

RECOGNISE:

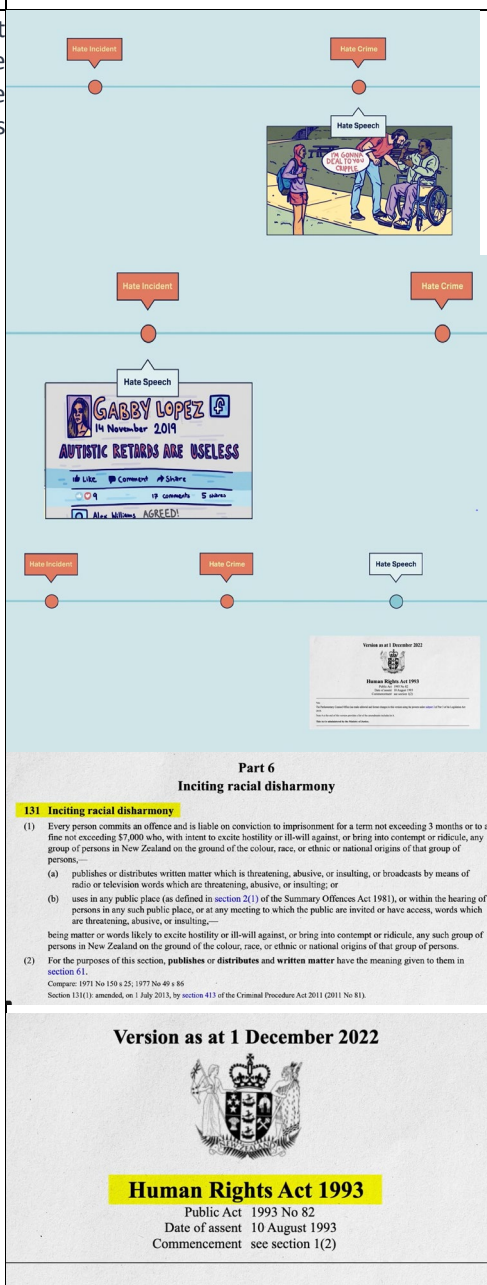
2) Criminal and Non- Criminal Hate Speech video – 2.06 min

Script

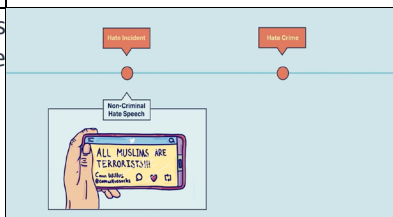
Statement of intent: *The harm caused by hate-motivated offences and incidents is real. So are our training resources. To honour the lived experience of both victims and our frontline staff, the images and language shown in our resources and based on real-life events.*

Hate speech is a complicated area for all of Aotearoa, so if right now you're feeling unsure that's ok. Hate Speech can be a hate crime, it can also be 'awful but lawful', in which case it would be a hate incident. Hate speech can also be a separate offence, as it is classified in Section 131 of the Human Rights Act.

Image



Non-criminal hate speech is a type of hate incident that happens online and offline. 'Awful but lawful' daily prejudice can cause immense harm so we must not dismiss these as unimportant.



Hate speech can start as an online hate incident, and then move into the real world. Recording a hate speech incident can help track patterns and any escalation of hateful behaviour. Offences such as offensive language, intimidation, harassment, or harmful digital communication, with a perceived prejudice is criminal hate speech.



Section 9(1)(h) of the Sentencing Act ensures the prejudicial motivation of the offender is considered an aggravating factor at sentencing. It is a justified limit on someone's right to Freedom of Expression. This means that the victim's right to Freedom from Discrimination outweighs the offenders right to Freedom of Speech. The offending has been recognised as undermining social cohesion and wellbeing. To successfully apply section 9(1)(h) it is important we record the exact language used that evidences the hate motivation of the offence.

9 Aggravating and mitigating factors

- (1) In sentencing or otherwise dealing with an offender the court must take into account the following aggravating factors to the extent that they are applicable in the case:
- (a) that the offence involved actual or threatened violence or the actual or threatened use of a weapon;
 - (b) that the offence involved unlawful entry into, or unlawful presence in, a dwelling place;
 - (c) that the offence was committed while the offender was on bail or still subject to a sentence;
 - (ca) that the offence was a family violence offence (as defined in section 123A) committed—
 - (i) while the offender was subject to a protection order (as defined in section 8 of the Family Violence Act 2018, or that was made under section 123B of this Act); and
 - (ii) against a person who, in relation to the protection order, was a protected person (as so defined);
 - (d) the extent of any loss, damage, or harm resulting from the offence;
 - (e) particular cruelty in the commission of the offence;
 - (f) that the offender was abusing a position of trust or authority in relation to the victim;
 - (fa) that the victim was a constable, or a prison officer, acting in the course of his or her duty;
 - (fb) that the victim was an emergency health or fire services provider acting in the course of his or her duty at the scene of an emergency;
 - (g) that the victim was particularly vulnerable because of his or her age or health or because of any other factor known to the offender;
 - (h) that the offender committed the offence partly or wholly because of hostility towards a group of persons who have an enduring common characteristic such as race, colour, nationality, religion, gender identity, sexual orientation, age, or disability; and
 - (i) the hostility is because of the common characteristic; and
 - (ii) the offender believed that the victim has that characteristic;
 - (ha) that the offence was committed as part of, or involves, a terrorist act (as defined in section 5(1) of the Terrorism Suppression Act 2002);



- (a) has the right to vote in genuine periodic elections of members of the House of Representatives, which shall be by equal suffrage and by secret ballot; and
- (b) is qualified for membership of the House of Representatives.
- Freedom of thought, conscience, and religion**
- Everyone has the right to freedom of thought, conscience, religion, and opinion without interference.
- Freedom of expression**
- Everyone has the right to freedom of expression, including the freedom of opinion of any kind in speech, writing, or any other form of communication.
- Manifestation of religion and belief**
- Every person has the right to manifest his or her religion or belief, either individually or in community with others, in worship, observance, practice, and teaching.
- Freedom of peaceful assembly**
- Everyone has the right to freedom of peaceful assembly.
- Freedom of association**
- Everyone has the right to freedom of association.
- 18 Freedom of movement**
- (1) Everyone lawfully in New Zealand has the right to freedom of movement within New Zealand.
- (2) Every New Zealand citizen has the right to enter New Zealand.
- (3) Everyone has the right to leave New Zealand.
- (4) No one who is not a New Zealand citizen and who is lawfully in New Zealand except under a decision taken on grounds prescribed by law.
- 19 Freedom from discrimination**
- (1) Everyone has the right to freedom from discrimination on the basis of race, colour, religion, sex, or ethnicity.
- (2) Measures taken to protect the rights of minorities or to promote the advancement of persons of any race, colour, religion, sex, or ethnicity are not discrimination.
- 20 Rights of minorities**
- A person who belongs to an ethnic, religious, or linguistic minority has the right to enjoy the language, of that minority.

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- (ii) against a person who, in relation to the protection order, was a protected person (as so defined);
- (d) the extent of any loss, damage, or harm resulting from the offence;
- (e) particular cruelty in the commission of the offence;
- (f) that the offender was abusing a position of trust or authority in relation to the victim;
- (fa) that the victim was a constable, or a prison officer, acting in the course of his or her duty;
- (fb) that the victim was an emergency health or fire services provider acting in the course of his or her duty at the scene of an emergency;
- (g) that the victim was particularly vulnerable because of his or her age or health or because of any other factor known to the offender;
- (h) that the offender committed the offence partly or wholly because of hostility towards a group of persons who have an enduring common characteristic such as race, colour, nationality, religion, gender identity, sexual orientation, age, or disability; and
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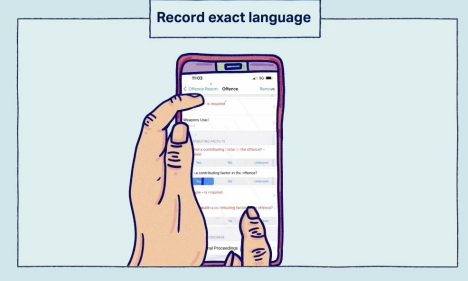
(ha) that the offence was committed as part of or involving a terrorist act (as defined in section 6(1) of the Terrorism Act 2018);

Version as at 5 April 2023



Sentencing Act 2002

Public Act 2002 No 9
Date of assent 5 May 2002
Commencement see section 2

	<div data-bbox="798 96 1267 392"><div data-bbox="948 112 1117 147">Record exact language</div></div> <div data-bbox="798 392 1062 750"><div data-bbox="798 392 1062 750"><div>3:57 5G</div><div>< Offence Report Narrative</div><div>DESCRIPTION</div><div>Tap to add...</div><div>CIRCUMSTANCES</div><div>Circumstances is required</div><div>Provide narrative details describing the offence/incident</div><div>Victim was</div><div>Done</div><div>Q W E R T Y U I O P</div><div>A S D F G H J K L</div><div>Z X C V B N M</div><div>123 space return</div></div></div>
<p>What you do makes a difference.</p> <p>For more information on hate speech check out the other Hate Speech micro-video found on the Hate Crime Learning Hub</p>	<div data-bbox="798 824 1412 956"><div>TE RARANGA</div><div>HATE-MOTIVATED CRIME</div><div>AND INCIDENTS</div></div>

