

# Hate Crimes Monitoring and Reporting

(From *EVERYDAY FEARS: A SURVEY OF VIOLENT HATE CRIMES IN EUROPE AND NORTH AMERICA*)

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## The Information Deficit

A first step in dealing with the larger phenomenon of violent hate crimes is to fill the information deficit about its full extent, the gaps in states' responses, and the protection required for those under threat. The response to the proliferation of hate crimes has been a mix of public and private outcry—often set against either official indifference or, worse, the continued use of xenophobia, prejudice, and racism as a political tool by some government officials. Too little attention has been paid to establishing official monitoring mechanisms and channels for public reporting on hate crime violence. Even as whole communities live in fear of their neighbors, daily incidents of threats and violence against people and property go unregistered, unnoticed, and unremedied by public authorities.

When a distinct group is targeted for discrimination, governments have an affirmative obligation to challenge discriminatory conduct through broad-based preventive action. When discrimination takes the form of threats of imminent violence—the focus of this report—governments must take prompt action to safeguard against such threats, prosecute crimes, and ensure that similar crimes do not recur.

Most European governments, however, still do not provide even basic reporting on the crimes of violence motivated by bias—even though timely, accurate, and public information on racist violence is an essential first step in developing effective actions to suppress it.

In addition, even where governments have agreed to monitor hate crimes there are a range of problems that limit the effectiveness of such reports. Much of this problem is the result of the restrictive terms of procedural guidelines that govern such reporting. Procedures may exclude particular groups from identification in formal reports, subsume coverage of their situation into broader categories of disaggregated statistics, or cover only a narrowly circumscribed subset of crimes motivated by bias. Hate crimes statutes also may apply only to discriminatory acts in narrowly defined circumstances (for example, if an attack motivated by bias occurs while the victim is exercising a federal right to vote), or to particular grounds for discrimination (for example, punishing discrimination by reason of race or ethnic origin, but not bias based on religion, gender, sexual identity, or disability).

Often, reporting by community-based organizations provides more comprehensive coverage of incidents affecting community members even when this reporting is not reflected in public reports or in official statistics issued by government bodies. The contrast between nongovernmental reporting, media reports, and reports available from official bodies is frequently stark, with government sources often either unavailable, highly misleading, or years out of date.

The use of statistics has been a tried and tested part of the fight against discrimination for many years, and is increasingly part of the effort by governments and civil society to combat hate crimes. The regular compilation and publication of statistics on hate crimes and incidents, disaggregated to identify

the particular groups affected, has become an acknowledged standard, although a majority of members of the Council of Europe and Organization for Security and Cooperation in Europe (OSCE) still do not meet this standard.

In 2002, the EUMC called upon member states to “install a reporting and monitoring system for racist crimes that is clear, consistent and accessible; maintain statistics on the treatment of racist crimes in the criminal justice system, from the police to the courts; ensure that monitoring categories for victims are disaggregated by race and religion; and publish annual reports on racist crimes.”<sup>1</sup>

Similarly, the Council of Europe’s anti-racism body, the European Commission against Racism and Intolerance (ECRI), in its General Policy Recommendation no. 1, *Combating racism, xenophobia, antisemitism and intolerance*, called on governments to “[e]nsure that accurate data and statistics are collected and published on the number of racist and xenophobic offences that are reported to the police, on the number of cases that are prosecuted, on the reasons for not prosecuting and on the outcome of cases prosecuted.”<sup>2</sup> ECRI has also consistently pressed for improved data collection in its periodic country reports.<sup>3</sup>

The EUMC’s March 2004 report on antisemitism in Europe, while focusing on government responses to anti-Jewish threats and violence, provides a good summary of the mechanisms now in place in the then-fifteen E.U. states for monitoring, reporting, preventing, and punishing hate crimes more broadly. In a detailed analysis of the shortcomings of monitoring and reporting in the E.U., the report highlights “the great differences between countries in the quality and quantity of the data.” The EUMC report found that most E.U. governments conduct no systematic monitoring of antisemitic incidents at all. It noted the inadequacy of the coverage of hate crimes in general in certain countries, including Austria, Belgium, Greece, Spain, Ireland, Luxembourg, Italy, Portugal, and Finland.

In contrast, reliable official or semi-official data on antisemitic incidents was collected and published, with some qualifications, in Germany (with reports on “extreme right wing and antisemitic offenses” produced by the Federal Ministries of the Interior and of Justice), France (by the National Consultative Commission on Human Rights), the Netherlands, Sweden (by the police), and the United Kingdom (by the Greater London police, and some other police authorities).

French law still prohibits the publication of hate crime statistics disaggregated by the racial or other characteristics of the victims, but its reporting on hate crimes has circumvented this restriction to some extent, distinguishing crimes that reflect antisemitic bias and bias against France’s largely Muslim population of North African (Maghreb) origin. Annual hate crime reports do not distinguish the *victims* as members of a particular ethnic or similarly discrete group; in their public iterations the reports simply distinguish these two categories of hate crimes based on the nature of the bias—as antisemitic or racist.<sup>4</sup> (See section on France.)

Official statistics and documentation on antisemitic violence in France today appear to provide a fairly accurate picture, a dramatic change since 2002, and the severity of anti-Muslim violence is well reflected, despite a general consensus that this is underreported. There is, however, virtually no official data publicly available on bias-motivated violence against the Roma, people of Sub-Saharan African origin, and members of other minorities. (See section on France.)

The report of a January 2003 seminar of the E.U.’s specialized anti-racism bodies, hosted by Belgium’s Centre for Equal Opportunities and Opposition to Racism, highlighted the importance of statistics and monitoring under the EC Racial Equality Directive. It expressed “major concerns” still present in some jurisdictions concerning its implementation. “In France for example it is argued that ethnic monitoring, and thus labeling citizens under certain categories, would infringe the constitutional guarantee that citizens are ‘one and indivisible.’” On the other hand, “[i]n Denmark, the Netherlands, Sweden and the United Kingdom, statistics are collected on the basis of voluntary self-identification of minorities.”<sup>5</sup> The ten countries that acceded to the E.U. in April 2004 are now bound by the same norms as the original member states, but few of them have adequate hate crimes and reporting systems in place.

In general, the approaches taken on the need for improved monitoring and data collection on hate crimes in ECRI’s country specific recommendations, the EUMC’s recommendations on improving data

collection, and the recommendations made in the October 2000 European Conference Against Racism are complementary. At the October 2000 meeting in Strasbourg, European governments made a strong commitment to improving efforts to document patterns of racist violence. The conference recommended the collection and publication of data on the number and nature of racist, xenophobic, or related incidents or offenses or suspected “bias crimes,” as well as information on prosecutions. Data were to be broken down to include information on the race, ethnicity, or descent (and gender) of the persons reported harmed, while being collected in accordance with human rights principles, and protected against abuse through data protection and privacy guarantees.<sup>6</sup>

The management of data collected by governments and private organizations concerning hate and bias crime requires meticulous and enforced safeguards.<sup>7</sup> The recommendations of the United Nations World Conference against Racism, like those of the Strasbourg Conference, reflect special concern for safeguards against the misuse of data in line with the highest standards of data protection and privacy guarantees.<sup>8</sup> ECRI’s 2004 recommendations in its third country report on Bulgaria, for example, reflect this balance:

ECRI strongly encourages the Bulgarian authorities to consider ways of establishing a coherent, comprehensive data collection system in order to assess the situation of the various minority groups living in Bulgaria and the scale of manifestations of racism and racial discrimination. Such a data collection system should comply with national law and European regulations and recommendations on data protection and the protection of privacy, as stated in ECRI General Policy Recommendation No.1 on combating racism, xenophobia, antisemitism and intolerance. When collecting data, the Bulgarian authorities should, in particular, make sure to respect the anonymity and dignity of the people questioned and the principle of full consent.<sup>9</sup>

### 1. Underreported and Unrecorded

The nature of the group under attack and its relation with local and national authorities goes some way into determining whether threats and abuses will be reported—and how the details of what is reported are recorded and acted upon. Members of immigrant communities, whether lawful permanent residents or those with either temporary or no lawful immigration status, may be more reluctant to report threats and abuse than members of other established minority groups. Because of their general distrust of authorities or real fears of deportation they often may fail to report even common crimes against themselves or their families. Members of other vulnerable groups—in particular members of sexual minorities—may also be less likely to have full confidence in either law enforcement or local political authorities, and thus may report only the most serious crimes.

Some groups may face cultural or social obstacles to reporting attacks and threats. Hate crimes that include sexual abuse of women may remain in the shadows because of cultural taboos, and attacks motivated by hatred or bias against lesbian, gay, bisexual, or transgender people may go unreported because to do so would bring into the light an individual’s sexual orientation. A ground-breaking 1995 study done for the Canadian Department of Justice addressed the issue of underreporting in this regard:

A central deficiency of all criminal justice statistics is that a proportion of incidents are never reported to the police. This proportion (known as the “Dark Figure” of crime) varies from offence to offence, and may run as high as 95 percent for certain crimes. There are several reasons to believe that the percentage of offences that are not reported to the police may be particularly high for hate crimes. First, victims may fear additional victimization. Second, victims of racially-motivated hate crimes may well be apprehensive that the criminal justice system will not take their reports seriously enough. Third, the sensitive nature of hate crimes directed at gays or lesbians may result

in the victim staying away from the police for fear of stigmatization on the basis of homophobia.<sup>10</sup>

Beyond these reasons for underreporting are shortcomings in the quality of data collection by governments. In researching antisemitic violence in Europe, Human Rights First, for example, found that the absence of systematic government data collection can offer a dangerously misleading picture of anti-Jewish violence—and other hate crimes. While the highest levels of violence were found where there was increasingly effective monitoring and reporting (in Germany and France), lack of information from many other countries obviously cannot be taken as evidence of a lack of problems there. Similarly, the EUMC's report on antisemitism found that it was not the *absence of anything to report* that led officials to refuse to collect data systematically, but rather “the official denial of the phenomenon of antisemitism.”<sup>11</sup>

The issue of denial applies more generally to all hate crimes. One striking example is found in ECRI's April 2002 report on the Republic of Georgia. ECRI notes blandly that while legislation is in place to punish racist violence in Georgia, ECRI could find no single case “where the provisions of the Criminal Code referred to in this Section have been applied.” It stated the Georgian government's response as follows: “The Georgian authorities have stated that this situation reflects the absence of manifestations of racism, racial discrimination and intolerance in Georgian society.”<sup>12</sup>

A similar denial may come into play in the acknowledgment of racist and bias-motivated violence in other countries, including a tendency to write off even pervasive abuse as low-level harassment or seemingly inconsequential common crimes.

Even when criminal justice systems maintain fairly effective record systems, crimes motivated by bias may not figure in the overall crime reports. This may be because violent bias crimes appear in the data, but are uniformly classified as common crimes and are so indistinguishable, or because they are simply not recorded. Crime reports in themselves, however sophisticated their formal framework, are not necessarily credible. The EUMC's report on trends in the year 2000, for example, had noted that racist crimes registered by police are often “minimal in comparison with statistics collected by NGOs”<sup>13</sup>

Italian NGOs recorded 259 racist murders between 1995 and 2000, whereas the Italian police authorities recorded not a single case. For statistics on racist attacks, the Italian NGO records show more than ten times as many crimes as the official figures. In Germany the NGOs recorded five times as many racist murders as the police.

In contrast with racist crimes of violence, the EUMC noted: “Racist propaganda or ‘incitement to hatred towards ethnic minorities’ is well documented by the police authorities in some of the Member States.”<sup>14</sup>

The EUMC was no less concerned, or blunt, in its 2002 trends report. This found that police authorities in most member states registered racist crimes and most governments make police statistics public in yearly reports, of varying accuracy—“with the exceptions of Belgium, Greece, and Portugal.” The mechanisms available to seek redress may themselves either deter or encourage reporting. In many countries, the only channel of redress is through a formal complaint to the local police. Even where official anti-racism bodies exist, factors such as facility of access, transparency of procedures, the nature of interaction with community-based organizations, and perhaps above all the confidence established by such organizations with minority communities may mean that such bodies received reports of only a small percentage of actual incidents. The victimized communities' lack of familiarity with official procedures also constitutes a barrier to formal reporting, which is compounded by fear or distrust of public authorities.

The study of policing in Scotland's Strathclyde district cited above explains why only a fraction of incidents are formally reported:

A great many racist incidents are never reported. Not all of those which are reported to a landlord, concierge, doctor, teacher or

employer etc. end up being reported to the police. Many serious incidents are dealt with by civil means. People find it hard to identify and report racist incidents when they have never done so formally before.<sup>15</sup>

Obstacles to data collection posed by police attitudes are also reflected in some of the country reports of ECRI. In its June 2004 report on the Czech Republic, ECRI described problems at all levels of the criminal justice system.<sup>16</sup>

Complaints of racially motivated crimes are sometimes refused by police, and, when accepted, are frequently misclassified. Investigations are often not followed up or are inadequate. Furthermore, the police themselves continue to be accused of committing acts of racially motivated violence impacting upon the willingness of victims to report crimes to police.

Where the community under threat feels threatened by the police and local authorities themselves, this lack of confidence that they will win further protection—and not renewed abuse or even retaliation for their complaints—often results in official silence on the large numbers of serious crimes against such communities. Specialized government agencies created to promote tolerance and protect against discrimination may offer an alternative or a parallel channel to pursuing justice through the criminal justice system. Hotlines for reporting hate crimes may be maintained by such agencies with systems in place to protect the identity of the complainant pending assurance that special protection measures can be taken.

Cooperation among official and unofficial reporting bodies can help overcome these and other problems of underreporting. This can also provide the level of cooperation needed to apply methodologies to avoid *overreporting* through inclusion of multiple counts of the same incidents.

The varying goals of distinct monitoring and reporting systems will also influence the way complaints and incident reports are handled. A community-based organization's records of reported hate crimes may include both those formally reported to the police as well as those on which, for various reasons, complainants choose to remain anonymous. Such organizations may employ a rigorous methodology in assessing incident reports and reflect their significance in reporting on the aggregate picture of threats and violence against the particular community.

These incidents, however, will be largely invisible in monitoring systems based solely on the criminal justice system—even when hate crimes are practically and comprehensively defined by law. They may also be overlooked even in the reports of official civil rights bodies that focus only on the most egregious or representative cases with a view to seeking civil remedies or criminal prosecutions. Civil rights bodies that focus on cases with which to establish precedents may offer little as an alternative to monitoring and reporting through the criminal justice system, and be an unlikely source of remedy for all but the most high-profile victims of racial abuse.

A broader reporting system, to be useful, would reflect both actions that are punishable by law and abusive actions that fall into a grey area of intimidation that falls short of a punishable act or a direct and immediate threat of violence.<sup>17</sup> Civil rights commissions and other bodies established at the local level that address discrimination in the United States do so in different ways. For example, the Los Angeles County Human Relations Commission, appointed by the county government, distinguishes bias crimes and incidents and reports on both categories. It compiles and publishes detailed statistical information concerning these incidents, disaggregated by the groups affected, using the following definitions:

A hate crime is a crime in which bias, hatred, or prejudice based on the victim's real or perceived race, religion, ancestry, national origin, disability, gender, or sexual orientation are substantial factors in the commission of the crime. When the evidence of bias is based on

speech alone, the speech must have threatened violence against a specific person or group of persons.

A hate incident is when, for example, derogatory words or epithets are directed against a member of a protected class, but no violence is threatened and there is no apparent ability to harm the person targeted. These hate incidents are not criminal offenses. They are however important indicators of intergroup tensions.<sup>18</sup>

Nongovernmental organizations also generally record both racist incidents and hate crimes. Some usefully define their methodologies in public information documenting hate crimes. The U.S.-based Anti-Defamation League (ADL), for example, in describing its methodology, notes that its ongoing *Audit* of antisemitism “identifies both criminal and non-criminal acts of harassment and intimidation, including distribution of hate propaganda, threats and slurs”<sup>19</sup>—a distinction of particular importance in the United States, where a high threshold must be met to make threatening speech punishable. To this end, ADL draws upon official crime statistics, reports from victims compiled by its 30 regional offices, and information from law enforcement officers and community leaders for what it calls “an annual snapshot” that helps identify “possible trends or changes in the types of activity reported.”<sup>20</sup>

The recommendations of the International Association of Chiefs of Police also stress that monitoring should cover *all* bias incidents—and not only those that clearly constitute crimes. People are to be encouraged:

- To report all bias-related incidents to the police, even if these incidents do not constitute hate crimes, so high-risk situations can be tracked and appropriate problem-solving actions can be taken.
- To always report hate crimes to the police; other hate incidents may be reported to community organizations and kept in some central repository or database.
- To ensure that protocols for reporting are clearly stated and widely disseminated to community groups.

Guidelines for classifying crimes in Denmark as bias crimes, issued to local police forces by the Chief Superintendent of the Danish Civil Security Service (PET) in 1992 (and updated in 2001), set out fairly simple criteria.

Suspicion of a racist motive could rest with any of the following: (1) the victim’s, perpetrator’s or witnesses’ statements; (2) the presence of racist/xenophobic symbols or graffiti; (3) whether the victim or perpetrator knew each other; or (4) whether the crime was planned.<sup>21</sup>

In 2001, a revised circular was issued to local police forces setting out procedures for reporting racially motivated crime to PET. This requires registration of incidents considered to be 1) a criminal offence; and (2) motivated by race, color, national or ethnic origin, or religious beliefs. Each police district is also required to appoint an officer “with the overall responsibility of reporting racist crime to PET.”<sup>22</sup>

In the United States, the Federal Bureau of Investigation (FBI) provides detailed guidelines on data collection for hate crimes reporting in its system of Uniform Crime Reporting (UCR).<sup>23</sup> The FBI defines a bias crime or hate crime as “a criminal offense committed against a person, property, or society that is motivated, in whole or in part, by the offender’s bias against a race, religion, disability, sexual orientation, or ethnicity/national origin.” This concept extends also to crimes committed where “the offender was mistaken in his/her perception that the victim was a member of the group he or she was acting against, the offense is still a bias crime because the offender was motivated by bias against the group.”<sup>24</sup>

a. *The United States FBI's Guidelines for Assessing Bias Motivation*

The FBI guidelines set out useful criteria for assessing bias motivation and identifying objective evidence that a crime was motivated by bias, while at the same time affording cautions concerning the nature of the facts in considering bias.<sup>25</sup> A baseline for the crime reporting system is that bias is to be reported “*only if* investigation reveals sufficient objective facts to lead a reasonable and prudent person to conclude that the offender’s actions were motivated, in whole or in part, by bias.” To determine that the *criminal act* itself was motivated by bias, the analyst can take into account a range of factors. These include factors related to the *identities* of the victims and the offenders, including that: they were of different races, religions, etc.; the victim was a member of a minority within the neighborhood in which he or she lived and in which the incident took place; or the victim was visiting a neighborhood where members of the minority to which he or she belonged had previously been attacked.<sup>26</sup>

Similarly, the activism of the victim may be a factor: “The victim was engaged in activities promoting his/her race, religion, disability, sexual orientation, or ethnicity/national origin. For example, the victim was a member of the NAACP (National Association for the Advancement of Colored People) or participated in gay rights demonstrations.” Here the FBI guidelines are a clear reflection of the origins of U.S. federal hate crimes legislation as a response to the crimes committed against civil rights workers who were murdered because they stood up for human rights. A hate crime may also be identified when the victims are not members of the targeted groups, but rather are members of “an advocacy group supporting the precepts of the victim group.”<sup>27</sup> Human rights defenders who are attacked for fighting discrimination may themselves become victims of hate crimes.

A reported pattern of similar incidents is a further factor to be taken into account:

- “The victim was visiting a neighborhood where previous hate crimes were committed against other members of his/her racial, religious, disability, sexual-orientation, or ethnic/national origin group and where tensions remained high against his/her group.”
- “Several incidents occurred in the same locality, at or about the same time, and the victims were all of the same race, religion, disability, sexual orientation, or ethnicity/national origin.”
- “The offender was previously involved in a similar hate crime or is a hate group member.”<sup>28</sup>

Another factor, the *timing* of the incident, is one familiar to Europeans monitoring and combating hate crimes. The 60<sup>th</sup> anniversary of the Normandy landings coincided with a rash of Neo-Nazi desecrations of French military cemeteries, where the graves of both Jewish and Muslim soldiers were toppled or defaced with swastikas and racist graffiti. Anniversaries such as Hitler’s birthday are similarly the occasion for antisemitic and other racist assaults in many parts of Europe. In the United States, the FBI guidelines refer generally to incidents that coincide “with a holiday or a date of particular significance relating to a race, religion, disability, sexual orientation, or ethnicity/national origin, e.g., Martin Luther King Day, Rosh Hashanah.”<sup>29</sup>

Finally, the FBI’s guidelines identify a number of factors in which the perpetrators of an act or the nature of the act itself betrays its racist or other bias motivation. As Human Rights First described in its 2002 report on antisemitism, “the self-identification of the attackers with neo-Nazi extremist groups, assailants’ statements at the time of an attack, expressly anti-Jewish graffiti, or other elements” may in themselves be evidence of racist and religious bias.<sup>30</sup>

The FBI criteria include the following:

- Bias-related oral comments, written statements, or gestures were made by the offender which indicate his/her bias. For example, the offender shouted a racial epithet at the victim.
- Bias-related drawings, markings, symbols, or graffiti were left at the crime scene. For example, a swastika was painted on the door of a synagogue.

- Certain objects, items, or things were used which indicate bias. For example, the offenders wore white sheets with hoods covering their faces or a burning cross was left in front of the victim’s residence.<sup>31</sup>
- There were indications that a hate group was involved. For example, such a group claimed responsibility for the crime or was active in the neighborhood.<sup>32</sup>

Norms for the compilation of statistics on hate crimes can be more inclusive than provisions in criminal law, particularly in federal systems. In the United States, federal law and the laws of 46 states use various definitions for hate crimes. The Hate Crime Statistics Act (28 U.S.C. § 534), enacted in 1990, requires the U.S. Department of Justice to collect data from local law enforcement agencies on crimes that “manifest prejudice based on race, religion, sexual orientation or ethnicity.” This was amended by the Violent Crime Control and Law Enforcement Act of 1994 to cover disabilities, both physical and mental, as factors that could be considered a basis for hate crimes.<sup>33</sup>

The definition of hate crimes in the statute covering the collection of hate crime statistics is more comprehensive than that in other U.S. federal laws—in part because that statute is intended to ensure that Congress receives the information it needs to determine whether existing laws are being enforced, as well as whether further legislation is required to ensure equal protection against hate crimes. The principal federal statutes providing criminal sanctions for hate crimes are more limited in scope both as to the basis for discrimination and the circumstances in which the act occurs.

#### i. The FBI’s Uniform Crime Reporting Program—A Mixed Record

Although the FBI’s guidelines on reporting hate crimes provide an excellent framework for monitoring and reporting, the implementation of the crime reporting by the 17,000 law enforcement agencies participating in the UCR program remains strikingly uneven. Some 5,000 UCR participants have opted out of hate crimes reporting altogether—taking advantage of the fact that reporting is still optional. Of the 12,073 agencies in 49 states and the District of Columbia that participated in the reporting program in 2002, 84.5 percent reported a hate crime incidence of *zero*. This represented what could become a trend toward non-reporting: in 2001, 83 percent of participating agencies reported *zero* hate crimes.

For example, the state of Arkansas participated in hate crimes reporting—but reported *zero* hate crimes for 2002. Hawaii did not report in the program, while five other states each reported fewer than ten incidents: Alabama (2), Alaska (7), Mississippi (3), South Dakota (4), and Wyoming (5). Many major cities did not participate in the hate crime reporting at all in 2002, including Milwaukee, Wisconsin and Toledo, Ohio.<sup>34</sup>

Those places that did report hate crimes provided valuable information using the FBI guidelines as a very useful framework for data collection and analysis. In the 2002 report, 1,868 agencies reported a total of 7,462 incidents, which were broken down by bias motivation and by crime. Clearly, the system accounts for only a fraction of the crimes within its mandate to report. Yet on balance, the system is both a “best practice,” a model in many ways for other national systems, and a candidate for urgent action to realize its true potential.

#### b. *The Lawrence Inquiry in the United Kingdom*

A high-level inquiry into the 1993 murder of black teenager Stephen Lawrence in Greenwich, England marked a watershed in the United Kingdom’s response to hate crimes. It resulted in wide-ranging recommendations for police reform. A new model introduced in 2000 establishes a broad definition of racist incidents, requires the collection of data on both hate crimes and incidents, and integrates information from both law enforcement and civil society.

Stephen Lawrence was set upon, beaten, and stabbed to death in what the inquiry found was clearly a racist attack. The inquiry found that London’s Metropolitan Police was riddled with “institutional racism” and that this had played a significant role in the indifference and incompetence displayed by police assigned to investigate the case.<sup>35</sup> The 1999 report took as a point of departure that there was



significant underreporting of “racial incidents” throughout the country, and concluded that this was “occasioned largely by a lack of confidence in the police and their perceived unwillingness to take such incidents seriously.”<sup>36</sup> This perception, it concluded, was well founded: the inquiry concluded that “a core cause of under-reporting is the inadequate response of the Police Services.”<sup>37</sup> No one was ever convicted for the murder of Stephen Lawrence.

The Lawrence inquiry recommendations that were adopted included detailed proposals for better monitoring and reporting of hate crimes, including performance indicators in relation to: “strategies for the prevention, recording, investigation and prosecution of racist incidents; measures to encourage reporting of racist incidents; [and] the number of recorded racist incidents and related detection levels,” as well as monitoring and reporting of “levels of complaint of racist behaviour or attitude and their outcomes.”<sup>38</sup> The report further recommended, in a section on definitions, “[t]hat the term ‘racist incident’ must be understood to include crimes and non-crimes in policing terms; both must be reported, recorded and investigated with equal commitment”; and this definition “should be universally adopted by the Police, local Government and other relevant agencies.”

Implementation of the recommendations of the Lawrence inquiry was to be done through Codes of Practice to be established by the Home Office, through which police, other relevant agencies (including housing authorities, departments of education, and local government authorities), would take part in a comprehensive system to report and record racist incidents and crimes. A goal was to allow hate crimes to be reported around the clock through various channels—and not solely through local police stations. The government committed to implement the recommendations, and to produce periodic progress reports.

In 2000, a Code of Practice implementing the recommendations of the Lawrence Inquiry Report was adopted by the Home Office for use by all statutory, voluntary and community groups involved in the multi-agency reporting and recording of racist incidents.<sup>39</sup> The Code of Practice explained that the new procedures *should* capture “all incidents with racist elements” despite historical “under-reporting and under-recording.” It noted, however, that “[m]any incidents are still not reported to the police” and “[e]ven if crimes are reported, the racist element may not be mentioned.”<sup>40</sup> Even when a complainant describes racist or other bias elements, the record may not reflect this—whatever the guidelines. The Code of Practice contrasts, for example, the findings of the census-style surveys conducted by the annual British Crime Survey, which are considered to have a high level of confidence with minority respondents, with British police reports:

The BCS estimates that in 1995 382,000 offences were considered by the victim to be motivated by racism. Of these, 143,000 were committed against ethnic minorities. Only 12,222 racial incidents were recorded by the police for 1995/96. In his work, “Ethnicity and Victimisation: Findings from the 1996 British Crime Survey”, Andrew Percy offered a number of reasons why police figures do not match the BCS—not all incidents are reported to the police; when reporting to the police, victims may fail to mention evidence or perceptions of racism; even when racist allegations are made, some incidents may not be recorded by the police, or not recorded as racist incidents . . . .<sup>41</sup>

## 2. Monitoring and Law Enforcement

The reliance solely upon the criminal justice system to compile data on hate crimes, even in the absence of bias within the system, can result in many incidents being screened out. Even well-documented bias-motivated crimes may be recorded or prosecuted as common crimes—either because there is a lesser burden of proof or less paperwork, or through a simple lack of understanding or a reluctance to accept the importance of full implementation of the system. But the issue of institutional culture, in which deeply engrained racism or other bias may play some part, can be a determining factor wherever there is a large discretionary element in whether elements of bias are recorded when complaints are made. The nature of the reporting and recording system itself may be

central to the way bias crimes are reflected in public reporting, prosecutions, and periodic crime report statistics.

Another factor related to, but distinct from, such institutional bias is what studies of hate crimes monitoring in the United States have termed “departmental culture”—the responsible agency’s “organizational commitment and general sensitivity toward bias crime.”<sup>42</sup> This concerns the “level of priority” given to addressing bias crimes—a matter of resources, the orientation toward the community in question, and the perspective of leadership.<sup>43</sup>

The perspectives of public officials may come into play in the following sense: where superiors downplay the severity of a bias-motivated threat or an act, subordinates are unlikely to take the initiative to investigate bias elements of crimes or to reflect these in their reports. Other factors may include a perception that “a crime is a crime,”<sup>44</sup>—taking issue, for example, with the very principle that an assault or a murder motivated by bias should be distinguished from other similar crimes. At the same time, the severity of the criminal act has also been identified as a factor in the failure of police to recognize the elements of a hate crime.

A U.S. Department of Justice-sponsored study of national bias crime reporting noted that officers in some police departments simply do not recognize that “less serious crime types” can be bias crimes. Some departments were found to define bias crimes to include only crimes such as murder or aggravated assault:

[I]n one interview, an officer relayed a story of “little crosses” burned on an African American family’s lawn, an event that he did not interpret as a bias crime. A large burning cross, he reported would be immediately identified as a bias crime. . . . Harassing phone calls, minor assaults, or even “small crosses” were often overlooked when considering motivation.<sup>45</sup>

Resistance to reporting crimes as hate crimes is also attributable to strictly practical factors: the additional time and effort required to investigate and document bias elements. A Moscow-based expert in hate crimes told Human Rights First that pressures in the criminal justice system for convictions discourage prosecutions for hate crimes—which require a higher threshold of evidence. The Russian Ministry of Internal Affairs’ emphasis on “numbers of crimes solved” and “numbers of convictions” provides a disincentive to registering complaints or starting cases that are less likely to be solved and result in a conviction.<sup>46</sup>

The United Kingdom’s Code of Practice addresses the possibility of police skepticism as to the utility of recording elements of bias in relatively minor incidents by providing practical examples, such as the following:

An Asian man calls the police because white youths are hanging around outside his house. He perceives their presence as racist and the police therefore fill in a racist incident form. Some time later his windows are smashed. The earlier information about racist incidents may provide useful intelligence to the police in solving the crime.<sup>47</sup>

In Belgium, Ministry of Justice hate crime statistics are based upon the registration of crimes by the Public Prosecutors’ office. If the principal offense is considered to have been a crime of “racism” or “xenophobia,” the offense will be registered in a manner that will appear in subsequent statistics on hate crimes, although there will be no clear distinction between those involving violence and other offenses. Most hate crimes involving violence, however, will, if prosecuted at all, be registered as common crimes, with the element of bias considered either as a secondary factor or disregarded altogether. The Belgian Centre for Equal Opportunities and Opposition to Racism (CEOOR) illustrated the difficulty of proving racist motivation—or even registering an incident—under current norms.<sup>48</sup>

Let us illustrate this problem with a case that was registered by the CEOOR. A young African woman filed a complaint because she was

chased by a group of minors who were talking all kinds of racist nonsense. After a while the minors got hold of her and they beat her with a leash. There were no witnesses, so nobody could testify that the woman was attacked because of racist motives. This offence was registered by the police as assault and battery. After investigation, it was shown that the minors themselves had admitted the facts and, moreover, had admitted their racist utterances. On the basis of these findings the lawyer asked the Prosecution Council to requalify the case. The initial charge of “assault and battery” was changed to an “offence against article 1 of the anti-racism law.” However, if the minors had not confessed their racist statements it would have been very difficult to prove the racist motives of the perpetrators.

The testimony of the victim herself regarding racist epithets appears to have been disregarded. While the Belgian anti-discrimination law now provides for “reprehensible motives” to be considered an aggravating circumstance in sentencing for certain Penal Code offences, including murder, indecent assault, arson, and destruction of property, the EUMC’s April 2005 report concludes that “to date, no data is available” on the implementation of the provisions, and that “it remains to be seen whether the charge of ‘aggravating circumstances’ will be applied in practice.”<sup>49</sup>

a. *Bias on Bias*

Bias is often present in the criminal justice system in much the same way it exists in the broader society. Political or social discomfort on the part of officials in the investigation or prosecution of a hate crime (which may involve prejudice against the victim or sympathies with the perpetrator) may be decisive either in a decision to suspend or limit an investigation or to reduce the charges in a prosecution. A further factor may be a belief by public authorities that to publicly recognize racist acts will, to their own prejudice, raise a local issue to a higher level. Others may believe that to do so will be seen as undercutting their political support from members of the perpetrators’ community—by being seen to side with the community under attack.

The response to the toppling of 28 tombstones in the Muslim section of the municipal cemetery in Linz, Austria in late September 2001 illustrates such political factors in hate crime reporting. The EUMC’s Austrian correspondent noted that police had found an extremist flyer near the scene and subsequently arrested a young man who characterized himself as a “skinhead” and confessed to the crime. The Upper Austria security chief, however, subsequently declared that despite this, “the state security police in Linz did not assume the crime to be politically motivated, since the young offender is just a single perpetrator and not an organised group,” and no documentation had been confiscated “that would prove an ideological motivation.”<sup>50</sup>

Hate crimes against particular minorities may also be accompanied by racist violence by public officials against the same vulnerable populations. When reports are regularly received of police assaults on minorities, there is little reason for confidence that the same forces will vigorously pursue racist skinheads for similar assaults. In reports of violent attacks on Roma communities in many countries, police are said to have stood by as attacks were carried out, or even to have taken part in the attacks. Bias within the criminal justice system and by local officials can be overcome only with action at the highest level.

b. *Hate Crimes Under the Radar*

The monitoring and reporting of hate crimes may also reflect both the low profile of the crimes and the limited standing (or visibility) of the victims within the society itself. The everyday crimes of violence against the least powerful may find less resonance either in official reporting or in expressions of public concern as a simple matter of priorities. Alternatively, evenhanded measures to provide protection to all may simply not find reflection in disaggregated statistics or in public reporting on the situation of particular minorities and the public response to hate crimes of which they are victims. In an August 24, 2004 communication, the French National Consultative Human Rights Commission responded to a

Human Rights First request for up-to-date statistics on hate crimes by forwarding Ministry of Interior data for the first six months of 2004.<sup>51</sup> For that period, the Ministry of Interior reported 766 “racist, xenophobic, and antisemitic incidents,” including “threats and acts.” Of these, 510 were identified as antisemitic in nature (including “135 acts against people and property and 375 threats”). Other groups—which were not identified—were the object of 256 incidents, including 95 acts and 161 threats.<sup>52</sup> In follow-up telephone conversations, Commission officials told Human Rights First that most of these 256 recorded incidents victimized people of North African origin—although France still refuses to disaggregate its statistics by the particular groups facing discrimination (for example, by race, ethnicity, or national origin). The government’s official statistics provide no disaggregated data even indirectly concerning other groups facing discrimination.

The CNCDH’s 2003 report followed the same lines, with coverage of hate crimes that focuses almost exclusively on the threats and violence that afflict France’s Jewish community and people of North African origin. The 2003 report found that the proportion of the incidents that were “antisemitic” rose from 60 percent of the total in 2002 to 72 percent in 2003. The 2003 statistics covered 817 recorded incidents, with almost three quarters—588—described as antisemitic acts (figures community-based organizations believe to be fairly accurate). These included 463 threats and 125 acts of violence (70 physical assaults, 46 cases of vandalism, and six cases of arson).<sup>53</sup>

CNCDH’s report also found that four-fifths of the attacks and threats that were not antisemitic were against Muslims; it records 229 racist acts (81 percent) affecting people of North African (Maghreb) origin. These included 92 acts of violence (56 of which occurred on the island of Corsica). The head of the CNCDH, Joel Thoraval, told the press the figures showed a shift since the 1990s, when “the dominant trend was hostility to North African immigration,” to a new situation of “hostility against Islam, against Muslims” combined with other factors.<sup>54</sup> CNCDH did not provide any other disaggregation by groups affected. These figures showed an overall decrease of 23 percent compared to 2002, as well as a decrease in the severity of the incidents (eleven hurt in 2003 compared to twenty-one hurt and one killed in 2002).<sup>55</sup>

The CNCDH reports make a valuable contribution to the monitoring and reporting process. Even so, they are limited by their reliance on Ministry of Interior information. For example, anecdotal information suggests the situation of violence affecting France’s minorities of Maghreb origin may be seriously underreported—in part because the community-based organizations best placed to report hate crimes lack confidence in the state agencies that compile incident reports.

Other French minorities appear statistically invisible in periodic CNCDH reports: there are, for example, no disaggregated statistics from which to assess the situation of black, Asian, Roma, or other significant minorities.<sup>56</sup> Nor does coverage of racist violence distinguish incidents affecting immigrants, including those from the Balkans or Eastern Europe, all of whom are likely to face discrimination in a Europe of increased xenophobia and new barriers to immigration.

<sup>1</sup> EUMC, “Racism and xenophobia in the E.U. Member States: trends, developments and good practice in 2002,” Annual report—Part 2, p. 89.

<sup>2</sup> ECRI, General policy recommendation no. 1 (“Combating racism, xenophobia, antisemitism and intolerance”), adopted on October 4, 1996, available at [http://www.coe.int/T/E/human\\_rights/Ecri/1-ECRI/3-General\\_themes/1-Policy\\_Recommendations/Recommendation\\_N%01/1-Recommendation\\_n%01.asp#TopOfPage](http://www.coe.int/T/E/human_rights/Ecri/1-ECRI/3-General_themes/1-Policy_Recommendations/Recommendation_N%01/1-Recommendation_n%01.asp#TopOfPage) (accessed August 24, 2004).

<sup>3</sup> See, for example, ECRI, third country reports, June 27, 2003 (including reports on Belgium, Norway and Switzerland); second reports on Denmark (June 16, 2000), Finland (December 14, 2001), Greece (December 10, 1999), Portugal (March 20, 2002), Ireland (June 22, 2001), Luxembourg (December 13, 2002), and Spain (December 13, 2002), available at [http://www.coe.int/T/E/human\\_rights/Ecri/4-Publications/](http://www.coe.int/T/E/human_rights/Ecri/4-Publications/) (accessed June 24, 2005).

<sup>4</sup> Two years before, when Human Rights First published *Fire and Broken Glass*, we highlighted France's policy of withholding disaggregated statistics on hate crimes on the grounds that no distinction could be made on the basis of ethnic or racial groups, as a major factor in the government's failure to adequately reflect the scale and nature of antisemitic violence in France. Official reporting on antisemitic violence since then has significantly improved. (See section on France.)

<sup>5</sup> European Union, *Proving Discrimination: The Dynamic Implementation of EU Antidiscrimination Law: The Role of Specialised Bodies*, Report of the First Experts' Meeting, January 14–15, 2003, available at [http://europa.eu.int/comm/employment\\_social/fundamental\\_rights/pdf/pubst/mpg\\_be03\\_en.pdf](http://europa.eu.int/comm/employment_social/fundamental_rights/pdf/pubst/mpg_be03_en.pdf) (accessed June 24, 2004).

<sup>6</sup> Council of Europe, General Conclusions of the European Conference Against Racism, Strasbourg, October 16, 2000, para. 12.

<sup>7</sup> United Nations, "Report of the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, Durban, August 31–September 8, 2001," available at <http://ods-dds-ny.un.org/doc/UNDOC/GEN/N02/215/43/PDF/N0221543.pdf?OpenElement> (accessed August 2002). For a discussion of the role of statistics in the fight against discrimination in the particular case of the Roma and Sinti, see the special issue of *Roma Rights*, "Ethnic Statistics," no. 2 (2004), and in particular Dimitrina Petrova, "Ethnic Statistics," pp. 5–6, concerning the application of depersonalized data disaggregated by race or ethnicity in identifying discrimination.

<sup>8</sup> *Ibid.* The World Conference Plan of Action urges states:

to collect, compile, analyse, disseminate and publish reliable statistical data at the national and local levels and undertake all other related measures which are necessary to assess regularly the situation of individuals and groups of individuals who are victims of racism, racial discrimination, xenophobia and related intolerance;

(a) Such statistical data should be disaggregated in accordance with national legislation. Any such information shall, as appropriate, be collected with the explicit consent of the victims, based on their self-identification and in accordance with provisions on human rights and fundamental freedoms, such as data protection regulations and privacy guarantees. This information must not be misused.

(b) The statistical data and information should be collected with the objective of monitoring the situation of marginalized groups, and the development and evaluation of legislation, policies, practices and other measures aimed at preventing and combating racism, racial discrimination, xenophobia and related intolerance, as well as for the purpose of determining whether any measures have an unintentional disparate impact on victims. To that end, it recommends the development of voluntary, consensual and participatory strategies in process of collecting, designing and using information.

<sup>9</sup> ECRI, Third report on Bulgaria, adopted on June 27, 2003, and made public on January 27, 2004 (accessed August 22, 2004).

<sup>10</sup> Julian V. Roberts, *Disproportionate Harm: Hate Crime in Canada: An Analysis of Recent Statistics* (Department of Criminology, University of Ottawa, 1995), Working Document prepared for the Department of Justice, Canada, available at <http://www.justice.gc.ca/en/ps/rs/rep/wd95-11a-e.html> (accessed March 12, 2004).

<sup>11</sup> EUMC, "Manifestations of Antisemitism in the E.U. 2002-2003," p. 23, available at <http://eumc.eu.int/eumc/as/PDF04/AS-Main-report-PDF04.pdf> (accessed April 20, 2004).

<sup>12</sup> ECRI, CRI (2002) 2, FIRST REPORT ON GEORGIA, adopted on June 22, 2001 and made public on April 23, 2002, available at [http://www.coe.int/T/E/human\\_rights/Ecri/1-ECRI/2-Country-by-country\\_approach/Georgia/CBC1-Georgia.asp#P105\\_13007](http://www.coe.int/T/E/human_rights/Ecri/1-ECRI/2-Country-by-country_approach/Georgia/CBC1-Georgia.asp#P105_13007).

<sup>13</sup> EUMC, Diversity and Equality for Europe, Annual Report 2000, available at [http://eumc.eu.int/eumc/material/pub/ar00/AR\\_2000\\_Summary-EN.pdf](http://eumc.eu.int/eumc/material/pub/ar00/AR_2000_Summary-EN.pdf) (accessed March 2002).

<sup>14</sup> *Ibid.*

<sup>15</sup> University of Glasgow (for the Strathclyde Joint Police Board, *The Policing of Racist Incidents in Strathclyde*, Executive Summary, p. 1, available at <http://www.strathclyde.police.uk/index.asp?docId=576> (accessed August 10, 2004)

<sup>16</sup> ECRI, CRI (2004) 22, Third report on the Czech Republic, Adopted on December 5, 2003 and made public on June 8, 2004, available at [http://www.coe.int/T/E/human\\_rights/Ecri/1-ECRI/2-Country-by-country\\_approach/Czech\\_Republic/Czech\\_Republic\\_CBC\\_3.asp#P132\\_13240](http://www.coe.int/T/E/human_rights/Ecri/1-ECRI/2-Country-by-country_approach/Czech_Republic/Czech_Republic_CBC_3.asp#P132_13240).

<sup>17</sup> The International Association of Chiefs of Police notes that “[p]rejudicial behavior exists along a continuum including negative speech, discriminatory practices, property damage, physical assault, and murder,” and distinguishes between hate crimes, which are punishable by statute, and “subject to an enhanced penalty if the crime was motivated by bias.” Hate incidents “involve behaviors that, though motivated by bias against a victim’s race, religion, ethnic/national origin, gender, age, disability, or sexual orientation, are not criminal acts.” Available at [http://www.theiacp.org/documents/index.cfm?fuseaction=document&document\\_id=160#measure](http://www.theiacp.org/documents/index.cfm?fuseaction=document&document_id=160#measure) (accessed August 10, 2004).

<sup>18</sup> Los Angeles County Human Relations Commission, *What is a Hate Crime?*, available at <http://lahumanrelations.org/hatecrime/index.htm> (accessed August 10, 2004).

<sup>19</sup> Anti-Defamation League, Press Release, [http://www.adl.org/PresRele/ASUS\\_12/4464\\_12.htm](http://www.adl.org/PresRele/ASUS_12/4464_12.htm) (accessed August 23, 2004).

<sup>20</sup> *Ibid.*

<sup>21</sup> EUMC, *Racist Violence in 15 EU Countries*, p. 76.

<sup>22</sup> The previous circular, issued in 1992 by the Chief Superintendent of PET, required that

all criminal incidents with a suspected racist motive must be reported to the PET. According to the circular, suspicion of a racist motive could rest with any of the following: (1) the victim’s, perpetrator’s or witnesses’ statements; (2) the presence of racist/xenophobic symbols or graffiti; (3) whether the victim or perpetrator knew each other; or (4) whether the crime was planned.

EUMC, “*Racist Violence in 15 EU Member States*,” p. 47.

<sup>23</sup> Federal Bureau of Investigation, *Hate Crime Data Collection Guidelines Uniform Crime Reporting*, revised October 1999, available at <http://www.fbi.gov/ucr/hatecrime.pdf> (accessed March 10, 2004).

<sup>24</sup> *Ibid.*, p. 2.

<sup>25</sup> *Ibid.*, pp. 4-6. Fourteen factors are identified, followed by a series of practical examples.

<sup>26</sup> *Ibid.*, nos. 1, 5, and 6.

<sup>27</sup> *Ibid.*, nos. 9 and 14.

<sup>28</sup> *Ibid.*, nos. 6, 7, and 11.

<sup>29</sup> *Ibid.*, no. 10.

<sup>30</sup> Human Rights First (then the Lawyers Committee for Human Rights), *Fire and Broken Glass* (New York: Lawyers Committee for Human Rights, August 2002), p. 4.

<sup>31</sup> Federal Bureau of Investigation, *Hate Crime Data Collection Guidelines*, nos. 2 to 4.

<sup>32</sup> *Ibid.*, no. 14.

<sup>33</sup> *Ibid.*

<sup>34</sup> FBI, *Hate Crime Statistics 2002*.

<sup>35</sup> The Inquiry used a working definition of institutional racism: “The collective failure of an organisation to provide an appropriate and professional service to people because of their colour, culture, or ethnic origin. It can be seen or detected in processes, attitudes and behaviour which amount to discrimination through unwitting prejudice, ignorance, thoughtlessness and racist stereotyping which disadvantage minority ethnic people.” The emphasis here is on the systems and procedures employed to monitor, report, and provide redress for hate crimes. Home Office, *The Stephen Lawrence Inquiry, Report of an Inquiry by Sir William MacPherson of Cluny, Presented to Parliament by the Secretary of State for the Home Department by Command of Her Majesty* (London: The

Stationery Office, February 1999), available at <http://www.archive.official-documents.co.uk/document/cm42/4262/4262.htm> (accessed June 10, 2003).

<sup>36</sup> Ibid., Section 6,45.

<sup>37</sup> Ibid.

<sup>38</sup> Ibid., Recommendations. See also the Report Submitted by the United Kingdom Pursuant to Article 25, Paragraph 1 of the Framework Convention for the Protection of National Minorities, July 26, 1999, for a review of government measures in the wake of the Lawrence inquiry and an assessment of hate crimes in the United Kingdom. Council of Europe, ACFC/SR(1999)013, available at [http://www.coe.int/T/e/human\\_rights/Minorities/2\\_FRAMEWORK\\_CONVENTION\\_MONITORING/2\\_Monitoring\\_mechanism/3\\_State\\_reports/1\\_First\\_cycle/1st\\_SR\\_United\\_Kingdom.asp#TopOfPage](http://www.coe.int/T/e/human_rights/Minorities/2_FRAMEWORK_CONVENTION_MONITORING/2_Monitoring_mechanism/3_State_reports/1_First_cycle/1st_SR_United_Kingdom.asp#TopOfPage) (accessed April 10, 2005).

<sup>39</sup> Home Office, Code of Practice on reporting and recording racist incidents in response to recommendation 15 of the Stephen Lawrence Inquiry Report was adopted by the Home Office, May 25, 2000, available at <http://www.homeoffice.gov.uk/docs/code.html> (accessed August 10, 2004).

<sup>40</sup> Home Office, Code of Practice, p. 5.

<sup>41</sup> Ibid.

<sup>42</sup> Jack McDevitt, Shea Cronin, Jennifer Balboni, Amy Farrell, James Nolan, and Joan Weiss, *Bridging the Information Disconnect in National Bias Crime Reporting*, Northeastern University, Institute on Race and Justice, (sponsored by the Bureau of Justice Statistics, U.S. Department of Justice, p. 104, available at [http://www.cj.neu.edu/pdf/executive\\_summary\\_BJS\\_II.pdf](http://www.cj.neu.edu/pdf/executive_summary_BJS_II.pdf) (accessed July 12, 2004).

<sup>43</sup> Ibid., p. 104.

<sup>44</sup> Ibid., p. 123.

<sup>45</sup> McDevitt, *Bridging the Information Disconnect*, p. 129.

<sup>46</sup> Human Rights First interview, Alexander Verkhovsky, Moscow, August 2004.

<sup>47</sup> Home Office, Code of Practice.

<sup>48</sup> This is an autonomous public agency established by law and with ties to the Prime Minister's office that is mandated to combat discrimination in Belgium. National Analytical Study on racist violence and crime, RAXEN Focal Point for Belgium, Centre for equal opportunities and opposition to racism, p. 25, available at <http://eumc.eu.int/eumc/material/pub/RAXEN/4/RV/CS-RV-NR-BE.pdf> (accessed March 20, 2005).

<sup>49</sup> EUMC, Racist Violence in 15 EU Member States, p. 74.

<sup>50</sup> EUMC, Anti-Islamic reactions in the EU after the terrorist acts against the USA, A collection of country reports from RAXEN National Focal Points (NFPs), Second report: Reactions from 25th September to 19th October, p. 4, available at <http://eumc.eu.int/eumc/material/pub/anti-islam/Nat-Report-291101.pdf> (accessed July 22, 2004). The report adds, "As for the facts of crime, the young culprit devastated most of graves in the night from September 28 to September 29. A week later, he allegedly returned to the scene of the crime after a brawl with a 'foreigner' and demolished two further graves." Another account of the incident, and of anti-Muslim discourse at the time, is in ZARA—*Beratungsstelle für Zeugen und Opfer von Rassismus, Racism Report 200: Case reports on racist excesses and structures in Austria*, p. 14, available at <http://www.enar.eu.org/en/national/Austrian%20report%202001.pdf> (accessed March 12, 2004).

<sup>51</sup> Electronic mail, Stéphanie Djian, *Chargée de mission, Commission Nationale Consultative des Droits de l'Homme*, to Human Rights First, August 24, 2004.

<sup>52</sup> This represented more than double the rate of antisemitic incidents in the preceding six months and in the same period in 2003 ("a strong increase relative to the preceding 6 months where we counted 60 acts (+125% change) and 231 threats (+62% change), and also relative to the same period last year, where we counted 67 acts (+101% change) and 238 threats (57.5% change).") A significant increase was also observed in other racist incidents: "Among these we count 95 acts and 161 threats, while in the same period last year we counted 51 acts (meaning an increase of 86%) and 86 threats (indicating an 87% increase)." An "act" was defined as "an attack or attempted attack, fire, defacement, and act of violence," and a "threat" as a threatening remark or gesture, pamphlet or tract, abusive display or demonstration, or other act of intimidation.

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<sup>53</sup> *Commission Nationale Consultative Des Droits de L'Homme*, available at <http://www.commission-droits-homme.fr/>. For reviews of its findings, see LICRA, CNCDH's Report, April 1, 2004, available at [http://www.licra.org/actualite/actu\\_une\\_new.php?id\\_type\\_actu=6&id\\_actu=685&langue=2](http://www.licra.org/actualite/actu_une_new.php?id_type_actu=6&id_actu=685&langue=2) (accessed May 2004); "Les trois quarts des actes racistes liés à l'antisémitisme," *Libération*, April 1, 2004, available at <http://www.liberation.fr/page.php?Article=190983&AG> (accessed April 6, 2004); and Sylvia Zappi, "Le nombre des agressions racistes et antisémites a diminué en 2003, mais demeure élevé," *Le Monde*, April 1, 2004, available at <http://www.lemonde.fr> (accessed April 1, 2004).

<sup>54</sup> "Hatred of Jews and Muslims takes root in France," *Reuters*, April 2, 2004.

<sup>55</sup> *Ibid.*

<sup>56</sup> The newspaper *Libération* noted that the figure of 29 acts of violence victimizing people of North African origin was "evidently an underestimate," while total figures are given "without distinguishing either blacks or Asians." Catherine Coroller, "Le racisme perdure et se transforme" *Libération*, April 2, 2004.