



Reported Increase in Hate Crimes Against Asian Americans

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Several media outlets have reported an increase in violence and possible hate crimes against Asian Americans and people of Asian descent (specifically people of East or Southeast Asian descent) since the beginning of the Coronavirus Disease 2019 (COVID-19) pandemic, particularly against Asian seniors. For example, in Oakland, CA, a suspect was arrested for a series of attacks in the city's Chinatown neighborhood, including [one incident where a 91-year-old Asian man was shoved to the ground](#); and in San Francisco, [an 84-year old Thai man died](#) after being assaulted while walking. The reported increase in violence and harassment experienced by Asian Americans has been attributed to beliefs that [Asian people are responsible for spreading COVID-19](#), a view that some argue may have been, in part, [fed by some of the terms public figures have used to refer to the virus](#). The Federal Bureau of Investigation (FBI) also [warned of a potential increase in hate crimes against Asian Americans](#). Many cities and communities are working to protect their Asian residents. The [New York City Police Department formed an Asian Hate Crime Task Force](#), and [community members in San Francisco have volunteered to escort Asian seniors when they are out walking](#). In January 2021, President Biden [signed a presidential memorandum](#) condemning racism against Asian Americans and Pacific Islanders and directing federal agencies to combat xenophobia. Congress may examine and address these hate crimes in their oversight of the Department of Justice (DOJ) and to meet any constituent concerns.

Federal Data on Hate Crimes

The FBI, as required by the Hate Crime Statistics Act (HCSA, P.L. 101-275), collects data on hate crimes through its Hate Crime Statistics Program (HCSP). As required by the act, the FBI is to collect data on crimes that “manifest evidence of prejudice based on race, gender and gender identity, religion, disability, sexual orientation, or ethnicity, including where appropriate the crimes of murder, non-negligent manslaughter; forcible rape; aggravated assault, simple assault, intimidation; arson; and destruction, damage or vandalism of property.”

There were [7,314 hate crime incidents \(including 158 anti-Asian incidents\)](#) reported by local law enforcement to the FBI's HCSP in 2019 (the most recent data available), compared with [7,120 hate crimes incidents \(including 148 anti-Asian incidents\)](#) reported in 2018.

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Recent accounts about bias-motivated incidents against Asian Americans have highlighted [some asserted limitations of FBI hate crime data](#). Participation in HCSP is voluntary, and there have been calls to [tie participation in HCSP to eligibility for DOJ grants](#). Also, even though many law enforcement agencies “participate” in HCSP, [86% of participating agencies reported no hate crimes in 2019](#), which is generally consistent with agency participation trends from 1996 to 2018.

The Bureau of Justice Statistics (BJS) also collects data on hate crime victimizations through its National Crime Victimization Survey (NCVS) program. The NCVS uses the same HCSA definition of a hate crime as the FBI. NCVS serves as a complement to HCSP because it collects data on reported and unreported hate crime victimizations. The NCVS data is collected through annual interviews with residents 12 or older of a nationally representative sample of households. Respondents are asked to self-report data on crime victimizations, regardless of whether they were reported to the police. NCVS totals will always be larger than the FBI’s hate crime totals. For example, from 2013 to 2017 (the most recent data available) [an average of 204,600 annual hate crime victimizations were self-reported to NCVS](#).

Those voicing concerns about hate crimes against Asian Americans point to data from [Stop AAPI Hate](#), which recorded [approximately 2,800 self-reported hate incidents](#) against Asian Americans and Pacific Islanders from March 19, 2020, through the end of 2020. (Data collection efforts began in response to the pandemic in March 2020.) This would represent a substantial increase over the number of anti-Asian hate crimes reported to the FBI in 2019. These two data sets are not directly comparable. Data from the FBI only capture hate crimes reported to law enforcement agencies, [and many hate crimes are not reported to the police](#). Even if a hate crime is reported, the law enforcement agency only reports to the FBI incidents where an investigation determines there is sufficient evidence to conclude that the crime was motivated, in whole or in part, by bias. Incidents reported to Stop AAPI Hate also include actions that would not be counted as hate crimes by the FBI, such as shunning or being coughed upon.

Federal Hate Crime Cases

DOJ could, under certain circumstances, investigate and prosecute hate crimes against Asian Americans. Under [18 U.S.C. §249](#), it is a federal offense to willfully cause bodily injury, or attempt to do so using a dangerous weapon, because of the victim’s actual or perceived race, color, or national origin. However, in order to prosecute a hate crime under Section 249, the Attorney General, or his designee, must certify that (1) the state does not have jurisdiction, (2) the state has requested that the federal government assume jurisdiction, (3) the verdict or sentence obtained by the state left the federal interest demonstrably unvindicated, or (4) prosecution is in the public interest and necessary to secure substantial justice.

Federal Assistance Related to Hate Crimes

The FY2021 Commerce, Justice, Science, and Related Agencies Appropriations Act (P.L. 116-260) includes \$5 million for grants to provide technical, forensic, prosecutorial, or other assistance in the criminal investigation or prosecution of any crime that is a felony crime of violence and is motivated by prejudice based on the actual or perceived race, color, religion, national origin, gender and gender identity, sexual orientation, or disability of the victim, or is a violation of the jurisdiction’s hate crime laws.

State and local governments could use funding under the Edward Byrne Memorial Justice Assistance Grant (JAG) program to improve their response to hate crimes by, for example, hiring hate crimes investigators or funding hate crimes task forces.

Hate crime victims may also be eligible for direct services or victim compensation originating from the Crime Victims Fund under the Victims of Crime Act (P.L. 98-473).

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