**The Leadership Conference
on Civil and Human Rights**

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November 6, 2020

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United States Department of Justice
Justice Management Division, Policy and Planning Staff
Two Constitution Square
145 N Street NE, 3E.405A
Washington, DC 20530.

Re: Comments on the DOJ, FBI, Criminal Justice Information Services (CJIS) Division, Information Collection Request to the Office of Management and Budget on the National Incident Based-Reporting System; 85 FR 63584; OMB Number 1110-0058

To Whom it May Concern:

On behalf of the Sikh Coalition, the Leadership Conference on Civil and Human Rights, and the organizations listed below, we are writing in response to the request for comments on the National Incident-Based Reporting System (NIBRS). We support the transition to NIBRS and believe it is critical for more accurate data collection on hate crimes.

The Leadership Conference

The Leadership Conference has consistently been committed to fighting hate since its inception. As such, it has supported a number of pieces of legislation regarding hate crimes in the United States Congress over the years. This includes the Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act, signed into law in 2009, as well as more recently the 2019 Khalid Jabara and Heather Heyer National Opposition to Hate, Assault, and Threats to Equality (Jabara Heyer NO HATE) Act. Among several important provisions, the Jabara Heyer NO HATE Act proposes additional funding and training in support of the 2021 transition to NIBRS.[1] The NO HATE Act identifies NIBRS as critical to its mission to improve data collection on hate crimes to further improve policy.[2]

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[1] https://www.congress.gov/bill/116th-congress/senate-bill/2043/text
[2] https://www.washingtonpost.com/outlook/2018/09/24/charlottesville-wont-show-up-federal-hate-crime-stats/

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The Sikh Coalition

The Sikh Coalition was founded in the aftermath of 9/11 to address backlash hate crime attacks against the Sikh American community. Hate violence continues to stalk Sikhs in our nation's streets, places of business, schools, and even gurdwaras (houses of worship). In 2013, the Sikh Coalition in collaboration with other advocacy organizations helped update the FBI's Hate crime reporting codes to more accurately capture a wider spectrum of anti-bias incidents, including anti-Sikh incidents, in the Uniform Crime Report (UCR). As a result of enhanced data collection, the FBI has been able to begin understanding the kinds of hate crimes impacting diverse American communities. The most recent FBI hate crime statistics show that anti-Sikh hate crimes were the third-most reported religious bias-related incidents, with a 200 percent increase in anti-Sikh hate crimes from 2017 to 2018. The Sikh Coalition looks forward to a NIBRS transition for all law enforcement agencies to ensure more meaningful information on hate crimes is captured and utilized to better quantify the threat and measure the effectiveness of policy solutions.

Background: The Impact of Hate Crimes

Hate crimes are unique in that they not only affect an individual, but also an entire community. All Americans have a stake in comprehensive data and response to hate crimes. Hate crimes are meant to intimidate both the victim and members of the victim's community; these crimes can isolate members of that community from their broader community and make them feel unprotected by the law.[3] Furthermore, many of the same communities targeted for hate have experienced long histories of racism and other forms of discrimination at the hands of law enforcement. It is then, perhaps, no surprise that there is an enormous gap between the number of hate crimes committed and the number reported to law enforcement.[4]

While we recognize that there are significant concerns with respect to the accuracy of hate crimes data, the trends are still instructive, and the recent increase in the number of violent hate crimes targeting individuals reported to the FBI should be a cause for alarm.[5] Hate threatens the fabric of our society and demands leadership from the federal government to modernize hate crime reporting through NIBRS. Accurate data is critical to understand hate incidents and hate crimes, to the ability of law enforcement to respond effectively, and to enhance the capacity of local government and community leaders to help meet the needs of people and communities targeted for hate. The federal government has an important role to play in confronting acts of violence that are motivated by prejudice. NIBRS is an important piece of what the federal government's response to enhancing the response to hate crimes in this country.

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[3] https://www.bbc.com/news/uk-42622767
[4] https://www.justice.gov/hatecrimes/learn-about-hate-crimes
[5] https://www.nytimes.com/2019/11/12/us/hate-crimes-fbi-report.html

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NIBRS: A Critical Tool in Addressing Hate

NIBRS is a critical tool for effectively understanding and addressing the rising number of hate crimes in the United States. NIBRS is a more effective data collection system than the current Summary Reporting System (SRS) within the Uniform Crime Report (UCR).[6] NIBRS collects each offense within an incident as well as characteristics about victims, offenders, arrestees, and property data. It can collect 52 offense classifications and up to 10 offenses per incident, which allows NIBRS to create a more comprehensive review of crime in the United States.[7]

The SRS, on the other hand, only tracks 10 offenses and does not collect other useful information about the characteristics of victims and offenders, such as race and gender. By design, the UCR provides a very broad snapshot of an incident, omitting often crucial data.[8] A 2013 study by Cornell found that the UCR leads to underreporting of crime in part due to its Hierarchy Rule.[9] For example, if a robbery escalates into a murder, it would only be labeled as a murder, leaving out critical information on a whole separate crime. This particularly applies to the underreporting of hate crimes since instances of hate usually involve multiple offenses. If a hate crime resulted in a murder, it could omit the role of hate in the incident. NIBRS solves this issue by allowing more classifications of offenses as well as allowing there to be multiple offenses per incident.

Indeed, the data discrepancies resulting from the UCR are not theoretical. We see massive discrepancies between UCR data and the Bureau of Justice Statistics' own National Crime Victimization Survey (NCVS). Between 2004 and 2015, the NCVS reported an average of about 250,000 hate crimes per year, which is 25 times higher than what the UCR reported per year.[10] Of course, the NCVS has a different metric for counting hate crimes than the UCR, but a discrepancy of this magnitude is surely not due to random chance. The UCR does, in fact, systematically undercount hate crimes. Below is a chart demonstrating the massive discrepancy between the UCR and NCVS. (Please see chart below.)

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[6] https://oversight.house.gov/sites/democrats.oversight.house.gov/files/2020-02-12%20JR%20to%20Wray-%20FBI%20re%20Hate%20Crimes%20Statistics.pdf

[7] https://www.dni.gov/index.php/who-we-are/organizations/national-security-partnerships/ise/ise-archive/ise-blog/2506-wanted-by-the-fbi-agencies-that-report-crime-data-via-nibrs

[8] https://ucr.fbi.gov/crime-in-the-u.s/2014/crime-in-the-u.s.-2014/resource-pages/message-from-director

[9] https://www.splcenter.org/20180415/hate-crimes-explained

[10] https://www.usccr.gov/pubs/2019/11-13-In-the-Name-of-Hate.pdf

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Year	Number of Hate Crime Victiizations (BJS)	Number of Single & Multiple Bias Hate Crime incidents (FBI)	Difference
2004	281,670	7,649	274,021
2005	223,060	7,163	215,897
2006	230,490	7,722	222,768
2007	263,440	7,624	255,816
2008	266,640	7,783	258,857
2009	284,620	6,604	278,016
2010	273,100	6,628	266,472
2011	218,010	6,222	211,788
2012	293,790	6,573	287,217
2013	272,420	5,928	266,492
2014	215,010	5,479	209,531
2015	207,880	5,850	202,030

Many major cities also report no hate crimes in the UCR. Seventy-nine cities with populations over 100,000 people that participate in the UCR reported no hate crimes in 2018. Additionally, in 2018, 87.4% of the 16,039 organizations that participated in the UCR reported zero hate crimes.[11] In fact, entire states, such as Wyoming and Alabama with a combined population of 5.5 million people, also report no hate crimes. These are not statistical anomalies, but rather a result of a flawed data collection system.

We also know underreporting is true from anecdotal evidence. For example, Orlando reported 5 hate crimes to Florida's Department of Law Enforcement in 2015, yet reported no hate crimes to the UCR.[12] Compounding this troubling evidence, a study of West Virginia found that hate crimes were undercounted by approximately 67% using the UCR as compared to NIBRS.[13] Researchers found that classification errors, as in not registering a crime as a hate crime, led to systematic undercounting such that the number of hate crimes omitted in just one area of West Virginia almost equaled the number that were counted state-wide that year. The counting of each hate crime is critical since behind every hate crime is both a victim and their community, suffering from trauma.

Conclusion

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[11] https://www.splcenter.org/20180415/hate-crimes-explained
[12] https://www.usccr.gov/pubs/2019/11-13-In-the-Name-of-Hate.pdf
[13] https://djcs.wv.gov/ORSP/SAC/Documents/ORSP_WV_Hate_Crime_Report.pdf

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Overall, the long overdue move from the SRS I UCR to NIBRS is important to enhancing public safety. Currently, just 15 states submit their crime data via NIBRS, so it is crucial that the FBI continues its transition away from the UCR. NIBRS solves many of the UCR's problems with undercounting hate crimes. Data is a crucial tool for changing policy. Without an accurate sense of the number, nature, and location of hate crimes, it is difficult to generate policy that is effective in stopping it.

We look forward to working with the FBI further in improving our response to growing instances of hate violence in our country.

America's Voice
American Jewish Committee
Arab American Institute (AAI)
Cleveland Jobs with Justice
Coalition for Humane Immigrant Rights (CHIRLA)
Demand Progress Education Fund
Equality California
Jewish Activists for Immigration Justice of Western MA
The Leadership Conference on Civil and Human Rights
Matthew Shepard Foundation
Muslim-Jewish Advisory Council
NAACP
National Action Network
National Association of Social Workers
National Center for Transgender Equality
National Council of Jewish Women
National Equality Action Team (NEAT)
National Network for Immigrant & Refugee Rights
National Organization for Women
National Partnership for New Americans
Not In Our Town
PFLAG National
The Sikh Coalition
Taos Immigrant Allies
UNITED SIKHS