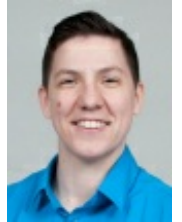


Hate crime laws don't do enough to address bias or to improve the status of minority groups.

 blogs.lse.ac.uk/usappblog/2016/12/07/hate-crime-laws-dont-do-enough-to-address-bias-or-to-improve-the-status-of-minority-group

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Since 1978, out of the fifty states, forty-five have passed some kind of hate crime statute. But do such laws actually lead to beneficial social change for minority groups? Comparing newspaper article coverage of gays and lesbians in states with and without hate crime protections for sexual orientation, [Jace Valcore](#) argues that hate crime laws have generally failed to address bias against and improve the status of minority groups. In addition, hate crime laws, which involve punishment and guilt, may be the least beneficial way to achieve sufficient social change.

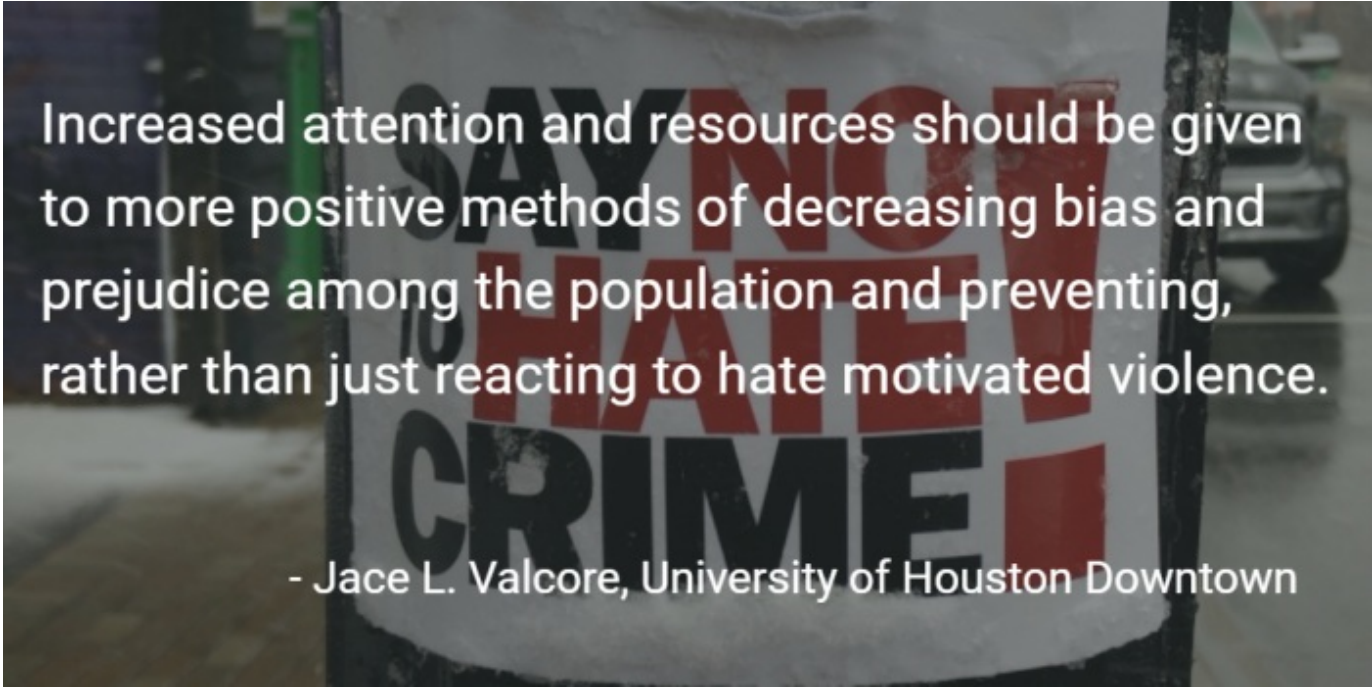


Hate crime laws may not generate positive impacts for protected social groups, such as gays and lesbians, and may even damage their social or political status. The line that perhaps best sums up the relationship between prejudice and public policy in the United States comes from hip hop artist Macklemore in his song [Same Love](#): “No law is gonna change us. We have to change us.”

The necessity and purpose of hate crime laws in the US is an [unsettled debate](#). Early proponents of hate crime laws in the United States argued that passing laws which specifically criminalize bias-motivated crimes would promote social equality and social justice. The assumption was that states with hate crime laws were sending an important symbolic message regarding prejudice; that bias or hate-motivated violence would not be tolerated and would be taken seriously by the criminal justice system. It was also contended that hate crime laws would allow for a historically racist, sexist, and bigoted legal system to remedy itself by placing positive, rather than negative, attention upon minorities and treating the victims of such crimes with respect. In essence, it is assumed that hate crime laws can prevent bias-motivated crimes and improve the social and political status of minority groups.

In contrast, opponents of hate crime laws have long argued that the laws violate American citizen's rights to free speech and unnecessarily criminalize thoughts and beliefs. It was predicted that the laws [may actually increase intergroup conflicts](#) and resentments held by members of dominant social groups by giving special treatment or attention to some types of victims and not others. Contemporary critics contend that criminal laws cannot solve social issues like bias or prejudice toward minority groups, and that putting hate crime offenders in prison may increase, rather than decrease, their hatred.

Arguably, the first state hate crime law was passed in California in 1978. Over the next two-three decades, the majority of US states followed suit, many of them passing statutes that echoed a model hate crime law developed by the [Anti-Defamation League](#). A combination of external and internal pressures upon a state's legislature, including the strength of interest groups, issue salience, and political party conflict, have been identified as factors determining whether or not a state would pass a hate crime law, and what the scope and breadth of that law would be. As victim's rights and civil rights groups gained momentum and national pressures increased, [it became more likely that states would implement hate crime legislation](#).



Increased attention and resources should be given to more positive methods of decreasing bias and prejudice among the population and preventing, rather than just reacting to hate motivated violence.

- Jace L. Valcore, University of Houston Downtown

Today, [forty-five out of fifty US states](#) have a criminal statute which specifically addresses crime motivated by bias or prejudice toward the victim's real or perceived social identity. Most states list the exact identities, or bias categories, that are protected. For instance, all forty-five states allow for hate crimes to be prosecuted if the offender's bias is based upon race, religion, or ethnicity/national origin. There is wide variation for other categories, such as disability, gender, gender identity, and sexual orientation. Despite the fact that the [LGBT population experiences](#) a disproportionate amount of hate victimization and is subject to the most violent and severe hate crimes, [only thirty states](#) allow for a hate crime charge when a crime is committed because of the victim's real or perceived sexual orientation. While this variation is troubling, it allows researchers to examine the impact that a hate crime law may, or may not, have upon included social groups.

One way to examine and track the social and political status of a specific social group is to analyze news media coverage of them over time. Comparing newspaper article coverage of gays and lesbians in states with and without hate crime protections for sexual orientation revealed that hate crime laws sometimes have a [negative impact](#) upon included social groups and may actually result in decreased social and political status. At the time the law was implemented, the status of gays and lesbians in Colorado (2005), Texas (2001), and Tennessee (2000) was generally positive. But over the next five years, the group in Texas and Tennessee experienced a decrease in their social status and continued to be discussed and depicted negatively in news coverage. Only in Colorado did gays and lesbians continue to improve their social and political status and gain additional positive policy gains such as same-sex marriage, second-parent adoption, and anti-discrimination laws. [Sexual minorities have long been viewed and treated as deviant or criminal](#) in the US. Finding that hate crime laws may fail to improve their status does not mean we can assume that hate crime laws similarly fail to have positive impacts upon other social groups.

Sexual orientation and the rights of citizens who identify as LGBTQ are still contested in many families, towns, and states across the US. There is no doubt that sexual minorities have gained civil rights and government protections while simultaneously improving their social and political status over the past few decades, but there continues to be backlash from religious groups and social conservatives. For example, despite the ruling of the [US Supreme Court in Obergefell v Hodges \(2015\)](#) that same-sex couples are entitled to the same rights and privileges of marriage as heterosexual couples, the State of Texas is [currently contesting a court ruling](#) regarding municipal employee benefits in the city of Houston, arguing that a federal court ruling does not bind state courts to rule in favor of same-sex marriage in all cases.

One form of public [policy is insufficient for achieving social change](#), and criminal laws, which involve punishment,

shaming, and guilt, may be the least beneficial. In addition to, or perhaps in place of, criminal laws, increased attention and resources should be given to more positive methods of decreasing bias and prejudice among the population and preventing, rather than just reacting to, hate motivated violence and property damage. We know that bias and prejudice are not innate, but are learned attitudes and behaviors. [Age-appropriate lessons](#) about our country's history of abuse and violence toward minority groups and discussions about the negative impacts of bias and prejudice can raise a generation of citizens that is empathetic, understanding, and culturally competent. Training programs for professionals working in the criminal justice system and related fields can [address personal biases](#) and help ensure that when hate crimes do occur, they are [taken seriously](#) and victims are not further harmed by the system. Sentencing policies can be changed so that rather than just sending a hate crime offender to prison, they are given sentences that involve [restorative justice practices](#), diversity training, educational programming, and cognitive behavioral therapies that specifically address the source of their prejudice and work to eradicate it.

This article is based on the paper, 'How Hate Crime Legislation Shapes Gay and Lesbian Target Groups', in Criminal Justice Policy Review.

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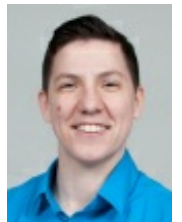
Note: This article gives the views of the author, and not the position of USAPP – American Politics and Policy, nor the London School of Economics.

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Jace L. Valcore, PhD is an Assistant Professor of Criminal Justice at the University of Houston Downtown in Houston, Texas. Their research focuses on equity and equality in criminal justice and social policy, specifically in regards to the LGBTQ population. Their most recent publication, discussed here, appears in *Criminal Justice Policy Review*.



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