

# PARTNERING ▶▶ AGAINST HATE

HATE CRIMES EXPLAINER



## ▶▶ A Grassroots Toolkit from Interfaith Alliance

All people deserve to feel safe in our communities. Learn more about how you can challenge extremism and help realize an inclusive vision of religious freedom.



**INTERFAITH  
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PROTECTING FAITH AND FREEDOM

# Hate Crimes Explainer: Partnering Against Hate

## »» Introduction

ALL PEOPLE, NO MATTER WHERE WE LIVE or who we are, deserve to feel safe and welcomed in our communities. But all too often, the lives of our friends and neighbors are forever changed by hate-based violence. As an organization committed to combating religious discrimination and bigotry, Interfaith Alliance is acutely aware that by reaching across differences we can begin to dismantle the machinery that

generates fear and divides people against one another. Grassroots efforts to connect diverse communities with one another are essential in realizing an inclusive vision of religious freedom. We all have a stake in keeping ourselves and our neighbors safe. Equipping ourselves to intervene and provide support when necessary is a way to demonstrate our care for one another.

## WHAT IS A HATE CRIME?

**H**ate crimes occur when prejudice, often against minority groups, escalates into violence. A hate crime is a criminal offense like murder, arson, or vandalism that is motivated wholly or in part by the perpetrator's bias against the victim's actual or perceived race, color, disability, religion, national origin, sexual orientation, or gender identity.<sup>1</sup> At the federal level and in many states, hate crimes are treated differently because of the unique way they impact victims and their communities.

Any crime committed by one human being against another is a tragedy. But hate crimes are uniquely damaging, impacting those targeted, their loved ones, and the larger group they represent. People affected by violent hate crimes are more likely to experience post-traumatic stress, safety concerns, depression, anxiety, and anger than victims of crimes that are not motivated by bias.<sup>2</sup> Hate crimes send a message to members of the targeted group that they are unwelcome and unsafe in their community.<sup>3</sup> Long after an incident occurs, people in targeted groups continue to experience the trauma and instability these acts cause.

Some instances of discrimination or bigotry, while harmful, do not escalate to the level of a hate crime. A bias incident (or hate incident) is any action in which a perpetrator harasses or harms someone based on their actual or perceived identity characteristics. While these incidents can be damaging and offensive, they may not meet the legal definition of a hate crime. While all hate crimes are bias incidents, not all bias incidents are hate crimes. A hate crime involves a criminal act, such as assault or vandalism. Bias incidents, however, can come in many forms, such as microaggressions or non-criminal acts of discrimination.



<sup>1</sup>U.S. Dept. of Justice, Federal Bureau of Investigation, *What We Investigate: Hate Crime*, (last visited August 16, 2021, 1:17 PM), <https://www.fbi.gov/investigate/civil-rights/hate-crimes>

<sup>2</sup>American Psychological Association, *The Psychology of Hate Crimes*, (last visited August 16, 2021, 1:17 PM), <https://www.apa.org/advocacy/civil-rights/hate-crimes.pdf>

<sup>3</sup>U.S. Dept. of Justice, *Hate Crime Training Core Curriculum for Patrol Officers, Detectives, & Command Officers*, (1998), <https://www.justice.gov/archive/crs/pubs/hct.pdf>

# WHAT'S THE DIFFERENCE?

## Hate Crime Examples:



A perpetrator makes a bomb threat targeting a Muslim community center, causing the center and nearby buildings to evacuate.



A perpetrator yells 'go back to China' at an Asian American man before kicking him to the ground, causing significant injury.



Two perpetrators break into a synagogue, spray painting anti-Semitic slurs and hate symbols inside.

## Bias Incident Examples:



A person harasses a Sikh family on the bus with hostile comments and slurs.



A person creates a post on social media that contains hateful anti-LGBTQ messaging



A person is unhappy that their community is becoming more diverse. They put a sign in their yard with hateful messaging targeting their immigrant neighbors.

## WHAT IS HATE SPEECH?

Like other bias incidents, hate speech limits the ability of all people to feel safe in their communities. While there is no universal definition for hate speech, it can generally be defined as speech, written or verbal, where the speaker uses pejorative or discriminatory language that degrades or intimidates certain groups, particularly minority groups. No matter the forum they choose, perpetrators use hateful rhetoric to inspire fear and division.

Under the First Amendment, people have the right to express their beliefs - even if they are offensive, untrue or based on false stereotypes. There are a few categories of speech that fall outside the protections of the First Amendment. For example, someone who expresses a serious intent to commit an act of violence against a person or someone who intends to incite others to "imminent unlawful action" is not protected under the law.<sup>4</sup> But outside



of some specific circumstances, hate speech, however harmful and offensive, is protected under the First Amendment.

Around the world, extremism on the Radical Right has been visible in public discourse, in our politics, and online. Online platforms are being used to promote bigotry and hateful ideas, and even mobilize individuals for violent demonstrations. Politicians are using incendiary rhetoric for political gain, targeting minorities and marginalized people to appeal to their political base. The mainstreaming of hate is not without consequences. A recent study demonstrated that hate speech can create conditions under which acts of domestic terrorism can increase.<sup>5</sup>

The mainstreaming of hateful political rhetoric has also corresponded with an uptick in hate-based

<sup>4</sup> Foundation for Individual Rights in Education, *Unprotected Speech*, (last visited August 16, 2021, 1:17 PM), <https://d28htnjz2elwuj.cloudfront.net/wp-content/uploads/2017/06/22101316/unprotected-speech.pdf>

<sup>5</sup> James A. Piazza, *Politician hate speech and domestic terrorism*, 46:3 International Interactions, 431-453 (2020).

harassment and threats online. The internet - social media in particular - has become one of the primary ways that people get their news and connect with one another. Users with hateful views are able to find others who share their opinions and seek out news that validates their biases. Hate speech, whether it occurs on or offline, is protected under the First Amendment, and so it has been left largely to private companies to determine what can and cannot be said on their platforms.

No matter where it occurs, hate speech puts the safety of our friends and neighbors at risk. Some perpetrators of hate speech will never escalate to violence. But people who commit violent acts of hate almost always use hate speech in committing the crime. Expressions of hate can be used to normalize discrimination, hate crimes, and targeted violence.

## WHO IS MOST AFFECTED BY HATE CRIMES?

According to the FBI's 2019 Hate Crime Statistics report, hate crimes in the United States rose to the highest level in more than a decade. Most victims of hate incidents were targeted based on their perceived race, ethnicity or ancestry - close to 60%. Religion was the second biggest category at 20%, followed by sexual orientation at 16%.<sup>6</sup>

But these numbers only show a fraction of the larger picture. Many law enforcement agencies choose not to report hate crimes or fail to identify hate crimes when they occur. More than 2,000 agencies did not participate in the FBI's compilation of statistics about



hate crimes. Some cities that did provide data to the FBI reported inaccurate or unrealistic numbers, with more than 70 cities with populations over 100,000 reporting zero hate crimes.

Data gathered by community-based organizations also indicates that many hate crimes go unreported by victims. Individuals and communities that are frequently targeted by perpetrators of hate crimes are the same individuals and communities that have been historically discriminated against by law enforcement. Hate crime victims also include noncitizens or people with immigrant family members who may fear immigrant enforcement-related consequences of contact with law enforcement.

## LEGISLATIVE EFFORTS TO ADDRESS HATE CRIMES

Hate crime laws create additional or enhanced penalties for crimes committed with bias against a person's identity characteristics. The first federal hate crime statute was included in Title I of the Civil Rights Act of 1968. This statute made it a crime to use, or threaten to use, force to interfere with any person participating in a federally protected activity on the basis of their race, color, religion or national origin. Protected activities include public education, employment, jury service, travel, or the enjoyment of public accommodations. It is important to note that Title I sought to protect specific *activities*, not necessarily the people who might be targets of hate. Title I did not offer



<sup>6</sup> U.S. Dept. of Justice, Federal Bureau of Investigation, 2019 *Crime in the United States*, (last visited August 16, 2021, 1:17 PM), <https://ucr.fbi.gov/hate-crime/2019>

protection against hate crimes unless the victim was participating in a “protected activity.”<sup>7</sup>

To address the shortcomings of Title I, Congress passed, and President Obama signed, the Matthew Shepard and James Byrd Jr. Hate Crimes Prevention Act of 2009. This law enhanced the Department of Justice and FBI’s ability to investigate and prosecute hate crimes, including crimes committed with anti-LGBTQ+ bias as a contributing factor. It provided additional resources to federal authorities to assist state or local law enforcement to respond to hate crimes, including technical, forensic, and prosecutorial assistance.

As a federal law, the Shepard-Byrd Act only applies to crimes charged under federal law and actions taken by federal agencies to address hate crimes. Unfortunately, there are wide disparities in state-level hate crime laws, resulting in unequal protection for similar crimes and difficulties in gathering accurate data. While 49 states and territories have hate crime laws, many states define hate crimes differently and some don’t require data collection for hate crimes. Three states - Wyoming, Arkansas, and South Carolina - remain without any hate crime laws whatsoever.

Accurate data collection is essential in understanding the scope of the problem and ensuring vulnerable communities get the support they need. To promote accurate hate crime data reporting, on May 20, 2021, President Biden signed the COVID-19 Hate Crimes Act into law,



which included the Jabara-Heyer NO HATE Act - a longstanding priority of Interfaith Alliance. The NO HATE Act takes important steps towards ensuring more accurate data collection by providing resources to state and local law enforcement to improve reporting. It also addresses the underlying factors that contribute to inaccurate reporting by encouraging law enforcement to adopt programs and policies that provide support to those who might otherwise be reluctant to engage with law enforcement.

## CONCLUSION

Religious leaders and people of faith are uniquely positioned to diffuse hateful rhetoric by providing an alternative message of love, inclusion, and mutual respect. By taking an active stand against those who spread hate, religious leaders and people of faith can send the message that hate speech and hateful violence should never be tolerated or left unchallenged. Empowering yourself and those around you with knowledge is essential to challenging extremism, so that we can live in communities that are safe and inclusive. <<<



<sup>7</sup> David A. Hall, *Ten Years of Fighting Hate*, 10 U. Miami Race & Soc. Just. L. Rev. 79 (2020) Available at: <https://repository.law.miami.edu/cgi/viewcontent.cgi?article=1116&context=umrsjlr>



## INTERFAITH ALLIANCE

PROTECTING FAITH AND FREEDOM

INTERFAITH ALLIANCE FOUNDATION IS THE only national interfaith organization dedicated to protecting the integrity of both religion and democracy in the United States. With tens of thousands of members across the country, including more than 75 different faith traditions as well as those of no faith, Interfaith Alliance represents a diverse network of Americans united by our commitment to the Constitution's promise of religious freedom.

Based in Washington, DC, with state and local affiliates across the country, our work includes public education, grassroots activism, policy advocacy, the weekly State of Belief Radio program, and resources to assist faith leaders and politicians in navigating the boundaries between faith and politics.

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