

Hate Crime Series

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Hate Crime: An Overview

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Hate crime is of significant concern as it constitutes intergroup conflict, produces substantial harm, and is difficult to prosecute. It was not until the 1980s that the term “hate crime” was widely used (Perry, 2012) and federal statutes did not define or legislate hate crime until the mid-1990s (Hate Crimes Sentencing Enhancement Act, 1994). Several high-profile hate crime incidents have garnered attention, including the 2016 Pulse Nightclub shooting in Orlando, Florida, where 49 individuals, including multiple members of the sexual minority community, were murdered. Research has also demonstrated an upward trend in hate crimes against Muslim Americans, including arson and vandalism targeting mosques and Islamic-owned businesses, and assaults perpetrated against women wearing hijabs—traditional religious head-coverings. Recent increases in the perpetration of hate crime has prompted attention by academics, policy makers, and justice system personnel in terms of prevention and response. This first issue in the hate crime series provides an overview of hate crime, including definitions and legislation, prevalence data, risk factors, offender characteristics, consequences of victimization, and awareness-raising efforts.

What is Hate Crime?

Contemporary definitions for hate crime vary; some statutes have contained a more comprehensive collection of categories protected by hate crime legislation, such as California, which covers numerous groups, including race, ethnicity, religion, sexual orientation, and gender. Other jurisdictions are less inclusive, such as Kansas’ statute, which only addresses institutional vandalism—the destruction of an organization’s property, such as schools, places of worship, cemeteries, and community centers (Anti-Defamation League, 2012; Boeckmann & Turpin-Petrosino, 2002). Cultural differences, social norms, and political interests have influenced differences in hate crime policy and definitions across jurisdictions (Boeckmann & Turpin-Petrosino, 2002). Consequently, consensus for a definition of hate crime has been difficult to reach (Perry, 2012). Scholarly definitions generally align with legal definitions of hate crime.

Boeckmann and Turpin-Petrosino (2002) have identified

characteristics that classify a hate crime. The offender’s selection of a victim is not solely based on targeting an individual person, but because the individual represents a broader group (e.g., sexual minorities, the disabled, Muslims). According to the Federal Bureau of Investigation (FBI), a hate crime is a criminal offense where the motivation for harm/injury includes bias as a result of actual or perceived race, ethnicity, religion, gender, gender identity, disability, and sexual orientation (FBI, 2017). Commission of a hate crime is not limited to offenses against individuals. Hate crimes can be committed against businesses, institutions, and society. For example, vandalism targeting a synagogue, mosque, or place of worship; white supremacist messages painted on a school with a large immigrant population; or anti-Semitic graffiti on a Jewish deli classify as hate crimes. To be sure, these differ from other offenses because they are motivated by the desire to attack a victim (person or property) based on something intrinsic and often unchangeable, like skin color, religion, or sexual orientation (Herek, 2007).

Legislating and Reporting Hate Crime

Despite the egregious nature of hate crimes, justice system response has been slow. In 1981, Oregon became the first state to pass a hate crime statute (Stacey, 2015). It was not until 1990 that president George H. Bush enacted the Hate Crimes Statistics Act (HCSA)—the federal government specifically designated legislation addressing hate crime at the national level (28 U.S.C. § 534). Commission of a hate crime did not become a criminal offense until 1994, with the passage of the Hate Crime Sentencing Enhancement Act (28 U.S.C. § 994).

Texas established their first hate crimes statute in 1993 (Gillis, 2013). The Texas Hate Crimes Act—Chapter 411.046 within the Texas Government Code—established any crime that is “motivated by prejudice, hatred, or advocacy of violence” as a hate crime (Texas Department of Public Safety, 2015). This includes any incidents that fall within the categories of statistics compiled under Public Law 101-275. Law enforcement agencies are required to report any hate- or bias-motivated offenses to the

Texas Department of Public Safety (Texas Department of Public Safety, 2015).

National compilation of hate crime data began in 1991, as a mandate of the HCSA (28 U.S.C. § 534). Individual states collected hate crime data prior to 1991, but states differed in definitions and in reporting of hate crimes, making it difficult to develop a clear estimate of prevalence in the U.S. (McVeigh, Welch, & Bjarnason, 2003).

Prevalence of Hate Crime

There are multiple classifications of hate crime. This spectrum expanded following the 1990 passage of the HCSA. Recently, the inclusion of crimes motivated by an offender’s perception of the victim’s actual or perceived gender, disability, sexual orientation, and gender identity, were included through the passage of the Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act (HCPA) of 2009 (18 U.S.C § 249). Shepard, in Laramie, WY, and Byrd, Jr., in Jasper, TX were targets of malicious hate crimes that resulted in their deaths in 1998. In the aftermath and during the formal justice process, vigils, protests, and widespread attention produced pressure to amend hate crime statutes across the U.S.

Hate Crime in Texas

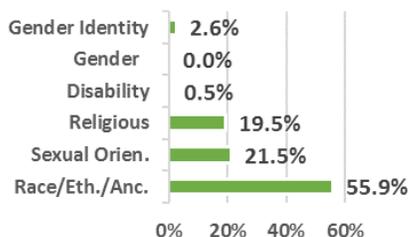
Since the passage of the Texas Hate Crimes Act, Texas has mandated annual collection of hate crime data, maintained by the Texas Department of Public Safety (DPS; Gillis, 2013). A provision under the 2009 HCPA tasked court clerks with reporting the filing and judgement information for hate crime cases to the Texas Judicial Council (HCPA, 18 U.S.C § 249). State-level hate crime data for Texas from the past five years are presented in Table 1. The number of incidents, offenses, victims, and offenders reached a five-year high in 2015.

Table 1. Texas Hate Crime Statistics, 2011-2015

Year	Incidents	Offenses	Victims	Offenders
2015	193	206	205	213
2014	166	167	190	198
2013	135	136	176	175
2012	169	177	197	198
2011	146	148	178	186

The bias motivations for reported hate crime offenses in Texas in 2015 are displayed in Figure 1.

Figure 1. Bias Motivation of Hate Crimes in Texas, 2015



Over half were motivated by anti-race/ethnicity/ancestry. Anti-sexual orientation comprised 21.5% of hate crimes in Texas. Nearly 20% were motivated by anti-religious biases. Just under 3% were anti-gender identity, and 0.5% were anti-mental

disability. No anti-gender hate crimes were reported in Texas. Texas DPS provides a detailed breakdown of these categories.

Hate Crime in the United States

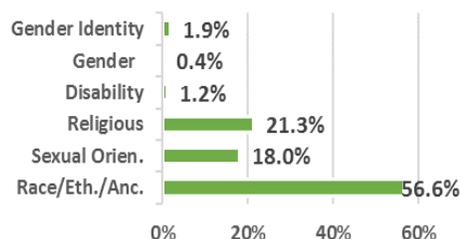
The FBI has collected annual crime data from participating police departments since the mid-1920s, and hate crime data since 1995. This information is prepared in the Uniform Crime Reports (UCR). UCR data on hate crime from 2011 to 2015 are presented in Table 2.

Table 2. UCR Hate Crime Statistics, 2011-2015

Year	Incidents	Offenses	Victims	Offenders
2015	5,850	6,885	7,173	5,493
2014	5,479	6,418	6,727	5,192
2013	5,928	6,933	7,242	5,814
2012	5,796	6,718	7,164	5,331
2011	6,222	7,254	7,713	5,731

The total number of incidents includes those involving one of the officially-classified biases (e.g., race, sexual orientation). Information populated in the “victims” column may include individual persons, businesses, institutions, and society (FBI, 2017). The final column includes the total number of known offenders for hate crimes that have been committed that year. The bias motivations for national-level hate crimes in 2015 are presented in Figure 2.

Figure 2. Bias Motivation of Hate Crimes in the US, 2015



Over half of the 5,850 incidents were motivated by anti-race/ethnicity/ancestry. Anti-sexual orientation-related crimes comprised 18% of total hate crime in the U.S. Anti-religious biases motivated 21.3% of hate crime, and less than 2% of hate crimes were driven by anti-gender, anti-gender identity, and anti-disability. A more detailed breakdown can be found on the UCR website.

Several issues accompany the use of UCR data for studies of hate crime prevalence in the U.S. First, data submission by police departments is voluntary. While a significant portion of departments participate in the UCR, hate crime statistics may not be included (Herek, 2017). The Anti-Defamation League (ADL) indicated that 140 cities reported zero or only one incident in 2014, or opted not to report hate crime statistics. Among those listed, 21 cities are either home to an FBI Field Office or Resident Agency, making this underreporting more remarkable. Hate crimes may not be classified appropriately, as officers may lack training on the investigative skills needed to determine if a crime was bias-motivated. Concerns have also included the subjective nature of decision-making among officers responsible for investigation (Herek, 2017; McVeigh et al., 2003).

Furthermore, victims may not report their experiences to formal criminal justice authorities. This holds true for other forms of crime, colloquially known as the ‘dark figure of crime,’ which suggests there has been a disparity between reported crime and prevalence of crime (MacDonald, 2002). Studies examining the reasons that victims underreport hate crime have noted that they may believe involving law enforcement would be futile, or that their victimization is not worthy of formal intervention (Sandholtz, Langton & Planty, 2011). Perry (2012) found that some hate crime victims were fearful of negative reactions by law enforcement, influencing their decision to opt out of reporting. Some victims have indicated that they handled the situation outside the context of the justice system (Langton & Planty, 2011).

Methodological issues in reporting have underscored the difficulty in determining an accurate estimate of U.S. hate crime. An attempt to alleviate these challenges has prompted the FBI to develop 13 indicators to assist law enforcement in identifying bias-motivated incidents (McDevitt, Levin, & Bennett, 2002). These include previous bias-motivated incidents committed by a particular offender, and previous hate crimes that have occurred at the current crime scene. Hate speech and symbols have also been useful in the classification of hate crimes (McDevitt et al., 2002). These methods have enhanced accuracy in classifying hate crimes and have facilitated a better understanding of hate crime prevalence.

Risk Factors for Hate Crime Victimization

The unique nature of hate crime perpetration has presented challenges for identifying risk factors for victimization. Hate crimes have typically been perpetrated against strangers who serve as a scapegoat for the particular group that the offender holds a bias against (e.g., Latinx, Jewish, Bisexual), and are viewed by the perpetrator as “interchangeable” from other group members (Saucier et al., 2006).

Perpetrators of hate crimes have reported increased adherence to negative stereotypes targeting victims of hate crimes, and the groups they belong to (Craig, 2002). These attitudes make it easier for perpetrators to act violently, engage in property destruction, or otherwise harm individuals belonging to marginalized groups. The unique nature of hate crimes and the motivation for the commission of these offenses highlights risk factors as simple as membership in a protected class—like being a racial or ethnic minority, a member of the sexual minority community, or practicing a particular religion.

Who Perpetrates Hate Crime?

Previous research has developed a typology for hate crime perpetrators. Levin and McDevitt (1993) identified three primary motivations for hate crime. The first group of offenders were perpetrating crime as expressive or thrill-seeking behavior. The second group included individuals who believed they were protecting their turf. The third, smaller category of offenders reasoned they were responsible for culling groups of individuals who were ‘evil’ or inferior. One additional typology was developed: retaliatory behavior. Perpetrators acting in a retaliatory manner have done so because of some perceived assault or degradation against the perpetrator’s group. The

defensive typology was renamed, and involves crime against a group they believed threatened them in some instrumental way (McDevitt et al., 2002). Those classified in the defensive typology commit hate crimes as a way to protect their resources from threats (McDevitt et al., 2002). Despite the contextual differences in which perpetrators commit hate crimes, a common motivation behind these typologies is bigotry.

Consequences of Victimization

Not unlike other forms of victimization, the trauma of hate crime has produced mental and physical health sequelae, including posttraumatic stress disorder (PTSD), elevated fear and startle responses, decreased esteem, sleep disruptions, internalizing disorders, and appetite abnormalities (Green, Streeter, & Pomeroy, 2005; Reid & Sullivan, 2005). Survivors may also experience secondary victimization from their communities in the form of stigma or isolation (Lyons, 2006).

It is also noteworthy that hate crime victimization occurs as a result something fundamentally intrinsic, such as an individual’s race, ethnicity, gender, sexual orientation, or disability. Herek, Gillis, and Cogan (1999), for example, noted that hate crime victimization challenges a victim’s sense of self. This more personal nature of hate crimes can have profoundly negative consequences unique to hate crime survivors.

Perry (2012) stated that hate crime can adversely influence relations between and within communities. Groups already facing stigma, including immigrants, racial/ethnic, sexual, and religious minorities, may see these strains magnified in the wake of a hate crime (Lyons, 2006; Perry, 2012). Substantial increases in anti-Arab and anti-Muslim hate crimes in the US following September 11, 2001 (Disha, Cavendish, & King, 2011) serve as an example of problems these marginalized groups have faced.

Awareness and Education

Increasing awareness and educating individuals can facilitate a better appreciation and recognition of social issues. The criminal justice system’s understanding of hate crime continues to evolve, becoming more inclusive of the many types of bias motivations. This transformative process further stresses the need to teach people how to identify, report, and prevent, hate crime incidents. Law enforcement, advocacy groups, and civilian bystanders can work toward achieving these goals. The Southern Poverty Law Center (SPLC) maintains a national registry of known hate groups, and provides state-by-state information about such groups. The SPLC also provides a way for individuals to report hateful intimidation and harassment (they stress that people report these incidents to local law enforcement first). Awareness of these issues is vital to producing tangible solutions for prevention and response.

Implications for the State of Texas

Texas has continued to adapt their hate crime legislation. This past September, it became the second state to add “law enforcement” to the list of protected groups. Additionally, the Muslim-Jewish Advisory Council in Dallas has been working with state legislators to ensure that training for law

enforcement includes information on how to determine if an act of violence should be considered a hate crime. Currently, Texas law enforcement officers are not required to receive training related to hate crime, but they do have an optional training course through the Texas Commission on Law Enforcement. Texas should continue to maximize efforts toward prevention and response to hate crime, including comprehensive training for law enforcement. Raising awareness about what constitutes hate crime makes reporting a more viable option for victims of hate crime, which increases suspect apprehension and feelings of public safety.

References

- Anti-Defamation League. (2012). *Hate Crime Laws- The ADL Approach*. Retrieved from <https://www.adl.org/sites/default/files/documents/assets/pdf/combating-hate/Hate-Crimes-Law-The-ADL-Approach.pdf>
- Boeckmann, R.J., & Turpin-Petrosino, C. (2002). Understanding the harm of hate crime. *Journal of Social Issues, 58*(2), 207-225.
- Comstock, G.D. (1991). *Violence against lesbians and gay men*. NY: Columbia University Press.
- Craig, K.M. (2002). Examining hate-motivated aggression: A review of the social psychological literature on hate crimes as a distinct form of aggression. *Aggression and Violent Behavior, 7*(1), 86-101.
- Disha, I., Cavendish, J.C., & King, R.D. (2011). Historical events and spaces of hate: Hate crimes against Arabs and Muslims in post-9/11 America. *Social Problems, 58*(1), 21-46.
- Federal Bureau of Investigation. (2017). *Hate crimes*. Retrieved from <https://www.fbi.gov/investigate/civil-rights/hate-crimes>
- Federal Bureau of Investigation. (2015). *2015 Hate crime statistics*. Retrieved from <https://ucr.fbi.gov/hate-crime/2015>
- Gillis, B. (2013). Understanding hate crime statutes and building towards a better system in Texas. *American Journal of Criminal Law, 40*(2), 197-226.
- Green, D.L., Streeter, C., & Pomeroy, E. (2005). A multivariate model of the stress and coping process. *Stress, Trauma, and Crisis, 8*(1), 61-73.
- Hate Crimes Sentencing Enhancement Act, 28 U.S.C. § 994 (1994).
- Hate Crimes Statistics Act (HCSA), 28 U.S.C. § 534 (1990).
- Herek, G.N. (2017). Documenting hate crimes in the United States: Some considerations on data sources. *Psychology of Sexual Orientation and Gender Diversity, 4*(2), 143-151.
- Herek, G.N., Gillis, J.R., & Cogan, J.C. (1999). Psychological sequelae of hate-crime victimization among lesbian, gay, and bisexual adults. *Journal of Counseling and Clinical Psychology, 67*(6), 945-951.
- Levin, J., & McDevitt, J. (1993). *Hate crimes: The rising tide of bigotry and bloodshed*. Springer: New York.
- Lyons, C. (2006). Stigma or sympathy? Attributions of fault to hate crime victims and offenders. *Social Psychology Quarterly, 69*(1), 39-59.
- MacDonald, Z. (2002). Official crime statistics: Their use and interpretation. *The Economic Journal, 112*(477), F85-F106.
- Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act, 18 U.S.C. § 249 (2009).
- McDevitt, J., Levin, J., & Bennett, S. (2002). Hate crime offenders: An expanded typology. *Journal of Social Issues, 58*(2), 303-317.
- McVeigh, R., Welch, M.R., & Bjarnason, T. (2003). Hate crime reporting as a successful social movement outcome. *American Sociological Review, 68*(6), 843-867.
- Perry, B. (Ed.). (2012). *Hate and bias crime: A reader*. Routledge: New York.
- Reid, J.A., & Sullivan, C.J. (2009). A latent class typology of juvenile victimization and exploration of risk factors and outcomes of victimization. *Criminal Justice and Behavior, 36*(10), 1001-1024.
- Sandholtz, N., Langton, L., & Planty, M. (2012). *Hate crime victimization, 2003-2011*. Washington: D.C.: U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics.
- Saucier, D.A., Brown, T.L., Mitchell, R.C., & Cawman, A.J. (2006). Effects of victims' characteristics on attitudes toward hate crimes. *Journal of Interpersonal Violence, 21*(7), 890-909.
- Stacey, M. (2015). The effect of law on hate crime reporting: The case of racial and ethnic violence. *American Journal of Criminal Justice, 40*(4), 876-900.
- Texas Department of Public Safety. (2015). *The Texas Crime Report for 2015: Hate Crime (Chapter 6)*. Retrieved from: <https://www.dps.texas.gov/crimereports/07/citCh6.pdf>
- Walfield, S.M., Socia, K.M., & Powers, R.A. (2017). Religious motivated hate crime: Reporting to law enforcement and case outcomes. *American Journal of Criminal Justice, 42*(1), 148-169.

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