



HATE CRIMES AGAINST THE HOMELESS

Fact Sheet

OVERVIEW

It's a cruel fact, as homelessness has risen nationally and in Colorado during the past decade, so have crimes against the homeless. National reports have documented over a thousand crimes committed with prejudice against America's homeless community over the past decade.ⁱ For this reason, Senator Lucia Guzman and Representative Dan Pabon are sponsoring a bill in the 2011 legislative session that will add homeless persons to Colorado's Bias Motivated Crimes statute (more commonly referred to as the Hate Crimes statute).ⁱⁱ

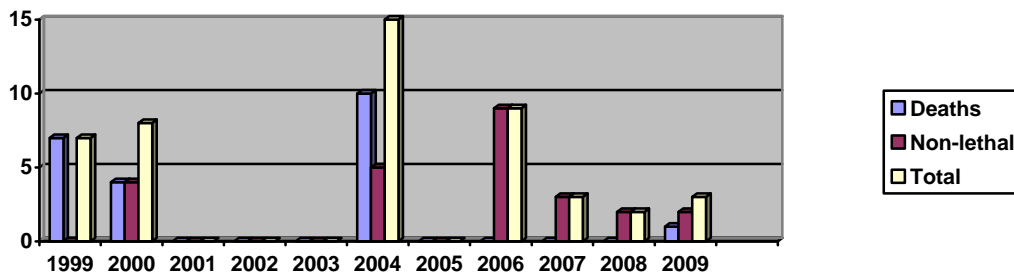
The purpose of this bill is twofold: First, to increase criminal penalties for those who attack homeless individuals out of bias. Second, carving out crimes committed against the homeless as hate crimes under the law will illustrate a strong philosophy of moral governance that values the safety and dignity of the most vulnerable among us.

HISTORY OF HATE CRIMES AGAINST THE HOMELESS

Between 1999 and 2009, advocates and shelter workers across the country have received news reports of men, women and even children being harassed, kicked, set on fire, beaten to death, and decapitated. From 1999 through 2009, in 47 states, Puerto Rico and Washington D.C., there have been 1,074 acts of violence committed by housed individuals, resulting in 291 deaths of homeless people and 783 victims of non-lethal violence.

Analysis of data from the F.B.I and the National Coalition for the Homeless (NCH), in conjunction with the Center for Hate and Extremism, California State University – San Bernardino, shows that between 1999 and 2009, Colorado was ranked 5th in the number of hate crimes and acts of violence committed against the homeless, following California, Florida, Florida and Ohio. Between 1999 and 2009, there were a total of 47 acts of violence committed against the homeless in five Colorado cities. Twenty-two of those crimes resulted in the death of the homeless individual.

Hate Crimes & Violence Against the Homeless in Colorado, 1999-2009ⁱⁱⁱ



	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	11 Year Total
Deaths	7	4	0	0	0	10	0	0	0	0	1	22
Non-lethal	0	4	0	0	0	5	0	9	3	2	2	25
Total	7	8	0	0	0	15	0	9	3	2	3	47

WHAT IS A “HATE CRIME”?

Under the 1990 Hate Crimes Statistics Act, the F.B.I. established guidelines which defined a hate crime as a "bias crime"- that is, a crime "committed against a person or property which is motivated, in whole or in part, by the offender's bias against a race, religion, disability, sexual orientation, or ethnicity/national origin."^{iv} Under these guidelines, crimes based on bias should be reported to the FBI by local law enforcement agencies if there is *objective* evidence that the crime was motivated wholly or partially by bias.

WHAT WILL ADDING HOMELESS PERSONS TO COLORADO’S HATE CRIMES STATUTE ACCOMPLISH?

The intent of adding homeless persons to the protections created under this law and raising the criminal penalties against those who intentionally target a person because of their homeless status is to deter those who commit these crimes for pleasure derived from cruelty to the most vulnerable – and ultimately, to eliminate the number of attacks.

WHAT DOES THE LAW CURRENTLY SAY?

Colorado Revised Statutes (C.R.S.) 18-9-121 states:

(1) The general assembly hereby finds and declares that it is the right of every person, regardless of race, color, ancestry, religion, national origin, physical or mental disability, or sexual orientation to be secure and protected from fear, intimidation, harassment, and physical harm caused by the activities of individuals and groups. The general assembly further finds that the advocacy of unlawful acts against persons or groups because of a person's or group's race, color, ancestry, religion, national origin, physical or mental disability, or sexual orientation for the purpose of inciting and provoking bodily injury or damage to property poses a threat to public order and safety and should be subject to criminal sanctions.

(2) A person commits a bias-motivated crime if, with the intent to intimidate or harass another person because of that person's actual or perceived race, color, religion, ancestry, national origin, physical or mental disability, or sexual orientation, he or she:

(a) Knowingly causes bodily injury to another person; or

(b) By words or conduct, knowingly places another person in fear of imminent lawless action directed at that person or that person's property and such words or conduct are likely to produce bodily injury to that person or damage to that person's property; or

(c) Knowingly causes damage to or destruction of the property of another person.

(3) Commission of a bias-motivated crime as described in paragraph (b) or (c) of subsection (2) of this section is a class 1 misdemeanor.

Commission of a bias-motivated crime as described in paragraph (a) of subsection (2) of this section is a class 5 felony; except that commission of a bias-motivated crime as described in said paragraph (a) is a class 4 felony if the offender is physically aided or abetted by one or more other persons during the commission of the offense.

(3.5) (a) In determining the sentence for a first-time offender convicted of a bias-motivated crime, the court shall consider the following alternatives, which shall be in addition to and not in lieu of any other sentence received by the offender:

(I) Sentencing the offender to pay for and complete a period of useful community service intended to benefit the public and enhance the offender's understanding of the impact of the offense upon the victim;

(II) At the request of the victim, referring the case to a restorative justice or other suitable alternative dispute resolution program established in the judicial district pursuant to section 13-22-313, C.R.S.

(b) In considering whether to impose the alternatives described in paragraph (a) of this subsection (3.5), the court shall consider the criminal history of the offender, the impact of the offense on the victim, the availability of the alternatives, and the nature of the offense. Nothing in this section shall be construed to require the court to impose the alternatives specified in paragraph (a) of this subsection (3.5).

(4) The criminal penalty provided in this section for commission of a bias-motivated crime does not preclude the victim of such action from seeking any other remedies otherwise available under law.

(5) For purposes of this section:

(a) "Physical or mental disability" refers to a disability as used in the definition of the term "person with a disability" in section 18-6.5-102 (3).

(b) "Sexual orientation" means a person's actual or perceived orientation toward heterosexuality, homosexuality, bisexuality, or transgender status.

HOW IS "HOMELESS" DEFINED IN THE BILL?

Homeless is defined in the proposed bill as a "person who lacks a fixed, regular, and adequate nighttime residence; or has a primary nighttime residence that is a supervised publicly or privately operated shelter designed to provide temporary living accommodations; or a public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings." ^v

HAVE OTHER STATES PASSED SIMILAR LAWS?

Yes. In the spring of 2010, Florida added the homeless to its hate crime law. ^{vi} Florida led the nation in violence against the homeless from 2005 to 2008, and was second only to California in 2009. ^{vii} In 2009, Maryland added homelessness to its state's hate crime law ^{viii}, and was soon followed by the District of Columbia. ^{ix} In California, a bill was passed and subsequently vetoed by the Governor in 2010 which would have added the homeless to a statute that provides various civil protections to victims of hate crime, but would not have increased criminal penalties. ^x Maine, the first state to make targeting the homeless a hate crime, has a more narrow statute that grants nonbinding discretion to judges. Maine added protection for homeless residents but did not formally add homelessness as a contributing factor under state hate crime statutes. ^{xi}

ARE THE HOMELESS COVERED UNDER FEDERAL HATE CRIMES LAWS?

Two bills were introduced in the previous Congress that would add "homeless status" to the list of protected classes under existing federal hate crime laws. H.R. 2216, the *Hate Crimes against the Homeless Statistics Act of 2007*, would amend the Hate Crime Statistics Act to require the collection of data on crimes that manifest evidence of prejudice on the basis of "homeless status". H.R. 2217, the *Hate Crimes*

against the Homeless Enforcement Act, would amend the hate crime sentencing enhancement provisions of the Violent Crime Control and Law Enforcement Act to include as eligible for sentence enhancement "a crime in which the defendant intentionally selects the victim . . . because of the actual or perceived . . . homeless status of any person." Both bills were introduced by Representative Eddie Bernice Johnson of Texas. The bills were referred to the House Judiciary Committee, Subcommittee on Crime, Terrorism, and Homeland Security in June, and no further action was taken.^{xii} Advocates are working to reintroduce the bills in the current session of Congress.

WHO COMMITS ACTS OF VIOLENCE AGAINST THE HOMELESS?

Most hate crimes/violent acts are committed by individual citizens who harbor a strong resentment against vulnerable populations, not by organized hate groups. Thrill seekers, primarily in their teens, are the most common perpetrators of violence against people who are homeless.

Eighty per cent of hate crimes/violence against homeless persons in 2009 were committed by perpetrators under the age of thirty.^{xiii}

WHY SHOULD THE HOMELESS RECEIVE SPECIAL PROTECTION UNDER THE LAW?

People experiencing homelessness are among the most vulnerable members of our society, particularly as victims of violence. A life on the streets is often a life lived in danger, without the protections afforded by safe, secure housing. Research indicates homeless men, women and children are at disproportionate risk of attack, as compared to their housed counterparts. "Their lack of shelter, the effects of the physical elements, and frequently disability make them more vulnerable to attack and makes defending themselves harder."^{xiv}

Therefore, attacks on the homeless should be codified as hate crimes because there is an identity characteristic that is a significant factor in the prejudicial selection of a target. According to the FBI, 103 murder victims between 1999 and 2005 were targeted substantially because of their race, religion, sexual orientation, or ethnicity. During that same period, 245 homeless people were murdered.^{xv}

WOULD A HOMELESS PERSON WHO ATTACKED ANOTHER HOMELESS PERSON BE PROSECUTED UNDER THIS LAW?

No. Crimes committed by a person who is homeless against a person who is homeless are crimes of opportunity, not hate crimes. A homeless on homeless crime is unlikely motivated in whole or in part by the homelessness of the victim and therefore, would not be considered a hate crime.

Colorado Case Studies^{xvi}

- **On February 5, 2009, David Doyle, 55, was sleeping on a pedestrian bridge in Colorado Springs.** Taylor Lane Gwaltney, 19, biked past him; later returning to kill Doyle, hitting him up to 16 times with a skateboard. Gwaltney then bragged to over a dozen other teens that he had "killed a bum." Doyle was a local dirt bike racer in the 70's and 80's and worked in Colorado Springs for years before recently becoming homeless.
- **In 2009, police in Colorado Springs were looking into a connection between the brutal assaults of two homeless individuals in the downtown area.** One man was attacked in November 2008 and the other on January 20, 2009. The victims were homeless men and had suffered multiple stab wounds to the arms, face and abdomen. Both of the victims, 49 and 64 years old, survived the assault and were able to give similar descriptions to the police. It is believed that a group of four males and one female were the culprits behind these brutal attacks. The motive and exact purpose remains unknown.
- **On September 28, 2007, Marvin Balcombe, 32, was hospitalized with a broken arm and non-life threatening injuries after he was beaten in a park in Colorado Springs.** A group of men confronted and beat him repeatedly with sticks. Police arrested Ronald Renwick, 22, Alan Pitts, 24, and David Morton, 36, as the attackers. The three are facing charges of first-degree assault.

- **In July, 2006, a 63-year-old homeless woman in Aspen was searching through donation boxes behind a thrift shop when a female police officer tasered her.** The elderly woman posed no immediate threat to the officer, who was later dismissed from the police force.
- **Clyde Ashcraft, 38, was stabbed to death in Denver in August, 2004.** Neighbors suspect that the attacker paid Ashcraft to let him beat him up in order to impress an ex-girlfriend. Witnesses reported that the attacker pulled out a knife and began stabbing Ashcraft, finally killing him with a stab to the throat. After Ashcraft collapsed back into his wheelchair, the attacker licked the blood from his fingers. Ashcraft had lived on the streets for five years, frostbite had claimed half of his right foot and all of the toes on his left; he used a wheelchair for support. Ashcraft and his dog were close to finding a permanent home through Section 8 housing.
- **In late 2004, at least nine homeless men were murdered in Denver.** They were all variously beaten, shot, run over, or stabbed. Only one suspect, Steven Frank Lucero, 38, was arrested. Many non-lethal attacks occurred as well. Five teens beat a homeless man with a two-by-four near the South Platte River. Another group beat a man in a wheelchair, stealing his prescription pain medication. Ned Sokolovic, during his first night experiencing homelessness, was robbed of all his money and beaten with a tire iron.
- **In 2000, two people were accused of beating a homeless man to death in Colorado Springs.** Leonard Burzynski, 44, suffered a head injury and died from blunt force trauma to the head and neck. According to police, one person struck Burzynski in the face, knocking him to the ground, where he was kicked several times. The two people then left the area, taking Burzynski's bicycle. Michael Joseph Wolfmule, 38, and Trinidad Miles, 33, were arrested May 23 on suspicion of first-degree assault and conspiracy.
- **In 1999, seven homeless men were found dead in Denver in the trendy Lower Downtown district.** Two were beheaded. All of the men were beaten to death, one so savagely that his skull was in pieces. At least two others were severely beaten. In early November, 1999, police arrested seven young men, all between the ages of 16 and 21, and charged them with assault and robbery in attacks on a street musician and homeless man. Two are also suspected in one of the murders. Two men, ages 18 and 20, and a 16 year-old boy have been charged with first-degree murder in one of the fatal beatings. The defendants are part of a clique police call "mall rats," who hang out around Denver's busy 16th Street Pedestrian Mall. Five others have been charged on assault charges for nonfatal beatings.
- **People who are homeless in Colorado Springs were taking extra precautions after a homeless man was killed and two others badly beaten in separate attacks in 2000.** John Michael Jones, 42, of Colorado Springs, was found beneath a downtown bridge in his sleeping bag. He died of a blow to the head. Police believe a band of teens armed with rocks, knives and other weapons is behind the three attacks. The victims could not identify their assailants because they struck at night while the men slept. Police are investigating the resemblance of the attacks to those that occurred in Denver in 1999 and resulted in the deaths of seven homeless men.

National Case Studies^{xvii}

- **A 17 year old, Carlos Molina-Alvarez, from Tulsa, Oklahoma, was arrested in the killing of a homeless man in May, 2009 after repeatedly hitting him with a rock.** The homeless man, Karl Chilcoat, 52, suffered a crushed skull from the multiple blows from the heavy object. The attack seems to be unprovoked. Alvarez will stand trial as an adult.
- **Police have arrested a 22 year old man in connection to a vicious attack that killed a homeless man in El Paso, Texas on November 1, 2009.** Wilber Adalid Rodriguez is being charged with the murder of a 28 year old homeless man, according to police. A witness told police that he heard the victim say, "No, I'm sorry I offended you," just before what sounded like someone being hit with a piece of wood several times. The witness also reported hearing, "Don't hit me anymore," according to an affidavit. Police were called to the scene but were unable to find the victim until the following morning. Police report that the victim was stabbed at least 13 times in the throat and stomach.
- **On January 22, 2009, a homeless man in his forties was shot in the face near a bus station and was found lying dead on the sidewalk in downtown Seattle.** An older red car had driven

by the bus stop and at least four shots were fired from inside the car. Investigators believe the drive-by was gang related, and gang investigators were assigned to the case. The victim was in serious condition in the intensive care unit while he recovered from the incident.

- **On January 12, 2006, three homeless men, of Fort Lauderdale, Florida were brutally beaten with baseball bats and sticks in the cover of darkness.** The victims included Jacques Pierre, 58, and Raymond Perez, 49, who were both listed in serious condition for several days and are recovering not only from the visible broken bones, lacerations, and deep bruises, but also from the internal damage to both their mind and body. Less fortunate was Norris Gaynor, 45, who suffered similar injuries but died of head trauma and internal bleeding within hours of arriving at the hospital. A video surveillance camera captured the inhumane pummeling of Pierre, which led to the arrest of William Ammons, 18, Brian Hooks, 18 and Tom Daugherty, 17. The chilling footage shows a defenseless Pierre, struggling unsuccessfully to escape, while enduring unmerciful blow after blow to his head and body from two of the teens wielding baseball bats and smiling, taking apparent pleasure in this act of hatred.

MEDIA COVERAGE

8/19/10 New York

Lichtblau, Eric. Killings of Homeless Rise to Highest Level in a Decade.
<http://www.nytimes.com/2010/08/19/us/19homeless.html>

10/19/09 Washington D.C.

Davidson, Kate. Debating Homeless Hate Crimes, NPR.org, Available at:
<http://www.npr.org/templates/story/story.php?storyId=113916951>

8/8/09 New York

Lichtblau, Eric. Attacks on Homeless Bring Push in Hate Crimes Laws, The New York Times, Available at: <http://www.nytimes.com/2009/08/08/us/08homeless.html>

10/22/08 Los Angeles

Stateman, Alison. Violence against the Homeless: Is It a Hate Crime?, Time Magazine, Available at: <http://www.time.com/time/nation/article/0,8599,1852825,00.html>

3/7/07 Washington D.C.

Wiggins, Ovetta. Bill Passed to Protect Homeless, The Washington Post, Available at: <http://www.washingtonpost.com/wp-dyn/content/article/2007/03/06/AR2007030600942.html>

ORGANIZATIONS SUPPORTING THE CRIMES AGAINST THE HOMELESS BILL

- 9to5, National Association of Working Women, Colorado
- All Families Deserve a Chance Coalition (AFDC), Denver, CO
- Colorado Coalition for the Homeless, Denver, CO
- Colorado Cross Disabilities Coalition, Denver, CO
- Colorado Interfaith Voices for Justice
- CWEE: Center for Work Education and Employment, Denver, CO
- Denver Women's Commission, Denver, CO
- La Puente, Inc., Alamosa, CO
- Lutheran Advocacy Ministry - Colorado
- Harm Reduction Action Center, Denver, CO
- Metro Denver Homeless Initiative, Denver, CO
- People's Leadership Council, Denver, CO
- Prax(us), Denver, CO
- St. Francis Center, Denver, CO
- Senior Support Services, Denver, CO

For more information contact the Colorado Coalition for the Homeless:

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ⁱ National Coalition for the Homeless (2010, August). *Hate Crimes Against the Homeless: America's Growing Tide of Violence*. Retrieved December 1, 2010 from:

<http://www.nationalhomeless.org/publications/hatecrimes/hatecrimes2009.pdf>

ⁱⁱ C.R.S. 18-9-121

ⁱⁱⁱ National Coalition for the Homeless (2009), *Hate Crimes & Violence Against the Homeless Fact Sheet: Colorado*. Retrieved January 3, 2011 from:

http://www.nationalhomeless.org/factsheets/hatecrimes_factsheets/colorado.html

^{iv} National Law Center on Homelessness and Poverty (n.d.). Retrieved December 1, 2010 from:

<http://wiki.nlchp.org/display/Manual/Hate+Crimes+Statutory+Framework>

^v 42 U.S.C. § 11302(a): <http://vlex.com/vid/general-definition-homeless-individual-19245516>

^{vi} The 2010 Florida Statutes. Title XLVI, Chapter 775.085

http://www.leg.state.fl.us/statutes/index.cfm?mode=View%20Statutes&SubMenu=1&App_mode=Display_Statute&Search_String=775.085&URL=0700-0799/0775/Sections/0775.085.html

^{vii} National Coalition for the Homeless (2010, August). *Hate Crimes Against the Homeless: America's Growing Tide of Violence*. Retrieved December 1, 2010 from:

<http://www.nationalhomeless.org/publications/hatecrimes/hatecrimes2009.pdf>

^{viii} <http://law.justia.com/maryland/codes/2005/gcr/10-304.html>

^{ix} <http://weblinks.westlaw.com/result/default.aspx?action=Search&cfid=1&cnt=DOC&db=DC%2DST%2DWEB&eq=search&fmqv=c&fn=%5Ftop&method=WIN&n=3&origin=Search&query=bias+related+crimes&rft=CLID%5FQRYRLT496400421731&rftdb=CLID%5FDB453158411731&rfti=1&rp=%2Fsearch%2Fdefault%2Ewl&rs=GVT1%2E0&service=Search&sp=dcc%2D1000&srch=TRUE&ss=CNT&sskey=CLID%5FSSSA9253158411731&vr=2%2E0>

^x http://www.aroundthecapitol.com/Bills/AB_2706/20092010/#

^{xi} <http://www.mainelegislature.org/legis/statutes/17-A/title17-Asec1151.html>

^{xii} National Law Center on Homelessness and Poverty (n.d.). Retrieved December 1, 2010 from:

<http://wiki.nlchp.org/display/Manual/Hate+Crimes+Statutory+Framework>

^{xiii} National Coalition for the Homeless (2010, August), *Hate Crimes and Violence Against People Experiencing Homelessness*. Retrieved December 1, 2010 from:

<http://www.nationalhomeless.org/factsheets/hatecrimes.html>

^{xiv} Levin, Brian. *Making the Case: Anti-Homeless Violence as a Hate Crime*.

^{xv} Southern Poverty Law Center (2007). *Hating the Homeless: Attacks on Homeless Rise Across Nation*. Retrieved January 13, 2011 from: <http://www.splcenter.org/get-informed/intelligence-report/browse-all-issues/2007/summer/hating-the-homeless?page=0,2>

^{xvi} National Coalition for the Homeless (n.d.). *Colorado Historical Narratives 1999-2009*.

^{xvii} National Coalition for the Homeless (2010, August), *Hate Crimes and Violence Against People Experiencing Homelessness*. Retrieved December 1, 2010 from:

<http://www.nationalhomeless.org/factsheets/hatecrimes.html>

^{xviii} Levin, Brian. *Making the Case: Anti-Homeless Violence as a Hate Crime*.