

Hate Crimes 101:

Responding to hate and supporting targeted communities



The Lawyers' Committee for Civil Rights Under Law

James Byrd Jr. Center to Stop Hate:

The Byrd Center supports communities targeted for hate and challenges white supremacy by using creative legal advocacy and litigation, disrupting systems that enable hate, and educating the general public and policymakers.

- We provide:
 - Legal research and assistance
 - Know Your Rights info
 - Trainings
 - A hotline for reporting hate incidents

Roadmap for today's discussion

- I. What is a hate crime? Hate incidents?
- II. Recent Hate Crimes and Incidents
- III. Data and Reporting
- IV. Federal Hate Crime Laws
- V. State Laws
- VI. Best practices for responding to hate
- VII. Bystander intervention
- VIII. Resources and Q&A

What is a hate crime?

- A criminal offense against a person or property motivated in whole or in part by an offender's bias due to a targeted person's race, color, religion, disability, sexual orientation, national origin, gender, or gender identity.
- The perpetrator's prejudicial motive, or bias, is what distinguishes hate crimes from other sorts of crimes.
- Hate crimes are seen as "message crimes," sending a message that members of a certain group[s] are not wanted in a particular neighborhood, community, workplace, or school.

What is a hate incident?

- Any incident which is perceived by the person targeted for hate or any other person as being motivated by prejudice or hate. It may or may not constitute a criminal offense.
- For example, you may be a person targeted for hate speech which, depending on the circumstances, may not constitute a crime, but would constitute a hate incident.
- Hate crimes are hate incidents, but not necessarily vice versa.

Hate Incident or Hate Crime?

- ❖ Graziella, a 54-year old homeless, US citizen, had set up shelter in a local park when eight young males 14 to 17 years old shouted at her saying she should go back to Mexico. After calling her “wetback” and other names, they threw rocks at her, hitting her in the head and back.
- ❖ A man who identified himself as a member telephoned the local Hispanic Association and said “We’re going to kill you terrorists...and we’re going to start killing every other terrorist in town, starting in one a week and we don’t need terrorists living in this country.”
- ❖ Tensions have risen in town since the federally funded daycare center for Hispanic migrant farmworkers was surrounded by supremacist flyers have been posted on lampposts near the center. The flyers referring to migrants in dehumanizing terms and encouraging people to “keep America white.”

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What Data do We Have?

Federal Sources of Data:

1. DOJ/FBI Uniform Crime Reports

- State and local law enforcement report.
- Voluntary under federal law.

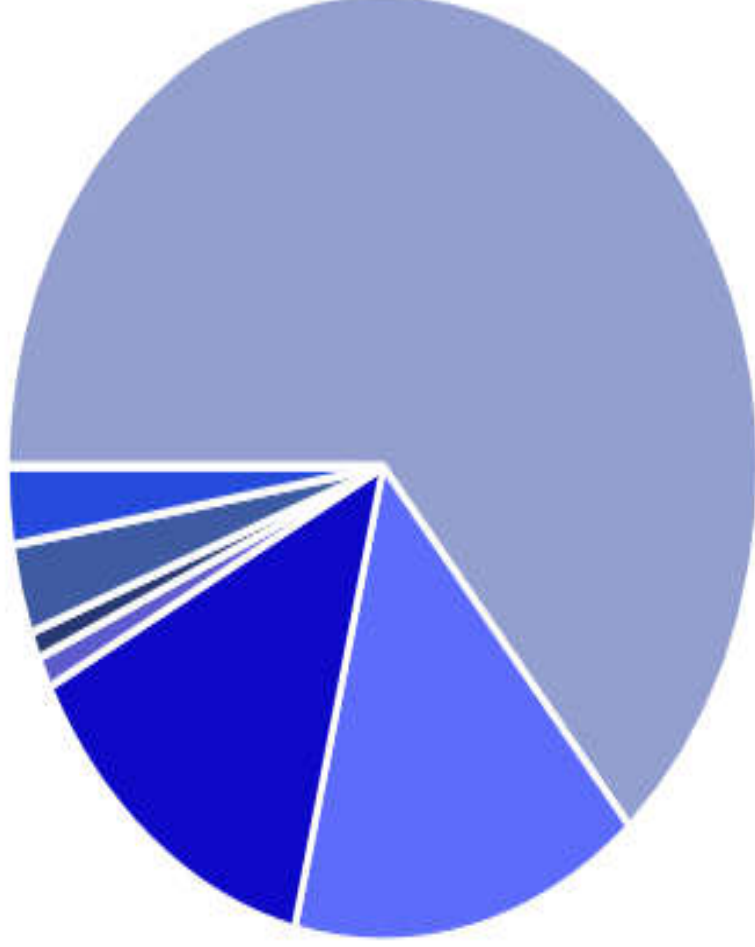
2. DOJ/Bureau of Justice Statistics National Crime Victimization Survey

- Survey methodology takes reports from people targeted for hate crimes.

Where Do Hate Crimes Occur?

- At or near targeted person's home: 28%
- Highway, street, sidewalk, alley: 19.8%
- Parking Lot or garage: 6.5%
- Park/playground: 3.8%
- Place of worship: 3.5%
- School (elementary/secondary): 2.8%

Bias Motivation



Problems with Data

- Data is incomplete and significantly underreports hate crimes. For instance, DOJ/FBI data showed 7,759 criminal incidents and 10,532 related offenses reported to law enforcement in 2020.
- But the DOJ's survey of people targeted for hate crimes estimated *of thousands* of hate incidents.
- 14.9% of law enforcement agencies participating in FBI's hate crimes reporting program reported hate crimes. 85% said not a single hate crime occurred in their cities.
- We know hateful activity – even high profile crimes – often does not get reported properly (e.g., Heather Heyer, Khalid Jabara)

New Mexico Data

- The entire state of New Mexico reported just **55 hate crimes** to the FBI's UCR in 2020.
- Of the 35 departments participating in UCR reporting, only **5** submitted incident reports. The Albuquerque Police Department reported 42 of the 55 hate crimes.

Underreporting

Why are hate crimes underreported?

- A person targeted for hate may doubt that law enforcement can or will help.
- People targeted for hate are afraid to reveal vulnerable identity (e.g., gay, undocumented).
- Immigrants may not report hate crimes because of cultural and linguistic barriers.
- Fear of reprisal by perpetrators.

Why Does Hate Crimes Data Matter?

- Data drives policy
- Accurate hate crimes data enhances law enforcement:
 - Better target resources
 - Better budget formulation
 - Focus local community development efforts
 - Send message to communities targeted by hate that they are a priority - it can build community trust
- Researchers depend on hate crimes data to study trends and identify ways to improve public safety and the criminal justice system.

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- VIII. Resources

Federal Law

Federal laws provide legal tools to respond to hate crimes and incidents using:

1. Federal Criminal Laws (brought by government)
2. Federal Civil Laws (brought by private parties)

Federal Criminal Laws

- 1. Interference With Federally Protected Activities (18 U.S.C. § 245(b)(2))**
- 2. Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act (18 U.S.C. § 249)**
- 3. Fair Housing Act (42 U.S.C. § 3631)**
- 4. Interference with 1st Amendment Right to Religious Freedom – FACE (18 U.S.C. § 248)**
- 5. Damage to Religious Property/ Interference w/ Free Exercise of Religious Beliefs (18 U.S.C. § 247)**
- 6. Conspiracy Against Rights (18 U.S.C. § 241)**

Federal Civil Laws

- 1. Civil Actions Under the Civil Rights Act of 1866 (42 USC §§ 1981 and 1982)**
- 2. Conspiracy to Deprive Any Person or Class of Persons of Equal Protection of the Laws (42 USC § 1985 (3))**
- 3. Interference, Coercion, or Intimidation in Violation of the Fair Housing Act (42 USC § 3617)**
- 4. Violence Against Women Act (42 USC § 13981)**

Matthew Shepard – James Byrd, Jr. Hate Crimes Prevention Act (HCPA)

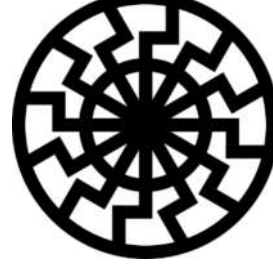
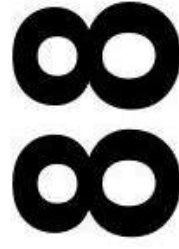
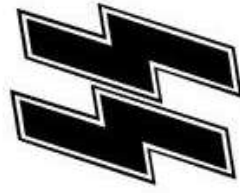
- A person commits a hate crime if he or she “**willfully causes bodily injury**” or “**attempts to cause bodily injury using a dangerous weapon**” because of his or her bias towards an individual’s perceived or actual **color, religion, or national origin**.
- Moreover, the HCPA protects people who have been targeted for crimes based on their actual or perceived **religion, national origin, gender, sexual orientation, gender identity, or disability** if that crime affects interstate or foreign commerce or the crime occurs within federal special maritime and territorial jurisdiction.
- This law acts as a “backstop” to state laws. The federal government steps in for certain situations where it is necessary to ensure substantial justice.

Signs Pointing to Potential Hate Crimes

- Targeted person's belief that he/she was selected by the perpetrator because of his or her membership in a protected class.
- Written or oral comments of the perpetrator that may indicate a bias.
- Date of incident coincides with a day of significance to a protected class (e.g., religious holiday)
- Other evidence of motive: Subject group ideology, political symbols, tattoos, music, literature, social media, what subjects said in the past about person targeted for hate

Hate Group Symbols

Important to be able to recognize graffiti or other markings which might indicate bias motivation.



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New Mexico Hate Crime Law

- NM has a “penalty enhancement” hate crime law – i.e. an offender’s sentence can be enhanced if **a crime was committed** and it was **motivated by hate**.
- “**Motivated by hate (§ 31-18B-2)**” means the commission of a crime with intent to commit the crime because of the actual or perceived **race, religion, color, national origin, ancestry, age, handicapped status, gender, sexual orientation or gender identity** of the victim, whether or not the offender believed or perceived was correct.
- The **penalty enhancement (§ 31-18B-3)** depends on whether the offender committed a **noncapital felony** (one-two years depending on the circumstances), or **petty misdemeanor/misdemeanor** (community service treatment, and/or education).

New Mexico Hate Crime Law: Reporting and Training Requirements

- **Reporting (§ 31-18B-4):** Every district attorney and every state, county, and municipal law enforcement agency... shall provide the FBI with data concerning the commission of a hate crime.
- **Training (§ 31-18B-5):** Basic law enforcement training must include at least two hours in length concerning the detection, investigation, and reporting of a hate crime.

New Mexico—Relevant Statutes (Property Crimes)

- **Desecration of a Church (§ 30-15-4)**
- **Criminal Damage to Property (§ 30-15-1)**
- **Criminal Trespass (§ 30-14-1)**
- **Types of Trespass; Injury to Realty, Civil Damages (§ 30-14-1.1)**
- **Unauthorized Graffiti on Personal or Real Property (§ 30-15-1.1)**
- **Arson and Negligent Arson (§ 30-17-5)**
- **Aggravated Arson (§ 30-17-6)**

New Mexico—Relevant Statutes (Crimes Against Society or Persons)

- **Use of Phone to Terrify, Intimidate, Threaten, Harass, Annoy or Offend**
- **Harassment (§ 30-3A-2)**
- **Stalking (§ 30-3A-3)**
- **Aggravated Stalking (§ 30-3A-3.1)**
- **Disturbing Lawful Assembly and Unlawful Assembly (§ 30-13-1 & § 30-13-2)**
- **Disorderly Conduct (§ 30-20-1)**
- **Assault and Aggravated Assault (§ 30-3-1 & § 30-3-2)**
- **Battery and Aggravated Battery (§ 30-3-4 & § 30-3-5)**

State Tort Law

If someone intentionally injures you or your property, you may be able to sue that person using a “tort” claim including:

- Intentional infliction of emotional distress
- Assault
- Battery
- False imprisonment
- Trespass

Punitive Damages: If you can prove by clear and convincing evidence that the attacker acted with malice, or recklessly and outrageously, you may be able to recover punitive damages (\$).

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Best Practices

If you engage with a client or other individual who has been the target of a bias-motivated incident recommend that they:

- 1. Document the incident**
 - Take photos or video
 - Save any notes/emails/voicemails from the perpetrator
 - Preserve other direct evidence if available
- 2. Keep a written record** (crucial if part of a wider pattern)
 - Who, what, when, where, why
- 3. Report to local law enforcement**
 - Some may be uncomfortable calling law enforcement, but it's important because:
 - Helps survivor of a hate incident receive services
 - Perpetrators more likely brought to justice
 - Improved data collection keeps law enforcement accountable
 - Shows public how hate is affecting communities.
- 4. Contact local FBI field office**
 - Some may be uncomfortable reporting

HATE CRIMES AND MENTAL HEALTH

Chronic/complex trauma

- Can be the result of an ongoing traumatic event, such as abuse or neglect over time, multiple experiences of single events, or chronic traumatic experiences such as mistreatment/discrimination affecting a person's sense of self in the world.
- Examples: Repeated exposure to discrimination/ bias incidents or harassment; domestic violence;

Signs of Symptoms of Mental Distress

- Sleep disturbance
- Changes in appetite
- Emotional dysregulation-difficulty managing emotions
- Irritability
- Aggression
- Constant worrying or new fears
- Compulsive behaviors
- Memory problems
- Increased Isolation
- Rumination
- Repeated memories or reliving things that occurred
- Significant change in libido
- Loved ones are commenting on behavioral changes



HATE CRIMES AND MENTAL HEALTH

- Trauma is the emotional, cognitive and behavioral response to an extremely negative event.
- Negative emotions activate.
- Hate incidents are abnormal situations and can be considered traumatic.
- Feelings of insecurity and decreased self-esteem, isolation, anxiety, and depression are common in victims of hate crimes, leading to traumatic stress disorder, among other challenges.
- Scholars studying the impact of negative events based on race have coined the term **trauma or race-based stress** to describe the trauma related to threats of harm and humiliation, shaming and witnessing harm to other people of color. While similar to racial trauma, racial trauma involves ongoing individual and collective injuries due to exposure and exposure to race-based stress. (Comas-Diaz, Nagayama Hall, Neville, 2019).

****Unresolved trauma and distress have the potential to show up in people's interactions with others, including bystanders and others attempting to provide assistance.**



Strategies for Communicating with a Targeted Person

Hopeful messages can sometimes do more damage rather than help during distressing incidents such as a hate crime or incident.

- “**Everything is going to be okay**” (what if it is not, will you be blamed? Potential resentment in the long run.)
- “**Don’t be afraid**” (it dismisses what someone is feeling, it can send message to that emotions are not okay.)
- **Try a reflection instead:**
“I see you are afraid”

Validation

Validation is built on an empathetic attitude and a holistic view of individuals. We can “step into the shoes” of another human being and “see through their eyes.”

How do we validate?

Since we don’t know for sure what the person is feeling, use words that are gentle open to possibilities. A simple statement like, “It must be difficult and painful to have something like that occur,” can be validating.

Hypothetical

On September 11, 2016, Mo, a Pakistani immigrant, was severely beaten by 17-year-old boys while leaving his high school in Houston. The boys who attacked him yelled slurs as they attacked him. As a result of the attack, Mo suffered a broken arm and a severe gash to his head. He missed school for a week after the attack, due to medical appointments and debilitating panic attacks. Since the attack, Mo has lost weight and continues to have nightmares and difficulty concentrating in class.

Consider:

1. Are bias indicators present? What are they?
2. If you are a friend/neighbor, what can you do to offer support? What do you tell Mo or Mo's parents if they come to you for help?

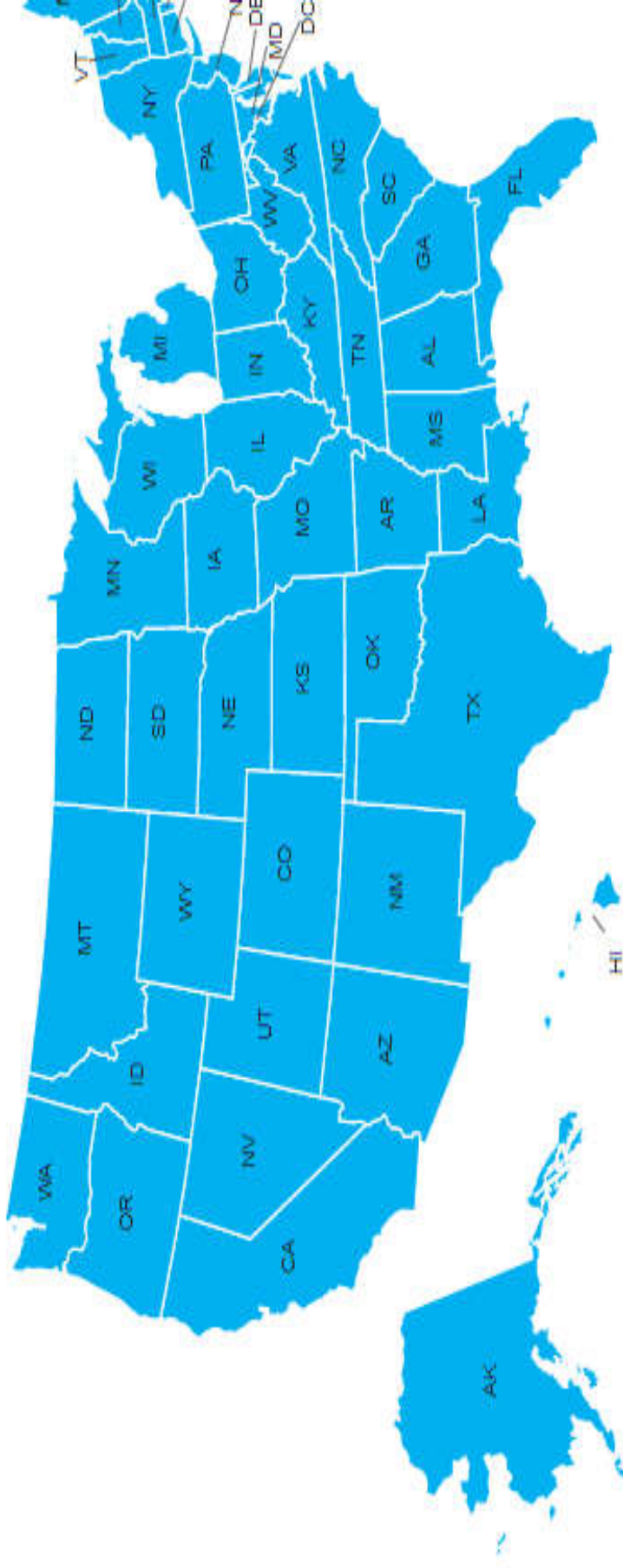
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Byrd Center Resources

50 state overviews. State hate crime laws can vary significantly—from covering all offenses as the federal law, to excluding protections for various classes including gender orientation, gender identity or disability, or having no state hate crime law. There are five states with no state hate crime laws: Arkansas, Georgia, Indiana, South Carolina, and Wyoming. This section provides an overview of state hate crime laws and relevant state an overview of federal hate crime law, [click here](#).

Find your state specific hate crime information.



www.8449nohate.org

HATE CRIME FAQs NEW MEXICO

Disclaimer: This guide is designed for informational purposes only. It is not legal advice and is not intended to create an attorney-client relationship. The Lawyers' Committee for Civil Rights does not warrant any information contained in this guide, nor does the Committee suggest that the information in this guide should be used as a basis to pursue legal advice or decision-making.

Note: This guide is not exhaustive. Situations or inquiries may arise that are not answered below. In those circumstances, please call 844-9-NO-HATE.

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Contact Information

General Inquiries:

byrdcenter@lawyerscommittee.org

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contact us to get more!**

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