
COLLEGE HATE CRIMES: CHOOSING THE BEST METHOD OF MEDIATION

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Hate Crimes and those that perpetrate them have seemingly become more frequent on college campuses. Proliferating the youth of tomorrow it is important that such a unique multicultural, ethnic and racial setting use educational and peaceful means to settle their issues. While the federal government is not sanctioned to delineate educational laws within individual states, their presence is necessary for conflict resolution. Mediative conciliation rather than traditional mediation seems to be the most effective way to deal with these crimes. Through examples from two universities in Oregon where mediative conciliation was used, this paper seeks to argue the need for federal presence and for government programs in order to create a message of harmony that can transcend state lines to include an entire country.

Race related hate crimes in schools across the country seem to have become much more apparent since the passing of the *Civil Rights Act of 1964*. A large part is due to integrated school systems and increased levels of diversity. As a result, college campuses have had to devote more effort and time dealing with instances of hate crime. Additionally, campuses have had to work strenuously to control the escalation of tensions associated with these crimes within the student body and surrounding community. Education was designed as an optional institution that is empowered by the state that has the power to decide its own educational laws and requirements, and education is by no means a federal delegation. However, the federal government is obligated to deal with community relations that affect the entire American society. According to the Department of Justice, “a core responsibility of government is to protect the civil rights of its citizens and to advance its inherent obligation to ensure good race and ethnic relations.”¹ This responsibility is important to the social welfare of school campuses nation wide. The federal government, however, cannot infringe on the states’ rights to educational laws. It seems that there is a fine line between state and federal laws and the question at hand is where exactly that line lies since both parties have mutual interests. What role should the federal government play on a college campus when ethnic hate crime occurs? What methods should be used to solve the problem and ease rising tensions in such a volatile situation? Through the course of this paper, I

will discuss these questions in an effort to prove that the federal government's presence is a necessary and important asset to large-scale racial conflict and hate crimes on college campuses.

Mediation has become a common way to address issues concerning an array of community conflicts. Whether in family cases, small community claims, or business, mediation is an effective tool because it extends beyond the immediate conflict and well into the future since it focuses on making advances toward a resolution. Mediation allows for a distinct agreement to be reached between two parties and binds the parties to a non-legal agreement. While mediation is an excellent conflict resolution tool for community-based conflict, it is not the best tool to solve college race-based hate crime. Instead, the best resolution for school community conflict is a system of "mediative conciliation" where the services set up by the federal government place programs in schools that deal with present instances of hate crime and try to soothe tensions for future diverse classes on these college campuses. This paper will seek to develop this idea through the examples of two colleges in the Pacific Northwest: University of Oregon and Gonzaga University. The processes used and the outcomes of each instance as well as the general statistics on diversity among these campuses will be discussed and explored. Whether or not it is typical for these Universities to have instances of race-induced crime, on their surface it appears not to be the case. However every college campus in its unique setting has the potential for hate crimes. A publication describing the nature of hate crime disseminated by the Department of Justice states that, "on college campuses around the country, the competition can be fierce. As a result, students don't always view one another as allies or friends, but sometimes as opponents or enemies with whom they must vie for scarce amounts of success, both in and out of the classroom."² In such a unique environment it is necessary for the federal government to be able to exercise its inherent obligation for social well-being. A federal government agency such as the Community Relations Service (CRS), which is part of the Department of Justice, is beneficial to such an environment because it provides a legitimate and solid support for both sides. CRS often brings to conflict resolution a volume of respect that is unprecedented by both parties.

Several U.S. Constitutional laws prohibit acts or threats of violence, which additionally includes harassment and discrimination based on color, race, religion, national origin, sexual orientation, gender and disability. Because these laws are federal laws, federal agencies, as well as state agencies, are allowed to insure that they are being accurately applied. The following are a few examples:

- 18 U.S.C. Section 245, the principal federal hate crime statute prohibits intentional use of force or threat of force against a person because of his or her race, color, religion, or national origin, and because he or she was engaged in a "federally protected activity," such as enrolling in or attending any public school or college.

*- Title VI of the Civil Rights Act of 1964 prohibits discrimination by institutes that receive federal funding, including harassment on the basis of race, color, and national origin.*³

Public schools and private schools alike have adopted these policies and implemented them into their enrollment and university conduct standards. It becomes a more torrid issue when the students themselves do not abide by the prohibition of "force or threat of force" standard.

Hate crime can be defined as the violence of intolerance and bigotry intended to hurt and intimidate because of race, ethnicity, national origin, religion, sexual orientation, or disability. The purveyors of hate use explosives, arson, weapons, vandalism, physical violence, and verbal threats of violence to instill fear into their victims leaving them feeling vulnerable and alienated.⁴ Typically there are three general categories in which these crimes fall: reactive, impulsive, and pre-meditated. In a reactive hate episode the perpetrator is "defending" their territory, friends, college, etc. and can only feel justified once hateful actions are carried out against the outsider. In an impulsive hate episode the perpetrator is looking for some form of excitement and receives a thrill from the hateful action. These perpetrators are "looking for a sense of importance and control which is both social and psychological, and [the hate crime] is the payoff."⁵ Lastly there are those perpetrators who think and plan their crime before they act on it, a premeditated hate crime. Those who perpetrate a premeditated hate episode are convinced that all outsiders are sub-human. Additionally, the person often believes that they are carrying out a higher order rather than just eliminating a few "sub-humans" from a segment of the university. These individuals sometimes operate alone, typically suffering from a mental illness, or are part of a group of individuals who promote the same ideology. Such an individual is the perfect candidate and the most likely to join an organization such as the Ku Klux Klan.⁶

Environmental factors greatly influence a student who executes a hate crime, and therefore it is important to look at the composition of the environment when evaluating how the federal government's presence should be implemented on campuses. The University presents a unique setting in which hate crimes occur. It is a microcosm of society, yet most students who attend come from a society that is not as diverse as the situation presented to them their first year of college. The Department of Justice concludes that, "for most students, whatever their racial identity,

college is the first occasion to have extensive contacts with individuals who differ from them in socially significant ways.”⁷ Most students come from communities that are already racially segregated, making their life experiences very limited when it comes to a person of another race. A minority student may have come from a city predominately dominated by his or her race, never having been faced with other races or the accompanying, sometimes hurtful, ethnic slurs. This can coincide with another factor that comes with the first few months of college: stress. For most students this is the first time they have been away from home for a long period of time, placing them outside their comfort zone. Subsequently, they are placed into a fast paced and competitive environment where they could potentially fail. Most students do not initially have a set group of friends, often feel like social outsiders, and are extremely fearful of being rejected. It is within these circumstances that students look for others who are similar to them. While this is the most comfortable thing to do, it can often produce a negative environment and breeding ground for discriminatory behavior. Interestingly, “Most perpetrators of hate crimes perpetrated against college students are themselves college students.”⁸ This puts a new spin on the nature of college hate crimes and how important the college environment itself is to the prevention of these crimes.

The competitive nature of a college campus environment can be compared with the competitive nature of the work environment. For example, sociologists Joan Weiss, Howard Ehrlich and Barbara Larcom (1991-92) found, in their study, “Ethno Violence at Work,” that 27 percent of all respondents who reported “prejudice based” episodes experienced them while they were at work.⁹ Similarly the federal government has an invested interest in the social cohesion of the workplace. Even in private enterprises, race relations and employee cooperation are important to the greater economic picture. A college campus is similarly a “workplace” for students and competition is fierce, not only to get into a university, but additionally throughout the entire four years a student is in attendance there. From college they are sent out into an equally competitive workplace. After fighting through thousands of other potential employees, students working in entry level positions are then forced to compete with co-workers to prove that they deserve their job. The competition cycle becomes progressive and it is easy to see that students become very territorial about their activities, living environment, friends, jobs and educational opportunities. It is within these parameters that certain students feel threatened and sometimes act out violently.

The United States has had a long, sordid history of hate crimes in all aspects and arenas of society. With such a long history it is hard to focus in on a specific instance that may serve to explain the rise in such crimes. A good conjecture though would be the decision in *Brown v. Board of Education* (1954), which allowed for the desegregation of the school

system. Busing blacks and other minorities from their familiar neighborhoods into new neighborhoods and schools was emotionally shaking for these students who suffered from the anxiety of being so far from home for almost the entire day. Additionally, white students were left wondering what was so different about the blacks that it was necessary for them to be bused in. Such unanswered inquiry further stimulates the notion that there is something “wrong” with the African American and further promotes superior feelings in the heart of a white student. This is a problem that is inherent in our school systems today.

Since the 1960s, hate crime statistics have been on the rise with almost 41% of those crimes targeting Jewish and African-Americans (as reported by the Bureau of Justice Statistics 1997-1999), and 61% of crimes were found to be motivated by race. The National Institute Against Prejudice and Violence in Baltimore estimates that “20 percent of all minority college students are either physically or verbally harassed.”¹⁰ Furthermore, at least one instance of either a simple insensitive remark or an act of open warfare was reported every three years in colleges around the country. In the year 2000 the Universal Crime Report (UCR) reported the highest number of hate crimes: “Of 9,430 offenses 65% of those were attributed to specific crimes against persons (as opposed to society and property). 34.9% of that 65% were intimidation crimes and 11.4% took place on college campuses.”¹¹ Discrimination is not limited to African American and Jewish students, but can include Caucasians, Asians, Latinos, Native Americans, and women. In the last decade the most targeted groups for hate crime on college campuses seems not to be individuals who differ from their assailants in ethnic origin or gender, but in sexual orientation. A combination of such a unique environment and statistical reports such as these give leave for the responsibility and aid to extend past the State and local officials and into the federal government. How does the government help these communities?

One of the methods that has been useful in such university environments is conciliation and mediation services. Formal mediation has come to the forefront of alternative dispute resolution (ADR) procedures largely in the last twenty-five years. This method of conflict resolution services is not a new one, and its presence extends much farther than the last two decades. From the beginning of the 1800s, the roots of mediation have been embedded deep in society, mainly in the labor relations sector of the population. In the late 19th century, with the development of the national union movement, many companies instituted regulations requiring mediation in labor conflict. The Erdman Act in 1898 was established for railroad workers shortly following the Pullman railroad strike. Its creation ensured that strikes would not happen as easily and thus cause the upset of the U.S. economy. Requiring disputes to enter mediation processes

before they proceed to the court level or to violence and strikes could save a company a great deal of money and time.¹²

There is an analogous relationship between large companies and universities. One of these similarities lies in the structure of employees with large companies and students in universities. Both students and employees operate within a system built on hierarchy: freshmen to seniors, interns to CEOs. Each member of both systems relies on performance to move them upward and is likewise socially competitive to get the best grade, sell the most, write the most outstanding paper or make the most profitable deal. Both systems have an invested interest in making sure their employees and students co-exist harmoniously. Of course, in a utopian society, such harmony would stand a chance at being achieved. However, more realistically, alternate solutions have been developed to achieve as much peace as possible in both the university setting and the corporate work world. Mediation is more productive and proactive, and it does not draw unwanted attention from the media to the university or corporation, both of which would not benefit from negative publicity. Universities and corporations desire to save face and attract students and future employees to their programs.

Mediation policy is an instrument of choice for most organizations. There are alternatives, however, to this formal process of policy. Mediation, as a means of solving conflicts outside of the courtroom, is typically the policy for divorce, child custody, corrections facilities and even environmental issues. By definition, mediation typically consists of a structured formal, face-to-face negotiation of issues around a conference table. Formal mediation, therefore, is a facilitated voluntary good faith negotiation among willing parties in order to achieve a documented settlement of issues. Through research it is clear that there are other processes that may better achieve long-term success in the university setting. Conciliation is one such method in which the peacemaker facilitates communication between the parties in conflict to reduce the likelihood of violence or disruption; lessen the effects of intergroup tension, suspicion, or distrust; and narrow the perceptions of adversarial parties so that they may engage in a resolution of their differences.¹³ In both processes, negotiation is a key part of the procedure. In short negotiation is a bargaining process involving incremental adjustment of positions by the parties until agreement is reached.¹⁴

Of all of these ADR methods, the most effective method in school-based conflict is a combination of the two: mediative conciliation. Knowledge is the base and key to the success of this method. Tim Anago asserts that conciliatory mediation “combines the facilitative skills of mediation with the evaluative techniques of conciliation to offer a unique dispute resolution model.”¹⁵ Hate crimes call for a combination of resources

utilizing knowledge, skills and tools from several peace processes. The qualifications of the mediator simultaneously play into the success of the conflict resolution process. For the federal government, typically seen as a power-wielding giant, it is important to have these characteristics. Extracted from a combination of sources, the following explains the qualities found to be most pertinent to a federal mediator.

A mediator or conciliator must be encouraging, able to clarify what is said and be able to show that they are listening equally to both parties. In a similar version Pepperdine University School of Law outlines the following as the best characteristics to have in a mediator/conciliator: 1) the ability to listen; 2) the ability to analyze problems and frame issues; 3) the ability to use clear, neutral language; 4) personal sensitivity to strongly held values; 5) presence and persistence; 6) the ability to identify and separate the neutrals’ personal values from issues under consideration; 7) the ability to understand power imbalances; 8) and the ability to deal with complex facts.

In researching the procedural process of mediation it is clear why mediative conciliation is the best method for the federal government and university administration to use against hate crimes on college campuses. Meditative conciliation allows for the development of programs within the university infrastructure that allow for growth as the diversity with each new class that is introduced to the university expands. The federal government can provide a presence as a mediator by facilitating rather than implementing force to effectively settle the situation. Community Relations Service, a federal agency, has developed several different programs that they use as suggestions when they are called specifically onto university campuses for hate-based crime as conciliators.

The Community Relation Service (CRS) is the agency created by the federal government under Title X of the Civil Rights Act of 1964, which peacefully mediates and performs assessment and conflict resolution in any conflict that is related to race, color, or national origin. The Legislative Mandate of Title X, 42 U.S.C.2000g-1 reads:

It shall be the function of the Service to provide assistance to communities and persons therein in resolving disputes, disagreements, or difficulties relating to discriminatory practices based on race, color, or national origin which impair the rights of persons in such communities under the Constitution or laws of the United States or which affect or may affect interstate commerce. The Service may offer its services in cases of such disputes, disagreements, or difficulties whenever in its judgment, peaceful relations among the citizens of the community involved are threatened thereby, and it may offer its services upon its own motion or upon the request of an appropriate State or local official or other interested person.¹⁶

Such a mandate allows for federal presence in state issues. In respect to this paper, the creation and work of CRS demonstrates the importance of mediative conciliation as performed by the federal government. Mediative conciliation has shown a success rate where it has been used by the Department of Justice in numerous areas; specifically in instances of hate crime. Such success legitimizes its creation under Title X.

As a peacemaker for all communities, CRS is a mediation agency that is federally regulated to be involved in community conflicts and to facilitate services. Additionally, CRS is mandated by Title X to report to Congress about its activities.¹⁷ This allows the rest of the federal government to be aware of race based crimes and conflicts in their respective jurisdictions and to work with those communities to fix the problems. CRS is the only federal agency dedicated to assist State and local units of government with all sectors of the community to and community groups with prevent and resolve racial and ethnic tensions. CRS facilitates the development of viable, mutual understandings and agreements as alternatives to coercion, violence, or litigation. It also assists communities in developing local mechanisms, conducting training, and other proactive measures to prevent or reduce racial/ethnic tension.¹⁸ Jurisdictionally, CRS only involves itself in matters that affect the entire community. One of its main jurisdictions is college hate crime. A college hate crime that is race-based not only affects the university community but the entire collective community.

Among the many services and programs offered by CRS, there are a number of basic procedures and tools used in assessing and facilitating conflict resolution in any situation. The first step in the process wherein CRS is requested by a party or government is the step of assessment. CRS must evaluate the necessity of their presence in the situation. Diane Schneider, the Senior Conciliation Specialist from the Region X district in CRS remarks that “the step of assessment is foremost in importance because it develops the answer to the question of where the conflict is going. Is it escalating? Does it have the potential to escalate? Is CRS involvement necessary? What are the tension factors? – All of these are initial questions that must be answered before any action can take place.”¹⁹ This shows that conciliation is a thoughtful process requiring knowledge of all aspects of the people involved.

The next step in the process is the notification of Congress when CRS decides to take a case. Under the U.S. Department of Justice notification by CRS to Congress is mandatory such that: “As the people’s body, Congress must be kept informed when the Administration responds to a domestic crisis. The Attorney General is directed to notify the relevant committees whenever requests by local officials prompt the deployment of CRS personnel to mediate civil conflict.”²⁰ By keeping the federal

government and respected officials notified, there seems to be a significant decrease in tension allowing the establishment of peace laws and programs.

The last step is the evaluation and procedures step wherein CRS actually deploys conciliators and mediators to the scene of the crime or conflict. When CRS arrives at a particular location they immediately evaluate the current situation. Most of this has already occurred in the assessment phase of the operation, but as time has elapsed CRS looks for the current tension factors in a situation so that they may operate more efficiently. Typically most school conflict/hate crime situations includes two parties that are ethnically different and desperately need to be calmed and evaluated. At this point CRS evaluates exactly what needs to happen, if formal mediation is necessary, or if conciliation and then recommendation of a program is necessary. Sometimes these programs are already in place and CRS is able to evaluate how the programs can diffuse the hate crime and tension with their already available resources and how they can be improved. Typically CRS stays alert to the campus situation for a year after the incident to monitor tension flare-ups. Using conciliation and instituting programs is the best method to take when confronting specific issues. The following examples display federal government presence and mediation aide in hate instances affecting two universities in the western United States, and further how mediative conciliation is the best method for conflict resolution. Additionally they highlight the inherent need for the federal government aide and interest in the welfare of the university environment.

At the University of Oregon on May 18, 1999 it was reported that minority university students staged a protest in front of the administration building on campus. As a result of their refusal to leave, thirty-one students were arrested. The protest was allegedly in response to reports of a hate inspired e-mail that was disseminated between students and with comments that were perceived to be racist in classroom debates.²¹ The students felt that the administration was not responding in an adequate fashion to these instances. These students perceived a great deal of “inaction on the part of the university to protect students of color from threats and harassment.”²²

The University of Oregon has a relatively small population of students with the entire student population totaling 15,887. Among the key ethnic groups are the following totals of the population: 13,968 Caucasian, 539 Hispanic, 286 African American and 1,200 Jewish students for 2002-2003.²³ These totals suggest that Caucasian students heavily outnumber the remaining minority students. It is easy then in these situations for the campus to become aptly divided by race and segmented into specific groups according to association.

The CRS requested the federal government to take action. The decision was jurisdictionally appropriate for them to take because the issue was of community concern. The students who were protesting the administration brought to the table a list of demands upon the school. Some of the demands offered reaction against students who had written the hate e-mails. Additionally, there was a demand for a position to be created on the President's council for a Minority Council Director with ten positions to be created for paid summer internships. In a regular meeting of the Presidential Counsel that turned out a large audience the students and administration at the University of Oregon arrived at a common ground. The university asserted that they were working on several diversity related projects including, among many, "recommendations for student conduct code revisions, group pledge of respect which would then be made into a plaque for posting in a prominent area on campus, and a group looking into enhancing 'teaching effectively in a multicultural university.'"²⁴ Officials in the administration agreed to facilitate a faculty advisor for the proposed summer internship program. Programs like these promote an ongoing process that affects the whole school and surrounding community.

In this instance CRS did not have to go to the formal "mediation table." Instead they were to act as conciliators and provide a federal presence to the situation. Conciliator Diane Schneider who worked on this case stated that "people often mind their manners more when the federal government is present, more so than when they are surrounded by the media, which typically just fuels their fire and creates tension."²⁵ Federal presence promotes a higher standard of respect and compliance that is necessary in university hate crime instances. The CRS was also able to provide resources from schools that had similar problems and remained at the university in Eugene, Oregon to monitor the tension levels and insure that escalation was minimal.

As a result of the CRS recommended programs proposed by other universities the University of Oregon now has a Bias Response Team (B.R.T.) on campus. Their motto is "Hate. Not in our town." The following is their mission statement: *The Bias Response Team is comprised of members of the Office of Student Life, the Counseling Center, Conflict Resolution Services, as well as other offices. It was formed specifically to obtain information and respond to incidents of bias on our campus and in our community.*²⁶ The formation of the BRT is a direct result of the CRS. It is a program created to help universities empower peaceful and prosperous relationships among students. Such a program allows for the victims of a crime to report the crime and proceed with charges or action on their own accord and at their own discretion. The development of this program is a result of the incident and conciliation process during the staged protest at the administration building. Such a program is an

initiative that is based on the Student Problem Identification and Resolution Program (SPIR), that is a "conflict resolution program designed to identify and defuse racial tensions involving student at all school levels."²⁷ The efforts achieved by this program hope to minimize future escalations by providing an outlet for students to anonymously report hate crimes allowing the students and faculty to act on reported instances, which will delay and extinguish hate crimes on campus.

In Spokane, Washington, at Gonzaga University, another instance of hate crime occurred in which university officials requested federal attention by CRS. In 1995, a racist letter was sent to four African-American law students during the week of finals. Excerpts from the letters included these words, "If any of you want to be martyrs, stick around... We know where you live we have your schedules we have watched all of you outside of school... accidents do happen make no mistake we will be in touch."²⁸ The students were terrified and two of the four students who lived off campus had to develop their own means of safety such as having their locks changed on their apartment doors and hiring their own security guards to monitor their building. The hate mail episode caused a riot at the university similar to the one at the University of Oregon, drawing a crowd of 900 plus students to protest bigotry at Gonzaga University Law School. How diverse is Gonzaga University Law School? Upon searching the Gonzaga University website it was very difficult to determine the diversity levels within the student population. It was clear, however, that the African-American students on campus feel very much the minority and feel that their fellow students are constantly snubbing them because of their race. Some of the reports include statements where "students also allege that the racial climate on the campus is hostile to students of color. Students say they feel they are given the 'pity' treatment rather than practical assistance in addressing and developing policies to deal with such incidents."²⁹

Typical to this sort of situation is the way in which the tension escalates to involve other segments of the community besides the university. The hate mail incident caused tension that produced conflicts between many other facets of the community. First, there was the conflict between the perpetrators of the hate mail and the victims. Immediately the National Association for the Advancement of Colored People (NAACP) jumped in and used this as a platform to establish another example of how the police in Spokane do not respond to minority reports with high priority and additionally use force to elicit behavior that they want. In this case, for example, the officers told the victims that there were no fingerprints on the hate letters, yet asked for the victims themselves to be fingerprinted. This incident also developed an additional conflict between the students and the police officers. Additionally, university officials alleged that the police were doing little to help the situation while university board

members were blaming university officials for not solving racial conflict problems internally at the university level. When a conflict reaches these levels is typically when CRS is requested to step in and mediate.

This case was important for CRS because it was a multi-faceted, largely community based conflict, affecting and drawing in all aspects of the community that would require broad based conciliation skills to resolve the issue. Here mediation, again, could not be used because it is perhaps too much to ask to formally sit down and expect the hateful perpetrators to change their views and agree to never do it again. Conciliation was a more effective choice and the presence of the federal government moved things along at a quicker pace. CRS met with officials in every aspect of the community to help solve issues and move the university in a direction that would actively solve the many racial tension concerns arising all over the campus. CRS' presence was requested as the President decided to start a community task force and sub-committees to address racial problems on campus. These groups were entitled "Campus Climate" and developed student focus groups for the purpose of eliciting specific concerns or incidents of concern from white students and students of color, who had concerns about the school racial climate. The policies and procedures subcommittee reviewed current university wide and departmental policies and procedures relating to harassment with the goal of publishing a comprehensive document outlining current or modified policies and procedures addressing harassment as relates to staff, students, and faculty who are victims of such acts of hate crime.³⁰ In a report to the Attorney General, the Community Relations Service outlined its involvement with these words: "CRS assisted the university in forming a campus-wide task force including ethnically diverse students and faculty, university administration and policy makers to develop recommendations for a model structure for ongoing assessment of campus racial climate."³¹ It is clear, then, that the institution of such programs brought on by mediation and conciliation address the needs of the school and establishes a long-term commitment to those needs.

Federal presence by CRS enabled Gonzaga to develop a program that would allow the university to effectively try and solve racial tensions that come up in the future and to actively promote awareness. In addition to the Campus Climate, the office of the Associate Vice President for Diversity was established in 1998 to promote and ensure diversity on campus. Dr. Raymond Reyes, the acting AVPD, states the following: *Specifically, the Associate Vice President strives to increase diversity in the faculty, student and staff populations, assist in creating a catalyst for transforming the campus climate through a variety of activities and programs, and works with faculty members in the special skills of diversity education, including curriculum reform and pedagogy, so that ultimately we are able to provide our students role models of color and*

*better prepare them to live and work effectively in a multi-cultural society.*³² The development of such positions like the AVPD and programs such as SPIR and the BRT on campuses, reinforces the need for federal presence in such situations in order to provide a force that can produce programs with long term results. They do not, however, obtain these results through the conventional means of mediation. Formal mediation would not produce the same types of programs or positions.

It becomes clear in the above circumstances that formal mediation is unstable and is not a tool that can effectively be implemented in school race-based hate crimes. A tool has to be used to derive results that are going to last and that will constantly work with the entire community to dissolve tension. The Community Relation Service, while offering mediation services to many other community conflicts around the nation, very rarely is able to use formal mediation with campus hate crime. Through conciliation the federal government is a more active and effective presence on campus. They create a "mind your manners" phenomenon and additionally allow the community and the campus to develop programs that will provide for an on going future against hate crime.

Conflict resolution is a key ingredient to any university program, particularly when dealing with race-based hate crimes. More importantly, knowledge and awareness can prevent hate before it is fostered in a student and change the environment where a crime may occur. The question that needs to be asked is if the federal government, through CRS, is an effective means of settling hate crimes on college campuses. Through mediative conciliation CRS can be an effective tool. By simply offering federal presence and instigating dialogue between officials on campus, hate issues can be resolved and soothed. In addition, the offering of a "non-formal mediation" is more effective for campuses. In the example of a CRS mediated case at Gonzaga University it is clear that racial prejudice does not end simply by developing programs on campus to soothe victims of hate crime and promote awareness among university officials and staff. Two years after the incident another hateful e-mail in the same manner during finals and was directed at African American law students. The difference is, that through these programs they know what to do and how to effectively soothe the campus and work with the community. There was no riot because the administration dealt with it effectively, as a result of the programs that they had implemented two years prior.

CRS and other federal organizations, such as the Federal Mediation and Conciliation Service, have developed programs such as SPIR, SPIRIT and TAGS as outlines for campus wide programs. They have found that such programs can be tailored to the specific needs of a campus situation. The Student Problem Identification and Resolution program (SPIR) is a program that works in schools as a conflict resolution program that is

specifically designed to identify and defuse racial tensions involving students. It assists school administrators in addressing racial and ethnic tensions through a carefully structured process that involves students, teachers, administrators and parents. In an additional program, Student Problem Identification and Resolving it Together (SPIRIT), the local law enforcement agencies are involved in the process. Because racial hate crimes on campuses affect the entire community and not just the campus, it is important to draw the entire community into the process. What is unique to these programs and to the federal government is that the community itself decides on the action they are going to take. The federal agency does not decide what they should do, instead the process is unique to each community and by allowing the community to decide builds stronger relations between all parties involved.

It is the small things that keep our campuses glued together. When racism and hate permeate the university community it becomes a tense volatile situation almost immediately. In such circumstances, institutional programs that educate about hate and diversity to students and that facilitate victims are the most beneficial in the long run. In an article appearing in the Pepperdine Dispute Resolution Law Journal, Gary Hattal states that, "an educational environment that purports to be nurturing, safe, and open to emotional and intellectual exploration must be a safe harbor to be truly effective. Preventive steps are the ideal when it comes to working through harmful conflict, even more so if the potential for violence is apparent."³³ It is from these concepts that mediative conciliation programs are formed.

Formal mediation, the procedure most large organizations use to deal with community conflict, is not effective on a college campus because the university setting is a unique, diverse population harboring tension and emotions that are specifically unique to that environment. It would be impossible to type up a working "agreement" between parties when sometimes the perpetrators are never discovered and cannot be made to agree to anything. Additionally, a permanent document is of no help in an environment that changes every year with the addition of a new class of students, each dealing with separation from home and feeling out of place in a highly competitive environment. A mediated agreement would prove futile. Therefore, the federal government presence is necessary in community conflict especially on college campuses. In such a microcosm of the greater world and with individuals who are, in essence, the future for our country, it is important to teach each student about diversity and simultaneously the seriousness of hate crime. Mediative Conciliation teaches all parties involved on ways to effectively deal with their problems and work on solutions for resolution. At universities this includes every single student, whether they want to be involved or not. Having a federal presence not only supports the "minding of the manners" theory, but it additionally sends the message to students and faculty that the greater government cares enough to ensure that their future is tolerant of others and not hateful towards those who are different from themselves.

Endnotes

- ¹ United States Department of Justice, Community Relations Service. "Hate Crime: The Violence of Intolerance." Washington, DC:2001, 1.
- ² United States Department of Justice, Community Relations Service. "Responding to Hate Crimes and Bias-Motivated Incidents on College/ University Campuses." Washington, DC: 2000, 2.
- ³ United States Department of Justice, Community Relations Service. Legislative Mandate Documents : www.usdoj.gov/crs.
- ⁴ USDOJ, "Hate Crime," 1.
- ⁵ USDOJ, "Responding," 5.
- ⁶ USDOJ, "Responding," 5.
- ⁷ USDOJ, "Responding," 2.
- ⁸ Jack Levin, *Hate Crimes*, (New York: Plenum Press, 1993), 125.
- ⁹ USDOJ, "Responding," 6.
- ¹⁰ Levin, 123.
- ¹¹ Universal Crime Report Statistics, http://www.Gov/ucr/cius_00/hate00.pdf.
- ¹² Patrice M. Mareschal, "Providing High Quality Mediation: Insights from the Federal Mediation and Conciliation Service." *Columbia Review of Public Personnel Administration* 18 (1998): 4, 56.
- ¹³ Mareschal, 58.
- ¹⁴ Tim Ifeanyi Anago, "Mediative Conciliation." *Aace Interantional Transactions* (2000), R12.2.
- ¹⁵ Anago, R12.1
- ¹⁶ Civil Rights Act 1964, Title X (42 U.S.C. 2000g et seq.). Pub.L.8-352.
- ¹⁷ Pub.L.8-352
- ¹⁸ United States Department of Justice, Community Relations Service: *Mission Statement* www.usdoj.gov/crs
- ¹⁹ Diane Schneider, Senior Conciliation Specialist, interview by Katie Alexander, United States Department of Justice, Community Relations Service. Region X. 15 April 2003.
- ²⁰ United States Department of Justice, Community Relations Service. *Annual Report FY: 2002*, October 2001-December 2002.
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- ²⁴ USDOJ, Case# 10-0105-99
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³⁰ USDOJ, Case # 10-0052-95

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