

ARTICLES

HATE ON THE INTERNET†

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In September 1996, sixty-two Asian American students at the University of California at Irvine began preparing for another academic year. It was orientation week, a time of renewal, a return to campus, a welcoming for both new and returning students. But the unfortunate greeting that these sixty-two Asian American students received arrived over the internet to their e-mail accounts, from a person who called himself “Asian Hater.” “Asian Hater” e-mailed all sixty-two students stating that he hated Asians, that he blamed them for all of the ills on campus and for keeping the reputation of UC Irvine down. In the e-mail, “Asian Hater” demeaned and derogated Asian Americans and told each of the victims that if they did not leave campus then he would make it his personal career to hunt down and kill each one of them.

After the students received the electronic message, a cloud of terror hung over the UCI campus for weeks. Some of the victims left school for home, others considered transferring to other schools, others changed their academic schedules so that they would not be on campus alone at night, still others started carrying mace and changed their commuting habits. Victims talked about how the threat sent a chill up their spines, how it caused them to feel unsafe on campus, and how they were constantly looking over their shoulder. They wondered who “Asian Hater”

† The following article is a transcript of testimony that the author recently provided to the Senate Judiciary Committee, which is currently considering the issue of Hate on the Internet. The hearing was held on September 14, 1999, in Washington, D.C., in which the author testified as a panelist. This article is a transcript of the actual testimony provided to the Committee by Mr. Gennaco.

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was and whether he would actually come after them. Fear was cast over the campus by that singular threat of hate, not only for the sixty two students who were the direct recipients of the threat, but also for the entire Asian community on campus and the campus as a whole.

Good morning members of the Committee. I am Michael Gennaco, a federal prosecutor from the United States Attorney's Office for the Central District of California. It was my privilege to represent the United States in the prosecution against "Asian Hater", the first prosecution ever under the federal hate crime statute involving threats transmitted over the internet. Through that experience, I learned how the internet can be used efficiently and effectively to spread racially motivated terror to scores of unsuspecting individuals.

I soon learned that the UC Irvine hate crime was only a precursor to other internet hate crimes. For example, on the morning of March 5, 1998, forty-two Latino faculty members turned on their computers at Cal State Los Angeles to read their e-mails. They read a mean-spirited derogatory threat against Latinos. Using the most demeaning racial slurs, the sender told the faculty members that he hated their race, that he wanted them to die, that the only reason that the professors were hired was because of affirmative action, that their race was stupid, greedy, and ugly and that the sender was going to personally come down and kill each of them. As with the UC Irvine case, many of the Latino faculty members were terrified by the message of hate, wondering who could hate them that much (a former unbalanced student perhaps?) The professors talked about how the message left them fearful about being alone on campus and caused them to be continually looking over their shoulders in anxiety.

As the federal investigation continued, the investigative team learned that the forty-two Latino professors were not the only victims targeted by this messenger of hate. The sender had searched the internet for other victims and sent similar death threats to twenty-five Latino students at M.I.T. and to Latino employees at NASA, Xerox, Indiana University, the Texas Hispanic Journal, and the IRS. Similar concerns of anxiety and fear were communicated to the FBI from the victims at those institutions as well.

As a result of federal investigations, my investigative team was able to successfully prosecute the senders of threatening e-mail in both the UC Irvine and the Cal State Los Angeles cases. However, the climate of fear and foreboding caused by these electronic threats transmitted over the internet vividly illustrates the need for increased vigilance by all of us in order to success-

fully combat this new method of violating the civil rights of Americans.

Despite some views to the contrary, there is nothing unique about the internet that insulates the sender of such hate threats from the criminal laws of our country. A sender simply cannot target a group of individuals because of their race, national origin or religious beliefs and send them threats via the internet. Such threats are *not* protected by the First Amendment simply because they are transmitted through cyberspace.

Because the internet presents an effective and efficient way for persons to communicate to numerous individuals, the ability of individuals and hate groups to terrorize victims has multiplied exponentially. A person or hate group who wants to target and threaten scores of individuals can do so simply by sitting at a computer terminal for a few minutes. Unlike the traditional means of sending threatening communications via the telephone or through the U.S. mail, the internet offers a medium of communication where a skilled user can spew out hate-laced threats to countless victims throughout the country with little effort.

Moreover, hate mongers can create hate threats at their terminal and send out those threats while hiding behind computer screens. In short, the internet has created a whole new class of criminals — persons who do not have the fortitude to threaten persons face to face or even over the telephone can hide behind the anonymity of cyberspace and send out their hate-laced threats.

In addition, I have learned through my prosecution of internet hate crimes that certain inherent characteristics of e-mail make hate threats communicated over the internet particularly frightening to targeted victims. Unlike traditional mail, electronic mail is transmitted instantaneously — the receiver thus knows that the sender is thinking the communicated message of harm at the same time the transmission is received. Moreover, unlike communications over the telephone, the electronic message is not accompanied by non verbal inflections, tones of voice, or any other auditory cues. The message simply blips onto the victim's screen. As a result, the victim cannot gauge, except from the message itself, the degree to which the sender is intent on carrying out the threat, whether the sender has the capacity to implement the threat or any other information about the person who sends the hate transmission. This knowledge "vacuum" makes any threat received over the internet particularly disturbing to the victim.

Finally, because an electronically transmitted message arrives directly on the victim's computer screen, usually with a ring

or other audio cue, the message is much more invasive than traditional mail. Regular mail is delivered in a mail box. Electronic mail flashes onto a computer screen at the victim's work station, her home, her bedroom, her children's room . . . Wherever the victim's computer terminal happens to be.

There is thus no question that this new mode of transmitting thoughts, knowledge, and ideas, while having great potential and tremendous advantages over traditional methods of communication, also presents a new and serious challenge to law enforcement authorities with regard to those that would abuse the technology.

The inherent nature of internet hate crime investigations and prosecutions also demands that federal investigators and prosecutors assume an active role in bringing hate criminals to justice for several reasons. First, oftentimes, as with the Cal State Los Angeles case, the sender transmits hate mail across state lines to victims throughout the country. Second, investigators must have expertise in computer crimes and sufficient resources in order to track the sender of the electronic transmissions and recapture any similar messages sent from the sender's computer — the FBI, for example, has such expertise in its computer crimes units. Finally, as with both the UC Irvine and Cal State cases, in order to obtain locator information about the sender and potential victims, one must have the capability to subpoena internet service providers — quite often those providers reside outside the state in which the transmission originated. Accordingly, the federal government must play a role in investigating and prosecuting cyberspace hate crimes.

Of course, because much of the electronically transmitted hate, while despicable, may be protected by the first amendment, criminal prosecution cannot always provide the answer. For that reason, it is essential that other methods to combat the spread of hate on the internet be devised and implemented whether through education, or new technology such as filtering devices. Internet service providers, civil rights organizations, federal and local investigative and prosecutive authorities, and state and federal legislators must all play a role in countering the hate mongers on the internet. It is only by working together that we can successfully combat those who would use the internet to spread their message of hate and fear and to ensure a cyberspace consistent with a world view of racial and religious tolerance.