}\) By formally condemning bias crime against the homeless, the law will send a message that intolerance, which takes the form of violence, is not acceptable, and that homeless lives matter just as much as any other.

---


221. *Id.* at 1419.

222. Lawrence, *supra* note 157, at 225.