

A hate crime is a crime that is motivated in whole or substantial part by bias against certain personal characteristics. According to New York State law, there must be an underlying crime in order for an incident to be classified as a hate crime. That means authorities must first determine there was a crime committed. If it's determined that the crime was motivated by bias, then hate crime charges may be added to the original charge.

These enhanced penalties exist because while any crime has a negative impact on the victim, hate crimes impact victims on a much deeper and emotional level, and the impact is wider—creating fear and community unrest with those who share the victim's characteristics. There are many types of underlying crimes that, when combined with biased intent, can be considered hate crimes, including physical assault, verbal threats, robberies and burglaries, and property damage such as graffiti.

New York law also specifically provides that anyone who places a swastika or noose—both historical expressions of hate—with the intent to harass, annoy, threaten, or alarm, can also be charged with aggravated harassment.

Examples of hate crimes

- ✓ A passenger on the train says, "I hate gays," and threatens to beat a same-sex couple holding hands.
- ✓ A group of teenagers spray paint a swastika on a building or hang a noose from a tree.
- ✓ A passerby spits in someone's face and yells, "You Asians are spreading the Coronavirus!"

What groups are recognized under New York hate crime law?

New York State law considers the following identities when determining whether a crime was motivated by bias:

- Race or color
- Ancestry or place of national origin
- Gender identity or expression
- Religion or religious practice
- Gender
- Disability
- Sexual orientation
- Age

What if there isn't an underlying crime?

One can still be victimized by bias and hate if there is no underlying crime. A bias incident is when someone verbally harasses or discriminates against you based on your identity, but the incident does not involve a physical attack, a threat of attack, or property damage.

Bias incidents are taken seriously as examples of discrimination, but they are not necessarily crimes. Some bias incidents may be protected by free speech provisions of the Constitution. Others may give rise to civil penalties in New York City under the NYC Human Rights law, which is administered by the NYC Commission on Human Rights.

Examples of bias incidents

- ✓ Someone walks by a Latinx person on the street and yells, "I hate Mexicans," and, "Go back to your own country!"
- ✓ A group of teenagers call a Black teenager the "N" word.
- ✓ A restaurant owner tells a customer in a turban, "Muslims are not welcome here".

What should I do...

...if I find graffiti that includes hate speech or hate symbols, like a swastika?

Graffiti is a crime in New York, and graffiti that includes hate speech or hate symbols can be considered a hate crime. Swastikas and nooses are the most common hate symbols.

If you find graffiti that includes hate speech or hate symbols, call 911 and say "hate crime". It would also be helpful to take a picture of the graffiti to share with law enforcement.

...if I find stickers or fliers promoting a white supremacist group on a lamppost?

Even though stickers, fliers, and posters are protected by the First Amendment and are not considered to be hate crimes, it's important to report the biased or hateful messages.

If the fliers include certain images such as a swastika or a noose, that may elevate charges against the people who distributed the materials and should be reported to your local precinct.

...if someone physically threatens me while making biased remarks?

A physical threat, even without contact, can be considered a crime. As soon as someone includes a physical threat along with biased language, it could be classified as a hate crime.

If someone yells, "I'm going to punch your Asian face," before physically engaging a victim, it may be a hate crime and you should report the incident to police by calling 911 or going to your local precinct.

...if someone verbally harasses me about my identity, but doesn't threaten or touch me?

If a person harasses you because of your race, national origin, religion, gender, sexual orientation or gender identity, disability, or any other protected category, that can be considered discriminatory harassment and you should call 311 and say "human rights" or report the bias incident to the NYC Commission on Human Rights (CCHR)

If you are not sure if the harassment was discriminatory or if it was based on your identity, you can still call or email the CCHR and they will help you understand your rights and assist you in filing a complaint.

...if I'm not sure if I experienced a hate crime or a bias incident?

If someone has physically harmed you or threatened to harm you, you should call 911. But you should feel free to call either 311, 911, or both if you are unsure which one to call.

Whether you call 311 or 911, your complaint will be forwarded to the right place. It is more important to report the incident than to worry about which number to use.

WHAT HAPPENED?

BIAS INCIDENT

HATE CRIME

WHAT SHOULD I DO?

CALL 311 AND SAY "HUMAN RIGHTS" OR FILL OUT A DISCRIMINATION REPORT ON CCHR'S WEBSITE

CALL 911 AND SAY "HATE CRIME" OR CALL YOUR LOCAL POLICE PRECINCT

WHAT WILL HAPPEN NEXT?

YOU WILL BE CONNECTED TO CCHR STAFF WHO CAN INVESTIGATE THE CASE OR HELP YOU FILE A COMPLAINT

YOU WILL BE CONNECTED TO AN OPERATOR WHO WILL ASK FOR DETAILS AND WILL DETERMINE IF POLICE SHOULD BE SENT TO INVESTIGATE. LANGUAGE ASSISTANCE IS AVAILABLE AND YOU WILL NEVER BE ASKED ABOUT IMMIGRATION STATUS.