

a specific federal interest, and must prove that the victim was prevented from exercising a constitutional right on the base or race, religion, or national origin. These are traditionally difficult cases to charge and prove because the government generally must prove that the victim was prevented from engaging in some type of constitutionally protected activity.

However, even under these limited circumstances, the federal government's backstop authority has proven very valuable in some high-profile cases and in others involving organized hate groups.

9. What can individuals do?

Regardless of whether a crime is charged or prosecuted as a hate crime, Americans should actively speak out in support of victims and against hate violence. Unfortunately, many hate crimes are never reported and of those that are reported, many are never solved. However, there are many ways to address bigotry and to keep it from poisoning communities.



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MISSION STATEMENT: "The mission of the Palm Springs Human Rights Commission is to promote and protect the diversity of our community and to improve human relations through education and community service."

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HATE CRIMES

Frequently Asked Questions

City of Palm Springs

Human Rights Commission



Hate crimes traumatize victims and polarize communities. The purpose of this FAQ is to provide information as to some of the basic legal and practical considerations involved in labeling and charging a hate crime.

1. How does the federal government record hate crimes?

Pursuant to the terms of the Federal Hate Crime Statistics Act (HCSA), the FBI is required to issue an annual report detailing the total number of hate crimes reported by law enforcement authorities nationwide. Under this statute, hate crimes based on the victim's race, religion, ethnicity, sexual orientation, or disability are recorded. The data is taken directly from police reports. If the officer writing the report includes information about an alleged bias motivation in the report, the incident will be included in the FBI report. Many states also have their own independent systems of recording hate crimes and many publish separate state crime reports, with specific hate crime sections.

2. Does a perpetrator have to be convicted of a hate crime for the FBI to count the crime as a hate crime?

No. For reporting purposes, it does not matter whether or not the perpetrators of the crime were ever charged with a hate crime.

3. How do state hate crime statutes work?

Forty-five states and the District of Columbia have adopted some form of penalty-enhancement hate crime statute, based on hate crime laws which increase the sentence if the crime was motivated by the victim's actual or perceived personal characteristics. Under this type of law, the prosecutor needs to prove two things: (1) that the perpetrator committed the crime and (2) that he or she committed the crime because of the victim's race, religion, or some other personal characteristic.

4. Sometimes especially serious offenses like murder or attempted murder that are motivated by bias are not charged as hate crimes. Why not?

In many states, the hate crime charge only applies to certain offenses such as assault, battery, and criminal damage to property. The purpose of the sentence-enhancing feature is to attach more serious penalties

to bias-motivated crimes in an effort to demonstrate the seriousness with which we, as a society, address hate violence. Higher-level felonies already have serious consequences regardless of the offender's motivation. A murder based on the victim's race, for example, while certainly a hate crime, would likely not be charged as a hate crime under a penalty-enhancement statute. The criminal penalties for murder are already the most severe, so it would not make sense from a prosecutor's perspective to also charge the perpetrator with lesser included penalties. However, this crime should still be classified and reported as a hate crime for HCSA purposes.

5. Are hate crime charges more difficult to prove than other crimes?

Generally, yes. Some prosecutors have expressed a reluctance to prosecute bias crimes because of the additional evidentiary burden at trial, but proving the element of intent at trial is not unique to hate crime statutes. Many criminal offenses—including possession of a controlled substance with the intent to deliver, aggravated battery or assault on a peace officer, or murder in the first degree—require additional intent elements to be proved beyond a reasonable doubt.



**CITY OF PALM SPRINGS
HATE CRIME POLICY**

POLICY

It is the policy of the Palm Springs Police Department to ensure that the rights of all people as guaranteed by the Constitution of the United States of America and the State of California are protected.

When any act motivated by hate or prejudice occurs, it is the policy of the department that its personnel strive to deal with the event with a timely response and utilizing every legal resource to expeditiously identify the suspect.

DEFINITIONS

Hate Crime: A hate crime is any criminal act or attempt directed against a person(s), public agency or private institution, based on the victim's actual or perceived race, nationality, religion, sexual orientation, disability, gender, or because the agency or institution is identified or associated with a person or group of an identifiable race, nationality, religion, sexual orientation, disability or gender. A hate crime includes an act that results in an injury, however slight; a verbal threat of violence that apparently can be carried out; an act that results in property damage; and property damage or other criminal act(s) direct against a public or private agency.

Hate Incident: A hate incident is any non-criminal act, including words directed against a person(s) based on that person's actual or perceived race, nationality, religion, sexual orientation, disability or gender. Hate incidents include, but are not limited to: distribution of hate materials in public places; posting of hate material that does not result in property damage; and the display of offensive material on one's own property.

REPORTING AND INVESTIGATING

Employee Responsibility

A department employee who becomes aware of a crime or incident motivated by hatred or prejudice shall:

1. Investigate the crime or incident in a timely manner;
2. Complete the appropriate crime or incident report and forward it to the Watch Commander or Sergeant. The willingness of the victim to prosecute, or the absence of the victim, does not exempt the employee from the requirement to investigate and document the crime or incident.

Records Personnel Responsibility

Upon receipt of a crime or incident report motivated by hatred or prejudice, Records personnel shall compile statistics relative to those crimes and cause that information to be sent on a monthly basis to the California Department of Justice.

TRAINING

The Administrative Sergeant is responsible for providing department personnel with training to the proper handling of crimes or incidents motivated by hatred or prejudice.

6. Do hate crime laws violate the First Amendment or punish thought?

No. Hate crimes laws punish violent acts, not beliefs or thoughts—even violent thoughts. Hate crime statutes do not punish, nor prohibit in any way name-calling, verbal abuse or expressions of hatred toward any group even if such statements amount to hate speech. It is only when the perpetrator crosses the line from speech to criminal action that hate crime laws might come into effect.

7. Why do defendants “get off” on a less serious charge?

Plea bargaining is common in our criminal system of justice. Criminal defendants will often plead guilty to a lesser charge in order to receive a lesser penalty. Prosecutors agree to reduce the charge to avoid the risk of a trial. In hate crime cases, criminal defendants will sometimes plead guilty to a lesser charge and in return the state will drop the hate crime charge.

8. Can the federal government become involved in hate crime charges?

In rare situations, where the state is unable or unwilling to proceed, the federal government has limited jurisdiction to charge some cases as federal criminal civil rights violations. In these cases, a federal prosecutor must demonstrate