

Reporting Hate Crime Incidents Questions & Answers

Presentation available at http://www.criminaljustice.ny.gov/crimnet/ojsa/crimereporting/ucr_training.htm

Q1: Do incidents which involve rival gangs count as hate crimes?

A1: Only if race, color or other protected class is the motivation for the incident. Gang rivalry alone does not constitute a hate crime.

Q2: If I submit what I believe to be a hate crime and DCJS does not agree with the classification will DCJS contact me to dispute it or correct it?

A2: No. Since hate crimes are based on motivation, DCJS cannot determine the validity of a reported hate crime incident and must rely on the reporting agencies investigation of the incident. However, the DCJS Crime Reporting Unit will follow-up with agencies to verify inconsistencies in the submitted data and request missing or incomplete data.

Q3: If there is a mixed Hispanic community, would Puerto Ricans fighting with Mexicans be considered a Bias Crime?

A3: An assault on a member of one ethnic group by a member of another ethnic group does not constitute a hate crime unless a bias motivation can be established. Therefore, determining the motivation behind the assault is crucial.

When conducting interviews of witnesses and involved parties, responding officers must be able to determine that the offense was motivated, in whole or substantial, part by a bias toward the victim's race, ethnicity or other protected status.

Q4: Does the suspect have to make a bias statement against the victim or can it be a perceived bias crime?

A4: A bias statement is not required. Persons or groups of persons can be victims of a hate crime because of their protected status even if no bias statements are made by the offender(s). For example, offenders that target elderly victims because they are perceived to be vulnerable could be classified as a hate crime. However, establishing motive is crucial. There may also be incidents where a bias statement is made, but it is not the primary motivation of the committed offense. For example, a racial slur directed at a victim of an aggravated assault may not be enough evidence to establish bias motivation.

Q5: Are scams against the elderly considered hate crimes?

A5: Only if the motivation behind the scam can be linked to the victim's status as a person over 60 years of age. For example, scams that only target elderly victims due to their perceived vulnerability would be considered a hate crime. However, scams that target consumers in general may not be considered a hate crime.

Q6: If a crime is committed against a victim that just so happens to be disabled, is it automatically considered a hate crime?

A6: Only if the motivation for the crime can be linked to the victim's status as a person with a disability. Again, if the victims are being targeted because of their perceived vulnerability the offense would be considered a hate crime.

Q7: Is the property owner always the victim of bias motivated graffiti?

A7: No. The property owner would be a victim of criminal mischief, but motive still needs to be established to determine if the property owner was the victim of the bias graffiti. If no motive can establish the property owner as the victim, agencies would still report the incident as a hate crime, but identify the victim type as “structured group or organization”. Similarly, the victim of bias motivated graffiti on public buildings is not always the complainant unless he or she is the perceived target of the graffiti. If there is confusion about this, agencies should contact DCJS for assistance in completing the reporting form.

Q8: How can a reporting agency verify that DCJS has an accurate record of the hate crimes reported for its jurisdiction?

A8: Reporting agencies can call the Crime Reporting Unit at 1-800-262-3257 or email infonysucr@dcjs.ny.gov. DCJS will provide you with a summary report of what you have submitted.

Q9: If the offense is a crime against a person, should there always be a victim?

A9: Yes. When the offense is classified as a crime against a person (e.g. assault, harassment, menacing and stalking) all known victim information should be reported. If any of the information is unknown, indicate this with a “U”.

Q10: Utilizing SJS, is there a way to flag the hate crimes or retrieve a hate crime "report"?

A10: No, however, agencies can review their IBR databases for incidents that do not have 77 - No Bias/Not Applicable for data element #11 – Bias Crime Type. It is important to review the actual incidents to determine whether or not the Bias Crime Type data element was correctly coded.

Q11: If an offender is unknown, how do you determine if offense is a hate crime without knowing the offender’s motivation?

A11: Even when an offender is unknown it is still possible for the investigating officer to determine that a crime is a hate crime. If a crime is committed, there is evidence the crime could be identity motivated, and the evidence is supportive of whole or substantial identity motivation then a crime can be classified as a hate crime..

Q12: Where in IBR do you indicate the bias motivation?

A12: Data Element #11 indicates bias crime type. It is the last data element in the Administrative Segment (Segment 1).

Q13: Why is rape not considered a hate crime?

A13: In order to be a hate crime, an offense must be listed in New York State Hate Crime Statute Penal Law 485.05. Certain sexual assaults including rape in the first degree are identified in the Hate Crime Statute.

Q14: If the victim of a robbery is Hispanic and the numerous suspects are black, would that be considered a hate crime or crime of opportunity?

A14: In order to be a hate crime the victim would have had to have been targeted primarily because of his national origin or ancestry.

Q15: A mall security guard, who happens to be Hispanic, apprehends a shop lifter. During apprehension, the suspect assaults the security guard, and yells anti-Hispanic slurs. Would this assault be considered a Hate Crime?

A15: In this incident, the primary motivation of the assault would be to resist apprehension; therefore the assault is not a hate crime.

Q16: When will it be possible to submit Hate Crime Incident Reports through the portal? When will the UCR reporting be moved to the Portal?

A16: DCJS anticipates that the capability of submitting Hate Crime Incident Reports and UCR Reports through the portal will be available in the Fall of 2013. DCJS will send email notification to all reporting agencies when this becomes available.

Q17: Is it common for a UCR/IBR preparer to elevate crimes to a hate crime when the reporting officer did not do so, such as in the case of a scam targeting the elderly? Is this appropriate?

A17: Typically, the UCR/IBR preparer consults with the reporting officer if an offense looks like a potential hate crime incident. It is not usually appropriate for a UCR/IBR preparer to unilaterally change an incident report.

Q18: Where on the DCJS website can I find statistics?

A18: DCJS publishes an Annual Hate Crime Report which is available on the publications page of the DCJS website at <http://www.criminaljustice.ny.gov/crimnet/pubs.htm>.

Other crime statistics are available on the Criminal Justice Statistics page of DCJS website at <http://www.criminaljustice.ny.gov/crimnet/ojsa/stats.htm>.