

American Society of Criminology
Division on Terrorism and Bias Crimes
Distinguished Scholar Award
Thursday, November 15 @ 9:30 a.m. - 10:50 a.m

Thanks very much for this honor and the opportunity to say a few words about the work Val and I have done on hate crime and hate crime laws. Val wanted to be here, but she had a previously scheduled trip to the Middle East, so you get me instead, which is too bad for you. It's a bit like giving an award to Simon and Garfunkel and only Garfunkel shows up. I'm basically the Garfunkel of our collaboration. It's fine. I accept it.

What I would like to do with my remarks is to talk about some of things that, as researchers, we seldom have the opportunity to discuss, which is the story behind the research; the serendipitous way it emerged; how one piece of the project led to the next; and how it drew both of us into a type of scholarship that I don't think either of us imagined we would do when we started. This is a short story about the career of our work.

Val and I have known each other since graduate school at UC Santa Barbara, where we were both students in the late 1980s. Her work at that point was on social movements. She wrote a fascinating book on prostitutes' rights organizations called *Making it Work*. My work was centrally located in the sociology of law. My dissertation was on the history of industrial accident law. Right there, you can see she had an eye for interesting sociological topics, whereas I did not.

After graduate school, Val's first job was at Washington State University. I took a job at Louisiana State University. At some point, I was visiting her in Pullman and we decided to take a road trip to see Mt. St. Helens. On that trip Val started talking about hate crime, which was a new idea at that point, and expressed an interest in doing some work on the topic. However, she confessed that she was struggling with how to approach it. I proposed that we could look at the criminalization literature and see if existing theories are useful in explaining why some states adopted hate crime laws and others had not. We put together a dataset and wrote our first paper on that idea, which was published in *Sociological Perspectives*. Val and I came to call it the null findings paper because basically we found no support for any of the theories we tested.

Null findings aside, we thought we hadn't really learned much of sociological value about the phenomenon of hate crime law, so we took off in another direction, looking for theoretical inspiration from institutional theory. That turned out to be much more fruitful way of looking at the criminalization process. As a result, a paper that identified factors relevant to the diffusion of hate crime law across the U.S. landed in the *American Sociological Review*.

Val then did some work on the social movement side of hate crime. She wrote a book with her graduate student, Kendall Broad, called *Hate Crimes: New Social Movements and the Politics of Violence*, and a *Social Problems* piece looking at claims-making in congressional debates about the federal bias crime law. The latter subsequently won the Lindesmith Award from the Society for the Study of Social Problems. I did a paper with my graduate student, Scott Phillips, which focused on how the concept of bias crime evolved in appellate case law. That paper was published in the *Law & Society Review* and won the Law & Society Association Article Prize. If our first couple of papers were focused on the legal construction of hate crime via statutes, these second round of papers then involved us in understanding how the concept of hate crime evolved out of social movement activity and once enacted in legislative statute, took on new meanings as the laws were applied to concrete cases that challenged the laws in court.

As our separate and collaborative work took shape, we were starting to get a picture of what we came to call the “career” of the concept of hate crime in law. The “career” idea then formed the basis for our book, *Making Hate a Crime*, in which we trace the formulation and reformulation of hate crime within social movements, legislation, courts, and then within law enforcement. In the book, we drew on lots of empirical data to show how the concept came into being as it traversed across distinct and interrelated institutional domains in the latter part of the 20th century. We called hate crime a “modern legal invention” and demonstrated its power as a social fact related to crime, vulnerable groups, and social control, including of course, lawmaking and law in action.

However, we realized that in the book and the work that preceded it, we had only scratched the surface on the policing aspect and after the book was published we designed a project to look at how law enforcement agencies defined the concept of hate crime in their local enforcement polices, called “general orders”. This project led to a series of pieces that appeared in *Social Problems*, *Law & Society Review*, and *Social Forces* that examined different aspects of the policing of hate crime. This body of work revealed how and why policing varied across agencies and, we think, equally importantly, it turned out to have an applied dimension and contributed in very direct way to a wholesale reformulation of hate crime laws in California, via a statute called the Omnibus Hate Crime Law, which was signed into law by Governor Schwarzenegger in 2004.

Looking back, we learned some valuable lessons from our research on hate crime. First, the work essentially started with a failure. Our first attempt at a research project ended with a null findings paper, which is arguably a contribution because it shows that existing theories of criminalization weren’t particularly useful for understanding hate crime, but not exactly the contribution we hoped to make.

Second, by following the career of the concept of hate crime, we found that different meanings of the concept emerged in different settings within the legal system, which makes hate crime a case of broader phenomenon that happens with some regularity in law. It was a case of a new legal rule that emerged, became fleshed out, and institutionalized, and, as a result, some of the conceptual tools we developed to understand it are applicable to other kinds of laws and innovative legal constructs, like stalking, sexual harassment, elderabuse, or terrorism.

Finally, we learned that pursuing a theoretically-oriented approach with a strong emphasis on methodological rigor to a subject like hate crime can result in some valuable contributions not just to scholarship but also to law and policy. It’s this last point that I think Val and I didn’t really anticipate when we started and that I think if you look at much of Val’s subsequent work on prison sexual violence and inmate grievances and my work on parole and California’s prison downsizing you can see that a policy focus is quite prominent the work.

So, on behalf of both Simon and Garfunkel, thanks again for the award and the opportunity to share a bit about how it came about and unfolded. It is my honor to accept it on behalf of both of us.

--Ryken Grattet (on behalf of and with input from Valerie Jenness)