

UNDERSTANDING HATE INCIDENTS AND HATE CRIMES

What is it?

HATE INCIDENT	HATE CRIME
<p>A hate incident is an act of prejudice that is not a crime and does not involve violence, threats, or property damage. U.S. Department of Justice (DOJ)</p> <p>Some hate incidents may also be unlawful discrimination. DOJ Civil Rights Division</p>	<p>At the federal level, hate crime laws include crimes committed on the basis of the victim’s perceived or actual race, color, religion, national origin, sexual orientation, gender, gender identity, or disability. Most state hate crime laws include crimes committed on the basis of race, color, and religion; many also include crimes committed on the basis of sexual orientation, gender, gender identity, and disability. Hate crimes are often violent crimes, such as assault, murder, arson, vandalism, or threats to commit such crimes. Hate crime laws may also cover conspiring or asking another person to commit such crimes, even if the crime was never carried out. DOJ</p> <p>“Slurs, insults, or hateful statements alone are not hate crimes.” (University of California–Los Angeles Police Department)</p>

What is an example?

<p>Leaflets containing offensive language and symbols are thrown on lawns and left on the windshields of vehicles parked on the street.</p>	<p>A swastika is spray-painted on the door of a Jewish educational center because of bias against its Jewish members. For additional examples, refer to the Hate Crimes Case Examples (justice.gov).</p>
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Is it punishable?

<p>Not all acts of hate can be investigated and prosecuted. By definition, a hate incident does not involve criminal activity and therefore cannot be punished.</p>	<p>The First Amendment does not protect violence. Criminal conduct motivated by hate or bias can be punished. Depending on the severity of the offense(s) and the applicable law, hate crimes can be prosecuted as misdemeanors or felonies.</p>
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Does the First Amendment protect hateful speech?

<p>Even hateful and offensive speech is constitutionally protected by the First Amendment. However, such incidents provoke fear and anxiety in those who are targeted. It is therefore critical to emphasize that your community will not tolerate hate or discrimination.</p>	<p>Speech loses First Amendment protection when it falls within narrow categories of unprotected speech such as:</p> <ul style="list-style-type: none"> • True threats. • Incitement. • Speech integral to criminal conduct (e.g., conspiracy).
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When can speech and affiliation with hate groups be used by prosecutors and investigators in determining bias motivation?

<p>The intentional selection of a victim is a critical factor in identifying hate crimes. Bias must be a factor (in whole or in part, depending on the jurisdiction) in the perpetrator’s decision to target the victim. When determining whether the act was motivated by bias, criminal justice professionals should assess the context, facts, and circumstances surrounding the offense along with other facts and information (e.g., there was no other apparent motive; the perpetrator used slurs and/or hate signs/symbols around the time of the crime; the perpetrator was affiliated with a hate group). However, the evidentiary use of speech and affiliation to prove motive is subject to certain tenets, as stated in Wisconsin v. Mitchell 508 U.S. 486, 489 (1993):</p> <ul style="list-style-type: none"> • “The First Amendment does not prohibit the evidentiary use of speech to establish the elements of a crime or to prove motive or intent.” • Nor does it prohibit the admission of evidence concerning one’s beliefs and associations at sentencing. • Evidence of previous declarations and statements is admissible in criminal trials, subject to the rules of evidence (relevancy, reliability, etc.). <p>The evidence of bias must directly relate to the perpetrator’s decision to target the victim.</p> <ul style="list-style-type: none"> • Speech that is intended to incite hatred against, humiliate, or vilify individuals or groups because of protected characteristics (e.g., slurs) may be admissible as evidence of a hate crime when uttered by the perpetrator before, during, or after the commission of an underlying crime. • However, bigoted statements made or bigoted beliefs held by the perpetrator cannot be used as evidence if the statements or beliefs are unrelated to the underlying offense. • Nor can the state use evidence that merely shows abstract beliefs held by the defendant. 	
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Why should hate crimes and hate incidents be reported?
 What should be reported, and to whom?

HATE INCIDENT	HATE CRIME
<p>Even though a hate incident may not involve a crime, it is always important to report hate incidents. Documenting incidents is useful for identifying patterns and trends. Ignoring incidents may lead perpetrators to engage in more serious acts.</p> <p>Individuals who have experienced a hate incident:</p> <ul style="list-style-type: none"> • May dial 9-1-1 or call the local police to report the hate crime or incident. • May report it to state or local hate crime hotline. • May report the hate incident to the U.S. DOJ Civil Rights Division. <p>U.S. DOJ Reporting Hate Crimes & Hate Incidents (justice.gov)</p>	<p>It is critical to report hate crimes not only to show support and get help for victims but also to send a clear message that the community will not tolerate these kinds of crimes.</p> <p>Reporting hate crimes and hate incidents allows communities and law enforcement to fully understand the breadth of the problem in the community and dedicate appropriate resources toward preventing and addressing attacks based on bias and hate.</p> <p>Individuals who have experienced a hate crime:</p> <ul style="list-style-type: none"> • May dial 9-1-1 or call the local police to report the hate crime or incident. • May report the hate crime to the Federal Bureau of Investigation. <ul style="list-style-type: none"> ◦ Online: tips.fbi.gov ◦ Phone: (800) 225-5324 <p>U.S. DOJ Reporting Hate Crimes & Hate Incidents (justice.gov)</p>
<p>According to DOJ, a comprehensive response to hate crimes requires the ongoing participation and support of law enforcement, prosecutors, residents, schools, religious institutions, and civil rights and community-based organizations. There are five critical areas in which stakeholders can work to enhance hate crimes response practices:</p> <ul style="list-style-type: none"> • Community–law enforcement collaboration • Training and education • Data collection, reporting, and analysis • Hate incident and crime management policies and responses for law enforcement • Role of prosecutors <p>(Action Agenda for Community Organizations and Law Enforcement to Enhance the Response to Hate Crimes 2018)</p>	

How can the community enhance hate crimes response practices?

For questions, please contact the Hate Crimes TTA Program at info@hatecrimestta.org.

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