



Eastern Region Office  
PO Box 60173  
Philadelphia, PA 19102  
215-592-1513 T  
215-592-1343 F

Central Region Office  
PO Box 11761  
Harrisburg, PA 17108  
717-238-2258 T  
717-236-6895 F

Western Region Office  
247 Fort Pitt Blvd  
Pittsburgh, PA 15222  
412-681-7736 T  
412-681-8707 F

## MEMORANDUM

**TO:** Pennsylvania House Judiciary Committee

**FROM:** Elizabeth Randol, Legislative Director, ACLU of Pennsylvania

**DATE:** April 3, 2017

**RE: OPPOSITION TO HOUSE BILL 90 (ZIMMERMAN)**

Historically marginalized groups of people have long been the targets of harassment and violence. Too often, hate-motivated crimes were not vigorously investigated or prosecuted. In response, states began passing hate crime laws in the 1980s, recognizing race, religion, and ethnicity as protected classes under the law. Since then, [46 states](#)<sup>1</sup> have enacted hate crimes laws. Statutes vary from state to state, as many have expanded protected class categories to include gender, national origin, sexual orientation, gender identity, and disability status. Currently, Pennsylvania's hate crimes statute protects people based on race, color, religion, and national origin. House Bill 90 proposes to amend the law to include police officers, firefighters, and EMTs, while leaving women, gay and transgender people, and people with disabilities unrecognized under the law.

**On behalf of the 44,000 members of the ACLU of Pennsylvania, I respectfully urge you to vote 'no' on House Bill 90 for the following reasons:**

### **Employment is not an 'immutable characteristic'**

Hate crimes laws were created in response to violence against marginalized groups of people who have been targeted both historically and in the present day for harassment and violence. By definition, hate crimes are motivated by bias against people, targeted *specifically because of* their race, religion, or some other immutable characteristic. This bill would add police officers, firefighters, and EMTs as protected classes under the law. But these are *employment categories* and therefore fundamentally different from the personal characteristics traditionally recognized in hate crime statutes. Most [police injuries and deaths occur in the line of duty](#)<sup>2</sup> while responding to a call, attempting an arrest, or transporting a prisoner. In other words, police are injured or killed not because of hate or bias, but *because their jobs are dangerous*. Amending the law to treat acts of violence against police as hate-motivated dilutes and distorts the meaning of hate crimes protection.

---

<sup>1</sup> "State Hate Crime Statutory Provisions." *Anti-Defamation League*. N.p., Jan. 2016. Web. Apr. 2017. <<https://www.adl.org/sites/default/files/documents/assets/pdf/combating-hate/ADL-updated-2016-Excel-State-Hate-Crime-Statutes.pdf>>.

<sup>2</sup> "Law Enforcement Officers Killed and Assaulted." *Uniform Crime Reporting Publications*. Federal Bureau of Investigation, n.d. Web. Apr. 2017. <<https://ucr.fbi.gov/ucr-publications>>. This report is an annual FBI publication that provides data on officers feloniously or accidentally killed and officers that were assaulted while performing their duties. Detailed and summary information is available by year.

**Existing criminal code already imposes stronger penalty enhancements**

[Pennsylvania criminal law](#)<sup>3</sup> already provides enhanced penalties for violent crimes committed against 38 categories of “officers, agents, or employees,” including police officers, firefighters, and EMTs. In fact, existing penalty enhancements are far more severe than those applied under the hate crimes statute. People charged with a hate crime receive a one-level enhancement to charges filed against them, while the criminal code escalates a simple assault against a police officer to an aggravated assault. And in Pennsylvania, killing a police officer is punishable by death. Adding employment categories to the hate crimes statute is both unnecessary.

**Prioritizes protections for powerful institutions over the people they serve**

Adding police officers to the hate crimes law is a distraction from the very real concerns about police harassment and mistreatment that have been raised in communities across Pennsylvania. Facing heightened public scrutiny and a powerful protest movement, law enforcement officials have been working diligently over the last three years to take the spotlight off police abuses by blocking attempts to hold them accountable. Movements that hold police accountable are not about targeting individuals; they target law enforcement as an institution with highly-trained, highly-weaponized officers that wield a great deal of power over some of our most marginalized communities. And these marginalized communities are often home to the protected classes recognized under hate crimes statutes. If passed, this bill tips the scales even further in favor of the police, who already have significant systemic advantages. Communities that have raised awareness of police mistreatment are simply asking that the system is fair and just for all. But instead of addressing these concerns, state legislators are providing cover for police officers. Those *in* power are shielding those *with* power against the people they ostensibly serve.

**Further erodes accountability and trust between law enforcement and local communities**

Rebuilding trust between local communities and police departments is impossible without measures to ensure that police will be held accountable when they act improperly. This legislation would increase protections for law enforcement officers without balanced protections for residents against abusive and intrusive police practices. When viewed in conjunction with other pending legislation before the Pennsylvania General Assembly, the assault on accountability becomes even more clear.

If House Bill 90 is enacted, some lives would be classified by law as more valuable based solely the jobs they happen to occupy. More severe, enhanced penalties for assaults on police and other first responders already exist under Pennsylvania’s criminal code. The truth is that including police in hate crime laws is nothing more than a political statement — and an unnecessary one at that.

**For these reasons, we urge you to vote ‘NO’ on House Bill 90.**

---

<sup>3</sup> 18 Pa. Con. Stat. § 2702