

# COMMONWEALTH OF PENNSYLVANIA

COUNTY OF YORK

**H. Stanley Rebert**  
DISTRICT ATTORNEY



COURT HOUSE  
28 EAST MARKET STREET  
YORK, PENNSYLVANIA 17401  
TEL. 771-9600

House Judiciary Committee  
Special Task Force on Hate Crimes, Terrorism and Arson  
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Main Capitol Building-Room 140  
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To THE HONORABLE JERE SCHULER  
and DISTINGUISHED MEMBERS OF THE COMMITTEE

I am Jonelle L. Harter, Senior Deputy Prosecutor, from the office of H. Stanley Rebert, District Attorney of York County. I have been a prosecutor for eight years and a judicial law clerk for one year prior to my full time employment in the district attorney's office. I am a graduate of the Dickinson School of Law and the Pennsylvania State University.

York County has the dubious distinction of having the highest number of active organized hate groups in the Commonwealth. With eighteen known groups, York has almost three times the number of such groups found in larger counties such as Philadelphia and Allegheny, despite a much smaller minority population than those urban counties. We are a microcosm of the state in terms of diversity, size and crime. We are a third class county with a population of 339,574 (per Census of 1990). Our city has a population of 43,000. Of that 43,000, 30,707 are white; 9,030 are black; 2,976 are Hispanic and 2,500 are other nationalities. (per Census of 1990). We have high adult and juvenile crime rates, we have an extensive drug trafficking problem and attendant crime.

We have typical suburban areas and an increase in those areas as the southernmost part of our county increasingly becomes a bedroom community for Baltimore. We also have vast rural areas and a large farming community. In those rural areas there has been a real or perceived openness to hate groups. At least one farmer has rented his property for a gathering of a white supremacist group associated or affiliated with the Aryan Nation. That gathering was well attended.

It is difficult to say why there is a small yet persistent presence of persons who are purveyors of hatred information and why conditions are right for these groups to have gained a foothold in York County. In response to every overt act of hatred or racism, there has been a larger group reaction which condemned these acts, nonviolently, peacefully and publicly. When a local religious group was the target, an ecumenical unity service was held and was well attended. When a disturbance occurred in Hanover which was purportedly linked to the

distribution of white supremacist literature, a community unity group, Hanover United, was formed. The response has always been quick. But the solutions -i.e. How do we prevent this? and Why are we fertile ground for such groups?-have been elusive.

As compared to other crimes, hate crimes are rare. Yet they occur with some regularity. A case which drew national attention occurred in our county in February 1995. Detective Robert Soop, who will speak after me, investigated that crime and will address it in detail. In that case, individuals purchased a pig's head at a county farmer's market and hung it on the door of the Ohev Sholom Synagogue, located in Springettsbury Township. The crime was committed in the early morning hours of Saturday, February 18, 1995. Congregants arrived for morning worship to find their synagogue desecrated in an acutely offensive manner. The incident was immediately reported to the Springettsbury Township Police, who solved the crime with a paucity of initial leads. Such is the difficulty of solving and prosecuting such crimes; as crimes of cowardice, they often occur under cover of night. Co-conspirators keep a vow, spoken or unspoken, of secrecy.

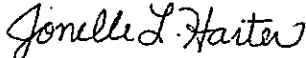
It is important to note that a change to the language of the Ethnic Intimidation statute might be called for to insure successful prosecution of such cases. In the Ohev Sholom case, we came perilously close to losing the Ethnic Intimidation charge which was based on an underlying charge of Harassment (18 Pa. C.S. Section 2709). As you are probably aware, Ethnic Intimidation requires the commission of an underlying crime of offenses against the Person (Chapter 27) or against Property (Chapter 33). Many times the underlying offense is Harassment, which is used as a catch-all where no more specific offense is appropriate. Harassment, by definition, requires "a course of conduct" which alarms or seriously annoys such other persons and which serves no legitimate purpose. A "course of conduct" is further defined as "a pattern of actions, composed of more than one act, over a period of time, however short, evidencing a continuity of conduct." 18 Pa. C. S. 2709 (f). In the Ohev Sholom case, we closely survived a challenge that the single act of hanging a pig's head on a synagogue door did not constitute a course of conduct. We argued that the planning of the crime, the purchasing of the item and the actual hanging of the head were a course of conduct. We would suggest that the statute might be refined to permit prosecution for a **single act**, especially if a conspiracy is not evident.

Another noteworthy case was an Ethnic Intimidation/Harassment prosecution in which the victim was a Caucasian female. Ordinarily, one assumes that the victim of a hate crime will be a member of a minority. In this instance, in a crime which occurred in 1991, a white woman was physically assaulted in a tavern in a rural part of the county. Her white attackers indicated that she was the object of their abuse because she was with an African-American male, to whom they did not speak and to whom they did no physical harm. Counsel for the defendants sought a Writ of Habeas Corpus, arguing that the language of 18 Pa C. S. 2710 contemplated that the malicious intent be directed toward a victim of a **different** race, color, religion or national background than the person or group committing the crime. Indeed, while such a result would be absurd, the language of Section 2710 seems to require it, viz. A person commits the offense of Ethnic Intimidation if, with malicious intention toward the race, color religion or national origin **of another individual**, he commits an offense...**with respect to such individual** or his or her

of another individual, he commits an offense...with respect to such individual or his or her property or with respect to one or more members of such group or to their property. Again we withstood the Defendants' challenge for a dismissal, but such a situation could have been avoided had the statute been more clear. Perhaps an amendment to the statute could indicate that the evil that the legislature seeks to address is all crimes motivated by racial or religious hatred and that the specific ethnic composition of the victim versus the offender is irrelevant.

Law enforcement always advocates the passage of new acts which will serve as tools to fight crimes of hate and terrorism. House Bill 2484, sponsored by State Representative Dennis O'Brien, which permits an individual to be charged for possession, manufacture, transportation or use of a facsimile bomb will be a welcome addition to the arsenal of crime fighting legislation. While I am not aware of a circumstance to date in our county where such a charge would apply, it would be helpful to have the statute in place for the inevitable occurrence of such an event. Again, we are most appreciative of all attention that you as legislators direct toward crafting legislation which helps us do a better job fighting crime.

In closing I thank you for the opportunity to appear and I hope that my comments have given you some insight on hate crimes from the perspective of the prosecutors office. If I can provide any further information, I would be pleased to do so. Thank you.

  
Jonelle L Harter  
Senior Deputy Prosecutor