

ment, whether administered by such government or by a private organization on behalf of such government, and includes—

- (A) any local jail or police lockup; and
- (B) any juvenile facility used for the custody or care of juvenile inmates.

(8) Prison rape

The term “prison rape” includes the rape of an inmate in the actual or constructive control of prison officials.

(9) Rape

The term “rape” means—

(A) the carnal knowledge, oral sodomy, sexual assault with an object, or sexual fondling of a person, forcibly or against that person’s will;

(B) the carnal knowledge, oral sodomy, sexual assault with an object, or sexual fondling of a person not forcibly or against the person’s will, where the victim is incapable of giving consent because of his or her youth or his or her temporary or permanent mental or physical incapacity; or

(C) the carnal knowledge, oral sodomy, sexual assault with an object, or sexual fondling of a person achieved through the exploitation of the fear or threat of physical violence or bodily injury.

(10) Sexual assault with an object

The term “sexual assault with an object” means the use of any hand, finger, object, or other instrument to penetrate, however slightly, the genital or anal opening of the body of another person.

(11) Sexual fondling

The term “sexual fondling” means the touching of the private body parts of another person (including the genitalia, anus, groin, breast, inner thigh, or buttocks) for the purpose of sexual gratification.

(12) Exclusions

The terms and conditions described in paragraphs (9) and (10) shall not apply to—

(A) custodial or medical personnel gathering physical evidence, or engaged in other legitimate medical treatment, in the course of investigating prison rape;

(B) the use of a health care provider’s hands or fingers or the use of medical devices in the course of appropriate medical treatment unrelated to prison rape; or

(C) the use of a health care provider’s hands or fingers and the use of instruments to perform body cavity searches in order to maintain security and safety within the prison or detention facility, provided that the search is conducted in a manner consistent with constitutional requirements.

(Pub. L. 108–79, §10, Sept. 4, 2003, 117 Stat. 987.)

Editorial Notes

CODIFICATION

Section was formerly classified to section 15609 of Title 42, The Public Health and Welfare, prior to editorial reclassification and renumbering as this section.

CHAPTER 305—HATE CRIMES

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§ 30501. Findings

Congress makes the following findings:

(1) The incidence of violence motivated by the actual or perceived race, color, religion, national origin, gender, sexual orientation, gender identity, or disability of the victim poses a serious national problem.

(2) Such violence disrupts the tranquility and safety of communities and is deeply divisive.

(3) State and local authorities are now and will continue to be responsible for prosecuting the overwhelming majority of violent crimes in the United States, including violent crimes motivated by bias. These authorities can carry out their responsibilities more effectively with greater Federal assistance.

(4) Existing Federal law is inadequate to address this problem.

(5) A prominent characteristic of a violent crime motivated by bias is that it devastates not just the actual victim and the family and friends of the victim, but frequently savages the community sharing the traits that caused the victim to be selected.

(6) Such violence substantially affects interstate commerce in many ways, including the following:

(A) The movement of members of targeted groups is impeded, and members of such groups are forced to move across State lines to escape the incidence or risk of such violence.

(B) Members of targeted groups are prevented from purchasing goods and services, obtaining or sustaining employment, or participating in other commercial activity.

(C) Perpetrators cross State lines to commit such violence.

(D) Channels, facilities, and instrumentalities of interstate commerce are used to facilitate the commission of such violence.

(E) Such violence is committed using articles that have traveled in interstate commerce.

(7) For generations, the institutions of slavery and involuntary servitude were defined by the race, color, and ancestry of those held in bondage. Slavery and involuntary servitude were enforced, both prior to and after the adoption of the 13th amendment to the Constitution of the United States, through widespread public and private violence directed at persons because of their race, color, or ancestry, or perceived race, color, or ancestry. Accordingly, eliminating racially motivated violence is an important means of eliminating, to the extent possible, the badges, incidents, and relics of slavery and involuntary servitude.

(8) Both at the time when the 13th, 14th, and 15th amendments to the Constitution of the

United States were adopted, and continuing to date, members of certain religious and national origin groups were and are perceived to be distinct “races”. Thus, in order to eliminate, to the extent possible, the badges, incidents, and relics of slavery, it is necessary to prohibit assaults on the basis of real or perceived religions or national origins, at least to the extent such religions or national origins were regarded as races at the time of the adoption of the 13th, 14th, and 15th amendments to the Constitution of the United States.

(9) Federal jurisdiction over certain violent crimes motivated by bias enables Federal, State, and local authorities to work together as partners in the investigation and prosecution of such crimes.

(10) The problem of crimes motivated by bias is sufficiently serious, widespread, and interstate in nature as to warrant Federal assistance to States, local jurisdictions, and Indian tribes.

(Pub. L. 111-84, div. E, §4702, Oct. 28, 2009, 123 Stat. 2835.)

Editorial Notes

CODIFICATION

Section was formerly classified as a note under section 249 of Title 18, Crimes and Criminal Procedure, prior to editorial reclassification and renumbering as this section.

Statutory Notes and Related Subsidiaries

FINDINGS

Pub. L. 117-13, §2, May 20, 2021, 135 Stat. 265, provided that: “Congress finds the following:

“(1) Following the spread of COVID-19 in 2020, there has been a dramatic increase in hate crimes and violence against Asian-Americans and Pacific Islanders.

“(2) According to a recent report, there were nearly 3,800 reported cases of anti-Asian discrimination and incidents related to COVID-19 between March 19, 2020, and February 28, 2021, in all 50 States and the District of Columbia.

“(3) During this time frame, race has been cited as the primary reason for discrimination, making up over 90 percent of incidents, and the United States condemns and denounces any and all anti-Asian and Pacific Islander sentiment in any form.

“(4) Roughly 36 percent of these incidents took place at a business and more than 2,000,000 Asian-American businesses have contributed to the diverse fabric of American life.

“(5) More than 1,900,000 Asian-American and Pacific Islander older adults, particularly those older adults who are recent immigrants or have limited English proficiency, may face even greater challenges in dealing with the COVID-19 pandemic, including discrimination, economic insecurity, and language isolation.

“(6) In the midst of this alarming surge in anti-Asian hate crimes and incidents, a shooter murdered the following 8 people in the Atlanta, Georgia region, 7 of whom were women and 6 of whom were women of Asian descent:

“(A) Xiaojie Tan.

“(B) Daoyou Feng.

“(C) Delaina Ashley Yaun González.

“(D) Paul Andre Michels.

“(E) Soon Chung Park.

“(F) Hyun Jung Grant.

“(G) Suncha Kim.

“(H) Yong Ae Yue.

“(7) The people of the United States will always remember the victims of these shootings and stand in

solidarity with those affected by this senseless tragedy and incidents of hate that have affected the Asian and Pacific Islander communities.”

REVIEW OF HATE CRIMES

Pub. L. 117-13, §3, May 20, 2021, 135 Stat. 266, provided that:

“(a) IN GENERAL.—Not later than 7 days after the date of enactment of this Act [May 20, 2021], the Attorney General shall designate an officer or employee of the Department of Justice whose responsibility during the applicable period shall be to facilitate the expedited review of hate crimes (as described in section 249 of title 18, United States Code) and reports of any such crime to Federal, State, local, or Tribal law enforcement agencies.

“(b) APPLICABLE PERIOD DEFINED.—In this section, the term ‘applicable period’ means the period beginning on the date on which the officer or employee is designated under subsection (a), and ending on the date that is 1 year after the date on which the emergency period described in subparagraph (B) of section 1135(g)(1) of the Social Security Act (42 U.S.C. 1320b-5(g)(1)) ends, except that the Attorney General may extend such period as appropriate.”

GUIDANCE

Pub. L. 117-13, §4, May 20, 2021, 135 Stat. 266, provided that:

“(a) GUIDANCE FOR LAW ENFORCEMENT AGENCIES.—The Attorney General shall issue guidance for State, local, and Tribal law enforcement agencies, pursuant to this Act [see Short Title of 2021 Amendment note set out under section 10101 of this title] and other applicable law, on how to—

“(1) establish online reporting of hate crimes or incidents, and to have online reporting that is equally effective for people with disabilities as for people without disabilities available in multiple languages as determined by the Attorney General;

“(2) collect data disaggregated by the protected characteristics described in section 249 of title 18, United States Code; and

“(3) expand public education campaigns aimed at raising awareness of hate crimes and reaching victims, that are equally effective for people with disabilities as for people without disabilities.

“(b) GUIDANCE RELATING TO COVID-19 PANDEMIC.—The Attorney General and the Secretary of Health and Human Services, in coordination with the COVID-19 Health Equity Task Force and community-based organizations, shall issue guidance aimed at raising awareness of hate crimes during the COVID-19 pandemic.”

Executive Documents

CONDEMNING AND COMBATING RACISM, XENOPHOBIA, AND INTOLERANCE AGAINST ASIAN AMERICANS AND PACIFIC ISLANDERS IN THE UNITED STATES

Memorandum of President of the United States, Jan. 26, 2021, 86 F.R. 7485, provided:

Memorandum for the Heads of Executive Departments and Agencies

Advancing inclusion and belonging for people of all races, national origins, and ethnicities is critical to guaranteeing the safety and security of the American people. During the coronavirus disease 2019 (COVID-19) pandemic, inflammatory and xenophobic rhetoric has put Asian American and Pacific Islander (AAPI) persons, families, communities, and businesses at risk.

The Federal Government must recognize that it has played a role in furthering these xenophobic sentiments through the actions of political leaders, including references to the COVID-19 pandemic by the geographic location of its origin. Such statements have stoked unfounded fears and perpetuated stigma about Asian Americans and Pacific Islanders and have contributed to increasing rates of bullying, harassment, and hate crimes against AAPI persons. These actions defied the

best practices and guidelines of public health officials and have caused significant harm to AAPI families and communities that must be addressed.

Despite these increasing acts of intolerance, Asian Americans and Pacific Islanders have made our Nation more secure during the COVID-19 pandemic and throughout our history. An estimated 2 million Asian Americans and Pacific Islanders have served on the front lines of this crisis as healthcare providers, as first responders, and in other essential roles. The Federal Government should combat racism, xenophobia, and intolerance against Asian Americans and Pacific Islanders and should work to ensure that all members of AAPI communities—no matter their background, the language they speak, or their religious beliefs—are treated with dignity and equity.

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

SECTION 1. *Condemning Racism, Xenophobia, and Intolerance Against Asian Americans and Pacific Islanders.* The Federal Government has a responsibility to prevent racism, xenophobia, and intolerance against everyone in America, including Asian Americans and Pacific Islanders. My Administration condemns and denounces acts of racism, xenophobia, and intolerance against AAPI communities.

SEC. 2. *Combating Racism, Xenophobia, and Intolerance Against Asian Americans and Pacific Islanders.* (a) The Secretary of Health and Human Services shall, in coordination with the COVID-19 Health Equity Task Force, consider issuing guidance describing best practices for advancing cultural competency, language access, and sensitivity towards Asian Americans and Pacific Islanders in the context of the Federal Government's COVID-19 response. In developing any such guidance, the Secretary should consider the best practices set forth by public health organizations and experts for mitigating racially discriminatory language in describing the COVID-19 pandemic.

(b) Executive departments and agencies (agencies) shall take all appropriate steps to ensure that official actions, documents, and statements, including those that pertain to the COVID-19 pandemic, do not exhibit or contribute to racism, xenophobia, and intolerance against Asian Americans and Pacific Islanders. Agencies may consult with public health experts, AAPI community leaders, or AAPI community-serving organizations, or may refer to any best practices issued pursuant to subsection (a) of this section, to ensure an understanding of the needs and challenges faced by AAPI communities.

(c) The Attorney General shall explore opportunities to support, consistent with applicable law, the efforts of State and local agencies, as well as AAPI communities and community-based organizations, to prevent discrimination, bullying, harassment, and hate crimes against AAPI individuals, and to expand collection of data and public reporting regarding hate incidents against such individuals.

SEC. 3. *General Provisions.* (a) Nothing in this memorandum shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This memorandum shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) Independent agencies are strongly encouraged to comply with the provisions of this memorandum.

(d) This memorandum is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

(e) The Secretary of Health and Human Services is authorized and directed to publish this memorandum in the Federal Register.

J.R. BIDEN, JR.

§ 30502. Definitions

In this division—

(1) the term “crime of violence” has the meaning given that term in section 16 of title 18;

(2) the term “hate crime” has the meaning given that term in section 280003(a) of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103-322; 108 Stat. 2096), as amended by this Act;

(3) the term “local” means a county, city, town, township, parish, village, or other general purpose political subdivision of a State; and

(4) the term “State” includes the District of Columbia, Puerto Rico, and any other territory or possession of the United States.

(Pub. L. 111-84, div. E, §4703(b), Oct. 28, 2009, 123 Stat. 2836.)

Editorial Notes

REFERENCES IN TEXT

This division, referred to in text, is division E of Pub. L. 111-84, Oct. 28, 2009, 123 Stat. 2835, known as the Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act. For complete classification of division E to the Code, see Short Title of 2009 Act note set out under section 10101 of this title and Tables.

Section 280003(a) of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103-322; 108 Stat. 2096), as amended by this Act, referred to in par. (2), is section 280003(a) of Pub. L. 103-322, Sept. 13, 1994, 108 Stat. 2096, as amended by Pub. L. 111-84, which enacted provisions listed in a table relating to sentencing guidelines set out as a note under section 994 of Title 28, Judiciary and Judicial Procedure.

CODIFICATION

Section is comprised of subsec. (b) of section 4703 of Pub. L. 111-84. Subsec. (a) of section 4703 of Pub. L. 111-84 amended provisions listed in a Table of Provisions for Review, Promulgation, or Amendment of Federal Sentencing Guidelines set out under section 994 of Title 28, Judiciary and Judicial Procedure.

Section was formerly classified as a note under section 3716 of Title 42, The Public Health and Welfare, prior to editorial reclassification and renumbering as this section.

§ 30503. Support for criminal investigations and prosecutions by State, local, and tribal law enforcement officials

(a) Assistance other than financial assistance

(1) In general

At the request of a State, local, or tribal law enforcement agency, the Attorney General may provide technical, forensic, prosecutorial, or any other form of assistance in the criminal investigation or prosecution of any crime that—

(A) constitutes a crime of violence;

(B) constitutes a felony under the State, local, or tribal laws; and

(C) is motivated by prejudice based on the actual or perceived race, color, religion, national origin, gender, sexual orientation,