



2016 FBI hate crime report inaccurate for N. Utah; clerical errors to blame

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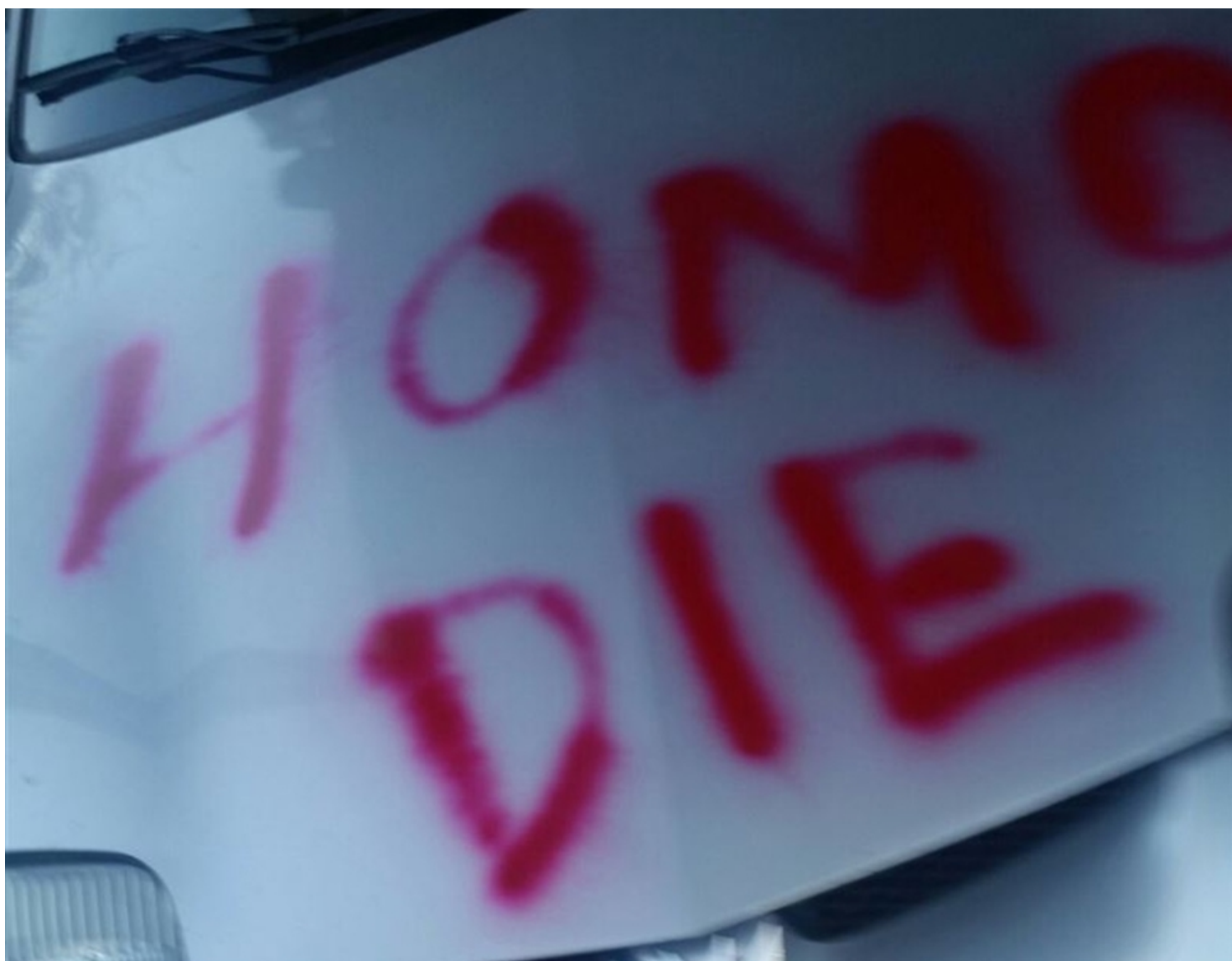


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Anti-gay slurs were spray painted on Aaron and Nik McFarland's car in November 2016. Ogden police classified it as a hate crime.

MARK SHENEFELT, Standard-Examiner Staff

OGDEN — An attacker charged toward a jogger on an Ogden foothills trail, screaming about stolen water and Mexicans.

The white man, wearing black clothes and brass knuckles, thrust and swiped a knife at the jogger, a Hispanic man who dodged the attack and called police.

RELATED: [Ogden leads the state with 8 reported hate crimes in 2016](http://www.standard.net/Police-Fire/2017/11/16/Ogden-reported-state-leading-8-hate-crimes-in-2016)

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It was one of four crimes in 2016 in Weber County judged by police to meet the [FBI](https://www.fbi.gov/) (<https://www.fbi.gov/>)'s definition of a hate crime and it was the only one to result in a criminal conviction.

While the FBI annual report shows there were seven other hate crimes reported to local law enforcement, those incidents were nothing of the sort — they were included through clerical errors.

When local police were asked for details about the 11 hate-tagged incidents, spokesmen said officers checked the wrong classification boxes while filing incident reports. For example, a South Ogden case marked with an “anti-white” bias turned out to be a simple auto burglary.

Ogden had three erroneous hate crime reports. North Ogden posted two and Pleasant View one.

“This new computer system has a lot of different features, windows and boxes,” Detective Paul Rhoades, [North Ogden Police Department](http://www.northogdencity.com/departments/police#ad-image-0) (<http://www.northogdencity.com/departments/police#ad-image-0>) spokesman, said. “We are thinking that the officers inadvertently indicated there was a non-white bias” in the two

cases.

Hate crime reports are very rare in North Ogden, Rhoades said.

Story continues below photo.

Marcie Stromberg, Pleasant View (<http://www.pleasantviewcity.com/services/police/>)'s records officer, attributed the city's false report to a new records management system and an erroneous classification of an incident in which a juvenile assaulted a group home staff member.

The state has no way of knowing how often inaccurate hate crime designations are made, said Marissa Cote, spokeswoman for the [Utah Department of Public Safety](https://publicsafety.utah.gov/) (<https://publicsafety.utah.gov/>). The state's [Peace Officer Standards and Training division](https://post.utah.gov/) (<https://post.utah.gov/>) instructs and certifies police officers in Utah, including curriculum that covers how to investigate and handle hate crimes, she said.

"We only collect and compile the numbers for the state," she said. "We rely on law enforcement agencies to give us the data."

When errors are discovered the state can update its own data, but not the FBI's report, Cote said. The Standard-Examiner found the errors by examining all involved local police reports, obtained by public records requests, and with data included in Ogden City's response to a [separate request by ProPublica's Documenting Hate project](https://www.propublica.org/article/hate-crime-training-for-police-is-often-inadequate-sometimes-nonexistent) (<https://www.propublica.org/article/hate-crime-training-for-police-is-often-inadequate-sometimes-nonexistent>).

MUDDLED MIX OF HATE CRIME DEFINITIONS

Beyond miscoded police reports, critics say national and local statistical tracking of hate crimes is inconsistent, inaccurate and ineffective. Further, many victimizations are not reported to police, a [U.S. Bureau of Justice Statistics study](https://www.bjs.gov/content/pub/press/hcv0415pr.cfm) (<https://www.bjs.gov/content/pub/press/hcv0415pr.cfm>) says.

Combine spotty case reporting with state laws that don't match federal hate crime definitions, and there's not much chance for communities to meaningfully focus on and

punish bias offenses, says Sen. Daniel Thatcher, R-West Valley City.

The lawmaker is proposing a bill in 2018 that would specify protections based on race, religion, disability, and gender and sexual orientation, and make tougher penalties available against those convicted of committing crimes on the protected classes.

"When there are crimes committed that target the identity of a community, these crimes deeply affect society as a whole," Thatcher said in a recent interview.

Story continues below photo.

The FBI defines a hate crime as a "criminal offense against a person or property motivated in whole or in part by an offender's bias against a race, religion, disability, sexual orientation, ethnicity, gender, or gender identity."

Utah laws with "hate crimes" in the title don't actually refer to hate crimes in the effective clauses.

A Utah judge or the state parole board may consider aggravating factors if the offense "is likely to incite community unrest," or "cause members of the community to reasonably fear for their physical safety" or be unable to "freely exercise or enjoy any (civil) right." Enhanced penalties require demonstration of "the intent to intimidate or terrorize another person."

Consequently, even if police designate an incident as a hate crime, it doesn't mean it will be prosecuted as one. Seeking a hate crime enhancement is not an easy question for Utah prosecutors.

"A bunch of white supremacists attacking some people of color — that's a hate crime," Christopher Shaw, a senior criminal prosecutor for the Weber County Attorney's Office, said.

But the knife-swinging man yelling about Mexicans while attacking a Hispanic victim may not rise to the level of a hate crime enhancement under Utah law.

"In my view, you've got to have some evidence of a class of people specific to the conduct," Shaw said. "There was a racial slur in an aggravated assault, a pretty ugly case, but from the evidence I can see, there was nothing that really jumped out at me as necessarily (carrying) a hate crime enhancement."

The October 2016 assault on the jogger happened near Ogden Nature Center North and 1175 N. Mountain Road, an Ogden Police Department (<https://www.ogdencity.com/271/Police-Department>) report said. The victim was not hurt but feared for his safety, according to the report.

Officers found Michael Waddell, 29, on the trail and arrested him.

“Michael made several statements in my presence about hating Mexicans and they are all trouble ... and they all need to die,” according to a police officer’s probable cause statement.

Waddell was convicted of aggravated assault in 2nd District Court. Judge Ernie Jones sentenced him to a suspended prison sentence, 200 days in jail and three years’ probation. Jones also ordered Waddell to undergo a substance abuse evaluation and take cognitive restructuring and anger management courses.

The American Civil Liberties Union of Utah (<http://www.acluutah.org/>) is neutral on Thatcher’s bill, but unless the measure is accompanied by explicit linkage between evidence of bias and the crime committed, the group may oppose it.

A “clear nexus” should be required, said ACLU legislative counsel Marina Lowe, “so it doesn’t unnecessarily give prosecutors the ability to go way back in somebody’s past, an inflammatory statement 40 years ago.”

Lowe said the ACLU hopes legislators will shrink from impulses toward “over-incarceration” and instead look for better ways of solving criminal justice problems “beyond just celebrating penalties and keeping people locked up.”

Have you been the victim or witness of a hate crime? Tell us your story
(<http://visuals.standard.net/2017/06/06/documenting-hate-have-you-experienced-a-hate-crime-tell-us-your-story-for-a-national-propublica-project/>)

OTHER 2016 AND 2017 HATE CRIMES

According to police reports obtained with public records requests, here are summaries of several other hate crime logged by local police departments in 2016 and 2017:

Fort Buenaventura Park, Ogden, June 11, 2016. After spending the night at a campsite following a concert in the park, a Clinton man went to retrieve his backpack. Several females began yelling at him and shouted homophobic slurs, saying his backpack wasn't his. One woman smashed him to the ground and he left. The man declined to press charges and told police he reported it so it would be documented.

Ogden River Parkway trailhead, Sept. 4, 2016. A woman said she was asleep on a park bench when two men attacked her. One held her down while the other raped her. They also stole her backpack and jacket. The incident was listed as a hate crime because the perpetrator was motivated against the victim's sexual orientation, police said. The case was closed without charges in May 2017.

40th Street, Ogden, Nov. 11, 2016. Vandals spray-painted homophobic slurs on a gay couple's car. The case was closed without arrests.

Ogden, Feb. 21, 2017. A police report said a Pakistani convenience store manager said a man trying to buy cigarettes became agitated when he was asked for identification. The man uttered vulgarities, and a racial slur often directed at African Americans, and challenged the manager to a fight. The report said the manager followed the man outside and told him to return to the store. The customer told the manager to "go back to your country" and punched him, breaking his glasses. The two scuffled and the customer left. The customer was found receiving treatment at an Ogden hospital. He was arrested on suspicion of assault, criminal mischief and a possible hate crime enhancement. Ogden police classified the bias as anti-Muslim.

25th Street, Ogden, May 27, 2017. A white man said he was jumped and beaten outside a 25th Street bar by two African American men after they heard him telling his girlfriend he looks like Eminem in his driver's license photo. The man declined to wish to press charges and police said they were unable to identify the assailants.

Jefferson Park, Ogden, July 16, 2017. A man confronted several people at a park, yelling homophobic slurs. The man was punched by two men with punches and kicks. The man was arrested but later released after the victims said they did not want to press charges.

South Ogden, Aug. 21, 2017. Vandals etched satanic symbols into four glass doors at a Church of Jesus Christ of Latter-day Saints church, causing an estimated \$1,500 in damage. No arrests were made.

You can reach reporter Mark Shenefelt at mshenefelt@standard.net (<mailto:mshenefelt@standard.net>). Follow on Twitter at [@mshenefelt](https://twitter.com/mshenefelt) and Facebook at [mshenefelt](https://www.facebook.com/mshenefelt)

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