



# **UNDERREPORTED UNDER THREAT**

**HATE CRIME IN THE UNITED STATES AND THE  
TARGETING OF ARAB AMERICANS  
1991-2016**

ARAB AMERICAN INSTITUTE FOUNDATION

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# ONLINE ACCESS

[www.AAIUSA.ORG/HATE-CRIMES](http://www.AAIUSA.ORG/HATE-CRIMES)



Visit *Underreported, Under Threat* online to find our detailed analysis on the history of anti-Arab hate crime reporting and data collection, and for tools to empower you to advocate for a better response to hate crime in your state. Download a complete PDF of the report and other resources online.



## *Underreported, Under Threat* | ONLINE CONTENT



- Important context to the nature of targeted violence against Arab Americans.



- Case studies of anti-Arab violence that demonstrate the nature of anti-Arab hate crime, the harms inflicted on individuals and communities, and the limitations of existing laws, policies, and their irregular enforcement to address those harms.



- An in-depth history of anti-Arab hate crime reporting and data collection within the context of targeted violence against Arab Americans, and analysis into anti-Arab hate crime data published at the state and federal level between 1991 and 2016.



- An interactive resource guide with ratings for all 50 states and the District of Columbia based on their overall response to hate crime. How does your state measure up? Find the interactive map [www.aaiusa.org/hate-crimes](http://www.aaiusa.org/hate-crimes) to find out.



- A resource page with organizations that work to combat hate crimes and expand resources for local communities to report incidents of hate.

# EXECUTIVE SUMMARY

In recent years, the United States has experienced a surge of bias-motivated violence. This nationwide escalation of hate crime has targeted various communities, including Arab Americans, and is demonstrated through official government data, media accounts, and reporting from leading civil rights and advocacy organizations.

Since the late 1960s and early 1970s, Arab Americans have suffered increased discrimination, exclusion, harassment, intimidation, and hate crimes in the wake of developments in the Middle East or incidents of mass violence. This so-called “backlash” effect was most intense following the tragic terrorist attacks on 9/11, when communities perceived to be Arab or Muslim, including Sikh Americans, experienced a wave of targeted violence.

In the 1980s, a nationwide increase of hate crime pressured Congress to pass laws requiring the Department of Justice to collect data on bias-motivated violence. Proponents of the legislation argued data collection would promote better understanding of threats facing particular communities, including Arab Americans. In 1993, the Federal Bureau of Investigation (FBI) published its first report based on data collected under the Hate Crime Statistics Act of 1990. The annual report, *Hate Crime Statistics*, did not provide data on anti-Arab hate crime until 2015.

Our research found the FBI intended to publish anti-Arab hate crime data in the first edition of *Hate Crime Statistics*. But in 1992, the Office of Management and Budget recommended removing Bias Motivation Code 31 (Anti-Arab) from the official hate crime data collections. As a result, anti-Arab hate crime was excluded from federal statistics until 2015, when the FBI reintroduced Code 31 into its data collections. Many law enforcement agencies continued to submit Code 31 data during this period. Records indicate that between 1991 and 2003, the FBI received over 800 Code 31 submissions from agencies in 32 states and the District of Columbia. After converting these submissions on the back end, the FBI recoded them as Anti-Other Ethnicity/National Origin hate crime incidents in official statistics. After 2003 and prior to the category’s reintroduction in 2015, the FBI rejected all Code 31 submissions, forcing state Uniform Crime Reporting (UCR) programs to resubmit “improperly coded data.”

Reports suggest thousands of anti-Arab hate crimes occurred in the aftermath of 9/11. Even before the backlash, however, Arab Americans were a community under threat of targeted violence. Just as Bias Motivation Code 31 (Anti-Arab) was rendered invalid in federal data collections, so too were anti-Arab hate crime victims rendered invisible in official statistics.

*Underreported, Under Threat: Hate Crime in the United States and the Targeting of Arab Americans* documents the history of hate crime prevention in the United States with a focus on targeted violence against Arab Americans. An important part of this history, though previously undisclosed, is the elimination of Bias Motivation Code 31 (Anti-Arab) from official hate crime data collections. After contextualizing anti-Arab hate crime within a broader narrative of discrimination and bigotry, the report provides case studies of targeted violence against Arab Americans, a review of the national hate crime reporting and data collection system, including analysis of anti-Arab hate crime reporting, and a consideration of enduring limitations to our federal hate crime statistics. We conclude this report with a series of recommendations based on our findings.

Our research demonstrates bias-motivated violence is a national issue. The federal government has taken important steps to protect targeted or vulnerable communities from hate crime. However, significant shortcomings, including at the state and local level, remain. To facilitate meaningful reform, we created *Rating the Response: Hate Crime Legislation, Reporting, and Data Collection in the United States*, which provides a clearinghouse of information pertaining to hate crime in all 50 states and the District of Columbia. Complete with ratings for each state based on its overall response, this resource guide identifies target areas for improvement and provides state-based recommendations, empowering readers throughout the United States to advocate for a better response to hate crime in their communities.

Compiled as one in this report, both research projects reflect our commitment to serving Arab Americans and protecting every community from the scourge of hate-based violence. We hope readers find the report not only informative, but also practical. Together, we will strive to advance civil rights, protect civil liberties, and secure justice for all.

# KEY FINDINGS

According to federal statistics, the United States has experienced a surge of bias-motivated violence in recent years, with 2016 data indicating the first consecutive annual increase of reported hate crime incidents since 2004. Along with many other communities, Arab Americans today face an increased risk of hate crime. This increase coincides with concerning developments in American politics and popular culture. In the past, political rhetoric and government discrimination have undermined efforts to prevent anti-Arab violence.

- Hate crimes targeting Arab Americans have historically intensified in the wake of developments in the Middle East or incidents of mass violence. This “backlash” effect continues to impact Muslim, Arab, and South Asian (MASA) communities in the United States.
- The threat of hate crimes targeting Arab Americans has increased amid burgeoning xenophobia, racism, and anti-Arab and anti-Muslim sentiment.
- The laws, policies, and law enforcement practices designed to prevent or respond to hate crime vary from state to state. In particular states, hate crime victims, their families, and their communities have limited recourse to secure a substantial sense of justice.
- While the FBI first published anti-Arab hate crime statistics in 2015, the federal government previously collected anti-Arab hate crime data for over a decade, but never shared the data in official statistics.
- Between 1991 and 2003, law enforcement agencies in 32 states and the District of Columbia reported over 800 anti-Arab hate crime incidents to the FBI. The agencies reported these incidents despite the federal government’s elimination of anti-Arab hate crime from official data collections. While some state-level statistics provide anti-Arab hate crime data for 1991-2016, these data do not provide an accurate representation of the nature and extent of hate crime targeting Arab Americans.
- State-level statistics often contradict federal data. For example, according to the Michigan State Police, 14 anti-Arab hate crime incidents were reported in the state in 2016; according to the FBI, one incident was reported. Similar discrepancies occur in multiple states with significant Arab American populations.
- These discrepancies underscore the enduring limitations of national hate crime data. Between 2012 and 2016, thousands of hate crimes were reported at the state level but not published in federal statistics. Our findings cast doubt on the quality of the data published in federal hate crime statistics overall.

## RECOMMENDATIONS

This report’s key findings demonstrate the need for comprehensive hate crime reporting and data collection reform. A total of 23 states have statutes that require law enforcement agencies to report hate crimes, collect data, and publish annual statistics. Only 15 states have statutes that require hate crime training for police certification.

While law enforcement agencies in 49 states submit hate crime data to the FBI, and 37 states publish hate crime statistics in their own annual reports, the lack of state-level requirements for reporting, data collection, and law enforcement training contribute to underreporting of hate crime incidents nationwide. The failure of state legislatures to enact sufficient protections for hate crime victims also contributes to underreporting. Only 14 states have inclusive hate crime statutes, which offer protections for race, ethnicity or ancestry, religion, sexual orientation, disability, gender, and gender identity. Readers will find general recommendations at the end of this report. We also provide recommendations for each state in our resource guide, which is located in Appendix A.

# LIMITATIONS & METHODOLOGY

This report consists of two distinct research projects, which were conducted over an eight-month period and completed in May 2018.

*Underreported, Under Threat: Hate Crime in the United States and the Targeting of Arab Americans* is the first anti-Arab hate crime report to be released in a decade, and the first to utilize hate crime data reported through official government channels. In addition to an introduction, *Underreported, Under Threat* consists of three parts.

**I. Anti-Arab Animus in Context** – Our first chapter considers the broader historical trends of anti-Arab bigotry, discrimination, government targeting, and political exclusion in the United States. Themes of intolerance and xenophobia exist not only at the margins of American society, and when directed against Arab Americans, have at times occupied mainstream political discourse and driven misguided, discriminatory policies. These trends foment and permit anti-Arab sentiment, potentially leading to an increased risk of bias-motivated violence against Arab Americans.

**II. Case Studies of Anti-Arab Hate Crime** – The second chapter features a selection of narrative vignettes that demonstrate the nature of hate crime targeting Arab Americans, the harms such crimes inflict on individual victims and communities, and the limitations of existing laws, policies, and their irregular enforcement to address those harms. As case studies, these vignettes serve to communicate the need for comprehensive hate crime reporting and data collection reform, particularly at the state and local level. These narratives illustrate how the passage of criminal statutes offering sufficient, inclusive protections for hate crime victims, along with legislation requiring hate crime training for police certification, will support hate crime prevention as well.

**III. Rendered Invalid: The History of Anti-Arab Hate Crime Reporting and Data Collection** – This chapter considers hate crime reporting and data collection in the United States, with particular attention to hate crimes targeting Arab Americans. As our research revealed, the FBI's hate crime data collections were initially structured to collect data on anti-Arab hate crime. In 1992, the federal government removed Bias Motivation Code 31 (Anti-Arab) from the official data collections. As a result, anti-Arab hate crime was excluded from federal statistics until the FBI UCR Program reintroduced Code 31 in 2015. During this period, however, many law enforcement agencies continued to submit Code 31 data. Chapter Three presents this research alongside an examination of anti-Arab hate crime statistics and a historical review of hate crime prevention in the United States.

*Rating the Response: Hate Crime Legislation, Reporting, and Data Collection in the United States* is a comprehensive resource guide designed for communities, advocates, and policymakers to better understand how each state responds to hate crime. As part of this research, we developed a rating system to rank and compare states based on their hate crime statutes, reporting and data collection of hate crime incidents, police training, state-level hate crime statistics, and participation in the national hate crime statistics program.

# UNDERREPORTED, UNDER THREAT

Historically, civil rights and advocacy organizations have published annual reports on incidents of bias-motivated violence, profiling, objectionable political rhetoric, and discrimination against specific communities. Many of these publications feature data on incidents meeting the criteria of a hate crime.

Geared toward community empowerment, engagement, and representation, these reports are key resources for civil rights advocacy at the local, state, and national level. Furthermore, these reports serve to educate and inform the American public with respect to the challenges facing specific communities.

The annual reports of civil rights and advocacy organizations potentially provide more accurate data than federal hate crime statistics regarding the nature and extent of bias-motivated violence in certain parts of the United States. Studies from the Department of Justice suggest a majority of hate crime victimizations go unreported to law enforcement. There are various reasons why hate crime victims do not report incidents to police, including fear of retaliation, distrust in law enforcement, or the impression that law enforcement does not consider hate crime a priority. This contributes to a nationwide undercount in official hate crime statistics. However, the onus does not fall on victims to feel more comfortable reporting incidents to police. Rather it is the responsibility of the criminal justice system to improve trust between law enforcement and the communities they serve, prioritize hate crime, and ensure officers receive proper training, not only in reporting or investigating incidents, but also in serving diverse communities.

This aspect of criminal justice reform would facilitate improved hate crime statistics. Efforts more directly related to data collection are critical as well. Research indicates multiple cracks, or “breakdowns,” exist within the national hate crime reporting and data collection system, such that even when hate crime incidents are reported to police, those incidents are not reflected in official statistics. While it appears these breakdowns are more prevalent in particular states, the issue is systemic and therefore requires a comprehensive response. The federal government and American public rely on data collected under the Hate Crime Statistics Act to better understand the nature and extent of bias-motivated violence within the United States. The data promote an informed response to hate crime and effective resource allocation and assistance to impacted communities.

However, without accurate data, the goal of hate crime prevention is less attainable. In order to improve the data and furnish more reliable statistics, we must identify the limitations of our hate crime reporting and data collection system and develop solutions to mitigate the effect of systemic breakdowns. While this report is focused on anti-Arab hate crime in particular, our research and analysis demonstrate the limitations of our hate crime reporting and data collection system while identifying the breakdowns that often occur.

Our research and analysis of anti-Arab hate crime statistics rely on three principal data sources:

1. The FBI’s 2015-2016 editions of Hate Crime Statistics. This annual report is based on voluntary hate crime data submissions from participating law enforcement agencies. The FBI Crime Statistics Management Unit provided additional data related to the 2015-2016 reports;
2. State-level hate crime statistics published in annual reports from individual state UCR programs; and
3. Excel versions of 1991-2003 FBI Hate Crime Master Files, which contain records of raw data submitted from participating law enforcement agencies to the FBI UCR Program.

Between 1992 and 2015, Bias Motivation Code 31 (Anti-Arab) was rendered invalid in official UCR hate crime data collections. Prior to 2003, the FBI UCR Program accepted Code 31 submissions from participating law enforcement agencies. While the data are contained in Hate Crime Master Files, they are not reflected in official statistics for those years. Starting in 2003, all Code 31 submissions were rejected from UCR hate crime data collections. During this period, however, a number of state UCR programs published anti-Arab hate crime data in annual state-level statistics. The FBI UCR Program reintroduced Bias Motivation Code 31 (Anti-Arab) in 2015. As a result, participating law enforcement agencies can now submit anti-Arab hate crime data for publication in the FBI UCR Program's annual report, *Hate Crime Statistics*. A total of 88 anti-Arab hate crime incidents are recorded in the 2015-2016 editions of *Hate Crime Statistics*.

To inform our analysis of anti-Arab hate crime statistics, we compared the federal data with anti-Arab hate crime data recorded in state-level statistics for 2015 and 2016. These comparisons reveal significant discrepancies between federal and state-level statistics, with *Hate Crime Statistics* often recording fewer anti-Arab hate crime incidents in a particular state than are recorded in that state's annual hate crime report. This demonstrates one potential breakdown within the national hate crime reporting and data collection system. A second breakdown occurs when anti-Arab hate crimes are reported to police, and even prosecuted, but are never reflected in official statistics. The case studies in Part One present two instances conforming to this example. Part One also provides an example of a third breakdown, which occurs when a crime appears to contain a bias motivation but authorities do not treat the incident as such, either failing to record a bias motivation when reporting the incident or never opening a hate crime investigation. According to survey research from the Department of Justice, a majority of hate crime victimizations go unreported to law enforcement. This fourth potential breakdown is significant but not a focus of this report.

All four breakdowns compromise data quality and undermine the reliability of official hate crime statistics. With respect to anti-Arab hate crime in particular, the removal of Bias Motivation Code 31 (Anti-Arab) from UCR hate crime data collections in 1992 creates additional challenges to presenting an approximate understanding of anti-Arab hate crime in the United States. We can say with reasonable confidence that even when consulting multiple sources, including federal statistics, FBI Hate Crime Master Files, and state-level statistics, the incident totals provided in this report severely under represent the true nature and extent of anti-Arab hate crime in this country.

# RATING THE RESPONSE

When we began researching for *Underreported, Under Threat* in September 2017, we had no intentions of publishing a supplemental resource guide. However, our research demonstrated the need for comprehensive hate crime reporting and data collection reform, and that a significant potential for improvement rests at the state level. As a clearinghouse for hate crime-related information pertaining to each state and the District of Columbia, *Rating the Response* is designed not only to educate and empower communities across the country, but to encourage informed policymaking as well.

A handful of civil rights and advocacy organizations monitor legislation relating to hate crime and provide accessible online resources for both victims and communities. Content is updated on a regular basis to reflect recent or pending developments, such as amendments to existing hate crime statutes or provisions for mandatory reporting and data collection. In recent years, organizations have also developed collaborative platforms to assist hate crime victims.

In response to the recent escalation of bias-motivated violence, a coalition of grassroots and national organizations launched an initiative to streamline resources to a wide range of communities, providing legal services, survivor assistance, counseling, relevant local contacts, and information on hate crime laws. For more on members of the Communities Against Hate initiative and related efforts, readers should consult Appendix C: Select Resources.

As perhaps the most comprehensive freestanding resource on state-level hate crime legislation, reporting, and data collection in the United States, *Rating the Response* is unprecedented in its breadth. Furthermore, our resource guide is the first publication to develop a rating system to rank, compare, and assess each state's overall response to hate crime. While we have identified the various laws, policies, and programs designed to address hate crime in each state, the enforcement of such measures does not factor into our rating system. Our approach to *Rating the Response* is discussed in the following pages. Readers should take note of our rating methodology before turning to learn more about their state.

## Rating Methodology

States are judged on a 100-point scale, with a perfect overall score denoting strong commitment to addressing and reporting hate crime. To achieve the highest rating, states must demonstrate the following:

- **An inclusive hate crime statute.**
- **A mandatory hate crime reporting and data collection statute.**
- **A mandatory law enforcement training statute on hate crime.**
- **An annual hate crime report that includes Anti-Arab and Anti-Islamic (Muslim) hate crime statistics.**
- **Consistent participation in the FBI hate crime statistics program.**

Only six states receive a perfect rating of 100, denoting a "Strong" response to hate crime. Those states are: **CA, CT, IL, NJ, OR, WA.**

The remaining states are organized based on their overall score into four additional categories: Moderate, Average, Limited, and Minimal.

# RATING THE RESPONSE IN THE UNITED STATES

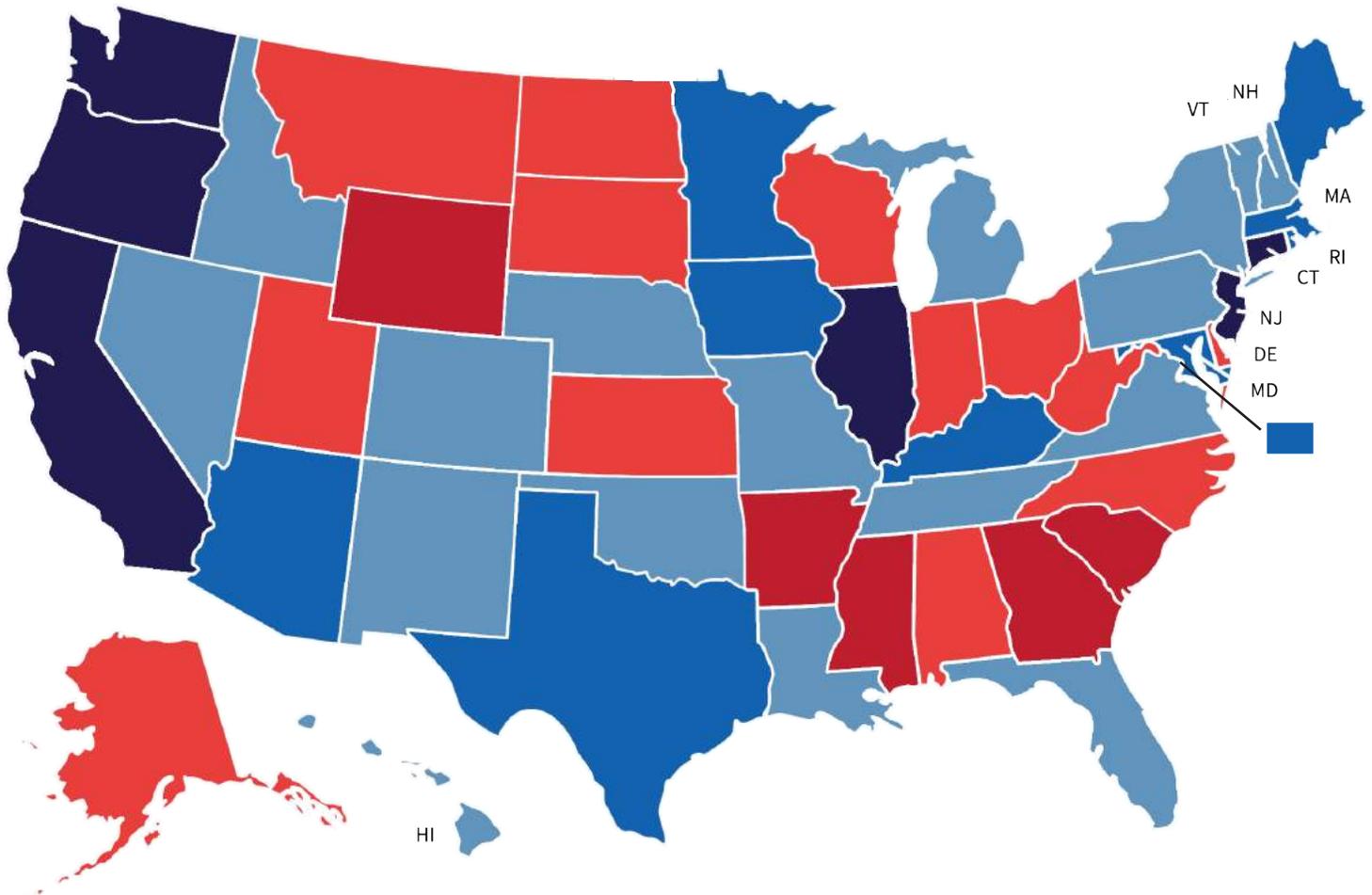
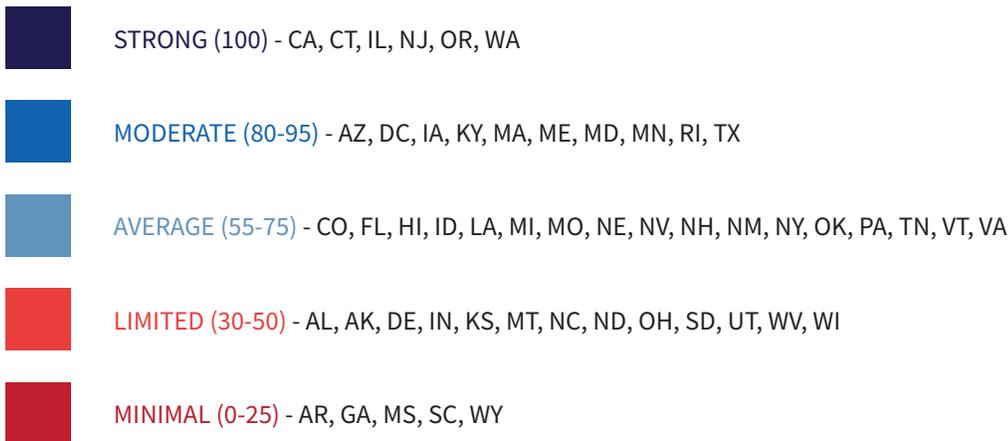


Figure 1: State Response to Hate Crime



# HATE CRIME STATUTE (40 POINTS)

To achieve a perfect rating, a state must have an inclusive hate crime statute. A hate crime statute prohibits crimes committed because of certain protected characteristics. An inclusive hate crime statute offers protections for race, ethnicity or ancestry, religion, sexual orientation, disability, gender, and gender identity. These protections are virtually consistent with current federal law (18 U.S.C. § 249), which defines hate crime as an offense committed because of the actual or perceived race, color, religion, national origin, gender, sexual orientation, gender identity, or disability of any person.

**As of June 2018, 45 states have hate crime statutes.** Of these states, only 14 have inclusive hate crime statutes, with the remainder offering near-inclusive or limited protections. In some states, hate crime laws provide additional protections, such as for political affiliation, age, or homelessness.

In order to rank, compare, and assess each state's overall response to hate crime, we designed our rating system to differentiate between states according to the protections offered in their hate crime statutes. In addition to an automatic 10 points, states with a hate crime statute receive 5 points for each protection offered in the statute. Therefore, a hate crime statute offering protections for race, ethnicity, or ancestry, religion, sexual orientation, disability, gender, and gender identity would receive 40 points. A hate crime statute with protections for race/ethnicity/ancestry, gender, and religion, but without protections for sexual orientation, disability, or gender identity, would receive 25 points.

While not criminal statutes, some states have civil laws that may be applicable to certain hate crime offenses. Additionally, a state may have a criminal statute that prohibits specific offenses against an individual's civil rights. If a state does not have a hate crime statute, but does have a law permitting civil action on behalf of a hate crime victim, or a criminal statute that prohibits interference with civil rights, that state may be allocated a provisional 5 points.

According to our rating methodology, 14 states receive a perfect score of 40 points, indicating a criminal statute that offers inclusive protections for hate crime victims. Those states are: **CA, CT, DE, HI, IL, MD, MN, MO, NV, NJ, NM, OR, VT, WA.**

A total of 11 states receive a score of 35 points. These states have hate crime statutes offering all required protections but one. Of these states, nine have hate crime statutes without protections for gender identity. The remaining states, Colorado and Massachusetts, have hate crime statutes without protections for gender. The District of Columbia, which has a hate crime statute that offers protections for physical disability, but not mental disability, also receives 35 points.

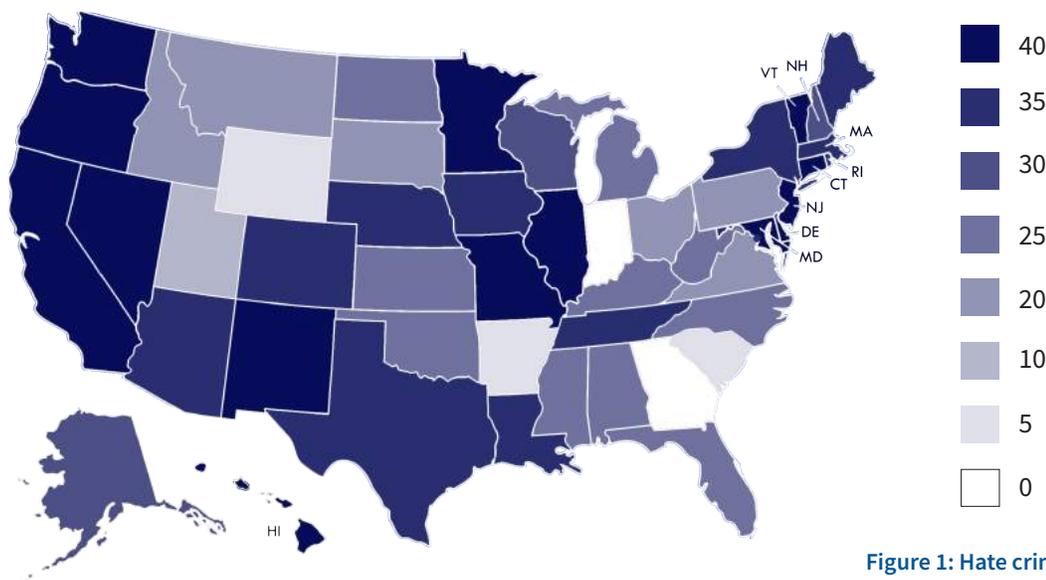


Figure 1: Hate crime statutes in the United States

# DATA COLLECTION STATUTE (15 POINTS)

To achieve a perfect rating, a state must have a mandatory reporting and data collection statute. A data collection statute requires a centralized state repository to collect hate crime data submissions from participating law enforcement agencies. A mandatory reporting and data collection statute requires law enforcement agencies to submit hate crime data to a centralized state repository, which is in turn required to collect, compile, or analyze that data and prepare statistics.

**As of June 2018, 28 states have data collection statutes. Of these states, 23 have mandatory reporting and data collection statutes.** An additional state, New Mexico, has a statute requiring law enforcement agencies to report hate crime incidents to the FBI. The New Mexico statute does not require state-level data collection.

In order to rank, compare, and assess each state's overall response to hate crime, we designed our rating system to differentiate between states according to their data collection statutes. A state receives 15 points if it has a mandatory reporting and data collection statute. A state receives 5 points if it has a statute that requires data collection but not reporting, or vice versa.

According to our rating methodology, 23 states receive a perfect score of 15 points, indicating a statute that requires law enforcement reporting and data collection on hate crime. Those states are: **AZ, CA, CT, FL, HI, ID, IL, IN, IA, KY, ME, MD, MA, MI, MN, NJ, OK, OR, PA, RI, TX, VA, WA.**

A total of six states and the District of Columbia receive a score of 5 points. These states have statutes requiring either hate crime reporting or data collection, but not the other. The remaining states receive no points.

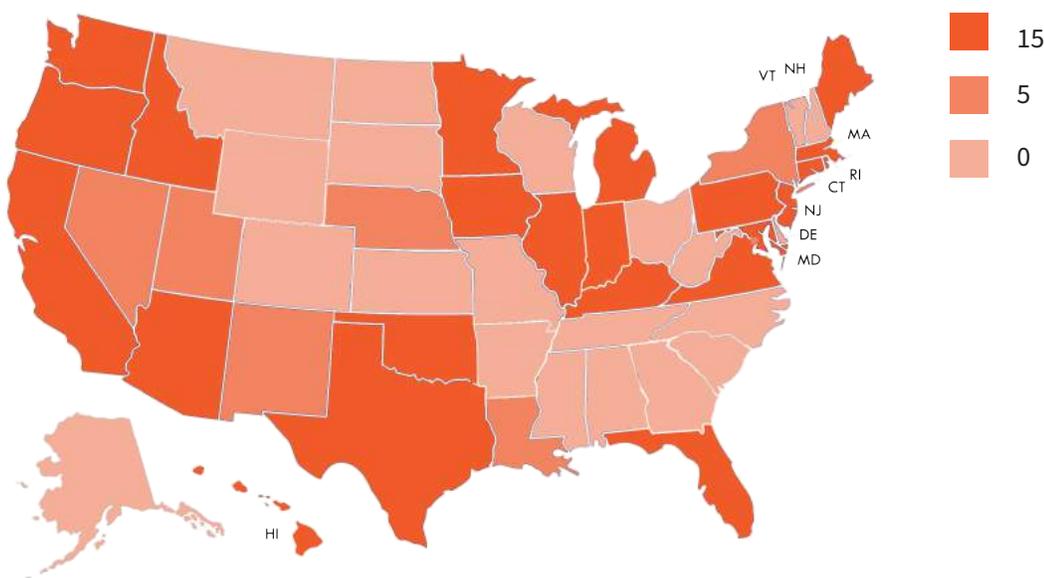


Figure 2: Data collection statutes in the United States

# LAW ENFORCEMENT TRAINING STATUTE (15 POINTS)

To receive a perfect rating, a state must have a mandatory law enforcement training statute. A mandatory law enforcement training statute requires law enforcement training schools or academies to provide mandatory instruction relating to investigating or reporting hate crime incidents.

**As of June 2018, 15 states have mandatory law enforcement training statutes. In most states, a designated agency is required by law to prescribe the curriculum for law enforcement academies or basic police training schools within the state.** Therefore, even in states without a mandatory law enforcement training statute, hate crime might still be a topic of instruction at law enforcement training schools or academies. A total of seven states fit this description. In one additional state, Idaho, hate crime training materials have been distributed to all law enforcement departments within the state.

In order to rank, compare, and assess each state's overall response to hate crime, we designed our rating system to differentiate between states according to their law enforcement training statutes. A state receives 15 points if it has a mandatory law enforcement training statute. A state without a mandatory law enforcement training statute may receive 5 points if other policies or programs seem to indicate that a majority of law enforcement officers in the state receive some type of hate crime training.

According to our rating methodology, 15 states receive a perfect score of 15 points, indicating a statute that requires law enforcement training schools or academies to provide mandatory instruction relating to investigating or reporting hate crime incidents. Those states are: **AZ, CA, CT, IL, IA, KY, LA, ME, MA, MN, NJ, NM, OR, RI, WA.**

A total of eight states and the District of Columbia receive a score of 5 points. These states have policies or programs to deliver hate crime training to a majority of law enforcement officers. The remaining states, even those for which we have identified some indication of state-sponsored hate crime training, receive no points.

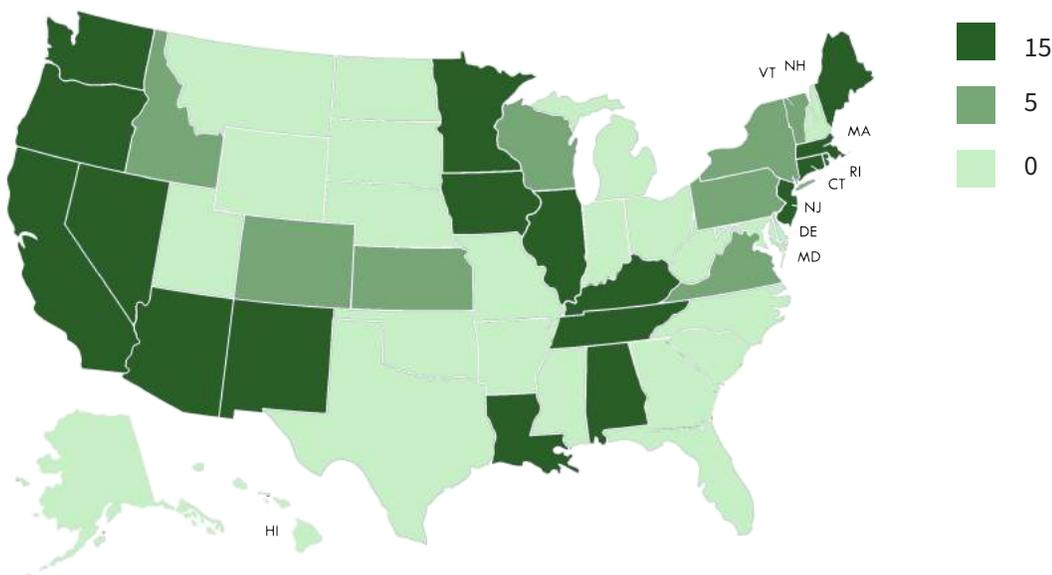


Figure 3: Law enforcement training statutes in the United States



# FBI HATE CRIME STATISTICS PARTICIPANT (10 POINTS)

To achieve a perfect rating, a state must be a consistent FBI hate crime statistics participant. An FBI hate crime statistics participant is a state that submits hate crime data, in the form of incident reports or zero data, to the FBI Uniform Crime Reporting (UCR) Program for publication in the annual report, *Hate Crime Statistics*. A consistent FBI hate crime statistics participant is a state that has submitted hate crime data, in the form of both incident reports and zero data, in each of the last five reporting years. An incident report is a hate crime data submission referring to a single hate crime incident. Zero data is a hate crime data submission indicating that no hate crime incidents occurred within a jurisdiction during a particular reporting period.

In 2016, 49 states and the District of Columbia participated in the FBI hate crime statistics program by submitting hate crime data for publication in *Hate Crime Statistics*. Hawaii does not submit hate crime data to the FBI. For the reporting years 2012-2016, 47 states submitted at least one incident report per year. Mississippi failed to submit hate crime incident reports to the FBI in 2015. Wyoming failed to submit hate crime incident reports the previous year. By submitting only zero data, law enforcement agencies in Mississippi and Wyoming indicated that no hate crime incidents occurred within their states during those particular years. Based on data from the Bureau of Justice Statistics, media accounts, and reporting from leading civil rights and advocacy organizations, this is highly unlikely.

In order to rank, compare, and assess each state's overall response to hate crime, we designed our rating system to differentiate between states according to their participation in the FBI hate crime statistics program. A state receives 10 points if it is a consistent FBI hate crime statistics participant.

According to our rating methodology, 47 states and the District of Columbia receive a perfect score of 10 points, indicating five continuous years of reporting at least one hate crime incident to the FBI. Hawaii receives no points, because it is not an FBI hate crime statistics participant. Mississippi and Wyoming receive no points, because they are not consistent FBI hate crime statistics participants.

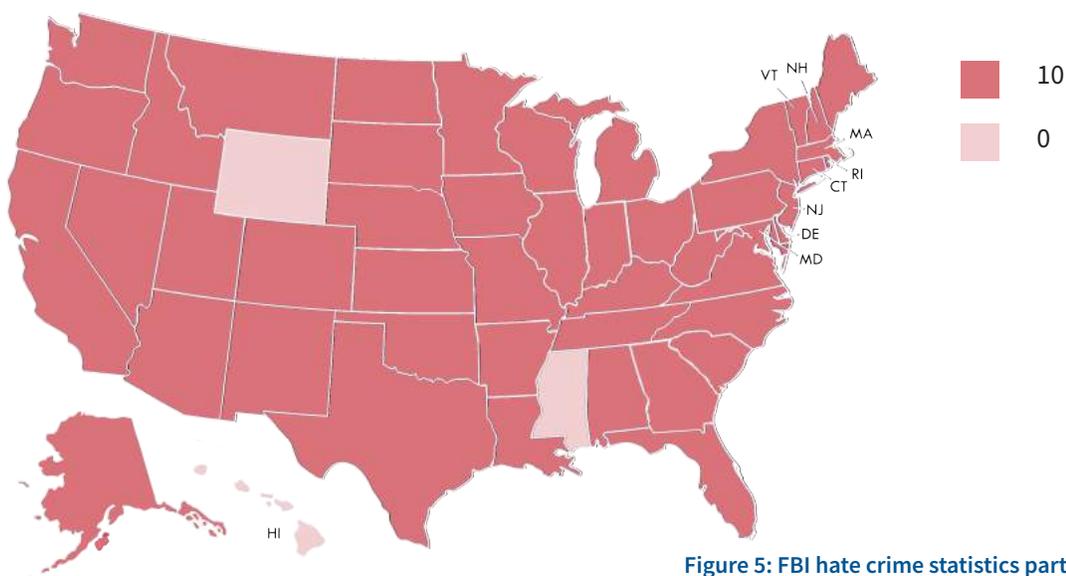


Figure 5: FBI hate crime statistics participation in the United States

# OVERALL SCORING BREAKDOWN

To achieve a perfect rating, a state must meet the criteria identified in the preceding pages. To reiterate, those criteria include:

1. An inclusive hate crime statute.
2. A mandatory hate crime reporting and data collection statute.
3. A mandatory law enforcement training statute on hate crime.
4. An annual hate crime report that includes both anti-Arab and anti-Islamic (Muslim) hate crime statistics.
5. Consistent participation in the FBI hate crime statistics program.

Only six states receive a perfect rating of 100, denoting a "Strong" response to hate crime: **CA, CT, IL, NJ, OR, WA.**

The remaining states are organized based on their overall score into four additional categories. Some states receiving relatively high or near-perfect ratings, and others receiving relatively low or near-zero ratings. A plurality of states score somewhere in the middle, above 50 points, but not beyond a rating of 75.

Depending on a state's individual rating, that state can receive one of five different classifications denoting its overall response to hate crime. In descending order, those classifications are: STRONG, MODERATE, AVERAGE, LIMITED, and MINIMAL.

**STRONG** – 6 states: CA, CT, IL, NJ, OR, WA.

**MODERATE** – 9 states: AZ, IA, KY, ME, MD, MA, MN, RI, TX.

**AVERAGE** – 17 states: CO, ID, FL, HI, LA, MI, MO, NE, NV, NH, NM, NY, OK, PA, TN, VT, VA.\*

**LIMITED** – 13 states: AL, AK, DE, IN, KS, MT, NC, ND, OH, SD, UT, WV, WI.

**MINIMAL** – 5 states: AR, GA, MS, SC, WY.

\*While the District of Columbia receives an overall score of 65 points according to our rating methodology, certain factors warrant conditional scoring. We have therefore allocated a conditional rating of 85, denoting a moderate response to hate crime. The justification for a conditional rating is provided in the District of Columbia's individual profile.

The figure on the opposite page demonstrates the scoring breakdowns particular to each state. Readers should note that due to the nature of our rating methodology, states can achieve the same rating based on a combination of different scores. Such is the case for CO, MI, MO, NE, NM, PA, and VT, each of which receives an overall score of 70 points, denoting average commitment to addressing and reporting hate crime. While the seven states in question receive an identical rating, Fig. 6 demonstrates unique scoring breakdowns among them.

In Fig. 6, states are organized alphabetically in descending order based on overall score and are separated into the five classifications discussed above. Each criterion can be identified according to its own corresponding shade and hue.

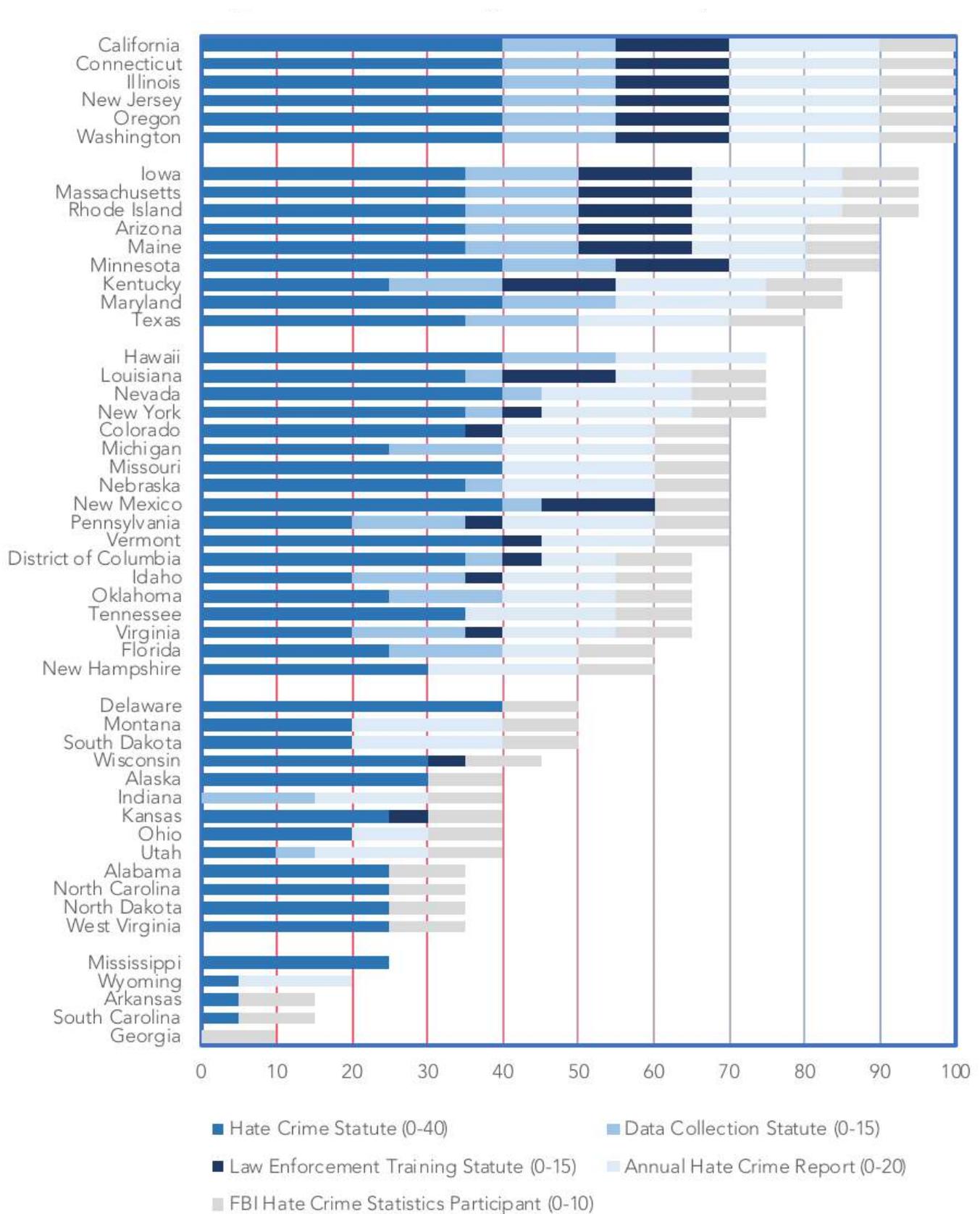
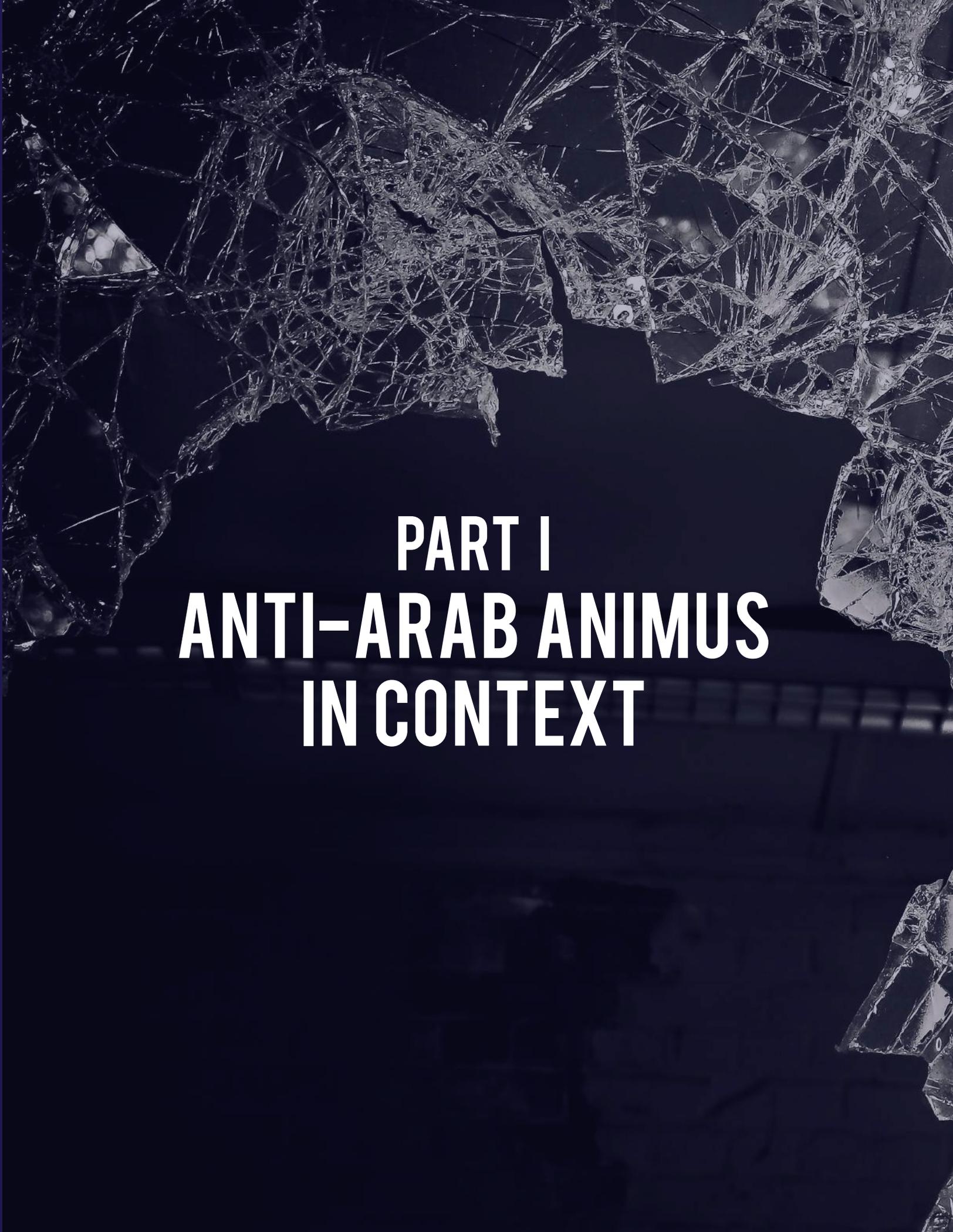


Figure 6: Overall score breakdowns by state







**PART I**  
**ANTI-ARAB ANIMUS**  
**IN CONTEXT**



**U**nderreported, Under Threat, Hate Crime in the United States and the Targeting of Arab Americans *is the culmination of dedicated, long-term research into the nation's hate crime reporting and data collection system, with a specific focus on targeted violence against Arab Americans.*

*In this report, you will find important information regarding the nature and threat of hate crime targeting the Arab American community, including a selection of compelling case studies and a critical examination of the federal government's response to anti-Arab hate crime over the last three decades. Located in Appendix A, you will also find Rating the Response: Hate Crime Legislation, Reporting, and Data Collection in the United States. Our resource guide is the first of its kind, complete with just about everything you could hope to know about state-level commitments to preventing hate crime against targeted or vulnerable communities, protecting hate crime victims, and promoting sensitivity, transparency, and accountability on the part of law enforcement when responding to hate crime incidents. We intend to update Rating the Response on an annual basis, compiling hate crime data from state-level and federal statistics, tracking relevant legislation at the state and federal levels, and holding elected officials accountable where shortcomings remain.*

*Whether committed because of race, ethnicity, religion, national origin, sexual orientation, gender, gender identity, disability, or some other protected characteristic, hate crimes must not be tolerated. Out of the desire to advocate for the specific concerns of our community, we have created a product with the potential to serve all communities in the effort to counteract hate crime. Progress will require a collective effort. Working together, however, we cannot forget the nature and threat of hate crime are distinct for each community, and depend on a mix of historical, political, and cultural factors.*

*When it comes to understanding the nature and threat of hate crime against Arab Americans, context is key.*

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***"I think I can say that Arab individuals or those supporting of Arab points of view have come within the zone of danger."<sup>1</sup>***

This was the statement made by Federal Bureau of Investigation (FBI) Director William H. Webster at the National Press Club on December 10, 1985—just two months after Arab American civil rights advocate Alex Odeh was murdered in a bomb explosion at his office on October 11.<sup>2</sup>

It is important to understand the climate in which this hate flourished, including the period during the 1970s and 1980s when Arab Americans were targeted by government policies, an active FBI-designated terrorist group, and organizations engaged in the suppression of pro-Palestinian advocacy. While a decidedly odd combination, these individual phenomena came together to inform the bigotry, discrimination, political exclusion, and government targeting that define the broader historical trend of anti-Arab animus. This sentiment requires attention in this report on hate crime, as it provides the necessary context for understanding targeted violence against Arab Americans.

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<sup>1</sup> Philip Shenon, "F.B.I Chief Warns Arabs of Danger," *New York Times* (Dec. 11, 1985).

<sup>2</sup> Alex Odeh was the west coast regional director for the American-Arab Anti-Discrimination Committee (ADC). He was tragically murdered at his ADC office in Santa Ana, California on October 11, 1985. Odeh was 41 and left behind his wife, Norma, and three daughters: Helena, Samya and Susan, ages seven, five and two respectively. Nearly 33 years later, the FBI's case into Odeh's murder remains open and no one has been charged or prosecuted.

## About Arab Americans

Arab Americans are a diverse community of immigrants and descendants of immigrants numbering at least 3.7 million people.<sup>3</sup> Hailing from 22 countries throughout the Arab world, they have been immigrating to America since the 1880s.

The first Arabs to arrive at America's shores in significant numbers came in the late 19th century from what was then known as Greater Syria (i.e., Lebanon, Syria, and Palestine). The immigrants who arrived between the late 1870s to 1924 were among the more than 20 million people who came to the United States from all over the world during that period. An anti-immigrant backlash to this influx, combined with nativist sentiments, culminated in the passage of the Immigration Act of 1924, which imposed restrictions on immigration and resulted in a significant reduction of new arrivals.

When immigration restrictions eased in the aftermath of World War II, a second wave of Arab immigration began. Unlike those that preceded them, immigrants arriving after 1970 came to America as a result of war and political conflict in the Middle East, including Palestinians displaced by the 1967 Arab-Israeli war and Lebanese by the 1975 civil war in Lebanon. These immigrants, politicized by their experiences and developing Arab nationalism, would find established communities of third and fourth generation Arab Americans coming of age at a time of elevated political consciousness rooted in the civil rights movement of 1960s America. They would come together to form an emerging Arab American community, one with a shared sense of ethnic pride and newly established organizations to represent its interests.<sup>4</sup>

Though they live in all 50 states, two-thirds of the Arab American community is concentrated in just 12 states (California, Michigan, New York, Texas, Florida, Illinois, New Jersey, Ohio, Massachusetts, Pennsylvania, Virginia, and Maryland). Arab Americans tend to vote for issues and candidates rather than political parties, and have a high rate of political participation. Contrary to prevailing perceptions, they are not a single-issue constituency.

Like the general American public, jobs and the economy regularly rank as their top issues of concern, followed by healthcare. Democrats also cite gun violence as a priority, while Republicans name combatting terrorism.<sup>5</sup> Additionally, emotional and familial ties to their countries of origin continue to place foreign policy as a concern. Despite diversity in their countries of origin, religions, and generations, Arab Americans generally coalesce around justice for Palestinians and meeting the humanitarian needs of refugees and other impacted people at times of crisis.

## Negative Perceptions of Arab Americans

Negative portrayals of Arabs and Arab Americans are common. Both the entertainment industry and media outlets have played a significant role in either driving these negative portrayals or reinforcing them. Arabs and Muslims, two groups that are often falsely considered interchangeable, continue to be vilified on big and small screens alike. In the words of the late Jack Shaheen, who dedicated his life to examining and combatting anti-Arab stereotypes in the media, "Arabs are the most maligned group in the history of Hollywood."<sup>6</sup>

In his research, Shaheen explores how and why Arabs have been degraded by those in Hollywood, pointing out that films often ignore the realities about Arabs and instead represent them as "brute murderers, sleazy rapists, religious fanatics, oil-rich dimwits, and abusers of women."<sup>7</sup> While Arab Americans have long been embedded in the fabric of American society, they are almost uniformly ignored by Hollywood or hyper-focused on as undesirable characters, including dangerous terrorists. When entertainment fails to show Arabs as regular people, or, even worse, when their characters are limited solely to villains, the viewing public is acclimated to seeing an entire community as dehumanized, enforcing harmful stereotypes.

While some improvements have been made since the era of the *The Sheik* or *The Siege*, the dehumanization of Arabs continues with their absence from screens as normal, familiar characters, or their ongoing depiction as shallow, one-dimensional stereotypes.

<sup>3</sup> Arab Americans have historically been undercounted on the decennial census. The Census Bureau identifies only a portion of the Arab American population through a question on "ancestry" on the American Community Survey. Reasons for the undercount include the lack of a specific category on the census designed to capture Arab Americans; the placement and limit of the ancestry question on the significantly more limited American Community Survey; the effect of the sample methodology on small, unevenly distributed ethnic groups; and distrust or misunderstanding of government data collection efforts. While the census estimates there are 2 million Arab Americans, AAI demographics research estimates that number to be closer to 3.7 million.

<sup>4</sup> National organizations established in support of Arab American empowerment included the Association of Arab-American University Graduates (AAUG) in 1968, the National Association of Arab Americans (NAAA) in 1972, the American-Arab Anti-Discrimination Committee (ADC) in 1980 and the Arab American Institute (AAI) in 1985. Of these, AAI is the only one that adopted political engagement of Arab Americans and electoral politics as its core mission, which continues to today.

<sup>5</sup> Arab American Institute Poll, *The Arab American Vote: Identity and Political Concerns*, (Oct. 25, 2016), page 9.

<sup>6</sup> Jack G. Shaheen, *Reel Bad Arabs: How Hollywood Vilifies a People Transcript*, Media Education Foundation, 2006. <http://www.mediaed.org/transcripts/Reel-Bad-Arabs-Transcript.pdf>

<sup>7</sup> Jack G. Shaheen, *Reel Bad Arabs: How Hollywood Vilifies a People* (Moreton-in-Marsh: Arris, 2003), page 2.

The negative portrayal goes well beyond fiction. What emerges as a result of these stereotypes is an Arab and Muslim exception to the customary threshold of bigotry deemed appropriate for mainstream outlets.

The news media's embrace of anti-Arab commentators goes back decades, but continues to be evident with contemporary pundits as well. When a conservative commentator declares, "Arabs like to bomb crap and live in open sewage," his bigotry does not disqualify him from appearing on leading American media networks, from CNN to Fox News.<sup>8</sup> In the face of apparent pushback, a television personality lamented that "Forty-eight years ago in this country we could make fun of Arabs...but now we can't. What has changed in America?"<sup>9</sup>

The impact of the normalization of anti-Arab bigotry by the media is sporadically visible in our political discourse as well. For example, during the 2008 presidential election, Republican nominee Senator John McCain was confronted on the campaign trail by a woman who said: "I can't trust Obama... he's an Arab." Senator McCain challenged the bigotry inherent in her statement about then-candidate Barack Obama, and he was rightly acknowledged for it. However, his admirable instinct to defend Obama resulted in him harshly rejecting the accusation of Arab identity, stating, "No ma'am, no ma'am. He's a decent family man."<sup>10</sup> The impression left from this exchange was clear: being an Arab and decent were mutually exclusive terms.

The 2016 presidential election and the candidacy of Donald Trump would bring a newfound, noticeable increase in bigoted campaign rhetoric targeting many communities, particularly American Muslims. The roots of that bigotry are solidly based in stereotypes that continue to plague Arabs, painting them as backwards, violent, and untrustworthy.

Western media's portrayal of the Middle East in general is not much better. "To read the headlines from major US news networks is to believe that the Middle East is trapped in an eternal cycle of violence, instability, and terrorism. The reporting these headlines introduce may be a bit more

nuanced, but not by much."<sup>11</sup> Although not directly about Arab Americans, coverage of the region as a never-ending conflict zone instead of highlighting its multidimensional people only reinforces negative beliefs.

Such stereotypes are not without consequence. According to Arab American Institute (AAI) polling, half of all Arab Americans have personally experienced discrimination in the past because of their ethnicity or country of origin, and 62% are concerned about future discrimination. When it comes to Arab Americans who are Muslim, that number jumps significantly, with nearly 8 out of 10 concerned about facing discrimination in the future.<sup>12</sup>

Given what AAI surveys of American attitudes show, these experiences or feelings are well founded. The first time AAI polling found a majority of Americans were found to hold favorable opinions of Arab Americans (52%) came just last year in 2017.<sup>13</sup> When it comes to hate, a plurality of Americans recognize there has been an increase in hate crimes against Arab Americans (47%). However, Americans are deeply divided along party lines on the nature of the problem, with 60% of Democrats agreeing anti-Arab hate crimes are increasing, while 53% of Republicans do not believe an increase has occurred.<sup>14</sup>

The depiction of Arabs in the entertainment industry, the often-biased reporting of news from the Arab world, and the unrelenting coverage of the indefinite "war on terror" with its ostensibly leading Arab and/or Muslim main characters, come together to produce a prejudice or distrust of Arab Americans in the most classic understanding of bigotry.

### **Discrimination Takes Hold: The Backlash Effect**

In addition to the bigotry advanced by entertainment and media stereotypes, Arab Americans often find themselves as targets because of events wholly unrelated to them. Arab Americans are vulnerable to attack—both threats and targeted attacks—in the wake of developments in the Middle East or incidents of mass violence. The incident may be domestic or take place abroad, but if viewed as an issue related to national security, members of the Muslim, Arab or

<sup>8</sup> Ben Shapiro, Twitter, September 27, 2010, 3:06 PM, <https://twitter.com/benshapiro/status/25712847277?lang=en>.

<sup>9</sup> Adam Serwer, "Loss of Liberty," *The American Prospect* (January 19, 2010).

<sup>10</sup> Jane Kim, "Arab or Decent?," *Columbia Journalism Review* (Oct. 14, 2008).

<sup>11</sup> Erin Kilbride, "The Middle East Deserves More Thoughtful Coverage from Major US Media," *Quartz* (May 27, 2015) <https://qz.com/412537/revolutionizing-mid-east-coverage/>

<sup>12</sup> Arab American Institute Poll, *The Arab American Vote: Identity and Political Concerns*, (Oct. 25, 2016), page 14.

<sup>13</sup> Arab American Institute Poll, *American Attitudes Towards Arabs and Muslims* (Dec. 5, 2017), page 5.

<sup>14</sup> *Id.* page 9.

South Asian (MASA) community will feel the backlash effect. Episodic violence against immigrant communities has been evidenced after major events such as World War II and 9/11.<sup>15</sup> In these instances, hate is “redeployed as patriotic gestures, when belongingness is exercised through the negation or abjection or those people marked as truly different.”<sup>16</sup> The aftermath of 9/11, when communities perceived to be Arab or Muslim, including Sikh Americans, endured untold retaliatory violence, is a particularly salient example of the backlash. The violence prompted then FBI Director Robert Mueller to warn, “Such acts of retaliation violate federal law and, more particularly, run counter to the very principles of equality and freedom upon which our nation is founded.”<sup>17</sup> However, similar tides of antipathy, albeit less severe, date back to the 1970s.

One of the earliest documented backlash effects was in 1973 in the aftermath of the Arab-Israeli war and the subsequent oil embargo. As one Arab American would explain it, “Suddenly we were being held responsible for things we had nothing to do with and no control over and maybe didn’t support in the first place.”<sup>18</sup> The increase in hostility and prejudice toward Arab Americans in response to events wholly out of their control was a new phenomenon, but one that would continue to repeat. Whether the Iran hostage crisis in 1979, or in the aftermath of plane hijackings in 1985, community members learned to brace for harassment and intimidation in the wake of events making headlines.<sup>19</sup>

It was not until 1990, and its dramatic increase in hate crime, that the backlash effect, which had been cemented in the Arab American experience, was so severe that President George H.W. Bush spoke out against it.<sup>20</sup> After a meeting with community leaders, President Bush acknowledged the targeting of Arab Americans, stating:

”Unfortunately, today—I’m glad the media are here because I want this message to go out beyond this room—today some Americans are the victims of appalling acts of hatred. And this is a sad irony that

while our brave soldiers fight aggression overseas, a few hatemongers here at home are perpetrating their own brand of cowardly aggression. Death threats, physical attacks, vandalism, religious violence, and discrimination against Arab-Americans must end.”<sup>21</sup>

The event prompting this meeting and President Bush’s remarks was the 1990 Gulf War. The American-Arab Anti-Discrimination Committee (ADC) documented a total of four anti-Arab hate crimes from January to August of 1990. Then Iraq invaded Kuwait on August 2, 1990, and between August 2 and January 17, 1991, the day the United States entered the combat phase of the war, ADC recorded 40 hate crimes. During the first week of the war, another 44 hate crimes were recorded.<sup>22</sup> The *New York Times* would cite the ADC data when it called for an end to hate crimes targeting Arab Americans saying, “Lives and liberty are at stake.”<sup>23</sup> Five years after the surge of hate crimes in the aftermath of the Gulf War, the Oklahoma City bombing occurred on April 19, 1995, killing 168 people. Hours after the bomb went off, media outlets featured “terrorism experts” that offered their own biased and dangerous commentary. Steven Emerson appeared on CBS Evening News, saying “This was done with the intent to inflict as many casualties as possible. That is a Middle Eastern trait.”<sup>24</sup> CNN would go as far as releasing the names of four innocent Arab Americans in relation to the horrific attack.<sup>25</sup> For months after the explosion, violent hate crimes targeting Arab Americans and American Muslims happened across the country.<sup>26</sup> This was the case in spite of the fact that a far-right paramilitary group, led by Timothy McVeigh and co-conspirator Terry Nickols, had committed the attack. During the same period, hate crimes targeting other demographics saw a coinciding decrease.<sup>27</sup>

Decades in the making, the backlash effect became common for Arab Americans, as well as members of the Muslim, Arab, and South Asian communities who would be equally subjected to its destructive impact. But the backlash following the terrorist attacks of September 11,

<sup>15</sup> Muneer Ahmad, A Rage Shared by Law: Post-September 11 Racial Violence as Crimes of Passion, *California Law Review*, Vol. 92 Iss. 5, Art. 1 at 1284.

<sup>16</sup> *Id.* at 2004.

<sup>17</sup> Justice Department Briefing, “Remarks by FBI Director Robert Mueller,” *Washington Post* (September 17, 2001), Transcript.

<sup>18</sup> David Lamb, “Loyalty Questioned: U.S. Arabs Close Ranks Over Bias,” *Los Angeles Times* (Mar. 13, 1987).

<sup>19</sup> Americans were taken hostage in the U.S. Embassy in Tehran. The crisis lasted for 444 days, until the hostages were released after President Ronald Reagan took office.

<sup>20</sup> “Home-Grown Hatemongers,” *New York Times* (February 27, 1991), <https://www.nytimes.com/1991/02/27/opinion/home-grown-hatemongers.html>

<sup>21</sup> Remarks of President George H.W. Bush, White House Briefing for Representatives of the Arab American Community (Sept. 24, 1990), <http://www.presidency.ucsb.edu/ws/index.php?pid=18851>

<sup>22</sup> 1991 Report on Anti-Arab Hate Crimes: Political and Hate Violence Against Arab-Americans, American-Arab Anti-Discrimination Committee, 1992.

<sup>23</sup> “Home-Grown Hatemongers,” *New York Times* (Feb. 27, 1991), <https://www.nytimes.com/1991/02/27/opinion/home-grown-hatemongers.html>

<sup>24</sup> Jeff Cohen and Norman Solomon, “Knee-jerk Coverage of Bombing Should Not Be Forgotten,” *Fairness & Accuracy in Reporting (FAIR)* (Apr. 26, 1995).

<sup>25</sup> Penny Bender Fuchs, “Jumping to Conclusions in Oklahoma City?,” *American Journalism Review* (June 1995).

<sup>26</sup> *Combating Post-9/11 Discriminatory Backlash*, Department of Justice (Aug. 6, 2015), <https://www.justice.gov/crt/combating-post-911-discriminatory-backlash-6>

<sup>27</sup> “Hate Crimes Against Arab and Muslim-Americans Rose Post 9-11, While Other Groups Showed Decrease, New Study Reports,” *SUNY Albany* (Feb. 15, 2011), <https://www.albany.edu/news/newsrelease3.php>

2001 would prove to be unprecedented. Four days after the terrorist attacks, Balbir Singh Sohdi, a Sikh-American, was murdered in a violent hate crime in Arizona – the first of many. According to FBI data, there was a 424% increase in anti-other ethnicity hate crime incidents reported in 2001.<sup>28</sup> This data demonstrates with clarity the "retaliation" Director Mueller had condemned.

## ***Decades in the making, the backlash effect became common for Arab Americans, as well as members of the Muslim, Arab, and South Asian communities who would be equally subjected to its destructive impact.***

In the years following 9/11, Muslim, Arab, and South Asian communities have continued to face bigotry, hostility, and sometimes violence in the wake of world events unconnected to them.

### **The Alienating Nature of the Politics of Exclusion**

In addition to the experience of bigotry and backlash, Arab Americans have historically faced unique challenges to their full participation in politics and policy, including elections. In what would come to be known as the “politics of exclusion,” referring to the phenomena of “Arab-baiting” and the desire to exclude Arab American constituencies from politics to obstruct their advocacy for Palestinian human rights, the community would pay a heavy price on the road to their political empowerment.<sup>29</sup> This “politics of exclusion” produced a “political racism” with far reaching impact. As explained, “It has been not so much Arab origin as Arab political activity in America that has engendered a new form of ‘political’ racism that takes prejudice and exclusion out of the arena of personal relations into the arena of public information and public policy.”<sup>30</sup>

Among the most outright examples of the politics of exclusion are the rejection of campaign endorsements and

contributions by both local and national campaigns. The presidential campaign of George McGovern rejected the endorsement of Arab Americans in 1972. President Jimmy Carter allowed a committee in 1976, but it had to be called “Lebanese Americans for Carter.” Campaigns returned contributions—from candidates as varied as Philadelphia mayoral candidate Wilson Goode to presidential candidate Walter Mondale—and candidates were targeted based on their connection to, or support of, Arab American constituents in the very districts they were running to represent. The first presidential campaign cycle with established Arab American support committees came in 1984 with committees formed in support of both President Ronald Reagan and Reverend Jesse Jackson. That historic campaign for Arab Americans, with its issue debates and platform battles, would lead to the first organized effort of the community to impact electoral politics in America on a national scale with the 1988 campaign cycle.

In addition to negatively impacting Arab Americans’ efforts to gain their rightful place in American politics, attempts at hampering their political development meant they were less equipped to respond to the surge in hate crimes the community would endure. Indeed, one could argue that in attempting to silence a community on a policy issue, the politics of exclusion would also serve a key role in advancing anti-Arab animus, and as such, contribute to a climate in which hate crimes against Arab Americans increased. To be clear, no claim can be made that any organizations intended their attempt at political suppression or exclusion to take the form of targeted violence or hate crimes noted in the next section of our report. For example, many organizations condemned the deplorable tactics of the Jewish Defense League (JDL), a terrorist organization.<sup>31</sup> However, what some organizations did not do then, and continue to fail to do now, is acknowledge the role their efforts to silence a community on the Israeli-Palestinian conflict (while unquestionably non-violent) played in advancing anti-Arab animus and the targeting of Arab Americans.<sup>32</sup>

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<sup>28</sup> As our report explains, hate crime data about Arab Americans was not being collected on the federal level, so it is likely the increase in anti-Arab bias incidents would have been captured in the “other ethnicity” category.

<sup>29</sup> James Zogby and Helen Samhan coined the phrase in their seminal document, *The Politics of Exclusion: A Report on Arab-Baiting in the 1986 Elections*, published by the Arab American Institute in 1986.

<sup>30</sup> Helen Hatab Samhan, “Politics and Exclusion: The Arab American Experience,” *Journal of Palestine Studies*, Volume 16, No. 2 (Winter 1987), page 16.

<sup>31</sup> Among the tactics employed by several organizations was the publishing of dossiers on virtually every leading Arab American advocate. Based on surveillance and intelligence gathering, the reports were published under different titles by different organizations and distributed as a tool for effective pro-Israel advocacy. The reports included: *Target USA: The Arab Propaganda Offensive* by the Anti-Defamation League of B’nai B’rith (ADL) in 1975; *The Campaign to Discredit Israel* by the American Israel Public Affairs Committee (AIPAC) in 1983; *Pro-Arab Propaganda in America: Vehicles and Voices* by the ADL in 1983; One of the outcomes of such tactics was to blacklist Arab American leaders, referring to them as “pro-Arab and pro-PLO propagandists” and rendering them marginalized actors.

<sup>32</sup> Fed. Bureau of Investigation, U.S. Department of Justice, “*FBI Analysis of Terrorist Incidents and Terrorist Related Activities in the United States 1985*,” page 16.

The logical question any reader of this report would pose is why a discussion of Middle East politics is contained in an analysis of hate crimes? The Palestinian-Israeli conflict, in particular, is rooted in political disagreements about land and self-determination, not a conflict between ethnic or religious groups. The answer lies in understanding that some of the harmful tactics used to advance a political position in the conflict between Israelis and Palestinians were instrumental to the otherizing of Arab Americans in the national consciousness, and negatively impacted the community's ability to respond when it was indeed targeted.

The exclusion was necessary to meet a simple objective: to hamper a community's ability to influence debate or discourse on a foreign policy issue. That the exclusion would also set a community back years in its ability to organize, have full representation, and protect itself did not prove to be a substantial consideration.

### When Exclusion Adopts Violence

As noted, for Arab Americans exclusion often took the form of harassment and intimidation. It also took the form of violence. The "zone of danger" Director Webster described in 1985 was by then well known to Arab American community leaders after having regularly experienced the ugly reality of being pursued by violent actors. Indeed, this targeting of Arab Americans and the corresponding number of attacks would play a role in the 1990 passage of the Hate Crime Statistics Act, landmark legislation discussed further in this report, that created the infrastructure for the collection of bias-motivated incidents.

Among the leading proponents of the use of violence was the Jewish Defense League (JDL).<sup>33</sup> According to the FBI, JDL's violence, including "arsons, bombings, and assaults," was targeted at "Soviet diplomatic establishments and personnel, individuals associated with the American-Arab community, and persons allegedly affiliated with the World War II Nazi Germany atrocities."<sup>34</sup> In their targeting of the Arab American community, the objective was to suppress

the community's engagement, necessitating tactics that sowed fear far and wide. Based on both the violence they would inflict, and the difficulty law enforcement seemed to have in preventing their terror during this arduous time for Arab Americans, these tactics worked.

One of the people "associated with the American-Arab community" was the American-Arab Anti-Discrimination Committee's (ADC) west coast regional director, Alex Odeh. A civil rights advocate, Odeh was killed when he arrived at the ADC office in Santa Ana, California on the morning of October 11, 1985. A bomb was triggered when he opened the door to his office, tragically killing him and injuring seven others on the same floor.



Consistent with the pattern described in a Rand Corporation report examining trends in terrorism,<sup>35</sup> JDL head Irving Rubin denied involvement with Alex Odeh's murder in 1985 but said, "I have no tears for Mr. Odeh. He got exactly what he deserves."<sup>36</sup> A group founded by former members of the JDL also denied responsibility for the murder of Odeh, stating, "We aren't claiming credit, but it couldn't happen to better people, more deserving people."<sup>37</sup>

Odeh's murder, and the ongoing assault on the Arab American community were the circumstances that led to the historic congressional hearing in 1986 on hate crimes targeting Arab Americans. Held before the House Judiciary Committee, Subcommittee on Criminal Justice on July 16, 1986, the hearing entitled, "Ethnically Motivated Violence

<sup>33</sup> *Id.*

<sup>34</sup> Federal Bureau of Investigation, U.S. Department of Justice, *FBI Analysis of Terrorist Incidents and Terrorist Related Activities in the United States 1985*, page 16

<sup>35</sup> Bruce Hoffman, "Recent Trends and Future Prospects of Terrorism in the United States," *The RAND Corporation*, (May 1988), page 16-17. The unique way in which the JDL operated during the 1980s would prove to be a key factor for law enforcement: "The difficulty in affixing responsibility for these incidents to the JDL is in large measure a reflection of both the group's unique character and its long-standing terrorist modus operandi. Although the FBI has long classified the JDL as a terrorist organization, the group is in fact a perfectly legal entity, incorporated under New York State law and enjoying tax-exempt status as a registered political action group. Thus, in order to preserve its legality, the JDL has rarely claimed credit for terrorist acts committed by group members. Typically, an anonymous caller has claimed responsibility for a specific terrorist act for either the JDL or one of its alleged sub-groups, only to have an official JDL spokesman deny the claim the following day. In this manner, the JDL is able to deny association with the perpetrators and avoid prosecution on conspiracy charges. Nevertheless, over the past decade at least 50 indictments have been handed down to JDL members, of whom at least 30 have been convicted in the U.S. courts of committing or conspiring to commit terrorist offenses."

<sup>36</sup> Jay Mathews, "Alex Odeh: Arab-American Victim of Hate," *The Washington Post* (Oct. 13, 1985).

<sup>37</sup> Comments made by the head of the Jewish Defense Organization, Mordechai Levy, to the New York Times, Philip Shenon, "F.B.I. Chief Warns Arabs of Danger," *New York Times* (Dec. 11, 1985).

Against Arab-Americans,” proved to be critical to the passage of the Hate Crimes Statistics Act just four years later. It also afforded Arab American community leaders the opportunity to highlight their targeting by hate groups and biased government policies alike.

Advocates were able to explain these threats to the community’s well-being and power in the context of exclusion. In the leadup to the hearing, the *New York Times* described it as a “Briefing; On Arab ‘McCarthyism’” citing an interview with Arab American Institute co-founder James Zogby who referred to efforts to suppress the political activity of Arab Americans as the “new McCarthyism.”<sup>38</sup> To advocates engaged in the protection of the civil rights of Arab Americans, the connection between the active political exclusion of the community and its ability to protect itself from hate crimes was both evident and lived daily.

“Our problem is not one of popularity but of the refusal by some to accept our very legitimacy as an ethnic community with equal rights to access to the political process of the country. We therefore come to you today to request that you assist us in our quest to secure our right to political participation, unimpeded right to the political process. We should push to secure indictments against all those who have committed acts of violence and threatened acts of violence against Arab Americans; and, second, we need more oversight of the FBI to end the harassment of Arab American activists by the FBI, by the Criminal Division of the Justice Department, and by other agencies of Government that have been so involved.

Finally, we need to end blacklisting of Arab Americans. It's beyond the purview of this committee, but certainly by you having provided us, Mr. Chairman, the opportunity to air our concerns, clearly, the practice of blacklisting, I think, will be a more difficult one for some to practice in the future.”<sup>39</sup>

The Arab American witnesses testifying at the hearing, from civil rights advocates to members of Congress to hate crime victims directly impacted, made a compelling case for necessary protections—and the rejection of the campaign to silence them.

As noted earlier, the number of attacks carried out by the JDL was the impetus for the FBI’s reference to Arab Americans being in a “zone of danger.” While law enforcement undeniably played a significant role in addressing the violence that has targeted the Arab American community, there are several factors preventing a complete resolution to this ugly period in the history of anti-Arab animus. First and foremost, that Alex Odeh’s murder remains unsolved today prevents the healing that needs to take place by both his family and his community. A civil rights advocate was killed in what is arguably the highest profile hate crime against an Arab American and the case remains open, without any arrest or conviction.

Further, the JDL itself has resurfaced in a public way on at least two occasions. In December 2001, JDL leader Irving Rubin and Earl Krugel were charged in a plot to bomb the offices of the Muslim Public Affairs Committee (MPAC), a Culver City mosque, and the district office of then freshman Arab American Congressman Darrell Issa.<sup>40</sup> In March 2017, JDL members attacked people outside of an AIPAC conference in Washington, D.C., including Arab American professor Kamal Nayfe.<sup>41</sup> JDL members, Canadian Yosef Steynovitz and American Rami Lubranicki, were indicted in December 2017 on multiple counts, including a hate crime charge for the beating of Nayfe.<sup>42</sup> In photographs and video of the attack, JDL flags and insignia are quite visible.

### **From Protection to Targeting: The Complicated Role of Government Policies Toward Arab Americans**

During this increase in hate crimes, Arab Americans would rely on their government to offer necessary protection and eventual prosecutions of hate crime perpetrators. However, the unique problems Arab Americans face as a community that became securitized by their own government through ostensible counter terrorism policies and practices, long

<sup>38</sup> Wayne King and Warren Weaver Jr, “BRIEFING; On Arab ‘McCarthyism,’” *New York Times* (July 10, 1986).

<sup>39</sup> *Ethnically Motivated Violence Against Arab-Americans: Hearing Before the H. Subcomm. On Criminal Justice*, 99<sup>th</sup> Cong. (July 1986) (statement by Dr. James Zogby, Executive Director, Arab American Institute)

<sup>40</sup> Statement issued by Congressman Darrell Issa in response to the indictment (Sept. 22, 2005), <https://issa.house.gov/press-releases/2005/09/22/statement-on-the-sentencing-of-convicted-jdl-terrorist-earl-krugel>. In 2002, Rubin committed suicide while in custody awaiting trial. In Sept. 2005, Krugel was sentenced to 20 years in prison, the maximum allowed under federal guidance. He was murdered a few days later in prison by a fellow inmate.

<sup>41</sup> Perry Stein, “Two arrested in assault of man during protest outside AIPAC conference,” *The Washington Post* (Mar. 31, 2017), [https://www.washingtonpost.com/local/public-safety/two-arrested-in-assault-of-man-during-protest-outside-aipac-conference/2017/03/31/e8406e74-1578-11e7-833c-503e1f6394c9\\_story.html?utm\\_term=.f1ddd0c9d650](https://www.washingtonpost.com/local/public-safety/two-arrested-in-assault-of-man-during-protest-outside-aipac-conference/2017/03/31/e8406e74-1578-11e7-833c-503e1f6394c9_story.html?utm_term=.f1ddd0c9d650)

<sup>42</sup> Ron Csillag, “Canadian JDL Member Pleads Not Guilty to Assault,” *The Canadian Jewish News* (Feb. 22, 2018), <http://www.cjnews.com/news/canada/canadian-jdl-member-pleads-not-guilty-assault>

predate the hate crimes analyzed in this report. Indeed, this very issue is what Zogby cited during the 1986 hearing when he called for the ending of "harassment of Arab American activists by the FBI."<sup>43</sup> While not an attempt at a comprehensive list, the following are select examples of government policies that have targeted Americans of Arab descent.

The government's view of Arab Americans through the lens of national security contributes to framing the community as merely a means toward mitigating external threats, instead of an internal community deserving of service and protection as any other group of Americans. This positioning undermines Arab Americans' ability to approach their government for service or assistance, as Arab Americans face policies and actors who harbor suspicion of insufficient loyalty to the United States, or ulterior motives of turning Arab Americans into government informants. In each of these cases, government policies can be seen as facilitating discrimination rather than functioning as policies of a state actor obligated to safeguard and defend the rights of Arab Americans.

The government targeting of Arab Americans can be traced back to what was termed "Operation Boulder" in 1972. In the wake of the killing of Israeli athletes in a terrorist attack at the 1972 Munich Olympics, the Nixon Administration created the surveillance program known as Operation Boulder.<sup>44</sup> The program sought to silence Arab and Arab American voices within the United States through investigation, surveillance, and harassment.<sup>45</sup> The program "specifically targeted Arabs with U.S. citizenship, resident aliens of Arab descent, non-Arab Americans sympathetic to Arab causes, as well as the relatives, neighbors, friends, and employers of Arab individuals."<sup>46</sup> Operation Boulder officially ended in 1975 after it was deemed "not worth it" by law enforcement, though its demise would be announced in a major media outlet as "A Plan to Screen Terrorists Ends."<sup>47</sup>

A decade later in October 1982, Arab American community leaders presented the FBI with more than 100 affidavits

providing evidence that prominent Arab Americans had been subjected to violence and widespread threats of violence. The same leaders also presented evidence of continued harassment by the FBI. During a surge in hate crimes targeting Arab Americans, the very agency that referred to them as living in the "zone of danger," the one charged with their protection from targeted violence, was heavily engaged in their surveillance. Whether pursuing hate crimes or conducting routine investigations, the FBI was investigating and infiltrating leading Arab American organizations, including the Palestine Human Rights Campaign, the Association of Arab-American University Graduates, and the General Union of Palestinian Students.

Even before the United States entered the combat phase of the Gulf War in January 1991, the FBI was visiting Arab Americans. Concurrent with their response to the surge in hate crimes targeting Arab Americans, the FBI deployed agents to conduct interviews with hundreds of leaders and advocates nationally. The FBI spokeswoman would state it clearly: "We have two mandates. One is to protect these people from any ignorant individuals who might try to injure them if hostilities with Iraq would break out. But we also have a mandate to deter terrorism."<sup>48</sup> Once again, it is clear the securitized approach to Arab Americans would hamper efforts to protect them.

Passed during the Clinton Administration and in response to the Oklahoma City bombing, the Omnibus Counterterrorism Act of 1995 gave the federal government broader tools to target Arabs and Arab Americans, allowing for the deportation of non-citizens under vague criteria, and allowing the identities of accusers to remain secret.<sup>49</sup> A 1998 report found that all 25 men targeted for deportation under this statute were of Arab descent.<sup>50</sup>

After the terrorist attacks on September 11th, 2001, a series of counter-terrorism policies targeted Arab Americans, including the FBI's interviewing of thousands of Arab Americans without particularized suspicion, and a 2003 "Special Registration" program entitled National Security

<sup>43</sup> Testimony of James Zogby *supra* note 39

<sup>44</sup> Pamela E. Pennock, "From 1967 to Operation Boulder: The Erosion of Arab Americans' Civil Liberties in the 1970s," *Arab Studies Quarterly*, Vol. 40, No. 1 (Winter 2018) p 41.

<sup>45</sup> Amaney Jamal and Nadine Naber. (2008) *Race and Arab Americans Before and After 9/11: From Invisible Citizens to Visible Subjects*. at 34.

<sup>46</sup> *Id.*

<sup>47</sup> "A Plan to Screen Terrorists Ends," *New York Times* (Apr. 24, 1975), <https://www.nytimes.com/1975/04/24/archives/a-plan-to-screen-terrorists-ends-us-project-to-block-arabs-was-not.html>

<sup>48</sup> Lisa Belkin, "For Many Arab Americans, F.B.I. Scrutiny Renews Fears," *New York Times* (Jan. 12, 1991).

<sup>49</sup> Omnibus Counterterrorism Act of 1995, S. 390, 104th Cong. <https://www.congress.gov/bill/104th-congress/senate-bill/00390/related-bills>

<sup>50</sup> Ronald Smothers, "U.S. Bars or Expels Suspect Immigrants On Secret Evidence," *New York Times* (Aug. 15, 1998), <https://www.nytimes.com/1998/08/15/us/us-bars-or-expels-suspect-immigrants-on-secret-evidence.html>.

Entry-Exit Registration System (NSEERS) which required tens of thousands of immigrant males to be “fingerprinted, photographed and questioned by authorities.”<sup>51</sup>

Congress also passed national security legislation empowering the executive branch to conduct mass surveillance of American citizens and lawful permanent residents. Both the USA PATRIOT Act of 2001 and the FISA Amendments Act (FAA) of 2008 authorized further incursions into Americans’ privacy.

The Patriot Act, for example, created the Student and Exchange Visitor Information System (SEVIS), which monitored international students in U.S. colleges and universities.<sup>52</sup> The Act also expanded government surveillance to include “bulk collection” of Americans’ communications and other data.<sup>53</sup> A new addition to FISA known as Section 702 increased the U.S. government’s surveillance capabilities, removing the long-standing requirement that it obtain a warrant to monitor communications between U.S. persons and suspected foreign targets.<sup>54</sup> This form of warrantless surveillance resulted in the “incidental collection” of innocent Americans’ communications.<sup>55</sup> While these policies are facially neutral with respect to ethnicity, the National Security Agency has been shown to use similar tools to target Arab Americans and American Muslims alike.<sup>56</sup>

That same year, the Terrorist Screening Center (TSC) was created to monitor potential terrorist suspects and place individuals on a variety of watchlists for surveillance.<sup>57</sup> The fact of a person’s presence on a list, and why a person was added, is not provided to listed individuals. Notably, Dearborn, Michigan, a city with less than 100,000 residents and home to the largest concentration of Arab Americans,

was second only to New York City in the number of watchlisted individuals.<sup>58</sup>

In August 2011, the Associated Press published an investigative report<sup>59</sup> on the New York Police Department’s (NYPD) counter-terrorism and surveillance programs that directly targeted Arab American Muslim businesses, mosques, and communities in New York and New Jersey. The revelations of the breadth and depth of the NYPD’s surveillance program were shocking, with use of wide-spread “ethnic mapping” and reporting on the day to day activities of innocent people. Not only are the NYPD’s spying program and others like it illegal under the Constitution, they are ineffective and highly consequential to the communities they infiltrate. Not a single lead on terrorist operations resulted from NYPD’s spying activities.

The Obama Administration released the “Strategic Implementation Plan for Empowering Local Partners to Prevent Violent Extremism in the United States” in 2011. The plan was introduced as a domestic counter-terrorism strategy, and became the foundation for the federal government’s Countering Violent Extremism (CVE) programs. In 2016, DHS began the Interagency CVE Task Force, which essentially approached community outreach to American Muslim communities as part of counterterrorism programming. These programs seek to deputize local Arab American and American Muslim leaders and organizations to surveil their own communities on behalf of the U.S. government.

Operation Janus, which is a project between DOJ and DHS<sup>60</sup> with the purpose of identifying individuals who may have been wrongfully naturalized as citizens due to incomplete fingerprint records, was also initiated during

<sup>51</sup> Andrea Elliott “After 9/11, Arab-Americans Fear Police Acts, Study Finds,” *New York Times* (June 12 2006), <https://www.nytimes.com/2006/06/12/us/12arabs.html>

<sup>52</sup> Randa A. Kayyali, “The People Perceived as a Threat to Security: Arab Americans Since September 11,” *Migrationpolicy.org* (Mar. 2, 2017), <https://www.migrationpolicy.org/article/people-perceived-threat-security-arab-americans-september-11>

<sup>53</sup> Brennan Center for Justice, Foreign Intelligence Surveillance (FISA Section 702, Executive Order 12333, and Section 215 of the Patriot Act): A Resource Page (Sept. 28, 2017), <https://www.brennancenter.org/analysis/foreign-intelligence-surveillance-sa-section-702-executive-order-12333-and-section-215#section%20702>. See also, Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (Patriot) Act, Pub. L. No. 107-56, 115 Stat. 272 (2001), available at <https://www.congress.gov/bill/107th-congress/house-bill/3162>.

<sup>54</sup> As defined in 22 U.S. Code § 6010, the term “U.S. persons” refers to American citizens, lawful permanent residents, and “any corporation, partnership, or other organization organized under the laws of the United States.” See also Letter from Brennan Center for Justice to members of the Privacy and Civil Liberties Board (Apr. 11, 2014), available at <http://www.brennancenter.org/sites/default/files/analysis/BCJ-PCLoBComments04.11.14.pdf>.

<sup>55</sup> For up-to-date information and analysis related to Section 702, see Lawfare, FISA: Section 702 Collection (Apr. 21, 2018), available at <https://www.lawfareblog.com/topic/sa-702-collection>.

<sup>56</sup> “NSA And FBI Spied On Muslim-American Leaders,” *Tech Crunch* (July 9, 2014), <https://techcrunch.com/2014/07/09/nsa-and-fbi-spied-on-muslim-american-leaders/>

<sup>57</sup> “Terrorist Screening Center,” *FBI.gov*, <https://www.fbi.gov/about/leadership-and-structure/national-security-branch/tsc>.

<sup>58</sup> Christopher Mathias et al., “The City That Bears The Brunt Of The National Terror Watchlist,” *The Huffington Post* (June 04, 2018), [https://www.huffingtonpost.com/entry/dearborn-michigan-terror-watchlist\\_us\\_59d27114e4b06791bb122cfe](https://www.huffingtonpost.com/entry/dearborn-michigan-terror-watchlist_us_59d27114e4b06791bb122cfe).

<sup>59</sup> “Highlights of AP’s Pulitzer Prize-winning Probe into NYPD Intelligence Operations,” *Associated Press* (Nov. 30, 2016), <https://www.ap.org/about/awards-and-recognition/highlights-of-aps-pulitzer-prize-winning-probe-into-nypd-intelligence-operations>.

<sup>60</sup> United States, Department of Homeland Security, Office of the Director General, by John Roth (Sept. 8, 2016), <https://www.oig.dhs.gov/assets/Mgmt/2016/OIG-16-130-Sep16.pdf>.

the Obama Administration.<sup>61</sup> Since President Trump increased the funding of the program, Operation Janus searches for naturalized citizens who have committed crimes with the purpose of identifying individuals who can be ‘denaturalized,’ or stripped of their citizenship. The Trump Administration increased the funding for the program and earlier this year, the DOJ proudly announced the first denaturalization under the project, adding that 315,000 cases have been identified wherein fingerprint data was missing, and 1,600 more cases are recommended for prosecution.<sup>62</sup> Troublingly, Operation Janus has been used to almost exclusively target South Asian, Arab, and Muslim men. Earlier this month, the administration moved to expand the program within USCIS,<sup>63</sup> established a physical location, and hired “several dozen lawyers and immigration officers,” displaying an expanded commitment to targeting U.S. citizens for deportation.<sup>64</sup>

As a presidential candidate, Donald Trump advocated for warrantless surveillance of U.S.-based mosques,<sup>65</sup> openly considered a database of American Muslims and Syrian refugees,<sup>66</sup> and called for a “total and complete shutdown of Muslims entering the United States.”<sup>67</sup> During his first week in office, President Trump signed Executive Order 13769, entitled “Protecting the Nation from Foreign Terrorist Entry into the United States.” The order issued “temporary suspensions of entry” for all refugees, regardless of nationality, and foreign nationals from six Arab countries and Iran. In addition to an indefinite ban of Syrian refugees, the order required federal agencies to “implement uniform screening standards for all immigration programs” that would include “a database of identity documents” and “a mechanism to assess ... intent to commit criminal or terrorist acts after entering the United States.”<sup>68</sup> The Muslim Ban saw several revisions and a multitude of legal challenges, but

was ultimately upheld by the U.S. Supreme Court in *Trump v. Hawaii*.

Each of these policies have served to only entrench suspicion of Arab Americans among their fellow Americans, including policy makers. In so doing, Arab American rights are denied when they are viewed as acceptable targets of heightened counterterrorism policy. The fact the community is disparately impacted by such policies seems to be viewed as a necessary outcome of post-9/11 national security practices. Experiencing the resulting distrust every day, many Arab Americans have developed a skepticism toward the underlying motivations of government policies and officials, and thus are disincentivized from taking affirmative steps to interact with their government, including in cases of reporting hate crimes.

A 2006 study funded by the National Institute of Justice stated, “Our findings suggest that, based on community and law enforcement perceptions, government and public reactions after September 11 have created a particular environment in which some Arab American communities have collectively experienced a form of cultural trauma, and in these concentrated communities, fear of being victimized by state-sponsored policies and practices is greater than fear of conventional hate or bias related violence.”<sup>69</sup> Like the bigotry, discrimination and exclusion before it, government targeting of Arab Americans would contribute negatively to their public safety.

In the direct aftermath of the 9/11 attacks, President George W. Bush visited a local mosque and gave a speech emphasizing that many Americans are Muslims, too.<sup>70</sup> President Barack Obama also visited a mosque as president, doing so in 2016 while other politicians were campaigning to

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<sup>61</sup> Daniel Kowalski, “Operation Janus’ IDs Deportable Aliens Wrongfully Naturalized,” *Lexis Nexis* (Sept. 19, 2016), <https://www.lexisnexis.com/legalnewsroom/immigration/b/newsheadlines/archive/2016/09/19/39-operation-janus-39-ids-deportable-aliens-wrongfully-naturalized.aspx?Redirected=true>.

<sup>62</sup> United States, Department of Justice, Office of Public Affairs, *Justice Department Secures First Denaturalization As a Result of Operation Janus* (Jan. 9, 2018), <https://www.justice.gov/opa/pr/justice-department-secures-first-denaturalization-result-operation-janus>.

<sup>63</sup> Tal Kopan, “Trump Admin Creates New Office to Investigate Citizenship Fraud,” *CNN* (June 13, 2018), <https://www.cnn.com/2018/06/13/politics/citizenship-fraud-office/index.html>.

<sup>64</sup> Associated Press, “US Vows to Find, Punish Citizenship Cheaters,” *VOA* (June 12, 2018), <https://www.voanews.com/a/us-citizenship-cheaters/4434883.html>.

<sup>65</sup> Emily Stephenson and Amanda Becker, Trump Backs Surveillance of Mosques Despite Criticism of Rhetoric, *Reuters* (June 15, 2016), <https://www.reuters.com/article/us-usa-election/trump-backs-surveillance-of-mosques-despite-criticism-of-rhetoric-idUSKCN0Z12AS>.

<sup>66</sup> Transcript, ABC News, This Week with George Stephanopoulos: Donald Trump and Ben Carson (Nov. 22, 2015), available at <http://abcnews.go.com/Politics/week-transcript-donald-trump-ben-carson/story?id=35336008>. See also, Lauren Carrol, In Context: Donald Trump’s Comments on a Database of American Muslims, *Politifact* (Nov. 24, 2015), <http://www.politifact.com/truth-o-meter/article/2015/nov/24/donald-trumps-comments-database-american-muslims>.

<sup>67</sup> Jeremy Diamond, “Donald Trump: Ban all Muslim Travel to the U.S.,” *CNN* (Dec. 8, 2015), <https://www.cnn.com/2015/12/07/politics/donald-trump-muslim-ban-immigration/index.html>.

<sup>68</sup> Protecting the Nation from Foreign Terrorist Entry into the United States, Executive Order No. 13769, 82 Fed. Reg. 20 (Jan. 27, 2017), <https://www.gpo.gov/fdsys/pkg/FR-2017-02-01/pdf/2017-02281.pdf>.

<sup>69</sup> Nicole J. Henderson, Christopher W. Ortiz, Naomi F. Sugie, and Joel Miller. “Law Enforcement & Arab American Community Relations After September 11, 2001: Technical Report,” *Vera Institute of Justice* (2006), page 69.

<sup>70</sup> John Bridgeland, “Donald Trump Muslim Ban Speech Fails George W. Bush and 9/11,” *Time* (October 19, 2016), <http://time.com/4534927/donald-trump-muslim-911/>.

succeed him. However, President Obama was criticized for this decision by Republican candidates.<sup>71</sup> Importantly, from 2002 to 2016, the proportion of Republicans and Republican-leaning independents who said that either “most” or “half/some” Muslims are “anti-American” actually increased by 16 percent.<sup>72</sup>

In contrast to the rhetoric of his predecessors, President Donald Trump has repeatedly made dangerous, suggestive, and inaccurate statements about many communities, including Arab Americans. In one example, Trump falsely stated that Arabs in New Jersey were celebrating on rooftops after 9/11.<sup>73</sup>

Today, we’re seeing unprecedented attacks on civil rights and civil liberties, but as this report explains, the challenges Arab Americans face date back to the founding of their first institutions more than three decades ago.

As severe as the 9/11 backlash was, it was also unquestionably tempered by elected officials who spoke out against hate crimes and bias incidents, including at the highest levels with President Bush’s mosque visit noted above just six days after the 9/11 attack.

Since the 2016 presidential election cycle, we have seen another surge in hate, but this time it is seemingly aided by the very elected officials and policy makers who should be working to protect all of their constituents. Instead of

de-escalating tensions more broadly, President Donald Trump has regularly used the most powerful bully pulpit of the American presidency to instead promote nativism and bigotry, including the implementation of discriminatory policies.

While not a statement of a correlation, in a climate where we have a failure in leadership and growing animus, we are seeing an increase in violence. This violence includes the cases of people highlighted in the vignettes in this report, the 2015 murder of nine African American worshippers at the Emanuel African Methodist Episcopal Church in Charleston, South Carolina, and the 2017 violent march of white supremacists in Charlottesville, Virginia. Even with the limitations and shortcomings of federal data identified in this report, a rise is apparent. Recent data shows an overall increase in hate crimes during the most recent presidential election cycle, with a 6.8% increase from 2014 to 2015, and another 5% increase from 2015-2016. Within this data, anti-Arab hate crime incidents rose 38% in 2016, significant for a new category reported on for the first time in 2015. Also in 2016, anti-Muslim hate crimes climbed nearly 20%, after a 67% spike in 2015.

Our research has demonstrated that bias-motivated violence is increasing, and that it is a local, state, and national issue affecting every community in our country. Our response must do the same.

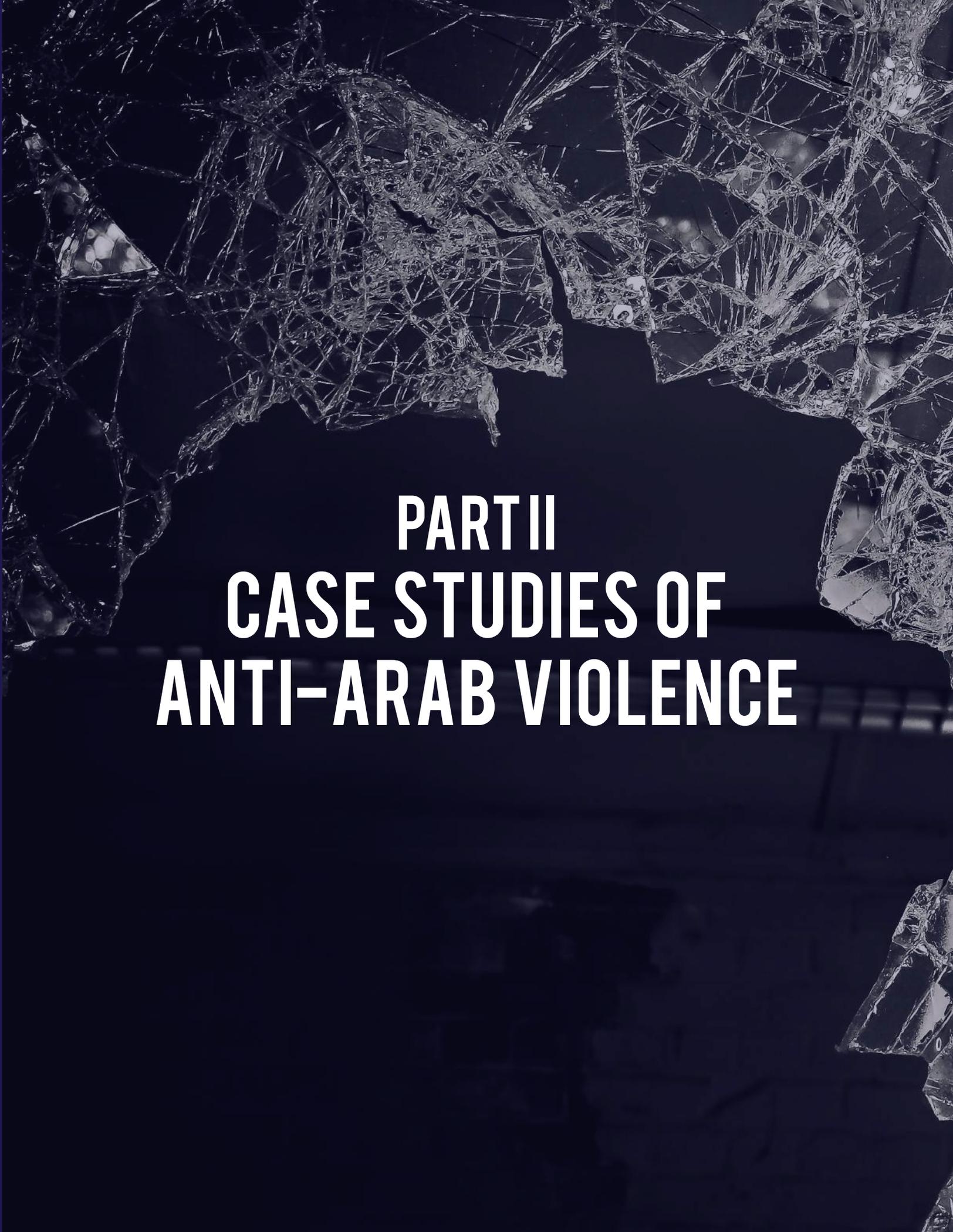
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<sup>71</sup> Hayley Hoefler, "Views You Can Use: Marco on Mosques," *U.S. News & World Report* (Feb. 4, 2016), <https://www.usnews.com/opinion/articles/2016-02-04/marco-rubio-condemns-president-obamas-first-american-mosque-visit> and Ben Kamisar, "Trump: Maybe Obama 'feels Comfortable' in a Mosque," *The Hill*, (Feb. 04, 2016), <http://thehill.com/blogs/ballot-box/gop-primaries/268155-trump-maybe-obama-feels-comfortable-in-a-mosque>.

<sup>72</sup> Aaron Blake, "Why Obama's Mosque Visit Is Criticized - in a Way George W. Bush's Wasn't," *The Washington Post*, (Feb. 04, 2016), [https://www.washingtonpost.com/news/the-fix/wp/2016/02/04/why-obamas-mosque-visit-is-criticized-in-a-way-george-w-bushs-wasnt/?utm\\_term=.def520b3fae1](https://www.washingtonpost.com/news/the-fix/wp/2016/02/04/why-obamas-mosque-visit-is-criticized-in-a-way-george-w-bushs-wasnt/?utm_term=.def520b3fae1).

<sup>73</sup> Rachael Revesz, "9/11: Donald Trump's bizarre quotes about September 11 attacks before becoming President," *The Independent* (Sept. 11, 2017).





**PART II**  
**CASE STUDIES OF**  
**ANTI-ARAB VIOLENCE**



Congress passed the Hate Crime Statistics Act of 1990 in order to provide the federal government and American public with data on the nature and extent of bias-motivated violence in the United States. The data facilitate informed policymaking and effective allocation of resources to communities in which hate crime is most severe. Published in the FBI's annual report, *Hate Crime Statistics*, the data also provide critical information for communities and advocates alike.

While the data in *Hate Crime Statistics* and comparable state-level hate crime reports are disaggregated according to location, offense, bias-motivation, and other important factors, the data do not capture the distinct personal and collective harms that hate crime inflicts on victims and communities. That such data are depersonalized is neither completely beneficial nor completely disadvantageous. On the one hand, passing legislation based solely on anecdotes is not a sound approach to public policy. On the other hand, and especially in the context of hate crime, individual accounts and personal stories can serve to illustrate a particular issue and what can be done to solve it. These narratives also have the potential to communicate not only the specific threats facing certain communities, but the systemic failure to address, or even recognize, those threats as well. For the Arab American community in particular, hate crimes have historically intensified in the wake of developments in the Middle East or incidents of mass violence. This trend first emerged in the late 1960s and early 1970s, and was most severe in the aftermath of 9/11.

As noted in Chapter Three, targeted violence against Arab Americans influenced Congress to pass legislation requiring the Justice Department to collect data on bias-motivated crimes. Similarly, the post-9/11 backlash against Muslim, Arab, and South Asian communities in the United States prompted a comprehensive response from the federal government—congressional hearings, public statements, and various forms of community engagement—to address the specific threats facing targeted or vulnerable populations. Despite these efforts, we know some communities, including Arab Americans, were overlooked.

**In a period of burgeoning xenophobia, racism, and increased anti-Arab sentiment, neither the government nor the American public can afford to overlook the nature and extent of violence targeting Arab Americans or American Muslims.**

The FBI UCR Program's hate crime data collections were developed following the passage of the Hate Crime Statistics Act of 1990. While the initial hate crime data collections were designed to collect data on incidents that manifest evidence of anti-Arab prejudice, the federal government did not begin publishing statistics on anti-Arab hate crime until 2015. During this period, however, law enforcement agencies in 38 states and the District of Columbia submitted anti-Arab hate crime data through the UCR program.<sup>1</sup> Some of the data were published in state-level hate crime reports. The remainder were discovered in Excel versions of FBI Hate Crime Master Files, which contain records of raw data submitted from reporting agencies. During this period, no information on anti-Arab hate crime was recorded in the FBI's annual report, *Hate Crime Statistics*, which is the principal resource for communities, advocates, and policymakers on hate crime in the United States.

For nearly two decades, hate crimes against Arab Americans were excluded from official statistics. If the purpose of hate crime reporting and data collection is to inform the American public and federal government about the nature and extent of violence targeting specific communities, then the Arab American community, and the particular threats facing the community during this time, were overlooked. Today, in a period of burgeoning xenophobia and increased anti-Arab and anti-Muslim sentiment, neither the government nor the American public can afford to overlook the nature and extent of violence targeting Arab Americans or American Muslims.

The following chapter features a selection of narrative vignettes, four in total, that demonstrate the nature of hate crime targeting Arab Americans, the harms such crimes inflict on individual victims and communities, and the limitations of existing laws, policies, and their irregular enforcement to address those harms. In this respect, the four vignettes serve to communicate

<sup>1</sup> In this context, anti-Arab hate crime data refers to UCR submissions or similar crime reports that explicitly denote anti-Arab bias in the commission of an offense. An additional state, Hawaii, published anti-Arab hate crime data but does not participate in the national UCR program.

*the need for comprehensive hate crime reporting and data collection reform, particularly at the state and local level. The passage of criminal statutes offering sufficient, inclusive protections for hate crime victims, along with legislation requiring hate crime training for law enforcement personnel, will support hate crime prevention as well.*

*Each case is different. While the four separate offenders committed these crimes because of the actual or perceived ethnicity or faith of the victims, their actions inflicted distinct harms upon the victims, their families, and their respective communities. Furthermore, and due to variance between the laws, policies, and law enforcement practices designed to address hate crime in the states where the incidents occurred, the cases were met with different outcomes.*

*The following vignettes contain sensitive, potentially upsetting material, especially for readers who have experienced harassment, discrimination, or targeted violence because of their actual or perceived ethnicity or religious affiliation. As noted above, our intention in sharing these accounts is to demonstrate the harmful effects of hate crime targeting Arab Americans on victims and communities, along with the need for an improved response to address those harms. Readers must recognize the human face behind the data to understand why reporting and data collection are important. Similarly, and as affirmed in the Supreme Court's ruling in the landmark case, *Wisconsin v. Mitchell*, 508 U.S. 47 (1993), readers must recognize "the greater individual and societal harm" associated with bias-motivated crimes to understand why hate crime statutes are not only justified, but also necessary.*

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# Yusor Abu-Salha, Deah Barakat, and Razan Abu-Salha

## Chapel Hill, North Carolina



### Background

Hate crime statutes provide enhanced penalties for crimes committed because of someone's actual or perceived protected characteristics. The current federal hate crime statute includes protections for race, color, religion, national origin, gender, sexual orientation, gender identity, and disability.<sup>2</sup> While 45 states offer protections for hate crime victims in the form of criminal statutes, the majority of those statutes do not offer inclusive protections. In other words, most state-level hate crime statutes do not offer the range of protections provided under federal law. Additionally, hate crime statutes in some states only apply to certain criminal offenses. In the case of North Carolina, state law provides enhanced penalties for misdemeanors, but not felonies, committed “because of the victim’s race, color, religion, or country of origin.”<sup>3</sup> Under the Matthew Shepard and James Byrd, Jr., Hate Crimes Prevention Act of 2009, which also expanded the federal definition of hate crime and amended hate crime data collections with additional reporting categories, federal authorities have greater latitude to

investigate and prosecute acts of bias-motivated violence. In order to open a federal hate crime investigation, the Justice Department’s Civil Rights Division must demonstrate that a particular case satisfies one of the following conditions: the state does not have jurisdiction; the state has requested the federal government assume jurisdiction; the verdict or sentence obtained under state charges failed to vindicate the stated federal interest to eradicate bias-motivated violence; or a federal hate crime prosecution is in the public interest and necessary to secure substantial justice.<sup>4</sup> These provisions are critical, as in many cases, and for different reasons, state and local authorities fail to investigate and prosecute certain acts of violence as potential hate crimes.

The June 2015 mass shooting of nine black worshippers at Emanuel African Methodist Episcopal Church in Charleston, South Carolina, provides one example. South Carolina is one of five states without a hate crime statute.<sup>5</sup> The Justice Department was, nevertheless, able to secure hate crime charges under federal law, and a federal grand jury convicted the defendant, Dylann Roof, of 33 counts of federal hate crimes.<sup>6</sup> This sentence not only demonstrated the federal government’s vested interest in eradicating bias-motivated violence, but also served the public interest in demonstrating that crimes targeting someone because of their race, religion, or other protected characteristics will not be tolerated.

### ***Most state-level hate crime statutes do not offer the range of protections provided under federal law.***

No sentence can offset the suffering inflicted upon hate crime victims, their families, or communities. A hate crime sentence can, however, affirm the government’s commitment to preventing bias-motivated violence, while providing for a greater sense of justice among those affected. Unfortunately, the families and friends of Yusor Abu-Salha, Deah Barakat, and Razan Abu-Salha, along with the broader Arab American Muslim community, still await that affirmation and sense of justice.

<sup>2</sup> 18 U.S.C. § 249.

<sup>3</sup> N.C. Gen. Stat. § 14-3.

<sup>4</sup> 18 U.S.C. § 249(b).

<sup>5</sup> The remaining four states: Arkansas, Georgia, Indiana, Wyoming.

<sup>6</sup> Press Release, U.S. Attorney’s Office, District of South Carolina, *Federal Jury Sentences Dylan Storm Roof to Death* (Jan. 10, 2017), available at <https://www.justice.gov/usao-sc/pr/federal-jury-sentences-dylann-storm-roof-death>.

***No sentence can offset the suffering inflicted upon hate crime victims, their families, or communities. A hate crime sentence can, however, affirm the government's commitment to preventing bias-motivated violence, while providing for a greater sense of justice among those affected.***

On February 10, 2015, Yusor Abu-Salha, her husband Deah Barakat, and her younger sister Razan were murdered in the couple's home in Chapel Hill, North Carolina. According to state and local authorities, the three victims, aged 21, 23, and 19, were killed as a result of "an ongoing parking dispute." Signs indicate, however, that the gunman targeted Yusor, Deah, and Razan on account of their religious affiliation. The devastation wrought is indisputable: the lives of three young Arab American Muslims, full of hope and promise, were ended abruptly in an extreme display of violence. That the accused gunman deserves to be punished for this indefensible act is certain as well. What remains in dispute, however, is whether his actions constitute a hate crime. That question is complicated as a result of North Carolina's hate crime statute, which provides enhanced penalties for misdemeanors, but not felony offenses.<sup>7</sup> While federal investigators opened a preliminary inquiry into the shooting, the Justice Department has yet to indict the shooter, Craig Hicks, on hate crime charges.<sup>8</sup>

Words cannot fully capture the scale of this tragedy. However, we hope this narrative vignette communicates the distinct nature and lasting impact of the event, and that readers discern not only the specific threats facing targeted or vulnerable communities, but also the challenges within the system to address those threats.

## Introduction

In the summer of 2013, Deah Barakat moved into an apartment in Chapel Hill, North Carolina. His roommate, Imad Ahmad, was a Ph.D. student of chemistry at the University of North Carolina. Deah would be starting at the university's school of dentistry that coming fall. Their first interaction with Craig Hicks, a neighbor, occurred shortly after their arrival.<sup>9</sup> Hicks, a middle-aged white man, was a former auto-parts salesman who had a history of tormenting fellow residents over their alleged misuse of parking spaces in the shared lot of the apartment complex where they lived.<sup>10</sup> According to his social media, Hicks was also a devout gun enthusiast, and even flashed his weapon during subsequent confrontations with Deah and Imad over parking or noise.<sup>11</sup> Hicks also took to social media to post anti-religious missives and was a self-described "anti-theist." In response to one post about tensions between Islam, Judaism, and Christianity, Hicks wrote, "I wish they would just exterminate each other!"<sup>12</sup> In another post, he wrote about expressions of religious faith with particular disdain:

The moment that your religion claims any kind of jurisdiction over my experience, you insult me on a level that you can't even begin to comprehend. Even if your beliefs had substance, the arrogance of that would be insult enough. But the fact that they have no substance, and are merely a transparent raft of delusions and lies, magnifies the insult enormously.<sup>13</sup>

For Deah, a devout Muslim, faith was a driving force throughout his short life. Over the course of his studies at UNC, he began to take an interest in pediatric dentistry, where his warm, affectionate disposition helped him thrive. He remained close with administrators from the private, faith-oriented grammar school he attended as a child, and he worked for a local charity providing dental and nutritional relief to the area's homeless population. At the time of his death, Deah was fundraising for a trip with other dental students to treat Syrian refugees in Turkey.<sup>14</sup> His passion for serving others was apparent to all who knew

<sup>7</sup> N.C. Gen. Stat. § 14-3.

<sup>8</sup> Jonathan M. Katz and Richard Pérez-Peña, "Federal Inquiry Begins Into Muslim Students' Killings in North Carolina," *New York Times* (Feb. 13, 2015), <https://www.nytimes.com/2015/02/14/us/fbi-inquiry-muslim-student-killings-chapel-hill-north-carolina.html>.

<sup>9</sup> Margaret Talbot, "The Story of a Hate Crime," *The New Yorker* (Jun. 2015), <https://www.newyorker.com/magazine/2015/06/22/the-story-of-a-hate-crime>.

<sup>10</sup> Jonathan M. Katz and Richard Pérez-Peña, "In Chapel Hill Shooting of 3 Muslims, a Question of Motive," *New York Times* (Feb. 13, 2015), <https://www.nytimes.com/2015/02/12/us/muslim-student-shootings-north-carolina.html>.

<sup>11</sup> Sarah Kaplan, "Suspect in Chapel Hill Killings Described as Troublemaker, Obsessed with Parking," *Washington Post* (Feb. 12, 2015), [https://www.washingtonpost.com/news/morning-mix/wp/2015/02/12/alleged-chapel-hill-killer-described-as-neighborhood-bully-obsessed-with-parking-and-noise/?noredirect=on&utm\\_term=.7f0920d9106b](https://www.washingtonpost.com/news/morning-mix/wp/2015/02/12/alleged-chapel-hill-killer-described-as-neighborhood-bully-obsessed-with-parking-and-noise/?noredirect=on&utm_term=.7f0920d9106b).

<sup>12</sup> Associated Press, "North Carolina Suspect Railed Against Religion on Facebook," *Chicago Tribune* (Feb. 15, 2015), <http://www.chicagotribune.com/news/nationworld/chi-north-carolina-shooting-suspect-religion-20150215-story.html>.

<sup>13</sup> Margaret Talbot, "The Story of a Hate Crime," *supra* note 9.

<sup>14</sup> Rebecca Martinez, "Feeding Their Legacy: Charity Efforts Honor Chapel Hill Shooting Victims," *North Carolina Public Radio* (Mar. 5, 2015), <http://wunc.org/post/feeding-their-legacy-charity-efforts-honor-chapel-hill-shooting-victims#stream/0>.

him. In many ways, Deah grew up as an everyday American kid. He played basketball, watched ESPN’s “SportsCenter,” and listened to country music. He was goofy, lighthearted, and knew every word to the song “Let It Go,” from the Disney musical “Frozen.” Despite his towering height, at six-foot-three, he was gentle, and a big fan of hugs.

Deah and Imad learned to deal with their irascible neighbor. To prevent further confrontations with Hicks, Deah distributed annotated maps of the parking lot to his friends and family, identifying the spaces where visitors could and could not park. For a long time, these preventive measures seemed to work just fine. Things changed toward the end of 2014, when Imad moved out of the apartment and Yusor, Deah’s wife, moved in.

Yusor Abu-Sahla was smart, caring, ambitious, and loving. According to her family members, she had found her match in Deah.<sup>15</sup> Just like him, she had excelled in her studies and aspired to become a dentist. Yusor spent the summer after her college graduation volunteering at a dental clinic for Syrian refugees in Southern Turkey.<sup>16</sup> This experience cemented her decision to attend dental school. It also inspired Deah’s aforementioned fundraising efforts. The couple were married in December 2014. Following their honeymoon, Yusor joined Deah in the Chapel Hill apartment. She expected to begin her studies at UNC’s School of Dentistry in the fall of 2015.

Faith was also a driving force in Yusor’s life, and just like Deah, she was committed to assisting and caring for those in need. Razan, her younger sister, often visited the apartment and was likewise devoted to helping others. She had accompanied Yusor during the couple’s first outings together, many of which involved public service of some form. Razan was training for a marathon, enjoyed early morning chats with her parents over coffee, and was a freshman at North Carolina State, where she was studying to become an architect. In the wake of the shooting, the families and friends of Yusor, Razan, and Deah shared many stories illustrating their spirit, humor, and commitment to

service.<sup>17</sup> They also shared stories indicating the incident was a hate crime.

One potentially critical detail might explain why Hicks’ anger seemed to swell after Yusor moved in. Whereas Deah “dressed like other college guys, in sweats and T-shirts,” Yusor and Razan wore the headscarf and therefore carried an outward expression of their faith. According to the couple’s family members, Hicks repeatedly told Yusor he did not like how she looked because of her headscarf.<sup>18</sup> In one interview, Yusor’s father, Mohammad Abu-Salha, said he was certain Hicks targeted his daughters because of their faith:

I am sure my daughter felt hated, and she said, literally, “Daddy, I think it is because of the way we look and the way we dress.”<sup>19</sup>

Imad, Deah’s former roommate, also reported that Hicks’ resentment increased after Yusor moved in. In the month of January alone, Hicks allegedly harassed the couple at their apartment on six different occasions. He also left a menacing note on Yusor’s car; something he had never done to Deah or Imad.<sup>20</sup> Text messages between Yusor and Deah reveal the couple were concerned. On one occasion, Yusor wrote: “Our neighbor is always walking around us with a gun. He’s always looking at me. Would he be doing this if we were white? I feel unsafe.”<sup>21</sup> Deah reassured her that Hicks would not resort to violence, and they decided against contacting local authorities.

***“Our neighbor is always walking around us with a gun. He’s always looking at me. Would he be doing this if we were white? I feel unsafe.”***

#### Incident

Around 5:00 pm on February 10, 2015, Craig Hicks confronted Deah at the front door of the couple’s apartment,

<sup>15</sup> Mohammad Abu-Salha and Farris Barakat, “Families of Chapel Hill Shooting Speak Out on Anti-Muslim Hate,” *Time* (Feb. 10, 2016), <http://time.com/4216277/families-of-chapel-hill-victims-speak-out>.

<sup>16</sup> Jorge Valencia, “Razan and Yusor Abu-Salha Were All-American Sisters Who Loved Their Family, Service and the Beach,” *North Carolina Public Radio* (Feb. 9, 2016), <http://wunc.org/post/razan-and-yusor-abu-salha-were-all-american-sisters-who-loved-their-family-service-and-beach#stream/0>.

<sup>17</sup> Ashley Frantz, “Slain North Carolina Couple and Sister Remembered as Generous, Loving,” *CNN* (Feb. 11, 2015), <https://www.cnn.com/2015/02/11/us/chapel-hill-shooting-victims/index.html>.

<sup>18</sup> Mohammad Abu-Salha and Farris Barakat, “Families Speak Out,” *supra* note 15.

<sup>19</sup> Margaret Talbot, “The Story of a Hate Crime,” *supra* note 9.

<sup>20</sup> Associated Press, “North Carolina Suspect Railed Against Religion on Facebook,” *supra* note 12.

<sup>21</sup> Moni Basu, “A Gunman Killed His Brother. Now Farris Barakat is on an American Journey,” *CNN* (Feb. 9, 2018), <https://www.cnn.com/2018/02/08/us/nc-muslim-killings-american-journey/index.html>.

shooting him multiple times in the chest, head, and extremities.<sup>22</sup> He then entered the apartment, where he encountered Yusor and Razan, who had come over for dinner. After shooting Yusor once in the hip, Hicks stood over the women and shot each of them once in the head. The autopsy indicates the shots were fired from close range. Hicks then evacuated the apartment, but not before shooting Deah once more in the mouth.<sup>23</sup> In a matter of hours, Hicks was in police custody.

In the immediate aftermath of the shooting, the Chapel Hill Police issued a statement declaring that a preliminary investigation indicated Hicks committed the crime on account of “an ongoing neighbor dispute over parking.”<sup>24</sup> Later statements from Hicks’ wife seemed to support this narrative. At a press conference the following day, Karen Hicks told reporters the shooting “had nothing to do with religion,” and was solely related to her husband’s aggravations over parking.<sup>25</sup>

### **According to Chapel Hill Police, the incident resulted from “a neighbor dispute over parking.”**

The families of Yusor, Razan, and Deah felt this narrative trivialized and obscured the true nature of the crime, that their killer was motivated, at least in part, because of their faith.<sup>26</sup> In an interview on the radio program *Democracy Now*, Mohammad Abu-Salha, the father of Yusor and Razan, said he was certain the murder was a hate crime:

Though he picked on parking for five years, he never threatened anybody this way until he saw my daughter Yusor and my daughter Razan show up on the scene with the hijab and he could tell they’re Muslim, because, before that, he never did that with Deah, my son-in-law, because Deah looked like an average, tall, slim, athletic white American boy. Nobody could tell Deah was a Muslim, because he didn’t—they never

had an accent, either. So, once he began to see my daughters, he began to raise the heat. And he told Yusor, my late Yusor, that he hated her and how she dressed and how she appeared. And though the three of them were drop-dead gorgeous children, very well-known philanthropists and charity workers in the region, he saw them as just Muslims, and he zoned in on them, planning to kill them. And he carried out his threats in a very premeditated and cold-blooded fashion.<sup>27</sup>

### **Response**

Members of the American public, particularly within the Arab American and American Muslim communities, were concerned about the nature of the crime as well. Two days after the shooting, a coalition of over 150 civil rights, faith, community and advocacy groups, including the Arab American Institute, wrote a letter to U.S. Attorney General Eric Holder urging the federal government to pursue hate crime charges.<sup>28</sup> The coalition argued an indictment would send a clear message from the nation’s chief law enforcement officer: that acts of extreme violence targeting the American Muslim, Arab, Sikh, or South Asian communities are reprehensible and will be punished to the fullest extent of the law. While federal investigators opened a preliminary inquiry into the shooting, the Justice Department has yet to indict Hicks on hate crime charges.<sup>29</sup>

Along with family, friends, community members, and coalition groups, experts also suspected the incident was a hate crime. According to Jack McDevitt, a criminologist at Northeastern University whose work is cited elsewhere in this report, while Hicks’ frustrations were parking-related, anti-religious bias may have influenced his decision to commit violence.

You can decide you want to rob someone, for instance, but only someone you perceive to be gay, because maybe you think they’ll be less likely to go to the police, or only an immigrant, because you think the police won’t take it as seriously. In this case, he’s angry

<sup>22</sup> The Guardian, “Chapel Hill Shooting: Gun Held to the Head of Two Victims, Autopsy Reveals” (May 6, 2015), <https://www.theguardian.com/us-news/2015/may/06/chapel-hill-shooting-gun-autopsy>.

<sup>23</sup> Moni Basu, “A Gunman Killed His Brother. Now Farris Barakat is on an American Journey,” *supra* note 21.

<sup>24</sup> Tammy Grubb, “Chapel Hill Police Arrest Man in Triple Homicide,” *News & Observer* (Feb. 10, 2015), <https://www.newsobserver.com/news/local/crime/article36560139.html>.

<sup>25</sup> Julia Dahl, “Wife of Alleged NC Killer: He Believed Everyone Was Equal,” *CBS News* (Feb. 12, 2015) (internal quotation marks omitted), <https://www.cbsnews.com/news/wife-alleged-n-c-shooter-believed-everyone-was-equal>.

<sup>26</sup> Moni Basu, “A Gunman Killed His Brother. Now Farris Barakat is on an American Journey,” *supra* note 21.

<sup>27</sup> *Democracy Now*, “Father of Muslim Women Murdered in Chapel Hill to Jabara Family: I Know How You Feel” (internal quotation marks omitted) (Aug. 23, 2016), [https://www.democracynow.org/2016/8/23/father\\_of\\_muslim\\_women\\_murdered\\_in](https://www.democracynow.org/2016/8/23/father_of_muslim_women_murdered_in).

<sup>28</sup> Coalition letter to Eric H. Holder, Jr., Attorney General of the United States (Feb. 13, 2015), available at <http://www.aaiusa.org/aai-joins-150-civil-rights-orgs-to-demand-federal-action-on-chapel-hill-mur>.

<sup>29</sup> Jonathan M. Katz and Richard Pérez-Peña, “Federal Inquiry Begins Into Muslim Students’ Killings in North Carolina,” *supra* note 8.

about the way people around him live, but he's chosen these specific people because they also represent a religion he's intolerant of.<sup>30</sup>

When investigating a potential hate crime, it is also important to consider whether the level of violence was in excess of what would have been required to commit the crime.<sup>31</sup> The depraved, cold-blooded nature of the shooting seems to indicate a bias motivation was present.<sup>32</sup>

## Conclusion

As of June 2018, Hicks is still awaiting trial for murder. If convicted, he could face the death penalty.<sup>33</sup> He will almost certainly not be convicted of a hate crime, as North Carolina's hate crime statute applies to misdemeanors, but not felonies, committed "because of the victim's race, color, religion, or country of origin."<sup>34</sup> Writing in 2016, the families of Yusor, Razan, and Deah discussed the importance of defining their murder as an act of bias-motivated violence:

[I]n today's environment of hatred and bigotry towards Muslim Americans, citing the hateful murder of [Yusor, Razan, and Deah] as an "ongoing parking dispute" is like re-telling the story of Rosa Park's civil rights struggle as an "ongoing dispute over a bus seat." ... During a time when Muslims, and those who are perceived to be Muslim, are being attacked, and Muslim community centers and places of worship are being vandalized and threatened, it is critical that we speak out against hate and call on our officials to prosecute these crimes to the fullest extent of the law.<sup>35</sup>

Unfortunately, it seems the families, friends, and loved ones of Yusor, Razan, and Deah, along with the broader Arab American and American Muslim communities, will neither be affirmed of the government's commitment to eradicating bias-motivated violence, nor will they be afforded a greater sense of justice.

As compassionate, ambitious, enthusiastic young Americans, Yusor, Deah and Razan accomplished a great

deal in their short lives. Their legacy lives on through the work of their families, friends, and community. In the three years since their deaths, an annual interfaith food drive has helped feed families in 34 North Carolina counties.<sup>36</sup> The "Our Three Winners Foundation," named after Yusor, Deah, and Razan is working to raise funds for various dental and humanitarian relief projects. The Foundation is partnering with several organizations to promote a message of love and understanding alongside service. These include: The Light House, an incubator for faith-based programs that work with youth; Run for Razan, a race that encourages young people to live fulfilling, healthy lives; a day of service with support from the UNC School of Dentistry and the Dental Foundation of North Carolina; Dunking for Deah, a three-on-three basketball tournament; and Habitat for Humanity's Our Three Winners Build Days, where volunteers build homes for those in need. In addition, the Foundation has provided sizable grants to support refugees.

The measure of this tragedy is incalculable. In its wake, however, a community has formed to embrace and celebrate the legacies of Yusor Abu-Salha, Deah Barakat, and Razan Abu-Salha. Their memories will continue to impart messages of love, resilience, and service, even in the face of bigotry and violence.

<sup>30</sup> Margaret Talbot, "The Story of a Hate Crime," *supra* note 9.

<sup>31</sup> See Michael Lieberman, "Hate Crime Laws: Punishment to Fit the Crime," *Dissent* (Summer 2010) (that hate crimes are more likely to involve violence), <https://www.dissentmagazine.org/article/hate-crime-laws-punishment-to-fit-the-crime>.

<sup>32</sup> Margaret Talbot, "The Story of a Hate Crime," *supra* note 9.

<sup>33</sup> Jay Siebold, "Accused Murderer Hicks Still Awaiting Trial Three Years After Arrest," *Carolina Connection* (Feb. 10, 2018), <https://carolinaconnection.org/2018/02/10/accused-murderer-hicks-still-awaiting-trial-three-years-after-arrest>.

<sup>34</sup> N.C. Gen. Stat. § 14-3.

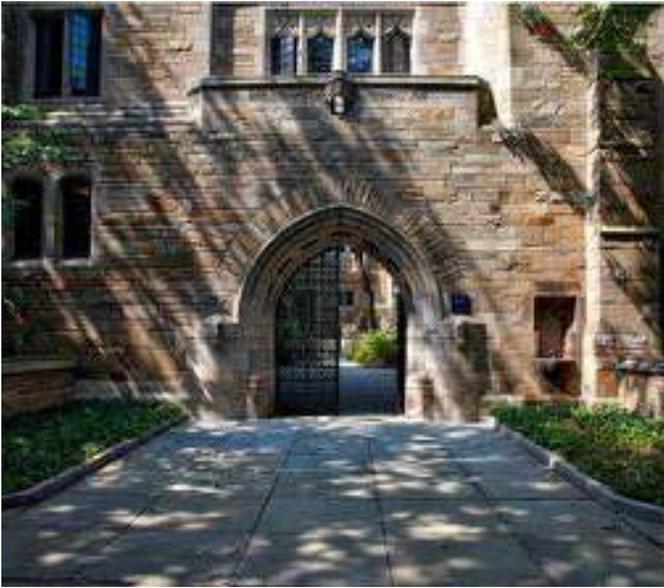
<sup>35</sup> Mohammad Abu-Salha and Farris Barakat, "Families Speak Out," *supra* note 15.

<sup>36</sup> Josh Shaffer, "With Their Memory of Generosity, Food Drive Continues to Honor 3 Slain Muslim Students," *The News & Observer* (Feb. 24, 2018), <http://www.newsobserver.com/news/local/article201977364.html>.



## Anonymous

### State College, Pennsylvania



#### Background

Testifying before Congress in 1986, AAI President James Zogby discussed the relationship between targeted violence against Arab Americans and the broader trends of discrimination, exclusion, harassment, and intimidation facing the community at that time.<sup>37</sup> He recounted his own personal experience of victimization and that of fellow Arab American organizations and political activists. Zogby's office at the Palestinian Human Rights Campaign in Washington, DC, was firebombed in 1980. Five years later, ADC's west coast regional director, Alex Odeh, was killed after setting off a wired explosive upon entering his Santa Ana, California, office. Zogby's brother, John, then a representative of ADC, was also violently assaulted following his appearance on a television program in upstate New York. According to Zogby, federal authorities had not demonstrated sufficient interest in investigating or prosecuting these acts of violence. With the Odeh case in particular, not only had federal authorities failed to secure an indictment; the incident also received

little coverage in the media, and despite the extreme nature of the offense, there was limited response from the Reagan Administration.<sup>38</sup> Zogby went on to note that a broader "campaign of vilification" against Arab Americans had preceded, and perhaps influenced, the commission of each incident. Also testifying at the hearing was attorney Abdeen Jabara, who asserted that public censure of bias-motivated crimes against Arab Americans was necessary to prevent future escalations of targeted violence:

This paucity of official statements denouncing attacks against Arab Americans creates an atmosphere not just of societal permissiveness but of sanction. Where is the long-term, well-publicized saga of the arrest, prosecution, and punishment of just one perpetrator of ethnically or religiously or politically motivated violence against one Arab American? Where are the denunciations of such attacks by labor leaders, church figures, and politicians?<sup>39</sup>

***This paucity of official statements denouncing attacks against Arab Americans creates an atmosphere not just of societal permissiveness but of sanction.***

Today, we have seen an increase of anti-Arab and anti-Muslim hate crime coinciding with concerning developments in American politics and popular culture. Caustic political rhetoric denigrating historically targeted or vulnerable communities, including Arab Americans and American Muslims, along with xenophobic, discriminatory policies such as the Muslim Ban and so-called "extreme vetting," have come, in part, to define the Trump Administration.<sup>40</sup> Some civil rights and advocacy organizations have suggested that divisive anti-Muslim rhetoric and xenophobic policies have contributed to the recent surge of hate violence against Muslim, Arab, and South Asian communities in the United States.<sup>41</sup> Empirical studies have also

<sup>37</sup> *Ethnically Motivated Violence Against Arab-Americans: Hearing Before the H. Subcomm. on Criminal Justice*, 99th Cong. (1986) (statement of Dr. James Zogby, Executive Director, Arab American Institute), available at <https://babel.hathitrust.org/cgi/pt?id=pur1.32754077955643>.

<sup>38</sup> The murder of Alex Odeh remains unsolved.

<sup>39</sup> See statement of Abdeen Jabara (including discussion of Reagan Administration's promulgation of anti-Arab sentiment), *id.*, at 122.

<sup>40</sup> See Muslim Advocates, June 2018 Issue Brief, *A Record of Bigotry and Hate: Donald Trump's Long History of Anti-Muslim Animus* (compilation of campaign trail and presidential statements), available at <https://www.muslimadvocates.org/files/2018.06.12-Anti-Muslim-White-Paper-DRAFT-Endnotes.pdf>. See also Arab American Institute, *Issue Brief: The Muslim and Refugee Ban* (2018), available at [http://www.aaiusa.org/the\\_muslim\\_and\\_refugee\\_ban](http://www.aaiusa.org/the_muslim_and_refugee_ban).

<sup>41</sup> South Asian Americans Leading Together, *Communities on Fire: Confronting Hate Violence and Xenophobic Political Rhetoric* (2018), available at <http://saalt.org/wp-content/uploads/2018/01/Communities-on-Fire.pdf>. See also Southern Poverty Law Center, *Ten Days After: Harassment and Intimidation in the Aftermath of the Election* (Nov. 29, 2016) (regarding perpetrators' invocation of Donald Trump during the commission of hate incidents), available at <https://www.splcenter.org/20161129/ten-days-after-harassment-and-intimidation-aftermath-election>.

demonstrated a strong correlation between Donald Trump's tweets (since announcing his presidential campaign) relating to Islam or Muslims and subsequent outbursts of anti-Muslim hate crime.<sup>42</sup>

A central question of the 1986 hearing was that of the relationship between targeted violence and the broader trends of discrimination, exclusion, harassment, and intimidation of a specific community. Had a "campaign of vilification" against Arab Americans precipitated anti-Arab violence? Had the failure of public figures to categorically denounce such violence created an aura of permissiveness, or even sanction? We continue to ask the same questions today. To what degree are the political rhetoric and discriminatory policies of the Trump Administration responsible for a reported increase in hate crime against targeted or vulnerable communities? These questions are difficult to answer, and they fall outside the scope of this report. However, we do know that hate crime perpetrators have in fact cited President Trump's rhetoric in defense of their actions, as in the following case.

### The Incident

In the early hours of December 5, 2015, Nicholas Tavella threatened and assaulted a fellow student on Penn State University's main campus. Tavella, a 19-year-old white male who was intoxicated at the time of the incident, had allegedly stalked, harassed, and then physically confronted the victim, a South Asian man who will remain anonymous.<sup>43</sup> According to court documents, Tavella had followed the victim home because he "appeared to be of Middle Eastern or Asian descent." At one point, Tavella asked the victim if "he was going to rape a girl," and proceeded to taunt the victim as he tried to get away. "What are you," he said, "from the Middle East?" Tavella then put his hands around the victim's neck and said, "Don't make me put a bullet in your chest."<sup>44</sup>

According to a police affidavit, a Penn State parking officer witnessed the confrontation and called in the University Police over two-way radio. An officer arrived on the scene shortly thereafter. Following his arrest, Tavella admitted to racially profiling the victim because "[he] had been acting suspicious." Tavella also admitted that he had "probably said something racist" during the assault. According to the FBI's 2015 Hate Crime Master File, University Police reported the incident as an anti-Arab hate crime.

### The Prosecution

Among other misdemeanor offenses, prosecutors charged Tavella with the felony offense of ethnic intimidation.<sup>45</sup> Under Pennsylvania's hate crime statute, ethnic intimidation is defined as a crime committed "with malicious intention toward the race, color, religion, or national origin of another individual or group of individuals."<sup>46</sup> In this context, "malicious intention" indicates the crime was motivated by hatred.<sup>47</sup> At a December 9 preliminary hearing, Tavella's attorney requested the judge dismiss the ethnic intimidation charge because he had not demonstrated malicious intention. Rather, it was "love of country" that motivated the assault.<sup>48</sup>

***Tavella's attorney requested the judge dismiss the ethnic intimidation charge because he had not demonstrated malicious intention. Rather, it was "love of country" that motivated the assault.***

The defense noted the San Bernardino shooting had occurred three days prior to the incident.<sup>49</sup> Coupled with the previous month's attacks in Paris,<sup>50</sup> and "Donald Trump's rhetoric covered in the media,"<sup>51</sup> the shooting may have incited fear of "suspicious individuals." Therefore,

<sup>42</sup> Karsten Müller and Carlo Schwarz, Univ. of Warwick, "Making America Hate Again? Twitter and Hate Crime Under Trump" (Mar. 30, 2018), available at [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=3149103](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3149103).

<sup>43</sup> Mark Marino, "Student Charged with Felony Ethnic Intimidation of an Indian Student," *Daily Collegian* (Dec. 8, 2015), [https://www.collegian.psu.edu/news/campus/article\\_0126e5b6-9e02-11e5-9241-d391f34a6252.html#comments](https://www.collegian.psu.edu/news/campus/article_0126e5b6-9e02-11e5-9241-d391f34a6252.html#comments).

<sup>44</sup> Sarah Rafacz, "Man Pleads Guilty to Ethnic Intimidation," *Centre Daily Times* (Oct. 5, 2017), <https://www.centredaily.com/news/local/crime/article106289987.html>.

<sup>45</sup> Jalelah Ahmed, "Ethnic Intimidation Charges Dismissed in Racial Attack," *Centre Daily Times* (Dec. 9, 2015), <https://www.centredaily.com/news/local/education/penn-state/article48797770.html>.

<sup>46</sup> 18 Pa. Cons. Stat. § 2710(a).

<sup>47</sup> 18 Pa. Cons. Stat. § 2710(c).

<sup>48</sup> Jalelah Ahmed, *supra* note 45.

<sup>49</sup> Gregor Aisch et al., "What Happened in the San Bernardino Shooting," *New York Times* (Sept. 9, 2016), <https://www.nytimes.com/interactive/2016/09/08/us/san-bernardino-shooting-timeline.html>.

<sup>50</sup> CNN, "2015 Paris Attacks Fast Facts" (May 2, 2018), <https://www.cnn.com/2015/12/08/europe/2015-paris-terror-attacks-fast-facts/index.html>.

<sup>51</sup> Jalelah Ahmed, *supra* note 45.

according to the defense, Tavella's actions were the product of caustic political rhetoric, fear, and "drunken stupidity," not hatred.<sup>52</sup> We should note that two days before the preliminary hearing, then-candidate Trump called for "a total and complete shutdown of Muslims entering the United States" two days before the preliminary hearing.<sup>53</sup> The local Assistant District Attorney, Jessica Lathrop, warned the judge he would "be sanctioning blatant bigotry" were he to throw out the hate crime charge. Despite this warning, the judge stated the prosecution failed to show Tavella had committed the crime of ethnic intimidation and dismissed the charge.<sup>54</sup>

While Tavella still faced misdemeanor counts of "terroristic threats," "simple assault," "disorderly conduct," "stalking," "harassment," and multiple drinking-related charges, the prosecutors were committed to securing a hate crime sentence. After refiled ethnic intimidation charges and requesting a new judge, Centre County District Attorney Stacy Parks Miller stated that acts of bias-motivated violence must be prosecuted as hate crimes: "A physical attack motivated by skin color and/or perceived ethnicity is simply a hate crime and this will not be tolerated in our community."<sup>55</sup>

After his second preliminary hearing in March 2016, Tavella pleaded guilty on October 5 to the following charges: felony ethnic intimidation, misdemeanor terroristic threats, and summary harassment, public drunkenness and purchase, consumption, possession or transportation of liquor.<sup>56</sup> On November 18, 2016, Tavella was sentenced to 15 days to 23 ½ months for ethnic intimidation, to be served concurrently with his misdemeanor sentence, along with 90 days probation for summary harassment. Tavella was also ordered to pay fines for public drunkenness.<sup>57</sup>

## Conclusion

As we note in the preceding vignette, a hate crime sentence can serve to affirm the government's commitment to

eradicating bias-motivated violence while providing a greater sense of justice to those affected. In the case of this particular incident, state authorities managed to convict Nicholas Tavella under Pennsylvania's hate crime statute. Had the state failed to secure a hate crime sentence, we cannot assume federal authorities would have opened an investigation, especially given the low-level nature of the underlying offense. Had the defendant not received a second preliminary hearing, or had the incident occurred in a state without a hate crime statute, this case would have been one of thousands to go unprosecuted each year. According to the Bureau of Justice Statistics' National Crime Victimization Survey, approximately 250,000 hate crime victimizations occur annually in the United States.<sup>58</sup> On average, only 46 percent of those victimizations are reported to law enforcement.<sup>59</sup> Even if a hate crime is reported to police, the victim might not be protected under state law, given that most states do not offer protections consistent with the federal hate crime statute.<sup>60</sup> Furthermore, the evidentiary burden can be high in a hate crime case; despite substantial evidence demonstrating bias motivation, as with this particular incident, a case can still be at risk of falling through the cracks.

The challenges cited above demonstrate the need for comprehensive state-level statutes to support the federal government's commitment to hate crime prevention. Robust enforcement of those statutes is likewise critical to securing justice. In this particular case, the responding officer identified a bias motivation and correctly reported the incident as an anti-Arab hate crime. While there is no state law requiring such training, the Pennsylvania Municipal Police Officers' Education Training Commission has required that law enforcement personnel receive basic training on ethnic intimidation and bias crimes. Only 15 states have statutes requiring hate crime training for law enforcement certification. To ensure hate crimes are prosecuted, they must first be reported. State legislatures must therefore pass law enforcement training statutes and other laws promoting

<sup>52</sup> Mark Marino, "Judge Drops Ethnic Intimidation Charge Against Penn State Student," *Daily Collegian* (Dec. 10, 2015), [https://www.collegian.psu.edu/news/borough/article\\_dffb2982-9ed4-11e5-a2bc-ff62b215a2e2.html](https://www.collegian.psu.edu/news/borough/article_dffb2982-9ed4-11e5-a2bc-ff62b215a2e2.html).

<sup>53</sup> Jessica Taylor, "Trump Calls for Total and Complete Shutdown of Muslims Entering U.S.," *NPR* (Dec. 7, 2015) (internal quotation marks omitted), <https://www.npr.org/2015/12/07/458836388/trump-calls-for-total-and-complete-shutdown-of-muslims-entering-u-s>.

<sup>54</sup> Jalelah Ahmed, *supra* note 45.

<sup>55</sup> Lori Falce, "Parks Miller to Refile Ethnic Intimidation Charges," *Centre Daily Times* (Dec. 11, 2015), <https://www.centredaily.com/news/local/crime/article49255185.html>.

<sup>56</sup> Sarah Rafacz, *supra* note 44.

<sup>57</sup> Geoff Rushton, "Former Penn State Student Sentenced in Ethnic Intimidation Case," *State College News* (Nov. 18, 2016), <http://www.statecollege.com/news/local-news/former-penn-state-student-sentenced-in-ethnic-intimidation-case,1470027>.

<sup>58</sup> Lynn Langton, Ph.D., and Madeline Masucci, Bureau of Justice Statistics, U.S. Dep't of Justice, *Hate Crime Victimization, 2004-2015* (June 2017), available at <https://www.bjs.gov/content/pub/pdf/hcv0415.pdf>.

<sup>59</sup> There are various reasons why hate crime victims do not report incidents to law enforcement, including fear of retaliation, distrust in law enforcement, or a feeling that nothing will be done. Through the #ReportHate Project, the Arab American Institute works with local partners and communities to encourage hate crime reporting through official avenues. See Arab American Institute, #ReportHate, <http://www.aaiausa.org/reporhate>.

<sup>60</sup> The Matthew Shepard and James Byrd, Jr., Hate Crimes Prevention Act of 2009 (18 U.S.C. § 249) offers protections for race, color, religion, national origin, gender, sexual orientation, gender identity, and disability.

hate crime reporting and data collection. These efforts would not only help to improve nationwide hate crime statistics, but also to secure justice for individual hate crime victims, their families, and their communities.

### **Additional Considerations**

As for the initial question posed in this vignette, the exact relationship between the political rhetoric and discriminatory policies of this administration and the recent escalation of targeted violence, particularly against Arab Americans and American Muslims, is hard to define. When it comes to hate crime against historically targeted or vulnerable communities, some have speculated that an aura of permissiveness, or even sanction, pervades American politics and popular culture. This report does not seek to answer that question. However, in this particular case, the perpetrator cited President Trump's campaign rhetoric in defense of his actions. This case could refer to an isolated incident. Furthermore, while the evidence suggests the defendant committed the assault because of the victim's actual or perceived ethnicity, we cannot know for sure whether the president's campaign rhetoric was a decisive factor. Despite these qualifications, we are nevertheless tempted to view this case in light of a broader narrative.

## ***The perpetrator cited President Trump's campaign rhetoric in defense of his actions.***

Before we conclude this vignette, we should consider one additional aspect of this case: the defendant's mistaken perception of the victim's ethnicity. According to court documents, Tavella followed and then assaulted the victim, a South Asian man, because he thought he was of "Middle Eastern or Asian descent."<sup>61</sup> In the immediate aftermath of 9/11, many Sikh Americans, who are predominantly South

Asian, were the victims of anti-Arab and anti-Muslim hate crime.<sup>62</sup> According to the Southern Poverty Law Center, the white supremacist responsible for a 2012 shooting that killed six Sikh worshippers at a gurdwara in Oak Creek, Wisconsin, believed he was targeting Muslims.<sup>63</sup> In a February 2017 incident at a bar in Olathe, Kansas, a middle-aged white man denigrated two Indian men with an anti-Arab epithet before shooting both of them, killing one and injuring the other.<sup>64</sup> These examples serve to illustrate that Anti-Arab and anti-Muslim hate crimes affect not only Arab Americans and American Muslims, but also Sikh Americans, South Asian Americans, and other communities as well.

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<sup>61</sup> Mark Marino, *supra* note 43.

<sup>62</sup> Moni Basu, "15 Years After 9/11, Sikhs Still Victims of Anti-Muslim Hate Crimes," *CNN* (Sept. 15, 2016), <https://www.cnn.com/2016/09/15/us/sikh-hate-crime-victims/index.html>.

<sup>63</sup> Marilyn Elias, "Sikh Temple Killer Radicalized in Army," *Southern Poverty Law Center* (Nov. 11, 2002), <https://www.splcenter.org/fighting-hate/intelligence-report/2012/sikh-temple-killer-wade-michael-page-radicalized-army>.

<sup>64</sup> A bystander who tried to intervene was also shot. See Press Release, Office of Public Affairs, U.S. Dep't of Justice, Kansas Man Pleads Guilty to Hate Crime and Firearm Offenses in Shooting of Two Indian Nationals and Third Man at a Bar (May 21, 2018), available at <https://www.justice.gov/opa/pr/kansas-man-pleads-guilty-hate-crime-and-firearm-offenses-shooting-two-indian-nationals-and>.

## Khalid Jabara

### Tulsa, Oklahoma



#### Background

Since 1992, the FBI UCR Program has published an annual report on the nature and extent of bias-motivated violence in the United States. Based on voluntary data submissions from participating law enforcement agencies, *Hate Crime Statistics* provides the federal government and American public with critical information regarding the threat of hate crime against specific communities. The report features data organized according to a variety of “data elements,” including Bias Motivation, Offense Type, Known Offender’s Race and Ethnicity, Victim Type, and Location Type. Information pertaining to each state, including the number of hate crime incidents that specific law enforcement agencies report per quarter, is also provided.

While national UCR hate crime data collections are based on voluntary submissions from participating agencies, some states require mandatory hate crime reporting and data collection at the state level. A total of 23 states have statutes requiring law enforcement agencies to report hate crimes to a centralized repository. In all 23 states, that centralized

repository performs the duties of a state-level UCR program: collecting data submitted from reporting law enforcement agencies and forwarding that data to the FBI UCR Program, which then publishes the data in *Hate Crime Statistics*. Oklahoma state code requires the Oklahoma State Bureau of Investigation (OSBI) to “develop a standard system for state and local law enforcement agencies to report incidents of crime” apparently committed because of race, color, religion, ancestry, national origin, or disability.<sup>65</sup> Pursuant to this statute, all state, county, city, and town law enforcement agencies are required to submit monthly hate crime reports to the OSBI.

In 2016, a total of 15,254 law enforcement agencies, representing 49 states and the District of Columbia, participated in the national hate crime statistics program. To be considered a participating agency, law enforcement agencies must submit either “zero data” or incident reports to the FBI UCR Program during at least one quarterly submission period. When a participating agency submits zero data for a specific quarter, that means no hate crimes were reported during that period. Of these 15,254 participating agencies, 13,478 (88 percent) submitted only zero data in 2016. The remaining 1,776 agencies submitted incident reports during at least one quarter, amounting to 6,121 hate crime incidents in total. These 6,121 incidents correspond to 7,321 separate offenses,<sup>66</sup> including, but not limited to: 2,109 intimidation offenses; 1,913 destruction/damage/vandalism offenses; 1,687 simple assaults; and 873 aggravated assaults.<sup>67</sup> According to *Hate Crime Statistics*, there were fewer than 10 hate crime murders or non-negligent manslaughters reported in 2016.

Of the 355 Oklahoma law enforcement agencies participating in the national hate crime statistics program, a total of 22 agencies submitted incident reports to the FBI UCR program in 2016.<sup>68</sup> These 22 agencies submitted 33 incidents, corresponding to 35 separate offenses. Behind the Oklahoma City Police Department, the Tulsa Police Department represents the second largest population in the state.<sup>69</sup> According to *Hate Crime Statistics*, the Tulsa Police Department reported a single hate crime to the FBI UCR Program in 2016: a religion-based incident occurring in

<sup>65</sup> Okla. Stat. tit. 21, § 21-850(F).

<sup>66</sup> A single incident can consist of multiple offenses.

<sup>67</sup> CJIS Div., Fed. Bureau of Investigation, Table 11: Offenses, *Hate Crime Statistics, 2016* (Nov. 13, 2017), <https://ucr.fbi.gov/hate-crime/2016/tables/table-11>.

<sup>68</sup> CJIS Div., Fed. Bureau of Investigation, Table 12: Agency Hate Crime Reporting by State, *Hate Crime Statistics, 2016* (Nov. 13, 2017), <https://ucr.fbi.gov/hate-crime/2016/tables/table-12>.

<sup>69</sup> The Tulsa Police Department represents a population of 405,748.

the second quarter.<sup>70</sup> The department submitted zero data during the third quarter of 2016, indicating that no hate crimes occurred in Tulsa between July and September of that year. As the following vignette demonstrates, however, that simply is not true.

## **According to federal statistics, one of the highest profile hate crimes in recent years never even happened.**

### **Introduction**

On August 12, 2016, Khalid Jabara was shot to death on the front porch of his Tulsa, Oklahoma home. His next-door neighbor, a 61-year-old white man, was ultimately found guilty of first-degree murder, “possession of a firearm in the commission of a felony,” “threatening an act of violence,” and “malicious intimidation or harassment.”<sup>71</sup> Under Oklahoma state law, malicious intimidation or harassment is defined as a crime committed “maliciously and with specific intent to intimidate or harass another person because of that person’s race, color, religion, ancestry, national origin, or disability.”<sup>72</sup> While Khalid’s murderer, Stanley Vernon Majors, was charged and convicted with a hate crime under Oklahoma’s hate crime statute, the incident was never reported in federal hate crime statistics. Given that every law enforcement agency in Oklahoma is required to submit monthly hate crime reports to the OSBI, the FBI UCR Program should have received this incident through its hate crime data collections. Had that been the case, the incident would represent one out of a total 10 hate crime murders or non-negligent manslaughters reported in 2016 nationwide.

Khalid was 37 years old when he was killed. The middle of three children, he was quieter and more sensitive than his siblings Victoria and Rami, but also charming and quick-witted. Khalid’s cousin said she had never known a man “so nice, sweet, emotional, tender, as humble, handsome,

beautiful, inside and out.”<sup>73</sup> After his father, Mounah, became seriously ill, Khalid embraced the role of caregiver to his parents, living at home and assisting with the family business.<sup>74</sup> He was also a loving uncle.

The Jabaras fled Lebanon in 1983 and settled in the quiet suburbs of Tulsa, Oklahoma.<sup>75</sup> Given that no restaurants in the area served authentic Lebanese cuisine, Khalid’s parents established a small bakery and deli, which eventually became a full-fledged catering company. According to his sister, Khalid faced more prejudice growing up than his siblings. “He was darker than my brother and I, plus he had an Arabic name,” Victoria said. “Khalid felt that pain and prejudice more than we did.”<sup>76</sup> At the same time, many people admired Khalid: he was charismatic, kindhearted, and, nevertheless, an introvert.<sup>77</sup> Despite the common challenges of adjusting to life in a new culture, things were good for the Jabara family. That all changed when a man named Stanley Vernon Majors moved in with their next-door neighbor.

The neighbor, an elderly man named Stephen Schmauss, was reportedly quite friendly with the Jabara family. Given their shared love for computers, Khalid and Stephen were especially close. “Khalid was my best friend,” Schmauss said after the murder. “My only friend.”<sup>78</sup> Majors objected to the friendship, and the Jabara family’s encounters with him became more threatening and explicitly bias-motivated over time. In an interview, Victoria described one of their initial confrontations with Majors, who first arrived next door in 2011:

[H]e came onto our property, took photos of my mom cooking, and called the health department, asking for our business to be shut down. He claimed that we were preparing food for our business at home, which we were not. It got worse from there. He called us “filthy Arabs.”<sup>79</sup>

<sup>70</sup> CJIS Div., Fed. Bureau of Investigation, Table 13: Oklahoma Hate Crime Incidents per Bias Motivation and Quarter by State and Agency, *Hate Crime Statistics, 2016* (Nov. 13, 2017), <https://ucr.fbi.gov/hate-crime/2016/tables/table-13>.

<sup>71</sup> Steve Almasy and Konstantin Toropin, “Oklahoma Man Found Guilty of Hate Crime in His Neighbor’s Death,” *CNN* (Feb. 7, 2018), <https://www.cnn.com/2018/02/07/us/oklahoma-stanley-vernon-majors-trial/index.html>.

<sup>72</sup> Okla. Stat. tit. 21, § 21-850(A).

<sup>73</sup> Andrea Eger, “Khalid Jabara’s Family Sits Down for First In-Depth Interview, Sharing New Details of His Life and Death,” *Tulsa World* (Aug. 22, 2016), [https://www.tulsaworld.com/news/local/khalid-jabara-s-family-sits-down-for-first-in-depth/article\\_1cda7b0c-c229-5753-bba2-f6f05eaa54e0.html](https://www.tulsaworld.com/news/local/khalid-jabara-s-family-sits-down-for-first-in-depth/article_1cda7b0c-c229-5753-bba2-f6f05eaa54e0.html).

<sup>74</sup> Christopher Mathias, “The Killing of Khalid Jabara is an American Tragedy,” *Huffington Post* (Aug. 23, 2016), [https://www.huffingtonpost.com/entry/khalid-jabara-killed\\_us\\_57b493b8e4b0b42c38afb448](https://www.huffingtonpost.com/entry/khalid-jabara-killed_us_57b493b8e4b0b42c38afb448).

<sup>75</sup> *Id.*

<sup>76</sup> Arjun Singh Sethi, *American Hate: Survivors Speak Out* (New York: The New Press, 2018).

<sup>77</sup> *Id.*

<sup>78</sup> Andrea Eger, “Jabara Slaying: Next Door Neighbor Says Husband Killed ‘My Best Friend,’” *Tulsa World* (Aug. 20, 2016), [https://www.tulsaworld.com/news/crimewatch/jabara-slaying-next-door-neighbor-says-husband-killed-my-best/article\\_bbbba4e7-5fa5-5a7d-a6ce-aa8cbd12d52e.html](https://www.tulsaworld.com/news/crimewatch/jabara-slaying-next-door-neighbor-says-husband-killed-my-best/article_bbbba4e7-5fa5-5a7d-a6ce-aa8cbd12d52e.html).

<sup>79</sup> *Id.*

Majors also directed racist epithets toward the family's African American friend and their fellow Hispanic neighbor. Records indicate he had an extensive criminal record. On October 14, 2009, he was sentenced to 16 months in a California prison for threatening another man "with intent to terrorize" in Los Angeles County, and was paroled nine months later.<sup>80</sup> On July 7, 2011, he was charged in San Bernardino County Court with assault with a deadly weapon, threatening a crime and making criminal threats.<sup>81</sup> After determining he may have violated his parole, California authorities issued a warrant for his arrest on December 11, 2012. According to Khalid's older sister Victoria, the Jabaras received news of the arrest warrant from family friends. "We called the cops, and they took him away," she said. "He was sent back to California, and we thought he was out of our life for good."<sup>82</sup>

### Mounting Threats

When Majors reappeared in the neighborhood six months later, his threats against members of the Jabara family became more severe. Khalid's mother, Haifa, filed an application for a protective order against him in August 2013, citing multiple cases of harassment. Majors had reportedly stolen documents from her car, threatened violence against her over the phone, and would occasionally creep around the Jabaras' home at night, tapping on the windows.<sup>83</sup> In a statement released three days after Khalid's murder, the Jabara family recounted the array of racist epithets Majors used against their ethnicity and perceived religious affiliation:

This suspect had a history of bigotry against our family. He repeatedly attacked our ethnicity and perceived religion, making racist comments. He often called us "dirty Arabs," "filthy Lebanese," "Aye-rabs," and "Mooslems."<sup>84</sup>

According to the family's statement, the Tulsa Police Department confirmed Majors had, in fact, made these comments.

In March 2015, Majors was charged with violating the restraining order after he threatened Haifa in her driveway. According to a police report, he said he wanted to kill her and uttered multiple racial slurs. Non-cooperative and clearly intoxicated, Majors was also charged with obstructing police.<sup>85</sup> At Majors' January 2018 murder trial, the police officer who responded to the March 2015 incident testified that Majors asked why the officer was taking him to jail. "You're white, I'm white," he said. "I can't believe the Lebanese are running the show."<sup>86</sup> According to the Jabara family, Majors hired an attorney after being taken into custody and posted bond. After he stopped appearing in court, a judge issued a warrant for his arrest. While both Victoria and Haifa called police alerting them of their neighbor's whereabouts (he was still living next door), he was never arrested: "They can't see beyond the paperwork. On paper, it was just a misdemeanor, so they ignored it."<sup>87</sup>

On September 12, 2015, Haifa Jabara was walking through her neighborhood when she was struck in an apparent hit-and-run. She had "road rash all over her body," and suffered a broken hand, shoulder, ribs, ankle, nose, a collapsed lung, and head trauma.<sup>88</sup> Khalid told authorities he suspected Majors had intentionally mowed down his mother. According to police reports, his car was later found with the windshield shattered and "what appeared to be blood or tissue stuck on it."<sup>89</sup> According to court records, he was charged with "assault and battery with a deadly weapon, leaving the scene of a collision involving injury, violating a protective order, and public intoxication."<sup>90</sup>

After spending eight months in the Tulsa jail, Majors was released on May 25, 2016, after posting \$60,000 bond.<sup>91</sup> No

<sup>80</sup> Samantha Vincent, "Man Charged in Killing of Khalid Jabara to Undergo Competency Evaluation," *Tulsa World* (Dec. 1, 2016), [https://www.tulsaworld.com/news/courts/man-charged-in-killing-of-khalid-jabara-to-undergo-competency/article\\_655bbf8a-acc7-54ad-958d-51c7054a1a25.html](https://www.tulsaworld.com/news/courts/man-charged-in-killing-of-khalid-jabara-to-undergo-competency/article_655bbf8a-acc7-54ad-958d-51c7054a1a25.html).

<sup>81</sup> Andrea Eger and Curtis Killman, "Khalid Jabara Killing: Suspect's Bizarre Criminal Past Comes to Light After Tulsa World Investigation," *Tulsa World* (Aug. 28, 2016), [https://www.tulsaworld.com/news/crimewatch/khalid-jabara-killing-suspect-s-bizarre-criminal-past-comes-to/article\\_0e3737da-cd4d-514d-b976-486140cad45f.html](https://www.tulsaworld.com/news/crimewatch/khalid-jabara-killing-suspect-s-bizarre-criminal-past-comes-to/article_0e3737da-cd4d-514d-b976-486140cad45f.html).

<sup>82</sup> Arjun Singh Sethi, *supra* note 76.

<sup>83</sup> Eger and Killman, *supra* note 79.

<sup>84</sup> Arab American Institute, "Our Thoughts Are With the Jabaras" (Aug. 15, 2016), [http://www.aaiusa.org/our\\_thoughts\\_are\\_with\\_k](http://www.aaiusa.org/our_thoughts_are_with_k).

<sup>85</sup> Michael E. Miller, "Man's 'Unusual Fixation' with Lebanese Neighbors Led to Killing, Police Say," *Washington Post* (Aug. 16, 2016), [https://www.washingtonpost.com/news/morning-mix/wp/2016/08/16/mans-unusual-fixation-with-lebanese-neighbors-led-to-murder-tulsa-police-say/?noredirect=on&utm\\_term=.bbcf3f7a1b02](https://www.washingtonpost.com/news/morning-mix/wp/2016/08/16/mans-unusual-fixation-with-lebanese-neighbors-led-to-murder-tulsa-police-say/?noredirect=on&utm_term=.bbcf3f7a1b02).

<sup>86</sup> Taylor Newcomb, "Jabara Family Testifies in Stanley Majors' Murder Trial," *News On 6* (Jan. 30, 2018), <http://www.news6.com/story/37388258/jabara-family-gives-testimony-in-stanley-majors-murder-trial>.

<sup>87</sup> Arjun Singh Sethi, *supra* note 76.

<sup>88</sup> *Id.*

<sup>89</sup> Michael E. Miller, *supra* note 85.

<sup>90</sup> *Id.*

<sup>91</sup> *Id.*

one informed the Jabara family of Majors' release. Only because Khalid routinely checked the state's online court records system did the family learn he was out of custody.<sup>92</sup> Majors' bond was originally set at \$200,000. Out of concern for their safety, the Jabaras contacted the district attorney's office requesting the bond be revoked, and a judge ultimately granted that request. On May 23, however, Majors hired a new lawyer and got the bond reinstated at \$30,000. According to Khalid's younger brother, Rami, authorities failed to consider the particular circumstances of the case.

Apparently there was a hearing with a new government attorney who didn't know the case history, and when the defense lawyer made an oral motion to reconsider bond, it was granted by the judge. The government attorney didn't object because he hadn't read the case file and because it's customary to grant bond in cases of assault and battery.<sup>93</sup>

Majors' release from jail terrified the Jabaras, and the district attorney's office filed a motion to reconsider bond, which the judge simply doubled from \$30,000 to \$60,000. He posted easily. The judge presiding over the hearing, a former mayor of Tulsa and Chief Judge of the Tulsa County District Court's Criminal Division, put the defendant on notice. "This is a very precarious situation," he said. "I'm very concerned with you out of custody and living next door...given this history."<sup>94</sup> Despite the district judge's stated concerns, Majors was released without any conditions on his bond and no requirements to vacate the neighborhood.

### The Incident

Three months later, on August 12, 2016, Khalid Jabara was dead, slain in cold blood on the front porch of his family home. On the day of his murder, Khalid called 911 to notify authorities that Majors had a gun. Majors had allegedly beaten his elderly husband and "emptied at least five rounds from a handgun inside the couple's home, sending bullets in every direction."<sup>95</sup> According to Schmauss, who has since

passed away, he warned Khalid that Majors was dangerous and then fled for his life. "[C]all the police," he said. "For God's sake, call the police."<sup>96</sup> Officers from the Tulsa Police Department responded at the Jabaras' home 50 minutes after Khalid's second call (he had already called once to report someone was tapping on the windows).<sup>97</sup> When police knocked on Majors' front door and no one answered, they told Khalid they could not enter the home without a warrant. There was nothing they could do.<sup>98</sup> They left the scene.

Eight minutes later, neighbors reported hearing gunshots. Haifa Jabara was on the phone with her son when it happened—he had warned her to stay away from the home.<sup>99</sup> She heard Khalid scream. She heard his killer in the background. "I told you this was coming!" He said.<sup>100</sup> After pointing his weapon and threatening to shoot a neighbor, Majors fled from the front porch of the Jabara family home, his bare feet leaving tracks of Khalid's blood across the driveway.<sup>101</sup> Khalid died in the ambulance. Police found Majors hiding not too far from the scene.

***According to the letter, statements from the Tulsa Police Department had "undermined community confidence that law enforcement officials would conduct an exhaustive and objective investigation."***

Members of the Tulsa Police Department were not convinced that Khalid's death was a hate crime. In an interview aired on the popular television program *Good Morning America*, Sergeant David Walker described the incident as "on ongoing dispute with neighbors." This characterization resembles that of the February 2015 murder of Yusor Abu-Salha, Deah Barakat, and Razan Abu-Salha in Chapel Hill,

<sup>92</sup> Andrea Eger, *supra* note 73.

<sup>93</sup> Arjun Sing Sethi, *supra* note 76.

<sup>94</sup> Andrea Eger and Curtis Killman, *supra* note 76.

<sup>95</sup> Associated Press, "Suspect's Husband: Years of Race Insults Preceding Slaying of Lebanese Neighbor in Tulsa" *Chicago Tribune* (Aug. 19, 2016), <http://www.chicagotribune.com/news/nationworld/ct-tulsa-lebanese-neighbor-killed-20160819-story.html>.

<sup>96</sup> Samantha Vincent and Andrea Eger, "For God's Sake, Call the Police: Neighbor's Husband Tried to Warn Victim the Day of Fatal Shooting," *Tulsa World* (Jan. 29, 2018) (internal quotation marks omitted), [https://www.tulsaworld.com/news/courts/for-god-s-sake-call-the-police-neighbor-s-husband/article\\_6d514481-2939-5935-a225-6717080fee39.html](https://www.tulsaworld.com/news/courts/for-god-s-sake-call-the-police-neighbor-s-husband/article_6d514481-2939-5935-a225-6717080fee39.html).

<sup>97</sup> Andrea Eger, *supra* note 73.

<sup>98</sup> Jeremy Stahl, "The Story of Khalid Jabara's Murder is Devastating and Infuriating," *Slate* (Aug. 16, 2016), [http://www.slate.com/blogs/the\\_slatest/2016/08/16/the\\_story\\_of\\_khalid\\_jabara\\_s\\_murder\\_is\\_devastating\\_and\\_infuriating.html](http://www.slate.com/blogs/the_slatest/2016/08/16/the_story_of_khalid_jabara_s_murder_is_devastating_and_infuriating.html).

<sup>99</sup> Andrea Eger and Tim Stanley, "Grief Delayed: Tulsa Family Struggles to Accept Loss of Man Gunned Down After Years of Harassment, Ethnic Slurs," *Tulsa World* (Aug. 5, 2017), [https://www.tulsaworld.com/news/local/grief-delayed-tulsa-family-struggles-to-accept-loss-of-man/article\\_5d08fd91-db25-541a-bf04-711440936596.html](https://www.tulsaworld.com/news/local/grief-delayed-tulsa-family-struggles-to-accept-loss-of-man/article_5d08fd91-db25-541a-bf04-711440936596.html).

<sup>100</sup> Arjun Sing Sethi, *supra* note 76.

<sup>101</sup> Jeremy Stahl, *supra* note 98.

North Carolina. Sergeant Walker continued: “Yeah, there’s hate there. I just don’t think the only reason is because they’re Middle Eastern.”<sup>102</sup> Following these statements from the Tulsa Police Department, Muslim Advocates and the Arab American Institute spearheaded a coalition letter of over 50 advocacy, civil rights, community, and faith-based organizations demanding a fair investigation in Khalid’s murder.<sup>103</sup> According to the letter, statements from the Tulsa Police Department had “undermined community confidence that law enforcement officials would conduct an exhaustive and objective investigation.”<sup>104</sup>

### The Prosecution

For Haifa, securing a hate crime sentence was not a priority as she struggled to come to terms with the loss of her son. “Nothing will bring my son back,” she said. “But if we were white, he would never have touched us.” According to Khalid’s sister Victoria, however, defining the murder as a hate crime had broader implications:

[C]alling it a hate crime allows us to better tackle bigotry and hatred. It allows the public and media to see this crime not as isolated or random, but as part of a larger problem. Right after the tragedy, we received emails and calls from people describing how they felt hated by a neighbor or their community. . . . We can’t dismiss this tragedy as a one-off. Hate is why he attacked us rather than the other neighbors.<sup>105</sup>

On February 7, 2018, Stanley Vernon Majors was found guilty of two felony offenses and two misdemeanors: first degree murder; possession of a firearm in the commission of a felony; threatening an act of violence; and malicious intimidation or harassment, as defined in Oklahoma’s hate crime statute.<sup>106</sup> During the trial, the jury was provided recordings of 10 phone calls between Majors and his husband while he was incarcerated. In one call, dated January 26, 2017, Schmauss rebuked Majors when he

insinuated that Khalid was responsible for inciting the violence. Majors then brought up how President Trump would put a stop to the issue of “Muslims wanting to come over [to the United States].” It appears he was citing a January 25 address at the Department of Homeland Security.<sup>107</sup> “He’s hired 5,000 customs agents, he hired [Immigration and Customs Enforcement] agents,” Majors said. “He doesn’t want a bunch of Muslims or aye-rabs. . . . They’re building a wall.”<sup>108</sup> The following day, on January 27, the president signed Executive Order 13769 (Protecting the Nation from Foreign Terrorist Entry into the United States), also known as the initial Muslim Ban.<sup>109</sup>

### “[I]n this case the system failed. Khalid’s death was preventable.”

While she felt “justice was served,” Victoria maintained the case should never have happened. “Khalid should still be with us.”<sup>110</sup> Khalid’s younger brother Rami reiterated that sentiment on a separate occasion: “[I]n this case the system failed. Khalid’s death was preventable.”<sup>111</sup>

Considering the particular circumstances of this case, it is hard not to agree with Khalid’s family. Despite numerous indications that Majors posed a threat, and even after he had run over Haifa Jabara with his car, authorities failed to effectively intervene. In this respect, the Tulsa Police Department and the county’s criminal justice system were unable to preempt an act of bias-motivated violence that, given the facts of the case, appeared to be imminent. Ultimately, prosecutors were able to secure a conviction under Oklahoma’s hate crime statute. While the sentence might have provided those affected with a greater sense of justice, the details of the case seem to undermine law enforcement’s stated commitment to preventing bias-motivated violence. That the incident was never reported in official hate crime statistics is telling as well.

<sup>102</sup> Morgan Winsor and Julia Jacobo, “Family of Man Allegedly Murdered by Oklahoma Says They Were Terrorized,” *ABC News* (Aug. 17, 2016) (internal quotation marks omitted), <https://abcnews.go.com/US/family-man-allegedly-murdered-oklahoma-neighbor-terrorized/story?id=41451734>.

<sup>103</sup> Coalition letter to the Honorable Dewey F. Bartlett, Mayor of the City of Tulsa (Aug. 22, 2016), available at [http://www.aaiusa.org/over\\_50\\_organizations\\_demand\\_a\\_fair\\_investigation\\_in\\_the\\_murder\\_of\\_khalid\\_jabara](http://www.aaiusa.org/over_50_organizations_demand_a_fair_investigation_in_the_murder_of_khalid_jabara).

<sup>104</sup> *Id.*

<sup>105</sup> Arjun Sing Sethi, *supra* note 76.

<sup>106</sup> Steve Almasy and Konstantin Toropin, *supra* note 71.

<sup>107</sup> Bill Chappell et al., “A Nation Without Borders Is Not A Nation: Trump Moves Forward with U.S.-Mexico Wall,” *NPR* (Jan. 25, 2017), <https://www.npr.org/sections/thetwo-way/2017/01/25/511565740/trump-expected-to-order-building-of-u-s-mexico-wall-wednesday>.

<sup>108</sup> Samantha Vincent and Adrea Eger, “State Rests its Case in Murder Trial After Jury Hears Defendant’s Jail Calls to Husband About Khalid Jabara,” *Tulsa World* (Feb. 2, 2018), [https://www.tulsaworld.com/news/courts/state-rests-its-case-in-murder-trial-after-jury-hears/article\\_63d3ad0a-21fe-5a94-8a8a-8e3e3529e2.html](https://www.tulsaworld.com/news/courts/state-rests-its-case-in-murder-trial-after-jury-hears/article_63d3ad0a-21fe-5a94-8a8a-8e3e3529e2.html).

<sup>109</sup> Arab American Institute, Issue Brief: The Muslim and Refugee Ban (2018), available at [http://www.aaiusa.org/the\\_muslim\\_and\\_refugee\\_ban](http://www.aaiusa.org/the_muslim_and_refugee_ban).

<sup>110</sup> *Id.*

<sup>111</sup> Arjun Sing Sethi, *supra* note 76.

## Conclusion

The slaying of Khalid Jabara is one of the highest profile hate crimes in recent years. He was killed in Tulsa, Oklahoma, on August 12, 2016. According to the FBI's annual report, *Hate Crime Statistics*, the Tulsa Police Department reported zero hate crimes between July and September of that year. Every law enforcement agency in Oklahoma is required to report hate crimes to the Oklahoma State Bureau of Investigation. We do not know why the murder of Khalid Jabara never reached our federal hate crime statistics. Despite evidence to the contrary, the responding officers could have determined the crime did not contain an element of bias or prejudice at the initial filing. Another possibility is technical error—perhaps an improper transmission on the part of the Tulsa Police Department's Records Division. Both explanations

point to the need for improved law enforcement training relating to investigating, reporting, and responding to hate crimes and other bias-related incidents. Oklahoma is one of 35 states without a law requiring such training for police certification.

As we conclude this vignette, one question remains: if this particular incident never reached federal statistics, what does that say about the quality of those statistics? The FBI's annual report is a critical resource for the federal government and American public. However, if the data do not capture the true nature and extent of hate crime in the United States, then communities, advocates, and policymakers will be less equipped to effectively respond.

# Ghaith Sahib, Tiffany Sahib, and the Employees of DarSalam Restaurant

## Portland, Oregon



### Background

The term “hate crime” did not enter popular usage until the mid-to-late twentieth century.<sup>112</sup> Developments in both civil and victims’ rights, including federal anti-discrimination laws and enhanced protections for victims and witnesses in the criminal justice system, preceded a shift in how Americans understood, and hoped to address, the issue of bias-motivated crime.<sup>113</sup> The extent of racial injustice and gender inequality in America necessitated the passage of laws banning discrimination in the context of employment, voting, education, and housing.<sup>114</sup> Another piece of landmark civil rights legislation, the Civil Rights Act of 1968, prohibited the use of force to willfully injure, intimidate, or interfere with another person because of their race, color, religion, or national origin and because that person is participating in those same federally protected activities.<sup>115</sup> In the following decades, Congress also passed legislation to enhance and protect the roles of victims and witnesses, including through victim compensation.<sup>116</sup> Laws such as the Victim

and Witness Protection Act of 1982 and the Victims of Crime Act of 1984 (VOCA) reflected a central concern of the victims’ rights movement: to prioritize the victim within the criminal justice system. In some respects, these priorities clashed with those of the civil rights movement, particularly in regard to defendant’s rights and the so-called “due process revolution.”<sup>117</sup>

In the 1980s, prominent civil rights organizations began advocating for the criminal justice system to prioritize victims of bias-motivated crime targeted on account of their race or other protected characteristics. These efforts coincided with changing perceptions of racial, gendered, and anti-LGBT violence, not as isolated incidents, but rather as extreme manifestations of deep-rooted cultural biases. Organizations published annual reports on the incidence of bias-motivated crime against their communities and the unique individual and collective harms such crimes inflicted. The reports encouraged readers to empathize with targeted or vulnerable communities while demonstrating the need for an improved overall response to bias-motivated violence. Their findings also supported the sense of a mounting hate crime epidemic in American society.<sup>118</sup>

Widespread concern about hate crime influenced two basic responses within state governments that preceded similar federal efforts: data collection and criminal statutes. State human relations commissions and police departments began collecting data on bias-motivated crime or related incidents, publishing their findings in annual reports. State-level data collection of this kind influenced Congress to pass federal legislation establishing a national hate crime reporting and data collection system. Following the passage of the Hate Crime Statistics Act of 1990, those responsibilities were delegated to the FBI Uniform Crime Reporting (UCR) Program within the Department of Justice. The second basic response was the passage of laws prohibiting bias-motivated crime. These laws took the form of stand-alone criminal statutes or penalty enhancement provisions for crimes committed because of different protected characteristics, such as race, color, religion, or national origin. Some state legislatures would incorporate

<sup>112</sup> Bureau of Justice Assistance, U.S. Dep’t of Justice, *A Policymaker’s Guide to Hate Crimes* (Mar. 1997), available at <https://www.ncjrs.gov/pdffiles1/bja/162304.pdf>.

<sup>113</sup> TA Maroney, “The Struggle Against Hate Crime: Movement at a Crossroads,” 73 N.Y.U. L. Rev. 564 (1998), available at <http://www.nyulawreview.org/sites/default/files/pdf/NYULawReview-73-2-Maroney.pdf>.

<sup>114</sup> Civil Rights Act of 1964, Pub. L. No. 88-352, 78 Stat. 241; Voting Rights Act of 1965, Pub. L. No. 89-110, 79 Stat. 437.

<sup>115</sup> Civil Rights Act of 1968, Pub. L. No. 90-284, 82 Stat. 73.

<sup>116</sup> Victim and Witness Protection Act of 1982, Pub. L. No. 97-291, 96 Stat. 1248; Victims of Crime Act of 1984, Pub. L. No. 98-473, 98 Stat. 2170.

<sup>117</sup> Jill Lepore, “The Rise of the Victims’-Rights Movement,” *The New Yorker* (May 21, 2018), <https://www.newyorker.com/magazine/2018/05/21/the-rise-of-the-victims-rights-movement>.

<sup>118</sup> See, e.g., William M. Greer, “Violence Against Homosexuals Rising, Groups Seeking Wider Protection Say,” *New York Times* (Nov. 23, 1986), available at <https://www.nytimes.com/1986/11/23/us/violence-against-homosexuals-rising-groups-seeking-wider-protection-say.html>.

additional protections into their hate crime statutes over time, including sexual orientation, disability, gender, and gender identity. In 2018, a total of 14 states offer what we call inclusive protections in their hate crime statutes. An additional 31 states and the District Columbia have a hate crime statute of some kind. In 2009, Congress passed the Matthew Shepard and James Byrd, Jr., Hate Crimes Prevention Act in part to assist state and local efforts to investigate and prosecute hate crimes.<sup>119</sup>

### Hate Crime Statutes Explained

Just as federal and state anti-discrimination laws were challenged on constitutional grounds, so too were state-level hate crime statutes. Critics argued that by authorizing enhanced penalties for certain bias-motivated crimes, hate crime statutes punished defendants' bigoted beliefs in violation of the First Amendment. On the other hand, proponents of hate crime statutes defended penalty enhancement on account of the greater individual and societal harms that bias-motivated crimes tend to inflict on victims and communities. The Supreme Court took up these arguments during its October 1992 term in the landmark case, *Wisconsin v. Mitchell*, 508 U.S. 476 (1993). In a unanimous decision, the Court defended the constitutionality of hate crime penalty enhancement statutes.

In this particular case, a young black man named Todd Mitchell was convicted under Wisconsin's hate crime statute and sentenced to four years' imprisonment for the offense of aggravated battery. While the offense ordinarily carried a two-year maximum sentence, Mitchell's sentence was increased because he was found to have intentionally selected his victim, a young white boy, on account of his race. Mitchell appealed his conviction and sentence, challenging Wisconsin's hate crime statute on First Amendment grounds. While the Wisconsin Court of Appeals rejected Mitchell's challenge, the Wisconsin Supreme Court reversed the appellate court and held that penalty enhancement "violates the First Amendment by punishing what the legislature has deemed to be offensive thought." In other words, by authorizing increased sentences for crimes motivated because of an offenders' bigoted beliefs, hate

crime penalty enhancement statutes punished those very beliefs and therefore criminalized certain ideas. In addition to citing a potential "chilling effect" on free speech,<sup>120</sup> the state supreme court distinguished anti-discrimination laws, which prohibit "objective acts of discrimination," from the statute in question, which punished the "subjective mental process" of targeting someone because of their protected status.

The U.S. Supreme Court rejected these arguments and held that Wisconsin's hate crime penalty enhancement statute did not violate Mitchell's First Amendment rights. Writing for the Court, Chief Justice William Rehnquist emphasized the distinction between proscriptions aimed at content and those based on conduct. During the preceding term, the Court struck down a local bias-motivated crime ordinance in *R.A.V. v. City of St. Paul*, 505 U.S. 377 (1992). The ordinance in question prohibited the display of a symbol, such as a burning cross or Nazi swastika, that one could reasonably expect to arouse anger, alarm, or resentment on the basis of "race, color, creed, religion, or gender." While the government is permitted to regulate certain forms of speech that tend to incite violence or civil unrest, also known as "fighting words,"<sup>121</sup> the Court stated that regulations based on the government's "hostility or favoritism" toward specific ideas expressed through that speech are unconstitutional. In defending the ordinance, St. Paul conceded that it applied only to "racial, religious, or gender-specific symbols." The ordinance would therefore seem to permit symbols that incite violence or civil unrest on the basis of sexual orientation, disability, gender identity, and many other examples. In this respect, the ordinance did not regulate the mode, or conduct, used to express a particular message, but rather the content of the message itself.<sup>122</sup> Additionally, the Court indicated the ordinance not only discriminated against the content, but also the viewpoint, expressed in those messages, observing that under the ordinance, those arguing for racial, religious, or gender equality were seemingly permitted to display inflammatory symbols that might incite violence or civil unrest.<sup>123</sup>

St. Paul's final line of defense was that even if the ordinance restricted expression because of ideologically disfavored

<sup>119</sup> The Matthew Shepard and James Byrd, Jr., Hate Crimes Prevention Act of 2009, S. 909, 111th Cong. (2009-2010).

<sup>120</sup> See *State v. Mitchell*, 485 N. W. 2d. 807, (Wis. 1992) ("...[T]he fact remains that the necessity to use speech to prove this intentional selection threatens to chill free speech. Opprobrious though the speech may be, an individual must be allowed to utter it without fear of punishment by the state").

<sup>121</sup> *Chaplinsky v. New Hampshire*, 315 U.S. 568, 572 (1942) ("There are certain well-defined and narrowly limited classes of speech, the prevention and punishment of which have never been thought to raise any Constitutional problem. These include the lewd and obscene, the profane, the libelous, and the insulting or "fighting" words—those which by their very utterance inflict injury or tend to incite immediate breach of the peace").

<sup>122</sup> See *R.A.V. v. City of St. Paul*, 505 U.S. 377, 391 (1992).

<sup>123</sup> See *id.*, at 391-92.

content, the government had a compelling interest to safeguard the rights and security of historically targeted or vulnerable communities. While the Court agreed those interests were compelling, and the ordinance was limited to a narrow set of circumstances, serving those interests did not necessitate restricting speech. The city of St. Paul had sufficient “content-neutral” alternatives to achieving its ends. The Court concluded:

Let there be no mistake about our belief that burning a cross in someone’s front yard is reprehensible. But St. Paul has sufficient means at its disposal to prevent such behavior without adding the First Amendment to the fire.<sup>124</sup>

Whereas the St. Paul bias-motivated crime ordinance prohibited certain forms of expression containing messages of intolerant viewpoints deemed especially repugnant, the Wisconsin statute focused on criminal conduct deemed more serious because of its targeted nature.<sup>125</sup> The intentional selection of a victim because of their race, religion, or other protected characteristics was more serious and therefore subject to enhanced penalties.<sup>126</sup> According to proponents of the Wisconsin statute, hate crimes were more serious because of their increased potential “to provoke retaliatory crimes, inflict distinct emotional harms on their victims, and incite community unrest.” Given the state’s “desire to redress these perceived harms,” Chief Justice Rehnquist asserted that Wisconsin had ample justification for penalty enhancement, “over and above mere disagreement with offenders’ beliefs or biases.”<sup>127</sup>

The particular circumstances of the case, including Mitchell’s statements directly preceding the incident, suggest he might have possessed objectionable beliefs or opinions about race. However, a person’s “subjective mental process” is difficult, if not impossible, to prove. Far easier to substantiate is whether, based on the evidence, a person committed a crime while intentionally targeting

someone because of their actual or perceived protected characteristics. After watching a movie depicting racial violence against African Americans, Mitchell asked his peers if they wanted “to move on some white people.” Shortly thereafter, when a young white boy passed the group on the street, Mitchell said: “You all want to fuck somebody up? There goes a white boy; go get him.” After Mitchell counted to three, the group advanced on the boy and beat him unconscious.<sup>128</sup> Mitchell’s subjective beliefs about race were irrelevant in determining that he targeted his victim because of race. On similar grounds, Mitchell’s “subjective mental process” was irrelevant in determining that he should be convicted of a hate crime. This point, along with much of the preceding discussion, is critical to understanding the following case.

### The Incident

On April 21, 2017, an active-duty U.S. Marine named Damien Rodriguez assaulted an employee at DarSalam Iraqi restaurant in Portland, Oregon. Rodriguez, a highly decorated Afghanistan and Iraq War veteran suffering from post-traumatic stress disorder, visited the restaurant just weeks after the anniversary of an especially scarring episode during his first deployment to Iraq.<sup>129</sup> According to DarSalam staff, Rodriguez and another man sat in the restaurant for about an hour, refusing to order. The men at some point started using racially and ethnically insensitive language riddled with profanities.<sup>130</sup> In addition to derogatory statements about Iraq, Rodriguez reportedly told members of the restaurant’s staff, “I’m American. You guys aren’t American.”<sup>131</sup> According to statements provided to police, Rodriguez also discussed how many people he killed while on duty in Iraq and demanded that employees shake his hand.<sup>132</sup>

Security footage from the restaurant appears to show a verbal exchange between Rodriguez’s companion and a DarSalam employee.<sup>133</sup> The two men are standing in close proximity, gesturing toward one another and at times

<sup>124</sup> *Id.*, at 396.

<sup>125</sup> See *Wisconsin v. Mitchell*, 508 U.S. 476, 487 (1993).

<sup>126</sup> See *id.*, at 485.

<sup>127</sup> *Id.*, at 488.

<sup>128</sup> *Id.*, at 480.

<sup>129</sup> Dave Philipps, “A Marine Attacked an Iraqi Restaurant. But Was It a Hate Crime or PTSD?” *New York Times* (Oct. 18, 2017), <https://www.nytimes.com/2017/10/18/us/damien-rodriguez-marine-portland.html>.

<sup>130</sup> Mary Emily O’Hara, “Marine Charged With Attack at Iraqi Restaurant in Oregon,” *NBC News* (Apr. 26, 2017), <https://www.nbcnews.com/news/us-news/marine-charged-attack-iraqi-restaurant-oregon-n751331>.

<sup>131</sup> Aimee Green, “Marine Who Hit Iraqi Restaurant Employee With Chair Avoids Prison,” *The Oregonian* (Mar. 2, 2018), [https://www.oregonlive.com/portland/index.ssf/2018/03/marine\\_who\\_smashed\\_chair\\_onto.html](https://www.oregonlive.com/portland/index.ssf/2018/03/marine_who_smashed_chair_onto.html).

<sup>132</sup> Elisha Brown, “Marine Veteran Gets No Jail Time After Attacking Iraqi Restaurant Because He Has PTSD,” *The Daily Beast* (Mar. 6, 2018), <https://www.thedailybeast.com/marine-veteran-gets-no-jail-time-after-attacking-iraqi-restaurant-because-he-has-ptsd>.

<sup>133</sup> Tim Steele, “Active-Duty Marine Arrested for Iraqi Restaurant Attack,” *KOIN Channel 6 News* (Apr. 25, 2017) (security footage provided at bottom of article), <https://www.koin.com/news/active-duty-marine-arrested-at-iraqi-restaurant/870063995>.

placing their hands on each other's shoulders. While no audio is provided, it seems Rodriguez is not directly involved in the exchange: his companion stands between Rodriguez and the employee with his back to Rodriguez. At one point, Rodriguez tugs his companion's upper arm in an apparent attempt to get his attention. After appearing to survey the room, Rodriguez picks up a chair with both hands and swings it around the back of his companion, striking the employee in what appears to be his neck and shoulder. The confrontation moves off-screen for a moment, but the footage does capture Rodriguez throwing at least one punch before multiple staff and patrons of the restaurant intervene.

***"Her first thought was about her family and the safety of the restaurant, but she was also thinking about the well-being of this guy."***

The owners of the restaurant, Ghaith and Tiffany Sahib, believed the incident to be a hate crime. "Clearly these people had a problem with Middle Easterners or Iraq," Tiffany said, "and they came in here looking for trouble or looking to express their anger."<sup>134</sup> She also noted that while her employee was not seriously injured, both he and a server caught up in the incident had sustained emotional harms.<sup>135</sup> After learning of Rodriguez's military service and related diagnosis, the couple expressed regret over the circumstances. "We were really sorry about what happened," Ghaith said. "We feel sorry for [Rodriguez], and we feel sorry for ourselves, too."<sup>136</sup> According to Sean Davis, a friend of the Sahibs and an Iraq War veteran, the couple asked if there was anything he could do to help Rodriguez. As the local post commander for the American Legion, the nation's largest veterans service organization, Davis had experience working with veterans suffering from post-traumatic stress disorder (PTSD). He told reporters that Tiffany called him shortly after the incident. "Her first thought was about her family and the safety of the restaurant," Davis said, "but she was also thinking about the well-being of this guy."<sup>137</sup>

Following his arrest, Rodriguez was forced to retire from the Marines after 20 years of service. He would ultimately be convicted of a hate crime and attempted second-degree assault. Partly because of the court's concerns over his mental health, Rodriguez was able to avoid prison and was instead sentenced to five years of probation and required to pay \$21,000 in fines.<sup>138</sup> News reports covering the remainder of the case are conflicting, and the narrative is made more complicated in that charges against Rodriguez were dropped and then reintroduced on multiple occasions. Perhaps most significant, however, was the role of inaccurate or misleading coverage in confusing the nature of the prosecution, and consequently, the definition of a hate crime.

#### **Developments in the Case**

Rodriguez was originally charged with three separate misdemeanor offenses: harassment, disorderly conduct, and intimidation in the second degree. Under Oregon's hate crime statute, intimidation in the second degree is punishable as a Class A misdemeanor and therefore subject to a maximum sentence of one year in prison and up to \$6,250 in fines.<sup>139</sup> A person commits intimidation in the second degree if the person "intentionally subjects another to offensive physical contact," or tampers or interferes with their property, "because of the person's perception of the other's race, color, religion, sexual orientation, disability or national origin."<sup>140</sup> Sexual orientation is defined in Oregon state code so as to include gender and gender identity.<sup>141</sup> Hate crime offenders in Oregon can also be convicted of intimidation in the first degree, which is a felony, but only if they acted with at least one other person to commit the crime.<sup>142</sup>

According to news reports, the intimidation charge was dropped following the arrest, leaving Rodriguez with the two remaining charges of harassment and disorderly conduct, which are both Class B misdemeanors and subject to six months in prison and up to \$2,500 in fines.<sup>143</sup> While the initial intimidation charge was dropped, the Portland Police Bureau notified reporters that a detective from the department's Bias Crimes Investigations unit had been

<sup>134</sup> Bob Heye, "Marine Arrested After Allegedly Attacking Staff at Iraqi Restaurant in Portland," *KATU News* (Apr. 25, 2017), <http://kcby.com/news/nation-world/marine-arrested-after-allegedly-attacking-staff-at-iraqi-restaurant-in-portland>.

<sup>135</sup> Mattie John Bamman, "Active Duty Marine Allegedly Attacks Waiter at Portland Iraqi Restaurant," *Eater* (Apr. 26, 2017), <https://pdx.eater.com/2017/4/26/15436950/portland-middle-eastern-restaurant-hate-crime>.

<sup>136</sup> *Id.*

<sup>137</sup> Mary Emily O'Hara, *supra* note 130.

<sup>138</sup> Aimee Green, *supra* note 131.

<sup>139</sup> Or. Rev. Stat. §§ 161.615, 161.635.

<sup>140</sup> Or. Rev. Stat. § 166.155.

<sup>141</sup> Or. Rev. Stat. § 174.100(7)

<sup>142</sup> Or. Rev. Stat. § 166.165.

<sup>143</sup> Or. Rev. Stat. §§ 166.070, 166.025, 161.615, 161.635.

assigned to the case, and that Rodriguez's military service had no bearing on the investigation or the charges brought against him.<sup>144</sup> Rodriguez posted bail and was released following a court appearance on April 24, 2017.<sup>145</sup>

Then, on May 10, 2017, the harassment and disorderly conduct charges were dropped as well. According to news reports, the Multnomah County District Attorney's Office stated that "an investigation is pending and that the ends of justice will be best served" by dismissing the charges.<sup>146</sup> These comments from the district attorney's office, not to mention the prior dismissal of the second-degree intimidation charge, may have created the impression that authorities were not taking the Sahib's allegations of a hate crime seriously. Whereas some local news outlets failed to look past the fact that charges had been dropped, others considered the potential for new, more serious charges to be introduced.<sup>147</sup> Weeks later, on July 3, 2017, Rodriguez was indicted on one count of second-degree assault, one count of second-degree disorderly conduct, and two counts of intimidation in the second-degree: one for striking the employee with a chair, and another for the server who was caught up in the incident.<sup>148</sup> After appearing in court for his arraignment, Rodriguez pleaded not guilty and was let out of custody.<sup>149</sup> According to the *Marine Corps Times*, he potentially faced more than 10 years in prison if convicted.<sup>150</sup>

Prior to the July 3 indictment, the case had received little attention outside of the local news. However, given the nature of the charges, the potential sentence, and questions regarding Rodriguez's mental health, the case soon came under national media scrutiny. Before discussing that coverage, we should first consider the individual charges that were brought against Rodriguez in the July 3 indictment. When he was arrested following the incident at DarSalam on April 21, Rodriguez was charged with three misdemeanor offenses: harassment, second-degree disorderly conduct, and intimidation in the second

degree. Were he to serve consecutive sentences for these crimes, Rodriguez would have faced no more than two years in prison. While Oregon is one of 45 states with a hate crime statute, that statute does not contain a penalty enhancement provision such as that described in *Mitchell v. Wisconsin*. Unlike Wisconsin's hate crime statute,<sup>151</sup> which provides enhanced penalties for crimes when they are committed because of race, religion, or other protected characteristics, Oregon's hate crime statute is a stand-alone criminal statute. Regardless of the underlying criminal offense, when a person "intentionally subjects another to offensive physical contact" on account of their perceived protected characteristics, that person commits the crime of intimidation in the second degree. If that person is convicted and found to have committed no other criminal offense, that person is guilty of a Class A misdemeanor and subject to a maximum sentence of one year in prison. If a person convicted of intimidation in the second degree is found to have committed additional criminal offenses, that person may be subject to additional penalties pursuant to those offenses.

The July 3 indictment differed from the original April 21 charges on three accounts: the harassment charge was dropped; a second hate crime charge was added; and the charge of second-degree assault was introduced. The charge of disorderly conduct remained. If not for the charge of second-degree assault, the difference between the April 21 and July 3 charges was minimal with respect to the maximum sentence. However, under Oregon's Measure 11 sentencing guidelines, which were approved via ballot initiative in 1994, second-degree assault carries a mandatory minimum sentence of 5 years, 10 months, with no possibility for reduction.<sup>152</sup> As a Class B felony, second-degree assault in Oregon is also subject to a maximum sentence of 10 years and up to \$250,000 in fines.<sup>153</sup> Therefore, while hate crime charges were reintroduced against Rodriguez in the July 3 indictment, when it came to his potential sentence, the

<sup>144</sup> Lizzy Acker, "Marine Charged With Hate Crime in Attack at Portland Iraqi Restaurant," *The Oregonian* (Apr. 25, 2017), [https://www.oregonlive.com/portland/index.ssf/2017/04/marine\\_suffering\\_from\\_ptsd\\_cha.html](https://www.oregonlive.com/portland/index.ssf/2017/04/marine_suffering_from_ptsd_cha.html). See generally Detective Div., Portland Police Bureau, Assaults/Bias Crimes (for information about Bias Crimes Investigation unit), <https://www.portlandoregon.gov/police/article/423009>.

<sup>145</sup> Bob Heye, *supra* note 133.

<sup>146</sup> KGW Staff, "Charges Dropped Against Marine in Portland Iraqi Restaurant Assault," *KGW Channel 8 News* (May 10, 2017), <https://www.kgw.com/article/news/crime/charges-dropped-against-marine-in-portland-iraqi-restaurant-assault/283-433892009>.

<sup>147</sup> KATU Staff, "US Marine Caught on Video in Iraqi Restaurant Attack Will Likely Face Felony Charges," *KATU Channel 2 News* (May 10, 2017), <http://katu.com/news/local/charges-dismissed-for-marine-in-attack-caught-on-video-at-iraqi-restaurant-in-portland>.

<sup>148</sup> KATU Staff, "US Marine Caught on Video in Iraqi Restaurant Attack Indicted on Hate Crime Charges," *KATU Channel 12 News* (July 6, 2017), <http://katu.com/news/local/us-marine-caught-on-video-in-iraqi-restaurant-attack-indicted-on-hate-crime-charges>.

<sup>149</sup> FOX 12 Staff, "Man Charged With Assault, Intimidation for Incident at Iraqi Restaurant in Portland," *KPTV - FOX 12 News* (July 6, 2017), <http://www.kptv.com/story/35829235/man-charged-with-assault-intimidation-for-incident-at-iraqi-restaurant-in-portland>.

<sup>150</sup> Mackenzie Wolf, "Marine Corps Sergeant Major Indicted on Hate Crime Charges," *Marine Corps Times* (July 14, 2017), <https://www.marinecorpstimes.com/news/your-marine-corps/2017/07/14/marine-corps-sergeant-major-indicted-on-hate-crime-charges>.

<sup>151</sup> Wis. Stat. § 939.645.

<sup>152</sup> Juvenile Services, Multnomah County Dep't of Community Justice, Measure 11 Crimes and Mandatory Minimum Sentences, <https://multco.us/dcj-juvenile/common-laws/measure-11>.

<sup>153</sup> Or. Rev. Stat. §§ 163.175, 161.605, 161.625.

charge of second-degree assault was far more significant. Given that Oregon's hate crime statute does not provide enhanced penalties for bias-motivated crimes, but rather is a stand-alone, misdemeanor criminal statute, the charges of intimidation in the second degree did not significantly alter his potential sentence. Based on reporting from the *New York Times*, many readers might have assumed otherwise.

### National Media Coverage

On October 18, 2017, the *New York Times* published a story with the headline: "A Marine Attacked an Iraqi Restaurant. But Was It a Hate Crime or PTSD?"<sup>154</sup> The article appeared with a slightly altered headline on the front page of the paper's New York edition the following day. According to author Dave Philipps, a national correspondent covering veterans and the military, Rodriguez's case had "raised questions about what constitutes a hate crime and how effectively the legal system treats combat veterans who suffer from post-traumatic stress disorder." The article begins with a brief discussion of the incident and the charges brought against Rodriguez, which Philipps contextualizes within a rash of hate crimes occurring in Portland that year. Regarding the question of whether the incident should be charged as a hate crime, Philipps quotes Ghaith, the owner of the restaurant:

"My family, they have fear now in everything—we can't forget this," Mr. Sahib said. He said the restaurant was targeted because of his ethnicity, so hate crime charges are fitting. "I feel for this guy, but he cannot do what he does. He must face consequences."

The article also provides an account of Rodriguez's background, his military service, the source of his trauma, and the broader challenges combat veterans face in American society. According to psychologists working with military service members and veterans quoted in the article, when their symptoms are left unaddressed for too long, veterans suffering from PTSD are more likely to commit violent outbursts like the one at DarSalam. "There is no evidence that combat veterans are more prone to committing hate crimes," Philipps says, "but studies suggest combat veterans with PTSD commit violent acts at a much higher rate than civilians." Philipps notes that within the criminal justice system, some communities have established

"special veterans courts devised to offer therapy instead of jail time to wounded veterans." According to Philipps, however, many veterans are not eligible for veterans treatment courts because they have committed violent crimes. Before concluding the article, Philipps informs readers that like Rodriguez, Ghaith is haunted by memories of the Iraq War. Following the U.S. invasion of Iraq in 2003, Ghaith's neighborhood devolved into a theater of bloodshed and violence. A student at Al Mansour University College in Baghdad, Ghaith was sitting in traffic one day in 2005 when he witnessed an explosion a few cars ahead. The blast put him in a coma for three weeks.<sup>155</sup> After surviving the car bombing, Ghaith fled to Syria, India, France, and Germany before arriving in the Netherlands, where he met Tiffany. The couple moved back to Tiffany's native Portland, where they established DarSalam. According to Philipps:

The couple opened their restaurant as a way to present a kinder side of Iraq to America. Before long, to their surprise, it became a hangout for Iraq veterans, who held a poetry reading at the restaurant and became friends of the family. "Always I have joy talking with them," [Ghaith] said. "They lost friends, we lost friends also. They cry, we cry also. We talk about it."

Philipps concludes with a return to Rodriguez. According to an interview, Rodriguez could not remember what caused him to strike the employee with a chair, stating, "All I can remember, honestly, is being handcuffed by the police." Philipps reports that following his arrest and forced retirement from the Marine Corps, Rodriguez had entered "an intensive program for abuse and PTSD." With respect to the possible hate crime conviction, Philipps quotes Rodriguez:

"I'm sorry about what happened," he said. "But no one tries to understand what we went through."

The article ends. At this point, we have yet to consider Philipps's discussion of the charges brought against Rodriguez. According to Philipps, the rash of hate crimes committed throughout Portland in 2017, including the murder of two men at the hands of an avowed white supremacist after he was confronted for screaming anti-Muslim insults at two teenage women on a commuter

<sup>154</sup> In addition to forging a false dilemma between whether the attack was a hate crime or a result of PTSD, the title obscures the fact that Rodriguez did not just target a restaurant, he also targeted the employees who work there. Dave Philipps, *supra* note 129.

<sup>155</sup> Brent Crane, "This Portland Restaurant Wants to Remake Iraq's Image," *MUNCHIES* (May 6, 2015) (VICE News food blog), [https://munchies.vice.com/en\\_us/article/3dje38/this-portland-restaurant-wants-to-remake-iraqs-image](https://munchies.vice.com/en_us/article/3dje38/this-portland-restaurant-wants-to-remake-iraqs-image).

train,<sup>156</sup> inspired prosecutors to come down hard on the veteran. Philipps notes that according to lawyers, Rodriguez would face misdemeanor charges under typical circumstances, however, “prosecutors charged him with felony-level hate crime and assault charges that carry a mandatory prison sentence.” In the following paragraph, Philipps seems to attribute the mandatory sentence to the hate crime charges.

That is where people who know Mr. Rodriguez say the case took a wrong turn. Mr. Rodriguez was a decorated Marine sergeant major who was forced to retire after his arrest. He had spent years in combat. Friends and family say his actions were not provoked by hate but by post-traumatic stress disorder for which, despite repeated efforts, he never received effective treatment.

As we discuss in the preceding paragraphs, there is a felony-level hate crime offense in Oregon. However, a person can be convicted of intimidation in the first degree only if they commit the offense with at least one other person. Otherwise, the defendant would face charges of intimidation in the second degree, which is a Class A misdemeanor and subject to a maximum sentence of one year in prison. Therefore, to say Rodriguez was charged with “felony-level hate crime and assault charges” is misleading. In addition, Philipps notes that prosecutors brought more serious charges against Rodriguez after the July 3 indictment, and that, if convicted, he faced a mandatory minimum sentence. He fails to point out, however, that Rodriguez would have faced a mandatory minimum sentence even if he had not been charged with a hate crime, given that second-degree assault carries a mandatory sentence under Oregon’s Measure 11 sentencing guidelines. Philipps inaccurately depicts the role of the hate crime charge in this particular case, creating a false debate between whether Rodriguez should be convicted of a hate crime and whether he should be treated for his illness.

This debate is the focus of the November 3, 2017, episode of the *New York Times* podcast ‘The Daily’: A Hate Crime, or a Wound of War?<sup>157</sup> In this episode, host Michael Barbaro invites Philipps to discuss the case. He also interviews Ghaith, Rodriguez’s mother, and a veteran who served under

Rodriguez in the Marine Corps. Barbaro begins the episode with the following introduction:

When a man attacked an Iraqi restaurant in Portland, Oregon, it felt to the owner like an attack on his country; an act of hate. But as details emerged about the man who did it, the story became far more complicated.<sup>158</sup>

Following a brief review of the incident at DarSalam, which is supplemented with audio clips from news reports, Philipps’ description of the security footage, and commentary from Ghaith, Barbaro asks Philipps to describe what unfolded after the incident, “from a legal perspective.” Just as he does in the article, Philipps contextualizes the incident and the charges brought against Rodriguez within the rash of hate crimes that occurred in Portland in 2017. “I think local prosecutors really wanted to show that they weren’t going to stand for something like this,” Philipps says. “And what happens is they increase the charges on him from misdemeanor charges, where he probably would have gotten probation, to a hate crime, essentially a bias-related crime, and felony-level assault.”

The episode is structured to reflect the conflict at the center of its title. As such, the episode transitions from the introduction to a discussion of the case from Ghaith’s perspective. Following an account of Ghaith’s personal experiences of the Iraq War and eventual establishment of DarSalam in Portland, the narrative turns to the incident. Philipps notes that given the circumstances, particularly that Rodriguez seems to have targeted DarSalam because the restaurant serves Iraqi cuisine, the incident inflicted distinct emotional harms on Ghaith, his family, and restaurant staff. “From that night, I don’t feel safe anymore,” Ghaith says. “I feel scared—maybe I’ll get hurt, or somebody will attack me.” At this point, the episode shifts to a discussion from the perspective of Rodriguez, or as Philipps often refers to him, “the man with the shaved head.” Citing Portland’s alleged state of paranoia about burgeoning white nationalism, Philipps assumes that Rodriguez’s appearance might have led some people to mistake him for a threat. “I think a lot of people at the restaurant might have thought that he was some skinhead,” Philipps says. “In fact he’s a career

<sup>156</sup> Matthew Haag and Jacey Fortin, “Two Killed in Portland While Trying to Stop Anti-Muslim Rant, Police Say,” *New York Times* (May 27, 2017), <https://www.nytimes.com/2017/05/27/us/portland-train-attack-muslim-rant.html>.

<sup>157</sup> Michael Barbaro, “Listen to ‘The Daily’: A Hate Crime, or a Wound of War?” *New York Times* (Nov. 3, 2017), <https://www.nytimes.com/2017/11/03/podcasts/the-daily/hate-crime-damien-rodriguez-marine.html>.

<sup>158</sup> This framing “others” Ghaith Sahib, an Arab American born in Iraq.

sergeant major in the U.S. Marine Corps...who had done four deployments to Iraq and Afghanistan.” According to Philipps, this aspect of the case was what got his attention: “Here’s this guy with this long history of exposure to combat, coming into an Iraqi restaurant and attacking the waiter. To what extent was this a hate crime and to what extent was this a wound of war?”

Barbaro interviews Rodriguez’s mother, who shares stories of his childhood. Afterward, Philipps notes that based on these stories, in addition to accounts from his fellow Marines, Rodriguez likely defines himself through his service to his country. Barbaro then interviews Jimmy Gentile, a veteran who served under Rodriguez during a harrowing ambush in the Iraqi city of Ramadi in April 2004. The ensuing firefight left multiple Marines dead, Gentile severely injured, and Rodriguez with lasting psychological and emotional damages. From here, the narrative turns to Rodriguez’s struggle with post-traumatic stress disorder and how he has continued to suffer from memories of combat. Seeing as the incident at DarSalam occurred in April 2017, nearly thirteen years to the day since the ambush in Ramadi, Philipps speculates that PTSD likely had something to do with Rodriguez’s violent outburst. “[Y]ou never know what was happening inside someone’s head,” Philipps says. “Was he having a flashback or was he just angry over everything in his past and decided to hit somebody with his chair?” When asked about the charges brought against Rodriguez, Gentile states that while Rodriguez had to pay his consequences, prosecutors were being severe. “Do I think [Rodriguez] feels negatively toward Iraqis? No,” he says.

Barbaro then asks Ghaith what he thinks of the explanation that Rodriguez committed the crime “because of the trauma that he experienced.” Ghaith responds:

I hear him. I’ve been through the same. My family has been through the same. Most of the Iraqi people—the same. Most of the American soldier Marines have been through the same. So, we share. But that’s not something that’s allowed me to go and, you know, hit with chairs people I don’t like. ...I feel if he can get help from his community, from his family, and he learns about forgiveness, I think that would be the best way to make the world even more peaceful.

When Barbaro asks him whether the assault was a hate crime, Ghaith says he does not know. “I feel sorry for him, believe me, and I feel sorry for myself too,” he says. “Hopefully he can get help.”

The episode concludes soon thereafter, but not before Barbaro and Philipps discuss the criminal justice alternatives available to combat veterans. Philipps notes that because he has been charged with a violent crime, Rodriguez is not eligible for a veterans treatment court. He says, “How much do we give understanding to this person, and how much do we owe to the victim that’s been harmed?” And that’s what we haven’t worked out as a society.” To close, Barbaro reiterates the charges brought against Rodriguez. “He is charged with felony-level assault and intimidation, Oregon’s equivalent of a hate crime,” Barbaro says. “If convicted, he faces a mandatory prison sentence.” The episode ends.

### Conclusion

On March 2, 2018, Damien Rodriguez was convicted of a hate crime and attempted second-degree assault.<sup>159</sup> He was sentenced to five years of probation and required to pay \$21,000 in fines: an \$11,000 compensatory fine to the employee he struck with a chair, and a \$10,000 compensatory fine to the server caught up in the incident. Had Rodriguez been convicted of second-degree assault, he would have faced a mandatory sentence of nearly six years in prison. Given Rodriguez’s medical history and PTSD diagnosis, not to mention that he was drunk and “delirious” during the incident, prosecutors determined his actions were in part the result of trauma from military service, and charges were reduced to attempted second-degree assault. Under Oregon state code, an “attempt” is a Class C felony if the offense attempted is a Class B felony.<sup>160</sup> Class C felonies are not covered under Oregon’s Measure 11 sentencing guidelines and have a maximum sentence of five years in prison.<sup>161</sup> According to the prosecution, the two victims supported Rodriguez’s sentence. Rodriguez also agreed to intensive mental health treatment for his PTSD and told the parties he had quit drinking.

Rodriguez was able to avoid prison and receive needed treatment for his PTSD despite being convicted of a hate crime. Based on coverage from the *New York Times*, readers and listeners likely assumed this was not possible. In this respect, the question of whether the incident was “a hate

<sup>159</sup> Aimee Green, *supra* note 131.

<sup>160</sup> Or. Rev. Stat. § 161.405.

<sup>161</sup> Or. Rev. Stat. §161.605.

crime, or a wound of war” presents a false dilemma, one that misrepresents the nature of what constitutes a hate crime. Returning for a moment to our discussion of *Mitchell*, a defendant’s “subjective mental process” is difficult, if not impossible, to prove. As Philipps notes, “you never know what was happening in someone’s head.”<sup>162</sup> Much easier to determine is whether the evidence in a particular case indicates the defendant targeted someone because of their actual or perceived race, ethnicity, or some other protected characteristic. Given the circumstances of the incident at DarSalam, including Rodriguez’s statements prior to the attempted assault, there is substantial evidence to suggest Rodriguez committed the crime because of the employee’s perceived ethnicity or the fact DarSalam is an Iraqi restaurant. According to news coverage of the March 2018 hearing, Rodriguez’s defense attorney acknowledged that his defendant “said some ethnically insensitive things, but he is not a racist.”<sup>163</sup>

### ***The purpose of a hate crime conviction, however, is not to punish a defendant’s subjective opinions or beliefs, nor even to determine those beliefs.***

Rather, hate crime statutes, whether in the form of penalty enhancement provisions or a stand-alone criminal statute, reflect the sense that crimes targeting victims on account of protected characteristics tend to provoke retaliatory violence, inflict distinct personal and collective harms on individuals and communities, and produce civil unrest.<sup>164</sup>

According to investigators, the two victims of the attack and other workers at DarSalam were left “deeply afraid” following the incident.<sup>165</sup> In his interview on ‘The Daily,’ Ghaith expressed fear of additional violence.<sup>166</sup> While reports do not suggest that threats of violence were made against the restaurant, coverage from the trial indicates that DarSalam received a barrage of online criticism and negative reviews following the incident. In some cases, critics blamed

Ghaith and Tiffany for allegedly supporting a long prison sentence for Rodriguez. At his hearing, Rodriguez defended the restaurant:

It has also come to my attention that certain people are attacking [the Sahibs] and the victims on the internet. To them I say this: You do not speak for me. I do not agree with your actions. Please leave the DarSalam restaurant, its owners and employees alone. They have been compassionate and kind toward me. They are good people who did nothing wrong and deserve to be left alone.

Ghaith and Tiffany Sahib, their employees, and the community of DarSalam restaurant experienced distinct individual and collective harms as a result of the incident on April 21, 2017. Evidence suggests the offender, Damien Rodriguez, committed the crime of attempted second-degree assault against a DarSalam employee because DarSalam is an Iraqi restaurant or because of the employee’s perceived ethnicity. While Rodriguez suffers persistent trauma from his military service, the suppression of which might have spurred the outburst, that does not account for his committing the crime in a specific restaurant or that he targeted a particular employee of that restaurant.

Tensions do exist between defendants’ and victims’ rights, including within the context of hate crime convictions. Many victims of hate crime belong to communities that have suffered disproportionately under the criminal justice system. Selective enforcement or prosecution of hate crime statutes could potentially lead to further criminalization of targeted communities.<sup>167</sup> In these respects, whether sufficient alternatives to penalty enhancement exist for hate crime convictions is a question worth considering. The *New York Times* addressed this question through its coverage of the April 2017 incident at DarSalam Iraqi restaurant in Portland, Oregon. However, the coverage misrepresents the nature of the case and the impact of the hate crime charges brought against the defendant. What results is the presentation of a false dilemma: “Was it a hate crime, or was it a wound of war?” As confirmed through the ultimate

<sup>162</sup> Michael Barbaro, *supra* note 157.

<sup>163</sup> Aimee Green, *supra* note 131.

<sup>164</sup> See text accompanying notes 126, 127.

<sup>165</sup> Aimee Green, *supra* note 131.

<sup>166</sup> Michael Barbaro, *supra* note 157.

<sup>167</sup> See Christopher E. Anders, Legislative Counsel, American Civil Liberties Union, Statement on Hate Crime Legislation Before the Crime Subcommittee of the Committee on the Judiciary (Apr. 17, 2007) (“We should add that evidence of association could also just as easily focus on many groups representing the very persons that the hate crimes bill should protect”), available at <https://www.aclu.org/other/aclu-statement-hate-crimes-legislation-crime-subcommittee-house-committee-judiciary>.

conviction and corresponding sentence, the answer is both.<sup>168</sup>

### Additional Considerations

This narrative vignette provides an example of hate crime targeting Arab Americans, in addition to the harms such crimes inflict on individual victims and communities. Unlike the preceding case studies, however, the vignette does not focus on the limitations of existing laws, policies, and their irregular enforcement to address those harms. Instead, we focus on the broader conversation about hate crime in American public discourse. As a final note, we should mention that the incident was not reported as an anti-Arab hate crime in Oregon state-level hate crime data collections. According to statistics from the Oregon State Police, zero anti-Arab hate crimes were reported in Multnomah County between April and June of 2017.<sup>169</sup> A total of two anti-Arab hate crime incidents were reported throughout Oregon that year.<sup>170</sup>

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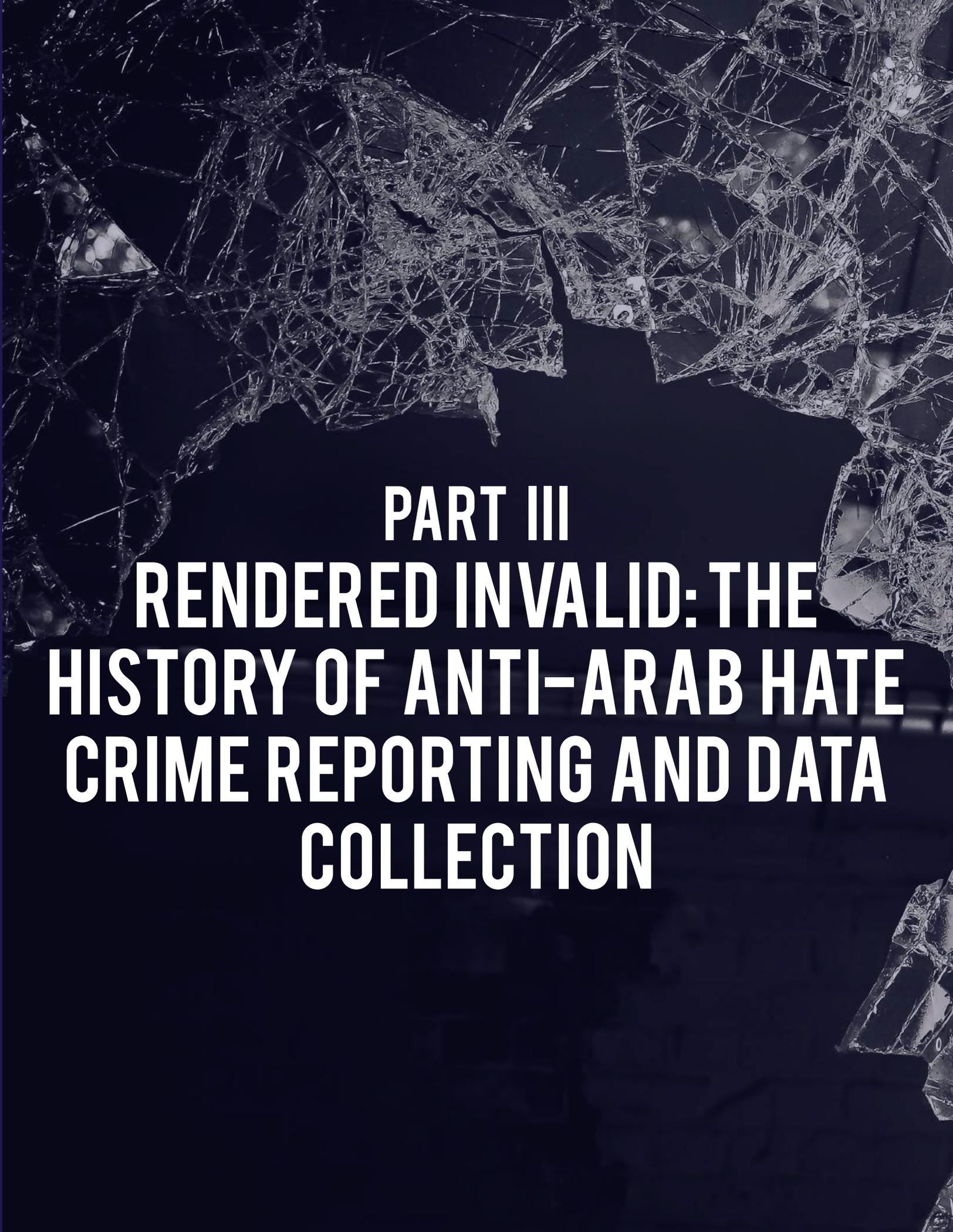
<sup>168</sup> A few days after the hearing, DarSalam posted a photo on Instagram of Ghaith and Rodriguez standing side-by-side, smiling for the camera. They had apparently just left a local Portland café, where they discussed the incident, shared their personal stories, and made amends.

<sup>169</sup> CJIS Div., Oregon State Police, 2017 Q2 Oregon Uniform Crime Report: Section 8 – Domestic Violence and Bias Reporting, available at <https://www.oregon.gov/osp/CJIS/docs/2017Q2Report/2017Q2Section8.pdf>.

<sup>170</sup> CJIS Div., Oregon State Police, State of Oregon Report of Criminal Offenses and Arrests, 2017 Annual Report: Section 9 – Domestic Violence and Bias Reporting (May 31, 2018), available at <https://www.oregon.gov/osp/CJIS/docs/2017AnnualReport/2017AnnualReportSection9.pdf>.







**PART III**  
**RENDERED INVALID: THE**  
**HISTORY OF ANTI-ARAB HATE**  
**CRIME REPORTING AND DATA**  
**COLLECTION**



The preceding chapters provide important context regarding the nature of targeted violence against Arab Americans.

Part One considers the civil rights concerns of the Arab American community. Having emerged as a “new ethnic and political constituency” in the mid-twentieth century, Arab Americans advocated for their interests in a broad range of public affairs, forming national and community-based organizations to promote increased political representation and civic engagement.<sup>1</sup> Seeking to preempt the hard-won progress of Arab American organizations and political activists, specifically when it came to advocacy for Palestinian human rights, reactionary movements resorted to a “campaign of vilification” against Arab American leaders and the broader community. Discrimination, political exclusion, harassment, and intimidation of Arab Americans in the 1970s and ‘80s prompted newfound concerns regarding the community’s civil rights. The subject of multiple congressional hearings, targeted violence against Arab Americans seemed to increase during this period as well, specifically in relation to developments in the Middle East or incidents of mass-violence.

These attacks came to be understood within the nascent concept of hate crime. In the 1980s, state governments began collecting data on incidents of bias-motivated violence and publishing annual statistics. Hate crime also prompted a response within the criminal justice system, as state legislatures enacted criminal statutes prohibiting crimes committed because of race, ethnicity, religion, national origin, and other protected characteristics. Congress ultimately passed legislation requiring federal hate crime data collection and a federal hate crime statute.<sup>2</sup>

Part Two explores the nature of anti-Arab hate crime, the harms inflicted on individual victims and communities, and the limitations of existing laws, policies, and their irregular enforcement to address those harms. Arab Americans continue to face similar threats of targeted violence in the twenty-first century as in previous decades. In recent years, however, those threats appear to have increased amid burgeoning xenophobia, racism, and anti-Arab and anti-Muslim sentiment. The four narrative vignettes provided in Part Two encapsulate distinct concerns relating to hate crime targeting Arab Americans and the nation’s response to bias-motivated violence against specific communities.

In Part Three, we consider the history of hate crime reporting and data collection in the United States within the context of targeted violence against Arab Americans.

The first section: “Targeted Violence Against Arab Americans and the Hate Crime Statistics Act of 1990,” examines the development of the national hate crime reporting and data collection system. After providing an overview of the national Uniform Crime Reporting (UCR) hate crime data collections, the chapter’s second section outlines key developments leading up to the passage of the Hate Crime Statistics Act of 1990 (HCSA), which required the Justice Department to collect data on incidents that manifest evidence of prejudice based on different protected characteristics. Given that targeted violence against Arab Americans influenced the passage of the HCSA, the original UCR hate crime data collections were structured to collect data on anti-Arab hate crime. However, Bias Motivation Code 31 (Anti-Arab) was eliminated from the data collections in 1992. Published in 1993, the inaugural edition of the Federal Bureau of Investigation’s (FBI) annual report, *Hate Crime Statistics*, did not provide data on anti-Arab hate crime.

Section Two: “The (Re)Introduction of Anti-Arab Hate Crime to Federal Data Collections,” sets the groundwork for one of the most significant findings of this report. In response to a request from the Office of Management and Budget, the FBI removed Bias Motivation Code 31 (Anti-Arab) from the national UCR hate crime data collections in 1992. As the result of a significant pressure campaign following the 2012 bias-motivated Oak Creek shooting, the FBI reintroduced Code 31 to UCR hate crime data collections in 2015, along with new bias motivation codes for anti-Sikh hate crime, anti-Hindu hate crime, and five additional religious bias motivation categories. During this process, the federal government did not indicate that Code 31 existed during the original developmental stages of the UCR hate crime data collections, leaving the impression it was an entirely new category. After a brief introduction, Section Two retraces the community-led pressure campaign, the resulting

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<sup>1</sup> *Ethnically Motivated Violence Against Arab-Americans: Hearing Before the H. Subcomm. on Criminal Justice*, 99th Cong. (1986) (statement of Dr. James Zogby, Executive Director, Arab American Institute), available at <https://babel.hathitrust.org/cgi/pt?id=pur1.32754077955643>.

<sup>2</sup> Hate Crime Statistics Act of 1990 (HCSA), 28 U.S.C. § 534; Matthew Shepard and James Byrd, Jr., Hate Crimes Prevention Act of 2009, S. 909, 111 Cong. (2009-2010).

UCR modifications, and hate crime statistics for 2015 and 2016, which suggest a reported increase of bias-motivated violence nationwide. This reported increase and the introduction of anti-Arab hate crime to federal data collections led us to write this report. At first, we assumed our research would be limited to 2015-2016 data. The revelation of Bias Motivation Code 31 (Anti-Arab) significantly altered its scope.

Section Three: “The History of Code 31,” considers the lasting implications of the federal government’s elimination of Bias Motivation Code 31 (Anti-Arab) from the national UCR hate crime data collections. While the federal government did not publish statistics on anti-Arab hate crime until the 2015 edition of *Hate Crime Statistics*, multiple state governments published anti-Arab hate crime data in annual statistics between 1991 and 2014. Additionally, records from the FBI’s Crime Statistics Management Unit indicate that between 1991 and 2003, law enforcement agencies in 32 states and the District of Columbia submitted hate crime data to the FBI UCR Program using the invalid Bias Motivation Code 31 (Anti-Arab), as can be seen in the subsequent resource guide.<sup>3</sup> While the available data from state-level statistics and Hate Crime Master Files are featured in this chapter, the data likely do not represent the true nature and extent of anti-Arab hate crime in the United States. The section concludes with a comparison between state and federal anti-Arab hate crime data for 2015 and 2016, which suggests hate crime targeting Arab Americans continues to be overlooked in official statistics.

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## I. Targeted Violence Against Arab Americans and the Hate Crime Statistics Act

### A Background on UCR Hate Crime Data Collections

Since the development of the national Hate Crime Statistics Program in 1990, the Criminal Justice Information Services (CJIS) Division has periodically refined, modernized, and augmented the national UCR hate crime data collections, resulting in statistics that are not only more accurate, but also more representative.

When reporting hate crimes to the FBI UCR Program, law enforcement agencies choose from a set of predefined data submission fields to indicate the particular bias motivation associated with an offense. Currently, participating agencies have two options for submitting hate crime data: The Summary Reporting System (SRS), and the National Incident Based Reporting System (NIBRS). Both formats utilize the same set of data submission fields, known as bias motivation codes. First developed in the 1930s, SRS does not communicate the granular details captured through NIBRS. The FBI UCR Program will officially retire the antiquated SRS format in January 2021.<sup>4</sup> By this date, every law enforcement agency in the country will be required to submit crime data through NIBRS, which will promote improved statistics and greater police transparency.

NIBRS collects an array of granular details pertaining

to each specific incident, including victim and offender demographics (race, ethnicity, gender, age) and the relationship between those involved. One potential application of NIBRS data is in determining the gendered dimensions of hate crime; that is, the way members of targeted or vulnerable communities are subject to specific forms of bias-motivated violence depending on their actual or perceived gender.

To accommodate for the addition of eight new bias motivation categories in 2015, the FBI UCR Program incorporated eight additional data submission fields into the existing SRS and NIBRS formats. Beginning that year, law enforcement agencies could use bias motivation code 31 (Anti-Arab) to report crimes to the FBI UCR program that manifest evidence of prejudice against people of Arab descent. The seven religious categories also received corresponding bias motivation codes: 28 for Anti-Mormon; 29 for Anti-Jehovah’s Witness; 81 for Anti-Eastern Orthodox, 82 for Anti-Other Christian, 83 for Anti-Buddhist, 84 for Anti-Hindu, and 85 for Anti-Sikh.

Similar introductions were administered in 2013 when, pursuant to the Matthew Shepard and James Byrd, Jr., Hate Crimes Prevention Act of 2009, UCR data collections were amended to include gender and gender identity bias-motivated crimes. That same year, the FBI UCR Program introduced bias motivation code 16 to account for the bifurcation of Anti-Asian/Pacific Islander into discrete categories. These changes were made in accordance with

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<sup>3</sup> After converting the invalid submissions on the back end, the FBI UCR Program recorded them as Anti-Other Ethnicity/National Origin incidents in *Hate Crime Statistics*. The program started rejecting all “improperly coded data” from reporting agencies beginning in 2004.

<sup>4</sup> Fed. Bureau of Investigation, CJIS Div., “National Incident-Based Reporting System User Manual” (Nov. 1, 2017), available at <https://ucr.fbi.gov/nibrs/nibrs-user-manual>.

the Office of Management and Budget's 1997 revisions to federal standards on race and ethnicity. Law enforcement officials now have the option to report hate crimes via bias motivation code 14 (Anti-Asian), or bias motivation code 16 (Anti-Native Hawaiian or Other Pacific Islander). In further compliance with the 1997 revisions, the FBI UCR Program augmented the anti-Hispanic bias type, identified by code 32, to Anti-Hispanic or Latino.

Upon recommendation from the CJIS Division's Advisory Policy Board, sexual orientation bias types were revised that year as well.<sup>5</sup> While the FBI UCR Program adjusted the terminology for all five bias motivations, perhaps the most substantial development occurred with respect to bias motivation code 43, which was changed from Anti-Homosexual to Anti-Lesbian, Gay, Bisexual, and Transgender (Mixed Group).

Prior to these updates, the last significant introduction to the list of reportable bias types took place in 1997, when the FBI UCR program began collecting hate crime data on disability bias-motivated crimes, as required by a 1994 amendment to the Hate Crime Statistics Act.<sup>6</sup>

Whether the revision of a former category or the introduction of a new one, each example cited above represents a significant improvement to UCR data collections on hate crime. Over time, the FBI UCR Program has taken steps to refine, modernize, and augment its hate crime data collections, resulting not only in better statistics overall, but statistics that take previously overlooked communities into account. With respect to the 2015 UCR modifications, the introduction of a discrete bias motivation category to report anti-Arab hate crimes was significant on multiple fronts: not only did the FBI UCR Program start collecting data and publishing statistics on bias-motivated violence against Arab Americans, the CJIS Division developed training materials as well. Formulated in consultation with representatives from the Arab American community, these materials help ensure law enforcement personnel across the country are better equipped to report, investigate, and respond to anti-Arab hate crime.

The 2015 UCR modifications marked a critical development for Arab Americans, a community often under threat, and

yet, previously overlooked in official statistics. As detailed in Part One, targeted attacks against Arab Americans, or those perceived to be of Arab descent, have historically intensified in the wake of developments in the Middle East, incidents of mass violence, and even tragic mass-casualty events. AAI president James Zogby referenced this trend in a testimony before the U.S. Commission on Civil Rights, just one month after 9/11 and a subsequent upsurge of retaliatory hate crimes against individuals perceived to be Arab or Muslim.<sup>7</sup> Such "backlashes," as he called them, were something many Arab Americans "had come to expect." He went on to describe similar experiences during the Iranian hostage crisis in 1979, in the immediate aftermath of the 1995 Oklahoma City bombing, and following the 1996 explosion of TWA Flight 800, all of which had no ostensible ties to Arabs or Arab Americans, but nevertheless kindled widespread anti-Arab sentiment and outbursts of targeted violence.

The lack of a discrete anti-Arab category in UCR hate crime data collections, prior to the 2015 modifications, compounded the damage of recurrent anti-Arab backlash. There was no official reporting mechanism to capture each surge. Without government data, anti-Arab hate crime would remain a measureless threat, and Arab Americans, invisible victims. This consequence was no more evident than in the wake of 9/11, when hundreds, if not thousands, of hate crimes were committed against Arab Americans. While media accounts and reports from civil rights and advocacy organizations stressed the severity of the situation, the absence of government data curtailed an effective policy response and left law enforcement personnel unprepared to address future escalations.

As stated previously, despite the post-9/11 backlash and apparent upsurge in 2003 coinciding with the U.S. invasion of Iraq, the federal government did not begin publishing statistics on anti-Arab hate crime until 2015, and only after a considerable pressure campaign in the wake of Oak Creek. Records indicate, however, that between 1991 and 2003, the FBI UCR Program collected anti-Arab hate crime data from participating law enforcement agencies using the same bias motivation code supposedly first introduced in 2015. Those data were converted and then published under an aggregate category. As subsequent research revealed, the initial

<sup>5</sup> Fed. Bureau of Investigation, CJIS Div., "About Hate Crime Statistics," Hate Crime Statistics, 2013 (Dec. 8, 2014), [https://ucr.fbi.gov/hate-crime/2013/resource-pages/about-hate-crime/about-hate-crime\\_final.pdf](https://ucr.fbi.gov/hate-crime/2013/resource-pages/about-hate-crime/about-hate-crime_final.pdf).

<sup>6</sup> Fed. Bureau of Investigation, CJIS Div., "Introduction, Hate Crime Statistics, 1997" (1998), <https://ucr.fbi.gov/hate-crime/1997>.

<sup>7</sup> Submission to the U.S. Comm. on Civil Rights (Oct. 12, 2001) (statement of Dr. James J. Zogby, President, Arab American Institute), available at [http://b3cdn.net/aai/08676be5849ccd51ef\\_rjm6bh2z1.pdf](http://b3cdn.net/aai/08676be5849ccd51ef_rjm6bh2z1.pdf).

UCR hate crime data collections were designed to collect data on anti-Arab hate crime. In other words, the 2015 UCR modifications did not mark the introduction of bias motivation code 31 (Anti-Arab), but rather its *reintroduction*.

As we noted in the paragraphs above, the FBI UCR Program has improved federal hate crime data collections over time, revising terminology for certain bias types and incorporating additional bias motivation categories. Bias Motivation Code 31 (Anti-Arab) is the only category ever to be removed from UCR hate crime data collections. Although the FBI UCR program eliminated anti-Arab hate crime from official data collections in 1992, law enforcement agencies continued to submit hate crime data using code 31 until 2003. Even after the 2001 release of an FBI bulletin notifying state UCR programs that Code 31 submissions would be rejected, law enforcement agencies nevertheless reported more than 250 anti-Arab hate crime incidents that year, the majority of which occurred post-9/11.

### ***Bias Motivation Code 31 (Anti-Arab) is the only category ever to be removed from UCR hate crime data collections.***

After 2003, the FBI UCR Program rejected all data submissions with Bias Motivation Code 31 (Anti-Arab), that is, of course, until the reintroduction of the category in 2015. In the absence of federal data, a number of state UCR programs continued to publish statistics on anti-Arab hate crime in their own state-level reports.

As we consider the introduction, elimination, and reintroduction of Bias Motivation Code 31 (Anti-Arab), let us begin with the development of the UCR hate crime statistics program, first launched after the passage of the Hate Crime Statistics Act (HCSA) in 1990.

#### **The Emergence of the Anti-Hate Crime Movement**

While bias-motivated violence has plagued American society since its inception, it was not until recent decades that “hate crime” became an identifiable, distinct social

issue deserving of both public attention and government response. The emergence of an anti-hate crime movement in the 1980s led to the passage of the Hate Crime Statistics Act of 1990. A few years later, Congress defined hate crime under the Violent Crime Control and Law Enforcement Act of 1994.<sup>8</sup> Legal scholars attribute these developments in part to a shift in American public opinion: the combined, sometimes antagonistic forces of the civil and victims’ rights movements created a cultural and political landscape in which “hate crime could be named as a specific form of victimization.”<sup>9</sup>

The passage of the Civil Rights Act of 1968, which enacted a statute prohibiting the use of force, or threat of force, to willfully injure, intimidate, or interfere with another person because of their “race, color, religion or national origin” and participation in a number of federally protected activities,<sup>10</sup> would precede future legislation, as would the efforts of prominent civil rights organizations to highlight the issue of bias-motivated crime. Another important factor during this time was an increased focus on victimization within the criminal justice system, evidenced in both the Omnibus Victim and Witness Protection Act of 1982 and the Victims of Crime Act of 1984.<sup>11</sup> While advanced through legislation, the victims’ rights movement was more the product of changing cultural attitudes associated with the women’s rights movement of the 1970s. In what we might call a politicization of shared experience, violence, particularly violence against women, became increasingly understood as a systemic issue, one in which isolated events expose common structural inequities.<sup>12</sup>

Communities at the intersection of civil and victims’ rights were for the most part excluded from activist discourse. Whereas the civil rights and victims’ rights movements failed to coalesce at the margins, at the center, they at times came into direct confrontation, given the former’s “hard-won social progress” in the field of defendants’ rights. These dynamics aside, the achievements of either movement produced a cultural and political landscape in which the anti-hate crime movement could thrive. As legal scholar Terry A. Maroney notes in the *New York University Law Review*,

<sup>8</sup> Violent Crime Control and Law Enforcement Act of 1994, Pub. L. No. 103-322.

<sup>9</sup> TA Maroney, “The Struggle Against Hate Crime: Movement at a Crossroads,” 73 *N.Y.U. L. Rev.* 564 (1998), available at <http://www.nyulawreview.org/sites/default/files/pdf/NYULawReview-73-2-Maroney.pdf>.

<sup>10</sup> Civil Rights Act of 1968, Pub. L. No. 90-284.

<sup>11</sup> Victim and Witness Protection Act of 1982, Pub. L. No. 97-291; Victims of Crime Act of 1984, 42 U.S.C. § 10602

<sup>12</sup> Kimberlé Williams Crenshaw, “Mapping the Margins: Intersectionality, Identity Politics, and Violence Against Women of Color,” 43 *Stan. L. Rev.* 1241 (1991), available at <https://www.jstor.org/stable/1229039>.

Civil rights movements had called attention to the personal costs of minority groups' political victimization; the victims' rights movement had called attention to the political context of personal victimization. Hate crime victims represented the site of overlap between these movement stories. "Hate crime" thus became a resonant new diagnosis. An old problem was reformulated, and an old class of victims acquired a new, specific subjectivity. Medgar Evers and Vincent Chin could now be seen, not as political martyrs, but as hate crime victims.<sup>13</sup>

With the emergence of the anti-hate crime movement in the 1980s, in addition to an apparent proliferation of bias-motivated violence nationwide, came increased support for policies aimed at prevention. The response developed first at the state and local levels, with collaborative efforts between law enforcement agencies, advocacy groups, and state-based commissions to track and report bias-motivated crimes. In 1981, Maryland passed the first statute of its kind, which required law enforcement "to collect and analyze information relating to incidents apparently directed against racial, religious, or ethnic groups," and forward that information on a monthly basis to the state's Human Relation Commission.<sup>14</sup> That same year, Maryland's governor appointed a Task Force on Violence and Extremism, which published a series of annual reports on bias-related issues throughout the state.<sup>15</sup>

While the 1980s saw the introduction of statutes in numerous states involving penalty enhancement, civil remedies, and police training,<sup>16</sup> data collection remained a top priority in the effort to prevent hate crime in American communities. Following in the footsteps of Maryland, a number of states, including Connecticut, New Jersey, and Pennsylvania, passed legislation aimed at reporting and data collection of bias-motivated incidents. State-led efforts, however, could not present a national picture. As the decade waned, Congress would cite the lack of national data as grounds for federal legislation.

## Passing the Hate Crime Statistics Act

The effort to enact federal legislation requiring hate crime data collection at the national level faced considerable resistance, both in Congress and from officials at the Department of Justice. Among congressional members, the most pronounced opposition to the gathering of hate crime statistics was, if not inflammatory, then ardently ideological. In particular, the requirement to collect statistics on bias-motivated crimes relating to sexual orientation stirred vociferous dissent. Senator Jesse Helms (R-NC) decried the measure as a concession to "the radical elements of the homosexual movement."<sup>17</sup> Alternatively, some criticism of the Hate Crime Statistics Act was more restrained. In a 1989 Senate Judiciary Committee report, Senator Chuck Grassley (R-IA) described the HCSA as "well-intentioned... with straight-forward and laudable goals," but expressed concerns regarding the subjective nature of determining motivation.<sup>18</sup> The senator would ultimately support the bill, as would other committee members who cited the indeterminate costs associated with implementing a nationwide hate crime data collection system.<sup>19</sup>

Months later, on February 8, 1990, the Hate Crime Statistics Act passed through the Senate with broad support, 92-4. Notably, the Senate passed a unanimous amendment.<sup>20</sup> The section reads:

Sec. 2. (a) Congress finds that—(1) the American family life is the foundation of American society, (2) Federal policy should encourage the well-being, financial security, and health of the American family, (3) schools should not de-emphasize the critical value of American family life. (b) Nothing in this Act shall be construed, nor shall any funds be appropriated to carry out the purpose of the Act be used, to promote or encourage homosexuality.<sup>21</sup>

The amendment's ideological bent is best evidenced alongside Senator Helms's own submission, which declared "the homosexual movement threatens the strength and

<sup>13</sup> TA Maroney, "The Struggle Against Hate Crime: Movement at a Crossroads," *supra* note 9

<sup>14</sup> Hate Crime Statistics Act: Hearing Before the H. Subcomm. on Criminal Justice, House of 99th Cong. (1985) (statement of Joanne Anderson, Director, Community Relations, Maryland Comm. on Human Rights), available at <https://www.justice.gov/sites/default/files/jmd/legacy/2013/09/06/hear-137-1985.pdf>.

<sup>15</sup> State of Maryland Exec. Dep't, Governor's Task Force on Violence and Extremism, "Reports of the Governor's Task Force on Violence and Extremism, 1982-1987", available at <http://mdlaw.ptfs.com/awweb/pdfopener?md=1&did=7130>.

<sup>16</sup> Michael Shively, Ph.D., "Study of Literature and Legislation on Hate Crime in America" (2005), available at <https://www.ncjrs.gov/pdffiles1/nij/grants/210300.pdf>.

<sup>17</sup> Robin Toner, "Senate, 92 to 4, Wants U.S. Data on Crimes That Spring from Hate," *New York Times* (Feb. 9, 1990), <http://www.nytimes.com/1990/02/09/us/senate-92-to-4-wants-us-data-on-crimes-that-spring-from-hate.html>.

<sup>18</sup> *Id.*, at 9.

<sup>19</sup> Toner, *supra* note 41.

<sup>20</sup> Hate Crime Statistics Act, H.R. 1048, 101st Cong., (1990), available at <https://www.congress.gov/bill/101st-congress/house-bill/1048/text>.

<sup>21</sup> Toner, *supra* note 41.

survival of the American family as the basic unit of society.”<sup>22</sup> While the Helms amendment was ultimately rejected, its counterpart reads like a partial consolation: a muted, though comparably dismissive, censure of homosexuality.

Officials at the Department of Justice shared the concerns of Senator Grassley and others who cited the subjective nature of determining motivation as an impediment to collecting data on bias-motivated crimes. Such reservations were debated at length in 1985, when the House Judiciary Subcommittee on Criminal Justice held a hearing on the HCSA. The hearing was organized in response to an apparent upsurge in bias-motivated violence against certain communities and featured testimonies from civil rights organizations, state agencies with experience collecting hate crime data, and elected officials from those states. Many witnesses were supportive of the proposed legislation. However, officials from the Bureau of Justice Statistics (BJS) and the FBI cautioned against a nationwide hate crime data collection under the Justice Department’s Uniform Crime Reporting (UCR) system. As BJS Director Steven R. Schlesinger noted in his testimony:

To be useful criminal justice data must be credible. Data collection must follow uniform rules and procedures. Definitions must be clearly articulated. Personnel must be properly trained and their work systematically audited. . . . Only if these principles are followed can we be confident that the results accurately depict reality and thereby provide policy makers with the sound information they need.<sup>22</sup>

Speaking on the department’s behalf, BJS Director Schlesinger expressed concerns about the “difficulty of classifying crimes based upon the supposed motivation of the offender.”<sup>23</sup> With respect to the pending legislation, Schlesinger cited both overbreadth and vagueness as additional drawbacks: the bills required data collection on a wide range of offenses and established ambiguous standards for determining bias motivation. Despite his reservations, Schlesinger recognized that better information on bias-motivated violence was a commendable goal. He ended his testimony with an assurance that “every affected component of the Department of Justice [would assist the Subcommittee] in formulating a workable system of securing the data we all desire.”<sup>24</sup>

According to Justice Department officials, reporting subjective information like bias motivation through the UCR system would compromise the integrity of its data collections and provide, at best, unreliable statistics. Referring to the apparent upsurge, William M. Baker, the Assistant Director for the FBI’s Office of Congressional and Public Affairs, recognized that additional information on bias-motivated crimes would be beneficial. Baker nevertheless cautioned against the introduction of bias motivation to the UCR. Baker warned legislators: “To request that a police officer . . . determine motivational factors would not reflect statistically accurate data; only opinion.”<sup>25</sup>

Committee members acknowledged the FBI’s concerns, but maintained that the issue of bias-motivated violence in American communities required a comprehensive response on the part of government, and that effective policymaking could not occur without substantive data. The bill was voted out of the Judiciary Committee and passed through the House, but was still pending in the Senate when the 99th Congress adjourned.<sup>26</sup> While the HCSA waited to reach the Senate floor, key developments would transpire in the interim, including a 1988 Senate hearing in which the issue of anti-Arab hate crime was repeatedly raised.

On June 21, 1988, the U.S. Subcommittee on the Constitution held a hearing on three bills relating to the collection and publication of national hate crime data. Representatives from prominent civil rights and advocacy organizations testified before the committee on the importance of collecting reliable hate crime statistics, including former Senator James G. Abourezk. As National Chair for the American-Arab Anti-Discrimination Committee (ADC), Abourezk spoke at length regarding the issue of a backlash of anti-Arab violence in the wake of incidents in the Middle East or related policy developments, and cited the case of the 1985 murder of Alex Odeh discussed previously in the report. Abourezk attributed this tragedy to a broader political atmosphere that legitimized anti-Arab animus and maligned Arab Americans. Despite the dramatic nature of Odeh’s murder, the incident received little attention in the media. According to Abourezk, “There was virtually no coverage of the death. . . . Alex Odeh remained anonymous, his family receiving nothing more than telephoned threats of death if they went through with his funeral a few days later.”<sup>27</sup>

<sup>22</sup> *Hate Crime Statistics Act: Hearing Before the H. Subcomm. on Criminal Justice*, 99th Cong., 1st sess. (1985) (statement of Steven R. Schlesinger, Director, Bureau of Justice Statistics, U.S. Department of Justice), available at <https://www.justice.gov/sites/default/files/jmd/legacy/2013/09/06/hear-137-1985.pdf>.

<sup>23</sup> *Id.*

<sup>24</sup> *Id.*

<sup>25</sup> *Id.*, (statement of William M. Baker, Assistant Director, Office of Congressional and Public Affairs, Fed. Bureau of Investigation, U.S. Dep’t of Justice).

<sup>26</sup> S. Comm. on the Judiciary, S. Rep. 101-21, *supra* note 42, at 2.

The murder of Alex Odeh had previously featured prominently in a 1986 hearing before the House Subcommittee on Criminal Justice. Entitled “Ethnically Motivated Violence Against Arab Americans,” the unprecedented hearing focused on the proliferation of targeted violence against prominent Arab American organizations and political activists. James Zogby, who co-founded the Arab American Institute just one year earlier, provided testimony regarding the nature and extent of anti-Arab sentiment in American politics and popular culture. Discussing the 1980 firebombing of his office at the Palestinian Human Rights Campaign in Washington, DC, and the physical assault of his brother, John Zogby, in upstate New York, he asserted that anti-Arab violence was related to a broader “campaign of vilification” against the community:

The acts of violence and threats of violence against Arab Americans, leaders, and organizations are but part of the larger picture of discrimination, harassment, and intimidation that we are victims of today.

To conclude his testimony, Zogby provided a series of recommendations, including a demand that federal authorities secure indictments against perpetrators of anti-Arab violence or threats of violence, and a request for the U.S. Commission on Civil Rights to investigate the extent of violence against Arab Americans in the United States.<sup>28</sup> Notably, other witnesses discussed the need for improved federal data collections and statistics on incidents of anti-Arab violence.<sup>29</sup>

Abourezk, in the 1988 hearing, would also lay out the need for a closer investigation of the extent of this violence. Given not only the broader, systemic intimations of Odeh’s murder, but also the public’s disregard for the incident and similar crimes, Abourezk reasoned that if reporting and data collection could heighten public awareness, then perhaps such efforts could raise public concern as well. During a panel discussion with committee members and fellow representatives from civil rights and advocacy organizations, Abourezk continued to develop his thoughts on the matter, discussing the accountability of public figures who fail to

denounce, much less confront, incidents of bias-motivated violence. He attributed the persistent targeting of Arab Americans, along with members of the Black and Jewish communities, in part to an “aura of permissiveness,” which in the case of Alex Odeh referred not only to the anti-Arab rhetoric circulating airwaves in the prelude to violence, but the acquiescence of politicians and the media in its wake. Subcommittee Chairman Paul Simon (D-IL) closed the panel with the following statement:

We must stand up against any discrimination that comes, whether it’s against black Americans or Jewish Americans or Arab Americans or Asian Americans or against gays and lesbians. . . . Whenever that violence occurs, whenever that poison of hatred comes into our society, we have to fight it. And one of the effective ways of finding out how much of a problem we have is to have adequate data gathered.<sup>30</sup>

Despite the appeals of Senator Simon and others who provided testimony or material submissions, consisting of both fellow members of Congress and non-government advocates, representatives from the Justice Department remained apprehensive toward data collection and statistical renderings of bias-motivated violence.

Approximately one month after the Senate hearing, the Subcommittee on the Constitution reported S. 702 favorably to the full Senate Judiciary Committee. As one of three bills at the center of the hearing, S. 702 provided “for the collection of data about crimes that manifest evidence of prejudice based on race, religion, sexual orientation or ethnicity.” The bill subsequently passed through the Judiciary Committee on August 10, 1988. Notably, Senator Grassley’s amendment to include “membership or non-membership in a labor organization” in the prescribed data collections was voted down, 5-7.<sup>31</sup> The bill was pending in the Senate when the 100th Congress adjourned. Shortly after the 101st Congress convened, Senator Simon reintroduced the Hate Crime Statistics Act as S. 419, and on March 9, 1989, the Judiciary Committee once again reported the bill favorably to the Senate.<sup>32</sup> Nearly one year later, on

<sup>27</sup> *Hate Crime Statistics Act of 1988: Hearing Before the S. Subcomm. on the Constitution*, 100th Cong., 2d sess. (1988) (statement of James G. Abourezk, National Chair, American-Arab Anti-Discrimination Comm.), available at <https://babel.hathitrust.org/cgi/pt?id=pst.000015603647;view=1up;seq=1>.

<sup>28</sup> *Id.*, at 140.

<sup>29</sup> See statement of Rep. Mervyn M. Dymally (regarding the importance of maintaining an “accurate verifiable record” of incidents targeting Arab Americans), *id.*, at 93.

<sup>30</sup> *Id.*

<sup>31</sup> S. Comm. on the Judiciary, *Hate Crime Statistics Act, Report (To accompany S. 702)* 100th Congress, 2d sess. (1988), S. Rep. 100-514, available at <https://www.justice.gov/sites/default/files/jmd/legacy/2013/09/03/senatorept-100-514-1988.pdf>.

<sup>32</sup> S. Comm. on the Judiciary, S. Rep. 101-21, *supra* note 42, at 5.

February 8, 1990, the Senate passed H.R. 1048, the bill's House counterpart, in lieu of S. 419.<sup>33</sup>

After five years of debate, the Hate Crime Statistics Act was signed into law on April 23, 1990. Responsibilities pursuant to the HCSA, including the development, implementation, and oversight of a national crime data collection for crimes “that manifest evidence of prejudice based on race, religion, sexual orientation, or ethnicity,” were delegated to the FBI UCR Program.<sup>34</sup> Readers should note that anti-disability hate crimes were added to mandatory data collections in 1994. Fifteen years later, Congress passed the Shepard/Byrd Act, which amended the data collections to include crimes that manifest evidence of prejudice based on gender or gender identity. Those changes were administered in 2013.

Following the passage of the HCSA, the FBI UCR Program collaborated with law enforcement agencies throughout the country, in addition to civil rights and advocacy organizations, to establish an effective and uniform procedure for reporting bias-motivated crimes, compiling data, and publishing annual statistics. In 1993, the FBI UCR Program published *Hate Crimes Statistics, 1990: A Resource Book*, which assessed the data collection strategies of 11 states with requirements to report, compile, or publish information relating to bias-motivated crime. At the time of publication, the FBI UCR Program had already formalized its data collections with authorization from the Office of Management and Budget, and soon thereafter released *Hate Crime Statistics, 1992*. The first installment of the report provided information based on voluntary data submissions from 6,181 law enforcement agencies in 42 states.<sup>35</sup>

## II. The (Re)Introduction of Anti-Arab Hate Crime to Federal Data Collections

### The 2015 UCR Modifications

When reporting a hate crime incident to the FBI UCR Program, law enforcement agencies select from a list of “bias motivation codes” to indicate the specific bias type associated with that incident. In 2015, the FBI UCR Program introduced eight additional bias motivation codes into its national hate crime data collections. Each bias motivation code reflected a specific bias type previously unreported

in federal hate crime statistics. The majority of the newly introduced bias types correspond to crimes committed because of actual or perceived religious affiliation: Anti-Buddhist, Anti-Eastern Orthodox, Anti-Hindu, Anti-Jehovah's Witness, Anti-Mormon, Anti-Other Christian, and Anti-Sikh. The remaining bias type corresponds to crimes committed because of actual or perceived ethnicity; law enforcement agencies could now submit anti-Arab hate crime data to the FBI UCR Program using Bias Motivation Code 31 (Anti-Arab).

Prior to the 2015 UCR modifications, law enforcement agencies were required to report hate crimes demonstrating the seven religious bias types using Bias Motivation Code 25 (Anti-Other Religion). When reporting anti-Arab hate crime incidents to the FBI UCR Program, law enforcement agencies were required to submit their data using Bias Motivation Code 33. Originally titled “Anti-Other Ethnicity/National Origin,” Bias Motivation Code 33 was re-designated as “Anti-Not Hispanic or Latino” in 2013.

The 2015 UCR modifications marked a significant improvement to the national hate crime reporting and data collection system. With the introduction of eight additional bias motivation codes, law enforcement agencies could report incidents through the national UCR hate crime data collections with greater specificity. As a result, the FBI UCR Program could produce more accurate statistics on the nature and extent of hate crime targeting specific communities, including Arab Americans.

Targeted because of their actual or perceived ethnicity, Arab Americans had long-advocated for their representation in federal hate crime statistics. In a 1997 report on hate crimes and discrimination against Arab Americans, researchers from the American-Arab Anti-Discrimination Committee (ADC) wrote: “Without recognized and published documentation, it seems as if there are no hate crimes against Arab Americans. When no Arab American category exists, policy-makers, academics, and social commentators can routinely ignore the hate crimes against the Arab American community.”<sup>36</sup>

Despite efforts to incorporate anti-Arab hate crime into national UCR data collections, federal statistics would

<sup>33</sup> Hate Crime Statistics Act, H.R. 1048, *supra* note 45.

<sup>34</sup> *Id.*

<sup>35</sup> Jack McDevitt et al., Northeastern Univ., “Ctr. For Criminal Justice Policy Research, Improving the Quality and Accuracy of Bias Crime Statistics Nationally: An Assessment of the First Ten Years of the Bias Crime Data Collection” (Jul. 2000), available at [http://www.jrsa.org/pubs/reports/bjs\\_bias\\_crime\\_data.pdf](http://www.jrsa.org/pubs/reports/bjs_bias_crime_data.pdf).

<sup>36</sup> American-Arab Anti-Discrimination Committee, Report on Hate Crimes & Discrimination against Arab Americans, 1996-1997 (1997), available at <https://files.eric.ed.gov/fulltext/ED429153.pdf>.

not feature anti-Arab hate crime data until 2015. During this period, Arab Americans faced significant outbursts of targeted violence, particularly in 2001, when a dramatic surge of anti-Arab and anti-Muslim hate crimes occurred in the wake of 9/11. Often mistakenly perceived to be Arab or Muslim, Sikh Americans also suffered unprecedented levels of violence during the post-9/11 backlash. The first reported victim of a hate crime murder in response to the 9/11 attacks was Balbir Singh Sodi. A Sikh American man, Sodi was shot to death at the gas station he owned in Mesa, Arizona, on September 15, 2001.<sup>37</sup> Following the tragedies of the post-9/11 backlash, the need for improved federal hate crime data became an important civil rights concern of the Sikh American community as well. In January 2011, the Sikh Coalition, founded as a volunteer organization in response to post-9/11 violence against Sikh Americans, sent a letter to U.S. Attorney General Eric Holder.

When a discrete community is acutely susceptible to hate violence in the United States, it is critically important for our federal authorities to devise means of tracking hate violence against the affected community. On this ground, we believe that failing to record hate crimes against Sikhs necessarily undermines our collective interest in compiling data which are comprehensive and accurate.<sup>38</sup>

The Justice Department acknowledged the Sikh Coalition's concerns, and those of other communities, regarding the need for improved UCR hate crime data collections. However, a response letter from the department's Civil Rights Division offered little assurance that such improvements would come.<sup>39</sup> Despite these challenges, Sikh Americans continued to advocate for their representation in federal hate crime statistics. In April 2012, the Sikh Coalition spearheaded a letter signed by 94 members of Congress

to the Department of Justice, calling for improved data collection on hate crimes targeting Sikh Americans.<sup>40</sup> In a press release about the letter, the Sikh Coalition wrote:

In light of this overwhelming show of Congressional support for the Sikh community, the Sikh Coalition hopes that the Justice Department and FBI will finally honor our community's request for recognition. Doing so will increase hate crime reporting, improve the accuracy and quality of hate crime data, and strengthen relationships between Sikhs and local law enforcement agencies nationwide."<sup>41</sup>

### The Oak Creek Tragedy

On August 5, 2012, a shooting at the Sikh Gurdwara in Oak Creek, Wisconsin, left six people dead and another four wounded, including a responding police officer. The gunman, Wade Michael Page, had various ties to the white supremacist movement, including through the white-power music scene.<sup>42</sup> Page was later identified as a member of a prominent neo-Nazi skinhead organization monitored by the Southern Poverty Law Center.<sup>43</sup> The tragedy of Oak Creek reverberated through the media, rattling communities in fear of targeted violence because of how they dressed, what they looked like, or where they worshipped. Following the incident, advocates representing a broad coalition of targeted or vulnerable communities urged the federal government to improve its response to hate crime. Just two weeks after the Oak Creek shooting, the Sikh Coalition wrote a letter to the U.S. Senate Judiciary Committee demanding a hearing on "the need to address hate crimes and the proliferation of hate groups in the United States."<sup>44</sup> Over 150 civil rights, religious, and advocacy organizations, including the Arab American Institute, signed the letter. In particular, the Sikh Coalition hoped the hearing would

<sup>37</sup> Tamar Lewin, "Sikh Owner of Gas Station Is Fatally Shot in Rampage," *New York Times* (Sept. 17, 2001), <https://www.nytimes.com/2001/09/17/us/sikh-owner-of-gas-station-is-fatally-shot-in-rampage.html>. See also Moni Basu, "15 Years After 9/11, Sikhs Still Victims of Anti-Muslim Hate Crimes," *CNN* (Sept. 15, 2016), (Balbir's brother, Sukhpal, was murdered 10 months later in an apparent hate crime.), <https://www.cnn.com/2016/09/15/us/sikh-hate-crime-victims/index.html>.

<sup>38</sup> Letter from Rajdeep Singh, Director of Law and Policy, Sikh Coalition, to United States Attorney General Eric H. Holder, Jr., et al. (Jan. 13, 2011), available at <http://www.sikhcoalition.org/images/documents/requesttotrackhatecrimesjan2011.pdf>.

<sup>39</sup> *Hate Crimes and the Threat of Domestic Extremism: Hearing Before the S. Subcomm. on the Constitution, Civil Rights and Human Rights*, 112th Cong., 426 (Sept. 19, 2012), available at <https://www.hsdl.org/?view&did=724489>.

<sup>40</sup> Letter from Members of Congress to Eric H. Holder, Jr. United States Attorney General (Apr. 19, 2012), available at [https://crowley.house.gov/sites/crowley.house.gov/files/Letter%20to%20DOJ%20on%20Hate%20Crimes%20Against%20Sikh-Americans%2004-19-2012\\_0.pdf](https://crowley.house.gov/sites/crowley.house.gov/files/Letter%20to%20DOJ%20on%20Hate%20Crimes%20Against%20Sikh-Americans%2004-19-2012_0.pdf).

<sup>41</sup> Press Release, Sikh Coalition, 94 Members of Congress Demand that FBI Track Anti-Sikh Hate Crimes (Apr. 20, 2012), <https://www.sikhcoalition.org/blog/2012/94-members-of-congress-demand-that-fbi-track-anti-sikh-hate-crimes>.

<sup>42</sup> Erica Goode and Serge F. Kovaleski, "Wisconsin Killer Fed and Was Fueled by Hate-Driven Music," *New York Times* (Aug. 6, 2012), <http://www.nytimes.com/2012/08/07/us/army-veteran-identified-as-suspect-in-wisconsin-shooting.html>.

<sup>43</sup> Ryan Lenz, "Neo-Nazi Killer Wade Page was Member of Hammerskin Nation," *Southern Poverty Law Center* (Aug. 8, 2012), <https://www.splcenter.org/hatewatch/2012/08/08/neo-nazi-killer-wade-page-was-member-hammerskin-nation>.

<sup>44</sup> Sikh Coalition et al. to Comm. on the Judiciary, U.S. Senate (Aug. 21, 2012), available at [http://salsa.wiredforchange.com/o/1607/images/SikhCoalition\\_Senate%20JudiciaryHearingRequest\\_Final821.pdf](http://salsa.wiredforchange.com/o/1607/images/SikhCoalition_Senate%20JudiciaryHearingRequest_Final821.pdf).

examine the implementation status of the Matthew Shepard and James Byrd, Jr., Hate Crimes Prevention Act of 2009,<sup>45</sup> improvements to hate crime reporting and data collection, and hate crime prevention measures.<sup>46</sup>

On September 19, 2012, the U.S. Senate Committee on the Judiciary, Subcommittee on the Constitution, Civil Rights and Human Rights, held a hearing entitled “Hate Crimes and the Threat of Domestic Extremism.”<sup>47</sup> With Subcommittee Chairman Senator Dick Durbin (D-IL) presiding, the hearing featured testimonies from a range of witnesses, including Deputy Assistant Attorney General of the Justice Department’s Civil Rights Division, Roy Austin. In his statement, Mr. Austin said the previous month’s incident at Oak Creek “highlighted the question whether to re-examine the categories...listed on the FBI’s data collection form,” and that the Civil Rights Division and the Justice Department’s Community Relations Service would convene a meeting to discuss potential improvements. While Mr. Austin’s statement was limited to a discussion of additional religious categories, he did recognize the severity and prevalence of hate crime targeting Arab Americans. In their submissions for the record, multiple organizations emphasized the need for federal statistics on anti-Arab hate crime.

In October 2012, the Civil Rights Division and Community Relations Service convened a townhall meeting with multiple civil rights and religious organizations.<sup>48</sup> Participants focused on the need for improved accuracy and representation in federal hate crime statistics, and recommended anti-Arab, anti-Sikh, and anti-Hindu hate crime be added to the national UCR hate crime data collections. According to Eric Treene, Special Counsel

for Religious Discrimination at the Civil Rights Division, “Based on the information we received at the meeting, and our enforcement experience, we recommended... that Sikh, Hindu, and Arab/Middle Eastern be added as categories.”<sup>49</sup> Later that month, representatives from ADC, the Sikh Coalition, and the Community Relations Service met with the Criminal Justice Information Services (CJIS) Division’s UCR Subcommittee to discuss the potential UCR modifications.<sup>50</sup>

### **The Campaign for Additional Categories**

On February 19, 2013, Attorney General Holder and Director Mueller received a letter from 20 senators documenting the frequency of targeted violence against Sikh Americans, Hindu Americans, and Arab Americans.<sup>51</sup> In their discussion of anti-Arab hate crime, the senators considered the impact of post-9/11 backlash on Arab Americans in particular. Citing Justice Department data, the senators wrote that 16 of the 43 ‘backlash’ prosecutions brought by the Civil Rights Division “involved attacks in whole or in part based on the fact that the victim was Arab or Middle Eastern.” The letter also addressed the hate crime prosecution of Patrick Syring for sending email and voicemail threats to AAI President James Zogby, and cited AAI survey data published in September 2012. According to the survey, 40 percent of Arab Americans polled reported they had personally experienced ethnic discrimination, up significantly from previous decades.<sup>52</sup> The senators concluded:

Given that Arab Americans, regardless of their religion, face intolerance and violence motivated by bias against their ethnicity, revising the Hate Crime Incident Report form to include an anti-Arab

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<sup>45</sup> The Matthew Shepard and James Byrd, Jr., Hate Crimes Prevention Act of 2009, 18 U.S.C. § 249, expanded the federal definition of hate crime to include offenses committed because of the actual or perceived race, color, religion, national origin, gender, sexual orientation, gender identity, or disability. The Act also provided federal assistance to state, local, and tribal partners for hate crime prosecutions. See Civil Rights Div., U.S. Dep’t of Justice, Hate Crime Laws (last updated July 28, 2017), <https://www.justice.gov/crt/hate-crime-laws>. The Act also amended the Hate Crime Statistics Act of 1990 (HCSA), 28 U.S.C. § 534, to require the Justice Department to collect data on crimes that manifest evidence of prejudice based on gender and gender identity, in addition to hate crimes against juveniles. See CJIS Div., Fed. Bureau of Investigation, About Hate Crime Statistics, Hate Crime Statistics, 2016 (Nov. 13, 2017), <https://ucr.fbi.gov/hate-crime/2016/resource-pages/about-hate-crime>.

<sup>46</sup> *Id.*

<sup>47</sup> *Hate Crimes and the Threat of Domestic Extremism: Hearing Before the Subcomm. on the Constitution*, 112th Cong. (Sept. 12, 2012) (statement of Roy L. Austin, Jr., Deputy Assistant Attorney General, Civil Rights Div., U.S. Department of Justice), *supra* note 4, at 4.

<sup>48</sup> U.S. Dep’t of Justice, Civil Rights Div., Town Hall Meeting of Religious Organizations at Department of Justice Addresses Religious-Based Hate Crimes (Nov. 2012), *available at* <https://www.justice.gov/crt/town-hall-meeting-religious-organizations-department-justice-addresses-religion-based-hate#1>.

<sup>49</sup> U.S. Comm. on Civil Rights, “Federal Civil Rights Engagement with Arab and Muslim Communities post 9/11: A Briefing Before the United States Commission on Civil Rights Held in Washington, DC” (Nov. 9, 2012), *available at* [http://www.usccr.gov/pubs/ARAB\\_MUSLIM\\_9-30-14.pdf](http://www.usccr.gov/pubs/ARAB_MUSLIM_9-30-14.pdf).

<sup>50</sup> Office of Management and Budget, Supporting Statement 1110-0015 *Hate Crime Incident and Quarterly Hate Crime Report* (Sept. 9, 2014), *available at* <https://www.reginfo.gov/public/do/DownloadDocument?objectID=48581901>.

<sup>51</sup> Letter from Richard J. Durbin et al. to Eric Holder, U.S. Attorney General, and Robert Mueller, Director, Fed. Bureau of Investigation (Feb. 19, 2013), *available at* [https://www.feinstein.senate.gov/public/\\_cache/files/c/cceae93-fa35-46dc-af94-47616448b7ee/D675C292AC55100E5640485FBBF6B324.february-19-2013-senate-letter-to-attorney-general-and-fbi-director.pdf](https://www.feinstein.senate.gov/public/_cache/files/c/cceae93-fa35-46dc-af94-47616448b7ee/D675C292AC55100E5640485FBBF6B324.february-19-2013-senate-letter-to-attorney-general-and-fbi-director.pdf).

<sup>52</sup> Arab American Institute, The Arab American Vote 2012 (Sept. 27, 2012), *available at* [https://d3n8a8pro7vhmx.cloudfront.net/aaipages/5100/attachments/original/1458053697/AA\\_Vote\\_2012.pdf?1458053697](https://d3n8a8pro7vhmx.cloudfront.net/aaipages/5100/attachments/original/1458053697/AA_Vote_2012.pdf?1458053697).

category would allow law enforcement to better track and respond to hate crimes against the Arab American community.<sup>53</sup>

After expressing support for the introduction of anti-Sikh, anti-Hindu, and anti-Arab hate crime into national UCR hate crime data collections, the senators asked Attorney General Holder and Director Mueller to forward their letter to all 35 members of the CJIS Advisory Policy Board.

Composed of 35 representatives from criminal justice agencies, national security agencies, and related organizations, the CJIS Advisory Policy Board meets regularly to review “policy, technical, and operational issues related to CJIS Division programs.” In conjunction with the Civil Rights Division and the Community Relations Service, the FBI UCR Program began developing materials on the proposed modifications. The Program also sought input from advocacy organizations and other members of the public during this process, and in the spring of 2013, delivered its proposal to the CJIS Advisory Policy Board.<sup>54</sup> Based on their review, the Board then makes recommendations to the Director of the FBI.<sup>52</sup> Prior to the spring 2013 advisory process, both the CJIS Advisory Policy Board and FBI Director Robert Mueller received multiple letters advocating for improved data collection on anti-Arab, anti-Sikh, and anti-Hindu hate crime.

On March 21, 2013, the board members also received a letter from over 100 members of Congress underscoring the “specific, demonstrated need” for anti-Arab, anti-Sikh, and anti-Hindu hate crime data.<sup>56</sup> “Given the scale of the problem and that these discrete communities are so acutely susceptible to hate violence in the United States,” they wrote, “we urge the Advisory Board to support adding these categories to the existing HCSA data collection mandate for federal, state, and local law enforcement agencies.”

In addition to letters from elected officials, components of

the Justice Department also received letters from impacted communities in advance of the spring 2013 advisory decision. In a letter dated May 28, 2013, over 150 civil rights, religious, education, civic, and professional organizations, including the Arab American Institute, urged the FBI to begin collecting data on anti-Arab, anti-Sikh, and anti-Hindu hate crime.<sup>57</sup> The letter noted that while the FBI’s annual report, *Hate Crime Statistics*, provided the “single best national snapshot of bias-motivated criminal activity in the United States,” the report did not provide accurate or representative data on hate crime against certain targeted or vulnerable communities. The letter also asserted the inclusion of additional reporting categories would “increase public awareness of [anti-Arab, anti-Sikh, and anti-Hindu hate] crimes, encourage victims to report these crimes, and improve the relationship between law enforcement and these communities.”

On June 5, 2013, the CJIS Advisory Policy Board approved modifications to incorporate anti-Arab, anti-Sikh, and anti-Hindu bias motivation categories into existing UCR hate crime data collections.<sup>58</sup> The board also decided at the spring 2013 advisory meeting to include the remaining self-identified religions in the United States, as listed in the Pew Research Center’s *Forum on Religion and Public Life and U.S. Census Bureau’s Statistical Abstract*.<sup>59</sup> In addition to anti-Arab, anti-Sikh, and anti-Hindu hate crime, the national UCR data collections would therefore be modified to collect data on anti-Buddhist, anti-Eastern Orthodox, anti-Jehovah’s Witness, anti-Mormon, and anti-Other Christian hate crime as well.<sup>60</sup> On June 28, 2013, nearly one year after the Oak Creek shooting, FBI Director Mueller authorized these proposed modifications to the national UCR hate crime data collections.

### The Implementation Process

While Director Mueller authorized the proposed UCR modifications in the summer of 2013, the FBI anticipated it would take an additional two years for the FBI UCR Program

<sup>53</sup> *Id.* (Letter from Richard J. Durbin et al. to Eric Holder, U.S. Attorney General, and Robert Mueller, Director, Fed. Bureau of Investigation).

<sup>54</sup> U.S. Dep’t of Justice, *2013 Agency Plan for the White House Initiative on Asian Americans and Pacific Islanders*, available at <https://sites.ed.gov/aapi/files/2013/02/U.S.-Department-of-the-Justice-2013-Agency-Plan.pdf>.

<sup>55</sup> CJIS Div., Fed. Bureau of Investigation, “*The CJIS Advisory Process: A Shared Management Concept*,” <https://www.fbi.gov/services/cjis/the-cjis-advisory-process>.

<sup>56</sup> Letter from Joseph Crowley et al. to Members of the Advisory Policy Board, U.S. Dep’t of Justice, Criminal Justice Information Services Div. (Mar. 21, 2013), available at <https://crowley.house.gov/sites/crowley.house.gov/files/Letter%20to%20APB%20on%20Hate%20Crimes%20Against%20Sikhs%20Hindus%20and%20Arabs%2003-21-2013.pdf>.

<sup>57</sup> Anti-Defamation League, “Coalition Urges FBI to Track Hate Crimes Against Sikhs, Arabs and Hindus” (May 28, 2013), <https://www.adl.org/news/letters/coalition-urges-fbi-to-track-hate-crimes-against-sikhs-arabs-and-hindus>.

<sup>58</sup> Office of Management and Budget, “*Supporting Statement 1110-0015 Hate Crime Incident and Quarterly Hate Crime Report*” (Sept. 9, 2014), <https://www.reginfo.gov/public/do/DownloadDocument?objectID=48581901>

<sup>59</sup> Pew Research Center, “Forum on Religion and Public Life, U.S. Religious Landscape Survey: Religious Beliefs and Practices” (June 1, 2008), available at <http://www.pewforum.org/2008/06/01/u-s-religious-landscape-survey-religious-beliefs-and-practices>; U.S. Census Bureau, *Statistical Abstract of the United States: 2012* (Aug. 2011), available at <https://www.census.gov/library/publications/2011/compendia/statab/131ed.html>.

<sup>60</sup> CJIS Div., U.S. Dep’t of Justice, “*Uniform Crime Reporting (UCR) State Program Bulletin 13-1*” (Aug. 2013), available at <https://ucr.fbi.gov/state-program-bulletins-and-newsletters/uniform-crime-reporting-ucr-state-program-bulletin-13-3>.

to implement the necessary “technical enhancements, procedural changes, and manual revisions” required to collect data on the eight additional bias motivation categories.<sup>61</sup> In addition to redesigning the data collections, the CJIS Division would have to update its hate crime data collection guidelines and training materials for law enforcement agencies participating in the national UCR program to reflect the new reportable bias motivations.<sup>62</sup> During this process, the CJIS Division tested the redesigned data collections with multiple working groups consisting of law enforcement officers and civilian law enforcement employees. The data collections were redesigned in consultation with the Office of Management and Budget. In a June 2014 working group, the CJIS Division partnered with the West Virginia University Police Department and tested the “cognitive and usability elements of the redesigned collection.”<sup>63</sup>

With respect to incorporating anti-Arab, anti-Sikh, and anti-Hindu bias motivation codes into the Hate Crime Incident Report form, the CJIS Division recorded four separate findings based on the June 2014 test. First, law enforcement personnel reported difficulty in distinguishing between incidents that manifest evidence of anti-Arab bias, anti-Sikh bias, or anti-Hindu bias. According to the CJIS Division, “most of the incidents were classified as anti-Muslim or anti-Arab if there was any indication of ethnic headwear or symbols.” Second, participants often classified incidents as anti-Arab hate crimes simply because the victim was speaking Arabic. Third, law enforcement personnel with military experience reported that prior military training had familiarized them with Arab, Sikh, and Hindu communities. And finally, most of the participants indicated specific training would improve their ability to accurately report hate crimes targeting Arab, Sikh, and Hindu Americans. Based on these findings, the CJIS Division determined improved training materials were needed to educate law enforcement personnel about ethnic and religious minority groups.

Working with civil rights and advocacy organizations, the CJIS Division developed specific hate crime training

scenarios and reporting guidelines for law enforcement personnel. The current edition of the CJIS Division’s *Hate Crime Data Collection Guidelines and Training Manual* provides instruction on distinguishing between anti-Arab, anti-Hindu, anti-Muslim, and anti-Sikh hate crimes, special considerations when working with victims from Arab, Hindu, Muslim, Sikh, and South Asian communities, specific training scenarios, and case exercises.<sup>64</sup>

Documents from the CJIS Division indicate that one additional finding from the June 2014 test was incorporated into the redesigned UCR hate crime data collections. After testing two separate data collection formats on race and ethnicity, the CJIS Division determined all bias motivation codes corresponding to race and ethnicity should be presented in a combined category. Prior to the 2015 UCR modifications, bias motivation codes were separated into seven aggregate categories: Race, Religion, Sexual Orientation, Ethnicity, Disability, Gender, and Gender Identity.

According to the Office of Management and Budget’s standards for the classification of federal data on race and ethnicity, it is preferable to collect data on race and ethnicity separately, but the use of a combined format is not prohibited. These standards are outlined in Office of Management and Budget Directive No. 15, *Race and Ethnic Standards for Federal Statistics and Administrative Reporting*, which was originally published in 1977.<sup>65</sup> Revised in 1997, OMB Directive No. 15 also provides the minimum designations for race and ethnicity to be used in federal statistics and data collections. The minimum racial designations include: American Indian or Alaska Native; Asian; Black or African American; Native Hawaiian or Other Pacific Islander; and White.<sup>66</sup> The minimum ethnic designations include: Hispanic or Latino; and Not Hispanic or Latino.<sup>67</sup> When collecting data based on race and ethnicity, federal programs are not required to limit their statistical renderings to the minimum designations listed above:

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<sup>61</sup> *Id.*, at 8.

<sup>62</sup> The FBI UCR Program is a component of the CJIS Division.

<sup>63</sup> CJIS Div., Fed. Bureau of Investigation, and West Virginia Univ. Police Dep’t, “*Report on Cognitive Testing*” (June 27, 2014), available at <https://www.reginfo.gov/public/do/DownloadDocument?objectID=53488101>.

<sup>64</sup> CJIS Div., Fed. Bureau of Investigation, “*Hate Crime Data Collection Guidelines and Training Manual*” (Feb. 27, 2015), available at <https://ucr.fbi.gov/hate-crime-data-collection-guidelines-and-training-manual.pdf>.

<sup>65</sup> Office of Management and Budget, “*DIRECTIVE NO. 15: Race and Ethnic Standards for Federal Statistics and Administrative Reporting*” (as adopted on May 12, 1977), available at <https://wonder.cdc.gov/wonder/help/populations/bridged-race/directive15.html>

<sup>66</sup> Prior to the 1997 revisions, there were four minimum racial designations: American Indian or Alaskan Native; Asian or Pacific Islander; Black; and White. Pursuant to the 1997 revisions, the designation of Asian or Pacific Islander was bifurcated into Asian and Native Hawaiian or Other Pacific Islander, and the designation of Black was amended to Black or African American. The designation of American Indian or Alaskan Native was also modified to American Indian or Alaska Native.

In no case shall the provisions of the standards be construed to limit the collection of data to the categories described above. The collection of greater detail is encouraged; however, any collection that uses more detail shall be organized in such a way that the additional categories can be aggregated into these minimum categories for data on race and ethnicity.<sup>68</sup>

Therefore, federal programs are permitted to collect data and publish statistics on additional racial and ethnic categories, so long as the additional categories are tabulated as subsets of the minimum designations.<sup>69</sup> According to the FBI Crime Statistics Management Unit, the CJIS Division worked with the Office of Management and Budget to determine the most appropriate method to incorporate anti-Arab hate crime into national UCR data collections. While federal standards do not provide a minimum ethnic designation for individuals of Middle Eastern or North African descent,<sup>70</sup> the U.S. Census Bureau’s American Community Survey (ACS) has collected demographic data based on “Arab ancestry” since 2005.<sup>71</sup> According to the Census Bureau, “[a]ncestry refers to a person’s ethnic origin or descent, *roots*, or heritage, or the place of birth of the person or the person’s parents or ancestors before their arrival in the United States.”<sup>72</sup> Between 1980 and 2000, ancestry data, including data on Arab ancestry, were collected on the long form of the decennial census.<sup>73</sup> In consultation with the Office of Management and Budget, the CJIS Division decided to apply this construction of Arab ancestry into national UCR hate crime data collections: not as a distinct ethnicity, but rather as an ethnic subset. In order to accommodate the inclusion of anti-Arab hate crime into federal data collection, the combined category of Race/Ethnicity was therefore expanded to Race/Ethnicity/Ancestry.<sup>74</sup>

The U.S. Census Bureau is prohibited under federal law from conducting mandatory data collections on religious belief and affiliation.<sup>75</sup> Given that OMB Directive No. 15 provides standards for the classification of federal data on race and ethnicity, but not religious affiliation, the incorporation of

| Bias Category                 | Bias Motivation and code   |
|-------------------------------|--|
| Race/Ethnicity/Ancestry       | Anti-American Indian or Alaska Native (13)                             |
|                               | Anti-Arab (31)   |
|                               | Anti-Asian (14)  |
|                               | Anti-Black or African American (12)                                    |
|                               | Anti-Hispanic or Latino (32)   |
|                               | Anti-Multiple Races, Group <sup>1</sup> (15)                           |
|                               | Anti-Native Hawaiian or Other Pacific Islander (16)                    |
|                               | Anti-Other Race/Ethnicity/Ancestry (33)                                |
| Religion                      | Anti-White (11)  |
|                               | Anti-Buddhist (83)   |
|                               | Anti-Catholic (22)   |
|                               | Anti-Eastern Orthodox (81)   |
|                               | Anti-Hindu (84)  |
|                               | Anti-Islamic (Muslim) (24)   |
|                               | Anti-Jehovah’s Witness (29)  |
|                               | Anti-Jewish (21)   |
|                               | Anti-Mormon (28)   |
|                               | Anti-Multiple Religions, Group (26) <sup>1</sup>                       |
|                               | Anti-Other Christian (82)  |
|                               | Anti-Other Religion (25)   |
|                               | Anti-Protestant (23)   |
| Anti-Sikh (85)                |  |
| Anti-Atheism/Agnosticism (27) |  |
| Sexual Orientation            | Anti-Bisexual (45)   |
|                               | Anti-Gay (Male) (41)   |
|                               | Anti-Heterosexual (44)   |
|                               | Anti-Lesbian (42)  |
|                               | Anti-Lesbian, Gay, Bisexual, or Transgender (Mixed Group) <sup>2</sup> |
| Disability                    | Anti-Mental Disability (52)  |
|                               | Anti-Physical Disability (51)  |
| Gender                        | Anti-Female (62)   |
|                               | Anti-Male (61)   |
| Gender Identity               | Anti-Gender Nonconforming (72)   |
|                               | Anti-Transgender (71)  |

<sup>1</sup>Anti-Multiple Races, Group is reported if more than one victim in the incident is a different race. This also implies to the Anti-Multiple Religions, Group category.  
<sup>2</sup>Lesbian, Gay, Bisexual or Transgender is referred to as LGBT

Figure 1: Bias Motivation by Category and Type, Criminal Justice Information Services Division, Uniform Crime Reporting Program, Fed. Bureau of Investigation, “Hate Crime Data Collection Guidelines And Training Manual” (Feb. 27, 2015).

the seven additional religious bias motivation categories into national UCR data collections was relatively straightforward. While the CJIS Division added some relevant key terms to the 2015 edition, the current *Hate Crime Data Collection Guidelines and Training Manual* does not include specific instructions, special considerations, training scenarios, or case exercises on anti-Buddhist, anti-Eastern Orthodox, anti-Jehovah’s Witness, anti-Mormon, or anti-Other Christian hate crime. Provided on page five of the guidelines and training manual, the table shown above features every reportable bias motivation category in current UCR hate crime data collections, along with its corresponding bias motivation code.<sup>76</sup> When submitting anti-Arab hate crime data to the FBI UCR Program, law enforcement agencies use Bias Motivation Code 31 (Anti-Arab).

<sup>67</sup> Prior to the 1997 revisions, the two minimum designations were Hispanic Origin and Not of Hispanic Origin. The designations were changed to Hispanic or Latino and Not Hispanic or Latino.  
<sup>68</sup> Office of Management and Budget, “Revisions to the Standards for the Classification of Federal Data on Race and Ethnicity” (Oct. 30, 1997), available at [https://obamawhitehouse.archives.gov/omb/fedreg\\_1997standards](https://obamawhitehouse.archives.gov/omb/fedreg_1997standards).  
<sup>69</sup> Despite the persistent efforts of stakeholders, including the Arab American Institute, the Office of Management and Budget has not introduced a minimum ethnic designation for individuals of Middle Eastern or North African descent See Arab American Institute, Issue Brief: The U.S. Census (Apr. 26, 2018), available at <http://www.aaiusa.org/2020census>.  
<sup>70</sup> Office of Management and Budget, “Revisions to the Standards for the Classification of Federal Data on Race and Ethnicity,” *supra* note 35.  
<sup>71</sup> Arab American Institute, The U.S. Census, <http://www.aaiusa.org/census>.  
<sup>72</sup> U.S. Census Bureau, U.S. Department of Commerce, “About Ancestry” (last revised Feb. 14, 2017), <https://www.census.gov/topics/population/ancestry/about.html>.  
<sup>73</sup> Arab American Institute, The U.S. Census, *supra* note 38.  
<sup>74</sup> See CJIS Div., Fed. Bureau of Investigation, “Hate Crime Data Collections Guidelines and Training Manual” (“With the revised race and ethnicity categories and the addition of an ancestry (a subcategory of ethnicity), the OMB advised the program to publish the data in a combined category of Race/Ethnicity/Ancestry Bias.”), *supra* note 31, at 11.  
<sup>75</sup> 13 U.S.C. § 221(c).  
<sup>76</sup> The code for the Anti-Lesbian, Gay, Bisexual, or Transgender (Mixed Group) bias motivation is not listed in this table. The appropriate code is 43.

Readers may note that, in order to accommodate the collection of data concerning anti-Arab hate crime, no changes were made to Directive No. 15. Instead, the addition was made within the parameters of OMB's existing minimum designations. That no changes to the federal standards on race and ethnicity were required to incorporate the collection of anti-Arab data into federal hate crime statistics in 2015, eliminates those standards as the cause of the FBI UCR Program's removal of the original anti-Arab Bias Motivation Code 31 in 1992.

### **Hate Crime Statistics 2015-2016: New Categories, a Reported Surge, and a Surprising Find**

Just as the FBI had anticipated, it took two years for the CJIS Division to formalize the introduction of the new bias motivation codes into national UCR hate crime data collections. That process included technical enhancements, procedural changes, and manual revisions: the CJIS Division refined and reformatted its data collections to promote accurate submissions, worked with the Office of Management and Budget to ensure compliance with procedural standards, and collaborated with civil rights and advocacy organizations to prepare guidelines and training materials for law enforcement.

Following the 2015 UCR modifications, law enforcement agencies could report hate crimes to the FBI UCR Program with greater specificity, ensuring more accurate and representative data on hate crime targeting communities previously overlooked in official statistics. Published in November 2016, *Hate Crime Statistics, 2015*, recorded a total of 37 anti-Arab hate crime incidents reported nationwide.<sup>77</sup> That number increased 38 percent the following year, when 51 anti-Arab hate crimes were recorded in the 2016 edition of the FBI's annual report. Hate crimes targeting Sikh and Hindu Americans increased in 2016 as well. Some might attribute this increase to a reporting effect, given that between 2015 and 2016, hate crime victims and responding officers likely became more aware of the new categories and, therefore, more receptive to reporting incidents when they occurred.<sup>78</sup> Furthermore, relatively few anti-Arab, anti-Sikh, and anti-Hindu incidents were reported in 2015 and 2016. Therefore, a variation of just one or two incidents represents

multiple percentage points. Despite these qualifications, reported increases occurred in the case of more established bias motivation categories as well. Reports of anti-American Indian or Alaska Native, anti-Jewish, anti-Islamic (Muslim), and anti-Transgender hate crime saw consecutive annual increases in 2015 and 2016. Of these categories, Anti-Islamic (Muslim) hate crime incidents saw the most dramatic increase: after surging 67 percent in 2015, the total number of anti-Islamic (Muslim) hate crime incidents rose another 20 percent in 2016, from 257 incidents, to 307. Altogether, hate crime incidents reported nationwide increased 6.8 percent from 2014 to 2015, and another 4.6 percent in 2016, representing the first consecutive annual increase since 2004.

## **III. The History of Code 31**

### **The Complicated History of Anti-Arab Hate Crime Reporting**

The question of whether federal statistics capture the true nature and extent of hate crime in the United States is central to this report. Our findings suggest they do not. However, accounts in the news media and reporting from prominent civil rights and advocacy organizations support the notion that targeted violence against specific communities has intensified in recent years, and particularly since 2015. If we are truly in the midst of a nationwide surge of hate crime, then we might attribute that surge, in part, to concerning developments in American politics and popular culture.

In writing this report, we hoped to confront the burgeoning xenophobia, racism, and anti-Arab and anti-Muslim sentiment threatening our communities. As for the remaining incentives, both the introduction of anti-Arab hate crime to federal data collections and the present lack of research into targeted violence against Arab Americans motivated our work. Specifically, we hoped to write a report focused on anti-Arab hate crime data reported through official government channels. Given our impression that Bias Motivation Code 31 (Anti-Arab) was incorporated into federal hate crime data collections in 2015, we assumed our research would be limited to just two years of statistics.

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<sup>77</sup> Of the eight bias motivation categories introduced to national UCR hate crime data collections in 2015, Anti-Eastern Orthodox accounted for a plurality of all incidents, at 58 in total. Behind Anti-Arab, Anti-Other Christian was third, at 15 incidents.

<sup>78</sup> Brian Levin, Center for the Study of Hate and Extremism, California State University, San Bernardino, Special Status Report: Hate Crime in the United States (2016), available at [https://csbs.csusb.edu/sites/csusb\\_csbs/files/SPECIAL%20STATUS%20REPORT%20Final%20Draft.pdf](https://csbs.csusb.edu/sites/csusb_csbs/files/SPECIAL%20STATUS%20REPORT%20Final%20Draft.pdf).

We began our research at the state level, as state UCR programs often provide annual statistics on the same hate crime data they end up forwarding to the FBI UCR Program for publication in *Hate Crimes Statistics*. To our surprise, we discovered UCR programs in 25 states published data on anti-Arab hate crime in their annual statistics at some point between 1991 and 2014.<sup>79</sup>

The 1992 edition of the FBI's *Hate Crime Statistics* did not provide data on anti-Arab hate crime. While the program's initial data collections were structured so as to include a discrete reporting category for anti-Arab bias, as previously noted, the category was removed during the authorization process upon recommendation from the OMB, in accordance with Policy Directive No. 15, *Race and Ethnic Standards for Federal Statistics and Administrative Reporting*.<sup>80</sup> This narrative was confirmed by the FBI's Crime Statistics Management Unit.

Despite the elimination of anti-Arab hate crime from official UCR data collections, law enforcement agencies continued to submit hate crime data using Bias Motivation Code 31 (Anti-Arab). The FBI UCR Program would then convert each code 31 submission to Bias Motivation Code 33 (Anti-Other Ethnicity/National Origin) prior to publication in *Hate Crime Statistics*. This trend continued until 2003, when the FBI UCR Program restructured its hate crime data collections to reject any submissions with code 31. According to a 2001 UCR State Program Bulletin, the federal government sequentially phased out code 31 from official UCR hate crime data collections. In this particular bulletin, dated July 2001, the FBI UCR Program reminds participating state programs that submissions denoting anti-Arab hate crime are invalid:

When reporting bias motivation types via Hate Crime Incident Report Forms [SRS format] and NIBRS Data Element 8A, Bias Motivation, a few states are submitting data with an invalid code of 31 to indicate Anti-Arab as an Ethnicity/National-Origin Bias. All contributors please note that 31 is not a valid bias motivation code. During NIBRS' developmental stages, code 31 was accepted. However, in 1996 the code became invalid. Though the national Program currently accepts these data

and converts the bias motivation code to 33 for Anti-Other Ethnicity/National Origin, programming changes are forthcoming that will result in the rejection of improperly coded data.<sup>81</sup>

The remaining publicly available reference to code 31 comes in the form of a similar state program bulletin. Dated December 2001, this bulletin references the July announcement regarding state UCR programs' use of the invalid code and further explains the pending changes. Following a one-year conversion period concluding in January 2003, the FBI UCR Program would begin rejecting any code 31 submissions and "issue an error message to the contributor stating that the code is invalid."<sup>82</sup> The state UCR program would then have to resubmit the data using an alternative code.

From 1991 to 2003, law enforcement agencies in 32 states and the District of Columbia reported over 800 anti-Arab hate crime incidents to the FBI UCR Program. These totals were extracted from Excel versions of 1991-2003 FBI Hate Crime Master Files, which contain records of raw data submitted from participating law enforcement agencies. The FBI's Crime Statistics Management Unit shares these files upon request. None of the data were reflected in corresponding editions of *Hate Crime Statistics*. As mentioned in the paragraph above, the FBI UCR program converted each invalid code 31 submission to Bias Motivation Code 33 (Anti-Other Ethnicity/National Origin).

Logical questions arise. Was the CJIS Division aware that state UCR programs were providing anti-Arab hate crime data in their annual statistics? If so, then why not indicate that law enforcement agencies in certain states had experience collecting data on anti-Arab hate crime during the 2013 advisory process or the UCR modifications? Furthermore, had 25 separate state UCR programs independently decided to collect data and publish annual statistics on anti-Arab hate crime, or had they structured their data collections in accordance with federal standards? Further, readers might question why agencies started reporting anti-Arab hate crimes even though the category was removed prior to the initial publication of hate crime statistics. While we cannot know for sure, based on other

<sup>79</sup> One of those states, Hawaii, does not have a state UCR Program. Housed within the Department of the Attorney General, the Crime Prevention and Justice Assistance Division is responsible for publishing annual state-level hate crime statistics.

<sup>80</sup> Jack McDevitt et al., Northeastern Univ., "Ctr. For Criminal Justice Policy Research, Improving the Quality and Accuracy of Bias Crime Statistics Nationally: An Assessment of the First Ten Years of the Bias Crime Data Collection" (Jul. 2000), available at [http://www.jrsa.org/pubs/reports/bjs\\_bias\\_crime\\_data.pdf](http://www.jrsa.org/pubs/reports/bjs_bias_crime_data.pdf).

<sup>81</sup> Office of Management and Budget, "DIRECTIVE NO. 15: Race and Ethnic Standards for Federal Statistics and Administrative Reporting," *supra* note 19.

<sup>82</sup> Fed. Bureau of Investigation, CJIS Div., "UCR State Program Bulletin 01-1" (July 2001), available at <https://ucr.fbi.gov/nibrs/developments-in-nibrs/2001-bulletins>.

materials uncovered in our research, we can assume that law enforcement agencies received data collection guidelines and training manuals during the developmental stages. These training materials contained guidance on an "Anti-Arab" category as part of hate crime incident report forms.

In 2001 alone, agencies in 15 states submitted 254 incidents using bias motivation code 31 to the FBI UCR Program.<sup>83</sup> These submissions contributed to a dramatic 424 percent increase of Anti-Other Ethnicity/National Origin hate crime incidents reported in *Hate Crime Statistics* that year.<sup>84</sup> At 1,501 incidents, Anti-Other Ethnicity/National Origin hate

Writing in a 2004 empirical analysis published in the *Tulane Law Review*, legal scholar William Rubenstein estimated that of the 1,501 Anti-Other Ethnicity/National Origin hate crime incidents reported in 2001, anti-Arab hate crime accounted for a total of 1,231 incidents.<sup>85</sup> He arrived at this estimate using hate crime reports from Los Angeles County, which featured disaggregated data for "Anti-Latino" and "Anti-Mid-East" hate crime, and extrapolating that data to find an annual nationwide total. According to this methodology, Rubenstein estimated that nationwide, approximately 65 anti-Arab hate crimes occurred each year between 1996 and 2000. This estimate is supported through a second approach based on the nationwide increase of anti-Islamic (Muslim) hate crime incidents.

The second way of estimating the anti-Arab subtotal is to start by assuming that anti-Arab hate crimes increased after September 11 at the same pace as anti-Islamic [Muslim] hate crimes increased. ...If one assumes that *all* of the 2001 increase in "other ethnic" hate crimes are anti-Arab, that makes the pre-2001 anti-Arab raw data about 68 reports per year, which is, again, relatively similar to the number arrived at with the Los Angeles methodology.<sup>86</sup>

**HATE CRIME INCIDENT REPORT**

Initial  Adjustment  ORI  Date of Incident Month / Day / Year

Incident No.  Page  of  of Same Incident

**UCR Offense**

|                         |                         |                       |                                     |
|-------------------------|-------------------------|-----------------------|-------------------------------------|
| UCR Code # of victims   | UCR Code # of victims   | Offense Code          | 07 Motor Vehicle Theft              |
| #1 <input type="text"/> | #4 <input type="text"/> | 01 Murder             | 08 Arson                            |
| #2 <input type="text"/> | #5 <input type="text"/> | 02 Forcible Rape      | 09 Simple Assault                   |
| #3 <input type="text"/> | #6 <input type="text"/> | 03 Robbery            | 10 Intimidation                     |
|                         |                         | 04 Aggravated Assault | 11 Destruction / Damage / Vandalism |
|                         |                         | 05 Burglary           |                                     |
|                         |                         | 06 Larceny-Theft      |                                     |

**Location** (Check one for Offense #1)

Grocery / Supermarket

Highway / Road / Alley / Street

**Bias Motivation (Check one for Offense #1)**

|  |   |   |
|--|---|---|
| <b>Racial</b>  | <b>Religious</b>  | Enter Bias Motivation Code if Different from Offense #1 |
| 11 <input type="checkbox"/> Anti - White                             | 21 <input type="checkbox"/> Anti - Jewish                       |   |
| 12 <input type="checkbox"/> Anti - Black                             | 22 <input type="checkbox"/> Anti - Catholic                     | #2 <input type="text"/>                                 |
| 13 <input type="checkbox"/> Anti - American Indian / Alaskan Native  | 23 <input type="checkbox"/> Anti - Protestant                   | #3 <input type="text"/>                                 |
| 14 <input type="checkbox"/> Anti - Asian / Pacific Islander          | 24 <input type="checkbox"/> Anti - Islamic (Moslem)             | #4 <input type="text"/>                                 |
| 15 <input type="checkbox"/> Anti - Multi - Racial Group              | 25 <input type="checkbox"/> Anti - Other Religion               | #5 <input type="text"/>                                 |
| <b>Ethnicity / National Origin</b>                                   | 26 <input type="checkbox"/> Anti - Multi - Religious Group      | #6 <input type="text"/>                                 |
| 31 <input checked="" type="checkbox"/> Anti - Arab                   | 27 <input type="checkbox"/> Anti - Atheism / Agnosticism / etc. |   |
| 32 <input type="checkbox"/> Anti - Hispanic                          | <b>Sexual</b>   |   |
| 33 <input type="checkbox"/> Anti - Other Ethnicity / National Origin | 41 <input type="checkbox"/> Anti - Male Homosexual (Gay)        |   |
|  | 42 <input type="checkbox"/> Anti - Female Homosexual (Lesbian)  |   |
|  | 43 <input type="checkbox"/> Anti - Homosexual (Gay and Lesbian) |   |
|  | 44 <input type="checkbox"/> Anti - Heterosexual                 |   |
|  | 45 <input type="checkbox"/> Anti - Bisexual                     |   |

**Victim Type:** For each offense code listed above, check all applicable victim types.

Figure 2: Hate Crime Incident Report Form, Fed. Bureau of Investigation, Department of Justice "Training Guide for Hate Crime Data Collection" (1991).

crime accounted for more than 15 percent of the annual nationwide total of 9,730 incidents, and was second only to Anti-Black or African American hate crime (2,899 incidents) among all reportable bias motivation categories. Subtracting the 254 improperly coded incidents from the annual total of 1,501 leaves us with 1,247 properly coded Anti-Other Ethnicity/National Origin submissions. Of these code 33 submissions, we can assume that a significant number correspond to incidents demonstrating anti-Arab bias. Approximately four-fifths (1,008 incidents) of code 33 submissions in the FBI's 2001 Hate Crime Master Files were reported between September 11 and December 31, 2001. This represents an eleven-fold increase over the same period the previous year.

Hate Crime Master Files from 1991 and 1992, when UCR hate crime data collections were still structured to receive bias motivation code 31 submissions, also support Rubenstein's annual pre-9/11 estimate. In 1991, law enforcement agencies in 16 states submitted 73 incidents using bias motivation code 31.<sup>87</sup> Agencies in 12 states submitted 60 incidents in 1992, making for a nationwide average of 67 anti-Arab hate crime incidents per year over this period.<sup>88</sup> The number of code 31 submissions recorded in Hate Crime Master Files gradually declined after 1992, when the FBI UCR Program removed the category from official hate crime data collections. Between 1998 and 2000, law enforcement agencies submitted an average of 29 incidents using code 31.

Given this gradual decline of code 31 submissions after the elimination of anti-Arab hate crime from official UCR data

<sup>83</sup> Fed. Bureau of Investigation, CJIS Div., "UCR State Program Bulletin 01-3" (Dec. 2001) (archived with Jul. 2001 bulletin), *supra* note 60.

<sup>84</sup> CO, CT, IL, KY, MA, MI, MO, NJ, ND, OH, TN, TX, UT, VA, WA.

<sup>85</sup> Fed. Bureau of Investigation, CJIS Div., "Hate Crime Statistics, 2001" (Nov. 25, 2002), available at <https://ucr.fbi.gov/hate-crime/2001>.

<sup>86</sup> William B. Rubenstein, "The Real Story of U.S. Hate Crime Statistics: An Empirical Analysis," 78 *Tul. L. Rev.* 1213 (2004), available at <https://williamsinstitute.law.ucla.edu/wp-content/uploads/Rubenstein-Hate-Crimes-Empirical-Analysis-2003.pdf>.

<sup>87</sup> *Id.*, at 1237.

<sup>88</sup> AZ, CO, CT, GA, ID, IL, MD, MN, NJ, OH, OK, OR, TX, VA, WA, WI.

collections, the 254 incidents recorded in the 2001 Hate Crime Master File are all the more remarkable.

Looking to the data, we cannot determine exactly how many of the nearly five thousand submissions with code 33 from 1992 to 2003 refer to an anti-Arab bias-motivated crime. The hate crime master files do indicate, however, that one-fifth of these submissions correspond to the weeks between September 11 and December 31, 2001, representing a 900 percent increase over the same period the previous year. Given the immediate aftermath of 9/11 saw an extraordinary surge of anti-Arab and anti-Muslim violence, we can reasonably ascribe this increase of code 33 submissions in large part to the post-9/11 backlash, specifically hate crimes targeting Arab Americans. While anti-Arab violence likely accounted for a greater percentage of anti-other ethnicity/national origin incidents reported after 9/11, a significant proportion of pre-9/11 code 33 submissions were likely motivated because of anti-Arab bias.

### ***Just as Code 31 was rendered invalid in federal data collections, so too were anti-Arab hate crime victims rendered invisible in official statistics.***

Despite a persistent and demonstrated threat of bias-motivated violence against the community, code 31 (Anti-Arab) was rendered invalid for nearly 25 years, precluding not only reliable statistics on hate crimes targeting Arab Americans, but limiting the opportunity to draft meaningful policy solutions and raise public awareness as well. Just as bias motivation code 31 (Anti-Arab) was rendered invalid, so too were Arab Americans rendered invisible.

#### **Discrepancies in Federal and State Data**

In the first section of this chapter we identified our principal motivations for writing this report. The apparent nationwide surge of bias-motivated violence, evidenced in official data, media accounts, and research from leading civil rights and advocacy organizations, necessitates an improved response to hate crime in American communities. This need for comprehensive hate crime reform, particularly at the state level, is addressed in our resource guide, *Rating the Response: Hate Crime Legislation, Reporting, and Data Collection in the United States*, provided in Appendix A of this report. Our second motivation relates specifically to

the Arab American community. As the first report on hate crimes and other bias-motivated incidents targeting Arab Americans in over a decade, and the first ever to utilize official government data, *Underreported, Under Threat* fills a critical void. In the course of our research, perhaps the most significant finding was that of a former UCR hate crime category denoting anti-Arab bias. Prior knowledge of the category, even among seasoned activists and experts engaged in hate crime-related work, was limited at best. This can be attributed, in part, to the lack of archived information regarding the developmental stages of the UCR hate crime data collections. Inattention to state-based publications, many of which provided anti-Arab hate crime statistics between 1992 and 2014, may have likewise contributed to the category's relative obscurity. Even beyond the issue of anti-Arab hate crime, state-based statistics are the subject of scant analysis.

As our research has demonstrated, state and federal data yield significant discrepancies, thereby illuminating one of many breakdowns in the hate crime reporting and data collection system.

While looking at anti-Arab hate crime data at the state and federal level in the course of researching this report, it became apparent these incidents are severely underreported. While state UCR programs are collecting and publishing their own statistics, these are not being translated to the FBI's reporting on hate crime. Taking incidents of anti-Arab hate crime reported through official state level channels and the number of anti-Arab hate crimes reported by the FBI UCR program to create an adjusted total, we can see there is a deep discrepancy in the number of incidents reported by state UCR programs and the FBI. In 2015, adjusting for discrepancies between federal and state reporting raises the FBI UCR Program's number of reported anti-Arab incidents from 40 to 79, a roughly 98 percent increase that represents an undercount of 38 incidents. In 2016, when adjusting for discrepancies in reported totals, the federal total jumps from 58 anti-Arab incidents, to 88, this time representing a roughly 52 percent increase, with 24 uncounted incidents of anti-Arab bias.

At first glance, this decrease in the undercount seems to suggest the inconsistencies in reporting between the state and federal system began to resolve during the second year of anti-Arab data collection at the federal level. A closer look, however, shows that while the gap in the reported incidents lowered, the number of states with a discrepancy in the data reported at state and federal levels remained the same.

In 2015, 29 states reported on anti-Arab incidents at the state level. Of those 29 states, eight reported a different number of anti-Arab incidents in their state level reporting than are reported by the FBI UCR program. Of the remaining 21 states that submitted data without discrepancies between the state and federal levels, 10 submitted zero data. The following year, 26 states reported state level data on anti-Arab incidents. Again, eight had discrepancies between their state and federal level submissions, meaning that in 2016 only 18 states submitted data without discrepancies between state and federal reporting. Of those 18, six submitted zero data.

Interestingly, only two states, Michigan and Texas, displayed discrepancies in state and federal level reporting in both 2015 and 2016. Both states are home to high concentrations of Arab Americans, with the second and fourth largest Arab American populations, respectively. On our rating scale indicating states' responses to hate crime reporting and prevention detailed in the resource guide attached to this report, Texas receives a "moderate" score of 80, while Michigan is rated as "average" with a score of 70. It is significant to note that both states are lower on the scale due to the fact that neither has a statute that requires specific law enforcement training on hate crime.

Both the drastic undercount of anti-Arab incidents at the federal level, and the continued inconsistencies in reporting between state and federal UCR programs, underscore the damage caused by the removal of Bias Motivation Code 31 from the FBI UCR Program's reporting. Despite the undercount decreasing in the year since the code's reintroduction to federal level reporting, that there continues to be a steady level of inconsistency between state and federal reporting of anti-Arab incidents, and that the states with reporting discrepancies have varied from year to year, indicates an enduring consequence of the invisibility in federal reporting of anti-Arab hate.

The discrepancies in reporting, however, are not limited to anti-Arab incidents. Our findings suggest the quality of federal data on hate crime is greatly flawed, with research showing a systemic undercount of hate crime overall. Between 2012 and 2016, thousands of hate crimes were reported at the state level but not published in federal statistics. In examining the adjusted totals for the number

of overall bias incidents in that time frame, we found 1,902 bias incidents went unaccounted for in FBI reporting. In some cases, these discrepancies are startling. In 2012, Oregon's state UCR program reported 114 more incidents than appeared that year in the FBI's statistics. In 2016, Michigan's state UCR reported 91 more incidents than the FBI. That such a deep undercount remains, not only for the newly reintroduced anti-Arab category, but across hate crime reporting data, should raise concerns. This is an indication of a larger breakdown in hate crime reporting, one that lies outside well-known barriers such as community distrust, lack of law enforcement training in identifying hate crimes in the first place, or improper reporting. While these cited examples are severe, such large inconsistencies appearing year after year imply a systemic issue in the reporting mechanisms between state and federal programs. This nationwide discrepancy opens a new avenue of improvement for advocates looking to better statistics on hate crime against their community.

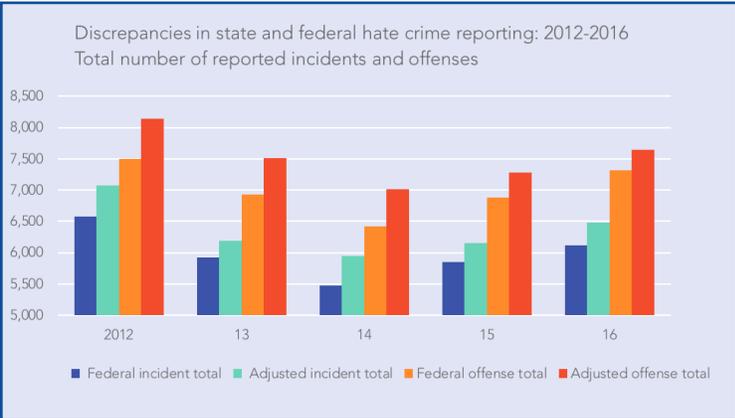


Figure 3: Numerous discrepancies emerge in various states, resulting in an adjusted total that exceeds the totals reported each year in FBI Hate Crime Statistics.







# **CONCLUSIONS & RECOMMENDATIONS**



# CONCLUSIONS & RECOMMENDATIONS

In Part I of this report we contextualized anti-Arab animus in the United States and provided a brief history of the U.S. government's evergreen securitization of the Arab American community. In Part II we provided narratives of four specific incidents of anti-Arab violence. Lastly, in Part III we analyzed discrepancies between federal and state level hate crime reporting and data collection with respect to incidents directed at Arab Americans. Below, we detail our conclusions of these sections and provide recommendations for all levels of government to address the issues identified throughout this report.

## CONCLUSIONS

### Community Distrust of Law Enforcement

Last year, the Arab American Institute (AAI) launched the #ReportHate Project, a 16-state, multi-partner initiative to respond to the rising tide of bigotry and bias-motivated crime, as well as the under-reporting of hate crimes. While each local community presented unique concerns, common threads quickly became evident. The testimonies and findings of the Project support and reinforce the conclusions and recommendations in this report.

This report has shown that hate crimes targeting Arab Americans have historically intensified in the wake of developments in the Middle East or incidents of mass violence. This “backlash” effect continues to impact Muslim, Arab, and South Asian (MASA) communities in the United States. Further, the threat of hate crimes targeting Arab Americans has increased amid burgeoning xenophobia, racism, and anti-Arab and anti-Muslim sentiment.

In light of these realities, healthy relations between Arab Americans and law enforcement agencies are a central part of supporting victims and protecting targeted communities. However, this has not been the reality. While the Federal Bureau of Investigation (FBI) first published anti-Arab hate crime statistics in 2015, the federal government previously collected anti-Arab hate crime data for over a decade, but never shared the data in official statistics.

Across the country many groups expressed a specific distrust of government stemming from the rhetoric and actions of the Federal Government, and, increasingly, the Trump Administration. As was once pointedly asked by a community partner, "What are we to do when the government itself commits a hate crime?" The law enforcement agency with the highest visibility in the community is the local police department, and they experience first-hand the consequences of this distrust.

Fears of cooperation between the federal and local governments mean many who wish to specifically report a hate crime are not willing to do so through their local law enforcement agencies. Individuals do not want to avail themselves to the criminal justice system if their citizenship status might be investigated or if they will be treated differently based on their identity.

### Consistent Reporting

This report has found the laws, policies, and law enforcement practices designed to prevent or respond to hate crime vary from state to state. In particular states, hate crime victims, their families, and their communities have limited recourse to secure a substantial sense of justice. Between 1991 and 2003, law enforcement agencies in 32 states and the District of Columbia reported over 800 anti-Arab hate crime incidents to the FBI. The agencies reported these incidents despite the federal government's elimination of anti-Arab hate crime reporting code from official data collections. While some state-level statistics provide anti-Arab hate crime data for 1991-2016, these data do not provide an accurate representation of the nature and extent of hate crime targeting Arab Americans.

Crucially, local law enforcement agencies representing large populations fail to consistently report hate crimes. AAI has found that 1,357 participating agencies failed to submit incident reports or zero data, indicating there were no hate crime incidents reported within their jurisdictions, in at least one of the four quarterly submission periods in 2016, resulting in a blank submission. Some of these agencies represent very large populations with comparatively high rates of hate crime in periods for which they did submit incident reports. Among law enforcement agencies representing populations of 25,000 or more, 138 agencies failed to submit incident reports or zero data during at least one quarterly submission period. Of those 138 agencies, a total of 23 represented populations of 100,000 or more.

This report highlights the distinction between an agency reporting to the FBI that no hate crimes have been recorded during a given quarter, and a lack of reporting any data in a given quarter. The former is an affirmative statement that the reporting agency has no knowledge of hate crimes within the jurisdiction, while the latter may be caused by an oversight, reporting error, or a lack of due diligence at some point in the reporting process. The frequent and widespread failure to consistently report hate crime data limits analysis for the jurisdictions served by the 1,357 agencies noted above, including those representing smaller, tribal jurisdictions to those serving some of the largest metropolitan areas in the country. Attempts to use hate crime data to perform robust longitudinal analyses, jurisdictional comparisons, or assessments of the impact of reforms are rendered impossible by incomplete data.

### Discrepancies between State and Federal Data

This report has found that state-level statistics systemically contradict federal data, suggesting that more hate crimes are reported in each state than are reflected in federal statistics. These discrepancies underscore the enduring limitations of national hate crime data. Between 2012 and 2016, thousands of hate crimes were reported at the state level but not published in federal statistics. While data published in federal statistics suggest that hate crime incidents are increasing, our findings intimate the magnitude of that increase remains elusive for federal data to accurately capture.

In 1990, Congress passed the Hate Crime Statistics Act (HCSA) requiring the Department of Justice (DOJ) to collect data “about crimes that manifest evidence of prejudice based on race, religion, sexual orientation or ethnicity.”<sup>1</sup> Subsequent amendments to the HCSA added disability, gender and gender identity to the list of reportable bias types.<sup>2</sup> The hate crime data collections were incorporated into the FBI’s Uniform Crime Reporting (UCR) Program, and since 1992 the FBI has published Hate Crime Statistics. The annual report, which is based on voluntary submissions from law enforcement agencies across the country, is the principal resource for communities, advocates, and policymakers on the nature and extent of hate crime in the United States.

Because the FBI’s annual report is based solely on voluntarily reported data from state and local agencies, data from the myriad of jurisdictions which fail to participate is not incorporated. As such, the report systematically misrepresents and undercounts what is likely the true nature and extent of hate crime in American communities. According to the National Crime Victimization Survey (NCVS) approximately 250,000 hate crime victimizations occurred in the United States each year between 2003 and 2015.<sup>3</sup> On average, only 8,340 victims were reported in *Hate Crime Statistics* over this period, suggesting a considerable discrepancy between the number of hate crimes that occur and those reported in federal statistics.

A total of 37 states and the District of Columbia compile statistical publications based on hate crime data submissions from participating law enforcement agencies. Data from these annual state-based hate crime reports often contradict corresponding state totals recorded in *Hate Crime Statistics*. Such discrepancies should not occur, given that most law enforcement agencies in the United States submit hate crime data to the FBI through a state-level UCR program, and these state UCR programs are the agencies responsible for publishing annual state-level statistics. Over the last five years, however, nearly 2,000 additional hate crimes were reported at the state level but not published in federal statistics.

Our research herein affirms these significant shortcomings in federal hate crime statistics. These shortcomings occur both with respect to the participation of law enforcement agencies in the national hate crime statistics program and discrepancies between federal and state-based hate crime statistics. For example, in 2016 a total of 15,254 law enforcement agencies, representing 49 states and the District of Columbia, participated in the FBI hate crime statistics program. Of these 15,254 participating agencies, just 1,776 submitted incident reports for publication in *Hate Crime Statistics*. The vast majority of participating agencies submitted zero data.

## RECOMMENDATIONS

Broadly, without the support of state legislatures, or the cooperation of state, local, and tribal law enforcement,

<sup>1</sup> Hate Crime Statistics Act, H.R. 1048, 101st Cong. (1989-1990).

<sup>2</sup> Violent Crime Control and Law Enforcement Act of 1994, Pub. L. No. 103-322, 108 Stat. 1796; Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act of 2009, 18 U.S.C. § 249.

<sup>3</sup> Lynn Langton, Ph.D., and Madeline Masucci, Bureau of Justice Statistics, U.S. Dep’t of Justice, Hate Crime Victimization, 2004-2015 (June 2017), available at <https://www.bjs.gov/content/pub/pdf/hcv0415.pdf>.

the federal government will not achieve the goal of hate crime prevention, nor will it be capable of providing accurate statistics on the nature and extent of hate crime in American communities. Hate crimes present a unique harm, requiring unique solutions. As a result of violence, they harm the individual's physical person or property. However, they also harm the individual's targeted identity, belonging, and sense of safety. Importantly, they also harm the targeted community, creating or exacerbating fear of, and division from, society at large. While not intended to be an exhaustive list, the following are recommendations to address hate crime.

### **Universal Implementation of NIBRS**

State governments must transition to the National Incident-Based Reporting System (NIBRS), which will facilitate improved hate crime data collection and statistics. Every data submission through NIBRS must indicate whether a crime is bias-motivated and, if so, the offender's particular bias motivation in relation to a set of predefined bias motivation categories. By January 2021, all law enforcement agencies in the United States will be required to report crime information through NIBRS. Currently, only 16 states have made a complete transition to NIBRS-compliant reporting. An additional 18 states utilize both Summary Reporting System (SRS) and NIBRS data. The federal government has provided assistance to state UCR programs and local law enforcement agencies to facilitate the transition from SRS to NIBRS. Provided that agencies are incapable of implementing NIBRS before 2021, this transition may require additional federal assistance.

NIBRS represents a technically superior alternative to the traditional SRS. Given that bias motivation is a mandatory data element in all NIBRS submissions,<sup>4</sup> law enforcement personnel using NIBRS must indicate whether a crime is bias-motivated and, if so, the offender's particular bias motivation with respect to a set of predefined bias motivation categories. Each category is assigned with a specific "bias motivation code." If the offense is not bias-motivated, or the offender's bias motivation does not correspond to the bias categories identified in UCR hate crime data collections, then reporting agencies enter the Bias Motivation Code 88 (none).

However, the implementation of NIBRS alone is unlikely to significantly improve hate crime data collections, as concerns remain over the potential for classification errors to impact the accuracy of official hate crime statistics. This concern is addressed in a 2011 study from West Virginia's Criminal Justice Statistical Analysis Center, which estimated that Group A Hate Crimes<sup>5</sup> were undercounted by approximately 67 percent in the state's incident-based reporting system.<sup>6</sup> The authors found the undercounts were primarily a result of officers failing to recognize "bias-indicators" when present in a given incident. Therefore, while the state of West Virginia had transitioned to NIBRS, concerns regarding the quality, reliability, and accuracy of hate crime data remain.

We have reason to believe the nationwide transition to NIBRS will improve federal hate crime data collections. However, the findings of the West Virginia study demonstrate the transition to NIBRS alone will not solve the current issue; if law enforcement personnel cannot identify bias-indicators present in a given hate crime incident, or if they do not know how to operate the reporting system proficiently, we will continue to see flaws in our official hate crime statistics.

### **Mandatory Reporting**

The preceding section examines the current federal response to hate crime and enduring limitations to hate crime prevention. The introduction of national hate crime data collection represents an important step the federal government has taken toward preventing hate crime in American communities. However, more must be done at the state and local levels to support effective utilization of NIBRS as agencies complete their full transitions to the system. To complement federal legislation and related authorities, state legislatures must pass laws that: prohibit hate crime offenses and offer inclusive protections for hate crime victims; require law enforcement to report, collect data, and publish annual statistics on hate crime incidents; and establish mandatory hate crime training for law enforcement certification.

Specifically, data collection statutes must require a centralized state repository, or state UCR program, to collect hate crime data submissions from participating

<sup>4</sup> A data element is a unit of data that conveys the granular details of a particular incident, which would otherwise require a lengthy description, and condenses that information into a predefined code. NIBRS consists of 58 data elements, which, in addition to bias motivation, include location type, ethnicity of victim, arrest date, and many more. Due to the fact that bias motivation is a mandatory data element, every data submission through NIBRS must communicate whether a crime is motivated because of an offender's bias against someone's actual or perceived characteristics.

<sup>5</sup> Murder and Non-negligent manslaughter, Forcible sex offenses, Non-forcible sex offenses, Robbery, Aggravated assault, Burglary, Motor vehicle theft, Arson.

<sup>6</sup> Stephen M. Haas, Ph.D. et al., Office of Research and Strategic Planning, West Virginia Department of Military Affairs and Public Safety, Assessing the Validity of Hate Crime Reporting: An Analysis of NIBRS Data (Jul. 2011), available at [https://djcs.wv.gov/ORSP/SAC/Documents/ORSP\\_WV\\_Hate\\_Crime\\_Report.pdf](https://djcs.wv.gov/ORSP/SAC/Documents/ORSP_WV_Hate_Crime_Report.pdf).

law enforcement agencies. As of this submission, 28 states have data collection statutes. Among these states, 23 have statutes that also require law enforcement agencies to report hate crimes to their respective state UCR programs. While New Mexico does not require state-level data collection, state law does require law enforcement agencies to report hate crime incidents to the FBI UCR Program. A greater number of states publish annual statistics on hate crime than require hate crime reporting or data collection. As of this submission, 37 states and the District of Columbia publish annual state-level hate crime statistics. However, only 18 states publish statistics on every bias motivation category identified in *Hate Crime Statistics*. With respect to hate crimes targeting Arab Americans, 24 states publish anti-Arab hate crime statistics in their annual reports.

Given that national hate crime data collections are based on voluntary submissions from participating law enforcement agencies, state legislatures must pass legislation requiring hate crime reporting and data collection on the part of law enforcement. This would promote more accurate statistics in support of the federal response to hate crime. As demonstrated in the previous section, state-level statistics are helpful for identifying breakdowns within the hate crime reporting and data collection system. Historically, state-level statistics have also provided more granular details on the nature and extent of hate crime in particular communities.

While the federal NIBRS data reporting does not represent a panacea with respect to the central challenges described in this section, the reform represents an important step forward which can serve as a foundation for further advocacy on hate crime reporting improvements at all levels.

### Improved Inclusiveness

With respect to reviewing protected categories, NIBRS has six “bias categories:” race/ethnicity/ancestry, religion, sexual orientation, disability, gender, and gender identity. In reviewing state statutes, our research found a broad

range of coverage of these or additional categories. By comparing these existing statutes, pending bills, and input from advocates part of our #ReportHate Project, we have found strong reasons to recommend broader protections under hate crimes statutes than those found in the NIBRS categories.

As such, the following categories warrant protection under any model hate crime statute, as evidenced by their subject to heightened scrutiny under Constitutional Equal Protection jurisprudence: citizenship,<sup>7</sup> race or color,<sup>8</sup> ancestry or national origin,<sup>9</sup> gender<sup>10</sup> or gender identity,<sup>11</sup> religion,<sup>12</sup> marital status,<sup>13</sup> sexual orientation,<sup>14</sup> and parental status<sup>15</sup> or reproductive choice.<sup>16</sup> Missing from this list are important categories found in existing laws or advocated for in our #ReportHate meetings around the country, such as mental or physical disability,<sup>17</sup> age,<sup>18</sup> and homelessness.<sup>19</sup>

We recommend these broader categories, as these groups have been historically discriminated against and have diminished societal power to protect themselves via the political process. This discrimination has been evidenced in the federal courts and in our daily lives.

### Enhanced Emphasis on Community-Police Relations

Perhaps the most challenging aspect of the under-reporting of hate crimes occurs before government agencies even get involved. From our #ReportHate Project, we learned the various reasons why individuals and communities do not contact law enforcement officials to report a potential hate crime. Most notably, consent decrees absolving fault following police misconduct, participation in the 287(g) program, police brutality, community accounts of racial profiling, cooperation with Immigration and Customs Enforcement (ICE), Customs and Border Protection (CBP), or Department of Homeland Security (DHS), and complicity with discriminatory federal practices all breed distrust and tension between communities impacted by hate crimes and local law enforcement. Further, a lack of understanding of how hate crimes work, in addition to misinformation about

<sup>7</sup> *Graham v. Richardson*, 403 U. S. 365 (1971)

<sup>8</sup> *Richmond v. J. A. Croson Co.*, 488 U. S. 469 (1989)

<sup>9</sup> *Korematsu v. United States*, 323 U. S. 214 (1944)

<sup>10</sup> *Craig v. Boren*, 429 U. S. 190 (1976)

<sup>11</sup> *Glenn v. Boren*, 724 F. Supp. 2d 1284 (2011)

<sup>12</sup> *Sherbert v. Verner*, 374 U. S. 398 (1963)

<sup>13</sup> *Loving v. Virginia*, 388 U. S. 1 (1967)

<sup>14</sup> *Obergefell v. Hodges*, 576 U. S. \_\_\_\_ (2015); *United States v. Windsor*, 570 U. S. \_\_\_\_ (2013)

<sup>15</sup> *Skinner v. Oklahoma ex rel. Williamson*, 316 U. S. 535 (1942)

<sup>16</sup> *Griswold v. Connecticut*, 381 U. S. 479 (1965)

<sup>17</sup> Federal protections codified in 42 US Chap. 126; see cases such as *Board of Trustees of the University of Alabama v. Garrett*, subjecting disability to rational basis scrutiny, but also the recent *Moore v. Texas* regarding disability rights.

<sup>18</sup> See *Massachusetts Board of Retirement v. Murgia* subjecting age to rational basis scrutiny.

<sup>19</sup> We have found no federal case holding discrimination against the homeless to heightened scrutiny.

the reporting process and victims' rights stifle a willingness to detail traumatic events to the government.

As public servants, law enforcement agencies have the difficult task of being the face of the American criminal justice system on a daily basis, and as such are best positioned to invest in long-term trust-building and educational efforts with local communities, advocacy organizations, and religious and cultural institutions. To that end, this report has identified that the best community-police relations result when local agencies 1) demographically resemble the communities they serve, 2) employ community liaison units which meet regularly with vulnerable and/or targeted communities, 3) communicate rights and resources available to all people in all relevant languages, contexts, locations, and media, and 4) exhibit transparency in areas such as internal discipline, cooperation with other agencies and federal programs, and data collection and use.

Further, empowering DOJ's Community Relations Service (CRS) to conduct bias-related trainings, expanding and promoting programs such as the *Death in Custody Reporting Act* and the *National Use of Force* database, or additional programming such as *About Face: Turning Away From Hate*, an implicit bias training conducted by the DOJ's Middle District of Florida,<sup>20</sup> are all potential steps toward building and promoting trust among the diverse communities impacted by hate crimes.

### Required Law Enforcement Training

This report places high value on the importance of training law enforcement to effectively identify and prosecute hate crimes. Indeed, mandatory law enforcement training is one of seven measures we use to arrive at our individual state ranking system. With that, it is significant to note the very subjects of this report—Arab Americans, as well as American Muslims—have historically been misrepresented in law enforcement training manuals and curricula by government agencies and officials.<sup>21</sup> A recent report by ProPublica<sup>22</sup> corroborates the findings of this report that police training is often inadequate with respect to responding to and

reporting hate crimes, as well as interacting with victims. This was a specific problem at all levels of training, including federal agencies like the FBI. Training material containing misinformation, stereotypes, or anti-Arab and anti-Muslim bigotry is likely to engender bias policing.

As an example, a January 2009 presentation by the FBI's Law Enforcement Communications Unit states that Islam is a religion that "transforms [a] country's culture into 7th-century Arabian ways."<sup>23</sup> A presentation from a March 21, 2011 FBI training, "Strategic Themes and Drivers in Islamic Law," included statements such as "Accommodation and compromise between [Islam and the West] are impermissible and fighting [for Muslims] is obligatory."<sup>24</sup> The bias training material was raised directly to FBI Director Mueller by Senator Richard Durbin in a 2012 letter citing concerns regarding agents being told, "Islam is a highly violent radical religion," mainstream American Muslims are likely to be terrorist sympathizers," and the "Arabic mind" is "swayed more by ideas than facts."<sup>25</sup> As this report calls on increased training to improve hate crime reporting, it is necessary to note that this too has been an area where government action has been to the detriment of the community.

Additionally, officers in all first-responding law enforcement agencies should be trained specifically to identify, investigate, and appropriately respond to potential hate crimes, which must include preserving evidence and addressing victim concerns. Local law enforcement agencies should participate in DOJ-sponsored training sessions,<sup>25</sup> including those involving the Department's Community Relations Service. More specifically, CRS can work with local officials to improve communication between law enforcement agencies and community organizations, facilitate mediation meetings, and assist in developing policies in response to local hate-based activity, cultural sensitivity, and the actual process of hate crime reporting.

To reiterate, any cultural sensitivity and understanding training must not proliferate inaccurate and damaging

<sup>20</sup> United States, Department of Justice, "New Hate Crimes Trainers Certified," (Nov. 16, 2017), <https://www.justice.gov/usao-mdfl/gallery/new-hate-crimes-trainers-certified>.

<sup>21</sup> Spencer Ackerman, FBI Teaches Agents: 'Mainstream' Muslims Are 'Violent, Radical,' *Wired* (Sept. 14, 2011).

<sup>22</sup> A.C. Thompson, Rohan Naik, and Ken Schwencke, "Hate Crime Training for Police Is Often Inadequate, Sometimes Nonexistent," *ProPublica* (Nov. 29, 2017), <https://www.propublica.org/article/hate-crime-training-for-police-is-often-inadequate-sometimes-nonexistent>.

<sup>23</sup> Spencer Ackerman, FBI 'Islam 101' Guide Depicted Muslims as 7th-Century Simpletons, *WIRED MAGAZINE* (July 27, 2011), available at <http://www.wired.com/dangerroom/2011/07/fbi-islam-101-guide/>.

<sup>24</sup> Spencer Ackerman, FBI Teaches Agents: 'Mainstream' Muslims Are 'Violent, Radical,' *WIRED MAGAZINE* (Sept. 14, 2011), available at <http://www.wired.com/dangerroom/2011/09/fbi-muslims-radical/>.

<sup>25</sup> Richard Durbin, letter to Robert Mueller (Mar. 27, 2012).

<sup>25</sup> United States, Department of Justice, "Training for Hate Crime Prevention" (July 28, 2017)

stereotypes and tropes about the very communities in need of protection from bias and hate.

### Existing Structures and Reform Efforts

Last year, in response to increased hate crimes during the 2016 election, the policies of the Trump Administration, and events such as those which transpired in Charlottesville, VA on August 12, 2017, representatives introduced various bills in Congress regarding hate crimes. Based on the findings of this report, we would recommend the passage of the following legislation at the federal level: NO HATE Act (S.662),<sup>26</sup> Hate Crime Victim Assistance Act (H.R.4065),<sup>27</sup> and Protecting Religiously Affiliated Institutions Act (S.994).<sup>28</sup>

In addition to the above legislation, the executive branch could utilize existing structures to create an independent, inter-agency working group to address hate crime and bias incidents at the national level. This should lead to the creation of a hatecrimes.gov website, which would be devoted exclusively to government responses to hate crimes, allowing Americans in any jurisdiction access to all available government resources for victims of hate.

Other notable proposals range from empaneling a commission to study the rise in hate crimes,<sup>29</sup> strengthening measures for crimes on college campuses,<sup>30</sup> and preventing those convicted of hate crimes from obtaining firearms.<sup>31</sup> Congress and the Executive branch should further consider: enforcing the Fair Housing Act's discrimination provisions; funding grants under Sec. 4704 of the Hate Crime Prevention Act; the creation of an interagency hate crimes working group; and increases in budgets and capacities for civil rights offices.

### Restorative Justice

In general, hate crime statutes intend to symbolically and practically remedy "the special harms of crimes motivated by bias or prejudice by increasing public awareness of the serious consequences of intergroup violence and providing protection for victims."<sup>32</sup> The thrust of most hate crime statutes is the enhanced penalty. That is, assault which was motivated by hate of a particular group is generally

eligible for greater penalties than simple assault of the same degree. It is important to note that most hate crime laws do not proscribe new conduct, but simply proscribe additional penalties to already proscribed conduct when certain motivating factors are proved beyond a reasonable doubt. Such enhancement is designed to express society's disapproval of violence motivated by particular characteristics.

However, a blanket application of longer prison sentences often distributes prison time discriminatorily,<sup>33</sup> and presents diminishing returns for society.<sup>34</sup> While hate crime laws must reflect societal condemnation of hate-motivated violence, local partners with our #ReportHate Project have expressed discomfort of simply extending sentences within existing penal institutions.

As such, the #ReportHate Project's proposed model statute allows flexibility in how a judge enhances a penalty after a hate crime conviction, be it via longer sentences, financial restitution, community service, or required educational programming. This approach balances the importance of assessing each incident individually, the desire to enhance penalties for hate crime, and the values of restorative justice. Broadly, restorative justice attempts to mend the damage caused by the crime and focuses on including the perpetrator in healing processes in an attempt to reduce recidivism and improve societal health. State laws should, as our model statute does, allow judges the option to require those convicted of hate crimes to repay the targeted community for damages or perform community service with, or complete educational programming on, the targeted community. However, this is not to replace the underlying penalty. That is, the penalty for assault which was motivated by hate of a particular group should include the penalty for simple assault and a judicially-determined restorative justice requirement. The availability of restorative justice options will benefit impacted communities and promote greater understanding between social groups.

One example that highlights the importance of healing is provided in Part III of this report in the discussion of the

<sup>26</sup> NO HATE Act, S 662, 115th Cong. (2017-2018)

<sup>27</sup> Hate Crime Victim Assistance Act of 2017, H.R. 4065, 115th Cong. (2017-2018)

<sup>28</sup> Protecting Religiously Affiliated Institutions Act of 2018, S. 994, 115th Cong. (2017-2018)

<sup>29</sup> Hate Crimes Commission Act of 2017, H.R. 3930, 115th Cong. (2017-2018)

<sup>30</sup> CAMPUS HATE Crimes Act, H.R. 4093, 115th Cong. (2017-2018)

<sup>31</sup> Disarm Hate Act, H.R. 2841, 115th Cong. (2017-2018)

<sup>32</sup> Karen Franklin, "Good Intentions: The enforcement of Hate Crime Penalty-Enhancement Statutes," *The American Behavioral Scientist* (Sept. 2002), Vol. 46: <http://plaza.ufl.edu/asarkees/psychandlaw/EnforcementOfStatutes.pdf> at 154

<sup>33</sup> Erica Y. King, "Black Men Get Longer Prison Sentences than White Men for the Same Crime: Study," *ABC News* (Nov. 17, 2017), <https://abcnews.go.com/Politics/black-men-sentenced-time-white-men-crime-study/story?id=51203491>.

<sup>34</sup> "Longer Jail Sentences Do Deter Crime, but Only up to a Point," *The Economist* (Mar. 29, 2016), <https://www.economist.com/free-exchange/2016/03/29/longer-jail-sentences-do-deter-crime-but-only-up-to-a-point>.

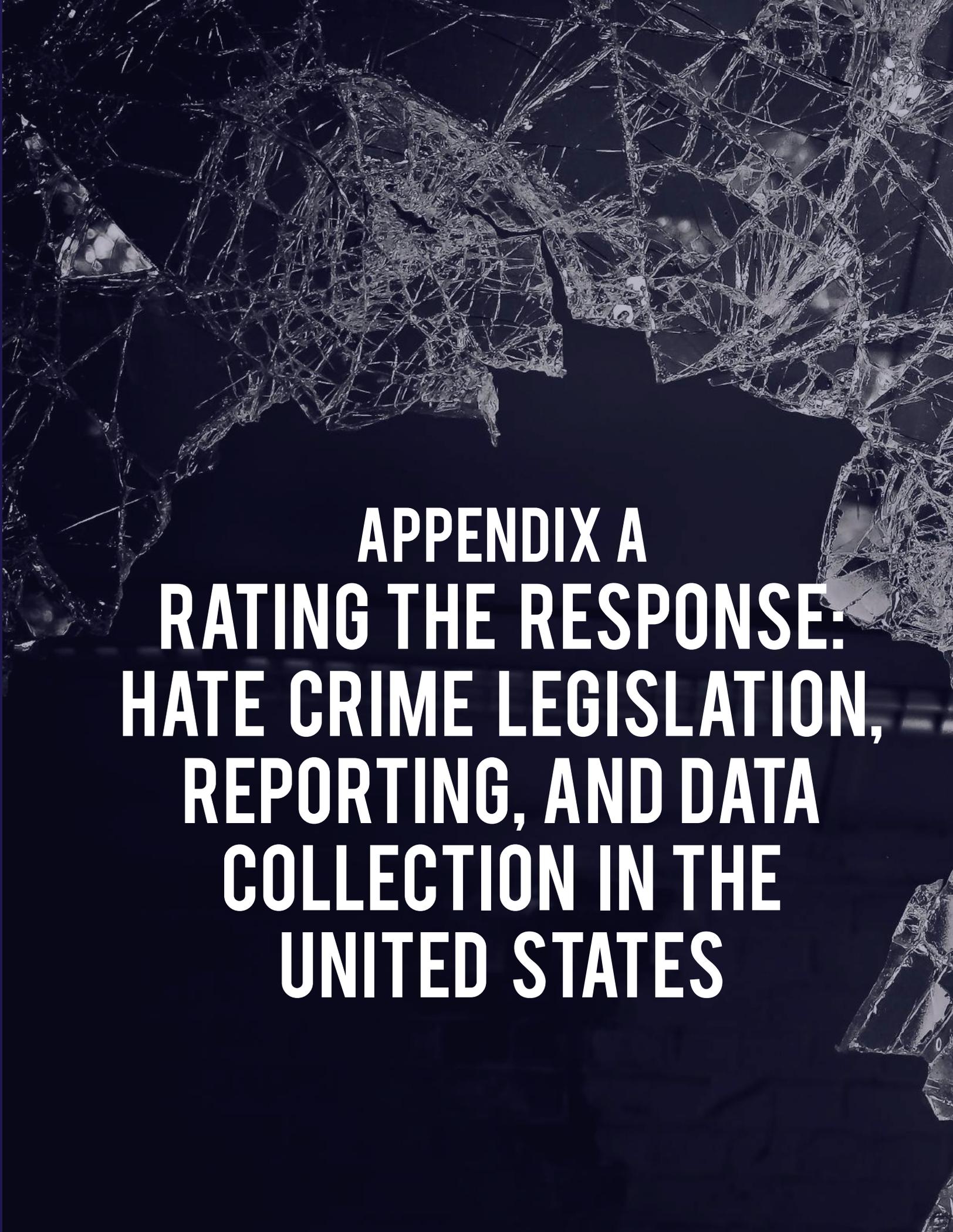
incident of Ghaith Sahib, Tiffany Sahib, and the Employees of DarSalam Resturant. The perpetrator of the anti-Arab hate crime, an Iraq War veteran, suffered from post-traumatic stress disorder (PTSD). One can make the case that both the perpetrator and the peace of mind of the victims, were better served by the sentence of probation, payment of compenatory fines, and effective mental health treatment for PTSD instead of a prison sentence.

### **Other Reforms**

This report has identified various important reforms in reviewing existing hate crime policies which escape the categorization offered above. These are best presented as bulleted items that local, state, and federal entities should consider when endeavoring to improve the efficacy of hate crime structures and initiatives throughout the criminal justice system:

- The DOJ and relevant state agencies should provide funding for local agencies to assess and consolidate available resources for reporting hate crimes and supporting victims within all jurisdictions. For example, some locations have victim support services, victim hotlines, and human rights commissions at the local, county, and state levels, whereas others may have none of the above. This disparity, along with jurisdictional confusion among the public, leads to some citizens being unaware of which of the various resources to contact when victimized, and leaves other citizens largely unsupported by any resource beyond contacting local law enforcement directly.
- Next, the DOJ and relevant state agencies should provide funding for state and local law enforcement agencies to establish new hotlines, websites, and other resources where jurisdictions are lacking adequate existing victim and reporting resources. First, existing resources should be streamlined to make clear to average citizens their avenues when victimized by hate. Next, new initiatives should be launched in jurisdictions where existing resources for reporting or seeking support for hate crime are lacking. For example, our #ReportHate Project has shown that community liaison units which meet regularly with vulnerable communities, and whose demographic make-up reflect the communities they serve, often increase community knowledge of existing resources. Lastly, all informational, reporting, and support resources must comply with regulations under Sec. 508 of the Rehabilitation Act and be made available in all relevant languages and all available media.
- Any change in hate crime laws, policies, or resources should be communicated broadly via publicity campaigns which direct constituents to information for local, state, and federal laws and resources to best inform people of existing and new policies. Such a campaign would, as the resources themselves, be cognizant of the needed access issues for populations vulnerable to hate crime victimization, such as language access, illiteracy, disability, and those unfamiliar with the American legal system.

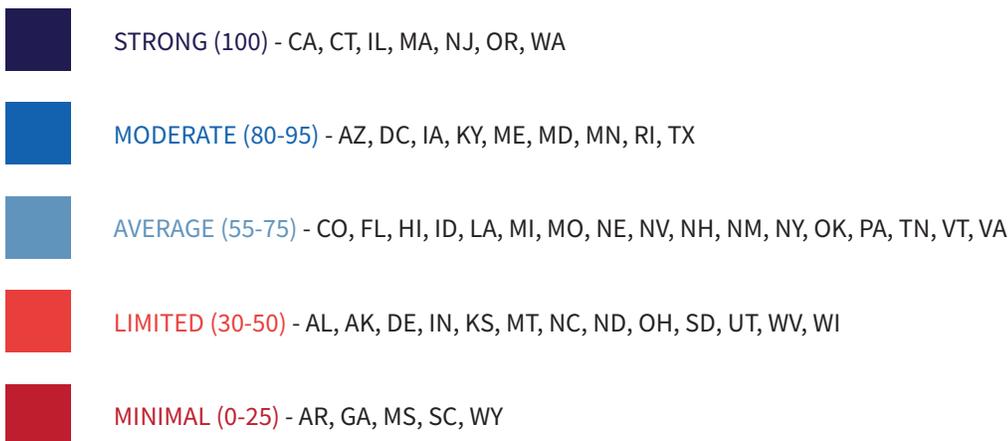
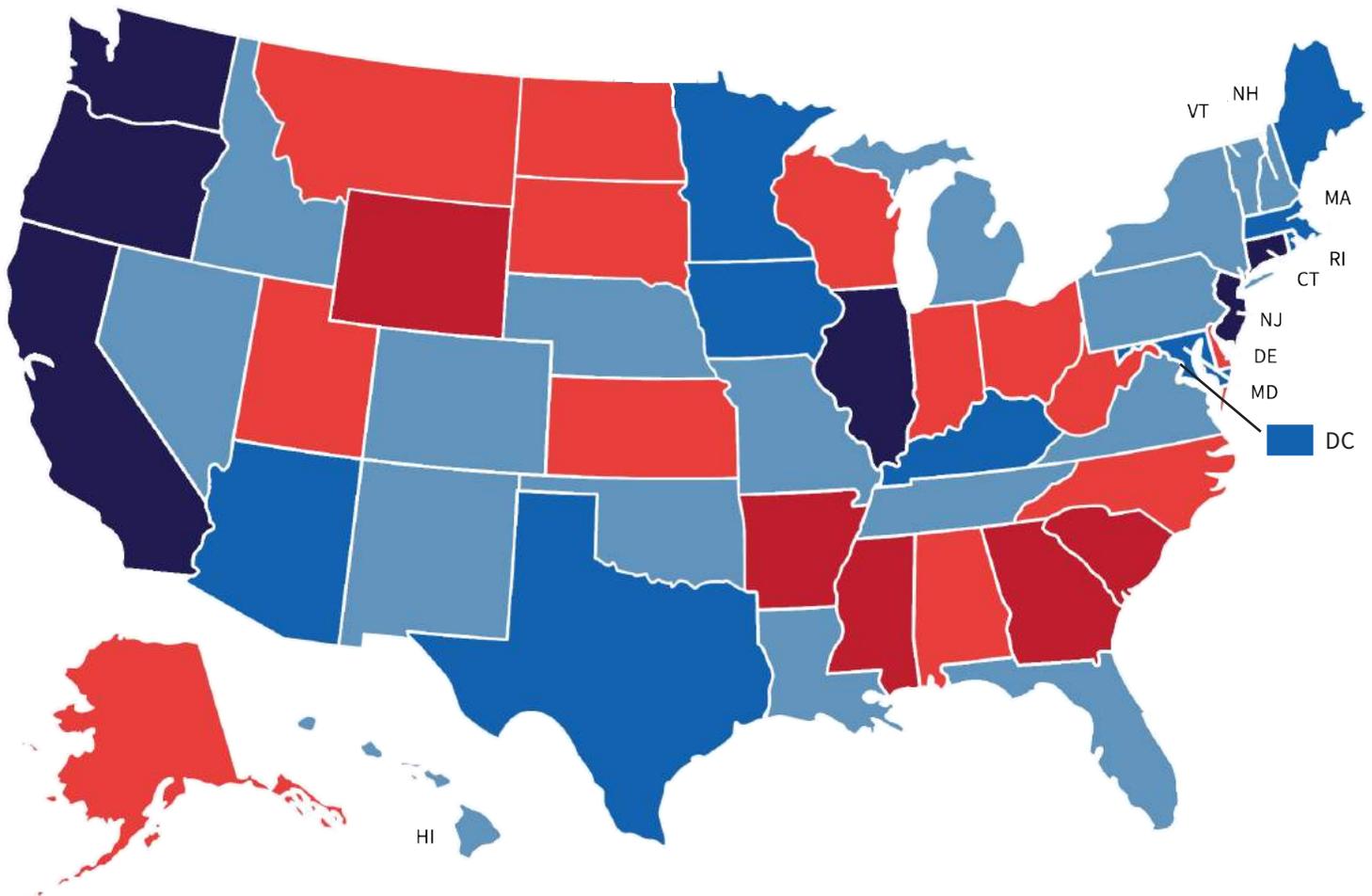




**APPENDIX A  
RATING THE RESPONSE:  
HATE CRIME LEGISLATION,  
REPORTING, AND DATA  
COLLECTION IN THE  
UNITED STATES**



# RATING THE RESPONSE IN THE UNITED STATES

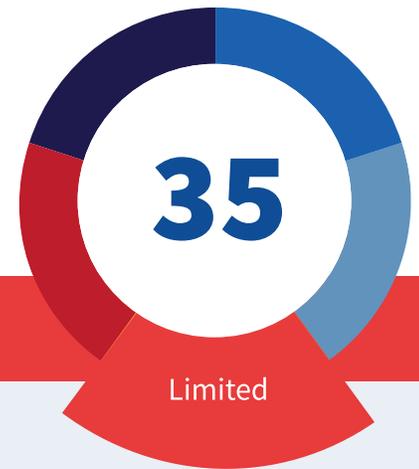




# ALABAMA

Total population: 4,863,300

Rank of Arab American population by state: 20



AL does not publish annual hate crime statistics.

Limited

**Alabama** is the 24th most populated state and has the 20th largest Arab American population.

The Alabama Law Enforcement Agency, Criminal Justice Information Center (ACJIC), is the state agency responsible for the collection and publication of crime data. The ACJIC does not publish annual hate crime statistics.

## HATE CRIME STATUTE



Ala. Code § 13A-5-13 provides enhanced sentencing for crimes motivated by a victim's actual or perceived "race, color, religion, national origin, ethnicity, or physical or mental disability." Such penalties can be imposed only when the perpetrator's bias motivation against the victim can be proven "beyond a reasonable doubt."<sup>1</sup>

The current Alabama hate crime statute is not sufficiently inclusive, as it does not offer protections for sexual orientation, gender, or gender identity.

## DATA COLLECTION STATUTE



**There is no Alabama statute that requires hate crime reporting or data collection.** Ala. Code § 41-9-621 requires the ACJIC to compile and publish annual statistics on the "level and nature of crime" in Alabama.<sup>2</sup>

The ACJIC is one of 12 "legacy agencies" that comprise the Alabama Law Enforcement Agency (ALEA).<sup>3</sup> All criminal justice agencies within the state are statutorily required to submit crime data, in the form of uniform crime reports, to the ACJIC. Pursuant to Ala. Code § 41-9-631, the information contained in such reports is subject to the prescriptions of the ACJIC Commission.<sup>4</sup>

## LAW ENFORCEMENT TRAINING STATUTE



**There is no Alabama statute that requires specific law enforcement training on hate crime.** According to Ala. Code § 36-21-45, the Alabama Peace Officers Standards and Training Commission (APOSTC) is required "to study, consider, and make reports...concerning the work and the curriculum and courses offered by law enforcement training schools in the state and to make recommendations for improving the schools, curriculum, and courses."<sup>5</sup>

The current APOSTC basic training curriculum does not appear to include hate crime as a mandatory topic of instruction.<sup>6</sup>

## ALABAMA

| Hate Crime Statute                       | 25/40 |
|---|-------|
| No statute; civil action or civil rights law  | -     |
| Hate crime statute, with protections for:   | 10    |
| Race/ethnicity/ancestry   | 5     |
| Religion  | 5     |
| Sexual orientation  | -     |
| Disability  | 5     |
| Gender  | -     |
| Gender identity   | -     |
| Data Collection Statute                | 0/15  |
| Data collection (voluntary reporting)   | -     |
| Mandatory reporting and data collection   | -     |
| Law Enforcement Training Statute       | 0/15  |
| No statute; comprehensive training  | -     |
| Mandatory training  | -     |
| Annual Hate Crime Report               | 0/20  |
| Annual hate crime report, including:  | -     |
| Anti-Arab hate crime statistics   | -     |
| Anti-Islamic (Muslim) hate crime statistics   | -     |
| FBI Hate Crime Statistics Participant  | 10/10 |
| TOTAL   | 35    |

<sup>1</sup> Ala. Code § 13A-5-13 (JUSTIA 2017), available at <https://law.justia.com/codes/alabama/2017/title-13a/chapter-5/article-1/section-13a-5-13>.

<sup>2</sup> Ala. Code § 41-9-621 (JUSTIA 2017), available at <https://law.justia.com/codes/alabama/2017/title-41/chapter-9/article-23/division-2/section-41-9-621>.

<sup>3</sup> Alabama Law Enforcement Agency, Legacy Agencies, <http://www.alea.gov/Home/wfContent.aspx?ID=4&PLH1=plhAbout-LegacyAgenciesBiography>.

<sup>4</sup> Ala. Code § 41-9-631 (JUSTIA 2017), available at <https://law.justia.com/codes/alabama/2017/title-41/chapter-9/article-23/division-2/section-41-9-631>.

<sup>5</sup> Ala. Code § 36-21-45 (JUSTIA 2017), available at <https://law.justia.com/codes/alabama/2017/title-36/chapter-21/article-3/section-36-21-45>.

<sup>6</sup> Alabama Criminal Justice Training Ctr., Academic Requirements, <http://app.alea.gov/Training/wfContent.aspx?ID=plhAcademy>.

## DATA COLLECTION & STATISTICS

Housed within the ACJIC, the Alabama Statistical Analysis Center (SAC) publishes annual reports on statewide crime statistics. The reports are based on UCR submissions from law enforcement agencies across the state.<sup>7</sup> The Alabama SAC also publishes specialized crime reports, including *Domestic Violence Crime Statistics* and *Drug-related Crime Statistics*. The 1977-2016 editions of *Crime in Alabama* and other specialized Alabama crime reports can be found on the ALEA website.<sup>8</sup> Pursuant to Ala. Code § 41-9-631, Alabama criminal justice agencies are required to submit uniform crime reports to the ACJIC.<sup>9</sup> Hate crime statistics are not provided in any of the ACJIC reports.



## ANNUAL STATEWIDE HATE CRIME REPORT

The ACJIC does not publish annual state-level hate crime statistics.

- **ANTI-ARAB HATE CRIME STATISTICS**  
The ACJIC does not publish annual statistics on anti-Arab hate crime.
- **ANTI-ISLAMIC (MUSLIM) HATE CRIME STATISTICS**  
The ACJIC does not publish annual statistics on anti-Islamic (Muslim) hate crime.

## UNIFORM CRIME REPORTING (UCR)

By January 2021, the FBI Uniform Crime Reporting (UCR) Program will depend solely on the National Incident-Based Reporting System (NIBRS) to collect nationwide crime data.<sup>10</sup> This transition entails the sunset of summary-based crime reporting (SRS) and requires cooperation on the part of state UCR programs and individual reporting agencies.

The Alabama UCR program is one of 15 state programs that still rely exclusively on SRS data.<sup>11</sup> The ACJIC implemented a voluntary incident-based reporting (IBR) system in 1977. As of 2016, 99 percent of Alabama law enforcement agencies were participating in the IBR.<sup>12</sup> In conjunction with the University of Alabama's Center for Advanced Public Safety, the ACJIC provides software designed to facilitate the transition of reporting agencies to electronic UCR submissions.<sup>13</sup> The software, known as the UCR Local Template for Reporting and Analysis (ULTRA), enables law enforcement agencies to submit UCR reports to the ACJIC via the Internet, free of charge.<sup>14</sup> According to the Bureau of Justice Statistics, Alabama has received funding through the National Crime Statistics Exchange (NCS-X) Initiative and is in the midst of NIBRS implementation.<sup>15</sup>

NIBRS reporting enables criminal justice agencies to acquire a better understanding of crime, including hate crime, occurring within their respective jurisdictions. This in turn has positive implications for effective law enforcement response and policy implementation.

## CONTACT

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Montgomery, Alabama 36130  
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[www.acjic.alabama.gov](http://www.acjic.alabama.gov)

## THE ALABAMA CRIMINAL JUSTICE INFORMATION CENTER DOES NOT PUBLISH ANNUAL HATE CRIME STATISTICS.

| Bias motivation                        | '00 | '01 | '02 | '03 | '04 | '05 | '06 | '07 | '08 | '09 | '10 | '11 | '12 | '13 | '14 | '15 | '16 |
|--|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| Anti-Arab                              | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   |
| Anti-Islamic (Muslim)                  | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   |
| Anti-other race/<br>ethnicity/ancestry | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   |

**NOT REPORTED**

According to supplemental data from the FBI, no anti-Arab or anti-Islamic (Muslim) hate crime incidents were reported in Alabama in 2016. Alabama law enforcement agencies submit hate crime data to the FBI UCR Program through the ACJIC.

## FBI HATE CRIME STATISTICS (2015-2016)

| Bias motivation       | '15 | '16 |
|-----------------------|-----|-----|
| Anti-Arab             | 0   | 0   |
| Anti-Islamic (Muslim) | 0   | 0   |

<sup>7</sup> Alabama Law Enforcement Agency, Alabama Crime Statistics, <http://www.alea.gov/Home/wfContent.aspx?PLH1=plhACJIC-CrimeStats>.

<sup>8</sup> Alabama Law Enforcement Agency, Crime in Alabama Reports, <http://www.alea.gov/Home/wfContent.aspx?PLH1=plhACJIC-CrimeInAlabama>.

<sup>9</sup> Ala. Code § 41-9-631, *supra* note 4.

<sup>10</sup> CJIS Div., Fed. Bureau of Investigation, SRS to NIBRS: The Path to Better UCR Data, <https://www.fbi.gov/services/cjis/cjis-link/srs-to-nibrs-the-path-to-better-ucr-data>.

<sup>11</sup> Bureau of Justice Statistics, U.S. Dep't of Justice, 2017 NCS-X Estimation Project (Jul. 27, 2017), *available at* <https://www.bjs.gov/content/pub/pdf/17ncxep.pdf>.

<sup>12</sup> Alabama Law Enforcement Agency, *Crime in Alabama 2016 (2017)*, *available at* <http://www.alea.gov/Documents/Documents/CrimeInAlabama-2016.pdf>.

<sup>13</sup> Alabama Crime Statistics, *supra* note 7.

<sup>14</sup> Ctr. for Advanced Public Safety, Univ. of Alabama, ULTRA, <http://www.caps.ua.edu/software/ultra>.

<sup>15</sup> Bureau of Justice Statistics, U.S. Dep't of Justice, National Crime Statistics Exchange (last updated Jun. 2017), <https://www.bjs.gov/content/ncsx.cfm>.

## FBI HATE CRIME STATISTICS

Pursuant to the Hate Crime Statistics Act (HCSA) of 1990 the FBI UCR Program collects data on "crimes that manifest evidence of prejudice based on race, gender or gender identity, religion, disability, sexual orientation, or ethnicity."<sup>16</sup>

Since 1993, the FBI UCR Program has published the annual report, *Hate Crime Statistics*, which is based on voluntary submissions from participating law enforcement agencies. In 2016, agencies from 49 states and the District of Columbia participated in the national hate crime statistics program.

For the most part, hate crime data is collected at the state level and forwarded to the FBI UCR Program. A total of 48 states maintain a state-level UCR data collection. UCR programs in 38 states publish annual hate crime statistics. Some participating law enforcement agencies submit hate crime data directly to the FBI UCR program.<sup>17</sup>



## FBI HATE CRIME STATISTICS PARTICIPANT

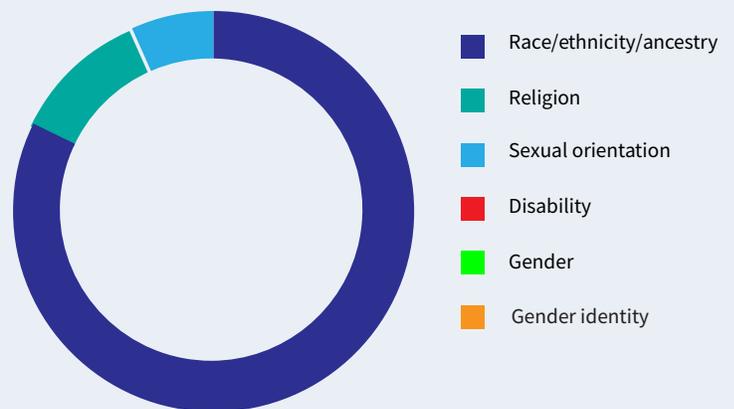
Law enforcement agencies in Alabama submit hate crime data to the FBI UCR Program through the ACJIC. According to the FBI UCR Program's annual report, *Hate Crime Statistics*, 14 hate crime incidents were reported in Alabama in 2016.

According to the Bureau of Justice Statistics, there are more than 400 law enforcement agencies in Alabama.<sup>18</sup> In 2016, four of the 28 Alabama law enforcement agencies participating in the national hate crime statistics program submitted incident reports to the FBI UCR Program. Agencies representing four of the five largest cities in Alabama either did not participate in the national hate crime statistics program or submitted only zero data.

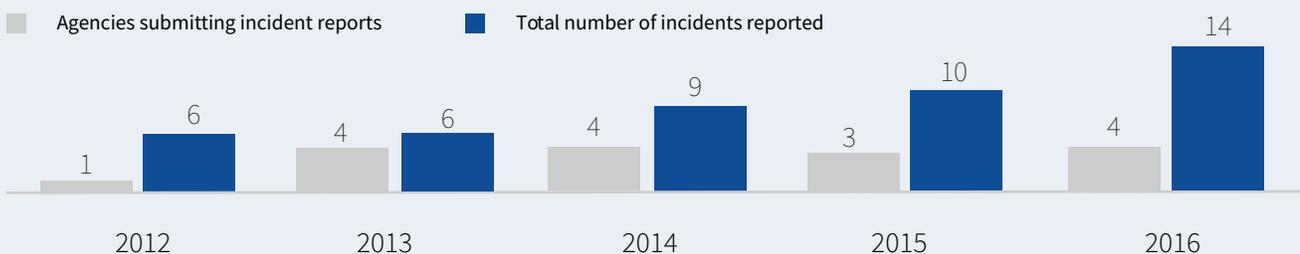
As the ACJIC does not publish an annual hate crime report, we are unable to make comparisons between state and federal hate crime statistics.

## FBI HATE CRIME STATISTICS: ALABAMA 2012-2016

| Incidents per bias motivation | 2012     | 2013     | 2014     | 2015      | 2016      | Total     |
|-------------------------------|----------|----------|----------|-----------|-----------|-----------|
| Race/ethnicity/ancestry       | 4        | 5        | 8        | 8         | 12        | 37        |
| Religion                      | 2        | 1        | 1        | 0         | 1         | 5         |
| Sexual orientation            | 0        | 0        | 0        | 2         | 1         | 3         |
| Disability                    | 0        | 0        | 0        | 0         | 0         | 0         |
| Gender                        | -        | 0        | 0        | 0         | 0         | 0         |
| Gender identity               | -        | 0        | 0        | 0         | 0         | 0         |
| <b>Total</b>                  | <b>6</b> | <b>6</b> | <b>9</b> | <b>10</b> | <b>14</b> | <b>45</b> |



## PARTICIPATION IN UCR HATE CRIME STATISTICS PROGRAM



## SUMMARY

The current Alabama hate crime statute is not sufficiently inclusive, as it does not offer protections for sexual orientation, gender, or gender identity. Furthermore, Alabama does not have statutes that require reporting, data collection, or specific law enforcement training on hate crime. The Alabama Law Enforcement Agency, Criminal Justice Information Center (ACJIC), maintains the state clearinghouse for all police-reported crime data, including hate crime, and is responsible for publishing annual statistics. Copies of *Crime in Alabama* can be found on the ALEA website but do not include hate crime statistics. In 2016, 4 Alabama law enforcement agencies submitted hate crime incident reports to the FBI UCR Program. The remaining 24 participating agencies provided only zero data. A total of 2 participating agencies recorded blank data in at least one quarterly submission period. Alabama receives an overall score of 35 points, denoting a limited response to hate crime.

<sup>16</sup> 28 U.S.C. § 534 (JUSTIA 2016), available at <https://law.justia.com/codes/us/2016/title-28/part-ii/chapter-33/sec.-534>.

<sup>17</sup> Uniform Crime Reporting Program, Fed. Bureau of Investigation, Data Quality Guidelines, [https://ucr.fbi.gov/data\\_quality\\_guidelines](https://ucr.fbi.gov/data_quality_guidelines).

<sup>18</sup> Brian A. Reeves, Ph.D., Bureau of Justice Statistics, Census of State and Local Law Enforcement Agencies (Jul. 2011), available at <https://www.bjs.gov/content/pub/pdf/cslea08.pdf>.

# ADVOCACY RESOURCES - Alabama

## IMPROVING THE RESPONSE

Most states have failed to enact sufficient legislation to address, prevent, and counteract hate crime in American communities. To accompany our federal hate crime laws, state legislatures must pass the following:

1. **An inclusive hate crime statute**, which covers a wide range of criminal offenses and provides enhanced penalties for crimes motivated because of citizenship status, race, ethnicity, color, disability, age, ancestry or national origin, gender or gender identity, sexual orientation, religion, or homelessness. Such protections are pursuant to model hate crime legislation drafted by the Arab American Institute. According to the model statute, penalty enhancement may incorporate alternatives to fines or increased prison sentences. Alternatives include restitution for victims and communities, participation in educational programs, and restorative justice.
2. **Statutes that require reporting, data collection, and specific law enforcement training on hate crime.** Centralized state agencies must publish comprehensive, accessible statistics on the nature and extent of hate crime occurring within their state. These statistics must conform to national UCR standards and include the bias motivation categories identified in the FBI's annual report, *Hate Crime Statistics*. States must also require law enforcement training schools to provide comprehensive training to ensure that officers are prepared to investigate, report, and respond to hate crime incidents.

## STATE RECOMMENDATIONS

According to our rating methodology, Alabama receives an overall score of 35 points, denoting a limited response to hate crime. Advocates for an improved response to hate crime in Alabama should promote the following:

1. The current Alabama hate crime statute offers protections for race, color, religion, national origin, ethnicity, and physical or mental disability. The Alabama hate crime statute should be amended to include protections for **citizenship status, age, ancestry, sexual orientation, gender or gender identity, homelessness**, or association with a person or group with one of these actual or perceived characteristics.
2. Alabama state code does not require reporting, data collection, or specific law enforcement training on hate crime. There are more than 400 law enforcement agencies in Alabama. In 2016, 4 of the 28 Alabama law enforcement agencies participating in the national hate crime statistics program submitted incident reports to the FBI UCR Program. Agencies representing 2 of Alabama's 5 largest cities did not participate in the national hate crime statistics program.
  - Law enforcement agencies must report hate crimes to the Alabama Criminal Justice Information Center (ACJIS).
  - The ACJIS must collect data and publish statistics, conforming to national UCR standards, on the nature and extent of hate crime within the state.
  - Alabama must transition to the National Incident-Based Reporting System (NIBRS) to facilitate hate crime reporting and data collection. By January 2021, all law enforcement agencies in the United States will be required to report crime information through NIBRS.
  - The Alabama Peace Officers Standards and Training Commission must promote instruction relating to investigating and reporting hate crime incidents in law enforcement training schools throughout the state.

## STATE CONTACTS

Advocates for an improved response to hate crime in Alabama should contact current state legislators and members of Congress.

### Alabama Legislature

Senate Information: (334) 242-7800 | House Information: (334) 242-7600  
<http://www.legislature.state.al.us>

### United States Senate

Contact: Alabama  
<https://www.senate.gov/senators/contact>

### United States House of Representatives

Directory of Representatives: Alabama  
<https://www.house.gov/representatives#state-alabama>

# ALASKA

Total population: 741,894

Rank of Arab American population by state: 48



## AK does not publish annual hate crime statistics.

**Alaska** is the 48th most populated state and has the 48th largest Arab American population.

The Alaska Department of Safety, Criminal Records Identification Bureau (CRIB), is the state agency responsible for the collection and publication of crime data. The CRIB does not publish annual hate crime statistics.

### HATE CRIME STATUTE



Alaska Stat. § 12.55.155(c)(22) permits the imposition of a sentence above the presumptive range for a given offense if the defendant “knowingly directed the conduct constituting the offense at a victim because of that person’s race, sex, color, creed, physical or mental disability, ancestry, or national origin.”<sup>1</sup>

The current Alaska hate crime statute is not sufficiently inclusive, as it does not offer protections for sexual orientation or gender identity.

### DATA COLLECTION STATUTE



**There is no Alaska statute that requires hate crime reporting or data collection.** Alaska Stat. § 12.62.130 requires the Department of Public Safety (DPS) to compile and provide an annual report “concerning the number and nature of criminal offenses committed, the disposition of the offenses, and any other data the commissioner finds appropriate.”<sup>2</sup>

### LAW ENFORCEMENT TRAINING STATUTE



**There is no Alaska statute that requires specific law enforcement training on hate crime.** Pursuant to Alaska Stat. § 18.65.220, the Alaska Police Standards Council (APSC) has the power to prescribe “minimum criminal justice curriculum requirements” for statewide law enforcement training.<sup>3</sup>

13 AAC 85.050 requires APSC-certified basic police officer academies to include “civil rights, and disability awareness...and cultural diversity” as topics of instruction.<sup>4</sup>

Information regarding the APSC, including current statutes and relevant regulations, is provided in the annual APSC Guidebook.<sup>5</sup>

## ALASKA

### Hate Crime Statute 30/40

|  |    |
|--|----|
| No statute; civil action or civil rights law | -  |
| Hate crime statute, with protections for:    | 10 |
| Race/ethnicity/ancestry                      | 5  |
| Religion                                     | 5  |
| Sexual orientation                           | -  |
| Disability                                   | 5  |
| Gender                                       | 5  |
| Gender identity                              | -  |

### Data Collection Statute 0/15

|   |   |
|---|---|
| Data collection (voluntary reporting)   | - |
| Mandatory reporting and data collection | - |

### Law Enforcement Training Statute 0/15

|                                    |   |
|------------------------------------|---|
| No statute; comprehensive training | - |
| Mandatory training                 | - |

### Annual Hate Crime Report 0/20

|   |   |
|---|---|
| Annual hate crime report, including:        | - |
| Anti-Arab hate crime statistics             | - |
| Anti-Islamic (Muslim) hate crime statistics | - |

### FBI Hate Crime Statistics Participant 10/10

**TOTAL 40**

<sup>1</sup> Alaska Stat. § 12.55.155(c)(22) (JUSTIA 2017), available at <https://law.justia.com/codes/alaska/2017/title-12/chapter-55/section-12.55.155>.

<sup>2</sup> Alaska Stat. § 12.62.130 (JUSTIA 2017), available at <https://law.justia.com/codes/alaska/2017/title-12/chapter-62/article-1/section-12.62.130>.

<sup>3</sup> Alaska Stat. § 18.65.220 (JUSTIA 2017), available at <https://law.justia.com/codes/alaska/2017/title-18/chapter-65/article-2/section-18.65.220>.

<sup>4</sup> Alaska Admin. Code tit. 3, § 85.050, available at <http://www.legis.state.ak.us/basis/aac.asp#13.85.050>.

<sup>5</sup> Alaska Police Standards Council, APSC User’s Guidebook (Apr. 6, 2018), available at <https://dps.alaska.gov/APSC/Home>.

## DATA COLLECTION & STATISTICS

Housed within the Alaska DPS, Division of Statewide Services (DSS), the CRIB publishes an annual report on statewide crime statistics. The report is based on UCR submissions from law enforcement agencies across the state. The 2000-2016 editions of *Crime in Alaska* can be found on the Alaska DPS website.<sup>6</sup> Archived reports from 1976 to 1999 are located on the Alaska Justice Statistical Analysis Center (AJ SAC) website.<sup>7</sup> Hate crime statistics are not provided in the *Crime in Alaska* reports.

Pursuant to Alaska Code § 12.62.130, criminal justice agencies are required to submit uniform crime reports to the Alaska Department of Public Safety.<sup>8</sup>

## ANNUAL STATEWIDE HATE CRIME REPORT



The CRIB does not publish annual state-level hate crime statistics.

- ANTI-ARAB HATE CRIME STATISTICS**  
 The CRIB does not publish annual statistics on anti-Arab hate crime.
- ANTI-ISLAMIC (MUSLIM) HATE CRIME STATISTICS**  
 The CRIB does not publish annual statistics on anti-Islamic (Muslim) hate crime.

## UNIFORM CRIME REPORTING (UCR)

By January 2021, the FBI Uniform Crime Reporting (UCR) Program will depend solely on the National Incident-Based Reporting System (NIBRS) to collect nationwide crime data.<sup>9</sup> This transition entails the sunset of summary-based crime reporting (SRS) and requires cooperation on the part of state UCR programs and individual reporting agencies.

The Alaska UCR program is one of 15 state programs that still rely exclusively on SRS data.<sup>10</sup> According to the Bureau of Justice Statistics, Alaska has not received any funding through the National Crime Statistics Exchange (NCS-X) Initiative, which is designed to “implement efficient and minimally burdensome processes” for statewide transitions to NIBRS-compliant reporting.<sup>11</sup>

Traditional summary-based crime reporting is constrained with respect to the various data elements that serve to put a particular incident in context, such as victim and offender demographics, the location of the incident, and whether an arrest occurred. NIBRS reporting enables criminal justice agencies to acquire a better understanding of crime, including hate crime, occurring within their respective jurisdictions. This in turn has positive implications for effective law enforcement response and policy implementation.

## CONTACT

Alaska Department of Public Safety  
 Criminal Records and Identification Bureau  
 5700 East Tudor Road  
 Anchorage, Alaska 99507  
 (907) 269-5526  
[www.dps.alaska.gov/statewide/ucr.aspx](http://www.dps.alaska.gov/statewide/ucr.aspx)

## THE CRIMINAL RECORDS IDENTIFICATION BUREAU DOES NOT PUBLISH ANNUAL HATE CRIME STATISTICS.

| Bias motivation                    | '00 | '01 | '02 | '03 | '04 | '05 | '06 | '07 | '08 | '09 | '10 | '11 | '12 | '13 | '14 | '15 | '16 |
|------------------------------------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| Anti-Arab                          | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   |
| Anti-Islamic (Muslim)              | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   |
| Anti-other race/ethnicity/ancestry | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   |



According to supplemental data from the FBI, a single anti-Arab hate crime incident was reported in Alaska in 2015. Alaska law enforcement agencies submit hate crime data to the FBI UCR Program through the CRIB.

## FBI HATE CRIME STATISTICS (2015-2016)

| Bias motivation       | '15 | '16 |
|-----------------------|-----|-----|
| Anti-Arab             | 1   | 0   |
| Anti-Islamic (Muslim) | 0   | 0   |

<sup>6</sup> Alaska Dep’t of Pub. Safety, Uniform Crime Reports, <https://dps.alaska.gov/statewide/r-i/ucr>.

<sup>7</sup> Alaska Justice Statistical Analysis Ctr., Univ. of Alaska Anchorage, Uniform Crime Reports, <https://www.uaa.alaska.edu/academics/college-of-health/departments/justice-center/alaska-justice-statistical-analysis-center/ucr.cshhtml>.

<sup>8</sup> Alaska Stat. § 12.62.130 (JUSTIA 2017), available at <https://law.justia.com/codes/alaska/2017/title-12/chapter-62/article-1/section-12.62.130>.

<sup>9</sup> CJIS Div., Fed. Bureau of Investigation, SRS to NIBRS: The Path to Better Data (Mar. 28, 2017), <https://www.fbi.gov/services/cjis/cjis-link/srs-to-nibrs-the-path-to-better-ucr-data>.

<sup>10</sup> Bureau of Justice Statistics, U.S. Dep’t of Justice, 2017 NCS-X Estimation Project (Jul. 27, 2017), available at <https://www.bjs.gov/content/pub/pdf/17ncsexp.pdf>.

<sup>11</sup> Bureau of Justice Statistics, U.S. Dep’t of Justice, National Crime Statistics Exchange (last updated Jun. 2017), <https://www.bjs.gov/content/ncsx.cfm>.

## FBI HATE CRIME STATISTICS

Pursuant to the Hate Crime Statistics Act (HCSA) of 1990 the FBI UCR Program collects data on "crimes that manifest evidence of prejudice based on race, gender or gender identity, religion, disability, sexual orientation, or ethnicity."<sup>12</sup>

Since 1993, the FBI UCR Program has published the annual report, *Hate Crime Statistics*, which is based on voluntary submissions from participating law enforcement agencies. In 2016, agencies from 49 states and the District of Columbia participated in the national hate crime statistics program.

For the most part, hate crime data is collected at the state level and forwarded to the FBI UCR Program. A total of 48 states maintain a state-level UCR data collection. UCR programs in 38 states publish annual hate crime statistics. Some participating law enforcement agencies submit hate crime data directly to the FBI UCR program.<sup>13</sup>



## FBI HATE CRIME STATISTICS PARTICIPANT

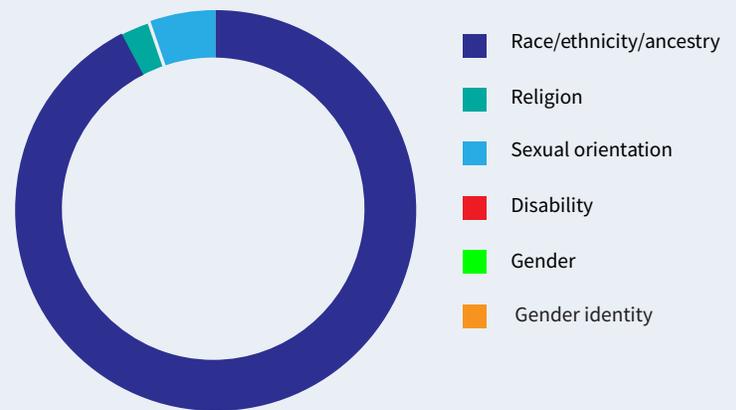
Law enforcement agencies in Alaska submit hate crime data to the FBI UCR Program through the CRIB. According to the FBI UCR Program's annual report, *Hate Crime Statistics*, 11 hate crime incidents were reported in Alaska in 2016.

In 2016, three of the 32 Alaska law enforcement agencies participating in the national hate crime statistics program submitted incident reports to the FBI UCR Program. Agencies representing two of the five largest cities in Alaska submitted only zero data.

As the CRIB does not publish an annual hate crime report, we are unable to make comparisons between state and federal hate crime statistics.

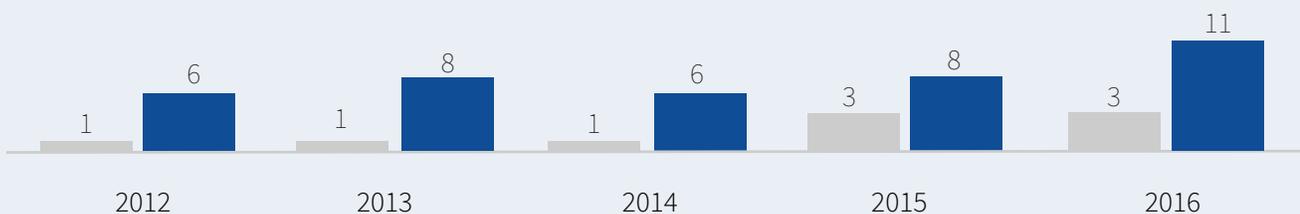
## FBI HATE CRIME STATISTICS: ALASKA 2012-2016

| Incidents per bias motivation | 2012 | 2013 | 2014 | 2015 | 2016 | Total |
|-------------------------------|------|------|------|------|------|-------|
| Race/ethnicity/ancestry       | 5    | 8    | 5    | 7    | 11   | 36    |
| Religion                      | 1    | 0    | 0    | 0    | 0    | 1     |
| Sexual orientation            | 0    | 0    | 1    | 1    | 0    | 2     |
| Disability                    | 0    | 0    | 0    | 0    | 0    | 0     |
| Gender                        | -    | 0    | 0    | 0    | 0    | 0     |
| Gender identity               | -    | 0    | 0    | 0    | 0    | 0     |
| Total                         | 6    | 8    | 6    | 8    | 11   | 39    |



## PARTICIPATION IN UCR HATE CRIME STATISTICS PROGRAM

■ Agencies submitting incident reports    ■ Total number of incidents reported



## SUMMARY

The current Alaska hate crime statute is not sufficiently inclusive, as it does not offer protections for sexual orientation or gender identity. Furthermore, Alaska does not have statutes that require reporting, data collection, or specific law enforcement training on hate crime. The Alaska Department of Public Safety, Criminal Records and Information Bureau, maintains the state clearinghouse for all police-reported crime data, including hate crime, and is responsible for publishing annual statistics. Copies of *Crime in Alaska* can be found on the Alaska DPS website but do not include hate crime statistics. In 2016, three Alaska law enforcement agencies submitted hate crime incident reports to the FBI UCR Program. The remaining 29 participating agencies provided only zero data. Alaska receives an overall score of 40 points, denoting a limited response to hate crime.

<sup>12</sup> 28 U.S.C. § 534 (JUSTIA 2016), available at <https://law.justia.com/codes/us/2016/title-28/part-ii/chapter-33/sec.-534>.

<sup>13</sup> Uniform Crime Reporting Program, Fed. Bureau of Investigation, Data Quality Guidelines, [https://ucr.fbi.gov/data\\_quality\\_guidelines](https://ucr.fbi.gov/data_quality_guidelines).

<sup>14</sup> Brian A. Reaves, Ph.D., Bureau of Justice Statistics, Census of State and Local Law Enforcement Agencies (Jul. 2011), available at <https://www.bjs.gov/content/pub/pdf/cslea08.pdf>.

# ADVOCACY RESOURCES - Alaska

## IMPROVING THE RESPONSE

Most states have failed to enact sufficient legislation to address, prevent, and counteract hate crime in American communities. To accompany our federal hate crime laws, state legislatures must pass the following:

1. **An inclusive hate crime statute**, which covers a wide range of criminal offenses and provides enhanced penalties for crimes motivated because of citizenship status, race, ethnicity, color, disability, age, ancestry or national origin, gender or gender identity, sexual orientation, religion, or homelessness. Such protections are pursuant to model hate crime legislation drafted by the Arab American Institute. According to the model statute, penalty enhancement may incorporate alternatives to fines or increased prison sentences. Alternatives include restitution for victims and communities, participation in educational programs, and restorative justice.
2. **Statutes that require reporting, data collection, and specific law enforcement training on hate crime.** Centralized state agencies must publish comprehensive, accessible statistics on the nature and extent of hate crime occurring within their state. These statistics must conform to national UCR standards and include the bias motivation categories identified in the FBI's annual report, *Hate Crime Statistics*. States must also require law enforcement training schools to provide comprehensive training to ensure that officers are prepared to investigate, report, and respond to hate crime incidents.

## STATE RECOMMENDATIONS

According to our rating methodology, Alaska receives an overall score of 40 points, denoting a limited response to hate crime. Advocates for an improved response to hate crime in Alaska should promote the following:

1. The current Alaska hate crime statute offers protections for race, sex, color, creed, physical or mental disability, ancestry, or national origin. The Alaska hate crime statute should be amended to include protections for **citizenship status, age, ethnicity, sexual orientation, gender identity, homelessness**, or association with a person or group with one of these actual or perceived characteristics.
2. Alaska state code does not require reporting, data collection, or specific law enforcement training on hate crime. In 2016, 3 of the 32 Alaska law enforcement agencies participating in the national hate crime statistics program submitted incident reports to the FBI UCR Program.
  - Law enforcement agencies must report hate crimes to the Alaska Criminal Records and Identification Bureau (CRIB).
  - The CRIB must collect data and publish statistics, conforming to national UCR standards, on the nature and extent of hate crime within the state.
  - Alaska must transition to the National Incident-Based Reporting System (NIBRS) to facilitate hate crime reporting and data collection. By January 2021, all law enforcement agencies in the United States will be required to report crime information through NIBRS.
  - The Alaska Police Standards Council (APSC) must prescribe instruction on hate crime for statewide law enforcement training. Already, APSC-certified academies provide civil rights, disability awareness, and cultural diversity training. This training should be expanded to include instruction relating to investigating and reporting hate crime incidents.

## STATE CONTACTS

Advocates for an improved response to hate crime in Alaska should contact current state legislators and members of Congress.

### Alaska Division of Elections

Contact: (907) 465-4648

Senate: <http://akleg.gov/senate.php>

House: <http://akleg.gov/house.php>

### United States Senate

Contact: Alaska

<https://www.senate.gov/senators/contact>

### United States House of Representatives

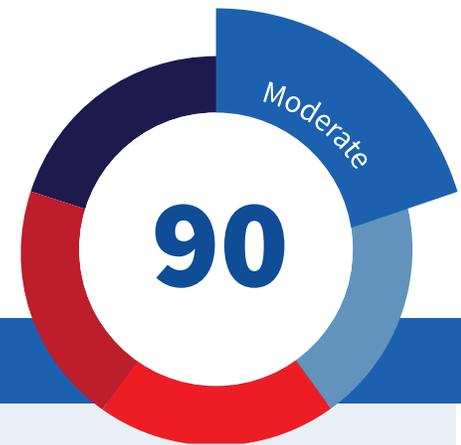
Directory of Representatives: Alaska

<https://www.house.gov/representatives#state-alaska>

# ARIZONA

Total population: 6,931,071

Rank of Arab American population by state: 12



AZ does not publish anti-Arab hate crime statistics.

**Arizona** is the 14th most populated state and has the 12th largest Arab American population.

The Arizona Department of Public Safety, Access Integrity Unit (AIU), is the state agency responsible for the collection and publication of hate crime data. The AIU does not currently publish annual statistics on anti-Arab hate crime.

## HATE CRIME STATUTE

Arizona Rev. Stat. §§ 13-701D.13 and D.15 permit the imposition of a maximum term for a given offense if the victim is over 65 or has a disability, or if there is evidence the defendant committed the crime “out of malice” toward a victim because of their actual or perceived race, color, religion, national origin, sexual orientation, gender, or disability.<sup>1</sup>

The current Arizona hate crime statute is not sufficiently inclusive, as it does not offer protections for gender identity.

## DATA COLLECTION STATUTE

Arizona Rev. Stat. § 41-1750A.3 requires the Department of Public Safety (AZDPS) to “collect information concerning criminal offenses that manifest evidence of prejudice based on race, color, religion, national origin, sexual orientation, gender or disability.”<sup>2</sup> Pursuant to Arizona Rev. Stat. § 1-1750F, criminal justice agencies in Arizona are required to submit the information described above to the AZDPS.<sup>3</sup>

## LAW ENFORCEMENT TRAINING STATUTE

Arizona Rev. Stat. § 41-1822A.4 requires the Arizona Peace Officers Standards and Training Board (AZPOST) to “prescribe minimum courses of training and minimum standards for training facilities for [Arizona] law enforcement officers.”<sup>4</sup>

Pursuant to Arizona Rev. Stat. § 41-1822A.4(a), training must include “courses in responding to and reporting all criminal offenses that are motivated by race, color, religion, national origin, sexual orientation, gender or disability.”<sup>5</sup>

The class descriptions currently listed on the AZPOST website do not ostensibly include a course or training on addressing or reporting hate crime offenses.<sup>6</sup>

| ARIZONA  |              |
|--|--------------|
| <b>Hate Crime Statute</b>                       | <b>35/40</b> |
| No statute; civil action or civil rights law   | -            |
| Hate crime statute, with protections for:  | 10           |
| Race/ethnicity/ancestry  | 5            |
| Religion   | 5            |
| Sexual orientation   | 5            |
| Disability   | 5            |
| Gender   | 5            |
| Gender identity  | -            |
| <b>Data Collection Statute</b>                | <b>15/15</b> |
| Data collection (voluntary reporting)  | -            |
| Mandatory reporting and data collection  | 15           |
| <b>Law Enforcement Training Statute</b>       | <b>15/15</b> |
| No statute; comprehensive training   | -            |
| Mandatory training   | 15           |
| <b>Annual Hate Crime Report</b>               | <b>15/20</b> |
| Annual hate crime report, including:   | 10           |
| Anti-Arab hate crime statistics  | -            |
| Anti-Islamic (Muslim) hate crime statistics  | 5            |
| <b>FBI Hate Crime Statistics Participant</b>  | <b>10/10</b> |
| <b>TOTAL</b>   | <b>90</b>    |

<sup>1</sup>Arizona Rev. Stat. §§ 13-701D.13 – D.15 (JUSTIA 2017), available at <https://law.justia.com/codes/arizona/2017/title-13/section-13-701>.

<sup>2</sup>Arizona Rev. Stat. § 41-1750A.3 (JUSTIA 2017), available at <https://law.justia.com/codes/arizona/2017/title-41/section-41-1750>.

<sup>3</sup>*Id.*

<sup>4</sup>Arizona Rev. Stat. § 41-1822A.4 (JUSTIA 2017), available at <https://law.justia.com/codes/arizona/2017/title-41/section-41-1822>.

<sup>5</sup>*Id.*

<sup>6</sup>Arizona Peace Officer Standards and Training Board, Classes (last updated Jun. 2, 2015), <https://post.az.gov/training-information/classes>.

## DATA COLLECTION & STATISTICS

Housed within the AZDPS, the AIU publishes an annual report on statewide crime statistics, including hate crime. The report is based on UCR submissions from law enforcement agencies across the state. The 2006-2016 editions of *Crime in Arizona* can be found on the AZDPS website.<sup>7</sup> Earlier reports were obtained from the AZDPS UCR Program.

## ANNUAL STATEWIDE HATE CRIME REPORT



State-level hate crime statistics published by the AZDPS include data on anti-Islamic (Muslim) hate crime. The AZDPS tabulates hate crime data according to the number of offenses per disaggregated bias motivation category. The AZDPS does not currently provide anti-Arab hate crime statistics.

### ANTI-ARAB HATE CRIME STATISTICS

Anti-Arab hate crime statistics are provided in the 1991-2000 editions of *Crime in Arizona*. In recent editions, anti-Arab hate crimes are recorded under a composite ethnicity/national origin category. There was a significant increase of reported anti-other ethnicity/national origin hate crimes between the second and third quarters of 2001 (0 to 50).

### ANTI-ISLAMIC (MUSLIM) HATE CRIME STATISTICS

Anti-Islamic (Muslim) hate crime statistics are provided in the 1995-2016 editions of *Crime in Arizona*. There was a significant increase of reported anti-Islamic (Muslim) hate crime offenses between the second and third quarters of 2001 (0 to 20). The 2016 AZDPS report suggests a resurgence of hate crimes targeting American Muslims.

## UNIFORM CRIME REPORTING (UCR)

By January 2021, the FBI Uniform Crime Reporting (UCR) Program will depend solely on the National Incident-Based Reporting System (NIBRS) to collect nationwide crime data.<sup>8</sup> This transition entails the sunset of summary-based crime reporting (SRS) and requires cooperation on the part of state UCR programs and individual reporting agencies.

The Arizona UCR program is one of 18 state programs that rely on both SRS and NIBRS data.<sup>9</sup> A total of five local agencies in Arizona are NIBRS-certified and submitted NIBRS-only data to the Arizona UCR Program in 2016. Currently, the Arizona UCR program converts NIBRS data to the traditional SRS format for the *Crime in Arizona* publication. According to the AIU, this practice will continue “until the Arizona UCR Program can collect a preponderance of data via the NIBRS.”<sup>10</sup> According to the Bureau of Justice Statistics, Arizona has not received funding through the National Crime Statistics Exchange (NCS-X) Initiative.<sup>11</sup>

Traditional summary-based crime reporting is constrained with respect to the various data elements that serve to put a particular incident in context, such as victim and offender demographics, the location of the incident, and whether an arrest occurred. NIBRS reporting enables criminal justice agencies to acquire a better understanding of crime, including hate crime, occurring within their respective jurisdictions. This in turn has positive implications for effective law enforcement response and policy implementation.

## CONTACT

Access Integrity Unit  
Uniform Crime Reporting  
Program Arizona Department of Public Safety  
Post Office Box 6638  
Phoenix, Arizona 85005-6638  
(602) 223-2488  
www.azdps.gov

## CRIME IN ARIZONA HATE CRIME OFFENSES (2000-2016)

| Bias motivation                        | '00 | '01 | '02 | '03 | '04 | '05 | '06 | '07 | '08 | '09 | '10 | '11 | '12 | '13 | '14 | '15 | '16 |
|--|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| Anti-Arab                              | 3   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   |
| Anti-Islamic (Muslim)                  | 1   | 23  | 6   | 9   | 9   | 12  | 8   | 2   | 5   | 6   | 9   | 6   | 5   | 10  | 4   | 5   | 17  |
| Anti-other race/<br>ethnicity/ancestry | 2   | 79  | 20  | 32  | 21  | 9   | 14  | 11  | 10  | 7   | 12  | 9   | 9   | 16  | 19  | 5   | 5   |

According to supplemental data from the FBI, 6 anti-Islamic (Muslim) hate crime incidents, involving 6 offenses, were reported in Arizona in 2016. This total conflicts with AZDPS statistics. Arizona law enforcement agencies submit hate crime data to the FBI UCR Program through the AZDPS.

## FBI HATE CRIME STATISTICS (2015-2016)

| Bias motivation       | '15 | '16 |
|-----------------------|-----|-----|
| Anti-Arab             | 0   | 0   |
| Anti-Islamic (Muslim) | 6   | 17  |

<sup>7</sup> Arizona Dep't of Pub. Safety, *Crime in Arizona Reports*, <https://www.azdps.gov/about/reports/crime>.

<sup>8</sup> CJIS Div., Fed. Bureau of Investigation, *SRS to NIBRS: The Path to Better Data* (Mar. 28, 2017), <https://www.fbi.gov/services/cjis/cjis-link/srs-to-nibrs-the-path-to-better-ucr-data>.

<sup>9</sup> Bureau of Justice Statistics, U.S. Dep't of Justice, *2017 NCS-X Estimation Project* (Jul. 27, 2017), available at <https://www.bjs.gov/content/pub/pdf/17ncsxp.pdf>.

<sup>10</sup> Access Integrity Unit, Arizona Dep't of Pub. Safety, *Crime in Arizona 2016* (2017), available at [http://www.azdps.gov/sites/default/files/media/3%20FINAL\\_Crime%20in%20Arizona%202016.pdf](http://www.azdps.gov/sites/default/files/media/3%20FINAL_Crime%20in%20Arizona%202016.pdf).

<sup>11</sup> Bureau of Justice Statistics, U.S. Dep't of Justice, *National Crime Statistics Exchange* (last updated Jun. 2017), <https://www.bjs.gov/content/ncsx.cfm>.

## FBI HATE CRIME STATISTICS

Pursuant to the Hate Crime Statistics Act (HCSA) of 1990 the FBI UCR Program collects data on "crimes that manifest evidence of prejudice based on race, gender or gender identity, religion, disability, sexual orientation, or ethnicity."<sup>12</sup>

Since 1993, the FBI UCR Program has published the annual report, *Hate Crime Statistics*, which is based on voluntary submissions from participating law enforcement agencies. In 2016, agencies from 49 states and the District of Columbia participated in the national hate crime statistics program.

For the most part, hate crime data is collected at the state level and forwarded to the FBI UCR Program. A total of 48 states maintain a state-level UCR data collection. UCR programs in 38 states publish annual hate crime statistics. Some participating law enforcement agencies submit hate crime data directly to the FBI UCR program.<sup>13</sup>



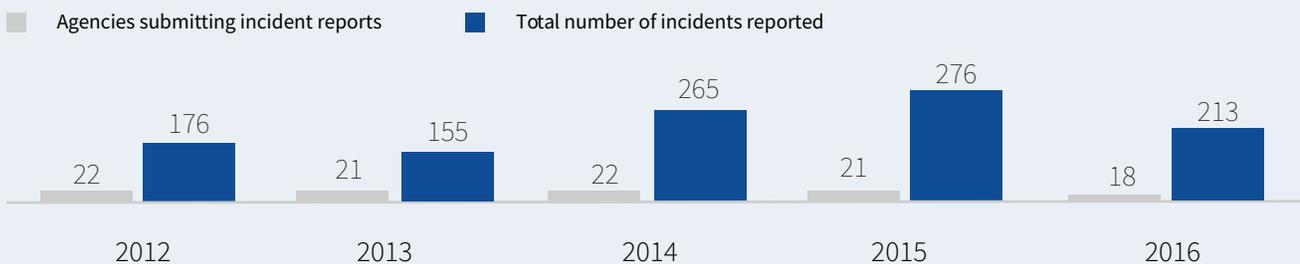
## FBI HATE CRIME STATISTICS PARTICIPANT

Law enforcement agencies in Arizona submit hate crime data to the FBI UCR Program through the AZDPS. According to the FBI UCR Program's annual report, *Hate Crime Statistics*, 213 hate crime incidents, involving 291 offenses, were reported in Arizona in 2016.

In 2016, 18 of the 85 Arizona law enforcement agencies participating in the national hate crime statistics program submitted incident reports to the FBI UCR Program. A total of 3 agencies representing populations greater than 100,000 either submitted only zero data or failed to provide data in at least one quarterly submission period.

According to annual hate crime statistics published by the AZDPS, 236 hate crime offenses were reported in Arizona in 2016. This total conflicts with the FBI UCR Program's annual report, *Hate Crime Statistics, 2016*. Discrepancies occur between state and federal hate crime statistics for 2012-2015 as well.

## PARTICIPATION IN UCR HATE CRIME STATISTICS PROGRAM

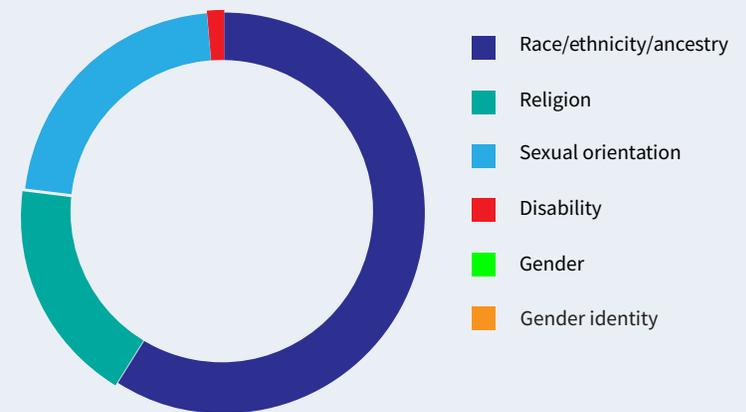


## SUMMARY

The current Arizona hate crime statute is not sufficiently inclusive, as it does not offer protections for gender identity. Arizona has statutes that require reporting, data collection, and specific law enforcement training on hate crime. The state's current basic police training curriculum, however, does not appear to include hate crime as a mandatory topic of instruction. The Arizona Department of Public Safety, Access Integrity Unit, maintains the state clearinghouse for all police-reported crime data, including hate crime, and is responsible for publishing annual statistics. Copies of *Crime in Arizona* can be found on the AZDPS website and include anti-Islamic (Muslim) hate crime statistics. The AZDPS provided anti-Arab hate crime statistics from 1991 to 2000. In 2016, 18 Arizona law enforcement agencies participating in the national hate crime statistics program submitted incident reports to the FBI UCR Program. The remaining 67 participating agencies provided only zero data. A total of 24 participating agencies recorded blank data in at least one quarterly submission period. Arizona receives an overall score of 90 points, denoting a moderate response to hate crime.

## FBI HATE CRIME STATISTICS: ARIZONA 2012-2016

| Incidents per bias motivation | 2012 | 2013 | 2014 | 2015 | 2016 | Total |
|-------------------------------|------|------|------|------|------|-------|
| Race/ethnicity/ancestry       | 118  | 97   | 148  | 162  | 110  | 635   |
| Religion                      | 25   | 30   | 38   | 52   | 50   | 195   |
| Sexual orientation            | 43   | 27   | 55   | 57   | 53   | 235   |
| Disability                    | 1    | 1    | 4    | 5    | 1    | 12    |
| Gender                        | -    | 0    | 0    | 0    | 0    | 0     |
| Gender identity               | -    | 0    | 0    | 0    | 0    | 0     |
| Total                         | 187  | 155  | 245  | 276  | 214  | 1,077 |



<sup>12</sup> 28 U.S.C. § 534 (JUSTIA 2016), available at <https://law.justia.com/codes/us/2016/title-28/part-ii/chapter-33/sec.-534>.

<sup>13</sup> Uniform Crime Reporting Program, Fed. Bureau of Investigation, Data Quality Guidelines, [https://ucr.fbi.gov/data\\_quality\\_guidelines](https://ucr.fbi.gov/data_quality_guidelines).

<sup>14</sup> CJIS Div., Fed. Bureau of Investigation, Table 11: Offenses, *Hate Crime Statistics, 2016* (Nov. 13, 2017), <https://ucr.fbi.gov/hate-crime/2016/tables/table-11>.

# ADVOCACY RESOURCES - Arizona

## IMPROVING THE RESPONSE

Most states have failed to enact sufficient legislation to address, prevent, and counteract hate crime in American communities. To accompany our federal hate crime laws, state legislatures must pass the following:

1. **An inclusive hate crime statute**, which covers a wide range of criminal offenses and provides enhanced penalties for crimes motivated because of citizenship status, race, ethnicity, color, disability, age, ancestry or national origin, gender or gender identity, sexual orientation, religion, or homelessness. Such protections are pursuant to model hate crime legislation drafted by the Arab American Institute. According to the model statute, penalty enhancement may incorporate alternatives to fines or increased prison sentences. Alternatives include restitution for victims and communities, participation in educational programs, and restorative justice.
2. **Statutes that require reporting, data collection, and specific law enforcement training on hate crime.** Centralized state agencies must publish comprehensive, accessible statistics on the nature and extent of hate crime occurring within their state. These statistics must conform to national UCR standards and include the bias motivation categories identified in the FBI's annual report, *Hate Crime Statistics*. States must also require law enforcement training schools to provide comprehensive training to ensure that officers are prepared to investigate, report, and respond to hate crime incidents.

## STATE RECOMMENDATIONS

According to our rating methodology, Arizona receives an overall score of 90 points, denoting a moderate response to hate crime. Advocates for an improved response to hate crime in Arizona should promote the following:

1. The current Arizona hate crime statute offers protections for race, color, religion, national origin, sexual orientation, gender, and disability. While Arizona criminal code permits harsher sentences for crimes against victims aged 65 and over, age is not identified in the Arizona hate crime statute as a protected characteristic. The Arizona hate crime statute should be amended to include protections for **citizenship status, ethnicity, age, ancestry, gender identity, homelessness**, or association with a person or group with one of these actual or perceived characteristics.
2. While Arizona state code requires reporting, data collection, and specific law enforcement training on hate crime, some shortcomings remain. Housed within the Arizona Department of Public Safety (AZDPS), the Access Integrity Unit does not publish statistics on anti-Arab hate crime. Furthermore, the Arizona Peace Officer Standards and Training Board (AZPOST) does not ostensibly provide basic training relating to investigating and reporting hate crime incidents.
  - The ADPS must provide hate crime data corresponding to the bias motivation categories identified in the FBI UCR Program's annual report, *Hate Crime Statistics*.
  - As required by law, AZPOST must ensure that basic training for law enforcement officers includes instruction relating to reporting and investigating hate crime incidents.
3. In 2016, 18 of the 85 Arizona law enforcement agencies participating in the national hate crime statistics program submitted incident reports to the FBI UCR Program.
  - Arizona must transition to the National Incident-Based Reporting System (NIBRS) to facilitate hate crime reporting and data collection. By January 2021, all law enforcement agencies in the United States will be required to report crime information through NIBRS.

## STATE CONTACTS

Advocates for an improved response to hate crime in Arizona should contact current state legislators and members of Congress.

### Arizona State Legislature

Senate: (602) 926-3559 | House: (602) 926-4221

<https://www.azleg.gov/findmylegislator/>

### United States Senate

Contact: Arizona

<https://www.senate.gov/senators/contact>

### United States House of Representatives

Directory of Representatives: Arizona

<https://www.house.gov/representatives#state-arizona>

# ARKANSAS

Total population: 2,988,248  
Rank of Arab American population by state: 39



AR does not publish annual hate crime statistics.

**Arkansas** is the 33rd most populated state and has the 39th largest Arab American population.

The Arkansas Crime Information Center (ACIC), Statistical Analysis Center, is the state agency responsible for the collection and publication of crime data. The ACIC does not publish annual hate crime statistics.

## HATE CRIME STATUTE

**Arkansas is one of five states, along with Georgia, Indiana, South Carolina, and Wyoming, that do not have a hate crime statute.** Ark. Code § 16-123-106 authorizes civil action on behalf of a victim subjected to acts of intimidation or harassment, violence, or vandalism of property, “where such acts are motivated by racial, religious, or ethnic animosity.”<sup>1</sup>

The Arkansas civil rights law does not qualify as a hate crime statute, as it does not provide enhanced penalties for crimes motivated because of certain forms of bias. Furthermore, the law is not sufficiently inclusive, as it does not offer protections for sexual orientation, disability, gender, or gender identity.

## DATA COLLECTION STATUTE

**There is no Arkansas statute that requires hate crime reporting or data collection.** Ark. Code § 12-12-217 requires the ACIC to submit an annual report on the number of persons arrested for each criminal offense classification with comparisons between individual reporting agencies.<sup>2</sup>

The annual report must include a racial breakdown of all persons arrested in each criminal offense classification.<sup>3</sup>

## LAW ENFORCEMENT TRAINING STATUTE

**There is no Arkansas statute that requires specific law enforcement training on hate crime.** Ark. Code §§ 12-9-113 through 12-9-116 prescribe minimum standards for training on certain issues in a law enforcement context, including domestic violence, sexual assault, and “the dynamic of relating to a person with a disability.”<sup>4</sup>

Pursuant to Ark. Code § 12-9-104(4), the Arkansas Commission on Law Enforcement Standards and Training (CLEST) is responsible for establishing “minimum curriculum requirements” for law enforcement training schools throughout the state.<sup>5</sup> Additional curriculum requirements include courses of instruction on cultural diversity and racial sensitivity, in accordance with Ark. Code § 12-12-1404.<sup>6</sup>

## ARKANSAS

### Hate Crime Statute

5/40

No statute; civil action or civil rights law

5

Hate crime statute, with protections for:

-

Race/ethnicity/ancestry

-

Religion

-

Sexual orientation

-

Disability

-

Gender

-

Gender identity

-

### Data Collection Statute

0/15

Data collection (voluntary reporting)

-

Mandatory reporting and data collection

-

### Law Enforcement Training Statute

0/15

No statute; comprehensive training

-

Mandatory training

-

### Annual Hate Crime Report

0/20

Annual hate crime report, including:

-

Anti-Arab hate crime statistics

-

Anti-Islamic (Muslim) hate crime statistics

-

### FBI Hate Crime Statistics Participant

10/10

**TOTAL**

**15**

<sup>1</sup> Ark. Code § 16-123-106 (JUSTIA 2017), available at <https://law.justia.com/codes/arkansas/2017/title-16/subtitle-7/chapter-123/subchapter-1/section-16-123-106>.

<sup>2</sup> Ark. Code § 12-12-217 (JUSTIA 2017), available at <https://law.justia.com/codes/arkansas/2017/title-12/subtitle-2/chapter-12/subchapter-2/section-12-12-217>.

<sup>3</sup> Id.

<sup>4</sup> Ark. Code §§ 12-9-113 – 12-9-116 (JUSTIA 2017), available at <https://law.justia.com/codes/arkansas/2017/title-12/subtitle-2/chapter-9/subchapter-1>.

<sup>5</sup> Ark. Code § 12-9-104(4) (JUSTIA 2017), available at <https://law.justia.com/codes/arkansas/2017/title-12/subtitle-2/chapter-9/subchapter-1/section-12-9-104>.

<sup>6</sup> Ark. Code § 12-12-1404 (JUSTIA 2017), available at <https://law.justia.com/codes/arkansas/2017/title-12/subtitle-2/chapter-12/subchapter-14/section-12-12-1404>.

## DATA COLLECTION & STATISTICS

Housed within the Arkansas Crime Information Center, the Arkansas Statistical Analysis Center (SAC) publishes an annual report on statewide crime statistics. The 1998-2016 editions of *Crime in Arkansas* can be found on the ACIC website.<sup>7</sup> The SAC report does not provide annual statewide hate crime statistics.

Pursuant to Ark. Code § 12-12-1007, Arkansas criminal justice agencies are required to report information on crimes occurring within their respective jurisdictions in a manner specified by the ACIC.<sup>8</sup>

## ANNUAL STATEWIDE HATE CRIME REPORT



The ACIC does not publish annual state-level hate crime statistics.

Bias motivation is a mandatory data element in all NIBRS submissions. As Arkansas is 100 percent NIBRS compliant, all crime data submissions from Arkansas law enforcement agencies indicate bias motivation. The ACIC collects these submissions and forwards the data to the FBI UCR Program. Given the state's NIBRS status, Arkansas is better equipped to publish annual state-level hate crime statistics than other non-reporting states.

- **ANTI-ARAB HATE CRIME STATISTICS**  
The ACIC does not publish annual statistics on anti-Arab hate crime.
- **ANTI-ISLAMIC (MUSLIM) HATE CRIME STATISTICS**  
The ACIC does not publish annual statistics on anti-Islamic (Muslim) hate crime.

## UNIFORM CRIME REPORTING (UCR)

By January 2021, the FBI Uniform Crime Reporting (UCR) Program will depend solely on the National Incident-Based Reporting System (NIBRS) to collect nationwide crime data.<sup>9</sup> This transition entails the sunset of summary-based crime reporting (SRS) and requires cooperation on the part of state UCR programs and individual reporting agencies.

The Arkansas UCR program is one of 16 state programs that rely exclusively on NIBRS data.<sup>10</sup>

NIBRS reporting enables criminal justice agencies to acquire a better understanding of crime, including hate crime, occurring within their respective jurisdictions. This in turn has positive implications for effective law enforcement response and policy implementation.

## CONTACT

Arkansas Crime Information Center  
322 South Main, Suite 615  
Little Rock, Arkansas 72201  
(501) 682-2222  
www.acic.org

## THE ARKANSAS CRIME INFORMATION CENTER DOES NOT PUBLISH ANNUAL HATE CRIME STATISTICS.

| Bias motivation                    | '00 | '01 | '02 | '03 | '04 | '05 | '06 | '07 | '08 | '09 | '10 | '11 | '12 | '13 | '14 | '15 | '16 |
|------------------------------------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| Anti-Arab                          | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   |
| Anti-Islamic (Muslim)              | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   |
| Anti-other race/ethnicity/ancestry | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   |

**NOT REPORTED**

According to supplemental data from the FBI, a single anti-Islamic (Muslim) hate crime incident was reported in Arkansas in 2016. Arkansas law enforcement agencies submit hate crime data to the FBI UCR Program through the ACIC.

## FBI REPORTED HATE CRIME INCIDENTS (2015-2016)

| Bias motivation       | '15 | '16 |
|-----------------------|-----|-----|
| Anti-Arab             | 0   | 0   |
| Anti-Islamic (Muslim) | 0   | 1   |

<sup>7</sup> Arkansas Crime Information Ctr., Crime Statistics, <https://www.acic.org/crime-statistics>.

<sup>8</sup> Ark. Code § 12-12-1007 (JUSTIA 2017), available at <https://law.justia.com/codes/arkansas/2017/title-12/subtitle-2/chapter-12/subchapter-10/section-12-12-1007>.

<sup>9</sup> CJIS Div., Fed. Bureau of Investigation, SRS to NIBRS: The Path to Better Data (Mar. 28, 2017), <https://www.fbi.gov/services/cjis/cjis-link/srs-to-nibrs-the-path-to-better-ucr-data>.

<sup>10</sup> Bureau of Justice Statistics, U.S. Dep't of Justice, 2017 NCS-X Estimation Project (Jul. 27, 2017), available at <https://www.bjs.gov/content/pub/pdf/17ncsxp.pdf>.

## FBI HATE CRIME STATISTICS

Pursuant to the Hate Crime Statistics Act (HCSA) of 1990 the FBI UCR Program collects data on "crimes that manifest evidence of prejudice based on race, gender or gender identity, religion, disability, sexual orientation, or ethnicity."<sup>11</sup>

Since 1993, the FBI UCR Program has published the annual report, *Hate Crime Statistics*, which is based on voluntary submissions from participating law enforcement agencies. In 2016, agencies from 49 states and the District of Columbia participated in the national hate crime statistics program.

For the most part, hate crime data is collected at the state level and forwarded to the FBI UCR Program. A total of 48 states maintain a state-level UCR data collection. UCR programs in 38 states publish annual hate crime statistics. Some participating law enforcement agencies submit hate crime data directly to the FBI UCR program.<sup>12</sup>



## FBI HATE CRIME STATISTICS PARTICIPANT

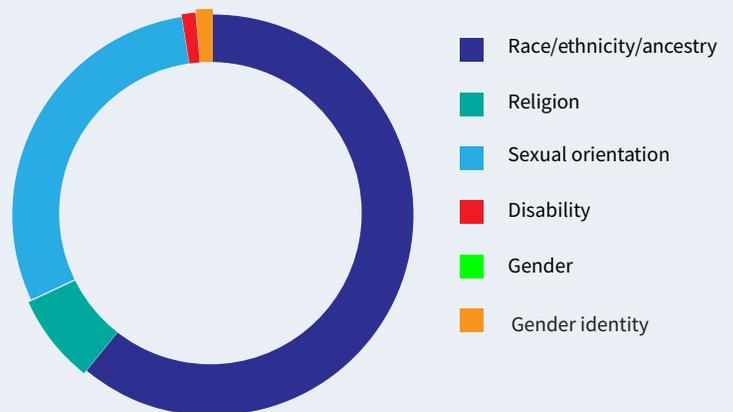
Law enforcement agencies in Arkansas submit hate crime data to the FBI UCR Program through the ACIC. According to the FBI UCR Program's annual report, *Hate Crime Statistics*, 12 hate crime incidents were reported in Arkansas in 2016.

In 2016, 5 of the 288 Arkansas law enforcement agencies participating in the national hate crime statistics program submitted incident reports to the FBI UCR Program. Agencies representing three of the five largest cities in Arkansas either did not participate in the national hate crime statistics program or submitted only zero data.

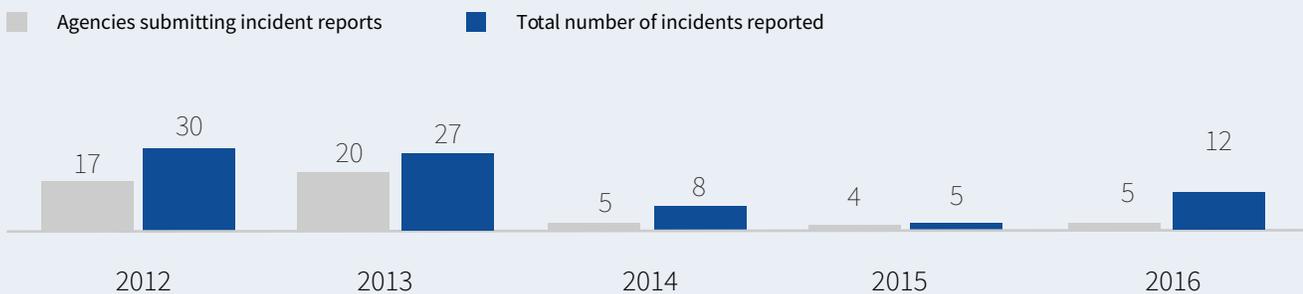
As the ACIC does not publish an annual hate crime report, we are unable to make comparisons between state and federal hate crime statistics.

## FBI HATE CRIME STATISTICS: ARKANSAS 2012-2016

| Incidents per bias motivation | 2012      | 2013      | 2014     | 2015     | 2016      | Total     |
|-------------------------------|-----------|-----------|----------|----------|-----------|-----------|
| Race/ethnicity/ancestry       | 13        | 19        | 6        | 3        | 10        | 50        |
| Religion                      | 3         | 1         | 1        | 0        | 1         | 6         |
| Sexual orientation            | 13        | 8         | 1        | 2        | 0         | 24        |
| Disability                    | 1         | 0         | 0        | 0        | 0         | 1         |
| Gender                        | -         | 0         | 0        | 0        | 0         | 0         |
| Gender identity               | -         | 0         | 0        | 0        | 1         | 1         |
| <b>Total</b>                  | <b>30</b> | <b>27</b> | <b>8</b> | <b>5</b> | <b>12</b> | <b>82</b> |



## PARTICIPATION IN UCR HATE CRIME STATISTICS PROGRAM



## SUMMARY

Arkansas is one of five states, along with Georgia, Indiana, South Carolina, and Wyoming, that do not have a hate crime statute. Furthermore, Arkansas does not have statutes that require reporting, data collection, or specific law enforcement training on hate crime. The Arkansas Crime Information Center, Statistical Analysis Center, maintains the state clearinghouse for all police-reported crime data, including hate crime, and is responsible for publishing annual statistics. Copies of *Crime in Arkansas* can be found on the ACIC website but do not include hate crime statistics. In 2016, 5 Arkansas law enforcement agencies submitted hate crime incident reports to the FBI UCR Program. The remaining 283 participating agencies provided only zero data. A total of 6 participating agencies recorded blank data in at least one quarterly submission period. Arkansas receives an overall score of 15 points, denoting a minimal response to hate crime.

<sup>11</sup> 28 U.S.C. § 534 (JUSTIA 2016), available at <https://law.justia.com/codes/us/2016/title-28/part-ii/chapter-33/sec.-534>.

<sup>12</sup> Uniform Crime Reporting Program, Fed. Bureau of Investigation, Data Quality Guidelines, [https://ucr.fbi.gov/data\\_quality\\_guidelines](https://ucr.fbi.gov/data_quality_guidelines).

# ADVOCACY RESOURCES - Arkansas

## IMPROVING THE RESPONSE

Most states have failed to enact sufficient legislation to address, prevent, and counteract hate crime in American communities. To accompany our federal hate crime laws, state legislatures must pass the following:

1. **An inclusive hate crime statute**, which covers a wide range of criminal offenses and provides enhanced penalties for crimes motivated because of citizenship status, race, ethnicity, color, disability, age, ancestry or national origin, gender or gender identity, sexual orientation, religion, or homelessness. Such protections are pursuant to model hate crime legislation drafted by the Arab American Institute. According to the model statute, penalty enhancement may incorporate alternatives to fines or increased prison sentences. Alternatives include restitution for victims and communities, participation in educational programs, and restorative justice.
2. **Statutes that require reporting, data collection, and specific law enforcement training on hate crime.** Centralized state agencies must publish comprehensive, accessible statistics on the nature and extent of hate crime occurring within their state. These statistics must conform to national UCR standards and include the bias motivation categories identified in the FBI's annual report, *Hate Crime Statistics*. States must also require law enforcement training schools to provide comprehensive training to ensure that officers are prepared to investigate, report, and respond to hate crime incidents.

## STATE RECOMMENDATIONS

According to our rating methodology, Arkansas receives an overall score of 15 points, denoting a minimal response to hate crime. Advocates for an improved response to hate crime in Arkansas should promote the following:

1. Arkansas is one of five states without a hate crime statute. The Arkansas General Assembly must enact legislation for a new criminal statute prohibiting crimes motivated because of **citizenship status, race, ethnicity, color, disability, age, ancestry or national origin, gender or gender identity, sexual orientation, religion, homelessness**, or association with a person or group with one of these actual or perceived characteristics. Such protections are pursuant to model hate crime legislation drafted by the Arab American Institute.
2. Arkansas state code does not require reporting, data collection, or specific law enforcement training on hate crime. In 2016, 5 of the 288 Arkansas law enforcement agencies participating in the national hate crime statistics program submitted incident reports to the FBI UCR Program.
  - Law enforcement agencies must report hate crimes to the Arkansas Crime Information Center (ACIC).
  - The ACIC must collect data and publish statistics, conforming to national UCR standards, on the nature and extent of hate crime within the state.
  - The Arkansas Commission on Law Enforcement Standards and Training must prescribe instruction relating to investigating and reporting hate crime incidents for law enforcement training schools throughout the state. As required by law, the present curriculum already includes courses of instruction on cultural diversity and racial sensitivity.

## STATE CONTACTS

Advocates for an improved response to hate crime in Arkansas should contact current state legislators and members of Congress.

### Arkansas General Assembly

Senate: (501) 682-2902 | House: (501) 682-6211

<http://www.arkleg.state.ar.us>

### United States Senate

Contact: Arkansas

<https://www.senate.gov/senators/contact>

### United States House of Representatives

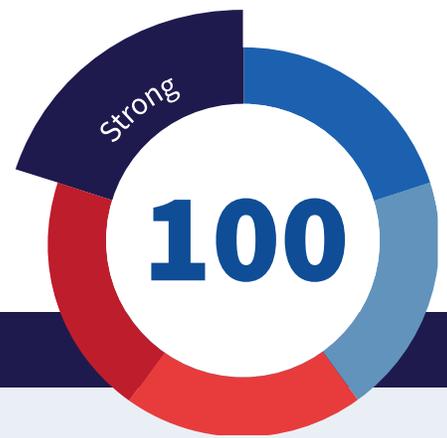
Directory of Representatives: Arkansas

<https://www.house.gov/representatives#state-arkansas>

# CALIFORNIA

Total population: 39,250,017

Rank of Arab American population by state: 1



19 anti-Arab hate crime incidents were reported in CA in 2016.

**California** is the most populated state and has the largest Arab American population in the country.

The California Department of Justice, Criminal Justice Statistics Center (CJSC), is the state agency responsible for the collection and publication of hate crime data. According to the CJSC's annual publication, there were 19 anti-Arab hate crime incidents reported throughout California in 2016.

## HATE CRIME STATUTE

Cal. Pen. Code § 4.22.6 prohibits a person from intimidating or interfering with any other person in the free exercise or enjoyment of their civil rights because of their actual or perceived disability, gender, including gender expression,<sup>1</sup> nationality, race or ethnicity, religion, sexual orientation, or association with a person or group with one or more of these actual or perceived characteristics.<sup>2</sup> Furthermore, Cal. Pen. Code §§ 4.22.7-4.22.76 permit increased punishment and penalty enhancement for hate crime offenses, and require that hate crime be considered an aggravating circumstance in the punishment of felonies.<sup>3</sup>

## DATA COLLECTION STATUTE

Cal. Pen. Code § 13023 requires law enforcement agencies to report hate crime-related information to the California Department of Justice.<sup>4</sup> Pursuant to Cal. Pen. Code § 13010,<sup>5</sup> the Department is required to submit its analysis of this information, and other information related to criminal statistics, to the public through its OpenJustice Web Portal.<sup>6</sup>

## LAW ENFORCEMENT TRAINING STATUTE

Cal. Pen. Code § 13519.6 requires law enforcement and correctional agencies to provide a “course of instruction and training” on hate crime. The training must address “special problems inherent in some categories of hate crime, including...anti-Arab/Middle Eastern and anti-Islamic hate crimes, and techniques and methods to handle these special problems.”<sup>7</sup>

Additionally, the training must include instruction on “law enforcement procedures, reporting, and documentation of hate crimes,” in accordance with Cal. Pen. Code § 13519.6(b)(4).<sup>8</sup>

Housed within the California Department of Justice, the Commission on Peace Officers Standards and Training oversees the establishment and implementation of minimum standards for law enforcement training and education programs.<sup>9</sup>

| CALIFORNIA   |              |
|--|--------------|
| <b>Hate Crime Statute</b>                       | <b>40/40</b> |
| No statute; civil action or civil rights law   | -            |
| Hate crime statute, with protections for:  | 10           |
| Race/ethnicity/ancestry  | 5            |
| Religion   | 5            |
| Sexual orientation   | 5            |
| Disability   | 5            |
| Gender   | 5            |
| Gender identity  | 5            |
| <b>Data Collection Statute</b>                 | <b>15/15</b> |
| Data collection (voluntary reporting)  | -            |
| Mandatory reporting and data collection  | 15           |
| <b>Law Enforcement Training Statute</b>       | <b>15/15</b> |
| No statute; comprehensive training   | -            |
| Mandatory training   | 15           |
| <b>Annual Hate Crime Report</b>               | <b>20/20</b> |
| Annual hate crime report, including:   | 10           |
| Anti-Arab hate crime statistics  | 5            |
| Anti-Islamic (Muslim) hate crime statistics  | 5            |
| <b>FBI Hate Crime Statistics Participant</b>  | <b>10/10</b> |
| <b>TOTAL</b>   | <b>100</b>   |

<sup>1</sup> Cal. Pen. Code § 4.22.56 (JUSTIA 2017), available at <https://law.justia.com/codes/california/2017/code-pen/part-1/title-11.6/chapter-1/section-422.56>.

<sup>2</sup> Cal. Pen. Code § 4.22.6 (JUSTIA 2017), available at <https://law.justia.com/codes/california/2017/code-pen/part-1/title-11.6/chapter-2>.

<sup>3</sup> Cal. Pen. Code §§ 4.22.7-76, *supra* note 2.

<sup>4</sup> Cal. Pen. Code § 13023 (JUSTIA 2017), available at <https://law.justia.com/codes/california/2017/code-pen/part-4/title-3/chapter-1/article-2/section-13023>.

<sup>5</sup> Cal. Pen. Code § 13010 (JUSTIA 2017), available at <https://law.justia.com/codes/california/2017/code-pen/part-4/title-3/chapter-1/article-1/section-13010>.

<sup>6</sup> Open Justice Initiative, California Dep't of Justice, Hate Crime from 2007 to 2016, <https://openjustice.doj.ca.gov/2016/hate>.

<sup>7</sup> Cal. Pen. Code § 13519.6 (JUSTIA 2017), available at <https://law.justia.com/codes/california/2017/code-pen/part-4/title-4/chapter-1/article-2/section-13519.6>.

<sup>8</sup> *Id.*

<sup>9</sup> Cal. Pen. Code § 13510 (JUSTIA 2017), available at <https://law.justia.com/codes/california/2017/code-pen/part-4/title-4/chapter-1/article-2/section-13510>.

## DATA COLLECTION & STATISTICS

Pursuant to Cal. Pen. Code § 13010, the California Attorney General is permitted to “approve reports on special aspects of criminal statistics.”<sup>10</sup> The CJSC publishes an annual report on statewide hate crime statistics. The 1995-2016 editions of *Hate Crime in California* can be found on the CJSC website.<sup>11</sup> The CJSC also maintains an online database of statewide criminal justice statistics. Established in 2015, OpenJustice is “a data-driven initiative that embraces transparency to strengthen trust, enhance government accountability, and improve public policy in the criminal justice system.”<sup>12</sup>



## ANNUAL STATEWIDE HATE CRIME REPORT

State-level hate crime statistics published by the CJSC include data on anti-Arab and anti-Islamic (Muslim) hate crime. The CJSC tabulates hate crime data according to the number of events, offenses, victims, and suspects per disaggregated bias motivation category. All California law enforcement agencies operate data collections and submit hate crime data to the CJSC.

- ANTI-ARAB HATE CRIME STATISTICS**  
 Prior to the 2016 edition of *Hate Crime in California*, the CJSC recorded anti-Arab hate crimes under a composite ethnicity/national origin category. In *Hate Crime in California, 2001*, the CJSC attributed a 346 percent increase of anti-other ethnicity/national origin hate crimes to violence targeting Arab Americans in the aftermath of 9/11.<sup>14</sup>
- ANTI-ISLAMIC (MUSLIM) HATE CRIME STATISTICS**  
 Anti-Islamic (Muslim) hate crime statistics are provided in the 1995-2016 editions of *Hate Crime in California*. The 2015-2016 CJSC reports suggest a resurgence of hate crimes targeting American Muslims.

## UNIFORM CRIME REPORTING (UCR)

By January 2021, the FBI Uniform Crime Reporting (UCR) Program will depend solely on the National Incident-Based Reporting System (NIBRS) to collect nationwide crime data.<sup>15</sup> This transition entails the sunset of summary-based crime reporting (SRS) and requires cooperation on the part of state UCR programs and individual reporting agencies.

California is in the process of implementing a statewide incident-based reporting (IBR) system to accommodate the proposed federal transition.<sup>16</sup> As of July 27, 2017, the California UCR program was one of 15 state programs that rely exclusively on SRS data.<sup>17</sup>

According to the Bureau of Justice Statistics, California has received funding through the National Crime Statistics Exchange (NCS-X) Initiative, which is designed to “implement efficient and minimally burdensome processes” for states’ transition to NIBRS-compliant reporting.<sup>18</sup>

## CONTACT

Department of Justice  
 Criminal Justice Statistics Center  
 Post Office Box 903427  
 Sacramento, California 94203-4270  
 (916) 227-3546  
<http://oag.ca.gov/crime>

## HATE CRIME IN CALIFORNIA INCIDENTS (2000-2016)

| Bias motivation                    | '00 | '01 | '02 | '03 | '04 | '05 | '06 | '07 | '08 | '09 | '10 | '11 | '12 | '13 | '14 | '15 | '16 |
|------------------------------------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| Anti-Arab                          | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | 19  |
| Anti-Islamic (Muslim)              | 3   | 73  | 14  | 19  | 29  | 12  | 14  | 13  | 11  | 13  | 22  | 17  | 20  | 21  | 18  | 40  | 37  |
| Anti-other race/ethnicity/ancestry | 96  | 428 | 161 | 119 | 105 | 89  | 94  | 96  | 69  | 67  | 57  | 81  | 62  | 49  | 49  | 42  | 37  |

According to supplemental data from the FBI, 10 anti-Arab hate crime incidents were reported in California in 2015. These incidents were recorded under a composite ethnicity/national origin category in the 2015 CJSC report.<sup>19</sup> With respect to anti-Islamic (Muslim) hate crime, a single-incident discrepancy occurs between CJSC and FBI statistics for 2015. California law enforcement agencies submit hate crime data to the FBI UCR Program through the CJSC.

## FBI HATE CRIME STATISTICS (2015-2016)

| Bias motivation       | '15 | '16 |
|-----------------------|-----|-----|
| Anti-Arab             | 10  | 19  |
| Anti-Islamic (Muslim) | 41  | 37  |

<sup>10</sup> Cal. Pen. Code § 13010, *supra* note 5.

<sup>11</sup> Criminal Justice Statistics Ctr., California Dep’t of Justice, CJSC Publications, <https://oag.ca.gov/cjsc/pubs>.

<sup>12</sup> Open Justice Initiative, *supra* note 6.

<sup>13</sup> Criminal Justice Statistics Ctr., California Dep’t of Justice, *Hate Crime in California 2016* (Jul. 3, 2017), available at <https://oag.ca.gov/cjsc/pubs#hate>.

<sup>14</sup> Criminal Justice Statistics Ctr., California Dep’t of Justice, *Hate Crime in California 2001* (2002), available at <https://oag.ca.gov/cjsc/pubs#hate>.

<sup>15</sup> CJIS Div., Fed. Bureau of Investigation, SRS to NIBRS: The Path to Better Data (Mar. 28, 2017), <https://www.fbi.gov/services/cjis/cjis-link/srs-to-nibrs-the-path-to-better-ucr-data>.

<sup>16</sup> Criminal Justice Statistics Ctr., California Dep’t of Justice, NIBRS Annual Transition Progress Report 2016 (Jul. 1,

2017), available at <https://oag.ca.gov/cjsc/pubs#nibrs-tpr>.

<sup>17</sup> Bureau of Justice Statistics, U.S. Dep’t of Justice, 2017 NCS-X Estimation Project (Jul. 27, 2017), available at <https://www.bjs.gov/content/pub/pdf/17ncsxep.pdf>.

<sup>18</sup> Bureau of Justice Statistics, U.S. Dep’t of Justice, National Crime Statistics Exchange (last updated Jun. 2017), <https://www.bjs.gov/content/ncsx.cfm>.

<sup>19</sup> Criminal Justice Statistics Ctr., California Dep’t of Justice, *Hate Crime in California 2015* (2016), available at <https://oag.ca.gov/cjsc/pubs#hate>.

## FBI HATE CRIME STATISTICS

Pursuant to the Hate Crime Statistics Act (HCSA) of 1990 the FBI UCR Program collects data on "crimes that manifest evidence of prejudice based on race, gender or gender identity, religion, disability, sexual orientation, or ethnicity."<sup>20</sup>

Since 1993, the FBI UCR Program has published the annual report, *Hate Crime Statistics*, which is based on voluntary submissions from participating law enforcement agencies. In 2016, agencies from 49 states and the District of Columbia participated in the national hate crime statistics program.

For the most part, hate crime data is collected at the state level and forwarded to the FBI UCR Program. A total of 48 states maintain a state-level UCR data collection. UCR programs in 38 states publish annual hate crime statistics. Some participating law enforcement agencies submit hate crime data directly to the FBI UCR program.<sup>21</sup>



## FBI HATE CRIME STATISTICS PARTICIPANT

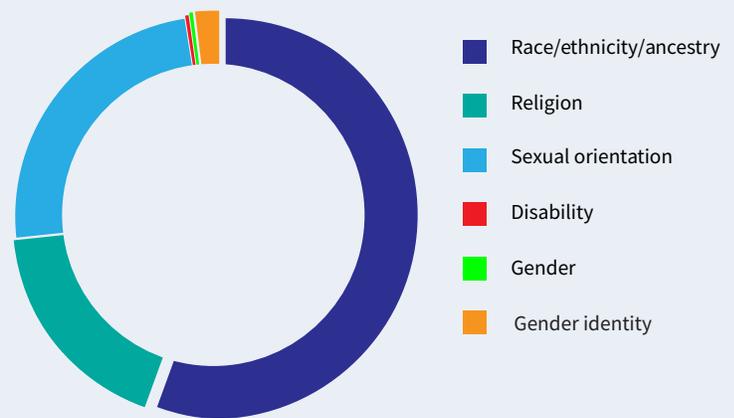
Law enforcement agencies in California submit hate crime data to the FBI UCR Program through the CJSC. According to the FBI UCR Program's annual report, *Hate Crime Statistics*, 931 hate crime incidents were reported in California in 2016.

In 2016, 213 of the 733 California law enforcement agencies participating in the national hate crime statistics program submitted incident reports to the FBI UCR Program. A total of 15 agencies representing populations greater than 100,000 submitted only zero data.

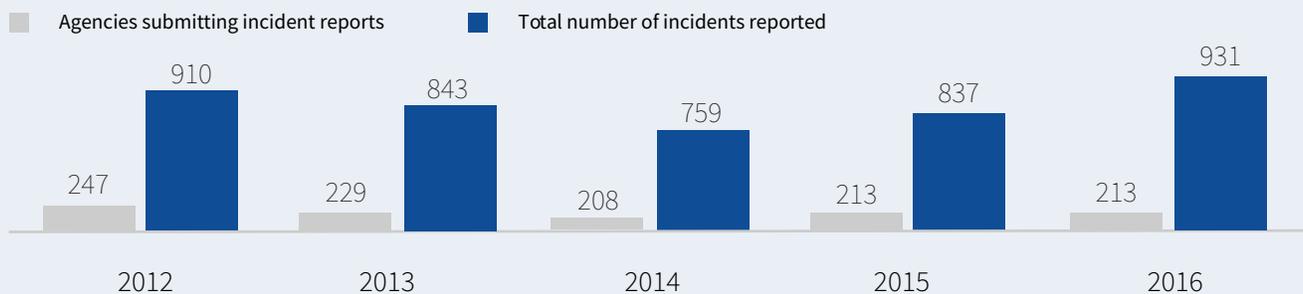
According to annual hate crime statistics published by the CJSC, 931 hate crime incidents were reported in California in 2016. This total is consistent with the FBI UCR Program's annual report, *Hate Crime Statistics, 2016*. Discrepancies occur between state and federal hate crime statistics for 2012-2014.

## FBI HATE CRIME STATISTICS: CALIFORNIA 2012-2016

| Incidents per bias motivation | 2012       | 2013       | 2014       | 2015       | 2016       | Total        |
|-------------------------------|------------|------------|------------|------------|------------|--------------|
| Race/ethnicity/ancestry       | 530        | 489        | 416        | 427        | 522        | 2,384        |
| Religion                      | 144        | 129        | 128        | 191        | 171        | 763          |
| Sexual orientation            | 234        | 217        | 187        | 188        | 208        | 1,034        |
| Disability                    | 2          | 1          | 4          | 4          | 2          | 13           |
| Gender                        | -          | 0          | 2          | 1          | 3          | 6            |
| Gender identity               | -          | 7          | 22         | 26         | 27         | 82           |
| <b>Total</b>                  | <b>910</b> | <b>843</b> | <b>759</b> | <b>837</b> | <b>933</b> | <b>4,282</b> |



## PARTICIPATION IN UCR HATE CRIME STATISTICS PROGRAM



## SUMMARY

California has an inclusive hate crime statute. Furthermore, California has statutes that require reporting, data collection, and specific law enforcement training on hate crime. The California Department of Justice, Criminal Justice Statistics Center, maintains the state clearinghouse for all police-reported crime data, including hate crime, and is responsible for publishing annual statistics. Copies of *Hate Crime in California* can be found on the CJSC website and include both anti-Arab and anti-Islamic (Muslim) hate crime statistics. In 2016, 213 California law enforcement agencies submitted hate crime incident reports to the FBI UCR Program. The remaining 520 participating agencies provided only zero data. A total of 2 participating agencies recorded blank data in at least one quarterly submission period. California receives an overall score of 100 points, denoting a strong response to hate crime.

<sup>20</sup> 28 U.S.C. § 534 (JUSTIA 2016), available at <https://law.justia.com/codes/us/2016/title-28/part-ii/chapter-33/sec.-534>.

<sup>21</sup> Uniform Crime Reporting Program, Fed. Bureau of Investigation, Data Quality Guidelines, [https://ucr.fbi.gov/data\\_quality\\_guidelines](https://ucr.fbi.gov/data_quality_guidelines).

# ADVOCACY RESOURCES - California

## IMPROVING THE RESPONSE

Most states have failed to enact sufficient legislation to address, prevent, and counteract hate crime in American communities. To accompany our federal hate crime laws, state legislatures must pass the following:

1. **An inclusive hate crime statute**, which covers a wide range of criminal offenses and provides enhanced penalties for crimes motivated because of citizenship status, race, ethnicity, color, disability, age, ancestry or national origin, gender or gender identity, sexual orientation, religion, or homelessness. Such protections are pursuant to model hate crime legislation drafted by the Arab American Institute. According to the model statute, penalty enhancement may incorporate alternatives to fines or increased prison sentences. Alternatives include restitution for victims and communities, participation in educational programs, and restorative justice.
2. **Statutes that require reporting, data collection, and specific law enforcement training on hate crime.** Centralized state agencies must publish comprehensive, accessible statistics on the nature and extent of hate crime occurring within their state. These statistics must conform to national UCR standards and include the bias motivation categories identified in the FBI's annual report, *Hate Crime Statistics*. States must also require law enforcement training schools to provide comprehensive training to ensure that officers are prepared to investigate, report, and respond to hate crime incidents.

## STATE RECOMMENDATIONS

According to our rating methodology, California receives an overall score of 100 points, denoting a strong response to hate crime. Some room for improvement remains. Advocates for an improved response to hate crime in California should promote the following:

1. The current California hate crime statute offers protections for disability, gender, including gender expression, nationality, race or ethnicity, religion, and sexual orientation. The California hate crime statute should be amended to include protections for **citizenship status, color, age, ancestry, homelessness**, or association with a person or group with one of these actual or perceived characteristics.
2. The California Department of Justice should continue to promote and develop its OpenJustice web portal for transparent, inclusive, and accessible criminal justice data.
3. In 2016, 213 of the 733 California law enforcement agencies participating in the national hate crime statistics program submitted incident reports to the FBI UCR Program.
  - California must transition to the National Incident-Based Reporting System (NIBRS) to facilitate hate crime reporting and data collection. By January 2021, all law enforcement agencies in the United States will be required to report crime information through NIBRS.

## STATE CONTACTS

Advocates for an improved response to hate crime in California should contact current state legislators and members of Congress.

### California State Legislature

Contact: (916) 324-0333

Senate: <http://senate.ca.gov>

Assembly: <http://assembly.ca.gov>

### United States Senate

Contact: California

<https://www.senate.gov/senators/contact>

### United States House of Representatives

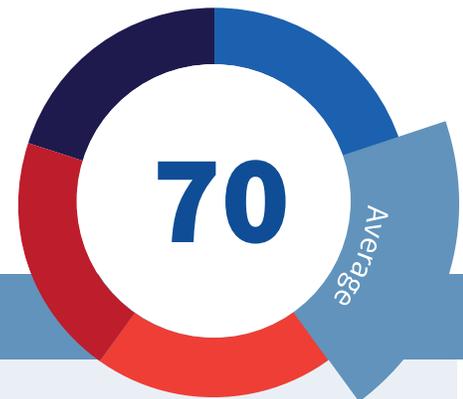
Directory of Representatives: California

<https://www.house.gov/representatives#state-california>

# COLORADO

Total population: 5,540,545

Rank of Arab American population by state: 22



3 anti-Arab hate crime offenses were reported in CO in 2016.

**Colorado** is the 21st most populated state and has the 22nd largest Arab American population.

The Colorado Department of Public Safety, Bureau of Investigation (CBI), is the state agency responsible for the collection and publication of hate crime data. According to the CBI, three anti-Arab hate crime offenses were reported in Colorado in 2016.

## HATE CRIME STATUTE

Colo. Rev. Stat. § 18-9-121 provides enhanced penalties for crimes in which a perpetrator acts with the intent to intimidate or harass another person because of their “actual or perceived race, color, religion, ancestry, national origin, physical or mental disability, or sexual orientation.”<sup>1</sup> For the purposes of this section, “sexual orientation” is defined so as to include actual or perceived orientation toward “transgender status.”<sup>2</sup>

Pursuant to Colo. Rev. Stat. § 18-9-121, the commission of a bias-motivated crime may involve causing bodily injury to another person, placing fear of imminent lawless action directed at another person through words or conduct, or knowingly causing damage or destruction of the property of another person.<sup>3</sup>

The current Colorado hate crime statute is not sufficiently inclusive, as it does not offer protections for gender.

## DATA COLLECTION STATUTE

**There is no Colorado statute that requires hate crime reporting or data collection.** Colo. Rev. Stat. § 24-33.5-412(5) requires law enforcement agencies to submit uniform crime data to the CBI.<sup>4</sup>

## LAW ENFORCEMENT TRAINING STATUTE

**There is no Colorado statute that requires specific law enforcement training on hate crime.** According to Colo. Rev. Stat. § 24-31-303, the Colorado Peace Officer Standards and Training (Colorado POST) Board is required to “conduct periodic evaluations of training programs and inspections of training academies” in Colorado, and furthermore, to “establish training standards to prepare law enforcement officers to recognize and address” specific incidents, including abuse and exploitation of at-risk elders.<sup>5</sup> Colo. Rev. Stat. § 24-31-315 mandates annual in-service training programs for all Colorado law enforcement officers.<sup>6</sup>

The current Colorado POST basic training curriculum includes mandatory instruction on “bias motivated hate crimes.”<sup>7</sup>

| COLORADO   |              |
|--|--------------|
| <b>Hate Crime Statute</b>                       | <b>35/40</b> |
| No statute; civil action or civil rights law   | -            |
| Hate crime statute, with protections for:  | 10           |
| Race/ethnicity/ancestry  | 5            |
| Religion   | 5            |
| Sexual orientation   | 5            |
| Disability   | 5            |
| Gender   | -            |
| Gender identity  | 5            |
| <b>Data Collection Statute</b>                | <b>0/15</b>  |
| Data collection (voluntary reporting)  | -            |
| Mandatory reporting and data collection  | -            |
| <b>Law Enforcement Training Statute</b>       | <b>5/15</b>  |
| No statute; comprehensive training   | 5            |
| Mandatory training   | -            |
| <b>Annual Hate Crime Report</b>               | <b>20/20</b> |
| Annual hate crime report, including:   | 10           |
| Anti-Arab hate crime statistics  | 5            |
| Anti-Islamic (Muslim) hate crime statistics  | 5            |
| <b>FBI Hate Crime Statistics Participant</b>  | <b>10/10</b> |
| <b>TOTAL</b>   | <b>70</b>    |

<sup>1</sup> Colo. Rev. Stat. § 18-9-121 (JUSTIA 2017), available at <https://law.justia.com/codes/colorado/2017/title-18/article-9/part-1/section-18-9-121>.

<sup>2</sup> *Id.*

<sup>3</sup> *Id.*

<sup>4</sup> Colo. Rev. Stat. § 24-33.5-412(5) (JUSTIA 2017), available at <https://law.justia.com/codes/colorado/2017/title-24/principal-departments/article-33.5/part-4/section-24-33.5-412>.

<sup>5</sup> Colo. Rev. Stat. § 24-31-303 (JUSTIA 2017), available at <https://law.justia.com/codes/colorado/2017/title-24/principal-departments/article-31/part-3/section-24-31-303>.

<sup>6</sup> Colo. Rev. Stat. § 24-31-315 (JUSTIA 2017), available at <https://law.justia.com/codes/colorado/2017/title-24/principal-departments/article-31/part-3/section-24-31-315>.

<sup>7</sup> Colorado Peace Officer Standards and Training Board, Basic Academy Training Program (effective Jan. 1, 2017), available at [https://www.coloradopost.gov/sites/default/files/post/ACADEMY/final\\_basic\\_acadtrng\\_program\\_jan\\_2017.pdf](https://www.coloradopost.gov/sites/default/files/post/ACADEMY/final_basic_acadtrng_program_jan_2017.pdf).

## DATA COLLECTION & STATISTICS

Housed within the Colorado Department of Public Safety, the CBI publishes an annual crime report that includes hate crime statistics. The report is based on UCR data submissions from law enforcement agencies throughout the state. As Colorado is 100 percent NIBRS compliant, all crime data submitted to the CBI indicates bias motivation. The 1998-2016 editions of *Crime in Colorado* can be found on the CBI website.<sup>8</sup>

## ANNUAL STATEWIDE HATE CRIME REPORT



State-level hate crime statistics published by the CBI include data on anti-Arab and anti-Islamic (Muslim) hate crime. The CBI tabulates hate crime data according to the number of offenses per disaggregated bias motivation category.

- ANTI-ARAB HATE CRIME STATISTICS**  
 Prior to the 2016 edition of *Crime in Colorado*, the CBI did not provide anti-Arab hate crime statistics. According to the CBI, 3 anti-Arab hate crime offenses were reported in Colorado in 2016.
- ANTI-ISLAMIC (MUSLIM) HATE CRIME STATISTICS**  
 Anti-Islamic (Muslim) hate crime statistics are provided in the 1999-2016 editions of *Crime in Colorado*. From 2000 to 2001 there was a significant increase of reported anti-Islamic (Muslim) hate crime offenses. According to the CBI, 3 anti-Islamic (Muslim) hate crime offenses were reported in Colorado in 2016.

## UNIFORM CRIME REPORTING (UCR)

By January 2021, the FBI Uniform Crime Reporting (UCR) Program will depend solely on the National Incident-Based Reporting System (NIBRS) to collect nationwide crime data.<sup>9</sup> This transition entails the sunset of summary-based crime reporting (SRS) and requires cooperation on the part of state UCR programs and individual reporting agencies.

The Colorado UCR program is one of 16 state programs that rely exclusively on NIBRS data.<sup>10</sup> The CBI has been NIBRS-certified since 1997.<sup>11</sup>

NIBRS reporting enables criminal justice agencies to acquire a better understanding of crime, including hate crime, occurring within their respective jurisdictions. This in turn has positive implications for effective law enforcement response and policy implementation.

## CONTACT

Uniform Crime Reporting Colorado Bureau of Investigation  
 Suite 3000  
 690 Kipling Street  
 Denver, Colorado 80215  
 (303) 239-4214  
[www.cbi.state.co.us](http://www.cbi.state.co.us)

## CRIME IN COLORADO HATE CRIME OFFENSES (2000-2016)

| Bias motivation                        | '00 | '01 | '02 | '03 | '04 | '05 | '06 | '07 | '08 | '09 | '10 | '11 | '12 | '13 | '14 | '15 | '16 |
|--|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| Anti-Arab                              | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | 3   |
| Anti-Islamic (Muslim)                  | 0   | 17  | 3   | 1   | 2   | 2   | 5   | 4   | 0   | 2   | 21  | 9   | 8   | 3   | 2   | 1   | 3   |
| Anti-other race/<br>ethnicity/ancestry | 11  | 19  | 4   | 3   | 1   | 5   | 4   | 9   | 15  | 11  | 13  | 8   | 8   | 3   | 7   | 6   | 4   |

According to supplemental data from the FBI, 2 anti-Arab hate crime incidents, involving 3 offenses, were reported in Colorado in 2016. This total is consistent with CBI statistics, which are offense-based. Colorado law enforcement agencies submit hate crime data to the FBI UCR Program through the CBI.

## FBI HATE CRIME STATISTICS (2015-2016)

| Bias motivation       | '15 | '16 |
|-----------------------|-----|-----|
| Anti-Arab             | 0   | 2   |
| Anti-Islamic (Muslim) | 1   | 3   |

<sup>8</sup> Colorado Bureau of Investigation, *Crime in Colorado 2016* (Jul. 11, 2017), available at <http://crimeinco.cbi.state.co.us/cic2k16/index.php>.

<sup>9</sup> CJIS Div., Fed. Bureau of Investigation, SRS to NIBRS: The Path to Better UCR Data, <https://www.fbi.gov/services/cjis/cjis-link/srs-to-nibrs-the-path-to-better-ucr-data>.

<sup>10</sup> Bureau of Justice Statistics, U.S. Dep't of Justice, 2017 NCS-X Estimation Project (Jul. 27, 2017), available at <https://www.bjs.gov/content/pub/pdf/17ncxep.pdf>.

<sup>11</sup> Colorado Bureau of Investigation, Colorado Crime Statistics (UCR), <https://www.colorado.gov/pacific/cbi/colorado-crime-statistics-ucr>.

## FBI HATE CRIME STATISTICS

Pursuant to the Hate Crime Statistics Act (HCSA) of 1990 the FBI UCR Program collects data on "crimes that manifest evidence of prejudice based on race, gender or gender identity, religion, disability, sexual orientation, or ethnicity."<sup>12</sup>

Since 1993, the FBI UCR Program has published the annual report, *Hate Crime Statistics*, which is based on voluntary submissions from participating law enforcement agencies. In 2016, agencies from 49 states and the District of Columbia participated in the national hate crime statistics program.

For the most part, hate crime data is collected at the state level and forwarded to the FBI UCR Program. A total of 48 states maintain a state-level UCR data collection. UCR programs in 38 states publish annual hate crime statistics. Some participating law enforcement agencies submit hate crime data directly to the FBI UCR program.<sup>13</sup>



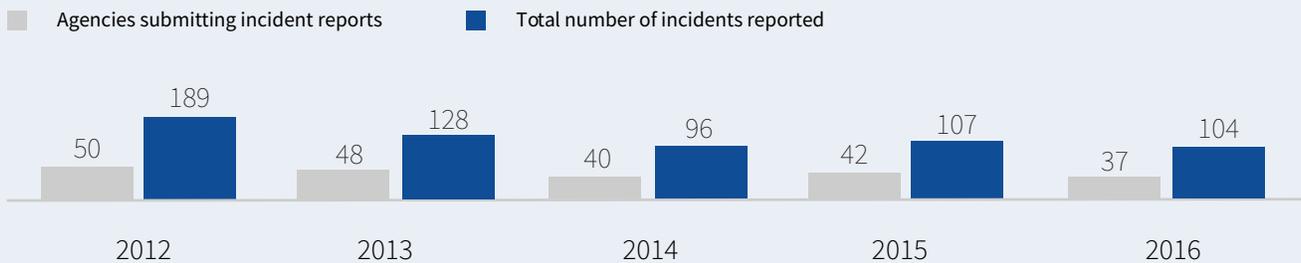
## FBI HATE CRIME STATISTICS PARTICIPANT

Law enforcement agencies in Colorado submit hate crime data to the FBI UCR Program through the CBI. According to the FBI UCR Program's annual report, *Hate Crime Statistics*, 104 hate crime incidents were reported in Colorado in 2016.

In 2016, 37 of the 229 Colorado law enforcement agencies participating in the national hate crime statistics program submitted incident reports to the FBI UCR Program. A total of 5 agencies representing populations greater than 100,000 submitted only zero data.

According to annual hate crime statistics published by the CBI, which provides a statewide incident total, 104 hate crime incidents were reported in Colorado in 2016. This total is consistent with the FBI UCR Program's annual report, *Hate Crime Statistics, 2016*. Discrepancies occur between state and federal hate crime statistics for 2012-2014.

## PARTICIPATION IN UCR HATE CRIME STATISTICS PROGRAM

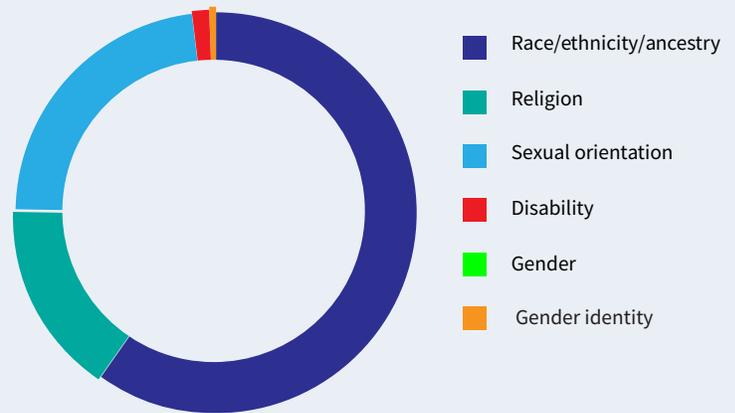


## SUMMARY

The current Colorado hate crime statute is not sufficiently inclusive, as it does not offer protections for gender. Colorado does not have statutes that require reporting or data collection on hate crime. Furthermore, while there is no state law regarding mandatory police training on hate crime, the Colorado Peace Officer Training and Standards Board has developed a course on bias-motivated crimes as part of its basic training curriculum. The Colorado Department of Public Safety, Bureau of Investigation, maintains the state clearinghouse for all police-reported crime data, including hate crime, and is responsible for publishing annual statistics. Copies of *Crime in Colorado* can be found on the CBI website and include both anti-Arab and anti-Islamic (Muslim) hate crime statistics. In 2016, 37 Colorado law enforcement agencies submitted hate crime incident reports to the FBI UCR Program. The remaining 192 participating agencies provided only zero data. Colorado receives an overall score of 70 points, denoting an average response to hate crime.

## FBI HATE CRIME STATISTICS: COLORADO 2012-2016

| Incidents per bias motivation | 2012       | 2013       | 2014      | 2015       | 2016       | Total      |
|-------------------------------|------------|------------|-----------|------------|------------|------------|
| Race/ethnicity/ancestry       | 122        | 69         | 54        | 65         | 67         | 377        |
| Religion                      | 34         | 18         | 11        | 16         | 19         | 98         |
| Sexual orientation            | 33         | 40         | 26        | 20         | 23         | 142        |
| Disability                    | 0          | 1          | 5         | 3          | 0          | 9          |
| Gender                        | -          | 0          | 0         | 0          | 0          | 0          |
| Gender identity               | -          | 0          | 0         | 3          | 0          | 3          |
| <b>Total</b>                  | <b>189</b> | <b>128</b> | <b>96</b> | <b>107</b> | <b>109</b> | <b>629</b> |



<sup>12</sup> 28 U.S.C. § 534 (JUSTIA 2016), available at <https://law.justia.com/codes/us/2016/title-28/part-ii/chapter-33/section-534>.

<sup>13</sup> Uniform Crime Reporting Program, Fed. Bureau of Investigation, Data Quality Guidelines, [https://ucr.fbi.gov/data\\_quality\\_guidelines](https://ucr.fbi.gov/data_quality_guidelines).

# ADVOCACY RESOURCES - Colorado

## IMPROVING THE RESPONSE

Most states have failed to enact sufficient legislation to address, prevent, and counteract hate crime in American communities. To accompany our federal hate crime laws, state legislatures must pass the following:

1. **An inclusive hate crime statute**, which covers a wide range of criminal offenses and provides enhanced penalties for crimes motivated because of citizenship status, race, ethnicity, color, disability, age, ancestry or national origin, gender or gender identity, sexual orientation, religion, or homelessness. Such protections are pursuant to model hate crime legislation drafted by the Arab American Institute. According to the model statute, penalty enhancement may incorporate alternatives to fines or increased prison sentences. Alternatives include restitution for victims and communities, participation in educational programs, and restorative justice.
2. **Statutes that require reporting, data collection, and specific law enforcement training on hate crime.** Centralized state agencies must publish comprehensive, accessible statistics on the nature and extent of hate crime occurring within their state. These statistics must conform to national UCR standards and include the bias motivation categories identified in the FBI's annual report, *Hate Crime Statistics*. States must also require law enforcement training schools to provide comprehensive training to ensure that officers are prepared to investigate, report, and respond to hate crime incidents.

## STATE RECOMMENDATIONS

According to our rating methodology, Colorado receives an overall score of 70 points, denoting an average response to hate crime. Advocates for an improved response to hate crime in Colorado should promote the following:

1. The current Colorado hate crime statute offers protections for race, color, religion, ancestry, national origin, physical or mental disability, and sexual orientation, which is defined so as to include gender identity. The Colorado hate crime statute should be amended to include protections for **citizenship status, ethnicity, age, homelessness**, or association with a person or group with one of these actual or perceived characteristics.
2. Colorado state code does not require reporting, data collection, or specific law enforcement training on hate crime. In 2016, 37 of the 229 Colorado law enforcement agencies participating in the national hate crime statistics program submitted incident reports to the FBI UCR Program.
  - Law enforcement agencies must report hate crimes to the Colorado Bureau of Investigation, which already publishes annual hate crime statistics conforming to national UCR standards based on voluntary submissions.
  - While the Colorado Peace Officer Standards and Training Board has established a basic training curriculum that includes mandatory hate crime training, instruction relating to investigating and reporting hate crime incidents should be required by law. Colorado state code currently requires law enforcement training relating to certain types of criminal offenses.

## STATE CONTACTS

Advocates for an improved response to hate crime in Colorado should contact current state legislators and members of Congress.

### Colorado General Assembly

Contact: (303) 866-2604

<https://leg.colorado.gov/find-my-legislator>

### United States Senate

Contact: Colorado

<https://www.senate.gov/senators/contact>

### United States House of Representatives

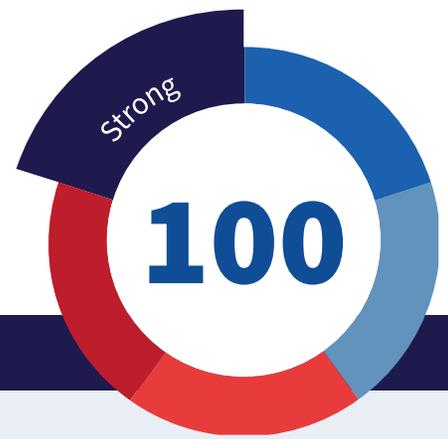
Directory of Representatives: Colorado

<https://www.house.gov/representatives#state-colorado>

# CONNECTICUT

Total population: 3,576,452

Rank of Arab American population by state: 19



0 anti-Arab hate crime incidents were reported in CT in 2016.

**Connecticut** is the 29th most populated state and has the 19th largest Arab American population.

The Connecticut State Police (CSP), Crimes Analysis Unit, is the state agency responsible for the collection and publication of hate crime data. There were no anti-Arab hate crime incidents reported in Connecticut in 2016.

## HATE CRIME STATUTE



Conn. Gen. Stat. §§ 53a-181i–181l prohibit intimidation based on bigotry or bias with specific intent to intimidate or harass another person because of their “actual or perceived race, religion, ethnicity, disability, sexual orientation or gender identity or expression.”<sup>1</sup> Pursuant to this section, gender identity or expression is defined so as to include gender. Intimidation based on bigotry or bias constitutes a felony offense.

Conn. Gen. Stat. 46a-58 prohibits the deprivation of civil rights “on account of religion, national origin, alienage, color, race, sex, gender identity or expression, sexual orientation, blindness or physical disability.”<sup>2</sup> Pursuant to Conn. Gen. Stat. § 53a-40a, persistent hate crime offenders are subject to enhanced penalties.<sup>3</sup>

## DATA COLLECTION STATUTE



Conn. Gen. Stat. § 29-7m requires the Division of State Police (CSP) to “monitor, record and classify all crimes committed in the state which are motivated by bigotry or bias.” Law enforcement agencies in Connecticut are required to report this information to the CSP.<sup>4</sup>

## LAW ENFORCEMENT TRAINING STATUTE



Conn. Gen. Stat. § 7-294n requires state and local police training programs in Connecticut “to provide training on crimes motivated by bigotry or bias.”<sup>5</sup> Additionally, the Connecticut Peace Officer Standards and Training Council (POSTC) is authorized to prescribe minimum standards for law enforcement training, in accordance with Conn. Gen. Stat. § 7-294d.<sup>6</sup>

Furthermore, Conn. Gen. Stat. § 46a-54 requires state agencies to provide a minimum of three hours of diversity education and training.<sup>7</sup> Pursuant to Conn. Gen. Stat. § 4a-2c, the diversity training program must include “training and education concerning the federal and state statutory provisions concerning discrimination and hate crimes directed at protected classes and remedies available to victims of discrimination and hate crimes.”<sup>8</sup> The current POSTC basic training curriculum includes hate crime as a mandatory topic of instruction.<sup>9</sup>

## CONNECTICUT

| Hate Crime Statute                       | 40/40 |
|---|-------|
| No statute; civil action or civil rights law  | -     |
| Hate crime statute, with protections for:   | 10    |
| Race/ethnicity/ancestry   | 5     |
| Religion  | 5     |
| Sexual orientation  | 5     |
| Disability  | 5     |
| Gender  | 5     |
| Gender identity   | 5     |
| Data Collection Statute                 | 15/15 |
| Data collection (voluntary reporting)   | -     |
| Mandatory reporting and data collection   | 15    |
| Law Enforcement Training Statute       | 15/15 |
| No statute; comprehensive training  | -     |
| Mandatory training  | 15    |
| Annual Hate Crime Report               | 20/20 |
| Annual hate crime report, including:  | 10    |
| Anti-Arab hate crime statistics   | 5     |
| Anti-Islamic (Muslim) hate crime statistics   | 5     |
| FBI Hate Crime Statistics Participant  | 10/10 |
| TOTAL   | 100   |

<sup>1</sup> Conn. Gen. Stat. §§ 53a-181i – 181l (JUSTIA 2016), available at <https://law.justia.com/codes/connecticut/2016/title-53a/chapter-952>.

<sup>2</sup> Conn. Gen. Stat. § 46a-58 (JUSTIA 2016), available at <https://law.justia.com/codes/connecticut/2016/title-46a/chapter-814c/section-46a-58>.

<sup>3</sup> Conn. Gen. Stat. § 53a-40a (JUSTIA 2016), available at <https://law.justia.com/codes/connecticut/2016/title-53a/chapter-952/section-53a-40a>.

<sup>4</sup> Conn. Gen. Stat. § 29-7m (JUSTIA 2016), available at <https://law.justia.com/codes/connecticut/2016/title-29/chapter-529/section-29-7m>.

<sup>5</sup> Conn. Gen. Stat. § 7-294n (JUSTIA 2016), available at <https://law.justia.com/codes/connecticut/2016/title-7/chapter-104/section-7-294n>.

<sup>6</sup> Conn. Gen. Stat. § 7-294d (JUSTIA 2016), available at <https://law.justia.com/codes/connecticut/2016/title-7/chapter-104/section-7-294d>.

<sup>7</sup> Conn. Gen. Stat. § 46a-54 (JUSTIA 2016), available at <https://law.justia.com/codes/connecticut/2016/title-46a/chapter-814c/section-46a-54>.

<sup>8</sup> Conn. Gen. Stat. § 4a-2c (JUSTIA 2016), available at <https://law.justia.com/codes/connecticut/2016/title-4a/chapter-57/section-4a-2c>.

<sup>9</sup> Police Officer Standards and Training Council, Connecticut Dep’t of Emergency Services and Pub. Protection, Basic Training Curriculum (last updated Jul. 1, 2015), available at [http://www.ct.gov/post/lib/post/basic\\_training/871\\_curriculum\\_hours.pdf](http://www.ct.gov/post/lib/post/basic_training/871_curriculum_hours.pdf).

## DATA COLLECTION & STATISTICS

Pursuant to Conn. Gen. Stat. § 29-1(c)(e), the Connecticut Department of Emergency Services and Public Protection (DESPP) is required to publish an annual report on the nature and extent of crime in Connecticut.<sup>10</sup> Housed within the DESPP, the Connecticut State Police, Crimes Analysis Unit, publishes an annual report on statewide crime statistics, in addition to a specialized report on hate crime. The 1994-2001 editions of *Crime in Connecticut* and the 2002-2015 editions of *Connecticut Bias Crimes* can be found on the Connecticut Department of Public Safety website.<sup>11</sup>



## ANNUAL STATEWIDE HATE CRIME REPORT

State-level hate crime statistics published by the CSP include data on anti-Arab and anti-Islamic (Muslim) hate crime. The CSP tabulates hate crime data according to the number of incidents per disaggregated bias motivation category in the 1994-2000 reports and offenses per disaggregated category in subsequent editions.

- ANTI-ARAB HATE CRIME STATISTICS**  
 Anti-Arab hate crime statistics are provided in the 1994-1998 editions of *Crime in Connecticut*. The CSP recorded 3 incidents under the categories of “anti-Arabic” and “anti-Iraqi” in 2000. From 2001 to 2016 the CSP provided statistics on “anti-Middle Eastern” hate crime. The CSP reintroduced a discrete anti-Arab category in 2015.
- ANTI-ISLAMIC (MUSLIM) HATE CRIME STATISTICS**  
 Anti-Islamic (Muslim) hate crime statistics are provided in all annual CSP hate crime reports.

## UNIFORM CRIME REPORTING (UCR)

By January 2021, the FBI Uniform Crime Reporting (UCR) Program will depend solely on the National Incident-Based Reporting System (NIBRS) to collect nationwide crime data.<sup>12</sup> This transition entails the sunset of summary-based crime reporting (SRS) and requires cooperation on the part of state UCR programs and individual reporting agencies.

The Connecticut UCR program is one of 17 state programs that rely on both NIBRS and SRS data.<sup>13</sup> As of September 2017, 92 of 107 Connecticut law enforcement agencies are reporting NIBRS data to the statewide repository housed within the CSP.<sup>14</sup> The 15 remaining agencies still report via the SRS, though some are in the midst of transitioning to NIBRS.<sup>15</sup> According to the Bureau of Justice Statistics, Connecticut is more than 80 percent NIBRS-certified.<sup>16</sup>

NIBRS reporting enables criminal justice agencies to acquire a better understanding of crime, including hate crime, occurring within their respective jurisdictions. This in turn has positive implications for effective law enforcement response and policy implementation.

## CONTACT

Crimes Analysis Unit  
 Connecticut State Police  
 1111 Country Club Road  
 Middletown, Connecticut 06457  
 (860) 685-8030  
[www.state.ct.us/dps/crime\\_analysis/crime\\_analysis.asp](http://www.state.ct.us/dps/crime_analysis/crime_analysis.asp)

## CONNECTICUT BIAS CRIMES INCIDENTS (2000); OFFENSES (2001-2016)

| Bias motivation                    | '00 | '01 | '02 | '03 | '04 | '05 | '06 | '07 | '08 | '09 | '10 | '11 | '12 | '13 | '14 | '15 | '16 |
|------------------------------------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| Anti-Arab                          | 3   | 26  | 9   | 4   | 5   | 4   | 2   | 5   | -   | -   | -   | -   | -   | -   | -   | 1   | 0   |
| Anti-Islamic (Muslim)              | 1   | 6   | 1   | 1   | 2   | 1   | 0   | 1   | 2   | 3   | 1   | 2   | 2   | 0   | 2   | 1   | 2   |
| Anti-other race/ethnicity/ancestry | 2   | 3   | 0   | 2   | 2   | 2   | 0   | 1   | 9   | 7   | 5   | 9   | 18  | 16  | 6   | 4   | 5   |

According to supplemental data from the FBI, 2 anti-Islamic (Muslim) hate crime incidents, involving 2 offenses, were reported in Connecticut in 2016. This total is consistent with CSP statistics, which are offense-based. Connecticut law enforcement agencies submit hate crime data to the FBI UCR Program through the CSP.

## FBI HATE CRIME STATISTICS (2015-2016)

| Bias motivation       | '15 | '16 |
|-----------------------|-----|-----|
| Anti-Arab             | 1   | 0   |
| Anti-Islamic (Muslim) | 1   | 3   |

<sup>10</sup> Conn. Gen. Stat. § 29-1(c)(e) (JUSTIA 2016), available at <https://law.justia.com/codes/connecticut/2016/title-29/chapter-528/section-29-1c>.

<sup>11</sup> Connecticut Dep't of Pub. Safety, Uniform Crime Reports: Publications & Queriable Statistics, <http://www.dpsdata.ct.gov/dps/ucr/ucr.aspx>.

<sup>12</sup> CJIS Div., Fed. Bureau of Investigation, SRS to NIBRS: The Path to Better UCR Data, <https://www.fbi.gov/services/cjis/cjis-link/srs-to-nibrs-the-path-to-better-ucr-data>.

<sup>13</sup> Bureau of Justice Statistics, U.S. Dep't of Justice, 2017 NCS-X Estimation Project (Jul. 27, 2017), available at <https://www.bjs.gov/content/pub/pdf/17ncsxep.pdf>.

<sup>14</sup> Connecticut Dep't of Emergency Services and Pub. Protection, Crime in Connecticut 2016 (Sept. 2017), available at <http://www.dpsdata.ct.gov/dps/ucr/data/2016/Crime%20in%20Connecticut%202016.pdf>.

<sup>15</sup> *Id.*

<sup>16</sup> Bureau of Justice Statistics, U.S. Dep't of Justice, National Crime Statistics Exchange (last updated Jun. 2017), <https://www.bjs.gov/content/ncsx.cfm>.

## FBI HATE CRIME STATISTICS

Pursuant to the Hate Crime Statistics Act (HCSA) of 1990 the FBI UCR Program collects data on "crimes that manifest evidence of prejudice based on race, gender or gender identity, religion, disability, sexual orientation, or ethnicity."<sup>17</sup>

Since 1993, the FBI UCR Program has published the annual report, *Hate Crime Statistics*, which is based on voluntary submissions from participating law enforcement agencies. In 2016, agencies from 49 states and the District of Columbia participated in the national hate crime statistics program.

For the most part, hate crime data is collected at the state level and forwarded to the FBI UCR Program. A total of 48 states maintain a state-level UCR data collection. UCR programs in 38 states publish annual hate crime statistics. Some participating law enforcement agencies submit hate crime data directly to the FBI UCR program.<sup>18</sup>



## FBI HATE CRIME STATISTICS PARTICIPANT

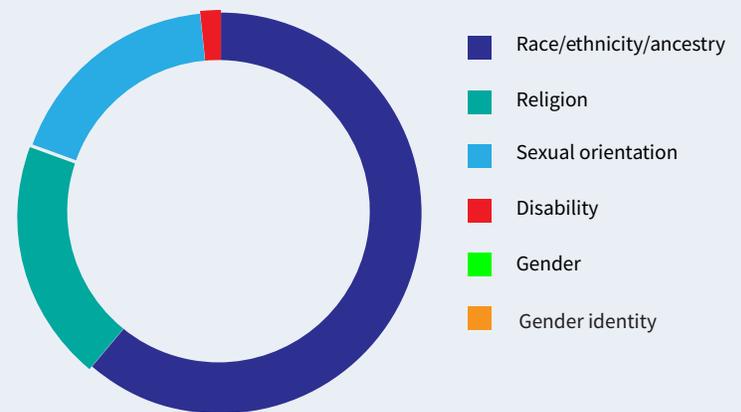
Law enforcement agencies in Connecticut submit hate crime data to the FBI UCR Program through the CSP. According to the FBI UCR Program's annual report, *Hate Crime Statistics*, 106 hate crime incidents were reported in Connecticut in 2016.

In 2016, 42 of the 106 Connecticut law enforcement agencies participating in the national hate crime statistics program submitted incident reports to the FBI UCR Program.

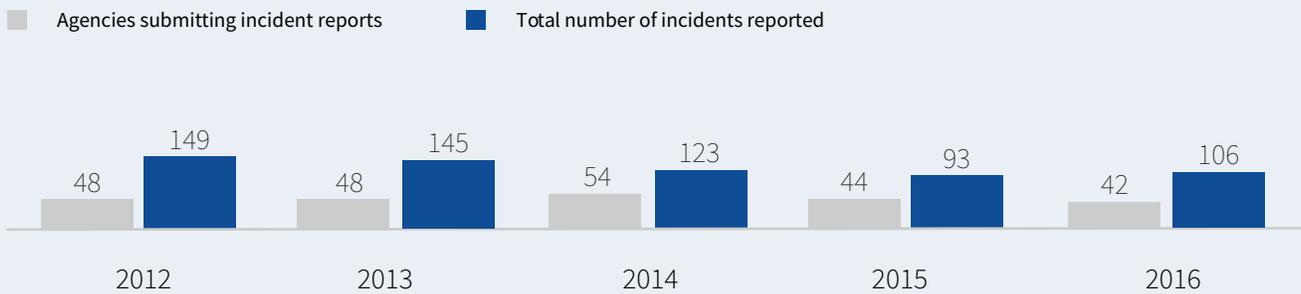
According to annual hate crime statistics published by the CSP, 105 hate crime incidents were reported in Connecticut in 2016. This total conflicts with the FBI UCR Program's annual report, *Hate Crime Statistics, 2016*. Discrepancies occur between state and federal hate crime statistics for 2012-2013 as well.

## FBI HATE CRIME STATISTICS: CONNECTICUT 2012-2016

| Incidents per bias motivation | 2012       | 2013       | 2014       | 2015      | 2016       | Total      |
|-------------------------------|------------|------------|------------|-----------|------------|------------|
| Race/ethnicity/ancestry       | 90         | 96         | 68         | 62        | 62         | 378        |
| Religion                      | 20         | 20         | 31         | 19        | 30         | 120        |
| Sexual orientation            | 37         | 26         | 23         | 9         | 14         | 109        |
| Disability                    | 2          | 3          | 1          | 4         | 0          | 10         |
| Gender                        | -          | 0          | 0          | 0         | 0          | 0          |
| Gender identity               | -          | 0          | 0          | 0         | 0          | 0          |
| <b>Total</b>                  | <b>149</b> | <b>145</b> | <b>123</b> | <b>94</b> | <b>106</b> | <b>617</b> |



## PARTICIPATION IN UCR HATE CRIME STATISTICS PROGRAM



## SUMMARY

Connecticut has an inclusive hate crime statute. Furthermore, Connecticut has statutes that require reporting, data collection, and specific law enforcement training on hate crime. The Connecticut State Police, Crimes Analysis Unit, maintains the state clearinghouse for all police-reported crime data, including hate crime, and is responsible for publishing annual statistics. Copies of *Crime in Connecticut* and *Connecticut Bias Crime Report* can be found on the CSP website and include both anti-Arab and anti-Islamic (Muslim) hate crime statistics. The CSP did not provide statistics relating to anti-Arab hate crime from 2008 to 2014. In 2016, 42 Connecticut law enforcement agencies submitted hate crime incident reports to the FBI UCR Program. The remaining 64 participating agencies provided only zero data. Connecticut receives an overall score of 100 points, denoting a strong response to hate crime.

<sup>17</sup> 28 U.S.C. § 534 (JUSTIA 2016), available at <https://law.justia.com/codes/us/2016/title-28/part-ii/chapter-33/sec.-534>.

<sup>18</sup> Uniform Crime Reporting Program, Fed. Bureau of Investigation, Data Quality Guidelines, [https://ucr.fbi.gov/data\\_quality\\_guidelines](https://ucr.fbi.gov/data_quality_guidelines).

# ADVOCACY RESOURCES - Connecticut

## IMPROVING THE RESPONSE

Most states have failed to enact sufficient legislation to address, prevent, and counteract hate crime in American communities. To accompany our federal hate crime laws, state legislatures must pass the following:

1. **An inclusive hate crime statute**, which covers a wide range of criminal offenses and provides enhanced penalties for crimes motivated because of citizenship status, race, ethnicity, color, disability, age, ancestry or national origin, gender or gender identity, sexual orientation, religion, or homelessness. Such protections are pursuant to model hate crime legislation drafted by the Arab American Institute. According to the model statute, penalty enhancement may incorporate alternatives to fines or increased prison sentences. Alternatives include restitution for victims and communities, participation in educational programs, and restorative justice.
2. **Statutes that require reporting, data collection, and specific law enforcement training on hate crime.** Centralized state agencies must publish comprehensive, accessible statistics on the nature and extent of hate crime occurring within their state. These statistics must conform to national UCR standards and include the bias motivation categories identified in the FBI's annual report, *Hate Crime Statistics*. States must also require law enforcement training schools to provide comprehensive training to ensure that officers are prepared to investigate, report, and respond to hate crime incidents.

## STATE RECOMMENDATIONS

According to our rating methodology, Connecticut receives an overall score of 100 points, denoting a strong response to hate crime. Some room for improvement remains. Advocates for an improved response to hate crime in Connecticut should promote the following:

1. The current Connecticut hate crime statute offers protections for race, religion, ethnicity, disability, sexual orientation, and gender identity or expression, including gender. The Connecticut hate crime statute should be amended to include protections for **citizenship status, color, ancestry or national origin, homelessness**, or association with a person or group with one of these actual or perceived characteristics.
2. While the Connecticut Division of State Police publishes statistics in the form of an annual hate crime report, such statistics do not conform to national UCR standards. Anti-Arab hate crime statistics are provided in the 2016 edition of Connecticut Bias Crimes. The report does not indicate whether anti-Buddhist, anti-Eastern Orthodox, anti-Hindu, anti-Jehovah's Witness, anti-Mormon, anti-other Christian, or anti-Sikh hate crimes occurred within the state that year. The FBI UCR Program introduced these religious anti-bias categories, alongside the anti-Arab category, in 2015.
  - Connecticut hate crime data collections should be amended to include the seven religious anti-bias categories identified above.
3. In 2016, 42 of the 106 Connecticut law enforcement agencies participating in the national hate crime statistics program submitted incident reports to the FBI UCR Program.
  - Connecticut must transition to the National Incident-Based Reporting System (NIBRS) to facilitate hate crime reporting and data collection. By January 2021, all law enforcement agencies in the United States will be required to report crime information through NIBRS.

## STATE CONTACTS

Advocates for an improved response to hate crime in Colorado should contact current state legislators and members of Congress.

### Colorado General Assembly

Contact: (303) 866-2604

<https://leg.colorado.gov/find-my-legislator>

### United States Senate

Contact: Colorado

<https://www.senate.gov/senators/contact>

### United States House of Representatives

Directory of Representatives: Colorado

<https://www.house.gov/representatives#state-colorado>

# DELAWARE

Total population: 952,065

Rank of Arab American population by state: 42



DE does not publish annual hate crime statistics.

**Delaware** is the 45th most populated state and has the 42nd largest Arab American population.

The Delaware State Bureau of Identification (SBI) is the state agency responsible for the collection and publication of crime data. The SBI does not publish annual hate crime statistics.

## HATE CRIME STATUTE

Del. Code tit. 11, § 1304 provides enhanced penalties for any person who commits, or attempts to commit, a crime for the purpose of interfering with the civil rights of another person because of their race, religion, color, disability, sexual orientation, gender identity, national origin or ancestry.<sup>1</sup>

Pursuant to Delaware’s hate crime statute, gender identity “means a gender-related identity, appearance, expression, or behavior of a person, regardless of person’s assigned sex of birth.”

## DATA COLLECTION STATUTE

**There is no Delaware statute that requires hate crime reporting or data collection.** Del. Code tit. 11, § 8903 requires the Delaware Statistic Analysis Center (SAC), housed within the Criminal Justice Council (CJC), to “generate statistical and analytical products concerning crime and the criminal justice system” in Delaware.<sup>2</sup>

## LAW ENFORCEMENT TRAINING STATUTE

**There is no Delaware statute that requires specific law enforcement training on hate crime.** Pursuant to Del. Code tit. 11, § 8404, the Delaware Council on Police Training (DCPT) is authorized to prescribe minimum educational and training standards for police training schools within the state. Training on certain issues in a law enforcement context, including “the detection, prosecution and prevention of child sexual and physical abuse, exploitation and domestic violence,” is also required by Del. Code tit. 11, § 8404.<sup>3</sup>

The current mandatory curriculum for police basic training, as approved by the DCPT, includes a 12-hour course on “Cultural Diversity and Community Relations.” The purpose of the course is to prepare officers to “deal fairly and effectively with minority groups in society,” and provide “increased understanding and respect of the duties of the police officer on the part of these minority groups with which the officer must deal.”<sup>4</sup>

### DELAWARE

| Hate Crime Statute                       | 40/40 |
|---|-------|
| No statute; civil action or civil rights law  | -     |
| Hate crime statute, with protections for:   | 10    |
| Race/ethnicity/ancestry   | 5     |
| Religion  | 5     |
| Sexual orientation  | 5     |
| Disability  | 5     |
| Gender  | 5     |
| Gender identity   | 5     |
| Data Collection Statute                | 0/15  |
| Data collection (voluntary reporting)   | -     |
| Mandatory reporting and data collection   | -     |
| Law Enforcement Training Statute       | 0/15  |
| No statute; comprehensive training  | -     |
| Mandatory training  | -     |
| Annual Hate Crime Report               | 0/20  |
| Annual hate crime report, including:  | -     |
| Anti-Arab hate crime statistics   | -     |
| Anti-Islamic (Muslim) hate crime statistics   | -     |
| FBI Hate Crime Statistics Participant  | 10/10 |
| TOTAL   | 50    |

<sup>1</sup> Del. Code tit. 11, § 1304 (JUSTIA 2017), available at <https://law.justia.com/codes/delaware/2017/title-11/chapter-5/subchapter-vii/section-1304>.

<sup>2</sup> Del. Code tit. 11, § 8903 (JUSTIA 2017), available at <https://law.justia.com/codes/delaware/2017/title-11/chapter-89/section-8903>.

<sup>3</sup> Del. Code tit. 11, § 8404 (JUSTIA 2017), available at <https://law.justia.com/codes/delaware/2017/title-11/chapter-84/section-8404>.

<sup>4</sup> 1 Del. Admin. C. § 801.9.2.4.1, available at <http://regulations.delaware.gov/AdminCode/title1/800/801.shtml#TopOfPage>.

## DATA COLLECTION & STATISTICS

In conjunction with the SBI, the Delaware SAC publishes an annual report on five-year criminal justice trends in Delaware. Copies of *Crime in Delaware* covering the years 2000-2016 can be found on the Delaware SAC website.<sup>5</sup> The report does not provide annual hate crime statistics. Pursuant to Del. Code tit. 11, § 8507, Delaware law enforcement officers are required to submit crime data as prescribed by the Director of the SBI.<sup>6</sup>

## ANNUAL STATEWIDE HATE CRIME REPORT



The SBI does not publish annual state-level hate crime statistics.

Bias motivation is a mandatory data element in all NIBRS submissions. As Delaware is 100 percent NIBRS compliant, all crime data submissions from Delaware law enforcement agencies indicate bias motivation. The SBI collects these submissions and forwards the data to the FBI UCR Program. Given the state's NIBRS status, Delaware is better equipped to publish annual state-level hate crime statistics than other non-reporting states.

- **ANTI-ARAB HATE CRIME STATISTICS**  
The SBI does not publish annual statistics on anti-Arab hate crime.
- **ANTI-ISLAMIC (MUSLIM) HATE CRIME STATISTICS**  
The SBI does not publish annual statistics on anti-Islamic (Muslim) hate crime.

## UNIFORM CRIME REPORTING (UCR)

By January 2021, the FBI Uniform Crime Reporting (UCR) Program will depend solely on the National Incident-Based Reporting System (NIBRS) to collect nationwide crime data.<sup>7</sup> This transition entails the sunset of summary-based crime reporting (SRS) and requires cooperation on the part of state UCR programs and individual reporting agencies.

The Delaware UCR program is one of 16 state programs that rely exclusively on NIBRS data.<sup>8</sup>

NIBRS reporting enables criminal justice agencies to acquire a better understanding of crime, including hate crime, occurring within their respective jurisdictions. This in turn has positive implications for effective law enforcement response and policy implementation.

## CONTACT

Delaware State Bureau of Identification  
Post Office Box 430  
Dover, Delaware 19903  
(302) 672-5341  
[http://dsp.delaware.gov/state\\_bureau\\_of\\_identification.shtml](http://dsp.delaware.gov/state_bureau_of_identification.shtml)

## THE DELAWARE STATE BUREAU OF INVESTIGATION DOES NOT PUBLISH ANNUAL HATE CRIME STATISTICS.

| Bias motivation                    | '00 | '01 | '02 | '03 | '04 | '05 | '06 | '07 | '08 | '09 | '10 | '11 | '12 | '13 | '14 | '15 | '16 |
|------------------------------------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| Anti-Arab                          | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   |
| Anti-Islamic (Muslim)              | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   |
| Anti-other race/ethnicity/ancestry | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   |

According to supplemental data from the FBI, 2 anti-Islamic (Muslim) hate crime incidents were reported in Delaware in 2016. Delaware law enforcement agencies submit hate crime data to the FBI UCR Program through the SBI.

## FBI HATE CRIME STATISTICS (2015-2016)

| Bias motivation       | '15 | '16 |
|-----------------------|-----|-----|
| Anti-Arab             | 0   | 0   |
| Anti-Islamic (Muslim) | 0   | 2   |

<sup>5</sup> Delaware Statistical Analysis Ctr., Crime Publications, <https://sac.delaware.gov/crime>.

<sup>6</sup> Del. Code tit. 11, § 8507 (JUSTIA 2017), available at <https://law.justia.com/codes/delaware/2017/title-11/chapter-85/subchapter-i/section-8507>.

<sup>7</sup> CJIS Div., Fed. Bureau of Investigation, SRS to NIBRS: The Path to Better UCR Data, <https://www.fbi.gov/services/cjis/cjis-link/srs-to-nibrs-the-path-to-better-ucr-data>.

<sup>8</sup> Bureau of Justice Statistics, U.S. Dep't of Justice, 2017 NCS-X Estimation Project (Jul. 27, 2017), available at <https://www.bjs.gov/content/pub/pdf/17ncsxp.pdf>.

## FBI HATE CRIME STATISTICS

Pursuant to the Hate Crime Statistics Act (HCSA) of 1990 the FBI UCR Program collects data on "crimes that manifest evidence of prejudice based on race, gender or gender identity, religion, disability, sexual orientation, or ethnicity."<sup>9</sup>

Since 1993, the FBI UCR Program has published the annual report, *Hate Crime Statistics*, which is based on voluntary submissions from participating law enforcement agencies. In 2016, agencies from 49 states and the District of Columbia participated in the national hate crime statistics program.

For the most part, hate crime data is collected at the state level and forwarded to the FBI UCR Program. A total of 48 states maintain a state-level UCR data collection. UCR programs in 38 states publish annual hate crime statistics. Some participating law enforcement agencies submit hate crime data directly to the FBI UCR program.<sup>10</sup>



## FBI HATE CRIME STATISTICS PARTICIPANT

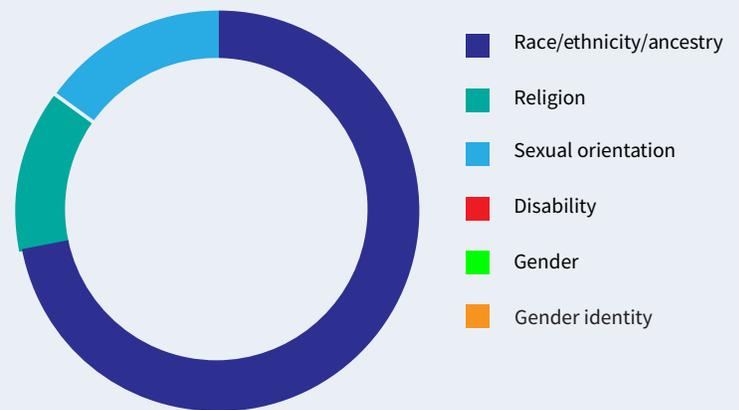
Law enforcement agencies in Delaware submit hate crime data to the FBI UCR Program through the SBI. According to the FBI UCR Program's annual report, *Hate Crime Statistics*, 15 hate crime incidents were reported in Delaware in 2016.

In 2016, 8 of the 63 Delaware law enforcement agencies participating in the national hate crime statistics program submitted incident reports to the FBI UCR Program. Agencies representing four of the five largest cities in Delaware submitted only zero data.

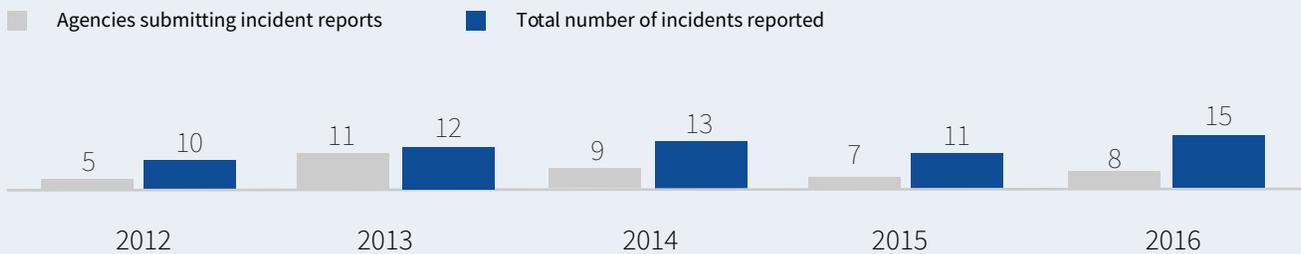
As the SBI does not publish an annual hate crime report, we are unable to make comparisons between state and federal hate crime statistics.

## FBI HATE CRIME STATISTICS: DELAWARE 2012-2016

| Incidents per bias motivation | 2012      | 2013      | 2014      | 2015      | 2016      | Total     |
|-------------------------------|-----------|-----------|-----------|-----------|-----------|-----------|
| Race/ethnicity/ancestry       | 7         | 9         | 8         | 9         | 11        | 44        |
| Religion                      | 1         | 0         | 2         | 2         | 3         | 8         |
| Sexual orientation            | 2         | 3         | 3         | 0         | 1         | 9         |
| Disability                    | 0         | 0         | 0         | 0         | 0         | 0         |
| Gender                        | -         | 0         | 0         | 0         | 0         | 0         |
| Gender identity               | -         | 0         | 0         | 0         | 0         | 0         |
| <b>Total</b>                  | <b>10</b> | <b>12</b> | <b>13</b> | <b>11</b> | <b>15</b> | <b>61</b> |



## PARTICIPATION IN UCR HATE CRIME STATISTICS PROGRAM



## SUMMARY

Delaware has an inclusive hate crime statute. Delaware does not have statutes that require reporting, data collection, or specific law enforcement training on hate crime. The Delaware State Bureau of Identification maintains the state clearinghouse for all police-reported crime data, including hate crime, and is responsible for publishing annual statistics. In conjunction with the SBI, the Delaware Criminal Justice Council, Statistical Analysis Center, publishes an annual report on statewide crime statistics. Copies of *Crime in Delaware* can be found on the Delaware SAC website but do not include hate crime statistics. In 2016, 8 Delaware law enforcement agencies submitted hate crime incident reports to the FBI UCR Program. The remaining 55 participating agencies provided only zero data. Delaware receives an overall score of 50 points, denoting a limited response to hate crime.

<sup>9</sup> 28 U.S.C. § 534 (JUSTIA 2016), available at <https://law.justia.com/codes/us/2016/title-28/part-ii/chapter-33/sec.-534>.

<sup>10</sup> Uniform Crime Reporting Program, Fed. Bureau of Investigation, Data Quality Guidelines, [https://ucr.fbi.gov/data\\_quality\\_guidelines](https://ucr.fbi.gov/data_quality_guidelines).

# ADVOCACY RESOURCES - Delaware

## IMPROVING THE RESPONSE

Most states have failed to enact sufficient legislation to address, prevent, and counteract hate crime in American communities. To accompany our federal hate crime laws, state legislatures must pass the following:

1. **An inclusive hate crime statute**, which covers a wide range of criminal offenses and provides enhanced penalties for crimes motivated because of citizenship status, race, ethnicity, color, disability, age, ancestry or national origin, gender or gender identity, sexual orientation, religion, or homelessness. Such protections are pursuant to model hate crime legislation drafted by the Arab American Institute. According to the model statute, penalty enhancement may incorporate alternatives to fines or increased prison sentences. Alternatives include restitution for victims and communities, participation in educational programs, and restorative justice.
2. **Statutes that require reporting, data collection, and specific law enforcement training on hate crime.** Centralized state agencies must publish comprehensive, accessible statistics on the nature and extent of hate crime occurring within their state. These statistics must conform to national UCR standards and include the bias motivation categories identified in the FBI's annual report, *Hate Crime Statistics*. States must also require law enforcement training schools to provide comprehensive training to ensure that officers are prepared to investigate, report, and respond to hate crime incidents.

## STATE RECOMMENDATIONS

According to our rating methodology, Delaware receives an overall score of 50 points, denoting a limited response to hate crime. Advocates for an improved response to hate crime in Delaware should promote the following:

1. The current Delaware hate crime statute offers protections for race, religion, color, disability, sexual orientation, gender or gender identity, and national origin or ancestry. The Delaware hate crime statute should be amended to include protections for **citizenship status, ethnicity, homelessness**, or association with a person or group with one of these actual or perceived characteristics.
2. Delaware state code does not require reporting, data collection, or specific law enforcement training on hate crime. In 2016, 8 of the 63 Delaware law enforcement agencies participating in the national hate crime statistics program submitted incident reports to the FBI UCR Program.
  - Law enforcement agencies must report hate crimes to the Delaware State Bureau of Identification (SBI).
  - The SBI must collect data and publish statistics, conforming to national UCR standards, on the nature and extent of hate crime within the state.
  - The Delaware Council on Police Training (DCPT) must incorporate hate crime into the mandatory curriculum for basic police training. Already, the DCPT-approved basic police training curriculum includes a course on cultural diversity and community relations. This training should be expanded to include instruction relating to investigating and reporting hate crime incidents.

## STATE CONTACTS

Advocates for an improved response to hate crime in Delaware should contact current state legislators and members of Congress.

### Delaware General Assembly

Contact: (302) 744-4114

Senate: <http://legis.delaware.gov/Senate>

House: <http://legis.delaware.gov/House>

### United States Senate

Contact: Delaware

<https://www.senate.gov/senators/contact>

### United States House of Representatives

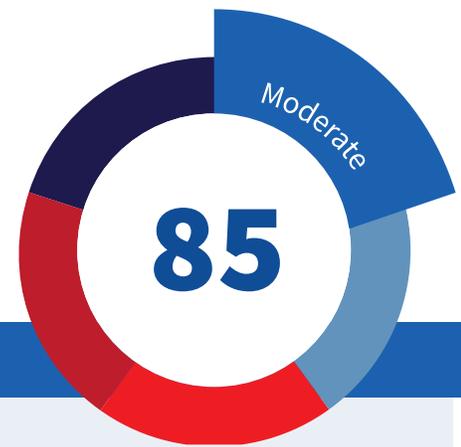
Directory of Representatives: Delaware

<https://www.house.gov/representatives#state-delaware>

# DISTRICT OF COLUMBIA

Total population: 681,170

\*Washington, DC has a more significant Arab American population than that of 23 states.



## DC does not publish anti-Arab hate crime statistics.

**Washington, DC** has a more significant Arab American population than that of 23 states.

The Metropolitan Police Department (MPD) is responsible for the collection and publication of hate crime data. The MPD does not publish annual statistics on anti-Arab hate crime.

### HATE CRIME STATUTE

D.C. Code § 22-3703 provides enhanced penalties for bias-related crimes.<sup>1</sup> Pursuant to D.C. Code § 22-3701, bias-related crime is defined as a criminal act “that demonstrates an accused’s prejudice based on [the victim’s] actual or perceived race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, family responsibility, homelessness, physical disability, matriculation, or political affiliation.”<sup>2</sup>

The current District of Columbia hate crime statute is not sufficiently inclusive, as it does not offer protections for mental disability.

### DATA COLLECTION STATUTE

D.C. Code § 22-3702 requires the D.C. Mayor to “collect and compile data on the incidence of bias-related crime” and submit an annual summary of that data to the D.C. Council.<sup>3</sup> Pursuant to D.C. Code §§ 5-113.03 and 5-113.04, the MPD is required to keep a record of all criminal offenses occurring within the district. Law enforcement agencies in the District of Columbia are not statutorily required to report hate crime.

### LAW ENFORCEMENT TRAINING STATUTE

**There is no DC statute that requires specific law enforcement training on hate crime.** According to D.C. Code § 5.107.04, the District of Columbia Peace Officers Standards and Training Board is required to prescribe minimum standards and requirements for training within the Metropolitan Police Department.<sup>4</sup>

The MPD commissioned a special task force assessment in 2011 “to improve the Department’s response to hate crimes and to strengthen MPD’s relationship with the LGBT community.”<sup>5</sup> Published in February 2014, the *Hate Crime Assessment Task Force (HCATF) Report* issued a number of recommendations concerning the MPD’s LGBT outreach, collection of hate crime data, hate crime training, and associated policies.<sup>6</sup> Since the publication of the HCATF report, the MPD has taken steps to improve its response to hate crime, including the development of training programs with specific attention to the safety concerns of the LGBT community.<sup>7</sup>

| DISTRICT OF COLUMBIA   |              |
|--|--------------|
| <b>Hate Crime Statute</b>                       | <b>35/40</b> |
| No statute; civil action or civil rights law   | -            |
| Hate crime statute, with protections for:  | 10           |
| Race/ethnicity/ancestry  | 5            |
| Religion   | 5            |
| Sexual orientation   | 5            |
| Disability   | -            |
| Gender   | 5            |
| Gender identity  | 5            |
| <b>Data Collection Statute</b>                 | <b>5/15</b>  |
| Data collection (voluntary reporting)  | 5            |
| Mandatory reporting and data collection  | -            |
| <b>Law Enforcement Training Statute</b>       | <b>5/15</b>  |
| No statute; comprehensive training   | 5            |
| Mandatory training   | -            |
| <b>Annual Hate Crime Report</b>               | <b>10/20</b> |
| Annual hate crime report, including:   | 10           |
| Anti-Arab hate crime statistics  | -            |
| Anti-Islamic (Muslim) hate crime statistics  | -            |
| <b>FBI Hate Crime Statistics Participant</b>  | <b>10/10</b> |
| <b>TOTAL</b>   | <b>65</b>    |
| <b>CONDITIONAL SCORE</b>   | <b>85</b>    |

<sup>1</sup> D.C. Code § 22-3703 (JUSTIA 2017), available at <https://law.justia.com/codes/district-of-columbia/2017/title-22/chapter-37/section-22-3703>.

<sup>2</sup> D.C. Code § 22-3701 (JUSTIA 2017), available at <https://law.justia.com/codes/district-of-columbia/2017/title-22/chapter-37/section-22-3701>.

<sup>3</sup> D.C. Code § 22-3702 (JUSTIA 2017), available at <https://law.justia.com/codes/district-of-columbia/2017/title-22/chapter-37/section-22-3702>.

<sup>4</sup> D.C. Code §§ 5-113.03 – 113.04 (JUSTIA 2017), available at <https://law.justia.com/codes/district-of-columbia/2017/title-5/chapter-1/subchapter-vii/part-a>.

<sup>5</sup> Metropolitan Police Dep’t, Annual Report: 2015 (Aug. 2, 2016), available at <https://mpdc.dc.gov/publication/mpdc-annual-report-2015>.

<sup>6</sup> Metropolitan Police Dep’t, Report of the Hate Crimes Assessment Task Force (Feb. 26, 2014), available at <https://mpdc.dc.gov/publication/report-hate-crimes-assessment-task-force>.

<sup>7</sup> Metropolitan Police Dep’t, Annual Report, *supra* note 5, at 51.

## DATA COLLECTION & STATISTICS

The MPD’s annual report includes a section on hate crime statistics. The 1998-2016 editions of the *MPD Annual Report* can be found on the MPD website.<sup>8</sup>

## ANNUAL DISTRICT-WIDE HATE CRIME REPORT



Hate crime statistics published by the MPD do not include data on anti-Arab or anti-Islamic (Muslim) hate crime. The MPD tabulates hate crime data according to the number of incidents per aggregate bias motivation category. Reportable categories include: ethnicity/national origin, race, religion, sexual orientation, gender identity/expression, disability, political affiliation, and homelessness.

Hate crime statistics are provided in the 2007-2016 editions of MPD Annual Report and elsewhere on the MPD website, including within a separate archived report on 2001-2005 crime statistics,<sup>9</sup> and on the MPD’s bias-related crime webpage.<sup>10</sup>

- **ANTI-ARAB HATE CRIME STATISTICS**  
The MPD does not publish annual statistics on anti-Arab hate crime.
- **ANTI-ISLAMIC (MUSLIM) HATE CRIME STATISTICS**  
The MPD does not publish annual statistics on anti-Islamic (Muslim) hate crime.

## UNIFORM CRIME REPORTING (UCR)

By January 2021, the FBI Uniform Crime Reporting (UCR) Program will depend solely on the National Incident-Based Reporting System (NIBRS) to collect nationwide crime data.<sup>11</sup> This transition entails the sunset of summary-based crime reporting (SRS) and requires cooperation on the part of state UCR programs and individual reporting agencies.

The District of Columbia does not have a NIBRS-certified UCR program.<sup>12</sup> While the MPD submits crime data to the FBI conforming to UCR standards, the Department primarily relies on the offense index defined in the District of Columbia Criminal Code for “daily operational and deployment decisions.”<sup>13</sup>

The MPD provides both DC Code Index Offense data and FBI UCR Offense data in its annual reports.

## CONTACT

Crime Data Management Group Metropolitan Police  
Department Room 4014  
300 Indiana Avenue, NW  
Washington, DC 20001-2188  
(202) 727-7765  
www.mpd.dc.gov

## THE METROPOLITAN POLICE DEPARTMENT DOES NOT PUBLISH ANNUAL DISAGGREGATED HATE CRIME STATISTICS.

| Bias motivation                        | '00 | '01 | '02 | '03 | '04 | '05 | '06 | '07 | '08 | '09 | '10 | '11 | '12 | '13 | '14 | '15 | '16 |
|--|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| Anti-Arab                              | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   |
| Anti-Islamic (Muslim)                  | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   |
| Anti-other race/<br>ethnicity/ancestry | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   |

**NOT REPORTED**

According to supplemental data from the FBI, 4 anti-Arab and 6 anti-Islamic (Muslim) hate crime incidents were reported in the District of Columbia from 2015 to 2016. The MPD forwards hate crime data to the FBI UCR Program.

## FBI HATE CRIME STATISTICS (2015-2016)

| Bias motivation       | '15 | '16 |
|-----------------------|-----|-----|
| Anti-Arab             | 2   | 2   |
| Anti-Islamic (Muslim) | 2   | 4   |

<sup>8</sup> Metropolitan Police Dep’t, MPD Annual Reports (last updated Dec. 29, 2017), <https://mpdc.dc.gov/page/mpd-annual-reports>.

<sup>9</sup> Metropolitan Police Dep’t, Building a Safer DC: Metropolitan Police Department Special Report 2001 – 2005 (Aug. 6, 2012), available at <https://mpdc.dc.gov/node/209092>.

<sup>10</sup> Metropolitan Police Dep’t, Bias-Related Crimes (Hate Crimes) Data (last updated Apr. 30, 2018), <https://mpdc.dc.gov/page/bias-related-crimes-hate-crimes-data>.

<sup>11</sup> CJIS Div., Fed. Bureau of Investigation, SRS to NIBRS: The Path to Better UCR Data, <https://www.fbi.gov/services/cjis/cjis-link/srs-to-nibrs-the-path-to-better-ucr-data>.

<sup>12</sup> Bureau of Justice Statistics, U.S. Dep’t of Justice, 2017 NCS-X Estimation Project (Jul. 27, 2017), available at <https://www.bjs.gov/content/pub/pdf/17ncsxp.pdf>.

<sup>13</sup> Metropolitan Police Dep’t, Annual Report, *supra* note 5, at 22.

## FBI HATE CRIME STATISTICS

Pursuant to the Hate Crime Statistics Act (HCSA) of 1990 the FBI UCR Program collects data on "crimes that manifest evidence of prejudice based on race, gender or gender identity, religion, disability, sexual orientation, or ethnicity."<sup>14</sup>

Since 1993, the FBI UCR Program has published the annual report, *Hate Crime Statistics*, which is based on voluntary submissions from participating law enforcement agencies. In 2016, agencies from 49 states and the District of Columbia participated in the national hate crime statistics program.

For the most part, hate crime data is collected at the state level and forwarded to the FBI UCR Program. A total of 48 states maintain a state-level UCR data collection. UCR programs in 38 states publish annual hate crime statistics. Some participating law enforcement agencies submit hate crime data directly to the FBI UCR program.<sup>15</sup>



## FBI HATE CRIME STATISTICS PARTICIPANT

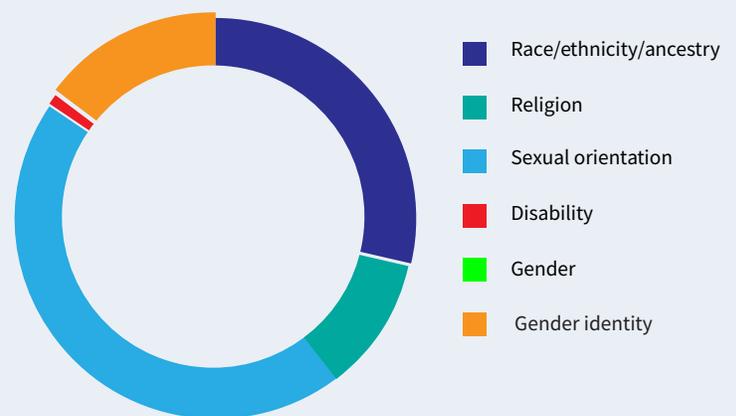
According to the FBI UCR Program's annual report, *Hate Crime Statistics*, 115 hate crime incidents were reported in the District of Columbia in 2016.

In 2016, the Metropolitan Police Department and the Metro Transit Police submitted incident reports to the FBI UCR Program.

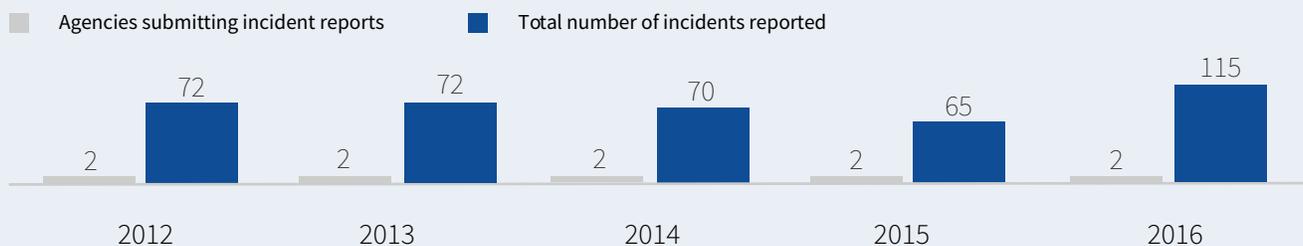
According to annual hate crime statistics published by the MPD, 104 hate crime incidents, excluding incidents relating to political affiliation or homelessness, were reported in the District of Columbia in 2016. The Metro Transit Police reported 11 hate crime incidents. This combined total of 115 incidents is consistent with the FBI UCR Program's annual report, *Hate Crime Statistics, 2016*.

## FBI HATE CRIME STATISTICS: DC 2012-2016

| Incidents per bias motivation | 2012      | 2013      | 2014      | 2015      | 2016       | Total      |
|-------------------------------|-----------|-----------|-----------|-----------|------------|------------|
| Race/ethnicity/ancestry       | 18        | 22        | 17        | 23        | 33         | 113        |
| Religion                      | 6         | 6         | 8         | 5         | 18         | 43         |
| Sexual orientation            | 47        | 32        | 29        | 27        | 42         | 177        |
| Disability                    | 1         | 0         | 1         | 0         | 2          | 4          |
| Gender                        | -         | 0         | 0         | 0         | 0          | 0          |
| Gender identity               | -         | 12        | 15        | 10        | 20         | 57         |
| <b>Total</b>                  | <b>72</b> | <b>72</b> | <b>70</b> | <b>65</b> | <b>115</b> | <b>394</b> |



## PARTICIPATION IN UCR HATE CRIME STATISTICS PROGRAM



## SUMMARY

The current District of Columbia hate crime statute is not sufficiently inclusive, as it does not offer protections for mental disability. While law enforcement agencies in the district are not statutorily required to report hate crimes, DC does have a statute requiring data collection. The Metropolitan Police Department has taken steps to improve its reporting capabilities. For example, the MPD has developed comprehensive training programs, which include particular instruction on "LGBT cultural competency" and hate crimes targeting the LGBT community. Additionally, the MPD has implemented policies to better address and respond to bias-related crime, including the formation of community liaison units that meet regularly with vulnerable and/or targeted communities. Officers within these units "receive specialized training on diverse communities, their particular issues, and how to best serve them."<sup>16</sup> As the district clearinghouse for all police-reported crime data, including hate crime, the MPD is responsible for publishing annual statistics. Copies of the *MPD Annual Report* can be found on the MPD website but do not include anti-Arab or anti-Islamic (Muslim) hate crime statistics. Both DC law enforcement agencies participating in the national UCR hate crime statistics program submitted incident reports for the 2016. Our rating methodology is designed to measure state-level response to hate crime. While the District of Columbia does not meet some of the criteria identified in our rating methodology, the MPD has demonstrated a commitment to hate crime reporting, data collection, and law enforcement training. We have therefore allocated a conditional rating of 85, denoting a moderate response to hate crime.

<sup>14</sup> 28 U.S.C. § 534 (JUSTIA 2016), available at <https://law.justia.com/codes/us/2016/title-28/part-ii/chapter-33/sec.-534>.

<sup>15</sup> Uniform Crime Reporting Program, Fed. Bureau of Investigation, Data Quality Guidelines, [https://ucr.fbi.gov/data\\_quality\\_guidelines](https://ucr.fbi.gov/data_quality_guidelines).

<sup>16</sup> Metropolitan Police Dep't, Annual Report, *supra* note 5, at 54.

# ADVOCACY RESOURCES - DC

## IMPROVING THE RESPONSE

Most states have failed to enact sufficient legislation to address, prevent, and counteract hate crime in American communities. To accompany our federal hate crime laws, state legislatures must pass the following:

1. **An inclusive hate crime statute**, which covers a wide range of criminal offenses and provides enhanced penalties for crimes motivated because of citizenship status, race, ethnicity, color, disability, age, ancestry or national origin, gender or gender identity, sexual orientation, religion, or homelessness. Such protections are pursuant to model hate crime legislation drafted by the Arab American Institute. According to the model statute, penalty enhancement may incorporate alternatives to fines or increased prison sentences. Alternatives include restitution for victims and communities, participation in educational programs, and restorative justice.
2. **Statutes that require reporting, data collection, and specific law enforcement training on hate crime.** Centralized state agencies must publish comprehensive, accessible statistics on the nature and extent of hate crime occurring within their state. These statistics must conform to national UCR standards and include the bias motivation categories identified in the FBI's annual report, *Hate Crime Statistics*. States must also require law enforcement training schools to provide comprehensive training to ensure that officers are prepared to investigate, report, and respond to hate crime incidents.

## STATE RECOMMENDATIONS

According to our rating methodology, the District of Columbia receives an overall score of 65 points, denoting an average response to hate crime. For reasons discussed on the previous page, we have assigned a conditional rating of 85, denoting a moderate response to hate crime. Advocates for an improved response to hate crime in the District of Columbia should promote the following:

1. The current District of Columbia hate crime statute offers protections for race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, family responsibility, homelessness, physical disability, matriculation, or political affiliation. The District of Columbia hate crime statute should be amended to include **citizenship status, ethnicity, mental disability, ancestry**, or association with a person or group with one of these actual or perceived characteristics.
2. While the Metropolitan Police Department (MPD) has shown a commitment to investigating, reporting, and responding to incidents of bias-related crime, D.C. Code does not require reporting or specific law enforcement training on hate crime.
  - The Metropolitan Police force must report and collect data on hate crime incidents. Already, the Mayor is required to compile data on incidents of bias-related crime and submit an annual summary to the D.C. Council.
  - The MPD must collect data and publish statistics, conforming to national UCR standards, on the nature and extent of hate crime within the district. Currently, the MPD only provides data based on aggregate bias motivation categories.
  - The District of Columbia Peace Officers Standards and Training Board must prescribe minimum standards and training requirements that include instruction relating to investigating and reporting hate crime incidents.

## STATE CONTACTS

Advocates for an improved response to hate crime in the District of Columbia should contact district legislators, the mayor's office, and the current United States Representative.

### Council of the District of Columbia

Committee on the Judiciary and Public Safety

<http://dccouncil.us/committees/committee-on-the-judiciary-and-public-safety>

### Executive Office of the Mayor

Contact the Mayor: <https://mayor.dc.gov>

### House of Representatives

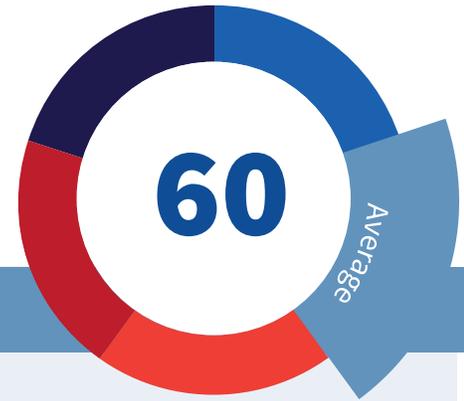
Directory of Representatives: District of Columbia

<https://www.house.gov/representatives#state-district-of-columbia>

# FLORIDA

Total population: 20,612,439

Rank of Arab American population by state: 5



FL does not publish anti-Arab hate crime statistics.

**Florida** is the 3rd most populated state and has the 5th largest Arab American population.

The Florida Office of the Attorney General (OAG) is the state agency responsible for the publication of hate crime data. The Florida OAG does not publish annual statistics on anti-Arab hate crime.

## HATE CRIME STATUTE

Fla. Stat. § 775.085 provides enhanced penalties for any person who commits a crime because of “prejudice based on race, color, ancestry, ethnicity, religion, sexual orientation, national origin, homeless status, or advanced age of the victim.”<sup>1</sup>

The current Florida hate crime statute is not sufficiently inclusive, as it does not offer protections for disability, gender, or gender identity.

## DATA COLLECTION STATUTE

Fla. Stat. § 877.19 requires the Florida Attorney General to publish an annual summary of data on “incidents of criminal acts that evidence prejudice based on race, religion, ethnicity, color, ancestry, sexual orientation, or national origin.”<sup>2</sup> Pursuant to this section, law enforcement agencies within the state are required to report hate crimes to the Florida Department of Law Enforcement (FDLE).

## LAW ENFORCEMENT TRAINING STATUTE

**There is no Florida statute that requires specific law enforcement training on hate crime.** The Criminal Justice Standards and Training Commission, housed within the FDLE, is statutorily required to “establish minimum curricular requirements for criminal justice training schools.”<sup>3</sup> Pursuant to Fla. Stat. § 943.1715, the minimum curricular requirements include basic skills training “relating to diverse populations...with an emphasis on the awareness of cultural differences.”<sup>4</sup> Continued employment training on diverse populations is mandatory as well.<sup>5</sup>

Other minimum curricular requirements for criminal justice training schools in Florida include skills training relating to domestic violence, elder abuse, and victims’ assistance and rights.<sup>6</sup> While not statutorily required, the Florida OAG Office of Civil Rights has developed a hate crimes training program for police officers.<sup>7</sup>

| FLORIDA  |              |
|--|--------------|
| <b>Hate Crime Statute</b>                       | <b>25/40</b> |
| No statute; civil action or civil rights law   | -            |
| Hate crime statute, with protections for:  | 10           |
| Race/ethnicity/ancestry  | 5            |
| Religion   | 5            |
| Sexual orientation   | 5            |
| Disability   | -            |
| Gender   | -            |
| Gender identity  | -            |
| <b>Data Collection Statute</b>                | <b>15/15</b> |
| Data collection (voluntary reporting)  | -            |
| Mandatory reporting and data collection  | 15           |
| <b>Law Enforcement Training Statute</b>       | <b>0/15</b>  |
| No statute; comprehensive training   | -            |
| Mandatory training   | -            |
| <b>Annual Hate Crime Report</b>               | <b>10/20</b> |
| Annual hate crime report, including:   | 10           |
| Anti-Arab hate crime statistics  | -            |
| Anti-Islamic (Muslim) hate crime statistics  | -            |
| <b>FBI Hate Crime Statistics Participant</b>  | <b>10/10</b> |
| <b>TOTAL</b>   | <b>60</b>    |

<sup>1</sup> Fla. Stat. § 775.085 (JUSTIA 2017), available at <https://law.justia.com/codes/florida/2017/title-xlvi/chapter-775/section-775.085>.

<sup>2</sup> Fla. Stat. § 877.19 (JUSTIA 2017), available at <https://law.justia.com/codes/florida/2017/title-xlvi/chapter-877/section-877.19>.

<sup>3</sup> Fla. Stat. § 943.12 (JUSTIA 2017), available at <https://law.justia.com/codes/florida/2017/title-xxvii/chapter-943/section-943.12>.

<sup>4</sup> Fla. Stat. § 943.1715 (JUSTIA 2017), available at <https://law.justia.com/codes/florida/2017/title-xxvii/chapter-943/section-943.1715>.

<sup>5</sup> Fla. Stat. § 943.1716 (JUSTIA 2017), available at <https://law.justia.com/codes/florida/2017/title-xxvii/chapter-943/section-943.1716>.

<sup>6</sup> Fla. Stat. §§ 943.171 – 17296 (JUSTIA 2017), available at <https://law.justia.com/codes/florida/2017/title-xxvii/chapter-943>.

<sup>7</sup> Florida Office of the Attorney General, Office of Civil Rights, <http://myfloridalegal.com/pages.nsf/Main/4D962836FFF7C55185256CC6005BE6A6>.

## DATA COLLECTION & STATISTICS

Pursuant to Fla. § 877.19, the Florida OAG publishes an annual report on statewide hate crime statistics. The report is based on UCR submissions from law enforcement agencies across the state.<sup>8</sup> Agencies are required to submit monthly reports on hate crime occurring within their respective jurisdictions in a manner prescribed by the FDLE.<sup>9</sup>

### ANNUAL STATEWIDE HATE CRIME REPORT



State-level hate crime statistics published by the OAG do not include data on anti-Arab or anti-Islamic (Muslim) hate crime. The OAG tabulates hate crime data according to the number of offenses per aggregate bias motivation category. Reportable categories include: race/color, religion, ethnicity/national origin, sexual orientation, physical disability, mental disability, and advanced age.

The 2011-2016 editions of *Hate Crime in Florida* can be found on the OAG website.<sup>10</sup> Older reports which provide 1990-2010 data, must be queried through a search engine. From 2000 to 2001 there was a significant increase of reported hate crime motivated because of ethnicity or religion (72 to 163).<sup>12</sup> According to OAG, this surge was the result of post-9/11 backlash.

- **ANTI-ARAB HATE CRIME STATISTICS**  
The OAG does not publish annual statistics on anti-Arab hate crime.
- **ANTI-ISLAMIC (MUSLIM) HATE CRIME STATISTICS**  
The OAG does not publish annual statistics on anti-Islamic (Muslim) hate crime.

## UNIFORM CRIME REPORTING (UCR)

By January 2021, the FBI Uniform Crime Reporting (UCR) Program will depend solely on the National Incident-Based Reporting System (NIBRS) to collect nationwide crime data.<sup>13</sup> This transition entails the sunset of summary-based crime reporting (SRS) and requires cooperation on the part of state UCR programs and individual reporting agencies.

As of July 27, 2017, the Florida UCR program was one of 15 state programs that still rely exclusively on SRS data.<sup>14</sup>

Traditional summary-based crime reporting is constrained with respect to the various data elements that serve to put a particular incident in context, such as victim and offender demographics, the location of the incident, and whether an arrest occurred.

NIBRS reporting enables criminal justice agencies to acquire a better understanding of crime, including hate crime, occurring within their respective jurisdictions. This in turn has positive implications for effective law enforcement response and policy implementation.

### CONTACT

Florida Department of Law Enforcement  
FCIC Audit and Data Collection Unit  
Post Office Box 1489  
Tallahassee, Florida 32302-1489  
(850) 410-7121  
www.fdle.state.fl.us

## THE FLORIDA OFFICE OF THE ATTORNEY GENERAL DOES NOT PUBLISH ANNUAL DISAGGREGATED HATE CRIME STATISTICS.

| Bias motivation                    | '00 | '01 | '02 | '03 | '04 | '05 | '06 | '07 | '08 | '09 | '10 | '11 | '12 | '13 | '14 | '15 | '16 |
|------------------------------------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| Anti-Arab                          | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   |
| Anti-Islamic (Muslim)              | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   |
| Anti-other race/ethnicity/ancestry | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   |

According to supplemental data from the FBI, 7 anti-Islamic (Muslim) hate crime incidents were reported in Florida in 2016. Florida law enforcement agencies submit hate crime data to the FBI UCR Program through the FDLE.

### FBI HATE CRIME STATISTICS (2015-2016)

| Bias motivation       | '15 | '16 |
|-----------------------|-----|-----|
| Anti-Arab             | 0   | 0   |
| Anti-Islamic (Muslim) | 0   | 7   |

<sup>8</sup> Fla. Stat. § 877.19, *supra* note 2.

<sup>9</sup> *Id.*

<sup>10</sup> Florida Office of the Attorney General, State's Annual Hate Crime Report, <http://myfloridalegal.com/civilrights>.

<sup>11</sup> Florida Office of the Attorney General, Hate Crimes in Florida 1994, available at <http://myfloridalegal.com/hate.pdf>.

<sup>12</sup> Florida Office of the Attorney General, Hate Crimes in Florida 2001, available at <http://myfloridalegal.com/01hate.pdf>.

<sup>13</sup> CJIS Div., Fed. Bureau of Investigation, SRS to NIBRS: The Path to Better UCR Data, <https://www.fbi.gov/services/cjis/cjis-link/srs-to-nibrs-the-path-to-better-ucr-data>.

<sup>14</sup> Bureau of Justice Statistics, U.S. Dep't of Justice, 2017 NCS-X Estimation Project (Jul. 27, 2017), available at <https://www.bjs.gov/content/pub/pdf/17ncsxep.pdf>.

## FBI HATE CRIME STATISTICS

Pursuant to the Hate Crime Statistics Act (HCSA) of 1990 the FBI UCR Program collects data on "crimes that manifest evidence of prejudice based on race, gender or gender identity, religion, disability, sexual orientation, or ethnicity."<sup>15</sup>

Since 1993, the FBI UCR Program has published the annual report, *Hate Crime Statistics*, which is based on voluntary submissions from participating law enforcement agencies. In 2016, agencies from 49 states and the District of Columbia participated in the national hate crime statistics program.

For the most part, hate crime data is collected at the state level and forwarded to the FBI UCR Program. A total of 48 states maintain a state-level UCR data collection. UCR programs in 38 states publish annual hate crime statistics. Some participating law enforcement agencies submit hate crime data directly to the FBI UCR program.<sup>16</sup>



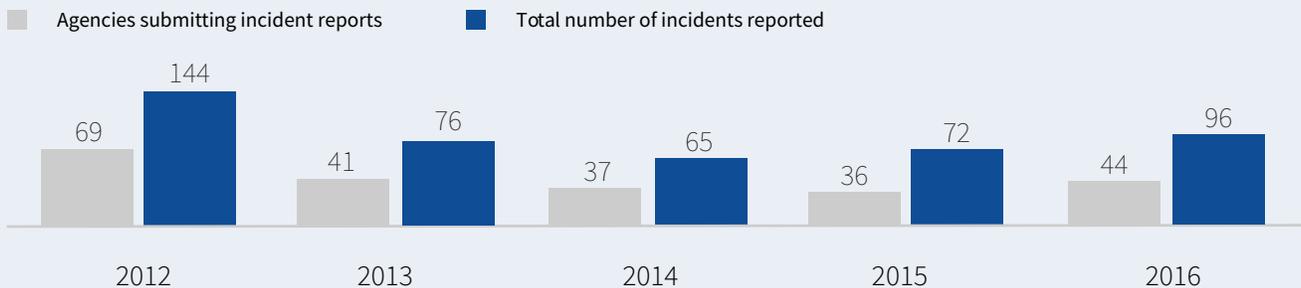
## FBI HATE CRIME STATISTICS PARTICIPANT

Law enforcement agencies in Florida submit hate crime data to the FBI UCR Program through the FDLE. According to the FBI UCR Program's annual report, *Hate Crime Statistics*, 96 hate crime incidents, involving 110 offenses, were reported in Florida in 2016.

According to the Bureau of Justice Statistics, there are nearly 400 law enforcement agencies in Florida.<sup>10</sup> In 2016, 44 of the 46 Florida law enforcement agencies participating in the national hate crime statistics program submitted incident reports to the FBI UCR Program. A total of 21 agencies representing populations greater than 100,000 either did not participate in the FBI hate crime statistics program or failed to provide data in at least one quarterly submission period.

According to annual hate crime statistics published by the OAG, 124 hate crime offenses, excluding offenses relating to advanced age, were reported in Florida in 2016. This total conflicts with the FBI UCR Program's annual report, *Hate Crime Statistics, 2016*. Discrepancies occur between state and federal hate crime statistics for 2012-2015 as well.

## PARTICIPATION IN UCR HATE CRIME STATISTICS PROGRAM

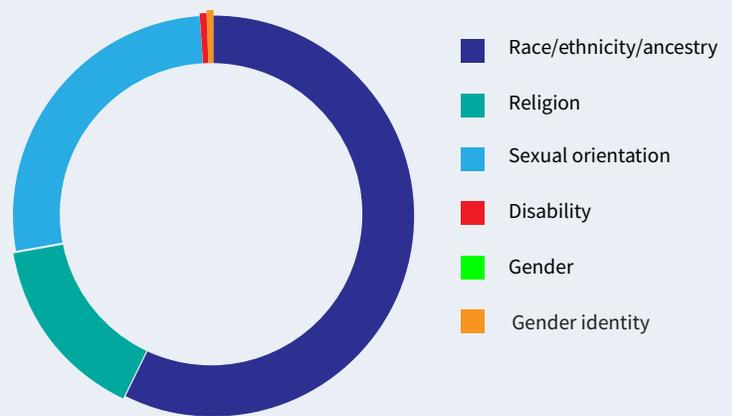


## SUMMARY

The current Florida hate crime statute is not sufficiently inclusive, as it does not offer protections for disability, gender, or gender identity. While Florida has statutes that require reporting and data collection, there is no state law regarding mandatory police training on hate crime. The Florida Office of the Attorney General has developed law enforcement training programs on hate crime through its Office of Civil Rights. The Florida Department of Law Enforcement maintains the state clearinghouse for all police-reported crime data, including hate crime, which the Office of the Attorney General collates for its annual report. Copies of *Hate Crime in Florida* can be found on the OAG website but do not include anti-Arab or anti-Islamic (Muslim) hate crime statistics. In 2016, 44 Florida law enforcement agencies submitted hate crime incident reports to the FBI UCR Program. The remaining 2 participating agencies provided only zero data. A total of 44 participating agencies recorded blank data in at least one quarterly submission period. Florida receives an overall score of 60 points, denoting an average response to hate crime.

## FBI HATE CRIME STATISTICS: FLORIDA 2012-2016

| Incidents per bias motivation | 2012       | 2013      | 2014      | 2015      | 2016      | Total      |
|-------------------------------|------------|-----------|-----------|-----------|-----------|------------|
| Race/ethnicity/ancestry       | 85         | 48        | 40        | 44        | 43        | 260        |
| Religion                      | 16         | 8         | 12        | 13        | 19        | 68         |
| Sexual orientation            | 42         | 20        | 12        | 14        | 32        | 120        |
| Disability                    | 1          | 0         | 1         | 0         | 1         | 3          |
| Gender                        | -          | 0         | 0         | 0         | 0         | 0          |
| Gender identity               | -          | 0         | 0         | 1         | 1         | 2          |
| <b>Total</b>                  | <b>144</b> | <b>76</b> | <b>65</b> | <b>72</b> | <b>96</b> | <b>453</b> |



<sup>15</sup> 28 U.S.C. § 534 (JUSTIA 2016), available at <https://law.justia.com/codes/us/2016/title-28/part-ii/chapter-33/sec.-534>.

<sup>16</sup> Uniform Crime Reporting Program, Fed. Bureau of Investigation, Data Quality Guidelines, [https://ucr.fbi.gov/data\\_quality\\_guidelines](https://ucr.fbi.gov/data_quality_guidelines).

<sup>17</sup> CJIS Div., Fed. Bureau of Investigation, Table 11: Offenses, Hate Crime Statistics, 2016 (Nov. 13, 2017), <https://ucr.fbi.gov/hate-crime/2016/tables/table-11>.

<sup>18</sup> Florida Office of the Attorney General, Hate Crimes in Florida 2013 (Dec. 31, 2014), available at [http://myfloridalegal.com/webfiles.nsf/WF/JMEE-9SBKKM/\\$file/HateCrimesReport.pdf](http://myfloridalegal.com/webfiles.nsf/WF/JMEE-9SBKKM/$file/HateCrimesReport.pdf).

# ADVOCACY RESOURCES - Florida

## IMPROVING THE RESPONSE

Most states have failed to enact sufficient legislation to address, prevent, and counteract hate crime in American communities. To accompany our federal hate crime laws, state legislatures must pass the following:

1. **An inclusive hate crime statute**, which covers a wide range of criminal offenses and provides enhanced penalties for crimes motivated because of citizenship status, race, ethnicity, color, disability, age, ancestry or national origin, gender or gender identity, sexual orientation, religion, or homelessness. Such protections are pursuant to model hate crime legislation drafted by the Arab American Institute. According to the model statute, penalty enhancement may incorporate alternatives to fines or increased prison sentences. Alternatives include restitution for victims and communities, participation in educational programs, and restorative justice.
2. **Statutes that require reporting, data collection, and specific law enforcement training on hate crime.** Centralized state agencies must publish comprehensive, accessible statistics on the nature and extent of hate crime occurring within their state. These statistics must conform to national UCR standards and include the bias motivation categories identified in the FBI's annual report, *Hate Crime Statistics*. States must also require law enforcement training schools to provide comprehensive training to ensure that officers are prepared to investigate, report, and respond to hate crime incidents.

## STATE RECOMMENDATIONS

According to our rating methodology, Florida receives an overall score of 60 points, denoting an average response to hate crime. Advocates for an improved response to hate crime in Florida should promote the following:

1. The current Florida hate crime statute offers protections for race, color, ancestry, ethnicity, religion, sexual orientation, national origin, homeless status, and advanced age. The Florida hate crime statute should be amended to include **citizenship status, disability, gender or gender identity**, or association with a person or group with one of these actual or perceived characteristics.
2. While Florida state code requires hate crime reporting and data collection, Florida's annual hate crime report does not provide statistics based on disaggregated bias motivation categories. Furthermore, Florida state code does not require specific law enforcement training on hate crime.
  - The Florida Office of the Attorney General (OAG) must collect data and publish statistics, conforming to national UCR standards, on the nature and extent of hate crime within the state. Currently, the OAG only provides statistics based on aggregate bias motivation categories.
  - The Florida Criminal Justice Standards and Training Commission must establish curricular requirements relating to investigating and reporting hate crime incidents for all criminal justice training schools within the state.
3. There are nearly 400 law enforcement agencies in Florida. In 2016, 44 of the 46 Florida law enforcement agencies participating in the national hate crime statistics program submitted incident reports to the FBI UCR Program.
  - Florida must transition to the National Incident-Based Reporting System (NIBRS) to facilitate hate crime reporting and data collection. By January 2021, all law enforcement agencies in the United States will be required to report crime information through NIBRS.

## STATE CONTACTS

Advocates for an improved response to hate crime in Florida should contact current state legislators and members of Congress.

### Florida Legislature

Senate: <http://www.flsenate.gov>

House: <http://www.myfloridahouse.gov>

### United States Senate

Contact: Florida

<https://www.senate.gov/senators/contact>

### United States House of Representatives

Directory of Representatives: Florida

<https://www.house.gov/representatives#state-florida>

# GEORGIA

Total population: 10,310,371

Rank of Arab American population by state: 15



GA does not publish annual hate crime statistics.

**Georgia** is the 8th most populated state and has the 15th largest Arab American population.

The Georgia Bureau of Investigation, Georgia Crime Information Center (GCIC), is the state agency responsible for the collection and publication of crime data. The GCIC does not publish annual hate crime statistics.

## HATE CRIME STATUTE



Georgia is one of five states, along with Arkansas, Indiana, South Carolina, and Wyoming, that do not have a hate crime statute. Repealed in 2004, Ga. Code § 17-10-17 provided enhanced penalties for crimes in which the defendant, beyond a reasonable doubt, intentionally selects any victim or their property as the object of the offense “because of bias or prejudice.”<sup>1</sup>

In 2004, the Georgia Supreme Court declared the state’s hate crime statute “unconstitutionally vague” and in violation of due process rights.<sup>2</sup> Per the Court’s determination, the statute “impermissibly delegate[d] basic policy matters to policemen, judges, and juries for resolution on an ad hoc and subjective basis, with the attendant dangers of arbitrary and discriminatory applications.”<sup>3</sup> The Georgia General Assembly repealed Ga. Code § 17-10-17 with an additional contention: that it interfered with First Amendment rights and authorized disparate treatment under the law.<sup>4</sup>

## DATA COLLECTION STATUTE



There is no Georgia statute that requires hate crime reporting or data collection. Ga. Code § 35-3-33 requires the GCIC to compile statistics on the nature and extent of crime in Georgia and publish those statistics no less frequently than once a year.<sup>5</sup>

## LAW ENFORCEMENT TRAINING STATUTE



There is no Georgia statute that requires specific law enforcement training on hate crime. Pursuant to Ga. Code § 35-8-7(15), the Georgia Peace Officers Standards and Training Council is required to “establish and modify” the basic curriculum for law enforcement training schools in Georgia.<sup>6</sup>

## GEORGIA

| Hate Crime Statute                       | 0/40  |
|---|-------|
| No statute; civil action or civil rights law  | -     |
| Hate crime statute, with protections for:   | -     |
| Race/ethnicity/ancestry   | -     |
| Religion  | -     |
| Sexual orientation  | -     |
| Disability  | -     |
| Gender  | -     |
| Gender identity   | -     |
| Data Collection Statute                | 0/15  |
| Data collection (voluntary reporting)   | -     |
| Mandatory reporting and data collection   | -     |
| Law Enforcement Training Statute       | 0/15  |
| No statute; comprehensive training  | -     |
| Mandatory training  | -     |
| Annual Hate Crime Report               | 0/20  |
| Annual hate crime report, including:  | -     |
| Anti-Arab hate crime statistics   | -     |
| Anti-Islamic (Muslim) hate crime statistics   | -     |
| FBI Hate Crime Statistics Participant  | 10/10 |
| TOTAL   | 10    |

<sup>1</sup> Ga. Code § 17-10-17 (JUSTIA 2010), available at <https://law.justia.com/codes/georgia/2010/title-17/chapter-10/article-1/17-10-17>.

<sup>2</sup> *Botts v. State*, 278 Ga. 538, 604 S.E.2d 512 (2004), available at <https://law.justia.com/cases/georgia/supreme-court/2004/s04a0798-1.html>.

<sup>3</sup> *Id.*

<sup>4</sup> Georgia General Assembly, H.B. 902, 2007-2008, available at <http://www.legis.ga.gov/Legislation/20072008/76390.pdf>.

<sup>5</sup> Ga. Code § 35-3-33 (JUSTIA 2017), available at <https://law.justia.com/codes/georgia/2017/title-35/chapter-3/article-2/section-35-3-33>.

<sup>6</sup> Ga. Code § 35-8-7 (JUSTIA 2017), available at <https://law.justia.com/codes/georgia/2017/title-35/chapter-8/section-35-8-7>.

### DATA COLLECTION & STATISTICS

Pursuant to Ga. Code § 35-3-33, the GCIC publishes an annual report on the nature and extent of crime in Georgia. The report is based on UCR submissions from law enforcement agencies across the state. The 2009-2016 editions of Georgia’s UCR report can be found on the GBI website but do not include hate crime statistics.<sup>7</sup>

### ANNUAL STATEWIDE HATE CRIME REPORT



The GCIC does not publish annual state-level hate crime statistics.

- **ANTI-ARAB HATE CRIME STATISTICS**  
The GCIC does not publish annual statistics on anti-Arab hate crime.
- **ANTI-ISLAMIC (MUSLIM) HATE CRIME STATISTICS**  
The GCIC does not publish annual statistics on anti-Islamic (Muslim) hate crime.

### UNIFORM CRIME REPORTING (UCR)

By January 2021, the FBI Uniform Crime Reporting (UCR) Program will depend solely on the National Incident-Based Reporting System (NIBRS) to collect nationwide crime data.<sup>8</sup> This transition entails the sunset of summary-based crime reporting (SRS) and requires cooperation on the part of state UCR programs and individual reporting agencies.

The Georgia UCR program is one of 15 state programs that still rely exclusively on SRS data.<sup>9</sup>

Traditional summary-based crime reporting is constrained with respect to the various data elements that serve to put a particular incident in context, such as victim and offender demographics, the location of the incident, and whether an arrest occurred.

NIBRS reporting enables criminal justice agencies to acquire a better understanding of crime, including hate crime, occurring within their respective jurisdictions. This in turn has positive implications for effective law enforcement response and policy implementation.

### CONTACT

Georgia Crime Information Center Georgia Bureau of Investigation  
Post Office Box 370748  
Decatur, Georgia 30037-0748  
(404) 270-8454  
<http://gbi.georgia.gov/georgia-crime-information-center>

### THE GEORGIA CRIME INFORMATION CENTER DOES NOT PUBLISH ANNUAL HATE CRIME STATISTICS.

| Bias motivation                    | '00 | '01 | '02 | '03 | '04 | '05 | '06 | '07 | '08 | '09 | '10 | '11 | '12 | '13 | '14 | '15 | '16 |
|------------------------------------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| Anti-Arab                          | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   |
| Anti-Islamic (Muslim)              | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   |
| Anti-other race/ethnicity/ancestry | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   |

**NOT REPORTED**

According to supplemental data from the FBI, a single anti-Islamic (Muslim) hate crime incident was reported in Georgia in 2016. Georgia law enforcement agencies submit hate crime data to the FBI UCR Program through the GCIC.

### FBI HATE CRIME STATISTICS (2015-2016)

| Bias motivation       | '15 | '16 |
|-----------------------|-----|-----|
| Anti-Arab             | 0   | 0   |
| Anti-Islamic (Muslim) | 0   | 1   |

<sup>7</sup> Georgia Bureau of Investigation, Crime Statistics, <https://gbi.georgia.gov/crime-statistics>.

<sup>8</sup> CJIS Div., Fed. Bureau of Investigation, SRS to NIBRS: The Path to Better UCR Data, <https://www.fbi.gov/services/cjis/cjis-link/srs-to-nibrs-the-path-to-better-ucr-data>.

<sup>9</sup> Bureau of Justice Statistics, U.S. Dep’t of Justice, 2017 NCS-X Estimation Project (Jul. 27, 2017), available at <https://www.bjs.gov/content/pub/pdf/17ncsxep.pdf>.

## FBI HATE CRIME STATISTICS

Pursuant to the Hate Crime Statistics Act (HCSA) of 1990 the FBI UCR Program collects data on "crimes that manifest evidence of prejudice based on race, gender or gender identity, religion, disability, sexual orientation, or ethnicity."<sup>10</sup>

Since 1993, the FBI UCR Program has published the annual report, *Hate Crime Statistics*, which is based on voluntary submissions from participating law enforcement agencies. In 2016, agencies from 49 states and the District of Columbia participated in the national hate crime statistics program.

For the most part, hate crime data is collected at the state level and forwarded to the FBI UCR Program. A total of 48 states maintain a state-level UCR data collection. UCR programs in 38 states publish annual hate crime statistics. Some participating law enforcement agencies submit hate crime data directly to the FBI UCR program.<sup>11</sup>



## FBI HATE CRIME STATISTICS PARTICIPANT

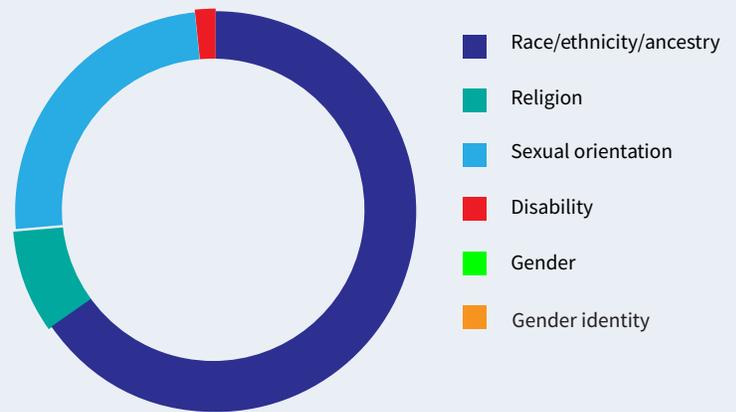
Law enforcement agencies in Georgia submit hate crime data to the FBI UCR Program through the GCIC. According to the FBI UCR Program's annual report, *Hate Crime Statistics*, 39 hate crime incidents were reported in Georgia in 2016.

In 2016, 6 of the 493 Georgia law enforcement agencies participating in the national hate crime statistics program submitted incident reports to the FBI UCR Program. Agencies representing four of the five largest cities in Georgia either submitted only zero data or failed to provide data in at least one quarterly submission period.

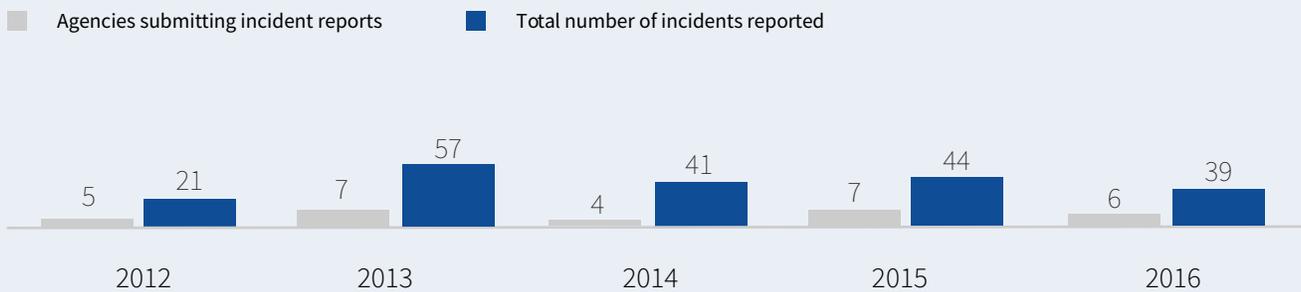
As the GCIC does not publish an annual hate crime report, we are unable to make comparisons between state and federal hate crime statistics.

## FBI HATE CRIME STATISTICS: GEORGIA 2012-2016

| Incidents per bias motivation | 2012      | 2013      | 2014      | 2015      | 2016      | Total      |
|-------------------------------|-----------|-----------|-----------|-----------|-----------|------------|
| Race/ethnicity/ancestry       | 17        | 34        | 24        | 32        | 25        | 132        |
| Religion                      | 2         | 5         | 3         | 5         | 2         | 17         |
| Sexual orientation            | 2         | 17        | 12        | 7         | 12        | 50         |
| Disability                    | 0         | 1         | 2         | 0         | 0         | 3          |
| Gender                        | -         | 0         | 0         | 0         | 0         | 0          |
| Gender identity               | -         | 0         | 0         | 0         | 0         | 0          |
| <b>Total</b>                  | <b>21</b> | <b>57</b> | <b>41</b> | <b>44</b> | <b>39</b> | <b>202</b> |



## PARTICIPATION IN UCR HATE CRIME STATISTICS PROGRAM



## SUMMARY

Georgia is one of five states, along with Arkansas, Indiana, South Carolina, and Wyoming, that do not have a hate crime statute. Ga. Code § 17-10-17, which provided enhanced penalties for crimes motivated by "bias or prejudice," was repealed in 2004. After more than a decade, the Georgia General Assembly has yet to pass a replacement statute. Georgia does not have statutes that require reporting, data collection, or specific law enforcement training on hate crime. Housed within the Georgia Bureau of Investigation, the Georgia Crime Information Center maintains the state clearinghouse for all police-reported crime data, including hate crime, and is responsible for publishing annual statistics. Copies of Georgia's UCR report can be found on the GBI website but do not include hate crime statistics. In 2016, 6 Georgia law enforcement agencies submitted hate crime incident reports to the FBI UCR Program. The remaining 487 participating agencies provided zero data. A total of 82 participating agencies recorded blank data in at least one quarterly submission period. Georgia receives an overall score of 10 points, denoting a minimal response to hate crime.

<sup>10</sup> 28 U.S.C. § 534 (JUSTIA 2016), available at <https://law.justia.com/codes/us/2016/title-28/part-ii/chapter-33/sec.-534>.

<sup>11</sup> Uniform Crime Reporting Program, Fed. Bureau of Investigation, Data Quality Guidelines, [https://ucr.fbi.gov/data\\_quality\\_guidelines](https://ucr.fbi.gov/data_quality_guidelines).

# ADVOCACY RESOURCES - Georgia

## IMPROVING THE RESPONSE

Most states have failed to enact sufficient legislation to address, prevent, and counteract hate crime in American communities. To accompany our federal hate crime laws, state legislatures must pass the following:

1. **An inclusive hate crime statute**, which covers a wide range of criminal offenses and provides enhanced penalties for crimes motivated because of citizenship status, race, ethnicity, color, disability, age, ancestry or national origin, gender or gender identity, sexual orientation, religion, or homelessness. Such protections are pursuant to model hate crime legislation drafted by the Arab American Institute. According to the model statute, penalty enhancement may incorporate alternatives to fines or increased prison sentences. Alternatives include restitution for victims and communities, participation in educational programs, and restorative justice.
2. **Statutes that require reporting, data collection, and specific law enforcement training on hate crime.** Centralized state agencies must publish comprehensive, accessible statistics on the nature and extent of hate crime occurring within their state. These statistics must conform to national UCR standards and include the bias motivation categories identified in the FBI's annual report, *Hate Crime Statistics*. States must also require law enforcement training schools to provide comprehensive training to ensure that officers are prepared to investigate, report, and respond to hate crime incidents.

## STATE RECOMMENDATIONS

According to our rating methodology, Georgia receives an overall score of 10 points, denoting a minimal response to hate crime. Advocates for an improved response to hate crime in Georgia should promote the following:

1. **Georgia is one of five states without a hate crime statute.** The Georgia General Assembly must enact legislation for a new criminal statute prohibiting crimes motivated because of **citizenship status, race, ethnicity, color, disability, age, ancestry or national origin, gender or gender identity, sexual orientation, religion, homelessness**, or association with a person or group with one of these actual or perceived characteristics. Such protections are pursuant to model hate crime legislation drafted by the Arab American Institute.
2. Georgia state code does not require reporting, data collection, or specific law enforcement training on hate crime. In 2016, 6 of the 493 Georgia law enforcement agencies participating in the national hate crime statistics program submitted incident reports to the FBI UCR Program.
  - Law enforcement agencies must report hate crimes to the Georgia Crime Information Center (GCIC).
  - The GCIC must collect data and publish statistics, conforming to national UCR standards, on the nature and extent of hate crime within the state.
  - Georgia must transition to the National Incident-Based Reporting System (NIBRS) to facilitate hate crime reporting and data collection. By January 2021, all law enforcement agencies in the United States will be required to report crime information through NIBRS.
  - The Georgia Peace Officers Standards and Training Council (POST) must prescribe instruction relating to investigating and reporting hate crime incidents for law enforcement training schools throughout the state. The Georgia POST is required by law to establish and modify the curriculum for basic law enforcement training.

## STATE CONTACTS

Advocates for an improved response to hate crime in Georgia should contact current state legislators and members of Congress.

### Georgia General Assembly

Senate: <http://www.senate.ga.gov/senators>

House: <http://www.house.ga.gov/Representatives>

### United States Senate

Contact: Georgia

<https://www.senate.gov/senators/contact>

### United States House of Representatives

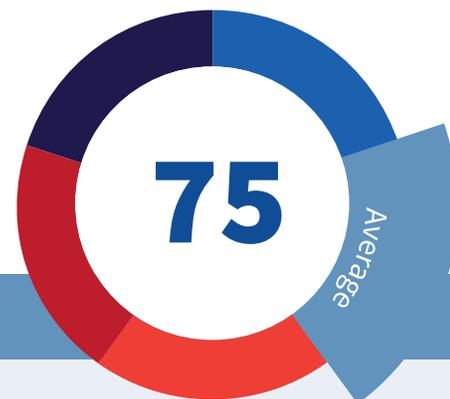
Directory of Representatives: Georgia

<https://www.house.gov/representatives#state-georgia>

# HAWAII

Total population: 1,428,557

Rank of Arab American population by state: 47



HI does not participate in the FBI hate crime statistics program.

**Hawaii** is the 40th most populated state and has the 47th largest Arab American population.

The Department of the Attorney General, Crime Prevention and Justice Assistance (CPJA) Division, is the state agency responsible for the collection and publication of hate crime data. Hate crime statistics in Hawaii are compiled at the point of prosecution. According to the CPJA, two anti-Arab hate crime incidents were successfully prosecuted in Hawaii in 2016, one of which occurred in 2015.



## HATE CRIME STATUTE

Haw. Rev. Stat. § 706-662(6)(b) allows for the imposition of an extended term of imprisonment for a felony in which the defendant intentionally selects a victim or property as the object of a crime because of “hostility toward the actual or perceived race, religion, disability, ethnicity, national origin, gender identity or expression, or sexual orientation of any person.”<sup>1</sup> For the purposes of this statute, gender identity or expression is defined so as to include actual or perceived gender.<sup>2</sup>



## DATA COLLECTION STATUTE

Haw. Rev. Stat. §§ 846-51 through 846-54 require the Hawaii Department of the Attorney General to collect, disseminate, and provide analysis on hate crime data received from law enforcement agencies and publish this information in an annual report.<sup>3</sup> All state agencies that have “investigative, detention, custodial, adjudicative, or program responsibility for adult or juvenile offenses” are required to participate in the hate crime reporting system.<sup>4</sup>



## LAW ENFORCEMENT TRAINING STATUTE

**There is no Hawaii statute that requires specific law enforcement training on hate crime.** Pursuant to Department of Public Safety (DPS) Policy No. ADM.04A.01, the Training and Staff Development (TSD) Office within the Hawaii PSD is required to develop the basic training requirements for deputy sheriffs in consultation with the Law Enforcement Training Advisory Committee (LETAC).<sup>5</sup>

The Sheriff Division is one of two law enforcement divisions, along with the Narcotics Enforcement Division, in the Hawaii Department of Public Safety. The Sheriff Division “carries out law enforcement services statewide.”<sup>6</sup>

| HAWAII   |              |
|--|--------------|
| <b>Hate Crime Statute</b>                       | <b>40/40</b> |
| No statute; civil action or civil rights law   | -            |
| Hate crime statute, with protections for:  | 10           |
| Race/ethnicity/ancestry  | 5            |
| Religion   | 5            |
| Sexual orientation   | 5            |
| Disability   | 5            |
| Gender   | 5            |
| Gender identity  | 5            |
| <b>Data Collection Statute</b>                | <b>15/15</b> |
| Data collection (voluntary reporting)  | -            |
| Mandatory reporting and data collection  | 15           |
| <b>Law Enforcement Training Statute</b>       | <b>0/15</b>  |
| No statute; comprehensive training   | -            |
| Mandatory training   | -            |
| <b>Annual Hate Crime Report</b>               | <b>20/20</b> |
| Annual hate crime report, including:   | 10           |
| Anti-Arab hate crime statistics  | 5            |
| Anti-Islamic (Muslim) hate crime statistics  | 5            |
| <b>FBI Hate Crime Statistics Participant</b>  | <b>0/10</b>  |
| <b>TOTAL</b>   | <b>75</b>    |

<sup>1</sup> Haw. Rev. Stat. § 706-662(6)(b) (JUSTIA 2017), available at <https://law.justia.com/codes/hawaii/2017/title-37/chapter-706/section-706-662>.

<sup>2</sup> *Id.*

<sup>3</sup> Haw. Rev. Stat. §§ 846-51 – 846-54 (JUSTIA 2017), available at <https://law.justia.com/codes/hawaii/2017/title-38/chapter-846>.

<sup>4</sup> Haw. Rev. Stat. § 846-53 (JUSTIA 2017), available at <https://law.justia.com/codes/hawaii/2017/title-38/chapter-846/section-846-53>.

<sup>5</sup> Hawaii Dep’t of Pub. Safety Policy No. ADM.04A.01 (Jun. 23, 2008), available at <http://dps.hawaii.gov/wp-content/uploads/2014/05/ADM.04.01.pdf>.

<sup>6</sup> Hawaii Dep’t of Pub. Safety, Law Enforcement Div., <http://dps.hawaii.gov/about/divisions/law-enforcement-division>.

## DATA COLLECTION & STATISTICS

Pursuant to Haw. Rev. Stat. §846-54, the CPJA publishes an annual report on statewide hate crime statistics.<sup>7</sup> Housed within the Department of the Attorney General, the CPJA has published a hate crime report since 2002. All hate crime statistics in Hawaii are compiled at the point of prosecution. According to the CPJA, “by placing the point of data collection at the prosecution level, Hawaii’s program avoids false positives, utilizes limited police resources...and...provides the ability to conduct statistical inquiries into case processing and outcomes, which yields important data that are generally not included in other jurisdiction’s hate crime reporting.”<sup>8</sup>

On the other hand, Hawaii’s data collection procedures preclude the state from participation in the FBI’s hate crime statistics program. Furthermore, as the majority of hate crime incidents go un-prosecuted, limiting data collection to the point of prosecution likely misrepresents the true nature and extent of hate crime in Hawaii. In this respect, while Hawaii’s annual hate crime report provides rich documentation of each individual case prosecuted within the state, the report likely omits important hate crime-related information.

## ANNUAL STATEWIDE HATE CRIME REPORT



State-level hate crime statistics published by the CPJA include data on anti-Arab and anti-Islamic (Muslim) hate crime. The CPJA tabulates hate crime data according to the number of prosecuted incident per disaggregated bias motivation category. The 2002-2016 editions of *Hate Crime in Hawaii* can be found on the Department of the Attorney General website.<sup>9</sup>

- ### ANTI-ARAB HATE CRIME STATISTICS

From 2002 to 2016 three anti-Arab hate crime incidents were prosecuted in Hawaii. While two cases were prosecuted in 2016, one case involved an incident that occurred in 2015.

- ### ANTI-ISLAMIC (MUSLIM) HATE CRIME STATISTICS

From 2002 to 2016 there was a single anti-Islamic (Muslim) hate crime incident successfully prosecuted in Hawaii. According to the CPJA, the incident, which occurred in 2006, was also motivated because of anti-Arab bias.

## UNIFORM CRIME REPORTING (UCR)

By January 2021, the FBI Uniform Crime Reporting (UCR) Program will depend solely on the National Incident-Based Reporting System (NIBRS) to collect nationwide crime data.<sup>10</sup> This transition entails the sunset of summary-based crime reporting (SRS) and requires cooperation on the part of state UCR programs and individual reporting agencies.

The Hawaii UCR program is one of 15 state programs that still rely exclusively on SRS data.<sup>11</sup> In 2016, the Hawaii Department of the Attorney General received \$480,268 to assist a statewide transition to NIBRS reporting.<sup>12</sup> The grant was made through the National Crime Statistics Exchange (NCS-X) Initiative. The CPJA is currently developing a NIBRS data repository and the Honolulu Police Department is testing NIBRS data.<sup>13</sup>

NIBRS reporting enables criminal justice agencies to acquire a better understanding of crime, including hate crime, occurring within their respective jurisdictions. This in turn has positive implications for effective law enforcement response and policy implementation.

Hawaii does not participate in the national UCR hate crime statistics program.

## HATE CRIME IN HAWAII INCIDENTS (2000-2016)

| Bias motivation                        | '00 | '01 | '02 | '03 | '04 | '05 | '06 | '07 | '08 | '09 | '10 | '11 | '12 | '13 | '14 | '15 | '16 |
|--|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| Anti-Arab                              | -   | -   | 0   | 0   | 0   | 0   | 1   | 0   | 0   | 0   | 0   | 0   | 0   | 0   | 0   | 1   | 1   |
| Anti-Islamic (Muslim)                  | -   | -   | 0   | 0   | 0   | 0   | 1   | 0   | 0   | 0   | 0   | 0   | 0   | 0   | 0   | 0   | 0   |
| Anti-other race/<br>ethnicity/ancestry | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   |

**Hawaii does not participate in the national hate crime statistics program. While the CPJA maintains a hate crime reporting and data collection system, data collection is limited to the point of prosecution. According to the CPJA, a single anti-Arab hate crime incident was reported in Hawaii in 2016.**

<sup>7</sup> Crime Prevention & Justice Assistance Div., Hawaii Dep’t of the Attorney General, *Hate Crimes in Hawaii 2002* (Apr. 2003), available at <http://ag.hawaii.gov/cpja/files/2013/01/Hate-Crimes-2002.pdf>.

<sup>8</sup> Crime Prevention & Justice Assistance Div., Hawaii Dep’t of the Attorney General, *Hate Crimes in Hawaii 2016* (Mar. 2017), available at <https://ag.hawaii.gov/cpja/files/2017/03/Hate-Crimes-in-Hawaii-2016.pdf>.

<sup>9</sup> Hawaii Crime Prevention and Justice Assistance Div., Research and Statistics Branch, <http://ag.hawaii.gov/cpja/rs>.

<sup>10</sup> CJIS Div., Fed. Bureau of Investigation, SRS to NIBRS: The Path to Better UCR Data, <https://www.fbi.gov/services/cjis/cjis-link/srs-to-nibrs-the-path-to-better-ucr-data>.

<sup>11</sup> Bureau of Justice Statistics, U.S. Dep’t of Justice, 2017 NCS-X Estimation Project (Jul. 27, 2017), available at <https://www.bjs.gov/content/pub/pdf/17ncsxp.pdf>.

<sup>12</sup> Press Release, Office of Justice Programs, U.S. Dep’t of Justice, FBI and Bureau of Justice Statistics Award \$24.2 Million to Law Enforcement Agencies to Support National Crime-Reporting Infrastructure (Sept. 27, 2016), available at <https://ojp.gov/newsroom/pressreleases/2016/ojp09272016.pdf>.

<sup>13</sup> Crime Prevention & Justice Assistance Div., Hawaii Dep’t of the Attorney General, *Crime in Hawaii 2016* (Aug. 30, 2017), available at <https://ag.hawaii.gov/cpja/files/2017/08/Crime-in-Hawaii-2016.pdf>.

## FBI HATE CRIME STATISTICS

Pursuant to the Hate Crime Statistics Act (HCSA) of 1990 the FBI UCR Program collects data on "crimes that manifest evidence of prejudice based on race, gender or gender identity, religion, disability, sexual orientation, or ethnicity."<sup>14</sup>

Since 1993, the FBI UCR Program has published the annual report, *Hate Crime Statistics*, which is based on voluntary submissions from participating law enforcement agencies. In 2016, agencies from 49 states and the District of Columbia participated in the national hate crime statistics program.

For the most part, hate crime data is collected at the state level and forwarded to the FBI UCR Program. A total of 48 states maintain a state-level UCR data collection. UCR programs in 38 states publish annual hate crime statistics. Some participating law enforcement agencies submit hate crime data directly to the FBI UCR program.<sup>15</sup>



## FBI HATE CRIME STATISTICS PARTICIPANT

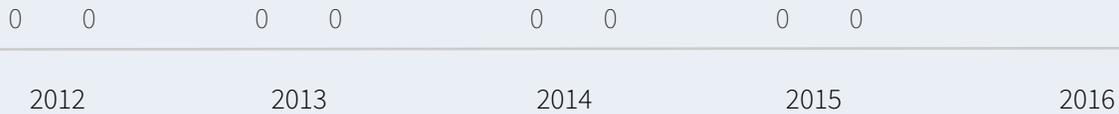
According to the Bureau of Justice Statistics, the Honolulu Police Department is among the 50 largest local law enforcement agencies in the United States.<sup>15</sup>

## FBI HATE CRIME STATISTICS: HAWAII 2012-2016

| Incidents per bias motivation | 2012 | 2013 | 2014 | 2015 | 2016 | Total |
|-------------------------------|------|------|------|------|------|-------|
| Race/ethnicity/ancestry       | -    | -    | -    | -    | -    | -     |
| Religion                      | -    | -    | -    | -    | -    | -     |
| Sexual orientation            | -    | -    | -    | -    | -    | -     |
| Disability                    | -    | -    | -    | -    | -    | -     |
| Gender                        | -    | -    | -    | -    | -    | -     |
| Gender identity               | -    | -    | -    | -    | -    | -     |
| Total                         | -    | -    | -    | -    | -    | -     |

## PARTICIPATION IN UCR HATE CRIME STATISTICS PROGRAM

■ Agencies submitting incident reports      ■ Total number of incidents reported



## SUMMARY

The state of Hawaii has an inclusive hate crime statute that allows for the imposition of an extended term of imprisonment for felonies that manifest evidence of bias or prejudice. Furthermore, all criminal justice agencies in Hawaii are required to participate in the state's hate crime reporting system, and the Department of the Attorney General is required to publish an annual report on hate crime data received from law enforcement agencies. The Department of the Attorney General, Crime Prevention and Justice Assistance Division, maintains the state clearinghouse for all police-reported crime data, including hate crime, and is responsible for publishing annual statistics. The CPJA does not participate in the FBI's hate crime statistics program and limits hate crime data collection to the point of prosecution. Copies of *Hate Crime in Hawaii* can be found on the Department of the Attorney General website and include both anti-Arab and anti-Islamic (Muslim) hate crime statistics. According to our rating methodology, Hawaii receives an overall score of 75 points, denoting an average response to hate crime. While Hawaii has an inclusive hate crime statute and publishes an annual hate crime report, the state must take significant steps to improving its hate crime reporting and data collection system.

<sup>14</sup> 28 U.S.C. § 534 (JUSTIA 2016), available at <https://law.justia.com/codes/us/2016/title-28/part-ii/chapter-33/sec.-534>.

<sup>15</sup> Uniform Crime Reporting Program, Fed. Bureau of Investigation, Data Quality Guidelines, [https://ucr.fbi.gov/data\\_quality\\_guidelines](https://ucr.fbi.gov/data_quality_guidelines).

# ADVOCACY RESOURCES - Hawaii

## IMPROVING THE RESPONSE

Most states have failed to enact sufficient legislation to address, prevent, and counteract hate crime in American communities. To accompany our federal hate crime laws, state legislatures must pass the following:

1. **An inclusive hate crime statute**, which covers a wide range of criminal offenses and provides enhanced penalties for crimes motivated because of citizenship status, race, ethnicity, color, disability, age, ancestry or national origin, gender or gender identity, sexual orientation, religion, or homelessness. Such protections are pursuant to model hate crime legislation drafted by the Arab American Institute. According to the model statute, penalty enhancement may incorporate alternatives to fines or increased prison sentences. Alternatives include restitution for victims and communities, participation in educational programs, and restorative justice.
2. **Statutes that require reporting, data collection, and specific law enforcement training on hate crime.** Centralized state agencies must publish comprehensive, accessible statistics on the nature and extent of hate crime occurring within their state. These statistics must conform to national UCR standards and include the bias motivation categories identified in the FBI's annual report, *Hate Crime Statistics*. States must also require law enforcement training schools to provide comprehensive training to ensure that officers are prepared to investigate, report, and respond to hate crime incidents.

## STATE RECOMMENDATIONS

According to our rating methodology, Hawaii receives an overall score of 75 points, denoting an average response to hate crime. Advocates for an improved response to hate crime in Hawaii should promote the following:

1. The current Hawaii hate crime statute offers protections for race, religion, disability, ethnicity, national origin, gender identity or expression, including gender, and sexual orientation. The Hawaii hate crime statute should be amended to include protections for **citizenship status, color, age, ancestry, homelessness**, or association with a person or group with one of these actual or perceived characteristics.
2. While Hawaii state code requires hate crime reporting and data collection, the Hawaii Department of the Attorney General limits hate crime data collection to the point of prosecution, thereby precluding Hawaii's participation in the national hate crime statistics program and likely misrepresenting the true nature and extent of hate crime within the state.
  - Law enforcement agencies must report hate crime incidents to the Hawaii Crime Prevention and Justice Assistance (CPJA) Division.
  - The CPJA must collect and publish statistics, conforming to national UCR standards, on the nature and extent of hate crime within the state.
  - The CPJA must assume the responsibilities of a state-level UCR program and forward hate crime data to the national hate crime statistics program.
  - Hawaii must utilize the National Incident-Based Reporting System (NIBRS) to facilitate hate crime reporting and data collection. By January 2021, all law enforcement agencies in the United States will be required to report crime information through NIBRS.
3. Hawaii state code does not require specific law enforcement training on hate crime. In consultation with the state's Law Enforcement Training Advisory Committee, the Hawaii Department of Public Safety must develop basic training requirements for deputy sheriffs relating to investigating and reporting hate crime incidents.

## STATE CONTACTS

Advocates for an improved response to hate crime in Hawaii should contact current state legislators and members of Congress.

### Hawaii State Legislature

Senate: <https://www.capitol.hawaii.gov/senate.aspx>

House: <https://www.capitol.hawaii.gov/house.aspx>

### United States Senate

Contact: Hawaii

<https://www.senate.gov/senators/contact>

### United States House of Representatives

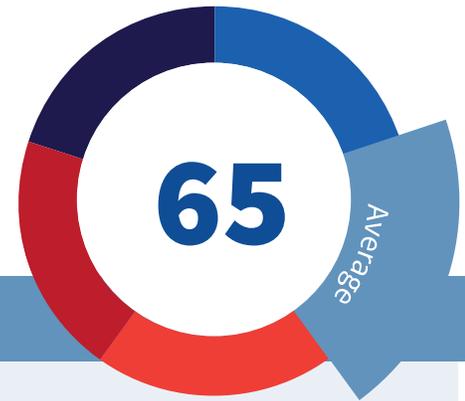
Directory of Representatives: Hawaii

<https://www.house.gov/representatives#state-hawaii>

# IDAHO

Total population: 1,683,140

Rank of Arab American population by state: 44



ID does not publish anti-Arab hate crime statistics.

Idaho is the 39th most populated state and has the 44th largest Arab American population.

The Idaho State Police, Bureau of Criminal Identification (BCI), is the state agency responsible for the collection and publication of hate crime data. The BCI does not publish annual statistics on anti-Arab hate crime.

## HATE CRIME STATUTE

Idaho Code Ann. § 18-7902 prohibits any person from committing a crime “maliciously and with specific intent to intimidate or harass” another person because of their “race, color, religion, ancestry, or national origin.”<sup>1</sup> Such an offense is defined as malicious harassment. Pursuant to Idaho Code Ann. § 18-7903, crimes of malicious harassment are subject to penalty enhancement.<sup>2</sup> In addition to criminal penalties, malicious harassment offenders may be liable to civil action on behalf of the victim.

The current Idaho hate crime statute is not sufficiently inclusive, as it does not offer protections for sexual orientation, disability, gender, or gender identity.

## DATA COLLECTION STATUTE

Idaho Code Ann. § 67-2915 requires all Idaho law enforcement agencies to report data relating to malicious harassment crimes to the director of the ISP. The director must annually submit all malicious harassment crime data in a statistical report to select government agencies.<sup>3</sup>

## LAW ENFORCEMENT TRAINING STATUTE

**There is no Idaho statute that requires specific law enforcement training on hate crime.** Pursuant to Idaho Code Ann. § 19-5109, the Idaho Peace Officer Standards and Training Council has the power “to establish the requirements of minimum basic training” for employment as a peace officer.<sup>4</sup> Though not statutorily required, training material for “recognizing and reporting hate crime has been distributed to all law enforcement departments” in Idaho.<sup>5</sup>

| IDAHO  |              |
|--|--------------|
| <b>Hate Crime Statute</b>                       | <b>20/40</b> |
| No statute; civil action or civil rights law   | -            |
| Hate crime statute, with protections for:  | 10           |
| Race/ethnicity/ancestry  | 5            |
| Religion   | 5            |
| Sexual orientation   | -            |
| Disability   | -            |
| Gender   | -            |
| Gender identity  | -            |
| <b>Data Collection Statute</b>                | <b>15/15</b> |
| Data collection (voluntary reporting)  | -            |
| Mandatory reporting and data collection  | 15           |
| <b>Law Enforcement Training Statute</b>       | <b>5/15</b>  |
| No statute; comprehensive training   | 5            |
| Mandatory training   | -            |
| <b>Annual Hate Crime Report</b>               | <b>15/20</b> |
| Annual hate crime report, including:   | 10           |
| Anti-Arab hate crime statistics  | -            |
| Anti-Islamic (Muslim) hate crime statistics  | 5            |
| <b>FBI Hate Crime Statistics Participant</b>  | <b>10/10</b> |
| <b>TOTAL</b>   | <b>65</b>    |

<sup>1</sup><https://legislature.idaho.gov/statutesrules/idstat/title18/t18ch79/sect18-7902/>

<sup>2</sup><https://legislature.idaho.gov/statutesrules/idstat/Title18/T18CH79/SECT18-7903/>

<sup>3</sup><https://legislature.idaho.gov/statutesrules/idstat/Title67/T67CH29/SECT67-2915/>

<sup>4</sup><https://legislature.idaho.gov/statutesrules/idstat/Title19/T19CH51/SECT19-5109/>

<sup>5</sup>Idaho Bureau of Criminal Investigation, *Crime in Idaho, 2016*, <https://www.isp.idaho.gov/BCI/CrimeInIdaho/CrimeInIdaho2016/Hate%20Crime%20In%20Idaho.pdf>

## DATA COLLECTION & STATISTICS

Pursuant to Idaho Code Ann. § 67-3006, the BCI publishes an annual report on statewide crime statistics, including hate crime. The 1999-2016 editions of *Crime in Idaho* can be found on the ISP website.<sup>6</sup>

## ANNUAL STATEWIDE HATE CRIME REPORT



State-level hate crime statistics published by the BCI include data on anti-Islamic (Muslim) hate crime. The BCI tabulates hate crime data according to the number of incidents per disaggregated bias motivation category. The BCI does not currently provide anti-Arab hate crime statistics.

- **ANTI-ARAB HATE CRIME STATISTICS**  
The BCI does not publish annual statistics on anti-Arab hate crime.
- **ANTI-ISLAMIC (MUSLIM) HATE CRIME STATISTICS**  
Anti-Islamic (Muslim) hate crime statistics are provided in the 1999-2016 editions of *Crime in Idaho*. According to the BCI, 2 anti-Islamic (Muslim) hate crime incidents were reported in Idaho in 2016.

## UNIFORM CRIME REPORTING (UCR)

By January 2021, the FBI Uniform Crime Reporting (UCR) Program will depend solely on the National Incident-Based Reporting System (NIBRS) to collect nationwide crime data.<sup>7</sup> This transition entails the sunset of summary-based crime reporting (SRS) and requires cooperation on the part of state UCR programs and individual reporting agencies.

The Idaho UCR program is one of 16 state programs that rely exclusively on NIBRS data.<sup>8</sup>

NIBRS reporting enables criminal justice agencies to acquire a better understanding of crime, including hate crime, occurring within their respective jurisdictions. This in turn has positive implications for effective law enforcement response and policy implementation.

## CONTACT

Bureau of Criminal Identification  
Idaho State Police  
Suite 120  
700 South Stratford Drive  
Meridian, Idaho 83642-6251  
(208) 884-7156  
[isp.idaho.gov/BCI/](http://isp.idaho.gov/BCI/)

## CRIME IN IDAHO HATE CRIME INCIDENTS (2000-2016)

| Bias motivation                    | '00 | '01 | '02 | '03 | '04 | '05 | '06 | '07 | '08 | '09 | '10 | '11 | '12 | '13 | '14 | '15 | '16 |
|------------------------------------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| Anti-Arab                          | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   |
| Anti-Islamic (Muslim)              | 0   | 3   | 2   | 0   | 0   | 0   | 0   | 0   | 0   | 4   | 1   | 3   | 1   | 0   | 0   | 2   | 2   |
| Anti-other race/ethnicity/ancestry | 0   | 2   | 3   | 3   | 3   | 3   | 2   | 4   | 4   | 0   | 1   | 1   | 2   | 0   | 4   | 4   | 2   |

According to supplemental data from the FBI, a single anti-Arab hate crime incident and 2 anti-Islamic (Muslim) hate crime incidents were reported in Idaho in 2016. The BCI does not publish annual statistics on anti-Arab hate crime, and therefore most likely recorded the anti-Arab hate crime incident under the composite race/ethnicity/ancestry category. Idaho law enforcement agencies submit hate crime data to the FBI UCR Program through the BCI.

## FBI HATE CRIME STATISTICS (2015-2016)

| Bias motivation       | '15 | '16 |
|-----------------------|-----|-----|
| Anti-Arab             | 0   | 1   |
| Anti-Islamic (Muslim) | 2   | 2   |

<sup>6</sup> Idaho State Police, *Crime in Idaho*, <https://www.isp.idaho.gov/BCI/ucr/crimeinidaho2016.html>.

<sup>7</sup> CJIS Div., Fed. Bureau of Investigation, SRS to NIBRS: The Path to Better UCR Data, <https://www.fbi.gov/services/cjis/cjis-link/srs-to-nibrs-the-path-to-better-ucr-data>. Now note 7

<sup>8</sup> Bureau of Justice Statistics, U.S. Dep't of Justice, 2017 NCS-X Estimation Project (Jul. 27, 2017), available at <https://www.bjs.gov/content/pub/pdf/17ncsxp.pdf>. Now note 8.

## FBI HATE CRIME STATISTICS

Pursuant to the Hate Crime Statistics Act (HCSA) of 1990 the FBI UCR Program collects data on "crimes that manifest evidence of prejudice based on race, gender or gender identity, religion, disability, sexual orientation, or ethnicity."<sup>9</sup>

Since 1993, the FBI UCR Program has published the annual report, *Hate Crime Statistics*, which is based on voluntary submissions from participating law enforcement agencies. In 2016, agencies from 49 states and the District of Columbia participated in the national hate crime statistics program.

For the most part, hate crime data is collected at the state level and forwarded to the FBI UCR Program. A total of 48 states maintain a state-level UCR data collection. UCR programs in 38 states publish annual hate crime statistics. Some participating law enforcement agencies submit hate crime data directly to the FBI UCR program.<sup>10</sup>



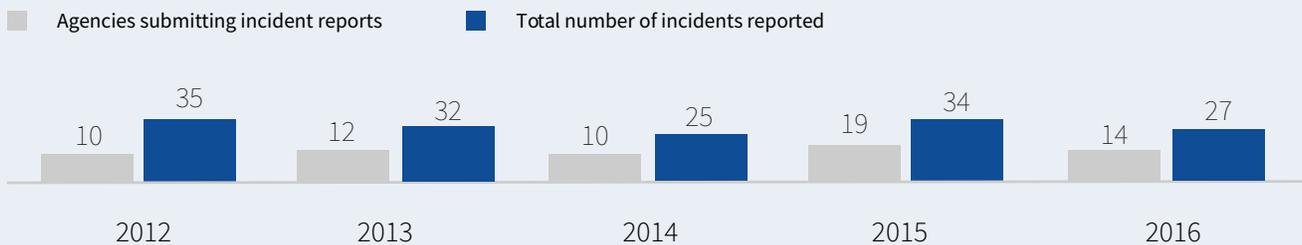
## FBI HATE CRIME STATISTICS PARTICIPANT

Law enforcement agencies in Idaho submit hate crime data to the FBI UCR Program through the BCI. According to the FBI UCR Program's annual report, *Hate Crime Statistics*, 27 hate crime incidents were reported in Idaho in 2016.

In 2016, 14 of the 111 Idaho law enforcement agencies participating in the national hate crime statistics program submitted incident reports to the FBI UCR Program.<sup>11</sup> The Idaho Falls Police Department, which represents the fourth largest city in Idaho, submitted only zero data.

According to annual hate crime statistics published by the BCI, 28 hate crime incidents were reported in Idaho in 2016. This total conflicts with the FBI UCR Program's annual report, *Hate Crime Statistics, 2016*. Discrepancies occur between state and federal hate crime statistics for 2012-2015 as well.

## PARTICIPATION IN UCR HATE CRIME STATISTICS PROGRAM

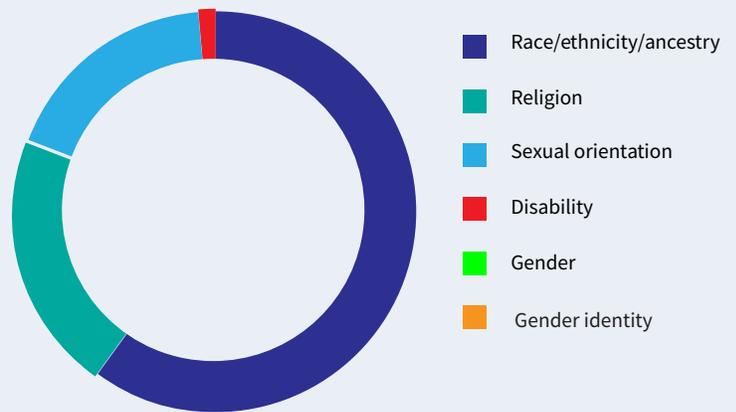


## SUMMARY

The current Idaho hate crime statute is not sufficiently inclusive, as it does not offer protections for sexual orientation, disability, gender, or gender identity. While Idaho has statutes that require reporting and data collection, there is no state law regarding mandatory police training on hate crime. Despite the lack of a statutory provision, Idaho has developed training materials on recognizing and reporting hate crime, and has distributed those materials to all law enforcement departments within the state. The Idaho State Police, Bureau of Criminal Identification, maintains the state clearinghouse for all police-reported crime data, including hate crime, and is responsible for publishing annual statistics. Copies of *Crime in Idaho* can be found on the ISP website and include anti-Islamic (Muslim) hate crime statistics. The BCI does not publish annual statistics on anti-Arab hate crime. In 2016, 14 Idaho law enforcement agencies submitted hate crime incident reports to the FBI UCR Program. The remaining 97 participating agencies provided only zero data. A total of 2 participating agencies recorded blank data in at least one quarterly submission period. Idaho receives an overall score of 65 points, denoting an average response to hate crime.

## FBI HATE CRIME STATISTICS: IDAHO 2012-2016

| Incidents per bias motivation | 2012 | 2013 | 2014 | 2015 | 2016 | Total |
|-------------------------------|------|------|------|------|------|-------|
| Race/ethnicity/ancestry       | 20   | 22   | 20   | 14   | 16   | 92    |
| Religion                      | 5    | 6    | 2    | 12   | 7    | 32    |
| Sexual orientation            | 10   | 4    | 3    | 6    | 4    | 27    |
| Disability                    | 0    | 0    | 0    | 2    | 0    | 2     |
| Gender                        | -    | 0    | 0    | 0    | 0    | 0     |
| Gender identity               | -    | 0    | 0    | 0    | 0    | 0     |
| Total                         | 35   | 32   | 25   | 34   | 27   | 153   |



<sup>9</sup> 28 U.S.C. § 534 (JUSTIA 2016), available at <https://law.justia.com/codes/us/2016/title-28/part-ii/chapter-33/sec.-534>.

<sup>10</sup> Uniform Crime Reporting Program, Fed. Bureau of Investigation, Data Quality Guidelines, [https://ucr.fbi.gov/data\\_quality\\_guidelines](https://ucr.fbi.gov/data_quality_guidelines).

<sup>11</sup> CJIS Div., Fed. Bureau of Investigation, Table 12: Agency Hate Crime Reporting by State, *Hate Crime Statistics, 2016* (Nov. 13, 2017), <https://ucr.fbi.gov/hate-crime/2016/tables/table-12>.

# ADVOCACY RESOURCES - Idaho

## IMPROVING THE RESPONSE

Most states have failed to enact sufficient legislation to address, prevent, and counteract hate crime in American communities. To accompany our federal hate crime laws, state legislatures must pass the following:

1. **An inclusive hate crime statute**, which covers a wide range of criminal offenses and provides enhanced penalties for crimes motivated because of citizenship status, race, ethnicity, color, disability, age, ancestry or national origin, gender or gender identity, sexual orientation, religion, or homelessness. Such protections are pursuant to model hate crime legislation drafted by the Arab American Institute. According to the model statute, penalty enhancement may incorporate alternatives to fines or increased prison sentences. Alternatives include restitution for victims and communities, participation in educational programs, and restorative justice.
2. **Statutes that require reporting, data collection, and specific law enforcement training on hate crime.** Centralized state agencies must publish comprehensive, accessible statistics on the nature and extent of hate crime occurring within their state. These statistics must conform to national UCR standards and include the bias motivation categories identified in the FBI's annual report, *Hate Crime Statistics*. States must also require law enforcement training schools to provide comprehensive training to ensure that officers are prepared to investigate, report, and respond to hate crime incidents.

## STATE RECOMMENDATIONS

According to our rating methodology, Idaho receives an overall score of 65, denoting an average response to hate crime. Advocates for an improved response to hate crime in Idaho should promote the following:

1. The current Idaho hate crime statute offers protections for race, color, religion, ancestry, and national origin. **The Idaho hate crime statute should be amended** to include protections for citizenship status, ethnicity, disability, age, gender or gender identity, sexual orientation, homelessness, or association with a person or group with one of these actual or perceived characteristics.
2. While Idaho state code requires hate crime reporting and data collection, Idaho's annual hate crime report does not provide statistics conforming to national standards. The Idaho Bureau of Criminal Identification must publish statistics in accordance with the bias motivation categories identified in *Hate Crime Statistics*. Currently, the BCI does not provide hate crime statistics relating to gender, gender identity, or the eight additional bias motivation categories introduced to national data collections in 2015.
3. Idaho state code does not require specific law enforcement training on hate crime. The Idaho Peace Officer Standards and Training Council must establish requirements for peace officer basic training relating to investigating and reporting hate crime incidents.

## STATE CONTACTS

Advocates for an improved response to hate crime in Idaho should contact current state legislators and members of Congress.

### Idaho Legislature

Senate: (208) 332-1000 | House: (208) 332-1000

<https://legislature.idaho.gov/legislators>

### United States Senate

Contact: Idaho

<https://www.senate.gov/senators/contact>

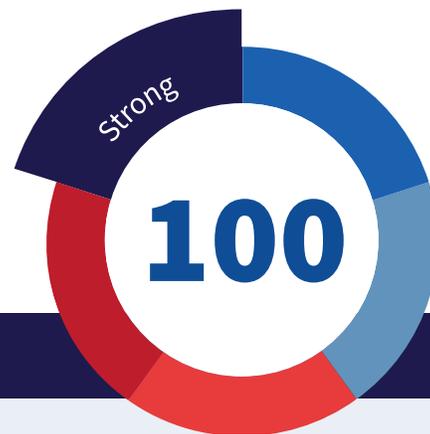
### United States House of Representatives

Directory of Representatives: Idaho

<https://www.house.gov/representatives#state-idaho>

# ILLINOIS

Total population: 12,801,539  
Rank of Arab American population by state: 6



3 anti-Arab hate crime incidents were reported in IL in 2016.

**Illinois** is the 5th most populated state and has the 6th largest Arab American population.

The Illinois State Police is the state agency responsible for the collection and publication of hate crime data. According to the ISP, there were three anti-Arab hate crime incidents reported throughout Illinois in 2016.

## HATE CRIME STATUTE

720 Ill. Comp. Stat. § 5/12-7.1 provides enhanced penalties for crimes motivated by an individual's or group of individual's "actual or perceived race, color, creed, religion, ancestry, gender, sexual orientation, physical or mental disability, or national origin."<sup>1</sup>

In this context, sexual orientation is defined so as to include a person's actual or perceived "gender-related identity, whether or not traditionally associated with the person's designated sex at birth."<sup>2</sup>

Pursuant to 730 Ill. Comp. Stat. § 5/5-5-3.2, whether a defendant committed an offense against a person with a physical disability or their property, against a person over 60 years old or their property, or "by reason of another individual's actual or perceived race, color, creed, religion, ancestry, gender, sexual orientation, physical or mental disability, or national origin," may be considered an aggravating factor in sentencing.<sup>3</sup>

## DATA COLLECTION STATUTE

50 Ill. Comp. Stat. § 709/5-12 requires law enforcement agencies to submit a monthly report of "incident-based information on hate crimes including information describing the offense, location of the offense, type of victim, offender, and bias motivation" to the Department of State Police.<sup>4</sup> Pursuant to this section, the ISP is required to publish annual compilations of crime statistics, including hate crime.<sup>5</sup>

## LAW ENFORCEMENT TRAINING STATUTE

20 Ill. Comp. Stat. § 2605-390 requires the Department of State Police to "provide training for State Police officers in identifying, responding to, and reporting all hate crimes."<sup>6</sup> The Illinois Law Enforcement Training Standards Board is responsible for the development and certification of hate crime training.<sup>7</sup>

| ILLINOIS   |              |
|--|--------------|
| <b>Hate Crime Statute</b>                       | <b>40/40</b> |
| No statute; civil action or civil rights law   | -            |
| Hate crime statute, with protections for:  | 10           |
| Race/ethnicity/ancestry  | 5            |
| Religion   | 5            |
| Sexual orientation   | 5            |
| Disability   | 5            |
| Gender   | 5            |
| Gender identity  | 5            |
| <b>Data Collection Statute</b>                | <b>15/15</b> |
| Data collection (voluntary reporting)  | -            |
| Mandatory reporting and data collection  | 15           |
| <b>Law Enforcement Training Statute</b>       | <b>15/15</b> |
| No statute; comprehensive training   | -            |
| Mandatory training   | 15           |
| <b>Annual Hate Crime Report</b>               | <b>20/20</b> |
| Annual hate crime report, including:   | 10           |
| Anti-Arab hate crime statistics  | 5            |
| Anti-Islamic (Muslim) hate crime statistics  | 5            |
| <b>FBI Hate Crime Statistics Participant</b>  | <b>10/10</b> |
| <b>TOTAL</b>   | <b>100</b>   |

<sup>1</sup> 720 Ill. Comp. Stat. § 5/12-7.1 (JUSTIA 2017), available at <https://law.justia.com/codes/illinois/2017/chapter-720/act-720-ilcs-5/title-iii>.

<sup>2</sup> 775 Ill. Comp. Stat. § 5/103(O-1) (JUSTIA 2017), available at <https://law.justia.com/codes/illinois/2017/chapter-775/act-775-ilcs-5/article-1>.

<sup>3</sup> 730 Ill. Comp. Stat. § 5/5-5-3.2 (JUSTIA 2017), available at <https://law.justia.com/codes/illinois/2017/chapter-730/act-730-ilcs-5/chapter-v>.

<sup>4</sup> 50 Ill. Comp. Stat. § 709/5-12 (JUSTIA 2017), available at <https://law.justia.com/codes/illinois/2017/chapter-50/act-50-ilcs-709/article-5>.

<sup>5</sup> *Id.*

<sup>6</sup> 20 Ill. Comp. Stat. § 2605-390 (JUSTIA 2017), available at <https://law.justia.com/codes/illinois/2017/chapter-20/act-20-ilcs-2605/article-2605>.

<sup>7</sup> *Id.*

## DATA COLLECTION & STATISTICS

In accordance with 20 Ill. Comp. Stat. § 2630/8, the ISP publishes an annual report on statewide hate crime statistics, including hate crime. Hate crime statistics were first provided in the 1996 edition of *Crime in Illinois*.<sup>8</sup> The 1997-2015 editions of *Crime in Illinois* can be found on the ISP website.<sup>9</sup> The ISP provided anti-Arab and anti-Islamic (Muslim) hate crime data for 2016.

## ANNUAL STATEWIDE HATE CRIME REPORT



State-level hate crime statistics published by the ISP include data on anti-Arab and anti-Islamic (Muslim) hate crime. The ISP tabulates hate crime data according to the number of offenses per disaggregated bias motivation category.

- ANTI-ARAB HATE CRIME STATISTICS**  
 Anti-Arab hate crime statistics are provided in the 1996-2011 and 2015-2016 editions of *Crime in Illinois*. From 2000 to 2001 there was a significant increase of reported anti-Arab hate crime offenses. According to the ISP, 3 anti-Arab hate crime offenses were reported in Illinois in 2016.
- ANTI-ISLAMIC (MUSLIM) HATE CRIME STATISTICS**  
 Anti-Islamic (Muslim) hate crime statistics are provided in the 1996-2016 editions of *Crime in Illinois*. From 2000 to 2001 there was a significant increase of reported anti-Islamic (Muslim) hate crime offenses. According to the ISP, 5 anti-Islamic (Muslim) hate crime offenses were reported in Illinois in 2016.

## UNIFORM CRIME REPORTING (UCR)

By January 2021, the FBI Uniform Crime Reporting (UCR) Program will depend solely on the National Incident-Based Reporting System (NIBRS) to collect nationwide crime data.<sup>10</sup> This transition entails the sunset of summary-based crime reporting (SRS) and requires cooperation on the part of state UCR programs and individual reporting agencies.

The Illinois UCR program is one of 15 state programs that still rely exclusively on SRS data.<sup>11</sup> In 2016, the ISP received a grant of \$801,741 to “develop NIBRS-compliant software to enable it to serve as the NIBRS repository.”<sup>12</sup> A portion of the funds were allocated to individual police departments within the state. The grant was made through the National Crime Statistics Exchange (NCS-X) Initiative.

NIBRS reporting enables criminal justice agencies to acquire a better understanding of crime, including hate crime, occurring within their respective jurisdictions. This in turn has positive implications for effective law enforcement response and policy implementation.

## CONTACT

Illinois State Police  
 801 South Seventh Street, 300 South  
 Springfield, Illinois 62703-2487  
 (217) 557-6482  
[www.isp.state.il.us](http://www.isp.state.il.us)

## CRIME IN ILLINOIS HATE CRIME OFFENSES (2000-2016)

| Bias motivation                        | '00 | '01 | '02 | '03 | '04 | '05 | '06 | '07 | '08 | '09 | '10 | '11 | '12 | '13 | '14 | '15 | '16 |
|--|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| Anti-Arab                              | 9   | 49  | 7   | 21  | 9   | 2   | 6   | 1   | 0   | 1   | 0   | 0   | -   | -   | -   | 4   | 3   |
| Anti-Islamic (Muslim)                  | 0   | 10  | 3   | 5   | 7   | 1   | 4   | 1   | 1   | 2   | 8   | 4   | 2   | 0   | 4   | 2   | 5   |
| Anti-other race/<br>ethnicity/ancestry | 10  | 17  | 2   | 5   | 7   | 1   | 3   | 9   | 4   | 3   | 7   | 6   | 10  | 4   | 9   | 0   | -   |

According to supplemental data from the FBI, 3 anti-Arab and 5 anti-Islamic (Muslim) hate crime incidents, each involving a single offense, were reported in Illinois in 2016. This total is consistent with ISP statistics, which are offense-based. Illinois law enforcement agencies submit hate crime data to the FBI UCR Program through the ISP.

## FBI HATE CRIME STATISTICS (2015-2016)

| Bias motivation       | '15 | '16 |
|-----------------------|-----|-----|
| Anti-Arab             | 4   | 3   |
| Anti-Islamic (Muslim) | 2   | 5   |

<sup>8</sup> Illinois State Police, *Crime in Illinois 1996* (Apr. 11, 1997), available at [https://archive.org/stream/crimeinillinois1996illi/crimeinillinois1996illi\\_djvu.txt](https://archive.org/stream/crimeinillinois1996illi/crimeinillinois1996illi_djvu.txt).

<sup>9</sup> Illinois State Police, *Uniform Crime Reports* (last updated May 1, 2018), <http://www.isp.state.il.us/crime/ucrhome.cfm>.

<sup>10</sup> CJIS Div., Fed. Bureau of Investigation, *SRS to NIBRS: The Path to Better UCR Data*, <https://www.fbi.gov/services/cjis/cjis-link/srs-to-nibrs-the-path-to-better-ucr-data>.

<sup>11</sup> Bureau of Justice Statistics, U.S. Dep't of Justice, *2017 NCS-X Estimation Project* (Jul. 27, 2017), available at <https://www.bjs.gov/content/pub/pdf/17ncsxp.pdf>.

<sup>12</sup> Bureau of Justice Statistics, U.S. Dep't of Justice, *Justice Statistics Improvement Program*, <https://www.bjs.gov/content/nibrs2.cfm>.

## FBI HATE CRIME STATISTICS

Pursuant to the Hate Crime Statistics Act (HCSA) of 1990 the FBI UCR Program collects data on "crimes that manifest evidence of prejudice based on race, gender or gender identity, religion, disability, sexual orientation, or ethnicity."<sup>13</sup>

Since 1993, the FBI UCR Program has published the annual report, *Hate Crime Statistics*, which is based on voluntary submissions from participating law enforcement agencies. In 2016, agencies from 49 states and the District of Columbia participated in the national hate crime statistics program.

For the most part, hate crime data is collected at the state level and forwarded to the FBI UCR Program. A total of 48 states maintain a state-level UCR data collection. UCR programs in 38 states publish annual hate crime statistics. Some participating law enforcement agencies submit hate crime data directly to the FBI UCR program.<sup>14</sup>



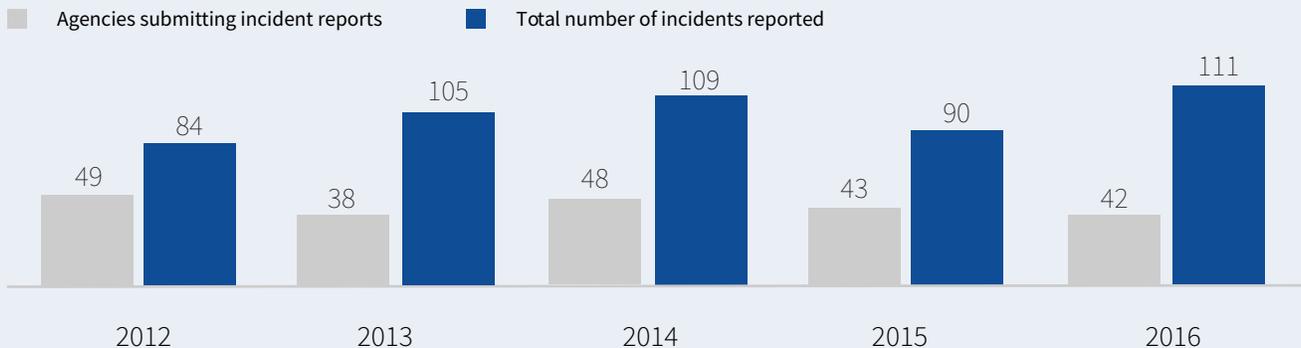
## FBI HATE CRIME STATISTICS PARTICIPANT

Law enforcement agencies in Illinois submit hate crime data to the FBI UCR Program through the ISP. According to the FBI UCR Program's annual report, *Hate Crime Statistics*, 111 hate crime incidents were reported in Illinois in 2016.

In 2016, 42 of the 738 Illinois law enforcement agencies participating in the national hate crime statistics program submitted incident reports to the FBI UCR Program. A total of 2 agencies representing populations greater than 100,000 submitted only zero data.

The ISP has not released 2016 hate crime statistics. However, discrepancies occur between state and federal hate crime statistics for 2012-2015. According to annual hate crime statistics published by the ISP, 160 hate crime offenses were reported in Illinois in 2012. This total conflicts with the FBI UCR Program's annual report, *Hate Crime Statistics, 2012*, which recorded 101 offenses in total.

## PARTICIPATION IN UCR HATE CRIME STATISTICS PROGRAM

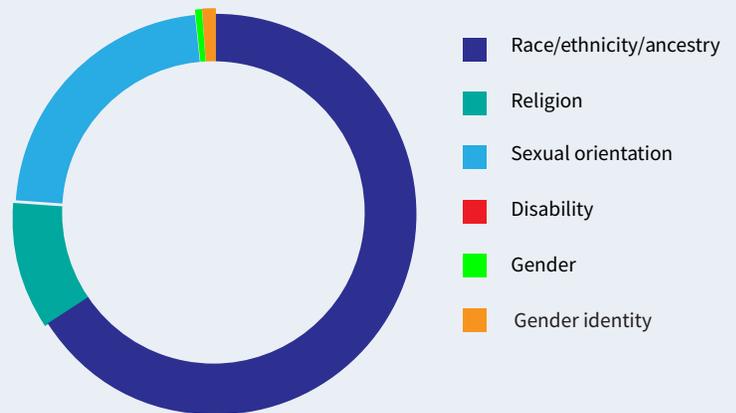


## SUMMARY

Illinois has an inclusive hate crime statute. Furthermore, Illinois has statutes that require reporting, data collection, and specific law enforcement training on hate crime. The Illinois State Police maintains the state clearinghouse for all police-reported crime data, including hate crime, and is responsible for publishing annual statistics. Copies of *Crime in Illinois* can be found on the ISP website and include both anti-Arab and anti-Islamic (Muslim) hate crime statistics. In 2016, 42 Illinois law enforcement agencies submitted hate crime incident reports to the FBI UCR Program. The remaining 696 participating agencies provided only zero data. A total of 28 participating agencies recorded blank data in at least one quarterly submission period. Illinois receives an overall score of 100 points, denoting a strong response to hate crime.

## FBI HATE CRIME STATISTICS: ILLINOIS 2012-2016

| Incidents per bias motivation | 2012 | 2013 | 2014 | 2015 | 2016 | Total |
|-------------------------------|------|------|------|------|------|-------|
| Race/ethnicity/ancestry       | 59   | 69   | 69   | 59   | 73   | 329   |
| Religion                      | 6    | 7    | 14   | 12   | 13   | 52    |
| Sexual orientation            | 19   | 29   | 26   | 16   | 21   | 111   |
| Disability                    | 0    | 0    | 0    | 0    | 0    | 0     |
| Gender                        | -    | 0    | 0    | 1    | 1    | 2     |
| Gender identity               | -    | 0    | 0    | 2    | 3    | 5     |
| Total                         | 84   | 105  | 109  | 90   | 111  | 499   |



<sup>13</sup> 28 U.S.C. § 534 (JUSTIA 2016), available at <https://law.justia.com/codes/us/2016/title-28/part-ii/chapter-33/sec.-534>.

<sup>14</sup> Uniform Crime Reporting Program, Fed. Bureau of Investigation, Data Quality Guidelines, [https://ucr.fbi.gov/data\\_quality\\_guidelines](https://ucr.fbi.gov/data_quality_guidelines).

# ADVOCACY RESOURCES - Illinois

## IMPROVING THE RESPONSE

Most states have failed to enact sufficient legislation to address, prevent, and counteract hate crime in American communities. To accompany our federal hate crime laws, state legislatures must pass the following:

1. **An inclusive hate crime statute**, which covers a wide range of criminal offenses and provides enhanced penalties for crimes motivated because of citizenship status, race, ethnicity, color, disability, age, ancestry or national origin, gender or gender identity, sexual orientation, religion, or homelessness. Such protections are pursuant to model hate crime legislation drafted by the Arab American Institute. According to the model statute, penalty enhancement may incorporate alternatives to fines or increased prison sentences. Alternatives include restitution for victims and communities, participation in educational programs, and restorative justice.
2. **Statutes that require reporting, data collection, and specific law enforcement training on hate crime.** Centralized state agencies must publish comprehensive, accessible statistics on the nature and extent of hate crime occurring within their state. These statistics must conform to national UCR standards and include the bias motivation categories identified in the FBI's annual report, *Hate Crime Statistics*. States must also require law enforcement training schools to provide comprehensive training to ensure that officers are prepared to investigate, report, and respond to hate crime incidents.

## STATE RECOMMENDATIONS

According to our rating methodology, Illinois receives an overall score of 100, denoting a strong response to hate crime. Some room for improvement remains. Advocates for an improved response to hate crime in Illinois should promote the following:

1. The current Illinois hate crime statute offers protections for race, color, creed, religion, ancestry, gender or gender identity, sexual orientation, physical or mental disability, and national origin. **The Illinois hate crime statute should be amended** to include protections for citizenship status, ethnicity, homelessness, or association with a person or group with one of these actual or perceived characteristics.
2. Illinois must transition to the National Incident-Based Reporting System to facilitate hate crime reporting and data collection. By January 2021, all law enforcement agencies in the United States will be required to report crime information through the NIBRS.

## STATE CONTACTS

Advocates for an improved response to hate crime in Illinois should contact current state legislators and members of Congress.

### Illinois General Assembly

Senate: <http://www.ilga.gov/senate>

House: <http://www.ilga.gov/house>

### United States Senate

Contact: Illinois

<https://www.senate.gov/senators/contact>

### United States House of Representatives

Directory of Representatives: Illinois

<https://www.house.gov/representatives#state-illinois>

# INDIANA

Total population: 6,633,053

Rank of Arab American population by state: 24



IN does not publish anti-Arab hate crime statistics.

**Indiana** is the 17th most populated state and has the 24th largest Arab American population.

The Indiana State Police is the state agency responsible for the collection and publication of hate crime data. The ISP does not publish annual statistics on anti-Arab hate crime.

**HATE CRIME STATUTE**   
 Indiana is one of five states, along with Arkansas, Georgia, South Carolina, and Wyoming, that do not have a hate crime statute.

**DATA COLLECTION STATUTE**   
 While Indiana is one of five states in the nation that lack a hate crime statute, Indiana does have a law regarding hate crime reporting and data collection.

Ind. Code § 10-13-3-38 requires law enforcement agencies to submit information concerning bias crimes to the ISP, which is then compiled and published in an annual bias crime report.<sup>1</sup> Ind. Code § 10-13-3-1 defines bias crime as an offense in which the defendant knowingly or intentionally injures another person, or damages or otherwise affects their property, because of their “color, creed, disability, national origin, race, religion, or sexual orientation” or because of their “association with any other recognizable group or affiliation.”<sup>2</sup>

**LAW ENFORCEMENT TRAINING STATUTE**   
**There is no Indiana statute that requires specific law enforcement training on hate crime.** Ind. Code § 5-2-1-9 requires the Indiana Law Enforcement Training Board to establish minimum standards for courses of study on cultural diversity awareness, which are mandatory at law enforcement training schools and must include instruction on “cultural issues related to race, religion, gender, age, domestic violence, national origin, and physical and mental disabilities.”<sup>3</sup>

| INDIANA  |              |
|--|--------------|
| <b>Hate Crime Statute</b>                       | <b>0/40</b>  |
| No statute; civil action or civil rights law   | -            |
| Hate crime statute, with protections for:  | -            |
| Race/ethnicity/ancestry  | -            |
| Religion   | -            |
| Sexual orientation   | -            |
| Disability   | -            |
| Gender   | -            |
| Gender identity  | -            |
| <b>Data Collection Statute</b>                | <b>15/15</b> |
| Data collection (voluntary reporting)  | -            |
| Mandatory reporting and data collection  | 15           |
| <b>Law Enforcement Training Statute</b>       | <b>0/15</b>  |
| No statute; comprehensive training   | -            |
| Mandatory training   | -            |
| <b>Annual Hate Crime Report</b>               | <b>15/20</b> |
| Annual hate crime report, including:   | 10           |
| Anti-Arab hate crime statistics  | -            |
| Anti-Islamic (Muslim) hate crime statistics  | 5            |
| <b>FBI Hate Crime Statistics Participant</b>  | <b>10/10</b> |
| <b>TOTAL</b>   | <b>40</b>    |

<sup>1</sup> Ind. Code § 10-13-3-38 (JUSTIA 2017), available at <https://law.justia.com/codes/indiana/2017/title-10/article-13/chapter-3/section-10-13-3-38>.

<sup>2</sup> Ind. Code § 10-13-3-1 (JUSTIA 2017), available at <https://law.justia.com/codes/indiana/2017/title-10/article-13/chapter-3/section-10-13-3-1>.

<sup>3</sup> Ind. Code § 5-2-1-9 (JUSTIA 2017), available at <https://law.justia.com/codes/indiana/2017/title-5/article-2/chapter-1/section-5-2-1-9>.

## DATA COLLECTION & STATISTICS

Pursuant to Ind. Code § 10-13-3-38, the ISP compiles and publishes annual hate crime statistics. The 2001-2016 editions of *Indiana Bias Crime Report* can be found on the ISP website.<sup>4</sup>

## ANNUAL STATEWIDE HATE CRIME REPORT



State-level hate crime statistics published by the ISP include data on anti-Islamic (Muslim) hate crime. The ISP tabulates hate crime data according to the number of incidents per disaggregated bias motivation category. The ISP does not currently provide anti-Arab hate crime statistics.

- ANTI-ARAB HATE CRIME STATISTICS**  
 The ISP does not publish annual statistics on anti-Arab hate crime. Indiana law enforcement agencies are equipped, however, to submit anti-Arab hate crime data to the ISP. Indiana's recent NIBRS transition will augment ISP data collections and facilitate improved hate crime statistics.
- ANTI-ISLAMIC (MUSLIM) HATE CRIME STATISTICS**  
 Anti-Islamic (Muslim) hate crime statistics are provided in the 2001-2016 editions of *Indiana Bias Crimes Report*. According to the ISP, 18 anti-Islamic (Muslim) hate crime incidents were reported in Indiana in 2001. From 2002 to 2016 there were 20 incidents reported.

## UNIFORM CRIME REPORTING (UCR)

By January 2021, the FBI Uniform Crime Reporting (UCR) Program will depend solely on the National Incident-Based Reporting System (NIBRS) to collect nationwide crime data.<sup>5</sup> This transition entails the sunset of summary-based crime reporting (SRS) and requires cooperation on the part of state UCR programs and individual reporting agencies

According to the Bureau of Justice Statistics, Indiana does not have a state UCR program.<sup>7</sup> Additionally, no UCR contact information is provided for Indiana in the FBI UCR Program's annual report, *Hate Crime Statistics, 2016*.<sup>8</sup> According to the ISP, however, the state achieved NIBRS certification on May 17, 2017. According to the ISP, the state achieved NIBRS certification on May 17, 2017. The FBI UCR Program's 2016 hate crime data submission deadline was April 3, 2017.<sup>9</sup>

NIBRS reporting enables criminal justice agencies to acquire a better understanding of crime, including hate crime, occurring within their respective jurisdictions. This in turn has positive implications for effective law enforcement response and policy implementation.

### CONTACT

NIBRS@isp.in.gov  
<http://www.in.gov/isp/NIBRS.htm>

## INDIANA BIAS CRIME REPORT INCIDENTS (2000-2016)

| Bias motivation                    | '00 | '01 | '02 | '03 | '04 | '05 | '06 | '07 | '08 | '09 | '10 | '11 | '12 | '13 | '14 | '15 | '16 |
|------------------------------------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| Anti-Arab                          | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   |
| Anti-Islamic (Muslim)              | -   | 18  | 1   | 2   | 1   | 0   | 0   | 0   | 1   | 1   | 1   | 1   | 1   | 0   | 8   | 2   | 2   |
| Anti-other race/ethnicity/ancestry | -   | 10  | 3   | 1   | 0   | 2   | 0   | 0   | 0   | 2   | 0   | 4   | 0   | 3   | 1   | 3   | 2   |

According to supplemental data from the FBI, Indiana law enforcement agencies reported five hate crime incidents involving anti-Arab or anti-Islamic (Muslim) bias to the ISP in 2016. As the ISP does not publish statistics on the category, the anti-Arab hate crime incidents listed in the federal data are likely reported as anti-other race/ethnicity/ancestry hate crimes in the 2016 edition of *Indiana Bias Crime Report*. Only two such incidents are provided in that report, suggesting further discrepancies between state and federal data.

## FBI HATE CRIME STATISTICS (2015-2016)

| Bias motivation       | '15 | '16 |
|-----------------------|-----|-----|
| Anti-Arab             | 0   | 3   |
| Anti-Islamic (Muslim) | 4   | 2   |

<sup>4</sup> Indiana State Police, Bias Crime Reporting, <https://www.in.gov/isp/2654.htm>.

<sup>5</sup> Indiana State Police, Statewide NIBRS Technical Document (Sept. 2016), available at [https://www.in.gov/isp/files/Statewide\\_NIBRS\\_RMS\\_Technical\\_Document.pdf](https://www.in.gov/isp/files/Statewide_NIBRS_RMS_Technical_Document.pdf).

<sup>6</sup> CJIS Div., Fed. Bureau of Investigation, SRS to NIBRS: The Path to Better UCR Data, <https://www.fbi.gov/services/cjis/cjis-link/srs-to-nibrs-the-path-to-better-ucr-data>.

<sup>7</sup> Bureau of Justice Statistics, U.S. Dept of Justice, 2017 NCS-X Estimation Project (Jul. 27, 2017), available at <https://www.bjs.gov/content/pub/pdf/17ncsxp.pdf>.

<sup>8</sup> Fed. Bureau of Investigation, State UCR Program Contacts, <https://ucr.fbi.gov/state-ucr-program-contacts-1>.

<sup>9</sup> CJIS Div., Fed. Bureau of Investigation, UCR Program Quarterly (Feb. 2017), available at <https://ucr.fbi.gov/ucr-program-quarterly/ucr-quarterly-february-2017.pdf>.

## FBI HATE CRIME STATISTICS

Pursuant to the Hate Crime Statistics Act (HCSA) of 1990 the FBI UCR Program collects data on "crimes that manifest evidence of prejudice based on race, gender or gender identity, religion, disability, sexual orientation, or ethnicity."<sup>10</sup>

Since 1993, the FBI UCR Program has published the annual report, *Hate Crime Statistics*, which is based on voluntary submissions from participating law enforcement agencies. In 2016, agencies from 49 states and the District of Columbia participated in the national hate crime statistics program.

For the most part, hate crime data is collected at the state level and forwarded to the FBI UCR Program. A total of 48 states maintain a state-level UCR data collection. UCR programs in 38 states publish annual hate crime statistics. Some participating law enforcement agencies submit hate crime data directly to the FBI UCR program.<sup>11</sup>



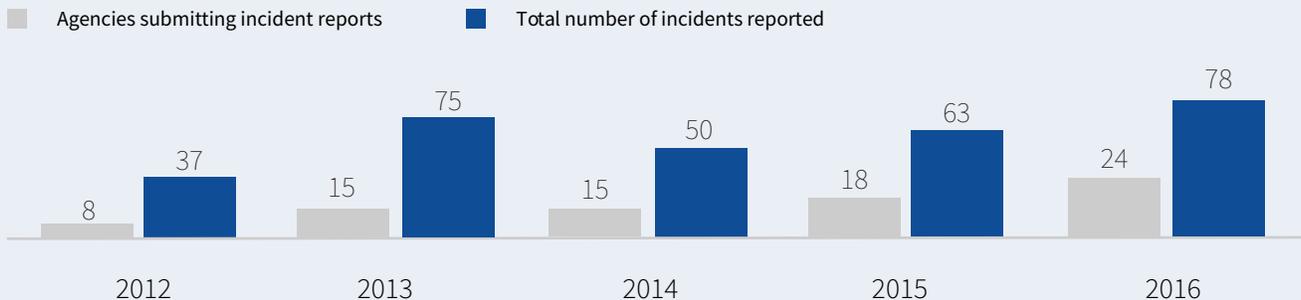
## FBI HATE CRIME STATISTICS PARTICIPANT

Law enforcement agencies in Indiana submit hate crime data to the FBI UCR Program through the ISP. According to the FBI UCR Program's annual report, *Hate Crime Statistics*, 78 hate crime incidents were reported in Indiana in 2016.

In 2016, 24 of the 164 Indiana law enforcement agencies participating in the national hate crime statistics program submitted incident reports to the FBI UCR Program. Agencies representing two of the five largest cities in Indiana submitted only zero data.

According to annual hate crime statistics published by the ISP, 69 hate crime incidents were reported in Indiana in 2016. This total conflicts with the FBI UCR Program's annual report, *Hate Crime Statistics, 2016*. Discrepancies occur between state and federal hate crime statistics for 2012-2015 as well.

## PARTICIPATION IN UCR HATE CRIME STATISTICS PROGRAM

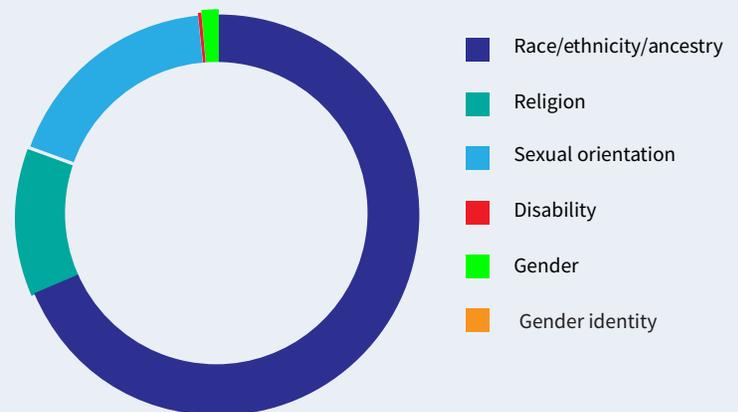


## SUMMARY

Indiana is one of five states, along with Arkansas, Georgia, South Carolina, and Wyoming, that do not have a hate crime statute. Even though Indiana lacks a hate crime statute, the state does have a statute that requires reporting and data collection — but not specific law enforcement training — on hate crime. The Indiana State Police maintains the state clearinghouse for all police-reported crime data, including hate crime, and is responsible for publishing annual statistics. Copies of *Indiana Bias Crime Report* can be found on the ISP website and include anti-Islamic (Muslim) hate crime statistics. The ISP does not publish annual statistics on anti-Arab hate crime. In 2016, 24 Indiana law enforcement agencies submitted hate crime incident reports to the FBI UCR Program. The remaining 140 participating agencies provided only zero data. A total of 42 participating agencies recorded blank data in at least one quarterly submission period. Indiana receives an overall score of 40 points, denoting a limited response to hate crime.

## FBI HATE CRIME STATISTICS: INDIANA 2012-2016

| Incidents per bias motivation | 2012      | 2013      | 2014      | 2015      | 2016      | Total      |
|-------------------------------|-----------|-----------|-----------|-----------|-----------|------------|
| Race/ethnicity/ancestry       | 25        | 58        | 33        | 43        | 52        | 211        |
| Religion                      | 5         | 3         | 9         | 9         | 11        | 37         |
| Sexual orientation            | 7         | 13        | 6         | 14        | 14        | 54         |
| Disability                    | 0         | 1         | 0         | 0         | 0         | 1          |
| Gender                        | -         | 0         | 2         | 1         | 1         | 4          |
| Gender identity               | -         | 0         | 0         | 0         | 0         | 0          |
| <b>Total</b>                  | <b>37</b> | <b>75</b> | <b>50</b> | <b>67</b> | <b>78</b> | <b>307</b> |



<sup>10</sup> 28 U.S.C. § 534 (JUSTIA 2016), available at <https://law.justia.com/codes/us/2016/title-28/part-ii/chapter-33/sec.-534>.

<sup>11</sup> Uniform Crime Reporting Program, Fed. Bureau of Investigation, Data Quality Guidelines, [https://ucr.fbi.gov/data\\_quality\\_guidelines](https://ucr.fbi.gov/data_quality_guidelines).

# ADVOCACY RESOURCES - Indiana

## IMPROVING THE RESPONSE

Most states have failed to enact sufficient legislation to address, prevent, and counteract hate crime in American communities. To accompany our federal hate crime laws, state legislatures must pass the following:

1. **An inclusive hate crime statute**, which covers a wide range of criminal offenses and provides enhanced penalties for crimes motivated because of citizenship status, race, ethnicity, color, disability, age, ancestry or national origin, gender or gender identity, sexual orientation, religion, or homelessness. Such protections are pursuant to model hate crime legislation drafted by the Arab American Institute. According to the model statute, penalty enhancement may incorporate alternatives to fines or increased prison sentences. Alternatives include restitution for victims and communities, participation in educational programs, and restorative justice.
2. **Statutes that require reporting, data collection, and specific law enforcement training on hate crime.** Centralized state agencies must publish comprehensive, accessible statistics on the nature and extent of hate crime occurring within their state. These statistics must conform to national UCR standards and include the bias motivation categories identified in the FBI's annual report, *Hate Crime Statistics*. States must also require law enforcement training schools to provide comprehensive training to ensure that officers are prepared to investigate, report, and respond to hate crime incidents.

## STATE RECOMMENDATIONS

According to our rating methodology, Idaho receives an overall score of 65, denoting an average response to hate crime. Advocates for an improved response to hate crime in Idaho should promote the following:

1. **Indiana is one of five states without a hate crime statute.** The Indiana General Assembly must enact legislation for a new criminal statute prohibiting crimes motivated because of citizenship status, race, ethnicity, color, disability, age, ancestry or national origin, gender or gender identity, sexual orientation, religion, homelessness, or association with a person or group with one of these actual or perceived characteristics. Such protections are pursuant to model hate crime legislation drafted by the Arab American Institute.
2. While Indiana does not have a hate crime statute, Indiana state code requires hate crime reporting and data collection. Discrepancies between state and federal data suggest that the Indiana State Police does not publish statistics on anti-Arab hate crime. Furthermore, the Indiana Bias Crime Report does not provide information on hate crime incidents motivated because of gender or gender identity. The Indiana State Police must publish hate crime statistics conforming to national standards.
3. Indiana state code does not require specific law enforcement training on hate crime. The Indiana Law Enforcement Training Board must establish minimum standards for courses of study relating to investigating and reporting hate crime incidents. As required by law, police training schools in Indiana must already include instruction on different cultural issues.

## STATE CONTACTS

Advocates for an improved response to hate crime in Indiana should contact current state legislators and members of Congress.

### Indiana General Assembly

Senate: (317) 232-9400 | House: (317) 232-9600

<http://iga.in.gov/legislative/find-legislators>

### United States Senate

Contact: Indiana

<https://www.senate.gov/senators/contact>

### United States House of Representatives

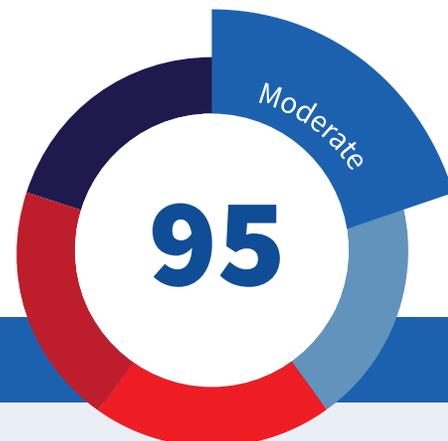
Directory of Representatives: Indiana

<https://www.house.gov/representatives#state-indiana>

# IOWA

Total population: 3,134,693

Rank of Arab American population by state: 37



0 anti-Arab hate crime incidents were reported in IA in 2016.

Iowa is the 30th most populated state and has the 37th largest Arab American population.

The Iowa Department of Public Safety, Program Services Bureau, is the state agency responsible for the collection and publication of hate crime data. According to the Iowa DPS, there were no anti-Arab hate crime incidents reported in Iowa in 2016.

## HATE CRIME STATUTE

Iowa Code § 729A.2 defines hate crime as an offense committed against a person or a person's property because of their "race, color, religion, ancestry, national origin, political affiliation, sex, sexual orientation, age, or disability," or their association with a person "of a certain race, color, religion, ancestry, national origin, political affiliation, sex, sexual orientation, age, or disability."<sup>1</sup> Iowa Code §§ 708.2C, 712.9, 716.6A, and 716.8 provide enhanced penalties for criminal offenses that are also hate crimes.

The current Iowa hate crime statute is not sufficiently inclusive, as it does not offer protections for gender identity.

## DATA COLLECTION STATUTE

Iowa Code § 692.15 requires law enforcement agencies to report information concerning public offenses or delinquent acts, including hate crimes, to the Iowa DPS. The Department is required to generate crime statistics and submit reports to select government agencies on a quarterly and yearly basis.<sup>2</sup>

## LAW ENFORCEMENT TRAINING STATUTE

Housed within the Office of the Attorney General, the Prosecuting Attorneys Training Coordinator (PATC) provides "in-depth training programs" for county attorneys and law enforcement officials.<sup>3</sup> Pursuant to Iowa Code § 729A.5, the PATC is required to "develop a course of instruction for law enforcement personnel and prosecuting attorneys designed to sensitize those persons to the existence of violations of individual rights and the criteria for determining whether a violation of individual rights has occurred."<sup>4</sup>

501 IAC 3.5(80B) requires that a standard certifying "long course" at an approved law enforcement training facility provide instruction on the "investigation of specific crimes," including hate crimes.<sup>5</sup>

| IOWA   |              |
|--|--------------|
| <b>Hate Crime Statute</b>                       | <b>35/40</b> |
| No statute; civil action or civil rights law   | -            |
| Hate crime statute, with protections for:  | 10           |
| Race/ethnicity/ancestry  | 5            |
| Religion   | 5            |
| Sexual orientation   | 5            |
| Disability   | 5            |
| Gender   | 5            |
| Gender identity  | -            |
| <b>Data Collection Statute</b>                | <b>15/15</b> |
| Data collection (voluntary reporting)  | -            |
| Mandatory reporting and data collection  | 15           |
| <b>Law Enforcement Training Statute</b>       | <b>15/15</b> |
| No statute; comprehensive training   | -            |
| Mandatory training   | 15           |
| <b>Annual Hate Crime Report</b>               | <b>20/20</b> |
| Annual hate crime report, including:   | 10           |
| Anti-Arab hate crime statistics  | 5            |
| Anti-Islamic (Muslim) hate crime statistics  | 5            |
| <b>FBI Hate Crime Statistics Participant</b>  | <b>10/10</b> |
| <b>TOTAL</b>   | <b>95</b>    |

<sup>1</sup> Iowa Code § 729A.2 (JUSTIA 2017), available at <https://law.justia.com/codes/iowa/2017/title-xvi/chapter-729a/section-729a.2>.

<sup>2</sup> Iowa Code § 692.15 (JUSTIA 2017), available at <https://law.justia.com/codes/iowa/2017/title-xvi/chapter-692/section-692.15>.

<sup>3</sup> Office of the Attorney General, Iowa Dep't of Justice, Prosecuting Attorneys Training Coordinator, <https://www.iowaattorneygeneral.gov/about-us/divisions/prosecuting-attorneys-training-coordinator>.

<sup>4</sup> Iowa Code § 729A.4 (JUSTIA 2017), available at <https://law.justia.com/codes/iowa/2017/title-xvi/chapter-729a/section-729a.4>.

<sup>5</sup> 501 IAC 3.5(80B), available at <https://www.legis.iowa.gov/docs/iac/agency/01-18-2017.501.pdf>.

## DATA COLLECTION & STATISTICS

Pursuant to Iowa Code § 692.15, the Iowa DPS publishes an annual report on statewide crime statistics, including hate crime.<sup>6</sup> The 1998-2016 editions of the *Iowa UCR Report* can be found on the Iowa DPS website.<sup>7</sup> The State Library of Iowa has archived the 1995 and 1997 reports for online viewing.<sup>8</sup>



## ANNUAL STATEWIDE HATE CRIME REPORT

State-level hate crime statistics published by the DPS include data on anti-Arab and anti-Islamic (Muslim) hate crime. The DPS tabulates hate crime data according to the number of victims per disaggregated bias motivation category in the 1995-2001 reports and incidents per disaggregated category in subsequent editions.

- ANTI-ARAB HATE CRIME STATISTICS**  
 Anti-Arab hate crime statistics are provided in the 1995-2016 editions of *Iowa UCR Report*. Law enforcement agencies in Iowa reported no anti-Arab hate crimes to the DPS from 2012 to 2016.
- ANTI-ISLAMIC (MUSLIM) HATE CRIME STATISTICS**  
 Anti-Islamic (Muslim) hate crime statistics are provided in the 1995-2016 editions of *Iowa UCR Report*. According to the DPS, a single anti-Islamic (Muslim) hate crime incident was reported in Iowa in 2016.

## UNIFORM CRIME REPORTING (UCR)

By January 2021, the FBI Uniform Crime Reporting (UCR) Program will depend solely on the National Incident-Based Reporting System (NIBRS) to collect nationwide crime data.<sup>9</sup> This transition entails the sunset of summary-based crime reporting (SRS) and requires cooperation on the part of state UCR programs and individual reporting agencies.

The Iowa UCR program is one of 16 state programs that rely exclusively on NIBRS data.<sup>10</sup>

NIBRS reporting enables criminal justice agencies to acquire a better understanding of crime, including hate crime, occurring within their respective jurisdictions. This in turn has positive implications for effective law enforcement response and policy implementation.

## CONTACT

Iowa Department of Public Safety  
 Program Services Bureau  
 215 East Seventh Street  
 Des Moines, Iowa 50319  
 (515) 725-6232  
[www.dps.state.ia.us](http://www.dps.state.ia.us)

## IOWA UCR REPORT HATE CRIME VICTIMS (2000); INCIDENTS (2001-2016)

| Bias motivation                    | '00 | '01 | '02 | '03 | '04 | '05 | '06 | '07 | '08 | '09 | '10 | '11 | '12 | '13 | '14 | '15 | '16 |
|------------------------------------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| Anti-Arab                          | 0   | 0   | 1   | 0   | 1   | 0   | 1   | 1   | 0   | 0   | 0   | 1   | 0   | 0   | 0   | 0   | 0   |
| Anti-Islamic (Muslim)              | 0   | 0   | 1   | 0   | 1   | 1   | 0   | 0   | 0   | 0   | 0   | 1   | 1   | 0   | 0   | 1   | 1   |
| Anti-other race/ethnicity/ancestry | 1   | 0   | 4   | 1   | 0   | 1   | 1   | 1   | 1   | -   | 0   | 1   | 0   | 1   | 1   | 0   | 1   |

According to supplemental data from the FBI, a single anti-Islamic (Muslim) hate crime incident was reported in Iowa in 2016. This total is consistent with DPS statistics. Iowa law enforcement agencies submit hate crime data to the FBI UCR Program through the DPS.

## FBI HATE CRIME STATISTICS (2015-2016)

| Bias motivation       | '15 | '16 |
|-----------------------|-----|-----|
| Anti-Arab             | 0   | 0   |
| Anti-Islamic (Muslim) | 1   | 1   |

<sup>6</sup> Iowa Code § 692.15, *supra* note 2.

<sup>7</sup> Office of the Commissioner, Iowa Dep't of Pub. Safety, Iowa UCR Report, <http://www.dps.state.ia.us/commis/ucr/index.shtml>.

<sup>8</sup> Iowa Publications Online, State Library of Iowa, Crime Statistics (generated Jun. 3, 2018), <http://publications.iowa.gov/view/subjects/NDB.html>.

<sup>9</sup> CJIS Div., Fed. Bureau of Investigation, SRS to NIBRS: The Path to Better UCR Data, <https://www.fbi.gov/services/cjis/cjis-link/srs-to-nibrs-the-path-to-better-ucr-data>.

<sup>10</sup> Bureau of Justice Statistics, U.S. Dep't of Justice, 2017 NCS-X Estimation Project (Jul. 27, 2017), available at <https://www.bjs.gov/content/pub/pdf/17ncxep.pdf>.

## FBI HATE CRIME STATISTICS

Pursuant to the Hate Crime Statistics Act (HCSA) of 1990 the FBI UCR Program collects data on "crimes that manifest evidence of prejudice based on race, gender or gender identity, religion, disability, sexual orientation, or ethnicity."<sup>11</sup>

Since 1993, the FBI UCR Program has published the annual report, *Hate Crime Statistics*, which is based on voluntary submissions from participating law enforcement agencies. In 2016, agencies from 49 states and the District of Columbia participated in the national hate crime statistics program.

For the most part, hate crime data is collected at the state level and forwarded to the FBI UCR Program. A total of 48 states maintain a state-level UCR data collection. UCR programs in 38 states publish annual hate crime statistics. Some participating law enforcement agencies submit hate crime data directly to the FBI UCR program.<sup>12</sup>



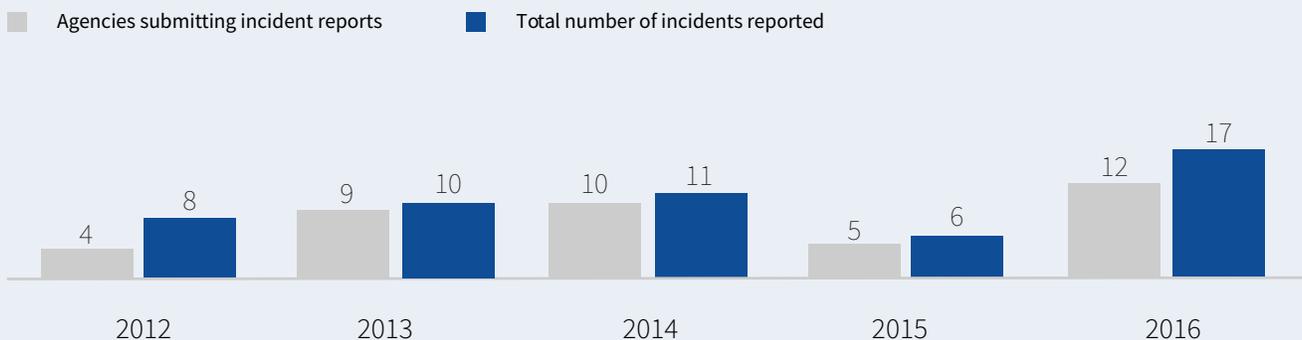
## FBI HATE CRIME STATISTICS PARTICIPANT

Law enforcement agencies in Iowa submit hate crime data to the FBI UCR Program through the DPS. According to the FBI UCR Program's annual report, *Hate Crime Statistics*, 17 hate crime incidents were reported in Iowa in 2016.

In 2016, 12 of the 241 Iowa law enforcement agencies participating in the national hate crime statistics program submitted incident reports to the FBI UCR Program. Agencies representing three of the five largest cities in Iowa submitted only zero data.

According to annual hate crime statistics published by the DPS, 18 hate crime incidents were reported in Iowa in 2016. This total conflicts with the FBI UCR Program's annual report, *Hate Crime Statistics, 2016*. Discrepancies occur between state and federal hate crime statistics for 2014 as well.

## PARTICIPATION IN UCR HATE CRIME STATISTICS PROGRAM

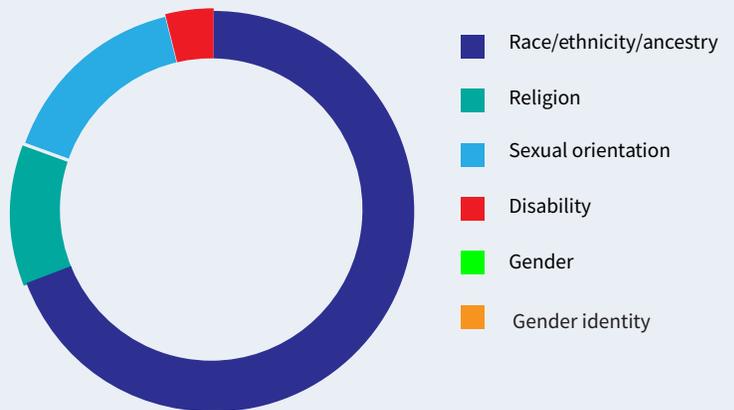


## SUMMARY

The current Iowa hate crime statute is not sufficiently inclusive, as it does not offer protections for gender identity. Iowa has statutes that require reporting, data collection, and specific law enforcement training on hate crime. The Iowa Department of Public Safety, Program Services Bureau, maintains the state clearinghouse for all police-reported crime data, including hate crime, and is responsible for publishing annual statistics. Copies of the *Iowa UCR Report* can be found on the Iowa DPS website. In 2016, 12 Iowa law enforcement agencies submitted hate crime incident reports to the FBI UCR Program. The remaining 229 participating agencies provided only zero data. A total of 20 participating agencies recorded blank data in at least one quarterly submission period. Iowa receives an overall score of 95 points, denoting a moderate response to hate crime.

## FBI HATE CRIME STATISTICS: IOWA 2012-2016

| Incidents per bias motivation | 2012 | 2013 | 2014 | 2015 | 2016 | Total |
|-------------------------------|------|------|------|------|------|-------|
| Race/ethnicity/ancestry       | 4    | 6    | 10   | 3    | 13   | 36    |
| Religion                      | 2    | 1    | 0    | 1    | 2    | 6     |
| Sexual orientation            | 2    | 3    | 0    | 1    | 2    | 8     |
| Disability                    | 0    | 0    | 1    | 1    | 0    | 2     |
| Gender                        | -    | 0    | 0    | 0    | 0    | 0     |
| Gender identity               | -    | 0    | 0    | 0    | 0    | 0     |
| Total                         | 8    | 10   | 11   | 6    | 17   | 52    |



<sup>11</sup> 28 U.S.C. § 534 (JUSTIA 2016), available at <https://law.justia.com/codes/us/2016/title-28/part-ii/chapter-33/sec.-534>.

<sup>12</sup> Uniform Crime Reporting Program, Fed. Bureau of Investigation, Data Quality Guidelines, [https://ucr.fbi.gov/data\\_quality\\_guidelines](https://ucr.fbi.gov/data_quality_guidelines).

# ADVOCACY RESOURCES - Iowa

## IMPROVING THE RESPONSE

Most states have failed to enact sufficient legislation to address, prevent, and counteract hate crime in American communities. To accompany our federal hate crime laws, state legislatures must pass the following:

1. **An inclusive hate crime statute**, which covers a wide range of criminal offenses and provides enhanced penalties for crimes motivated because of citizenship status, race, ethnicity, color, disability, age, ancestry or national origin, gender or gender identity, sexual orientation, religion, or homelessness. Such protections are pursuant to model hate crime legislation drafted by the Arab American Institute. According to the model statute, penalty enhancement may incorporate alternatives to fines or increased prison sentences. Alternatives include restitution for victims and communities, participation in educational programs, and restorative justice.
2. **Statutes that require reporting, data collection, and specific law enforcement training on hate crime.** Centralized state agencies must publish comprehensive, accessible statistics on the nature and extent of hate crime occurring within their state. These statistics must conform to national UCR standards and include the bias motivation categories identified in the FBI's annual report, *Hate Crime Statistics*. States must also require law enforcement training schools to provide comprehensive training to ensure that officers are prepared to investigate, report, and respond to hate crime incidents.

## STATE RECOMMENDATIONS

According to our rating methodology, Iowa receives an overall score of 95, denoting a moderate response to hate crime. Advocates for an improved response to hate crime in Iowa should promote the following:

1. The current Iowa hate crime statute offers protections for race, color, religion, ancestry, national origin, political affiliation, sex, sexual orientation, age, and disability. **The Iowa hate crime statute should be amended** to include protections for citizenship status, gender identity, homelessness, or association with a person or group with one of these actual or perceived characteristics.
2. While Iowa state code requires reporting, data collection, and specific law enforcement training on hate crime, the Iowa Department of Public Safety does not publish hate crime statistics conforming to national standards. The Iowa UCR Report must provide statistics in accordance with the bias motivation categories identified in *Hate Crime Statistics*. Those categories include crimes relating to gender identity and the additional religious anti-bias categories introduced to national data collections in 2015.

## STATE CONTACTS

Advocates for an improved response to hate crime in Iowa should contact current state legislators and members of Congress.

### Iowa Legislature

Senate: (515) 281-3371 | House: (317) 281-3371

Senate: <https://www.legis.iowa.gov/legislators/senate>

House: <https://www.legis.iowa.gov/legislators/house>

### United States Senate

Contact: Iowa

<https://www.senate.gov/senators/contact>

### United States House of Representatives

Directory of Representatives: Iowa

<https://www.house.gov/representatives#state-iowa>

# KANSAS

Total population: 2,907,289

Rank of Arab American population by state: 34



KS does not publish annual hate crime statistics.

**Kansas** is the 35th most populated state and has the 34th largest Arab American population.

The Kansas Bureau of Investigation is the state agency responsible for the collection and publication of crime data. The KBI does not publish annual hate crime statistics.

## HATE CRIME STATUTE

Kan. Stat. Ann. § 21-6815(c)(2)(C) permits enhanced sentencing for an offense motivated entirely or in part by a victim’s actual, believed, or perceived “race, color, religion, ethnicity, national origin or sexual orientation.”<sup>1</sup> The defendant’s motivation in this case may be considered an aggravating factor regardless of whether their belief or perception was correct.

The current Kansas hate crime statute is not sufficiently inclusive, as it does not offer protections for disability, gender, or gender identity.

## DATA COLLECTION STATUTE

**There is no Kansas statute that requires hate crime reporting or data collection.** Kan. Stat. Ann. § 22-4705(c) requires every criminal justice agency to report criminal history record information to the KBI.<sup>2</sup>

## LAW ENFORCEMENT TRAINING STATUTE

**There is no Kansas statute that requires specific law enforcement training on hate crime data.** Kan. Stat. Ann. § 74-5603(c) requires the director of the Kansas Law Enforcement Training Center (KLETC) to determine the state’s basic police training curriculum, which is “subject to such changes and modification as are directed by the commission.”<sup>3</sup>

Pursuant to Kan. Stat. Ann. § 74-5603(b), The KLETC Commission on Peace Officers’ Standards and Training has “approved, authorized, and required 560-hours as the minimum number of hours required for full-time law enforcement basic training in Kansas.”<sup>4</sup>

As part of the 560-hour basic training curriculum, The KLETC has developed a two-hour course on hate crime. The purpose of the course is to teach officers “how to identify and conduct the preliminary investigation of a hate crime” by identifying and explaining “the range of roles, responsibilities, and challenges of responding to bias crimes in the field of law enforcement and the field of victim assistance.”<sup>5</sup> The curriculum we have provided is dated July 31, 2013.

## KANSAS

### Hate Crime Statute 25/40

|  |    |
|--|----|
| No statute; civil action or civil rights law | -  |
| Hate crime statute, with protections for:    | 10 |
| Race/ethnicity/ancestry                      | 5  |
| Religion                                     | 5  |
| Sexual orientation                           | 5  |
| Disability                                   | -  |
| Gender                                       | -  |
| Gender identity                              | -  |

### Data Collection Statute 0/15

|   |   |
|---|---|
| Data collection (voluntary reporting)   | - |
| Mandatory reporting and data collection | - |

### Law Enforcement Training Statute 5/15

|                                    |   |
|------------------------------------|---|
| No statute; comprehensive training | 5 |
| Mandatory training                 | - |

### Annual Hate Crime Report 0/20

|   |   |
|---|---|
| Annual hate crime report, including:        | - |
| Anti-Arab hate crime statistics             | - |
| Anti-Islamic (Muslim) hate crime statistics | - |

### FBI Hate Crime Statistics Participant 10/10

## TOTAL 40

<sup>1</sup> Kan. Stat. Ann. § 21-6815(c)(2)(c) (JUSTIA 2017), available at <https://law.justia.com/codes/kansas/2017/chapter-21/article-68/section-21-6815>.

<sup>2</sup> Kan. Stat. Ann. § 22-4705(c) (JUSTIA 2017), available at <https://law.justia.com/codes/kansas/2017/chapter-22/article-47/section-22-4705>.

<sup>3</sup> Kan. Stat. Ann. § 74-5603(c), *id.*

<sup>4</sup> Kan. Stat. Ann. § 74-5603(b) (JUSTIA 2017), available at <https://law.justia.com/codes/kansas/2017/chapter-74/article-56/section-74-5603>.

<sup>5</sup> Kansas Law Enforcement Training Ctr., Law Enforcement Basic Training Program (Jul. 31, 2018), available at <http://www.kletp.org/pdf/ftbasictraining.pdf>.

## DATA COLLECTION & STATISTICS

Housed within the Office of the Attorney General, the KBI maintains criminal justice records and publishes annual crime statistics. The 2003-2016 editions of *Kansas Crime Index* can be found on the KBI website. The reports do not provide hate crime statistics.<sup>6</sup>

The KBI collects both SRS and NIBRS crime data from reporting law enforcement agencies. According to the current edition of *Kansas Incident Based Reporting Section (KIBRS) Handbook*, all law enforcement agencies in Kansas reporting via KIBRS are required to communicate bias motivation relating to "race, religious beliefs, disability, ethnic/national origin, or sexual orientation."<sup>7</sup>

## ANNUAL STATEWIDE HATE CRIME REPORT



The KBI does not publish annual state-level hate crime statistics.

- ANTI-ARAB HATE CRIME STATISTICS**  
 The KBI does not publish annual statistics on anti-Arab hate crime.
- ANTI-ISLAMIC (MUSLIM) HATE CRIME STATISTICS**  
 The KBI does not publish annual statistics on anti-Islamic (Muslim) hate crime.

## UNIFORM CRIME REPORTING (UCR)

By January 2021, the FBI Uniform Crime Reporting (UCR) Program will depend solely on the National Incident-Based Reporting System (NIBRS) to collect nationwide crime data.<sup>8</sup> This transition entails the sunset of summary-based crime reporting (SRS) and requires cooperation on the part of state UCR programs and individual reporting agencies.

The Kansas UCR program is one of 18 state programs that rely on both SRS and NIBRS data.<sup>9</sup> In 2016, the Kansas Bureau of Investigation received a grant of \$577,216 through the National Crimes Statistics Exchange (NCS-X) Initiative to assist the state's transition to full NIBRS compliance.<sup>10</sup>

NIBRS reporting enables criminal justice agencies to acquire a better understanding of crime, including hate crime, occurring within their respective jurisdictions. This in turn has positive implications for effective law enforcement response and policy implementation.

## CONTACT

Kansas Bureau of Investigation  
 Incident Based Reporting Section  
 1620 Southwest Tyler Street  
 Topeka, Kansas 66612  
 (785) 296-8279  
[www.accesskansas.org/kbi/](http://www.accesskansas.org/kbi/)

## THE KANSAS BUREAU OF INVESTIGATION DOES NOT PUBLISH ANNUAL HATE CRIME STATISTICS.

| Bias motivation                    | '00 | '01 | '02 | '03 | '04 | '05 | '06 | '07 | '08 | '09 | '10 | '11 | '12 | '13 | '14 | '15 | '16 |
|------------------------------------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| Anti-Arab                          | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   |
| Anti-Islamic (Muslim)              | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   |
| Anti-other race/ethnicity/ancestry | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   |



According to supplemental data from the FBI, a single anti-Islamic (Muslim) hate crime incident was reported in Kansas in 2016. Kansas law enforcement agencies submit hate crime data to the FBI UCR Program through the KBI.

## FBI HATE CRIME STATISTICS (2015-2016)

| Bias motivation       | '15 | '16 |
|-----------------------|-----|-----|
| Anti-Arab             | 0   | 0   |
| Anti-Islamic (Muslim) | 1   | 1   |

<sup>6</sup> Kansas Bureau of Investigation, Crime Statistics, [http://www.accesskansas.org/kbi/stats/stats\\_crime.shtml](http://www.accesskansas.org/kbi/stats/stats_crime.shtml).

<sup>7</sup> Kansas Bureau of Investigation, Kansas Incident Based Reporting System Handbook (Jan. 2012), available at <http://www.accesskansas.org/kbi/info/docs/pdf/KIBRS%20Handbook%202012.pdf>.

<sup>8</sup> CJIS Div., Fed. Bureau of Investigation, SRS to NIBRS: The Path to Better UCR Data, <https://www.fbi.gov/services/cjis/cjis-link/srs-to-nibrs-the-path-to-better-ucr-data>.

<sup>9</sup> Bureau of Justice Statistics, U.S. Dep't of Justice, 2017 NCS-X Estimation Project (Jul. 27, 2017), available at <https://www.bjs.gov/content/pub/pdf/17ncsxp.pdf>.

<sup>10</sup> Press Release, Office of Justice Programs, U.S. Dep't of Justice, FBI and Bureau of Justice Statistics Award \$24.2 Million to Law Enforcement Agencies to Support National Crime-Reporting Infrastructure (Sept. 27, 2016), available at <https://ojp.gov/newsroom/pressreleases/2016/ojp09272016.pdf>.

## FBI HATE CRIME STATISTICS

Pursuant to the Hate Crime Statistics Act (HCSA) of 1990 the FBI UCR Program collects data on "crimes that manifest evidence of prejudice based on race, gender or gender identity, religion, disability, sexual orientation, or ethnicity."<sup>11</sup>

Since 1993, the FBI UCR Program has published the annual report, *Hate Crime Statistics*, which is based on voluntary submissions from participating law enforcement agencies. In 2016, agencies from 49 states and the District of Columbia participated in the national hate crime statistics program.

For the most part, hate crime data is collected at the state level and forwarded to the FBI UCR Program. A total of 48 states maintain a state-level UCR data collection. UCR programs in 38 states publish annual hate crime statistics. Some participating law enforcement agencies submit hate crime data directly to the FBI UCR program.<sup>12</sup>



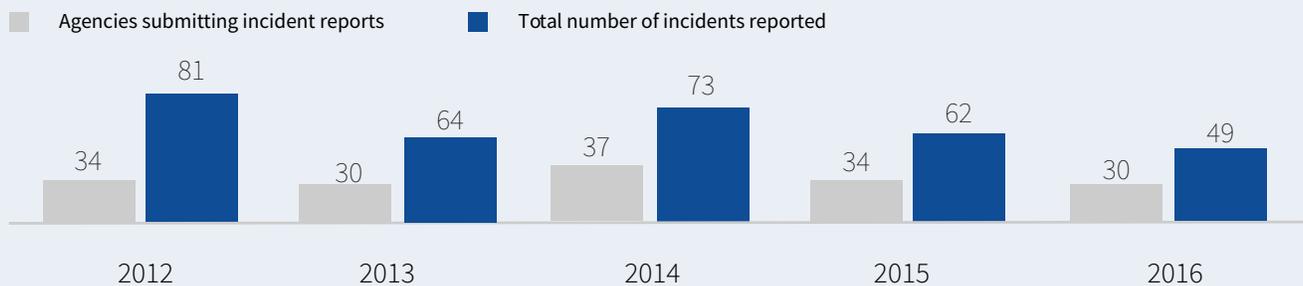
## FBI HATE CRIME STATISTICS PARTICIPANT

Law enforcement agencies in Kansas submit hate crime data to the FBI UCR Program through the DPS. According to the FBI UCR Program's annual report, *Hate Crime Statistics*, 49 hate crime incidents were reported in Kansas in 2016.

In 2016, 30 of the 343 Kansas law enforcement agencies participating in the national hate crime statistics program submitted incident reports to the FBI UCR Program. Agencies representing three of the five largest cities in Kansas either did not participate in the national hate crime statistics program or submitted only zero data.

As the KBI does not publish an annual hate crime report, we are unable to make comparisons between state and federal hate crime statistics.

## PARTICIPATION IN UCR HATE CRIME STATISTICS PROGRAM

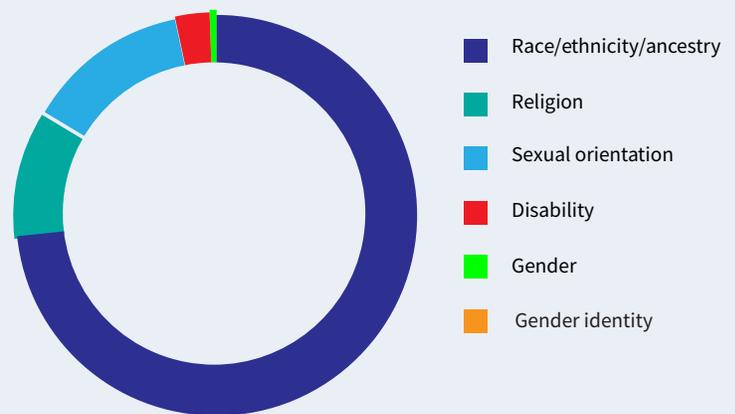


## SUMMARY

The current Kansas hate crime statute is not sufficiently inclusive, as it does not offer protections for disability, gender, or gender identity. Kansas does not have statutes that require reporting, data collection, or specific law enforcement training on hate crime. Despite the lack of a statutory provision, Kansas' basic law enforcement training curriculum, as of July 2013, includes a course on investigating and responding to hate crime. The Kansas Bureau of Investigation maintains the state clearinghouse for all police-reported crime data, including hate crime, and is responsible for publishing annual statistics. Copies of *Kansas Crime Index* can be found on the KBI website but do not include hate crime statistics. In 2016, 30 Kansas law enforcement agencies submitted hate crime incident reports to the FBI UCR Program. The remaining 313 participating agencies provided only zero data. A total of 37 participating agencies recorded blank data in at least one quarterly submission period. Kansas receives an overall score of 40 points, denoting a limited response to hate crime.

## FBI HATE CRIME STATISTICS: KANSAS 2012-2016

| Incidents per bias motivation | 2012 | 2013 | 2014 | 2015 | 2016 | Total |
|-------------------------------|------|------|------|------|------|-------|
| Race/ethnicity/ancestry       | 63   | 43   | 54   | 46   | 36   | 242   |
| Religion                      | 7    | 6    | 8    | 8    | 5    | 34    |
| Sexual orientation            | 7    | 13   | 10   | 8    | 5    | 43    |
| Disability                    | 4    | 2    | 1    | 0    | 3    | 10    |
| Gender                        | -    | 0    | 0    | 1    | 0    | 1     |
| Gender identity               | -    | 0    | 0    | 0    | 0    | 0     |
| Total                         | 81   | 64   | 73   | 63   | 49   | 330   |



<sup>11</sup> 28 U.S.C. § 534 (JUSTIA 2016), available at <https://law.justia.com/codes/us/2016/title-28/part-ii/chapter-33/sec.-534>.

<sup>12</sup> Uniform Crime Reporting Program, Fed. Bureau of Investigation, Data Quality Guidelines, [https://ucr.fbi.gov/data\\_quality\\_guidelines](https://ucr.fbi.gov/data_quality_guidelines).

# ADVOCACY RESOURCES - Kansas

## IMPROVING THE RESPONSE

Most states have failed to enact sufficient legislation to address, prevent, and counteract hate crime in American communities. To accompany our federal hate crime laws, state legislatures must pass the following:

1. **An inclusive hate crime statute**, which covers a wide range of criminal offenses and provides enhanced penalties for crimes motivated because of citizenship status, race, ethnicity, color, disability, age, ancestry or national origin, gender or gender identity, sexual orientation, religion, or homelessness. Such protections are pursuant to model hate crime legislation drafted by the Arab American Institute. According to the model statute, penalty enhancement may incorporate alternatives to fines or increased prison sentences. Alternatives include restitution for victims and communities, participation in educational programs, and restorative justice.
2. **Statutes that require reporting, data collection, and specific law enforcement training on hate crime.** Centralized state agencies must publish comprehensive, accessible statistics on the nature and extent of hate crime occurring within their state. These statistics must conform to national UCR standards and include the bias motivation categories identified in the FBI's annual report, *Hate Crime Statistics*. States must also require law enforcement training schools to provide comprehensive training to ensure that officers are prepared to investigate, report, and respond to hate crime incidents.

## STATE RECOMMENDATIONS

According to our rating methodology, Kansas receives an overall score of 40, denoting a limited response to hate crime. Advocates for an improved response to hate crime in Kansas should promote the following:

1. The current Kansas hate crime statute offers protections for race, color, religion, ethnicity, national origin, and sexual orientation. **The Kansas hate crime statute should be amended** to include protections for citizenship status, disability, age, ancestry, gender or gender identity, homelessness, or association with a person or group with one of these actual or perceived characteristics.
2. Kansas state code does not require reporting, data collection, or specific law enforcement training on hate crime. Of the 343 Kansas law enforcement agencies participating in the national hate crime statistics program, only 30 agencies submitted incident reports for *Hate Crime Statistics, 2016*. **Legislation should be introduced** to address these shortcomings.
  - Law enforcement agencies must report hate crimes to the Kansas Bureau of Investigation;
  - The KBI must collect data and publish statistics, conforming to national standards, on the nature and extent of hate crime within the state;
  - Kansas must transition to the National Incident-Based Reporting System to facilitate hate crime reporting and data collection. By January 2021, all law enforcement agencies in the United States will be required to report crime information through the NIBRS;
  - While the Kansas Law Enforcement Training Center Commission on Peace Officers' Standards and Training has incorporated hate crimes training into its basic curriculum, it is not clear whether this training is widely enforced. Mandatory instruction relating to investigating and reporting hate crime incidents should be required by law for full-time basic police training in Kansas.

## STATE CONTACTS

Advocates for an improved response to hate crime in Kansas should contact current state legislators and members of Congress.

### Kansas Legislature

Senate: [http://www.kslegislature.org/li/b2017\\_18/chamber/senate/](http://www.kslegislature.org/li/b2017_18/chamber/senate/)

House: [http://www.kslegislature.org/li/b2017\\_18/chamber/house/](http://www.kslegislature.org/li/b2017_18/chamber/house/)

### United States Senate

Contact: Kansas

<https://www.senate.gov/senators/contact>

### United States House of Representatives

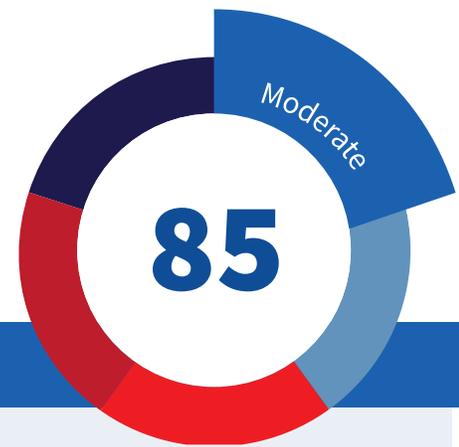
Directory of Representatives: Kansas

<https://www.house.gov/representatives#state-kansas>

# KENTUCKY

Total population: 4,436,974

Rank of Arab American population by state: 30



2 anti-Arab hate crime incidents were reported in KY in 2016.

**Kentucky** is the 26th most populated state and has the 30th largest Arab American population.

The Kentucky State Police, Criminal Identification and Records Branch, is the state agency responsible for the collection and publication of hate crime data. According to the CIRB, there were two anti-Arab hate crime incidents reported throughout Kentucky in 2016.

## HATE CRIME STATUTE

Ky. Rev. Stat. § 532.031 permits the denial of probation, other forms of non-imposition of sentencing, and parole to a defendant who commits an offense “because of race, color, religion, sexual orientation, or national origin of another individual or group of individuals or because of a person’s actual or perceived employment as a state, city, county, or federal peace officer, member of an organized fire department, or emergency medical services personnel.”<sup>1</sup>

The current Kentucky hate crime statute is not sufficiently inclusive, as it does not offer protections for disability, gender, or gender identity.

Ky. Rev. Stat. § 532.031 was amended in 2017 to include a “Blue Lives Matter” provision, which classifies the intentional targeting of police officers and other first responders as a hate crime.<sup>2</sup>

## DATA COLLECTION STATUTE

Ky. Rev. Stat. § 17.1523(2) requires all law enforcement officers to indicate whether an offense is or appears to be bias-related when completing a uniform offense report.<sup>3</sup> Pursuant to this section, the Kentucky Justice and Public Safety Cabinet (JPSC) is required to collect and analyze data on hate crime “to inform state policy.”<sup>4</sup> The KSP is an agency housed within the Justice and Public Safety Cabinet.<sup>5</sup>

## LAW ENFORCEMENT TRAINING STATUTE

Ky. Rev. Stat. § 15.334 requires the Kentucky Law Enforcement Council to approve mandatory subjects for all students attending a law enforcement basic training course in the state, including the “identification and investigation of, responding to, and reporting bias-related crime, victimization, or intimidation that is a result of or reasonably related to race, color, religion, sex, or national origin.”<sup>6</sup>

| KENTUCKY   |              |
|--|--------------|
| <b>Hate Crime Statute</b>                       | <b>25/40</b> |
| No statute; civil action or civil rights law   | -            |
| Hate crime statute, with protections for:  | 10           |
| Race/ethnicity/ancestry  | 5            |
| Religion   | 5            |
| Sexual orientation   | 5            |
| Disability   | -            |
| Gender   | -            |
| Gender identity  | -            |
| <b>Data Collection Statute</b>                | <b>15/15</b> |
| Data collection (voluntary reporting)  | -            |
| Mandatory reporting and data collection  | 15           |
| <b>Law Enforcement Training Statute</b>       | <b>15/15</b> |
| No statute; comprehensive training   | -            |
| Mandatory training   | 15           |
| <b>Annual Hate Crime Report</b>               | <b>20/20</b> |
| Annual hate crime report, including:   | 10           |
| Anti-Arab hate crime statistics  | 5            |
| Anti-Islamic (Muslim) hate crime statistics  | 5            |
| <b>FBI Hate Crime Statistics Participant</b>  | <b>10/10</b> |
| <b>TOTAL</b>   | <b>85</b>    |

<sup>1</sup> Ky. Rev. Stat. § 532.031 (JUSTIA 2017), available at <https://law.justia.com/codes/kentucky/2017/chapter-532/section-.031>.

<sup>2</sup> Briana Harper, “Kentucky ‘Blue Lives Matter’ Law Classifies Violence Against Officers as Hate Crime,” WCPO Cincinnati (Jun. 28, 2017), <https://www.wcpo.com/news/state/state-kentucky/kentucky-blue-lives-matter-law-classifies-violence-against-police-officers-as-hate-crime>.

<sup>3</sup> Ky. Rev. Stat. § 17.1523(2) (JUSTIA 2017), available at <https://law.justia.com/codes/kentucky/2017/chapter-17/section-.1523>.

<sup>4</sup> Justice & Safety Ctr. at Eastern Kentucky Univ., Hate Crime and Hate Incidents in the Commonwealth of Kentucky (2005), available at <https://justice.ky.gov/Documents/Statistical%20Analysis/2004HateCrimeReport.pdf>.

<sup>5</sup> Kentucky Justice & Pub. Safety Cabinet, Our Departments and Agencies, <https://justice.ky.gov/Pages/OurAgencies.aspx>.

<sup>6</sup> Ky. Rev. Stat. § 15.334 (JUSTIA 2017), available at <https://law.justia.com/codes/kentucky/2017/chapter-15/section-.334>.

## DATA COLLECTION & STATISTICS

Pursuant to Ky. Rev. Stat. § 17.147(7), the KSP tabulates and analyzes all data collected from law enforcement officers and criminal justice agencies and publishes an annual report on crime statistics for general distribution.<sup>7</sup> The 1995-2016 editions of *Crime in Kentucky* can be found on the KSP website.<sup>8</sup>

## ANNUAL STATEWIDE HATE CRIME REPORT



Kentucky's data collection statute requires the JPSC to "disseminate information on criminal justice issues and crime trends."<sup>9</sup> In addition to *Crime in Kentucky*, the 1998-2016 editions of which provide hate crime statistics, the JPSC formerly published a specialized report on hate crime.<sup>10</sup>

Published from 2002 to 2012, *Hate Crime and Hate Incidents in the Commonwealth* provided both state-level and federal hate crime statistics, information on state and federal hate crime statutes, and data on hate incidents reported in the media and from the Kentucky Commission on Human Rights. While state-level hate crime statistics published by the CIRB include data on anti-Arab and anti-Islamic (Muslim) hate crime, recent CIRB reports do not provide the same amount of information as described above.

The CIRB tabulates hate crime data according to the number of incidents per disaggregated bias motivation category.

- ANTI-ARAB HATE CRIME STATISTICS**  
 Anti-Arab hate crime statistics are provided in the 1998-2016 editions of *Crime in Kentucky*. According to the CIRB, 2 anti-Arab hate crime incidents were reported in Kentucky in 2016.
- ANTI-ISLAMIC (MUSLIM) HATE CRIME STATISTICS**  
 Anti-Islamic (Muslim) hate crime statistics are provided in the 1998-2016 editions of *Crime in Kentucky*. The 2015-2016 CIRB reports suggest a resurgence of hate crimes targeting American Muslims.

## UNIFORM CRIME REPORTING (UCR)

By January 2021, the FBI Uniform Crime Reporting (UCR) Program will depend solely on the National Incident-Based Reporting System (NIBRS) to collect nationwide crime data.<sup>11</sup> This transition entails the sunset of summary-based crime reporting (SRS) and requires cooperation on the part of state UCR programs and individual reporting agencies.

The Kentucky UCR program is one of 16 state programs that rely exclusively on NIBRS data.<sup>12</sup>

NIBRS reporting enables criminal justice agencies to acquire a better understanding of crime, including hate crime, occurring within their respective jurisdictions. This in turn has positive implications for effective law enforcement response and policy implementation.

## CONTACT

Criminal Identification and Records Branch  
 Kentucky State Police  
 1266 Louisville Road  
 Frankfort, Kentucky 40601  
 (502) 227-8700  
[www.kentuckystatepolice.org](http://www.kentuckystatepolice.org)

## CRIME IN KENTUCKY HATE CRIME INCIDENTS (2000-2016)

| Bias motivation                        | '00 | '01 | '02 | '03 | '04 | '05 | '06 | '07 | '08 | '09 | '10 | '11 | '12 | '13 | '14 | '15 | '16 |
|--|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| Anti-Arab                              | 0   | 0   | 0   | 0   | 1   | 0   | 0   | 0   | 0   | 0   | 0   | 0   | 0   | 0   | 0   | 1   | 2   |
| Anti-Islamic (Muslim)                  | 0   | 7   | 1   | 0   | 3   | 0   | 3   | 1   | 0   | 0   | 1   | 10  | 2   | 4   | 0   | 13  | 12  |
| Anti-other race/<br>ethnicity/ancestry | 3   | 13  | 2   | 0   | 4   | 1   | 2   | 0   | 2   | 4   | 3   | 4   | 2   | 5   | 1   | 8   | 4   |

According to supplemental data from the FBI, 2 anti-Arab and 12 anti-Islamic (Muslim) hate crime incidents were reported in Kentucky in 2016. While this total is consistent with CIRB statistics, a 4-incident discrepancy occurs between state and federal statistics on anti-Islamic (Muslim) hate crime for 2015. Kentucky law enforcement agencies submit hate crime data to the FBI UCR Program through the CIRB.

## FBI HATE CRIME STATISTICS (2015-2016)

| Bias motivation       | '15 | '16 |
|-----------------------|-----|-----|
| Anti-Arab             | 1   | 2   |
| Anti-Islamic (Muslim) | 9   | 12  |

<sup>7</sup> Ky. Rev. Stat. § 17.147(7) (JUSTIA 2017), available at <https://law.justia.com/codes/kentucky/2017/chapter-17/section-147>.

<sup>8</sup> Kentucky State Police, Crime and Traffic Data, <http://kentuckystatepolice.org/crime-traffic-data>.

<sup>9</sup> Ky. Rev. Stat. § 15A.040 (JUSTIA 2017), available at <https://law.justia.com/codes/kentucky/2017/chapter-15a/section-040>.

<sup>10</sup> Kentucky Justice & Pub. Safety Cabinet, Reports, <https://justice.ky.gov/Pages/Reports.aspx>.

<sup>11</sup> CJIS Div., Fed. Bureau of Investigation, SRS to NIBRS: The Path to Better Data (Mar. 28, 2017), <https://www.fbi.gov/services/cjis/cjis-link/srs-to-nibrs-the-path-to-better-ucr-data>.

<sup>12</sup> Bureau of Justice Statistics, U.S. Dep't of Justice, 2017 NCS-X Estimation Project (Jul. 27, 2017), available at <https://www.bjs.gov/content/pub/pdf/17ncxep.pdf>.

## FBI HATE CRIME STATISTICS

Pursuant to the Hate Crime Statistics Act (HCSA) of 1990 the FBI UCR Program collects data on "crimes that manifest evidence of prejudice based on race, gender or gender identity, religion, disability, sexual orientation, or ethnicity."<sup>13</sup>

Since 1993, the FBI UCR Program has published the annual report, *Hate Crime Statistics*, which is based on voluntary submissions from participating law enforcement agencies. In 2016, agencies from 49 states and the District of Columbia participated in the national hate crime statistics program.

For the most part, hate crime data is collected at the state level and forwarded to the FBI UCR Program. A total of 48 states maintain a state-level UCR data collection. UCR programs in 38 states publish annual hate crime statistics. Some participating law enforcement agencies submit hate crime data directly to the FBI UCR program.<sup>14</sup>



## FBI HATE CRIME STATISTICS PARTICIPANT

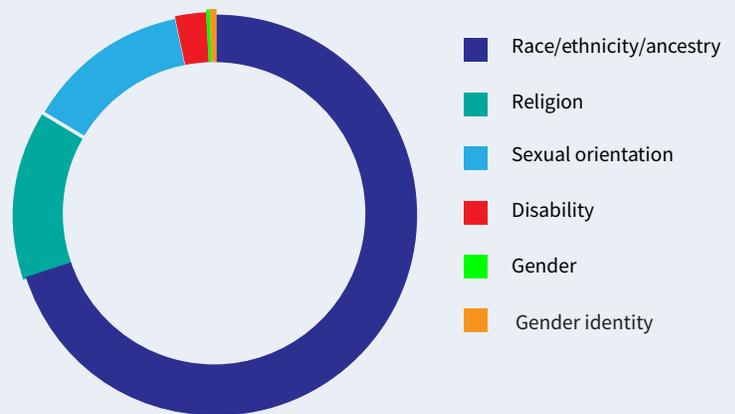
Law enforcement agencies in Kentucky submit hate crime data to the FBI UCR Program through the CIRB. According to the FBI UCR Program's annual report, *Hate Crime Statistics*, 206 hate crime incidents were reported in Kentucky in 2016.

In 2016, 79 of the 405 Kentucky law enforcement agencies participating in the national hate crime statistics program submitted incident reports to the FBI UCR Program.

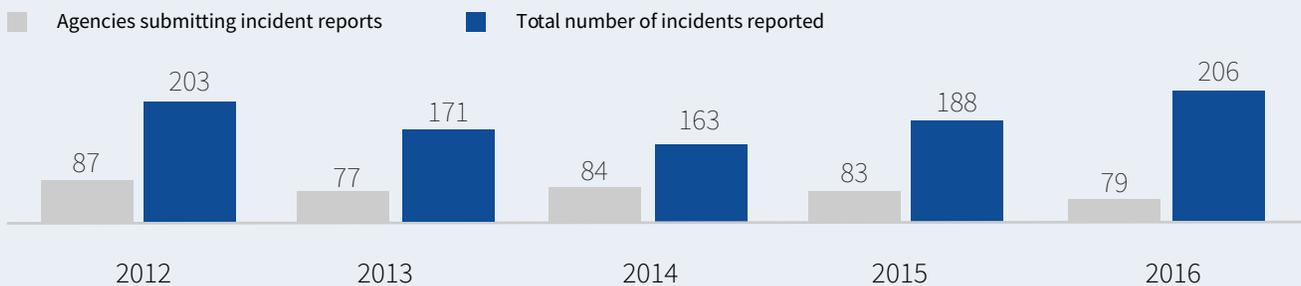
According to annual hate crime statistics published by the CIRB, 294 hate crime incidents were reported in Kentucky in 2016. This total conflicts with the FBI UCR Program's annual report, *Hate Crime Statistics, 2016*. Discrepancies occur between state and federal hate crime statistics for 2012-2015 as well.

## FBI HATE CRIME STATISTICS: KENTUCKY 2012-2016

| Incidents per bias motivation | 2012 | 2013 | 2014 | 2015 | 2016 | Total |
|-------------------------------|------|------|------|------|------|-------|
| Race/ethnicity/ancestry       | 151  | 128  | 126  | 113  | 135  | 653   |
| Religion                      | 14   | 5    | 13   | 53   | 43   | 128   |
| Sexual orientation            | 29   | 31   | 19   | 19   | 22   | 120   |
| Disability                    | 9    | 7    | 4    | 2    | 2    | 24    |
| Gender                        | -    | 0    | 0    | 0    | 1    | 1     |
| Gender identity               | -    | 0    | 1    | 1    | 3    | 5     |
| Total                         | 203  | 171  | 163  | 188  | 206  | 931   |



## PARTICIPATION IN UCR HATE CRIME STATISTICS PROGRAM



## SUMMARY

The current Kentucky hate crime statute is not sufficiently inclusive, as it does not offer protections for disability, gender, or gender identity. The Kentucky hate crime statute was amended in 2017 to include a "Blue Lives Matter" provision. Kentucky has statutes that require reporting, data collection, and specific law enforcement training on hate crime. The Kentucky State Police, Criminal Identification and Records Branch, maintains the state clearinghouse for all police-reported crime data, including hate crime, and is responsible for publishing annual statistics. Copies of *Crime in Kentucky* can be found on the KSP website and include both anti-Arab and anti-Islamic (Muslim) hate crime statistics. The 2002-2012 editions of *Hate Crime and Hate Incidents in the Commonwealth* can be found on the Kentucky Justice and Public Safety Cabinet website. In 2016, 79 Kentucky law enforcement agencies submitted hate crime incident reports to the FBI UCR Program. The remaining 326 participating agencies provided only zero data. A total of 3 participating agencies recorded blank data in at least one quarterly submission period. Kentucky receives an overall score of 85 points, denoting a moderate response to hate crime.

<sup>13</sup> 28 U.S.C. § 534 (JUSTIA 2016), available at <https://law.justia.com/codes/us/2016/title-28/part-ii/chapter-33/sec.-534>.

<sup>14</sup> Uniform Crime Reporting Program, Fed. Bureau of Investigation, Data Quality Guidelines, [https://ucr.fbi.gov/data\\_quality\\_guidelines](https://ucr.fbi.gov/data_quality_guidelines).

# ADVOCACY RESOURCES - Kentucky

## IMPROVING THE RESPONSE

Most states have failed to enact sufficient legislation to address, prevent, and counteract hate crime in American communities. To accompany our federal hate crime laws, state legislatures must pass the following:

1. **An inclusive hate crime statute**, which covers a wide range of criminal offenses and provides enhanced penalties for crimes motivated because of citizenship status, race, ethnicity, color, disability, age, ancestry or national origin, gender or gender identity, sexual orientation, religion, or homelessness. Such protections are pursuant to model hate crime legislation drafted by the Arab American Institute. According to the model statute, penalty enhancement may incorporate alternatives to fines or increased prison sentences. Alternatives include restitution for victims and communities, participation in educational programs, and restorative justice.
2. **Statutes that require reporting, data collection, and specific law enforcement training on hate crime.** Centralized state agencies must publish comprehensive, accessible statistics on the nature and extent of hate crime occurring within their state. These statistics must conform to national UCR standards and include the bias motivation categories identified in the FBI's annual report, *Hate Crime Statistics*. States must also require law enforcement training schools to provide comprehensive training to ensure that officers are prepared to investigate, report, and respond to hate crime incidents.

## STATE RECOMMENDATIONS

According to our rating methodology, Kentucky receives an overall score of 85, denoting a moderate response to hate crime. Advocates for an improved response to hate crime in Kentucky should promote the following:

1. The current Kentucky hate crime statute offers protections for race, color, religion, sexual orientation, and national origin. The **Kentucky hate crime statute should be amended** to include protections for citizenship status, ethnicity, disability, ancestry, gender or gender identity, homelessness, or association with a person or group with one of these actual or perceived characteristics.
2. Kentucky state code requires the Kentucky Law Enforcement Council to approve mandatory subjects for basic training courses relating to race, color, religion, sex, or national origin bias-motivated crimes. The topics of instruction should be broadened to include investigating, reporting, and responding to hate crime incidents related to a wider ranges of bias motivations, particularly disability and gender identity.

## STATE CONTACTS

Advocates for an improved response to hate crime in Kentucky should contact current state legislators and members of Congress.

### Kentucky Legislature

Both Chambers: (502) 564-8100

Senate: <http://lrc.ky.gov/Senate.htm>

House: <http://lrc.ky.gov/House.htm>

### United States Senate

Contact: Kentucky

<https://www.senate.gov/senators/contact>

### United States House of Representatives

Directory of Representatives: Kentucky

<https://www.house.gov/representatives#state-kentucky>

# LOUISIANA

Total population: 4,681,666

Rank of Arab American population by state: 23



LA does not publish anti-Arab hate crime statistics.

**Louisiana** is the 25th most populated state and has the 23rd largest Arab American population.

The Louisiana Commission on Law Enforcement and the Administration of Criminal Justice (LCLE) is the state agency responsible for the collection and publication of hate crime data. The LCLE does not publish annual statistics on anti-Arab hate crime.

## HATE CRIME STATUTE

La. Rev. Stat. § 14:107.2 provides enhanced penalties for certain offenses against persons and property that are motivated because of the “actual or perceived race, age, gender, religion, color, creed, disability, sexual orientation, national origin, or ancestry of that person or the owner or occupant of that property or because of actual or perceived membership or service in, or employment with, an organization, or because of actual or perceived employment as a law enforcement officer, firefighter, or emergency medical services personnel.”<sup>1</sup> The “Blue Lives Matter” provision of the Louisiana hate crime statute was added in 2016.<sup>2</sup>

The current Louisiana hate crime statute is not sufficiently inclusive, as it does not offer protections for gender identity.

## DATA COLLECTION STATUTE

La. Rev. Stat. § 15:1204.2 requires the LCLE to present an annual report on crime-related data received from law enforcement agencies in the state.<sup>3</sup> The report must include data collected relating to hate crimes.<sup>4</sup> While Section 15:1204.2 requires the Commission to supply law enforcement agencies with incident report forms that contain information regarding hate crimes, there is no statute with an explicit mandate for law enforcement agencies to report hate crimes. All Louisiana law enforcement agencies reporting via the LIBRS (Louisiana Incident-Based Reporting System) are required to indicate whether a criminal offense contains an element of “prejudice or bias toward a group of people or an individual member of a group.”<sup>5</sup>

## LAW ENFORCEMENT TRAINING STATUTE

La. Rev. Stat. § 40:2403H.(1) authorizes the Louisiana Council on Peace Officer Standards and Training to “establish and implement curricula and publish training materials to train peace officers to identify, respond to, and report all crimes which are directed against individuals or groups, or their property, by reason of their actual or perceived race, age, gender, religion, color, creed, disability, sexual orientation, national origin, or ancestry.”<sup>6</sup>

| LOUISIANA  |              |
|--|--------------|
| <b>Hate Crime Statute</b>                       | <b>35/40</b> |
| No statute; civil action or civil rights law   | -            |
| Hate crime statute, with protections for:  | 10           |
| Race/ethnicity/ancestry  | 5            |
| Religion   | 5            |
| Sexual orientation   | 5            |
| Disability   | 5            |
| Gender   | 5            |
| Gender identity  | -            |
| <b>Data Collection Statute</b>                | <b>5/15</b>  |
| Data collection (voluntary reporting)  | 5            |
| Mandatory reporting and data collection  | -            |
| <b>Law Enforcement Training Statute</b>       | <b>15/15</b> |
| No statute; comprehensive training   | -            |
| Mandatory training   | 15           |
| <b>Annual Hate Crime Report</b>               | <b>10/20</b> |
| Annual hate crime report, including:   | 10           |
| Anti-Arab hate crime statistics  | -            |
| Anti-Islamic (Muslim) hate crime statistics  | -            |
| <b>FBI Hate Crime Statistics Participant</b>  | <b>10/10</b> |
| <b>TOTAL</b>   | <b>75</b>    |

<sup>1</sup> La. Rev. Stat. § 14:107.2 (JUSTIA 2017), available at <https://law.justia.com/codes/louisiana/2017/code-revisedstatutes/title-14/rs-14-107.2>.

<sup>2</sup> Elahe Izadi, “Louisiana Is the First State To Offer Hate Crime Protections To Police Officers,” Washington Post (May 26, 2016), available at [https://www.washingtonpost.com/news/post-nation/wp/2016/05/26/louisianas-blue-lives-matter-bill-just-became-law/?utm\\_term=.226fff6f080](https://www.washingtonpost.com/news/post-nation/wp/2016/05/26/louisianas-blue-lives-matter-bill-just-became-law/?utm_term=.226fff6f080).

<sup>3</sup> La. Rev. Stat. § 15:1204.2 (JUSTIA 2017), available at <https://law.justia.com/codes/louisiana/2017/code-revisedstatutes/title-15/rs-15-1204.2>.

<sup>4</sup> La. Rev. Stat. § 15:1204.4 (JUSTIA 2017), available at <https://law.justia.com/codes/louisiana/2017/code-revisedstatutes/title-15/rs-15-1204.4>.

<sup>5</sup> Louisiana Commission on Law Enforcement and Administration of Criminal Justice, Crime in Louisiana 2014 (Nov. 1, 2016), available at [http://lcle.la.gov/programs/uploads/Crime\\_in\\_Louisiana\\_2014\\_1172016.pdf](http://lcle.la.gov/programs/uploads/Crime_in_Louisiana_2014_1172016.pdf).

<sup>6</sup> La. Rev. Stat. § 40:2403H.(1) (JUSTIA 2017), available at <https://law.justia.com/codes/louisiana/2017/code-revisedstatutes/title-40/rs-40-2403>.

## DATA COLLECTION & STATISTICS

Pursuant to La. Rev. Stat. § 15:204.2, the Louisiana Statistical Analysis Center publishes an annual report on statewide crime statistics, including hate crime. The 2005-2015 editions of *Crime in Louisiana* can be found on the LCLE website.<sup>7</sup>

## ANNUAL STATEWIDE HATE CRIME REPORT



State-level hate crime statistics published by the Louisiana Statistical Analysis Center, which is housed within the LCLE, do not include data on anti-Arab or anti-Islamic (Muslim) hate crime. The LCLE tabulates hate crime data according to the number of incidents per aggregate bias motivation category.

- ### ANTI-ARAB HATE CRIME STATISTICS

The LCLE does not publish annual statistics on anti-Arab hate crime. All hate crime incidents relating to race, ethnicity, and ancestry are recorded under a composite category.

- ### ANTI-ISLAMIC (MUSLIM) HATE CRIME STATISTICS

The LCLE does not publish annual statistics on anti-Islamic (Muslim) hate crime. All hate crime incidents relating to religion are recorded under a composite category.

## UNIFORM CRIME REPORTING (UCR)

By January 2021, the FBI Uniform Crime Reporting (UCR) Program will depend solely on the National Incident-Based Reporting System (NIBRS) to collect nationwide crime data.<sup>8</sup> This transition entails the sunset of summary-based crime reporting (SRS) and requires cooperation on the part of state UCR programs and individual reporting agencies.

The Louisiana UCR program is one of 18 state programs that rely on both SRS and NIBRS data.<sup>9</sup> The Louisiana Incident-Based Reporting System (LIBRS) is the state's NIBRS equivalent. As of May 1, 2017, there were 25 LIBRS-certified law enforcement agencies in Louisiana and 35 agencies participating in the NIBRS, covering 16 percent of the population.<sup>10</sup> The LIBRS is available to all Louisiana law enforcement agencies at no cost.<sup>11</sup> According to the Bureau of Justice Statistics, Louisiana has received funding through the National Crime Statistics Exchange (NCS-X) Initiative and is in the midst of NIBRS implementation.<sup>12</sup>

NIBRS reporting enables criminal justice agencies to acquire a better understanding of crime, including hate crime, occurring within their respective jurisdictions. This in turn has positive implications for effective law enforcement response and policy implementation.

### CONTACT

Louisiana Commission on Law Enforcement  
 Louisiana Uniform Crime Reporting/Louisiana Incident-Based Reporting/Law Enforcement Management Information System  
 Post Office Box 3133  
 Baton Rouge, Louisiana 70821  
 (225) 342-1569  
[lcle.state.la.us](http://lcle.state.la.us)

## THE LCLE STATISTICAL ANALYSIS CENTER DOES NOT PUBLISH ANNUAL DISAGGREGATED HATE CRIME STATISTICS.

| Bias motivation                    | '00 | '01 | '02 | '03 | '04 | '05 | '06 | '07 | '08 | '09 | '10 | '11 | '12 | '13 | '14 | '15 | '16 |
|------------------------------------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| Anti-Arab                          | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   |
| Anti-Islamic (Muslim)              | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   |
| Anti-other race/ethnicity/ancestry | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   |

According to supplemental data from the FBI, a single anti-Arab hate crime incident and 2 anti-Islamic (Muslim) hate crime incidents were reported in Louisiana in 2016. Louisiana law enforcement agencies submit hate crime data to the FBI UCR Program through the LCLE.

### FBI HATE CRIME STATISTICS (2015-2016)

| Bias motivation       | '15 | '16 |
|-----------------------|-----|-----|
| Anti-Arab             | 0   | 1   |
| Anti-Islamic (Muslim) | 1   | 2   |

<sup>7</sup> Louisiana Commission on Law Enforcement and Administration of Criminal Justice, Louisiana Statistical Analysis Ctr. (last updated Apr. 26, 2018), <http://lcle.la.gov/programs/sac.asp>.

<sup>8</sup> CJIS Div., Fed. Bureau of Investigation, SRS to NIBRS: The Path to Better UCR Data, <https://www.fbi.gov/services/cjis/cjis-link/srs-to-nibrs-the-path-to-better-ucr-data>.

<sup>9</sup> Bureau of Justice Statistics, U.S. Dep't of Justice, 2017 NCS-X Estimation Project (Jul. 27, 2017), available at <https://www.bjs.gov/content/pub/pdf/17ncsxep.pdf>.

<sup>10</sup> Louisiana Statistical Analysis Ctr., Crime in Louisiana 2015 (May 1, 2017), available at [http://lcle.la.gov/programs/uploads/Crime%20in%20Louisiana%202015\\_5\\_1.pdf](http://lcle.la.gov/programs/uploads/Crime%20in%20Louisiana%202015_5_1.pdf).

<sup>11</sup> *Id.*, at 48.

<sup>12</sup> Bureau of Justice Statistics, U.S. Dep't of Justice, National Crime Statistics Exchange (last updated Jun. 2017), <https://www.bjs.gov/content/ncsx.cfm>.

## FBI HATE CRIME STATISTICS

Pursuant to the Hate Crime Statistics Act (HCSA) of 1990 the FBI UCR Program collects data on "crimes that manifest evidence of prejudice based on race, gender or gender identity, religion, disability, sexual orientation, or ethnicity."<sup>13</sup>

Since 1993, the FBI UCR Program has published the annual report, *Hate Crime Statistics*, which is based on voluntary submissions from participating law enforcement agencies. In 2016, agencies from 49 states and the District of Columbia participated in the national hate crime statistics program.

For the most part, hate crime data is collected at the state level and forwarded to the FBI UCR Program. A total of 48 states maintain a state-level UCR data collection. UCR programs in 38 states publish annual hate crime statistics. Some participating law enforcement agencies submit hate crime data directly to the FBI UCR program.<sup>14</sup>



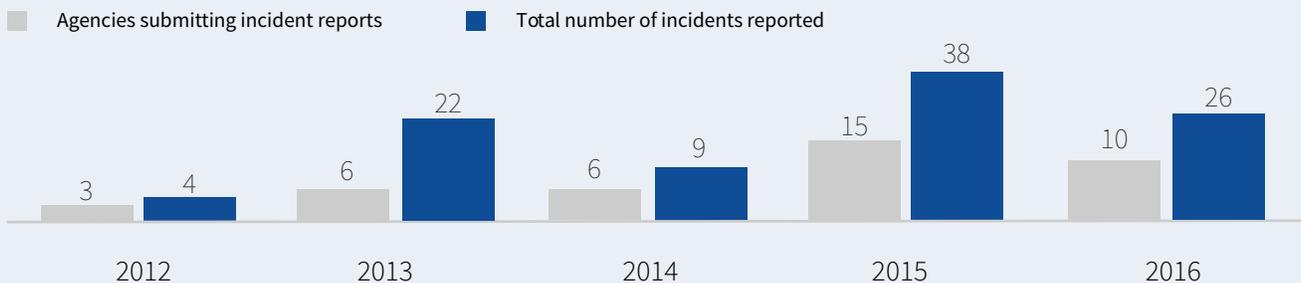
## FBI HATE CRIME STATISTICS PARTICIPANT

Law enforcement agencies in Louisiana submit hate crime data to the FBI UCR Program through the LCLE. According to the FBI UCR Program's annual report, *Hate Crime Statistics*, 26 hate crime incidents were reported in Louisiana in 2016.

In 2016, 10 of the 139 Louisiana law enforcement agencies participating in the national hate crime statistics program submitted incident reports to the FBI UCR Program. Agencies representing three of the five largest cities in Louisiana either did not participate in the national hate crime statistics program or recorded blank data in at least one quarterly submission period.

The LCLE has not released 2016 hate crime statistics. State and federal hate crime statistics are consistent for 2014-2015. The LCLE did not publish annual hate crime statistics prior to 2014.

## PARTICIPATION IN UCR HATE CRIME STATISTICS PROGRAM

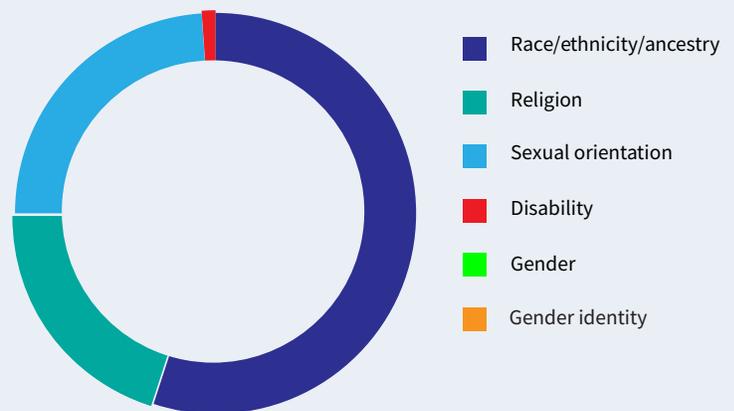


## SUMMARY

The current Louisiana hate crime statute is not sufficiently inclusive, as it does not offer protections for gender identity. While the Louisiana Commission on Law Enforcement is required to collect data on hate crime, law enforcement agencies within the state are not required to report it. There is, however, a statute that requires specific law enforcement training on hate crime. The Louisiana Commission on Law Enforcement maintains the state clearinghouse for all police-reported crime data, including hate crime, and is responsible for publishing annual statistics. Prepared in conjunction with the Louisiana Statistical Analysis Center, the 2014-2015 editions of *Crime in Louisiana* can be found on the LCLE website and include hate crime statistics. The LCLE does not publish annual statistics on anti-Arab or anti-Islamic (Muslim) hate crime. In 2016, 10 Louisiana law enforcement agencies submitted hate crime incident reports to the FBI UCR Program. The remaining 129 participating agencies provided only zero data. A total of 75 participating agencies recorded blank data in at least one quarterly submission period. Louisiana receives an overall score of 75 points, denoting an average response to hate crime.

## FBI HATE CRIME STATISTICS: LOUISIANA 2012-2016

| Incidents per bias motivation | 2012 | 2013 | 2014 | 2015 | 2016 | Total |
|-------------------------------|------|------|------|------|------|-------|
| Race/ethnicity/ancestry       | 2    | 8    | 3    | 22   | 20   | 55    |
| Religion                      | 0    | 6    | 0    | 11   | 3    | 20    |
| Sexual orientation            | 2    | 8    | 5    | 5    | 4    | 24    |
| Disability                    | 0    | 0    | 1    | 0    | 0    | 1     |
| Gender                        | -    | 0    | 0    | 0    | 0    | 0     |
| Gender identity               | -    | 0    | 0    | 0    | 0    | 0     |
| Total                         | 4    | 22   | 9    | 38   | 27   | 100   |



<sup>13</sup> 28 U.S.C. § 534 (JUSTIA 2016), available at <https://law.justia.com/codes/us/2016/title-28/part-ii/chapter-33/sec.-534>.

<sup>14</sup> Uniform Crime Reporting Program, Fed. Bureau of Investigation, Data Quality Guidelines, [https://ucr.fbi.gov/data\\_quality\\_guidelines](https://ucr.fbi.gov/data_quality_guidelines).

<sup>15</sup> Brian A. Reaves, Ph.D., Bureau of Justice Statistics, Census of State and Local Law Enforcement Agencies (Jul. 2011), available at <https://www.bjs.gov/content/pub/pdf/cslea08.pdf>.

# ADVOCACY RESOURCES - Louisiana

## IMPROVING THE RESPONSE

Most states have failed to enact sufficient legislation to address, prevent, and counteract hate crime in American communities. To accompany our federal hate crime laws, state legislatures must pass the following:

1. **An inclusive hate crime statute**, which covers a wide range of criminal offenses and provides enhanced penalties for crimes motivated because of citizenship status, race, ethnicity, color, disability, age, ancestry or national origin, gender or gender identity, sexual orientation, religion, or homelessness. Such protections are pursuant to model hate crime legislation drafted by the Arab American Institute. According to the model statute, penalty enhancement may incorporate alternatives to fines or increased prison sentences. Alternatives include restitution for victims and communities, participation in educational programs, and restorative justice.
2. **Statutes that require reporting, data collection, and specific law enforcement training on hate crime.** Centralized state agencies must publish comprehensive, accessible statistics on the nature and extent of hate crime occurring within their state. These statistics must conform to national UCR standards and include the bias motivation categories identified in the FBI's annual report, *Hate Crime Statistics*. States must also require law enforcement training schools to provide comprehensive training to ensure that officers are prepared to investigate, report, and respond to hate crime incidents.

## STATE RECOMMENDATIONS

According to our rating methodology, Louisiana receives an overall score of 75, denoting an average response to hate crime. Advocates for an improved response to hate crime in Louisiana should promote the following:

1. The current Louisiana hate crime statute offers protections for race, age, gender, religion, color, creed, disability, sexual orientation, national origin, and ancestry. **The Louisiana hate crime statute should be amended** to include protections for citizenship status, ethnicity, gender identity, homelessness, or association with a person or group with one of these actual or perceived characteristics.
2. While the Louisiana Commission on Law Enforcement is required to collect data on hate crime, law enforcement agencies in Louisiana are not required to report hate crime incidents. Of the 139 Louisiana law enforcement agencies participating in the national hate crime statistics program, only 10 agencies submitted incident reports for *Hate Crime Statistics, 2016*. **Legislation should be introduced** to address these shortcomings.
  - Law enforcement agencies must report hate crimes to the Louisiana Commission on Law Enforcement;
  - The LCLE must collect data and publish statistics, conforming to national standards, on the nature and extent of hate crime within the state. Currently, the Louisiana annual hate crime report does not provide statistics according to disaggregated bias motivation categories. The LCLE must publish statistics in accordance with the bias motivation categories identified in *Hate Crime Statistics*;
  - Louisiana must transition to the National Incident-Based Reporting System to facilitate hate crime reporting and data collection. By January 2021, all law enforcement agencies in the United States will be required to report crime information through the NIBRS.

## STATE CONTACTS

Advocates for an improved response to hate crime in Louisiana should contact current state legislators and members of Congress.

### Louisiana State Legislature

Senate: (225) 342-2040 | House: (225) 343-6945

Senate: <http://senate.la.gov>

House: <http://house.louisiana.gov>

### United States Senate

Contact: Louisiana

<https://www.senate.gov/senators/contact>

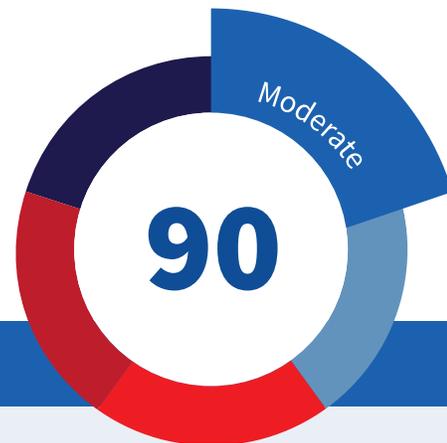
### United States House of Representatives

Directory of Representatives: Louisiana

<https://www.house.gov/representatives#state-louisiana>

# MAINE

Total population: 1,331,479  
Rank of Arab American population by state: 41



ME does not publish anti-Arab hate crime statistics.

Maine is the 42nd most populated state and has the 41st largest Arab American population.

The Maine State Police, Bureau of Identification, is the state agency responsible for the collection and publication of hate crime data. The Maine SBI does not currently publish annual statistics on anti-Arab hate crime.

## HATE CRIME STATUTE

Me. Rev. Stat. tit. 17, § 2931 prohibits a person from intimidating, interfering, intentionally oppressing, or threatening any other person in the free exercise or enjoyment of their civil rights.<sup>1</sup> Me. Rev. Stat. tit. 17-A, § 1151.8.B permits enhanced sentencing in the case of certain aggravating factors, including the defendant's selection of a person or a person's property because of their "race, color, religion, sex, ancestry, national origin, physical or mental disability, sexual orientation or homelessness."<sup>2</sup> Elsewhere in Maine Revised Statutes, sexual orientation is defined as "a person's actual or perceived heterosexuality, bisexuality, homosexuality or gender identity or expression."<sup>3</sup> This definition is pursuant to the Maine Human Rights Act.

The current Maine hate crime statute is not sufficiently inclusive, as it does not offer protections for gender identity.

## DATA COLLECTION STATUTE

Me. Rev. Stat. tit. 25, § 1554 requires all Maine law enforcement agencies to submit uniform crime reports, including information on crimes that "manifest evidence of prejudice based on race, religion, disability, sexual orientation or ethnicity," to the Maine SBI. The SBI is in turn required to compile this information and submit annual reports to the governor, legislature, and law enforcement agencies throughout the state.<sup>4</sup>

## LAW ENFORCEMENT TRAINING STATUTE

Me. Rev. Stat. tit. 25, § 2803-B requires all Maine law enforcement agencies to adopt "written policies regarding procedures" to deal with hate or bias crimes.<sup>5</sup> The chief administrative officer of each agency is required to certify to the Maine Criminal Justice Academy Board of Trustees that "attempts were made to obtain public comment during the formulation of policies."<sup>6</sup> Pursuant to Me. Rev. Stat. tit. 25, § 2803-B, the Board is required "to establish training and certification standards for all law enforcement officers" in Maine.<sup>7</sup> The Board's current minimum standards on the hate or bias crimes policy require that reporting officers are knowledgeable of hate

crime and appropriate investigative procedures, and that every law enforcement agency "recognizes the importance of investigating all bias motivated complaints."<sup>8</sup>

| MAINE  |              |
|--|--------------|
| <b>Hate Crime Statute</b>                       | <b>35/40</b> |
| No statute; civil action or civil rights law   | -            |
| Hate crime statute, with protections for:  | 10           |
| Race/ethnicity/ancestry  | 5            |
| Religion   | 5            |
| Sexual orientation   | 5            |
| Disability   | 5            |
| Gender   | 5            |
| Gender identity  | -            |
| <b>Data Collection Statute</b>                | <b>15/15</b> |
| Data collection (voluntary reporting)  | -            |
| Mandatory reporting and data collection  | 15           |
| <b>Law Enforcement Training Statute</b>       | <b>15/15</b> |
| No statute; comprehensive training   | -            |
| Mandatory training   | 15           |
| <b>Annual Hate Crime Report</b>               | <b>15/20</b> |
| Annual hate crime report, including:   | 10           |
| Anti-Arab hate crime statistics  | -            |
| Anti-Islamic (Muslim) hate crime statistics  | 5            |
| <b>FBI Hate Crime Statistics Participant</b>  | <b>10/10</b> |
| <b>TOTAL</b>   | <b>90</b>    |

<sup>1</sup> Me. Rev. Stat. tit. 17, § 2931 (JUSTIA 2017), available at <https://law.justia.com/codes/maine/2017/title-17/chapter-93-c/section-2931>.

<sup>2</sup> Me. Rev. Stat. tit. 17-A, § 1151.8.B (JUSTIA), available at <https://law.justia.com/codes/maine/2017/title-17-a/part-3/chapter-47/section-1151>.

<sup>3</sup> Me. Rev. Stat. tit. 5, § 4553.9-C (JUSTIA 2017), available at <https://law.justia.com/codes/maine/2017/title-5/part-12/chapter-337/subchapter-1/section-4553>.

<sup>4</sup> Me. Rev. Stat. tit. 25, § 1554 (JUSTIA 2017), available at <https://law.justia.com/codes/maine/2017/title-25/part-4/chapter-193/section-1544>.

<sup>5</sup> Me. Rev. Stat. tit. 25, § 2803-B (JUSTIA 2017), available at <https://law.justia.com/codes/maine/2017/title-25/part-8/chapter-341/section-2803-b>.

<sup>6</sup> *Id.*

<sup>7</sup> Me. Rev. Stat. tit. 25, § 2803-A (JUSTIA 2017), available at <https://law.justia.com/codes/maine/2017/title-25/part-8/chapter-341/section-2803-a>.

<sup>8</sup> Maine Criminal Justice Academy, Mandatory Minimum Standards (Sept. 20, 2013), available at <http://www.maine.gov/dps/mcja/training/index.htm>.

## DATA COLLECTION & STATISTICS

Pursuant to Me. Rev. Stat. tit. 25, § 1554, The Maine SBI publishes an annual report based on UCR submissions from law enforcement agencies across the state.<sup>9</sup> The 1995-2016 editions of *Crime in Maine* can be found on the Maine Department of Public Safety website and include hate crime statistics.<sup>10</sup>

## ANNUAL STATEWIDE HATE CRIME REPORT

State-level hate crime statistics published by the SBI include data on anti-Islamic (Muslim) hate crime. Law enforcement agencies in Maine began reporting hate crimes to the state's UCR division in 1992.<sup>11</sup> The SBI tabulates hate crime data according to the number of incidents per disaggregated bias motivation category. The SBI does not currently provide anti-Arab hate crime statistics.

### ANTI-ARAB HATE CRIME STATISTICS

- Anti-Arab hate crime statistics are provided in the 1995-2008 editions of *Crime in Maine*. In recent editions, anti-Arab hate crimes are recorded under a composite ethnicity/national origin category.

### ANTI-ISLAMIC (MUSLIM) HATE CRIME STATISTICS

- Anti-Islamic (Muslim) hate crime statistics are provided in the 1995-2016 editions of *Crime in Maine*. The 2014-2016 SBI reports suggest an escalation of hate crimes targeting American Muslims.

## UNIFORM CRIME REPORTING (UCR)

By January 2021, the FBI Uniform Crime Reporting (UCR) Program will depend solely on the National Incident-Based Reporting System (NIBRS) to collect nationwide crime data.<sup>12</sup> This transition entails the sunset of summary-based crime reporting (SRS) and requires cooperation on the part of state UCR programs and individual reporting agencies.

The Maine UCR program is one of 18 state programs that rely on both SRS and NIBRS data.<sup>13</sup> As of 2013, 22 law enforcement agencies in Maine were submitting crime data via the NIBRS.<sup>14</sup> The Maine UCR program is in the process of developing software to assist law enforcement agencies in the transition to NIBRS reporting.<sup>15</sup> According to the Bureau of Justice Statistics, Maine has received funding through the National Crime Statistics Exchange (NCS-X) Initiative and is in the midst of NIBRS implementation.<sup>16</sup>

NIBRS reporting enables criminal justice agencies to acquire a better understanding of crime, including hate crime, occurring within their respective jurisdictions. This in turn has positive implications for effective law enforcement response and policy implementation.

### CONTACT

Records Management Services  
Uniform Crime Reporting Division  
Maine Department of Public Safety, Maine State Police  
Suite 1, 45 Commerce Drive  
Augusta, Maine 04333  
(207) 624-7276  
[www.maine.gov/dps/](http://www.maine.gov/dps/)

## CRIME IN MAINE HATE CRIME INCIDENTS (2000-2016)

| Bias motivation                        | '00 | '01 | '02 | '03 | '04 | '05 | '06 | '07 | '08 | '09 | '10 | '11 | '12 | '13 | '14 | '15 | '16 |
|--|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| Anti-Arab                              | -   | 3   | 0   | 1   | 0   | 0   | 0   | 0   | 0   | -   | -   | -   | -   | -   | -   | -   | -   |
| Anti-Islamic (Muslim)                  | -   | 0   | 1   | 1   | 0   | 1   | 2   | 0   | 0   | 1   | 1   | 1   | 1   | 1   | 4   | 5   | 6   |
| Anti-other race/<br>ethnicity/ancestry | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   |

According to supplemental data from the FBI, 11 anti-Islamic (Muslim) hate crime incidents were reported in Maine from 2015 to 2016. This total is consistent with SBI statistics. Maine law enforcement agencies submit hate crime data to the FBI UCR Program through the SBI.

## FBI HATE CRIME STATISTICS (2015-2016)

| Bias motivation       | '15 | '16 |
|-----------------------|-----|-----|
| Anti-Arab             | 0   | 0   |
| Anti-Islamic (Muslim) | 5   | 6   |

<sup>9</sup> Me. Rev. Stat. tit. 25, § 1554, *supra* note 4.

<sup>10</sup> Maine State Police, Uniform Crime Reporting Unit, [http://www.maine.gov/dps/cim/crime\\_in\\_maine/cim.htm](http://www.maine.gov/dps/cim/crime_in_maine/cim.htm).

<sup>11</sup> Maine Dep't of Pub. Safety, *Crime in Maine 1995 (1996)*, available at [http://www.maine.gov/dps/cim/crime\\_in\\_maine/1995pdf/CRIME95.PDF](http://www.maine.gov/dps/cim/crime_in_maine/1995pdf/CRIME95.PDF).

<sup>12</sup> CJIS Div., Fed. Bureau of Investigation, SRS to NIBRS: The Path to Better UCR Data, <https://www.fbi.gov/services/cjis/cjis-link/srs-to-nibrs-the-path-to-better-ucr-data>.

<sup>13</sup> Bureau of Justice Statistics, U.S. Dep't of Justice, 2017 NCS-X Estimation Project (Jul. 27, 2017), available at <https://www.bjs.gov/content/pub/pdf/17ncsxep.pdf>.

<sup>14</sup> Uniform Crime Reporting Program, Fed. Bureau of Investigation, NIBRS Participation by State (2013), available at <https://ucr.fbi.gov/nibrs/2013/resources/nibrs-participation-by-state>.

<sup>15</sup> Maine Dep't of Pub. Safety, *Crime in Maine 2016* (Oct. 27, 2017), available at [https://www.maine.gov/dps/cim/crime\\_in\\_maine/2016pdf/Crime%202016.pdf](https://www.maine.gov/dps/cim/crime_in_maine/2016pdf/Crime%202016.pdf).

<sup>16</sup> Bureau of Justice Statistics, U.S. Dep't of Justice, National Crime Statistics Exchange (last updated Jun. 2017), <https://www.bjs.gov/content/ncsx.cfm>.

## FBI HATE CRIME STATISTICS

Pursuant to the Hate Crime Statistics Act (HCSA) of 1990 the FBI UCR Program collects data on "crimes that manifest evidence of prejudice based on race, gender or gender identity, religion, disability, sexual orientation, or ethnicity."<sup>17</sup>

Since 1993, the FBI UCR Program has published the annual report, *Hate Crime Statistics*, which is based on voluntary submissions from participating law enforcement agencies. In 2016, agencies from 49 states and the District of Columbia participated in the national hate crime statistics program.

For the most part, hate crime data is collected at the state level and forwarded to the FBI UCR Program. A total of 48 states maintain a state-level UCR data collection. UCR programs in 38 states publish annual hate crime statistics. Some participating law enforcement agencies submit hate crime data directly to the FBI UCR program.<sup>18</sup>



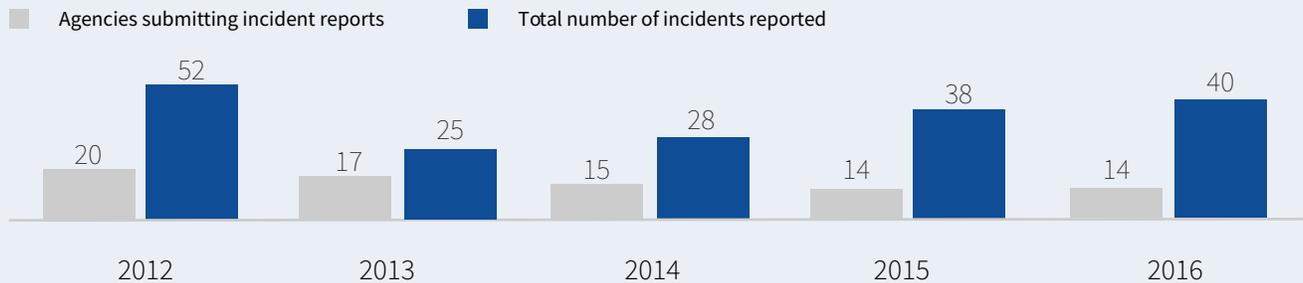
## FBI HATE CRIME STATISTICS PARTICIPANT

Law enforcement agencies in Maine submit hate crime data to the FBI UCR Program through the SBI. According to the FBI UCR Program's annual report, *Hate Crime Statistics*, 40 hate crime incidents were reported in Maine in 2016.

In 2016, 14 of the 199 Maine law enforcement agencies participating in the national hate crime statistics program submitted incident reports to the FBI UCR Program. Agencies representing two of the five largest cities in Maine submitted only zero data.

According to annual hate crime statistics published by the SBI, 40 hate crime incidents were reported in Maine in 2016. This total is consistent with the FBI UCR Program's annual report, *Hate Crime Statistics, 2016*. Discrepancies occur between state and federal hate crime statistics for 2012 and 2013.

## PARTICIPATION IN UCR HATE CRIME STATISTICS PROGRAM

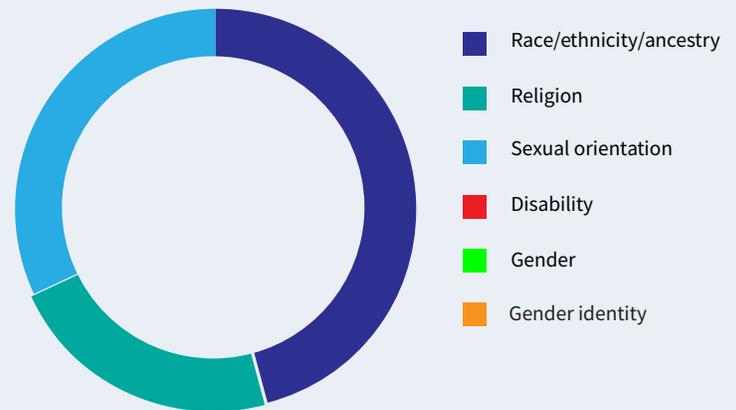


## SUMMARY

The current Maine hate crime statute is not sufficiently inclusive, as it does not offer protections for gender identity. We should note that elsewhere in Maine Revised Statutes, "sexual orientation," for which there is a provision in Maine's hate crime law, is defined so as to include gender identity. Maine has statutes that require reporting and data collection on hate crime. Furthermore, law enforcement agencies in Maine are required to adopt minimum standards on policies regarding hate crime, which must include a provision that law enforcement officers are knowledgeable about hate crime and appropriate investigative procedures. The Maine State Bureau of Identification maintains the state clearinghouse for all police-reported crime data, including hate crime, and is responsible for publishing annual statistics. Copies of *Crime in Maine* can be found on the SBI website and include anti-Islamic (Muslim) hate crime statistics. The SBI does not currently publish annual statistics on anti-Arab hate crime. In 2016, 14 Maine law enforcement agencies submitted hate crime incident reports to the FBI UCR Program. The remaining 185 participating agencies provided only zero data. A single participating agency recorded blank data in at least one quarterly submission period. Maine receives an overall score of 90 points, denoting a moderate response to hate crime.

## FBI HATE CRIME STATISTICS: MAINE 2012-2016

| Incidents per bias motivation | 2012 | 2013 | 2014 | 2015 | 2016 | Total |
|-------------------------------|------|------|------|------|------|-------|
| Race/ethnicity/ancestry       | 23   | 12   | 12   | 16   | 21   | 84    |
| Religion                      | 10   | 3    | 8    | 9    | 11   | 41    |
| Sexual orientation            | 19   | 10   | 8    | 13   | 8    | 58    |
| Disability                    | 0    | 0    | 0    | 0    | 0    | 0     |
| Gender                        | -    | 0    | 0    | 0    | 0    | 0     |
| Gender identity               | -    | 0    | 0    | 0    | 0    | 0     |
| Total                         | 52   | 25   | 28   | 38   | 40   | 183   |



<sup>17</sup> 28 U.S.C. § 534 (JUSTIA 2016), available at <https://law.justia.com/codes/us/2016/title-28/part-ii/chapter-33/sec.-534>.

<sup>18</sup> Uniform Crime Reporting Program, Fed. Bureau of Investigation, Data Quality Guidelines, [https://ucr.fbi.gov/data\\_quality\\_guidelines](https://ucr.fbi.gov/data_quality_guidelines).

# ADVOCACY RESOURCES - Maine

## IMPROVING THE RESPONSE

Most states have failed to enact sufficient legislation to address, prevent, and counteract hate crime in American communities. To accompany our federal hate crime laws, state legislatures must pass the following:

1. **An inclusive hate crime statute**, which covers a wide range of criminal offenses and provides enhanced penalties for crimes motivated because of citizenship status, race, ethnicity, color, disability, age, ancestry or national origin, gender or gender identity, sexual orientation, religion, or homelessness. Such protections are pursuant to model hate crime legislation drafted by the Arab American Institute. According to the model statute, penalty enhancement may incorporate alternatives to fines or increased prison sentences. Alternatives include restitution for victims and communities, participation in educational programs, and restorative justice.
2. **Statutes that require reporting, data collection, and specific law enforcement training on hate crime.** Centralized state agencies must publish comprehensive, accessible statistics on the nature and extent of hate crime occurring within their state. These statistics must conform to national UCR standards and include the bias motivation categories identified in the FBI's annual report, *Hate Crime Statistics*. States must also require law enforcement training schools to provide comprehensive training to ensure that officers are prepared to investigate, report, and respond to hate crime incidents.

## STATE RECOMMENDATIONS

According to our rating methodology, Maine receives an overall score of 90, denoting a moderate response to hate crime. Advocates for an improved response to hate crime in Maine should promote the following:

1. The current Maine hate crime statute offers protections for race, color, religion, sex, ancestry, national origin, physical or mental disability, sexual orientation, and homelessness. **The Maine hate crime statute should be amended** to include protections for citizenship status, ethnicity, age, gender identity, or association with a person or group with one of these actual or perceived characteristics.
2. Maine state code requires reporting, data collection, and specific law enforcement training on hate crime. Of the 199 Maine law enforcement agencies participating in the national hate crime statistics program, only 14 agencies submitted incident reports for *Hate Crime Statistics, 2016*. Maine's annual hate crime report does not provide statistics conforming to national standards.
  - Maine must transition to the National Incident-Based Reporting System to facilitate hate crime reporting and data collection. By January 2021, all law enforcement agencies in the United States will be required to report crime information through the NIBRS;
  - Recent editions of *Crime in Maine* do not provide hate crime statistics in accordance with the bias motivation categories identified in *Hate Crime Statistics*. The Maine State Bureau of Identification must publish statistics on hate crimes relating to gender and gender identity, in addition to the eight bias motivation categories introduced to national data collections in 2015. These categories include anti-Arab bias and seven religious anti-bias categories, such as Anti-Sikh and Anti-Hindu.

## STATE CONTACTS

Advocates for an improved response to hate crime in Maine should contact current state legislators and members of Congress.

### Maine State Legislature

Senate: (207) 287-1540 | House: (207) 287-1400

Senate: <http://legislature.maine.gov/senate/>

House: <http://legislature.maine.gov/house/>

### United States Senate

Contact: Maine

<https://www.senate.gov/senators/contact>

### United States House of Representatives

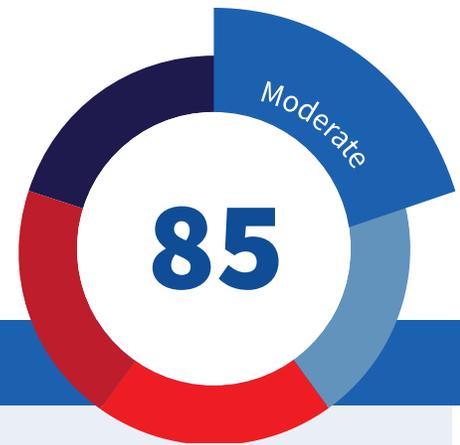
Directory of Representatives: Maine

<https://www.house.gov/representatives#state-maine>

# MARYLAND

Total population: 6,016,447

Rank of Arab American population by state: 13



1 anti-Arab hate crime incident was reported in MD in 2016.

**Maryland** is the 19th most populated state and has the 13th largest Arab American population.

The Maryland State Police (MSP), Central Records Division, is the state agency responsible for the collection and publication of hate crime data. According to the MSP, there was a single anti-Arab hate crime incident reported in Maryland in 2016.

## HATE CRIME STATUTE

Md. Code, Crim. Law § 10-304 prohibits a person from committing or attempting to commit a crime against another person or their property because of their “race, color, religious beliefs, sexual orientation, gender, disability, or national origin, or because another is homeless.”<sup>1</sup> Md. Code, Crim. Law § 10-306 provides enhanced penalties for any person who violates crimes listed under the hate crime statute.<sup>2</sup> Furthermore, Md. Code, Crim. Law § 10-307 permits increased sentencing for criminal offenses that violate the state’s hate crime statute.<sup>3</sup>

Pursuant to Maryland’s hate crime statute, sexual orientation is defined so as to include gender-related identity.

## DATA COLLECTION STATUTE

Md. Code, Pub. Safety § 2-307 requires Maryland local law enforcement agencies to submit information about incidents “apparently directed against an individual or group because of race, religion, ethnicity, or sexual orientation” to the Department of State Police (MSP). Pursuant to Section 2-307, the MSP is required to collect, analyze, and report this information each month to the Commission on Civil Rights.<sup>4</sup> Passed in 1981, Maryland’s hate crime data collection law is the first of its kind.<sup>5</sup>

## LAW ENFORCEMENT TRAINING STATUTE

**There is no Maryland statute that requires specific law enforcement training on hate crime.** Pursuant to Md. Code, Pub. Safety § 3-207(a)(16), the curriculum and minimum standards for entry-level police training in Maryland must include “sensitivity to cultural and gender diversity,” in addition to “training regarding individuals with physical, intellectual, developmental, and psychiatric disabilities.”<sup>6</sup>

The Maryland Police Training and Standards Commission is responsible for the establishment of curricula and minimum courses of study at all police training schools within the state.<sup>7</sup> Code of Maryland Regulations 12.04.01.09 defines the minimum

standards for entrance-level training for police officers.<sup>8</sup> Those regulations, current to November 1, 2017, do not include training requirements on hate crime.

| MARYLAND   |              |
|--|--------------|
| <b>Hate Crime Statute</b>                       | <b>40/40</b> |
| No statute; civil action or civil rights law   | -            |
| Hate crime statute, with protections for:  | 10           |
| Race/ethnicity/ancestry  | 5            |
| Religion   | 5            |
| Sexual orientation   | 5            |
| Disability   | 5            |
| Gender   | 5            |
| Gender identity  | 5            |
| <b>Data Collection Statute</b>                | <b>15/15</b> |
| Data collection (voluntary reporting)  | -            |
| Mandatory reporting and data collection  | 15           |
| <b>Law Enforcement Training Statute</b>       | <b>0/15</b>  |
| No statute; comprehensive training   | -            |
| Mandatory training   | -            |
| <b>Annual Hate Crime Report</b>               | <b>20/20</b> |
| Annual hate crime report, including:   | 10           |
| Anti-Arab hate crime statistics  | 5            |
| Anti-Islamic (Muslim) hate crime statistics  | 5            |
| <b>FBI Hate Crime Statistics Participant</b>  | <b>10/10</b> |
| <b>TOTAL</b>   | <b>85</b>    |

<sup>1</sup> Md. Code, Crim. Law § 10-304 (JUSTIA 2017), available at <https://law.justia.com/codes/maryland/2017/criminal-law/title-10/subtitle-3/section-10-304>.

<sup>2</sup> Md. Code, Crim. Law § 10-306 (JUSTIA 2017), available at <https://law.justia.com/codes/maryland/2017/criminal-law/title-10/subtitle-3/section-10-306>.

<sup>3</sup> Md. Code, Crim. Law § 10-307 (JUSTIA 2017), available at <https://law.justia.com/codes/maryland/2017/criminal-law/title-10/subtitle-3/section-10-307>.

<sup>4</sup> Md. Code, Pub. Safety § 2-307 (JUSTIA 2017), available at <https://law.justia.com/codes/maryland/2017/public-safety/title-2/subtitle-3/section-2-307>.

<sup>5</sup> William G. Bailey, The Encyclopedia of Police Science (1995), 350.

<sup>6</sup> Md. Code, Pub. Safety § 3-207(a)(16) (JUSTIA 2017), available at <https://law.justia.com/codes/maryland/2017/public-safety/title-3/subtitle-2/section-3-207>.

<sup>7</sup> Md. Code, Pub. Safety § 3-207(a)(5), *id.*

<sup>8</sup> Md. Code Regs. 12.04.01.09, available at [http://mdle.net/reg/PTC\\_General\\_Regulations\\_11-1-2017.pdf](http://mdle.net/reg/PTC_General_Regulations_11-1-2017.pdf).

## DATA COLLECTION & STATISTICS

Pursuant to Md. Code, Pub. Safety, § 2-307, and in cooperation with the Maryland Coordination and Analysis Center (MCAC), the MSP publishes an annual report on statewide hate crime statistics. The 2012-2016 editions of the *State of Maryland Hate/Bias Report* can be found on the MSP website.<sup>9</sup>

## ANNUAL STATEWIDE HATE CRIME REPORT



State-level hate crime statistics published by the CRD include data on anti-Arab and anti-Islamic (Muslim) hate crime. The CRD tabulates hate crime data according to the number of incidents per disaggregated bias motivation category.

*State of Maryland Hate/Bias Report* includes data on both hate crime incidents and bias incidents, which are defined as “incidents reported by the victim(s) or the investigating law enforcement officer(s) when perceived to be motivated by hate or bias.”<sup>10</sup> The data consists of verified, inconclusive, and unfounded incidents.

- ### ANTI-ARAB HATE CRIME STATISTICS

Anti-Arab hate crime statistics are provided in the 2011-2016 editions of *Maryland Hate/Bias Report*. According to the MSP, there was a single anti-Arab hate crime incident reported in Maryland in 2016. The report does not indicate whether the incident was verified, inconclusive, or unfounded.

- ### ANTI-ISLAMIC (MUSLIM) HATE CRIME STATISTICS

Anti-Islamic (Muslim) hate crime statistics are provided in the 2011-2016 editions of *Maryland Hate/Bias Report*. The 2015-2016 CRD reports suggest an escalation of hate crimes targeting American Muslims.

## UNIFORM CRIME REPORTING (UCR)

By January 2021, the FBI Uniform Crime Reporting (UCR) Program will depend solely on the National Incident-Based Reporting System (NIBRS) to collect nationwide crime data.<sup>11</sup> This transition entails the sunset of summary-based crime reporting (SRS) and requires cooperation on the part of state UCR programs and individual reporting agencies.

The Maryland UCR program is one of 15 state programs that still rely exclusively on SRS data.<sup>12</sup> The Montgomery County Police Department achieved full NIBRS status in 2017 and now reports NIBRS data directly to the FBI.<sup>13</sup> The Central Records Division began planning in 2015 and remains in the early stages of a state-level NIBRS transition.<sup>14</sup> According to the Bureau of Justice Statistics, Maryland has received funding through the National Crime Statistics Exchange (NCS-X) Initiative.<sup>15</sup>

NIBRS reporting enables criminal justice agencies to acquire a better understanding of crime, including hate crime, occurring within their respective jurisdictions. This in turn has positive implications for effective law enforcement response and policy implementation.

## CONTACT

Central Records Division  
 Maryland State Police  
 1711 Belmont Avenue  
 Baltimore, Maryland 21244  
 (410) 298-3444  
 msp.ucr@maryland.gov

## MARYLAND HATE/BIAS REPORT INCIDENTS (2000-2016)

| Bias motivation                        | '00 | '01 | '02 | '03 | '04 | '05 | '06 | '07 | '08 | '09 | '10 | '11 | '12 | '13 | '14 | '15 | '16 |
|--|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| Anti-Arab                              | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | 1   | -   | -   | 0   | 1   |
| Anti-Islamic (Muslim)                  | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | 2   | 4   | 5   | 1   | 14  | 11  |
| Anti-other race/<br>ethnicity/ancestry | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | 4   | 6   | 5   | 2   | 5   | 9   |

According to supplemental data from the FBI, a single anti-Islamic (Muslim) hate crime incident was reported in Maryland in 2016. This total conflicts with MSP statistics. The CRD does not indicate which incidents are verified, inconclusive, or unfounded. Maryland law enforcement agencies submit hate crime data to the FBI UCR Program through the CRD.

## FBI HATE CRIME STATISTICS (2015-2016)

| Bias motivation       | '15 | '16 |
|-----------------------|-----|-----|
| Anti-Arab             | 0   | 0   |
| Anti-Islamic (Muslim) | 1   | 1   |

<sup>9</sup> Maryland Coordination and Analysis Ctr., Resources, <http://www.mcac.maryland.gov/resources>.

<sup>10</sup> Maryland Coordination and Analysis Ctr., Maryland State Police, *State of Maryland 2016 Hate/Bias Report* (Sept. 27, 2017), available at [http://www.mcac.maryland.gov/resources/State\\_of\\_Maryland\\_2016\\_Hate\\_Bias\\_Report\\_Final.pdf](http://www.mcac.maryland.gov/resources/State_of_Maryland_2016_Hate_Bias_Report_Final.pdf).

<sup>11</sup> CJIS Div., Fed. Bureau of Investigation, SRS to NIBRS: The Path to Better UCR Data, <https://www.fbi.gov/services/cjis/cjis-link/srs-to-nibrs-the-path-to-better-ucr-data>.

<sup>12</sup> Bureau of Justice Statistics, U.S. Dep’t of Justice, 2017 NCS-X Estimation Project (Jul. 27, 2017), available at <https://www.bjs.gov/content/pub/pdf/17ncsxep.pdf>.

<sup>13</sup> Bureau of Justice Statistics, U.S. Dep’t of Justice, NIBRS Transition Report: Montgomery County Police Department (May 2017), available at <https://www.bjs.gov/content/pub/pdf/Case%20Study%20MCPD%205-18-17%20FINAL%20V6.pdf>.

<sup>14</sup> *Id.*, at 4.

## FBI HATE CRIME STATISTICS

Pursuant to the Hate Crime Statistics Act (HCSA) of 1990 the FBI UCR Program collects data on "crimes that manifest evidence of prejudice based on race, gender or gender identity, religion, disability, sexual orientation, or ethnicity."<sup>16</sup>

Since 1993, the FBI UCR Program has published the annual report, *Hate Crime Statistics*, which is based on voluntary submissions from participating law enforcement agencies. In 2016, agencies from 49 states and the District of Columbia participated in the national hate crime statistics program.

For the most part, hate crime data is collected at the state level and forwarded to the FBI UCR Program. A total of 48 states maintain a state-level UCR data collection. UCR programs in 38 states publish annual hate crime statistics. Some participating law enforcement agencies submit hate crime data directly to the FBI UCR program.<sup>17</sup>



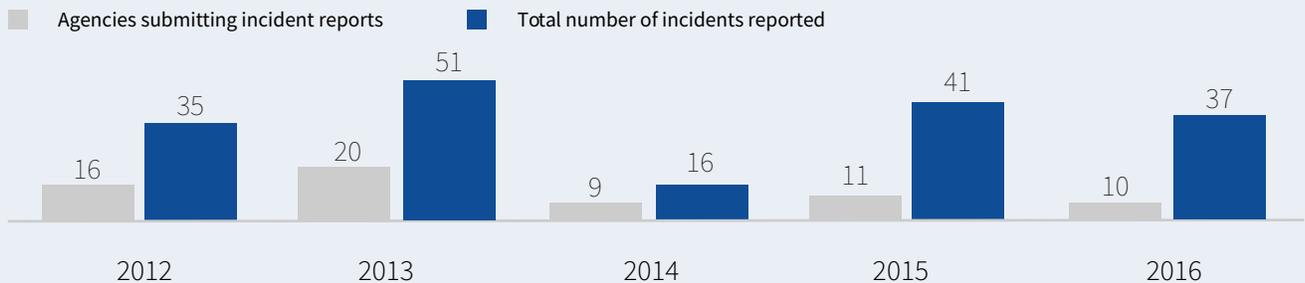
## FBI HATE CRIME STATISTICS PARTICIPANT

Law enforcement agencies in Maryland submit hate crime data to the FBI UCR Program through the CRD. According to the FBI UCR Program's annual report, *Hate Crime Statistics*, 37 hate crime incidents were reported in Maryland in 2016.

In 2016, 10 of the 154 Maryland law enforcement agencies participating in the national hate crime statistics program submitted incident reports to the FBI UCR Program. Agencies representing four of the five largest cities in Maryland either did not participate in the national hate crime statistics program or submitted only zero data.

According to annual hate crime statistics published by the CRD, 285 hate/bias incidents, consisting of 93 verified incidents, were reported in Maryland in 2016. This total conflicts with the FBI UCR Program's annual report, *Hate Crime Statistics, 2016*. Discrepancies occur between state and federal hate crime statistics for 2012-2015 as well.

## PARTICIPATION IN UCR HATE CRIME STATISTICS PROGRAM

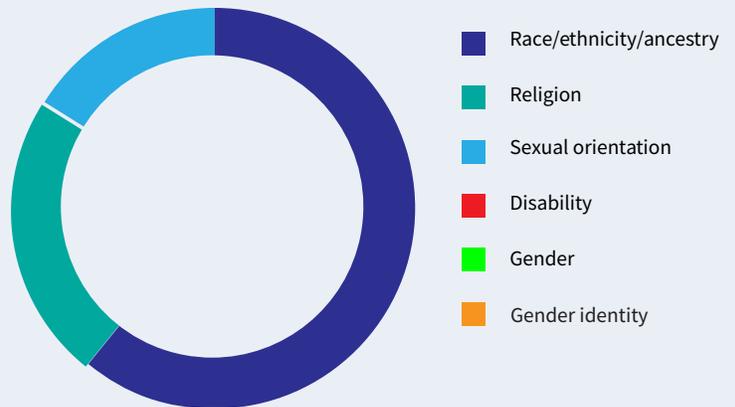


## SUMMARY

Maryland has an inclusive hate crime statute. While Maryland has a statute that requires reporting and data collection, there is no state law regarding mandatory police training on hate crime. The Maryland State Police, Criminal Records Division, maintains the state clearinghouse for all police-reported crime data, including hate crime and hate/bias incidents. In conjunction with the State Police, the Maryland Coordination and Analysis Center publishes an annual report on hate crime and other incidents perceived to contain an element of bias. The 2012-2016 editions of the *Maryland Hate/Bias Report* can be found on the MCAC website and include both anti-Arab and anti-Islamic (Muslim) hate/bias statistics. In 2016, 10 Maryland law enforcement agencies submitted hate crime incident reports to the FBI UCR Program. The remaining 144 participating agencies provided only zero data. A total of 8 participating agencies recorded blank data in at least one quarterly submission period. Maryland receives an overall score of 85 points, denoting a moderate response to hate crime.

## FBI HATE CRIME STATISTICS: MARYLAND 2012-2016

| Incidents per bias motivation | 2012 | 2013 | 2014 | 2015 | 2016 | Total |
|-------------------------------|------|------|------|------|------|-------|
| Race/ethnicity/ancestry       | 24   | 29   | 12   | 22   | 24   | 111   |
| Religion                      | 4    | 15   | 2    | 14   | 7    | 42    |
| Sexual orientation            | 7    | 7    | 2    | 7    | 6    | 29    |
| Disability                    | 0    | 0    | 0    | 0    | 0    | 0     |
| Gender                        | -    | 0    | 0    | 0    | 0    | 0     |
| Gender identity               | -    | 0    | 0    | 0    | 0    | 0     |
| Total                         | 35   | 51   | 16   | 43   | 37   | 182   |



<sup>16</sup> 28 U.S.C. § 534 (JUSTIA 2016), available at <https://law.justia.com/codes/us/2016/title-28/part-ii/chapter-33/sec.-534>.

<sup>17</sup> Uniform Crime Reporting Program, Fed. Bureau of Investigation, Data Quality Guidelines, [https://ucr.fbi.gov/data\\_quality\\_guidelines](https://ucr.fbi.gov/data_quality_guidelines).

# ADVOCACY RESOURCES - Maryland

## IMPROVING THE RESPONSE

Most states have failed to enact sufficient legislation to address, prevent, and counteract hate crime in American communities. To accompany our federal hate crime laws, state legislatures must pass the following:

1. **An inclusive hate crime statute**, which covers a wide range of criminal offenses and provides enhanced penalties for crimes motivated because of citizenship status, race, ethnicity, color, disability, age, ancestry or national origin, gender or gender identity, sexual orientation, religion, or homelessness. Such protections are pursuant to model hate crime legislation drafted by the Arab American Institute. According to the model statute, penalty enhancement may incorporate alternatives to fines or increased prison sentences. Alternatives include restitution for victims and communities, participation in educational programs, and restorative justice.
2. **Statutes that require reporting, data collection, and specific law enforcement training on hate crime.** Centralized state agencies must publish comprehensive, accessible statistics on the nature and extent of hate crime occurring within their state. These statistics must conform to national UCR standards and include the bias motivation categories identified in the FBI's annual report, *Hate Crime Statistics*. States must also require law enforcement training schools to provide comprehensive training to ensure that officers are prepared to investigate, report, and respond to hate crime incidents.

## STATE RECOMMENDATIONS

According to our rating methodology, Maryland receives an overall score of 85, denoting a moderate response to hate crime. Advocates for an improved response to hate crime in Maryland should promote the following:

1. The current Maryland hate crime statute offers protections for race, color, religious beliefs, sexual orientation, which is defined so as to include gender identity, disability, national origin, and homelessness. **The Maryland hate crime statute should be amended** to include protections for citizenship status, ethnicity, age, ancestry, or association with a person or group with one of these actual or perceived characteristics.
2. Of the 154 Maryland law enforcement agencies participating in the national hate crime statistics program, only 10 agencies submitted incident reports for *Hate Crime Statistics, 2016*. Maryland must transition to the National Incident-Based Reporting System to facilitate hate crime reporting and data collection. By January 2021, all law enforcement agencies in the United States will be required to report crime information through the NIBRS.
3. Maryland state code does not require specific law enforcement training on hate crime. The Maryland Police Standards Commission must establish minimum courses of study relating to investigating and reporting hate crime incidents in all police training schools within the state. As required by law, curriculum and minimum standards for entry-level police training in Maryland must already include instruction relating to cultural and gender diversity.

## STATE CONTACTS

Advocates for an improved response to hate crime in Maryland should contact current state legislators and members of Congress.

### Maryland General Assembly

Contact: (410) 841-3700

Both Chambers: <http://mgaleg.maryland.gov>

### United States Senate

Contact: Maryland

<https://www.senate.gov/senators/contact>

### United States House of Representatives

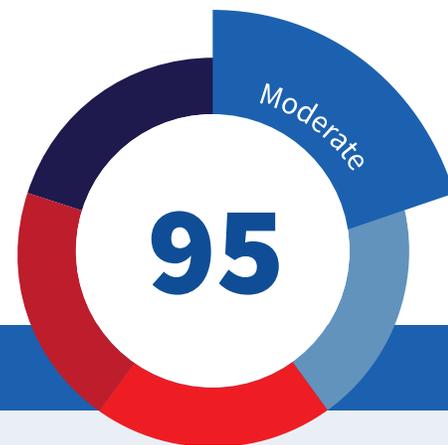
Directory of Representatives: Maryland

<https://www.house.gov/representatives#state-maryland>

# MASSACHUSETTS

Total population: 6,811,779

Rank of Arab American population by state: 10



10 anti-Arab hate crime incidents were reported in MA in 2016.

**Massachusetts** is the 15th most populated state and has the 10th largest Arab American population.

The Massachusetts State Police (MSP), Crime Reporting Unit (CRU), is the state agency responsible for the collection and publication of hate crime data. According to the MSP, there were 10 anti-Arab hate crime incidents reported throughout Massachusetts in 2016.

## HATE CRIME STATUTE

Mass. Gen. Laws ch. 265, § 39 provides enhanced penalties for assault or battery upon a person or a person's property with the intent to intimidate because of their "race, color, religion, national origin, sexual orientation, gender identity, or disability."<sup>1</sup> Furthermore, a person convicted under the provisions of this section is required to complete a "diversity awareness program designed by the secretary of the executive office of public safety in consultation with the Massachusetts commission against discrimination and approved by the chief justice of the trial court."<sup>2</sup>

The current Massachusetts hate crime statute is not sufficiently inclusive, as it does not offer protections for gender.

## DATA COLLECTION STATUTE

Mass. Gen. Laws ch. 22C, §§ 33-35 require a crime reporting unit (CRU) within the Department of State Police to collect and analyze all hate crime data from Massachusetts law enforcement agencies and maintain that data in a central repository.<sup>3</sup> Pursuant to Mass. Gen. Laws ch. 22C, § 34, the CRU is required to transmit reports on hate crime data to select government agencies and the general public.<sup>4</sup>

According to 501 CMR 4.03, Massachusetts law enforcement agencies are required to complete and submit hate crime reports "for each criminal act that appears to be motivated by bias" to the CRU.<sup>5</sup>

## LAW ENFORCEMENT TRAINING STATUTE

Mass. Gen. Laws ch. 6, § 116B requires the Municipal Police Training Committee to "provide instruction for police officers in identifying, responding to and reporting all incidents of hate crime" and "include such instruction in all curricula for recruits and in-service trainees and in all police academies." Pursuant to Mass. Gen. Laws ch. 6, § 116, the Municipal Police Committee is housed within the Executive Office of Public Safety and Security (EOPSS) and is required to set policies and standards for the training of Massachusetts law enforcement officers.<sup>6</sup>

### MASSACHUSETTS

| Hate Crime Statute                       | 35/40 |
|---|-------|
| No statute; civil action or civil rights law  | -     |
| Hate crime statute, with protections for:   | 10    |
| Race/ethnicity/ancestry   | 5     |
| Religion  | 5     |
| Sexual orientation  | 5     |
| Disability  | 5     |
| Gender  | -     |
| Gender identity   | 5     |
| Data Collection Statute                | 15/15 |
| Data collection (voluntary reporting)   | -     |
| Mandatory reporting and data collection   | 15    |
| Law Enforcement Training Statute       | 15/15 |
| No statute; comprehensive training  | -     |
| Mandatory training  | 15    |
| Annual Hate Crime Report               | 20/20 |
| Annual hate crime report, including:  | 10    |
| Anti-Arab hate crime statistics   | 5     |
| Anti-Islamic (Muslim) hate crime statistics   | 5     |
| FBI Hate Crime Statistics Participant  | 10/10 |
| TOTAL   | 95    |

<sup>1</sup> Mass. Gen. Laws ch. 265, § 39(a) (JUSTIA 2017), available at <https://law.justia.com/codes/massachusetts/2017/part-iv/title-i/chapter-265/section-39>.

<sup>2</sup> Mass. Gen. Laws ch. 265, § 39(b), *id.*

<sup>3</sup> Mass. Gen. Laws ch. 22C, §§ 33 – 35 (JUSTIA 2017), available at <https://law.justia.com/codes/massachusetts/2017/part-i/title-ii/chapter-22c>.

<sup>4</sup> Mass. Gen. Laws ch. 22C, § 34 (JUSTIA 2017), available at <https://law.justia.com/codes/massachusetts/2017/part-i/title-ii/chapter-22c/section-34>.

<sup>5</sup> 501 CMR 4.03, available at <http://www.mass.gov/files/documents/2017/10/05/501cmr4.pdf>.

<sup>6</sup> Mass. Gen. Laws ch. 6, § 116B (JUSTIA 2017), available at <https://law.justia.com/codes/massachusetts/2017/part-i/title-ii/chapter-6/section-116b>.

## DATA COLLECTION & STATISTICS

In accordance with Mass. Gen. Laws ch. 22C, § 34, the MSP publishes an annual report on statewide hate crime statistics. The report is prepared in conjunction with the EOPSS. The 2003-2014 editions of *Hate Crime in Massachusetts* can be found on the EOPSS website.<sup>7</sup> The 2016 report was published in November 2017.<sup>8</sup>

## ANNUAL STATEWIDE HATE CRIME REPORT



State-level hate crime statistics published by the CRU include data on anti-Arab and anti-Islamic (Muslim) hate crime. The CRU tabulates hate crime data according to the number of incidents per disaggregated bias motivation category. Hate crime statistics for 2000-2016 are provided in the editions of *Hate Crime in Massachusetts* currently posted online.

- ### ANTI-ARAB HATE CRIME STATISTICS

Anti-Arab hate crime statistics are provided in the 2003-2016 editions of *Hate Crime in Massachusetts*. From 2000 to 2001 there was a significant increase of reported anti-Arab hate crime incidents. The 2015-2016 CRU reports suggest a resurgence of hate crimes targeting Arab Americans.

- ### ANTI-ISLAMIC (MUSLIM) HATE CRIME STATISTICS

Anti-Islamic (Muslim) hate crime statistics are provided in the 2003-2016 editions of *Hate Crime in Massachusetts*. From 2000 to 2001 there was a significant increase of reported anti-Islamic (Muslim) hate crime incidents. The 2015-2016 CRU reports also suggest a resurgence of hate crimes targeting American Muslims.

## UNIFORM CRIME REPORTING (UCR)

By January 2021, the FBI Uniform Crime Reporting (UCR) Program will depend solely on the National Incident-Based Reporting System (NIBRS) to collect nationwide crime data.<sup>9</sup> This transition entails the sunset of summary-based crime reporting (SRS) and requires cooperation on the part of state UCR programs and individual reporting agencies.

The Massachusetts UCR program is one of 18 state programs that rely on both SRS and NIBRS data.<sup>10</sup> As of 2013, there were 304 NIBRS-certified law enforcement agencies in Massachusetts.<sup>11</sup> In 2016, the Boston Police Department received a \$2,172,522 grant through the National Crime Statistics Exchange (NCS-X) Initiative to support the Department's transition to NIBRS.<sup>12</sup> According to the Bureau of Justice Statistics, Massachusetts is over 80 percent NIBRS-certified.<sup>13</sup>

NIBRS reporting enables criminal justice agencies to acquire a better understanding of crime, including hate crime, occurring within their respective jurisdictions. This in turn has positive implications for effective law enforcement response and policy implementation.

## CONTACT

Crime Reporting Unit  
 Massachusetts State Police  
 124 Acton Street  
 Maynard, Massachusetts 01754  
 (978) 451-3731  
 www.mass.gov

## HATE CRIME IN MASSACHUSETTS INCIDENTS (2000-2016)

| Bias motivation                        | '00 | '01 | '02 | '03 | '04 | '05 | '06 | '07 | '08 | '09 | '10 | '11 | '12 | '13 | '14 | '15 | '16 |
|--|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| Anti-Arab                              | 4   | 56  | 15  | 37  | 12  | 9   | 5   | 8   | 5   | 5   | 7   | 4   | 14  | 7   | 0   | 9   | 10  |
| Anti-Islamic (Muslim)                  | 3   | 25  | 16  | 7   | 4   | 9   | 13  | 2   | 6   | 7   | 9   | 8   | 8   | 14  | 7   | 13  | 13  |
| Anti-other race/<br>ethnicity/ancestry | 10  | 17  | 9   | 26  | 4   | 5   | 3   | 5   | 2   | 4   | 1   | 4   | 1   | 1   | 20  | -   | 17  |

According to supplemental data from the FBI, 9 anti-Arab and 13 anti-Islamic (Muslim) hate crime incidents were reported in Massachusetts in 2016. Disparate anti-Arab hate crime totals (either 9 incidents or 10) are recorded in different sections of *Hate Crime in Massachusetts, 2016*. In response to a public records request, the EOPSS provided data indicating a total of 10 incidents. Massachusetts law enforcement agencies submit hate crime data to the FBI UCR Program through the CRU.

## FBI HATE CRIME STATISTICS (2015-2016)

| Bias motivation       | '15 | '16 |
|-----------------------|-----|-----|
| Anti-Arab             | 9   | 9   |
| Anti-Islamic (Muslim) | 13  | 13  |

<sup>7</sup> Massachusetts Exec. Office of Pub. Safety and Security, Hate Crimes Reporting, <http://www.mass.gov/eopss/hate-crimes-reporting.html>.

<sup>8</sup> Massachusetts Exec. Office of Pub. Safety and Security, Hate Crime in Massachusetts 2016 (Nov. 21, 2017), available at [https://www.mass.gov/files/documents/2017/11/20/MA\\_Hate\\_Crime\\_2016.pdf](https://www.mass.gov/files/documents/2017/11/20/MA_Hate_Crime_2016.pdf).

<sup>9</sup> CJIS Div., Fed. Bureau of Investigation, SRS to NIBRS: The Path to Better UCR Data, <https://www.fbi.gov/services/cjis/cjis-link/srs-to-nibrs-the-path-to-better-ucr-data>.

<sup>10</sup> Bureau of Justice Statistics, U.S. Dep't of Justice, 2017 NCS-X Estimation Project (Jul. 27, 2017), available at <https://www.bjs.gov/content/pub/pdf/17ncsxep.pdf>.

<sup>11</sup> Uniform Crime Reporting Program, Fed. Bureau of Investigation, NIBRS Participation by State (2013), available at <https://ucr.fbi.gov/nibrs/2013/resources/nibrs-participation-by-state>.

<sup>12</sup> Press Release, Office of Justice Programs, U.S. Dep't of Justice, FBI and Bureau of Justice Statistics Award \$24.2 Million to Law Enforcement Agencies to Support National Crime-Reporting Infrastructure (Sept. 27, 2016), available at <https://ojp.gov/newsroom/pressreleases/2016/ojp09272016.pdf>.

<sup>13</sup> Bureau of Justice Statistics, U.S. Dep't of Justice, National Crime Statistics Exchange (last updated Jun. 2017), <https://www.bjs.gov/content/ncsx.cfm>.

## FBI HATE CRIME STATISTICS

Pursuant to the Hate Crime Statistics Act (HCSA) of 1990 the FBI UCR Program collects data on "crimes that manifest evidence of prejudice based on race, gender or gender identity, religion, disability, sexual orientation, or ethnicity."<sup>14</sup>

Since 1993, the FBI UCR Program has published the annual report, *Hate Crime Statistics*, which is based on voluntary submissions from participating law enforcement agencies. In 2016, agencies from 49 states and the District of Columbia participated in the national hate crime statistics program.

For the most part, hate crime data is collected at the state level and forwarded to the FBI UCR Program. A total of 48 states maintain a state-level UCR data collection. UCR programs in 38 states publish annual hate crime statistics. Some participating law enforcement agencies submit hate crime data directly to the FBI UCR program.<sup>15</sup>



## FBI HATE CRIME STATISTICS PARTICIPANT

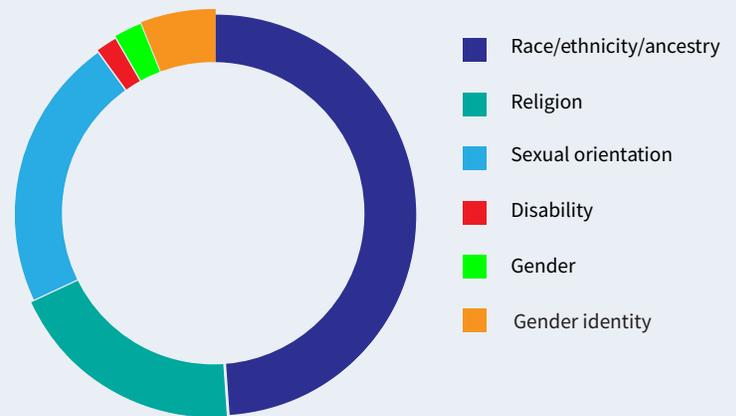
Law enforcement agencies in Massachusetts submit hate crime data to the FBI UCR Program through the CRU. According to the FBI UCR Program's annual report, *Hate Crime Statistics*, 391 hate crime incidents were reported in Massachusetts in 2016.

In 2016, 84 of the 351 Massachusetts law enforcement agencies participating in the national hate crime statistics program submitted incident reports to the FBI UCR Program.

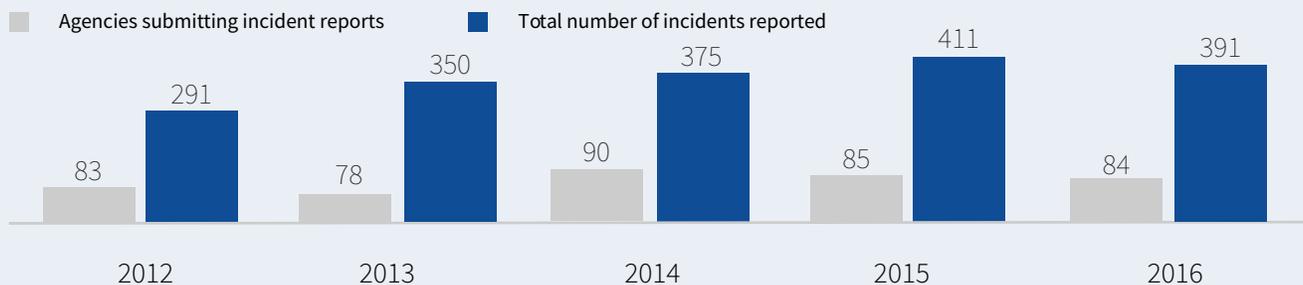
According to annual hate crime statistics published by the CRU, 391 hate crime incidents were reported in Massachusetts in 2016. This total is consistent with the FBI UCR Program's annual report, *Hate Crime Statistics, 2016*. Discrepancies occur between state and federal hate crime statistics for 2012-2014.

## FBI HATE CRIME STATISTICS: MASSACHUSETTS 2012-2016

| Incidents per bias motivation | 2012 | 2013 | 2014 | 2015 | 2016 | Total |
|-------------------------------|------|------|------|------|------|-------|
| Race/ethnicity/ancestry       | 156  | 188  | 161  | 198  | 212  | 915   |
| Religion                      | 52   | 64   | 57   | 81   | 94   | 348   |
| Sexual orientation            | 80   | 91   | 80   | 81   | 76   | 408   |
| Disability                    | 3    | 3    | 10   | 4    | 8    | 28    |
| Gender                        | -    | 1    | 18   | 15   | 8    | 42    |
| Gender identity               | -    | 3    | 49   | 45   | 16   | 113   |
| Total                         | 291  | 350  | 375  | 424  | 414  | 1,854 |



## PARTICIPATION IN UCR HATE CRIME STATISTICS PROGRAM



## SUMMARY

The current Massachusetts hate crime statute is not sufficiently inclusive, as it does not offer protections for gender. Massachusetts has statutes that require reporting, data collection, and specific law enforcement training on hate crime. The Massachusetts State Police, Crime Reporting Unit, maintains the state clearinghouse for all police-reported crime data, including hate crime, and is responsible for publishing annual statistics. Copies of *Hate Crime in Massachusetts* can be found on the EOPSS website and include both anti-Arab and anti-Islamic (Muslim) hate crime statistics. In 2016, 84 Massachusetts law enforcement agencies submitted hate crime incident reports to the FBI UCR Program. The remaining 267 participating agencies provided only zero data. A total of 9 participating agencies recorded blank data in at least one quarterly submission period. Massachusetts receives an overall score of 95 points, denoting a moderate response to hate crime.

<sup>14</sup> 28 U.S.C. § 534 (JUSTIA 2016), available at <https://law.justia.com/codes/us/2016/title-28/part-ii/chapter-33/sec.-534>.

<sup>15</sup> Uniform Crime Reporting Program, Fed. Bureau of Investigation, Data Quality Guidelines, [https://ucr.fbi.gov/data\\_quality\\_guidelines](https://ucr.fbi.gov/data_quality_guidelines).

# ADVOCACY RESOURCES - Massachusetts

## IMPROVING THE RESPONSE

Most states have failed to enact sufficient legislation to address, prevent, and counteract hate crime in American communities. To accompany our federal hate crime laws, state legislatures must pass the following:

1. **An inclusive hate crime statute**, which covers a wide range of criminal offenses and provides enhanced penalties for crimes motivated because of citizenship status, race, ethnicity, color, disability, age, ancestry or national origin, gender or gender identity, sexual orientation, religion, or homelessness. Such protections are pursuant to model hate crime legislation drafted by the Arab American Institute. According to the model statute, penalty enhancement may incorporate alternatives to fines or increased prison sentences. Alternatives include restitution for victims and communities, participation in educational programs, and restorative justice.
2. **Statutes that require reporting, data collection, and specific law enforcement training on hate crime.** Centralized state agencies must publish comprehensive, accessible statistics on the nature and extent of hate crime occurring within their state. These statistics must conform to national UCR standards and include the bias motivation categories identified in the FBI's annual report, *Hate Crime Statistics*. States must also require law enforcement training schools to provide comprehensive training to ensure that officers are prepared to investigate, report, and respond to hate crime incidents.

## STATE RECOMMENDATIONS

According to our rating methodology, Massachusetts receives an overall score of 95, denoting a moderate response to hate crime. Advocates for an improved response to hate crime in Massachusetts should promote the following:

1. The current Massachusetts hate crime statute offers protections for race, color, religion, national origin, sexual orientation, gender identity, and disability. **The Massachusetts hate crime statute should be amended** to include citizenship status, ethnicity, age, ancestry, gender, homelessness, or association with a person or group with one of these actual or perceived characteristics.
2. Massachusetts must transition to the National Incident-Based Reporting System to facilitate hate crime reporting and data collection. By January 2021, all law enforcement agencies in the United States will be required to report crime information through the NIBRS.

## STATE CONTACTS

Advocates for an improved response to hate crime in Massachusetts should contact current state legislators and members of Congress.

### Massachusetts General Court

Senate: <https://malegislature.gov/Legislators/Senate>

House: <https://malegislature.gov/Legislators/House>

### United States Senate

Contact: Massachusetts

<https://www.senate.gov/senators/contact>

### United States House of Representatives

Directory of Representatives: Massachusetts

<https://www.house.gov/representatives#state-massachusetts>

# MICHIGAN

Total population: 9,928,300  
Rank of Arab American population by state: 2



14 anti-Arab hate crime incidents were reported in MI in 2016.

**Michigan** is the 10th most populated state and has the 2nd largest Arab American population.

The Michigan State Police (MSP), Criminal Justice Information Center, is the state agency responsible for the collection and publication of hate crime data. According to the MSP, there were 14 anti-Arab hate crime incidents reported throughout Michigan in 2016.



## HATE CRIME STATUTE

Mich. Comp. Laws § 750.147b prohibits a person from maliciously causing physical contact, damaging property, or making threats with specific intent to intimidate or harass another person because of their “race, color, religion, gender, or national origin.”<sup>1</sup> Such an offense is considered a felony and defined as ethnic intimidation. Furthermore, regardless of any criminal prosecution, a person who commits ethnic intimidation may be liable to civil action on behalf of the victim.<sup>2</sup>

The current Michigan hate crime statute is not sufficiently inclusive, as it does not offer protections for sexual orientation, disability, or gender identity.



## DATA COLLECTION STATUTE

Mich. Comp. Laws § 28.257a requires Michigan law enforcement agencies to report information related to crimes motivated “by prejudice or bias based upon race, ethnic origin, religion, gender, or sexual orientation” to the MSP.<sup>3</sup> Pursuant to Section 28.252, the MSP is required to compile reports from local law enforcement agencies and submit that compilation to select government entities.<sup>4</sup>



## LAW ENFORCEMENT TRAINING STATUTE

**There is no Michigan statute that requires specific law enforcement training on hate crime.** Mich. Comp. Laws § 28.611 authorizes the Michigan Commission on Law Enforcement Standards (MCOLES) to establish “in-service training programs and minimum courses of study” for law enforcement officers.<sup>5</sup> Pursuant to Mich. Admin. Code R. 28.14311, MCOLES is required to “publish the basic law enforcement training curriculum.”<sup>6</sup> Hate crime does not appear to be a mandatory topic of instruction.

The Michigan Department of Civil Rights (MDCR), Michigan Alliance Against Hate Crime (MIAAHC), has developed MCOLES-registered law enforcement training programs on the effective response to hate crime.<sup>7</sup>

| MICHIGAN                                     |              |
|--|--------------|
| <b>Hate Crime Statute</b>                    | <b>25/40</b> |
| No statute; civil action or civil rights law | -            |
| Hate crime statute, with protections for:    | 10           |
| Race/ethnicity/ancestry                      | 5            |
| Religion                                     | 5            |
| Sexual orientation                           | -            |
| Disability                                   | -            |
| Gender                                       | 5            |
| Gender identity                              | -            |
| <b>Data Collection Statute</b>               | <b>15/15</b> |
| Data collection (voluntary reporting)        | -            |
| Mandatory reporting and data collection      | 15           |
| <b>Law Enforcement Training Statute</b>      | <b>0/15</b>  |
| No statute; comprehensive training           | -            |
| Mandatory training                           | -            |
| <b>Annual Hate Crime Report</b>              | <b>20/20</b> |
| Annual hate crime report, including:         | 10           |
| Anti-Arab hate crime statistics              | 5            |
| Anti-Islamic (Muslim) hate crime statistics  | 5            |
| <b>FBI Hate Crime Statistics Participant</b> | <b>10/10</b> |
| <b>TOTAL</b>                                 | <b>70</b>    |

<sup>1</sup> Mich. Comp. Laws § 750.147b (JUSTIA 2017), available at <https://law.justia.com/codes/michigan/2017/chapter-750/statute-act-328-of-1931/division-328-1931-xxi/section-750.147b>.

<sup>2</sup> Mich. Comp. Laws § 750.147b(3), *id.*

<sup>3</sup> Mich. Comp. Laws § 28.257a (JUSTIA 2017), available at <https://law.justia.com/codes/michigan/2017/chapter-28/statute-act-319-of-1968/section-28.257a>.

<sup>4</sup> Mich. Comp. Laws § 28.252 (JUSTIA 2017), available at <https://law.justia.com/codes/michigan/2017/chapter-28/statute-act-319-of-1968/section-28.252>.

<sup>5</sup> Mich. Comp. Laws § 28.611 (JUSTIA 2017), available at <https://law.justia.com/codes/michigan/2017/chapter-28/statute-act-203-of-1965/section-28.611>.

<sup>6</sup> Mich. Admin. Code R. 28.14311, available at [http://dmbinternet.state.mi.us/DMB/ORRDocs/AdminCode/1000\\_2012-007SP\\_AdminCode.pdf](http://dmbinternet.state.mi.us/DMB/ORRDocs/AdminCode/1000_2012-007SP_AdminCode.pdf).

<sup>7</sup> Alliance Against Hate Crime, Michigan Department of Civil Rights, Hate Crime 101, [https://www.michigan.gov/documents/mdcr/hatecrime101-07\\_186533\\_7.pdf](https://www.michigan.gov/documents/mdcr/hatecrime101-07_186533_7.pdf).

## DATA COLLECTION & STATISTICS

Housed within the MSP's Criminal Justice Information Center (CJIC), the Michigan Incident Crime Reporting Unit (MICR) publishes an annual report on statewide crime statistics, including hate crime. The 2000-2016 editions of *Crime in Michigan* can be found on the MICR website.<sup>8</sup>

### ANNUAL STATEWIDE HATE CRIME REPORT



State-level hate crime statistics published by the CJIC include data on anti-Arab and anti-Islamic (Muslim) hate crime. The CJIC tabulates hate crime data according to the number of offenses per disaggregated bias motivation category in the 2000-2006 reports and victims per disaggregated category in subsequent editions. Incident details are provided in the 2000-2009 and 2013-2016 reports.

- #### ANTI-ARAB HATE CRIME STATISTICS

Anti-Arab hate crime statistics are provided in the 2014-2016 editions of *Crime in Michigan*. The 2015-2016 CJIC reports suggest an escalation of hate crimes targeting Arab Americans, with 22 incidents reported in 2015 and 14 in 2016.

- #### ANTI-ISLAMIC (MUSLIM) HATE CRIME STATISTICS

Anti-Islamic (Muslim) hate crime statistics are provided in the 2000-2016 editions of *Crime in Michigan*. From 2000 to 2001 there was a significant increase of reported anti-Islamic (Muslim) hate crime offenses. The 2015-2016 CJIC reports suggest a resurgence of hate crimes targeting American Muslims, with 25 incidents reported in 2015 and 26 in 2016.

## UNIFORM CRIME REPORTING (UCR)

By January 2021, the FBI Uniform Crime Reporting (UCR) Program will depend solely on the National Incident-Based Reporting System (NIBRS) to collect nationwide crime data.<sup>9</sup> This transition entails the sunset of summary-based crime reporting (SRS) and requires cooperation on the part of state UCR programs and individual reporting agencies.

The Michigan UCR program is one of 16 state programs that rely exclusively on NIBRS data.<sup>10</sup>

NIBRS reporting enables criminal justice agencies to acquire a better understanding of crime, including hate crime, occurring within their respective jurisdictions. This in turn has positive implications for effective law enforcement response and policy implementation.

### CONTACT

Uniform Crime Reporting Unit  
 Statistical Records Division  
 Michigan State Police  
 Post Office Box 30634  
 Lansing, Michigan 48909-0634  
 (517) 241-1875  
[www.michigan.gov/msp](http://www.michigan.gov/msp)

## CRIME IN MICHIGAN HATE CRIME OFFENSES (2000-2006); VICTIMS (2007-2016)

| Bias motivation                    | '00 | '01 | '02 | '03 | '04 | '05 | '06 | '07 | '08 | '09 | '10 | '11 | '12 | '13 | '14 | '15 | '16 |
|------------------------------------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| Anti-Arab                          | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | 1   | 31  | 17  |
| Anti-Islamic (Muslim)              | 4   | 42  | 33  | 20  | 24  | 25  | 39  | 7   | 20  | 18  | 8   | 18  | 18  | 11  | 18  | 27  | 37  |
| Anti-other race/ethnicity/ancestry | 15  | 28  | 27  | 28  | 27  | 26  | 27  | 11  | 38  | 30  | 26  | 16  | 24  | 14  | 33  | 9   | 15  |

According to supplemental data from the FBI, a single anti-Arab hate crime incident and 20 anti-Islamic (Muslim) hate crime incidents were reported in Michigan in 2016. This total conflicts with CJIC statistics. Significant discrepancies occur between state and federal anti-Arab and anti-Islamic (Muslim) hate crime statistics for 2015 as well. Michigan law enforcement agencies submit hate crime data to the FBI UCR Program through the CJIC.

### FBI HATE CRIME STATISTICS (2015-2016)

| Bias motivation       | '15 | '16 |
|-----------------------|-----|-----|
| Anti-Arab             | 0   | 1   |
| Anti-Islamic (Muslim) | 22  | 20  |

<sup>8</sup> Michigan State Police, Annual Publications of Crime in Michigan, [https://www.michigan.gov/msp/0,4643,7-123-1586\\_3501\\_4621---,00.html](https://www.michigan.gov/msp/0,4643,7-123-1586_3501_4621---,00.html).

<sup>9</sup> CJIS Div., Fed. Bureau of Investigation, SRS to NIBRS: The Path to Better UCR Data, <https://www.fbi.gov/services/cjis/cjis-link/srs-to-nibrs-the-path-to-better-ucr-data>.

<sup>10</sup> Bureau of Justice Statistics, U.S. Dep't of Justice, 2017 NCS-X Estimation Project (Jul. 27, 2017), available at <https://www.bjs.gov/content/pub/pdf/17ncsxep.pdf>.

## FBI HATE CRIME STATISTICS

Pursuant to the Hate Crime Statistics Act (HCSA) of 1990 the FBI UCR Program collects data on "crimes that manifest evidence of prejudice based on race, gender or gender identity, religion, disability, sexual orientation, or ethnicity."<sup>11</sup>

Since 1993, the FBI UCR Program has published the annual report, *Hate Crime Statistics*, which is based on voluntary submissions from participating law enforcement agencies. In 2016, agencies from 49 states and the District of Columbia participated in the national hate crime statistics program.

For the most part, hate crime data is collected at the state level and forwarded to the FBI UCR Program. A total of 48 states maintain a state-level UCR data collection. UCR programs in 38 states publish annual hate crime statistics. Some participating law enforcement agencies submit hate crime data directly to the FBI UCR program.<sup>12</sup>



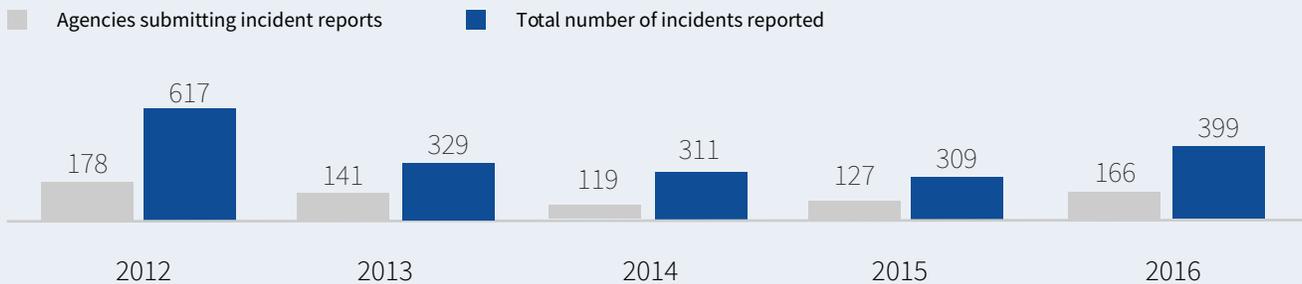
## FBI HATE CRIME STATISTICS PARTICIPANT

Law enforcement agencies in Michigan submit hate crime data to the FBI UCR Program through the CJIC. According to the FBI UCR Program's annual report, *Hate Crime Statistics*, 399 hate crime incidents were reported in Michigan in 2016.

In 2016, 166 of the 625 Michigan law enforcement agencies participating in the national hate crime statistics program submitted incident reports to the FBI UCR Program. The Sterling Heights Police Department, which represents a population of 132,523, submitted only zero data.

According to annual hate crime statistics published by the CJIC, 490 hate crime incidents were reported in Michigan in 2016. This total conflicts with the FBI UCR Program's annual report, *Hate Crime Statistics, 2016*. Discrepancies occur between state and federal hate crime statistics for 2012-2015 as well.

## PARTICIPATION IN UCR HATE CRIME STATISTICS PROGRAM

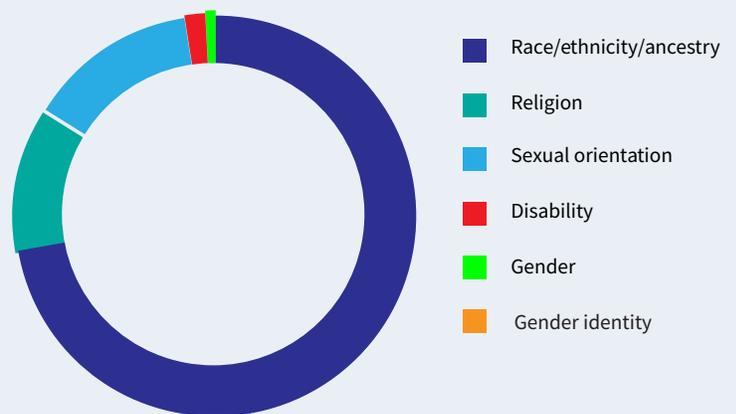


## SUMMARY

The current Michigan hate crime statute is not sufficiently inclusive, as it does not offer protections for sexual orientation, disability, or gender identity. While Michigan has statutes that require reporting and data collection, there is no state law regarding mandatory police training on hate crime. Despite the lack of a specific law enforcement training statute, Michigan has developed training programs through its Department of Civil Rights. The Michigan State Police, Incident Crime Reporting Unit, maintains the state clearinghouse for all police-reported crime data, including hate crime, and is responsible for publishing annual statistics. Copies of *Crime in Michigan* can be found on the MICR website and include both anti-Arab and anti-Islamic (Muslim) hate crime statistics. In 2016, 166 Michigan law enforcement agencies submitted hate crime incident reports to the FBI UCR Program. The remaining 459 participating agencies provided only zero data. A total of 7 participating agencies recorded blank data in at least one quarterly submission period. Michigan receives an overall score of 70 points, denoting an average response to hate crime.

## FBI HATE CRIME STATISTICS: MICHIGAN 2012-2016

| Incidents per bias motivation | 2012 | 2013 | 2014 | 2015 | 2016 | Total |
|-------------------------------|------|------|------|------|------|-------|
| Race/ethnicity/ancestry       | 486  | 229  | 226  | 198  | 282  | 1,421 |
| Religion                      | 60   | 44   | 32   | 48   | 47   | 231   |
| Sexual orientation            | 64   | 49   | 42   | 51   | 59   | 265   |
| Disability                    | 7    | 4    | 9    | 11   | 6    | 37    |
| Gender                        | -    | 3    | 2    | 1    | 5    | 11    |
| Gender identity               | -    | 0    | 0    | 0    | 0    | 0     |
| Total                         | 617  | 329  | 311  | 309  | 399  | 1,965 |



<sup>11</sup> 28 U.S.C. § 534 (JUSTIA 2016), available at <https://law.justia.com/codes/us/2016/title-28/part-ii/chapter-33/sec.-534>.

<sup>12</sup> Uniform Crime Reporting Program, Fed. Bureau of Investigation, Data Quality Guidelines, [https://ucr.fbi.gov/data\\_quality\\_guidelines](https://ucr.fbi.gov/data_quality_guidelines).

# ADVOCACY RESOURCES - Michigan

## IMPROVING THE RESPONSE

Most states have failed to enact sufficient legislation to address, prevent, and counteract hate crime in American communities. To accompany our federal hate crime laws, state legislatures must pass the following:

1. **An inclusive hate crime statute**, which covers a wide range of criminal offenses and provides enhanced penalties for crimes motivated because of citizenship status, race, ethnicity, color, disability, age, ancestry or national origin, gender or gender identity, sexual orientation, religion, or homelessness. Such protections are pursuant to model hate crime legislation drafted by the Arab American Institute. According to the model statute, penalty enhancement may incorporate alternatives to fines or increased prison sentences. Alternatives include restitution for victims and communities, participation in educational programs, and restorative justice.
2. **Statutes that require reporting, data collection, and specific law enforcement training on hate crime.** Centralized state agencies must publish comprehensive, accessible statistics on the nature and extent of hate crime occurring within their state. These statistics must conform to national UCR standards and include the bias motivation categories identified in the FBI's annual report, *Hate Crime Statistics*. States must also require law enforcement training schools to provide comprehensive training to ensure that officers are prepared to investigate, report, and respond to hate crime incidents.

## STATE RECOMMENDATIONS

According to our rating methodology, Michigan receives an overall score of 70, denoting an average response to hate crime. Advocates for an improved response to hate crime in Michigan should promote the following:

1. The current Michigan hate crime statute offers protections for race, color, religion, gender, and national origin. **The Michigan hate crime statute should be amended** to include protections for citizenship status, ethnicity, disability, age, ancestry, gender identity, sexual orientation, homelessness, or association with a person or group with one of these actual or perceived characteristics.
2. As required by law, Michigan law enforcement agencies report hate crime incidents relating to race, ethnic origin, religion, gender, or sexual orientation to the Michigan State Police. The data collections should be expanded to include incidents relating to additional forms of bias, particularly gender identity.
3. While the Michigan Incident Crime Reporting Unit publishes statistics in the form of an annual hate crime report, such statistics do not conform to national standards. *Crime in Michigan* must provide statistics on hate crime incidents relating to gender identity.
4. Michigan state code does not require specific law enforcement training on hate crime. The Michigan Commission on Law Enforcement Standards must establish training programs and minimum courses of study for law enforcement officers relating to investigating and reporting hate crime incidents.

## STATE CONTACTS

Advocates for an improved response to hate crime in Michigan should contact current state legislators and members of Congress.

### Michigan Legislature

Senate: <http://senate.michigan.gov>

House: <http://house.michigan.gov>

### United States Senate

Contact: Michigan

<https://www.senate.gov/senators/contact>

### United States House of Representatives

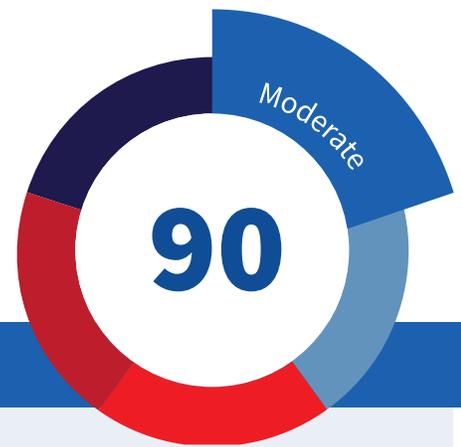
Directory of Representatives: Michigan

<https://www.house.gov/representatives#state-michigan>

# MINNESOTA

Total population: 5,519,952

Rank of Arab American population by state: 17



2 anti-Arab hate crime incidents were reported in MN in 2016.

**Minnesota** is the 22nd most populated state and has the 17th largest Arab American population.

Housed within the Minnesota Department of Public Safety (MNDPS), the Bureau of Criminal Apprehension, Justice Information Services, is the state agency responsible for the collection and publication of hate crime data. According to the BCA, there were two reported victims of anti-Arab hate crime in Minnesota in 2016.

## HATE CRIME STATUTE

Minn. Stat. § 609.2231 prohibits assaults motivated by a victim's or another person's actual or perceived race, color, religion, sex, sexual orientation, disability (physical, sensory, or mental), age, or national origin.<sup>1</sup> Bias-motivated assaults are considered a felony. Minnesota Stat. §§ 609.595<sup>2</sup> and 609.749<sup>3</sup> provide enhanced penalties for criminal damage to property and stalking crimes intentionally committed because of the motivations described above.

Pursuant to Minn. Stat. § 363A.03, sexual orientation is defined so as to include actual or perceived gender identity.<sup>4</sup>

## DATA COLLECTION STATUTE

Minn. Stat. § 626.5531 requires Minnesota law enforcement officers to report all incidents that seem to contain an element of bias to the Minnesota Department of Public Safety, Bureau of Criminal Apprehension (BCA).<sup>5</sup> The BCA is in turn required to summarize and analyze this information and file an annual report with the Department of Human Rights and the state legislature.<sup>6</sup> Pursuant to Minn. Stat. § 299C.06, Minnesota law enforcement agencies are required to report crime statistics and information to the BCA, and furthermore, "utilize a nationally recognized system or standard approved by the Federal Bureau of Investigation for reporting statistics and information."<sup>7</sup>

## LAW ENFORCEMENT TRAINING STATUTE

Minn. Stat. § 626.8451 requires the Minnesota Board of Peace Officers Standards and Training to "prepare a training course to assist peace officers in identifying and responding" to hate crimes. The course "must include material to help officers distinguish bias crimes from other crimes, to help officers in understanding and assisting victims of these crimes, and to ensure that bias crimes will be accurately reported" in accordance with Minnesota's data collection statute.<sup>8</sup>

| MINNESOTA  |              |
|--|--------------|
| <b>Hate Crime Statute</b>                       | <b>40/40</b> |
| No statute; civil action or civil rights law   | -            |
| Hate crime statute, with protections for:  | 10           |
| Race/ethnicity/ancestry  | 5            |
| Religion   | 5            |
| Sexual orientation   | 5            |
| Disability   | 5            |
| Gender   | 5            |
| Gender identity  | 5            |
| <b>Data Collection Statute</b>                | <b>15/15</b> |
| Data collection (voluntary reporting)  | -            |
| Mandatory reporting and data collection  | 15           |
| <b>Law Enforcement Training Statute</b>       | <b>15/15</b> |
| No statute; comprehensive training   | -            |
| Mandatory training   | 15           |
| <b>Annual Hate Crime Report</b>               | <b>10/20</b> |
| Annual hate crime report, including:   | 10           |
| Anti-Arab hate crime statistics  | -            |
| Anti-Islamic (Muslim) hate crime statistics  | -            |
| <b>FBI Hate Crime Statistics Participant</b>  | <b>10/10</b> |
| <b>TOTAL</b>   | <b>90</b>    |

<sup>1</sup> Minn. Stat. § 609.2231 (JUSTIA 2017), available at <https://law.justia.com/codes/minnesota/2017/chapters-609-624/chapter-609/section-609.2231>.

<sup>2</sup> Minn. Stat. § 609.595 (JUSTIA 2017), available at <https://law.justia.com/codes/minnesota/2017/chapters-609-624/chapter-609/section-609.595>.

<sup>3</sup> Minn. Stat. § 609.749 (JUSTIA 2017), available at <https://law.justia.com/codes/minnesota/2017/chapters-609-624/chapter-609/section-609.749>.

<sup>4</sup> Minn. Stat. § 363A.03 (JUSTIA 2017), available at <https://law.justia.com/codes/minnesota/2017/chapters-363-363a/chapter-363a/section-363a.03>.

<sup>5</sup> Minn. Stat. § 626.5531 (JUSTIA 2017), available at <https://law.justia.com/codes/minnesota/2017/chapters-625-634/chapter-626/section-626.5531>.

<sup>6</sup> Minn. Stat. § 299C.06 (JUSTIA 2017), available at <https://law.justia.com/codes/minnesota/2017/chapters-299a-299n/chapter-299c/section-299c.06>.

<sup>7</sup> *Id.*

<sup>8</sup> Minn. Stat. § 626.8451 (JUSTIA 2017), available at <https://law.justia.com/codes/minnesota/2017/chapters-625-634/chapter-626/section-626.8451>.

## DATA COLLECTION & STATISTICS

Pursuant to Minnesota’s hate crime reporting and data collection statutes, the MNDPS publishes an annual report on statewide crime statistics, including hate crime. The 2009-2016 editions of *Minnesota Crime Information* can be found on the MNDPS website.<sup>9</sup> The Minnesota Historical Society has archived versions of the reports dating back to 1995.<sup>10</sup>

## ANNUAL STATEWIDE HATE CRIME REPORT



State-level hate crime statistics published by the BCA previously included data on anti-Arab and anti-Islamic (Muslim) hate crime. The BCA tabulates hate crime data according to the number of victims per aggregate bias motivation category in the 1995-2008 reports and victims per disaggregated category in the 2009-2015 reports. While the 2016 BCA report provides incident-based statistics, the data is tabulated according to aggregate bias motivation categories.

- ### ANTI-ARAB HATE CRIME STATISTICS

Anti-Arab hate crime statistics are provided in the 2014-2015 editions of *Minnesota Crime Information*. According to supplemental data from the BCA, 2 anti-Arab hate crime incidents were reported in both 2015 and 2016.

- ### ANTI-ISLAMIC (MUSLIM) HATE CRIME STATISTICS

Anti-Islamic (Muslim) hate crime statistics are provided in the 2009-2015 editions of *Minnesota Crime Information*. According to supplemental data from the BCA, 14 anti-Islamic (Muslim) hate crime incidents were reported in both 2015 and 2016.

## UNIFORM CRIME REPORTING (UCR)

By January 2021, the FBI Uniform Crime Reporting (UCR) Program will depend solely on the National Incident-Based Reporting System (NIBRS) to collect nationwide crime data.<sup>11</sup> This transition entails the sunset of summary-based crime reporting (SRS) and requires cooperation on the part of state UCR programs and individual reporting agencies.

The Minnesota UCR program is one of 18 state programs that rely on both SRS and NIBRS data.<sup>12</sup> The BCA began developing an NIBRS-compliant submission system in 2014 with the intention of achieving hybrid submissions status by 2017.<sup>13</sup> The BCA has also developed online training for law enforcement agencies to facilitate the transition to incident-based data reporting.<sup>14</sup>

NIBRS reporting enables criminal justice agencies to acquire a better understanding of crime, including hate crime, occurring within their respective jurisdictions. This in turn has positive implications for effective law enforcement response and policy implementation.

## CONTACT

Minnesota Justice Information Services  
 Bureau of Criminal Apprehension  
 Minnesota Department of Public Safety  
 1430 Maryland Avenue East  
 St. Paul, Minnesota 55106-2802  
 (651) 793-2400  
[www.bca.state.mn.us/](http://www.bca.state.mn.us/)

## MINNESOTA CRIME INFORMATION HATE CRIME VICTIMS (2000-2016)

| Bias motivation                        | '00 | '01 | '02 | '03 | '04 | '05 | '06 | '07 | '08 | '09 | '10 | '11 | '12 | '13 | '14 | '15 | '16 |
|--|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| Anti-Arab                              | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | 0   | 8   | -   |
| Anti-Islamic (Muslim)                  | -   | -   | -   | -   | -   | -   | -   | -   | -   | 5   | 2   | 6   | 5   | 5   | 8   | 11  | -   |
| Anti-other race/<br>ethnicity/ancestry | -   | -   | -   | -   | -   | -   | -   | -   | -   | 8   | 7   | 15  | 9   | 9   | 3   | 1   | -   |

According to supplemental data from the FBI, 2 anti-Arab and 14 anti-Islamic (Muslim) hate crime incidents were reported in Minnesota in 2016. While this total is consistent with BCA statistics, discrepancies occur between state and federal anti-Arab and anti-Islamic (Muslim) hate crime statistics for 2015. Minnesota law enforcement agencies submit hate crime data to the FBI UCR Program through the BCA.

## FBI HATE CRIME STATISTICS (2015-2016)

| Bias motivation       | '15 | '16 |
|-----------------------|-----|-----|
| Anti-Arab             | 0   | 2   |
| Anti-Islamic (Muslim) | 13  | 14  |

<sup>9</sup> Bureau of Criminal Apprehension, Minnesota Dep’t of Pub. Safety, Criminal Justice Data Reporting, <https://dps.mn.gov/divisions/bca/bca-divisions/mnjis/Pages/uniform-crime-reports.aspx>.

<sup>10</sup> Minnesota Historical Society, Criminal Justice Information System Records, <http://www2.mnhs.org/library/findaids/gr00194.xml>.

<sup>11</sup> CJIS Div., Fed. Bureau of Investigation, SRS to NIBRS: The Path to Better UCR Data, <https://www.fbi.gov/services/cjis/cjis-link/srs-to-nibrs-the-path-to-better-ucr-data>.

<sup>12</sup> Bureau of Justice Statistics, U.S. Dep’t of Justice, 2017 NCS-X Estimation Project (Jul. 27, 2017), available at <https://www.bjs.gov/content/pub/pdf/17ncsxp.pdf>.

<sup>13</sup> CJIS Div., Fed. Bureau of Investigation, Going NIBRS: Two States Share Their Stories (Apr. 11, 2017), [https://www.fbi.gov/services/cjis/cjis-link/going-nibrs-part-1-minnesota-transition?utm\\_cam-](https://www.fbi.gov/services/cjis/cjis-link/going-nibrs-part-1-minnesota-transition?utm_cam-)

<sup>14</sup> Bureau of Criminal Apprehension, Minnesota Dep’t of Pub. Safety, New State Crime Reporting System Status (last updated Jan. 26, 2018), <https://dps.mn.gov/divisions/bca/bca-divisions/mnjis/Pages/crime-reporting-system.aspx>.

## FBI HATE CRIME STATISTICS

Pursuant to the Hate Crime Statistics Act (HCSA) of 1990 the FBI UCR Program collects data on "crimes that manifest evidence of prejudice based on race, gender or gender identity, religion, disability, sexual orientation, or ethnicity."<sup>15</sup>

Since 1993, the FBI UCR Program has published the annual report, *Hate Crime Statistics*, which is based on voluntary submissions from participating law enforcement agencies. In 2016, agencies from 49 states and the District of Columbia participated in the national hate crime statistics program.

For the most part, hate crime data is collected at the state level and forwarded to the FBI UCR Program. A total of 48 states maintain a state-level UCR data collection. UCR programs in 38 states publish annual hate crime statistics. Some participating law enforcement agencies submit hate crime data directly to the FBI UCR program.<sup>16</sup>



## FBI HATE CRIME STATISTICS PARTICIPANT

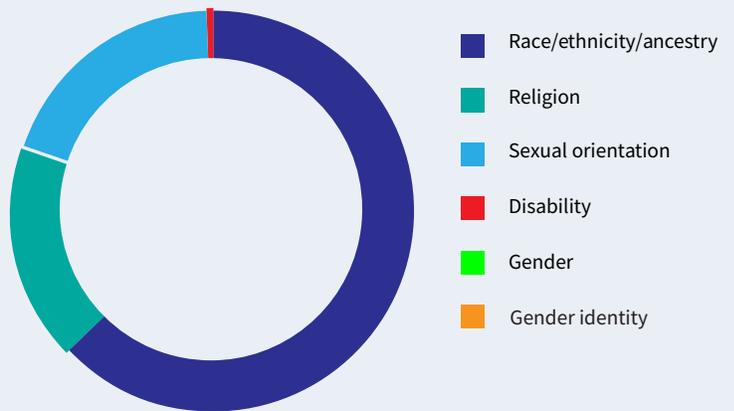
Law enforcement agencies in Minnesota submit hate crime data to the FBI UCR Program through the BCA. According to the FBI UCR Program's annual report, *Hate Crime Statistics*, 119 hate crime incidents were reported in Minnesota in 2016.

In 2016, 34 of the 331 Minnesota law enforcement agencies participating in the national hate crime statistics program submitted incident reports to the FBI UCR Program. Agencies representing two of the five largest cities in Minnesota either did not participate in the national hate crime statistics program or submitted only zero data.

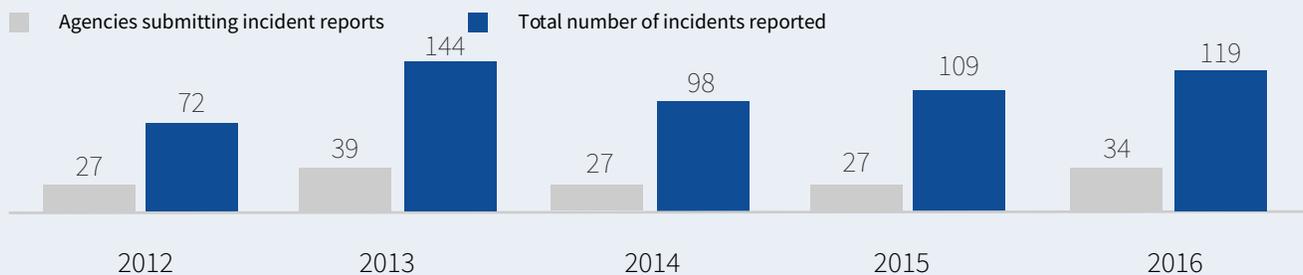
According to annual hate crime statistics published by the BCA, 122 hate crime incidents were reported in Minnesota in 2016. This total is consistent with the number of incidents per bias motivation recorded in the FBI UCR Program's annual report, *Hate Crime Statistics, 2016*. Discrepancies occur between state and federal hate crime statistics for 2012-2013 and 2015.

## FBI HATE CRIME STATISTICS: MINNESOTA 2012-2016

| Incidents per bias motivation | 2012      | 2013       | 2014      | 2015       | 2016       | Total      |
|-------------------------------|-----------|------------|-----------|------------|------------|------------|
| Race/ethnicity/ancestry       | 49        | 94         | 65        | 58         | 77         | 343        |
| Religion                      | 11        | 19         | 15        | 20         | 30         | 95         |
| Sexual orientation            | 12        | 30         | 16        | 31         | 15         | 104        |
| Disability                    | 0         | 1          | 2         | 0          | 0          | 3          |
| Gender                        | -         | 0          | 0         | 0          | 0          | 0          |
| Gender identity               | -         | 0          | 0         | 0          | 0          | 0          |
| <b>Total</b>                  | <b>72</b> | <b>144</b> | <b>98</b> | <b>109</b> | <b>122</b> | <b>545</b> |



## PARTICIPATION IN UCR HATE CRIME STATISTICS PROGRAM



## SUMMARY

Minnesota has an inclusive hate crime statute. Furthermore, Minnesota has statutes that require reporting, data collection, and specific law enforcement agency training on hate crime. The Bureau of Criminal Apprehension, Minnesota Justice Information Services, maintains the state clearinghouse for all police-reported crime data, including hate crime, and is responsible for publishing annual statistics. Copies of *Minnesota Crime Information* can be found on the state's Department of Public Safety website but do not include anti-Arab or anti-Islamic (Muslim) hate crime statistics. Minnesota's transition to NIBRS will facilitate improved hate crime statistics based on disaggregated bias motivation categories. In 2016, 34 Minnesota law enforcement agencies submitted hate crime incident reports to the FBI UCR Program. The remaining 297 participating agencies provided only zero data. A total of 48 participating agencies recorded blank data in at least one quarterly submission period. Minnesota receives an overall score of 90 points, denoting a moderate response to hate crime.

<sup>15</sup> 28 U.S.C. § 534 (JUSTIA 2016), available at <https://law.justia.com/codes/us/2016/title-28/part-ii/chapter-33/sec.-534>.

<sup>16</sup> Uniform Crime Reporting Program, Fed. Bureau of Investigation, Data Quality Guidelines, [https://ucr.fbi.gov/data\\_quality\\_guidelines](https://ucr.fbi.gov/data_quality_guidelines).

# ADVOCACY RESOURCES - Minnesota

## IMPROVING THE RESPONSE

Most states have failed to enact sufficient legislation to address, prevent, and counteract hate crime in American communities. To accompany our federal hate crime laws, state legislatures must pass the following:

1. **An inclusive hate crime statute**, which covers a wide range of criminal offenses and provides enhanced penalties for crimes motivated because of citizenship status, race, ethnicity, color, disability, age, ancestry or national origin, gender or gender identity, sexual orientation, religion, or homelessness. Such protections are pursuant to model hate crime legislation drafted by the Arab American Institute. According to the model statute, penalty enhancement may incorporate alternatives to fines or increased prison sentences. Alternatives include restitution for victims and communities, participation in educational programs, and restorative justice.
2. **Statutes that require reporting, data collection, and specific law enforcement training on hate crime.** Centralized state agencies must publish comprehensive, accessible statistics on the nature and extent of hate crime occurring within their state. These statistics must conform to national UCR standards and include the bias motivation categories identified in the FBI's annual report, *Hate Crime Statistics*. States must also require law enforcement training schools to provide comprehensive training to ensure that officers are prepared to investigate, report, and respond to hate crime incidents.

## STATE RECOMMENDATIONS

According to our rating methodology, Minnesota receives an overall score of 90, denoting a moderate response to hate crime. Advocates for an improved response to hate crime in Minnesota should promote the following:

1. The current Minnesota hate crime statute offers protections for race, color, religion, sex, sexual orientation, which is defined so as to include gender identity, disability, age, and national origin. **The Minnesota hate crime statute should be amended** to include protections for citizenship status, ethnicity, ancestry, homelessness, or association with a person or group with one of these actual or perceived characteristics.
2. While Minnesota state code requires hate crime reporting and data collection, Minnesota's annual hate crime report does not provide statistics based on disaggregated bias motivation categories.
  - The Minnesota Bureau of Criminal Apprehension must collect data and publish statistics, conforming to national standards, on the nature and extent of hate crime within the state. For the reporting year 2016, the BCA only provided hate crime statistics based on aggregate bias motivation categories.
3. Of the 331 Minnesota law enforcement agencies participating in the national hate crime statistics program, only 34 agencies submitted incident reports for *Hate Crime Statistics*. Minnesota must transition to the National Incident-Based Reporting System to facilitate hate crime reporting and data collection. By January 2021, all law enforcement agencies in the United States will be required to report crime information through the NIBRS.

## STATE CONTACTS

Advocates for an improved response to hate crime in Minnesota should contact current state legislators and members of Congress.

### Minnesota State Legislature

Senate: <http://www.senate.leg.state.mn.us>

House: <http://www.house.leg.state.mn.us>

### United States Senate

Contact: Minnesota

<https://www.senate.gov/senators/contact>

### United States House of Representatives

Directory of Representatives: Minnesota

<https://www.house.gov/representatives#state-minnesota>

# MISSISSIPPI

Total population: 2,988,726

Rank of Arab American population by state: 35



MS is the only state without a UCR program.

**Mississippi** is the 32nd most populated state and has the 35th largest Arab American population.

Mississippi is the only state in the country without a centralized UCR program.

## HATE CRIME STATUTE

Miss. Code §§ 99-19-301 through 99-19-307 provide enhanced penalties for felonies and misdemeanors committed because of the “actual or perceived race, color, ancestry, ethnicity, religion, national origin or gender of the victim.”<sup>1</sup>

The current Mississippi hate crime statute is not sufficiently inclusive, as it does not offer protections for sexual orientation, disability, or gender identity.

H.B. 647 (2017) sought to amend Miss. Code §§ 99-19-301, 99-19-305, and 99-19-307 to include “law enforcement officers, firefighters, and emergency medical personnel in the class of victims where offenses are subject to hate crime penalties.”<sup>2</sup> The Mississippi Blue Lives Matter Act did not pass through committee.

## DATA COLLECTION STATUTE

**There is no Mississippi statute that requires hate crime reporting or data collection.** Miss. Code § 45-27-5 established the Mississippi Justice Information Center (MJIC). As a division within the Mississippi Department of Public Safety’s Bureau of Investigation (MBI), the MJIC is required to “develop, operate and maintain an information system which will support the collection, storage, retrieval and dissemination” of vital information relating to crimes, criminals, and criminal activity.<sup>3</sup> The Mississippi Department of Public Safety does not have a functioning MJIC web page.<sup>4</sup>

## LAW ENFORCEMENT TRAINING STATUTE

**There is no Mississippi statute that requires specific law enforcement training on hate crime.** Pursuant to Miss. Code § 45-6-7(e), the Mississippi Board on Law Enforcement Officer Standards and Training (BLEOST) is required to “establish minimum curriculum requirements for basic and advanced courses and programs for schools operated by or for the state or any political subdivision thereof for the specific purpose of training police and other law enforcement officers.”<sup>5</sup> The current BLEOST curriculum includes a unit on “Cultural Awareness and Human Relations,” though it bears no indication of hate crime training.<sup>6</sup>

| MISSISSIPPI  |              |
|--|--------------|
| <b>Hate Crime Statute</b>                       | <b>25/40</b> |
| No statute; civil action or civil rights law   | -            |
| Hate crime statute, with protections for:  | 10           |
| Race/ethnicity/ancestry  | 5            |
| Religion   | 5            |
| Sexual orientation   | -            |
| Disability   | -            |
| Gender   | 5            |
| Gender identity  | -            |
| <b>Data Collection Statute</b>                | <b>0/15</b>  |
| Data collection (voluntary reporting)  | -            |
| Mandatory reporting and data collection  | -            |
| <b>Law Enforcement Training Statute</b>       | <b>0/15</b>  |
| No statute; comprehensive training   | -            |
| Mandatory training   | -            |
| <b>Annual Hate Crime Report</b>               | <b>0/20</b>  |
| Annual hate crime report, including:   | -            |
| Anti-Arab hate crime statistics  | -            |
| Anti-Islamic (Muslim) hate crime statistics  | -            |
| <b>FBI Hate Crime Statistics Participant</b>  | <b>0/10</b>  |
| <b>TOTAL</b>   | <b>25</b>    |

<sup>1</sup> Miss. Code §§ 99-19-301 – 307 (JUSTIA 2017), available at <https://law.justia.com/codes/mississippi/2017/title-99/chapter-19/enhanced-penalties-for-offenses-committed-for-discriminatory-reasons>.

<sup>2</sup> MS Blue Lives Matter Act of 2017, H.B. 647, Miss. Leg. (2017), available at <http://billstatus.ls.state.ms.us/documents/2017/html/HB/0600-0699/HB0647IN.htm>.

<sup>3</sup> Miss. Code § 45-27-5 (JUSTIA 2017), available at <https://law.justia.com/codes/mississippi/2017/title-45/chapter-27/section-45-27-5>.

<sup>4</sup> Mississippi Dep’t of Pub. Safety, Bureau of Investigation, <http://www.dps.state.ms.us/crime-investigation/bureau-of-investigation>.

<sup>5</sup> Miss. Code § 45-6-7 (JUSTIA 2017), available at <https://law.justia.com/codes/mississippi/2017/title-45/chapter-6/section-45-6-7>.

<sup>6</sup> Mississippi Board on Law Enforcement Officer Standards and Training, BLEOST Professional Certification Policy and Procedures Manual (last revised 2017), available at <http://www.sos.ms.gov/ACProposed/00013666b.pdf>.

## DATA COLLECTION & STATISTICS

Law enforcement agencies in Mississippi participating in the national hate crime statistics program submit hate crime data directly to the FBI UCR Program. Pursuant to Mississippi state code, the MJIC is required to maintain a centralized repository for crime reporting and data collection. Little to no information on the MJIC is provided online.



## ANNUAL STATEWIDE HATE CRIME REPORT

Mississippi does not publish annual state-level hate crime statistics.

- **ANTI-ARAB HATE CRIME STATISTICS**  
Mississippi does not publish annual statistics on anti-Arab hate crime.
- **ANTI-ISLAMIC (MUSLIM) HATE CRIME STATISTICS**  
Mississippi does not publish annual statistics on anti-Islamic (Muslim) hate crime.

## UNIFORM CRIME REPORTING (UCR)

By January 2021, the FBI Uniform Crime Reporting (UCR) Program will depend solely on the National Incident-Based Reporting System (NIBRS) to collect nationwide crime data.<sup>7</sup> This transition entails the sunset of summary-based crime reporting (SRS) and requires cooperation on the part of state UCR programs and individual reporting agencies.

Mississippi is the only state in the country without a centralized UCR program.<sup>8</sup> Law enforcement agencies in states without a centralized repository for crime and criminal justice information report directly to the FBI.

As of 2013, there were four Mississippi law enforcement agencies submitting crime reports via NIBRS.<sup>9</sup>

Traditional summary-based crime reporting is constrained with respect to the various data elements that serve to put a particular incident in context, such as victim and offender demographics, the location of the incident, and whether an arrest occurred.

NIBRS reporting enables criminal justice agencies to acquire a better understanding of crime, including hate crime, occurring within their respective jurisdictions. This in turn has positive implications for effective law enforcement response and policy implementation.

## MISSISSIPPI DOES NOT PUBLISH ANNUAL HATE CRIME STATISTICS.

| Bias motivation                    | '00 | '01 | '02 | '03 | '04 | '05 | '06 | '07 | '08 | '09 | '10 | '11 | '12 | '13 | '14 | '15 | '16 |
|------------------------------------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| Anti-Arab                          | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   |
| Anti-Islamic (Muslim)              | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   |
| Anti-other race/ethnicity/ancestry | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   |

**NOT REPORTED**

According to supplemental data from the FBI, no anti-Arab or anti-Islamic (Muslim) hate crime incidents were reported in Mississippi from 2015 to 2016. Law enforcement agencies in Mississippi submit hate crime data directly to the FBI UCR Program.

## FBI HATE CRIME STATISTICS(2015-2016)

| Bias motivation       | '15 | '16 |
|-----------------------|-----|-----|
| Anti-Arab             | 0   | 0   |
| Anti-Islamic (Muslim) | 0   | 0   |

<sup>7</sup> CJIS Div., Fed. Bureau of Investigation, SRS to NIBRS: The Path to Better UCR Data, <https://www.fbi.gov/services/cjis/cjis-link/srs-to-nibrs-the-path-to-better-ucr-data>.

<sup>8</sup> Bureau of Justice Statistics, U.S. Dep't of Justice, 2017 NCS-X Estimation Project (Jul. 27, 2017), available at <https://www.bjs.gov/content/pub/pdf/17ncsxp.pdf>.

<sup>9</sup> Uniform Crime Reporting Program, Fed. Bureau of Investigation, NIBRS Participation by State (2013), available at <https://ucr.fbi.gov/nibrs/2013/resources/nibrs-participation-by-state>.

## FBI HATE CRIME STATISTICS

Pursuant to the Hate Crime Statistics Act (HCSA) of 1990 the FBI UCR Program collects data on "crimes that manifest evidence of prejudice based on race, gender or gender identity, religion, disability, sexual orientation, or ethnicity."<sup>10</sup>

Since 1993, the FBI UCR Program has published the annual report, *Hate Crime Statistics*, which is based on voluntary submissions from participating law enforcement agencies. In 2016, agencies from 49 states and the District of Columbia participated in the national hate crime statistics program.

For the most part, hate crime data is collected at the state level and forwarded to the FBI UCR Program. A total of 48 states maintain a state-level UCR data collection. UCR programs in 38 states publish annual hate crime statistics. Some participating law enforcement agencies submit hate crime data directly to the FBI UCR program.<sup>11</sup>



## FBI HATE CRIME STATISTICS PARTICIPANT

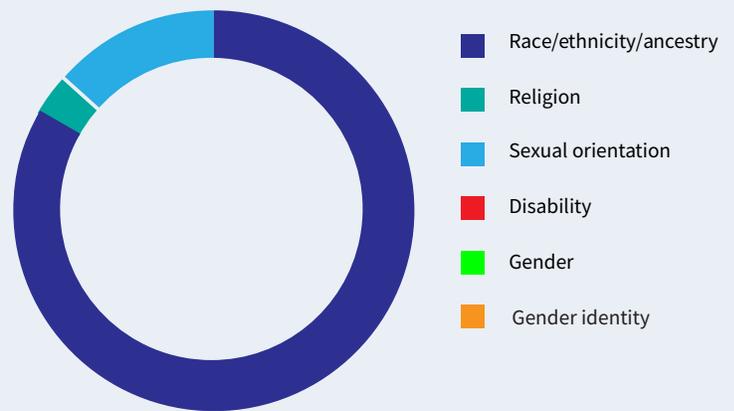
Law enforcement agencies in Mississippi participating in the national hate crime statistics program submit hate crime data directly to the FBI UCR Program.

According to the Bureau of Justice Statistics, there are nearly 350 state and local law enforcement agencies in Mississippi.<sup>12</sup> In 2016, 4 of the 26 Mississippi law enforcement agencies participating in the national hate crime statistics program submitted incident reports to the FBI UCR Program. Agencies representing four of the five largest cities in Mississippi either did not participate in the national hate crime statistics program or submitted only zero data.

As the MJIC does not publish an annual hate crime report, we are unable to make comparisons between state and federal hate crime statistics.

## FBI HATE CRIME STATISTICS: MISSISSIPPI 2012-2016

| Incidents per bias motivation | 2012      | 2013     | 2014     | 2015     | 2016     | Total     |
|-------------------------------|-----------|----------|----------|----------|----------|-----------|
| Race/ethnicity/ancestry       | 17        | 4        | 0        | 0        | 4        | 25        |
| Religion                      | 0         | 0        | 0        | 0        | 1        | 1         |
| Sexual orientation            | 1         | 0        | 1        | 0        | 2        | 4         |
| Disability                    | 0         | 0        | 0        | 0        | 0        | 0         |
| Gender                        | -         | 0        | 0        | 0        | 0        | 0         |
| Gender identity               | -         | 0        | 0        | 0        | 0        | 0         |
| <b>Total</b>                  | <b>18</b> | <b>4</b> | <b>1</b> | <b>0</b> | <b>7</b> | <b>30</b> |



## PARTICIPATION IN UCR HATE CRIME STATISTICS PROGRAM

■ Agencies submitting incident reports

■ Total number of incidents reported



## SUMMARY

The current Mississippi hate crime statute is not sufficiently inclusive, as it does not offer protections for sexual orientation, disability, or gender identity. Furthermore, the state of Mississippi does not have statutes that require reporting, data collection, or specific law enforcement training on hate crime. Though required by law, The Mississippi Department of Public Safety's Bureau of Investigation does not maintain a centralized repository for crime reporting and data collection. Mississippi law enforcement agencies participating in the national hate crime statistics program submit hate crime data directly to the FBI UCR Program. In 2016, 4 Mississippi law enforcement agencies submitted hate crime incident reports to the FBI UCR Program. The remaining 22 participating agencies provided only zero data. A total of 9 participating agencies recorded blank data in at least one quarterly submission period. No law enforcement agencies in Mississippi submitted incident reports to the FBI UCR Program in 2015. Mississippi receives an overall score of 25 points, denoting a minimal response to hate crime.

<sup>10</sup> 28 U.S.C. § 534 (JUSTIA 2016), available at <https://law.justia.com/codes/us/2016/title-28/part-ii/chapter-33/sec-534>.

<sup>11</sup> Uniform Crime Reporting Program, Fed. Bureau of Investigation, Data Quality Guidelines, [https://ucr.fbi.gov/data\\_quality\\_guidelines](https://ucr.fbi.gov/data_quality_guidelines).

<sup>12</sup> Brian A. Reaves, Ph.D., Bureau of Justice Statistics, Census of State and Local Law Enforcement Agencies (Jul. 2011), available at <https://www.bjs.gov/content/pub/pdf/cslllea08.pdf>.

# ADVOCACY RESOURCES - Mississippi

## IMPROVING THE RESPONSE

Most states have failed to enact sufficient legislation to address, prevent, and counteract hate crime in American communities. To accompany our federal hate crime laws, state legislatures must pass the following:

1. **An inclusive hate crime statute**, which covers a wide range of criminal offenses and provides enhanced penalties for crimes motivated because of citizenship status, race, ethnicity, color, disability, age, ancestry or national origin, gender or gender identity, sexual orientation, religion, or homelessness. Such protections are pursuant to model hate crime legislation drafted by the Arab American Institute. According to the model statute, penalty enhancement may incorporate alternatives to fines or increased prison sentences. Alternatives include restitution for victims and communities, participation in educational programs, and restorative justice.
2. **Statutes that require reporting, data collection, and specific law enforcement training on hate crime.** Centralized state agencies must publish comprehensive, accessible statistics on the nature and extent of hate crime occurring within their state. These statistics must conform to national UCR standards and include the bias motivation categories identified in the FBI's annual report, *Hate Crime Statistics*. States must also require law enforcement training schools to provide comprehensive training to ensure that officers are prepared to investigate, report, and respond to hate crime incidents.

## STATE RECOMMENDATIONS

According to our rating methodology, Mississippi receives an overall score of 25, denoting a minimal response to hate crime. Advocates for an improved response to hate crime in Mississippi should promote the following:

1. The current Mississippi hate crime statute offers protections for race, color, ancestry, ethnicity, religion, national origin, and gender. **The Mississippi hate crime statute should be amended** to include protections for citizenship status, disability, age, sexual orientation, gender identity, homelessness, or association with a person or group with one of these actual or perceived characteristics.
2. Mississippi state code does not require reporting, data collection, or specific law enforcement training on hate crime. Of the more than 300 law enforcement agencies in Mississippi, only 26 agencies participate in the national hate crime statistics program, and just four agencies submitted incident reports for *Hate Crime Statistics, 2016*. **Legislation should be introduced** to address these shortcomings.
  - Law enforcement agencies must report hate crimes to a centralized state-level repository for crime information;
  - The centralized state agency must collect data and publish statistics, conforming to national standards, on the nature and extent of hate crime within the state;
  - Mississippi must utilize the National Incident-Based Reporting System to facilitate hate crime reporting and data collection. By January 2021, all law enforcement agencies in the United States will be required to report crime information through the NIBRS;
  - The Mississippi Board on Law Enforcement Officer Standards and Training must establish minimum curriculum requirements for police training relating to investigating and reporting hate crime incidents.

## STATE CONTACTS

Advocates for an improved response to hate crime in Mississippi should contact current state legislators and members of Congress.

### Mississippi State Legislature

Contact: <http://www.legislature.ms.gov>

### United States Senate

Contact: Mississippi

<https://www.senate.gov/senators/contact>

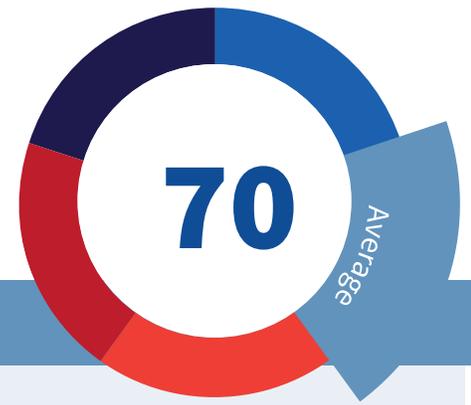
### United States House of Representatives

Directory of Representatives: Mississippi

<https://www.house.gov/representatives#state-mississippi>

# MISSOURI

Total population: 6,093,000  
Rank of Arab American population by state: 21



1 anti-Arab hate crime incident was reported in MO in 2016.

**Missouri** is the 18th most populated state and has the 21st largest Arab American population.

The Missouri State Highway Patrol (MSHP), Criminal Justice Information Services Division, is the state agency responsible for the collection and publication of hate crime data. Housed within the MSHP, the Missouri Statistical Analysis Center (SAC) publishes an annual report on hate crime data submitted to the CJIS. According to the SAC, there was a single anti-Arab hate crime incident reported in Missouri in 2016.

## HATE CRIME STATUTE

Mo. Rev. Stat. § 557.035 provides enhanced penalties for certain offenses, including assault, harassment, tampering, property damage, trespassing, rioting, and various unlawful use of weapons charges, “which the state believes to be knowingly motivated because of race, color, religion, national origin, sex, sexual orientation or disability of the victim or victims.”<sup>1</sup> In this context, sexual orientations is defined so as to include gender identity.<sup>2</sup>

## DATA COLLECTION STATUTE

**There is no Missouri statute that specifically requires hate crime reporting or data collection.** Mo. Rev. Stat. § 43.505 requires all Missouri law enforcement agencies to submit crime incident information as requested by the Department of Public Safety.<sup>3</sup> Pursuant to Mo. Rev. Stat. § 43.506, all felonies are considered reportable offenses.<sup>4</sup>

According to the statute, the Department is responsible for the collection and analysis of crime incident information and arrest reports from Missouri law enforcement agencies and must publish an annual report on the nature and extent of crime within the state. That report and other statistical reports are to be made available to the general public.<sup>5</sup>

## LAW ENFORCEMENT TRAINING STATUTE

**There is no Missouri statute that requires specific law enforcement training on hate crime.** Pursuant to Mo. Rev. Stat. § 590.040, the Missouri Peace Officers Standards and Training Commission is required to set “the minimum hours of basic training for licensure as a peace officer.”<sup>6</sup> The present curriculum, as defined in the statute, does not prescribe training on investigating and responding to hate crime.

| MISSOURI   |              |
|--|--------------|
| <b>Hate Crime Statute</b>                       | <b>40/40</b> |
| No statute; civil action or civil rights law   | -            |
| Hate crime statute, with protections for:  | 10           |
| Race/ethnicity/ancestry  | 5            |
| Religion   | 5            |
| Sexual orientation   | 5            |
| Disability   | 5            |
| Gender   | 5            |
| Gender identity  | 5            |
| <b>Data Collection Statute</b>                | <b>0/15</b>  |
| Data collection (voluntary reporting)  | -            |
| Mandatory reporting and data collection  | -            |
| <b>Law Enforcement Training Statute</b>       | <b>0/15</b>  |
| No statute; comprehensive training   | -            |
| Mandatory training   | -            |
| <b>Annual Hate Crime Report</b>               | <b>20/20</b> |
| Annual hate crime report, including:   | 10           |
| Anti-Arab hate crime statistics  | 5            |
| Anti-Islamic (Muslim) hate crime statistics  | 5            |
| <b>FBI Hate Crime Statistics Participant</b>  | <b>10/10</b> |
| <b>TOTAL</b>   | <b>70</b>    |

<sup>1</sup> Mo. Rev. Stat. § 557.035 (JUSTIA 2017), available at <https://law.justia.com/codes/missouri/2017/title-xxxviii/chapter-557/section-557.035>.

<sup>2</sup> Mo. Senate Bill No. 491, Reg. Sess. 2014, available at [http://www.moga.mo.gov/sessionlaws/2014/Part06\\_Senate.pdf](http://www.moga.mo.gov/sessionlaws/2014/Part06_Senate.pdf).

<sup>3</sup> Mo. Rev. Stat. § 43.505-3 (JUSTIA 2017), available at <https://law.justia.com/codes/missouri/2017/title-v/chapter-43/section-43.505>.

<sup>4</sup> Mo. Rev. Stat. § 43.506 (JUSTIA 2017), available at <https://law.justia.com/codes/missouri/2017/title-v/chapter-43/section-43.506>.

<sup>5</sup> Mo. Rev. Stat. § 43.505-2(4) (JUSTIA 2017), *supra* note 3.

<sup>6</sup> Mo. Rev. Stat. § 590.040 (JUSTIA 2017), available at <https://law.justia.com/codes/missouri/2017/title-xxxviii/chapter-590/section-590.040>.

## DATA COLLECTION & STATISTICS

Pursuant to Mo. Rev. Stat. § 43.500, the CJIS maintains the state's centralized repository for crime information. Housed within the MSHP, the SAC publishes an annual report on crime statistics based on CJIS data collections, in addition to a specialized report on hate crime. The 2001-2016 edition of *Crime in Missouri* and the 2010-2013 editions of *Hate Crime Report in Missouri* can be found on the MSHP website.<sup>7</sup>

## ANNUAL STATEWIDE HATE CRIME REPORT



State-level hate crime statistics published by the SAC include data on both anti-Arab and anti-Islamic (Muslim) hate crime. The SAC tabulates hate crime data according to the number of incidents per disaggregated bias motivation category in the 2010-2013 reports and offenses, victims, and known offenders per disaggregated category in subsequent editions.

Hate crime statistics were first provided in the 2010 edition of *Crime in Missouri*. Hate crime statistics for 2010 were also published in the inaugural *Missouri Hate Crime Report*. The 2014-2016 editions of *Missouri Hate Crime Report* are not available online.

- ANTI-ARAB HATE CRIME STATISTICS**  
 Anti-Arab hate crime statistics are provided in 2014-2016 editions of *Crime in Missouri*. According to the SAC, a single anti-Arab hate crime offense was reported in Missouri in 2016.
- ANTI-ISLAMIC (MUSLIM) HATE CRIME STATISTICS**  
 Anti-Islamic (Muslim) hate crime statistics are provided in the 2010-2016 editions of *Crime in Missouri*. According to the SAC, 5 anti-Islamic (Muslim) hate crime offenses, involving 18 victims, were reported in Missouri in 2016.

## UNIFORM CRIME REPORTING (UCR)

By January 2021, the FBI Uniform Crime Reporting (UCR) Program will depend solely on the National Incident-Based Reporting System (NIBRS) to collect nationwide crime data.<sup>8</sup> This transition entails the sunset of summary-based crime reporting (SRS) and requires cooperation on the part of state UCR programs and individual reporting agencies.

The Missouri UCR program is one of 18 state programs that rely on both SRS and NIBRS data.<sup>9</sup> As of 2013, there were 13 Missouri law enforcement agencies participating in the NIBRS.<sup>10</sup> According to the Bureau of Justice Statistics, the state of Missouri has been awarded funding through the National Crime Statistics Exchange (NCS-X) Initiative and is in the midst of NIBRS implementation.<sup>11</sup>

NIBRS reporting enables criminal justice agencies to acquire a better understanding of crime, including hate crime, occurring within their respective jurisdictions. This in turn has positive implications for effective law enforcement response and policy implementation.

## CONTACT

Missouri State Highway Patrol  
 Criminal Justice Information Services Division  
 Post Office Box 9500  
 Jefferson City, Missouri 65102-9500  
 (573) 526-6278  
<http://ucr.mshp.dps.mo.gov/ucr/ucrhome.nsf/>

## CRIME IN MISSOURI HATE CRIME INCIDENTS (2010-2013); OFFENSES (2014-2016)

| Bias motivation                        | '00 | '01 | '02 | '03 | '04 | '05 | '06 | '07 | '08 | '09 | '10 | '11 | '12 | '13 | '14 | '15 | '16 |
|--|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| Anti-Arab                              | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | 0   | 1   | 1   |
| Anti-Islamic (Muslim)                  | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | 5   | 1   | 1   | 4   | 0   | 4   | 5   |
| Anti-other race/<br>ethnicity/ancestry | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | 4   | 2   | 0   | 0   | 3   | 6   | 2   |

According to supplemental data from the FBI, 6 anti-Islamic (Muslim) hate crime incidents, involving 6 offenses, were reported in Missouri in 2016. This total conflicts with CJIS statistics, as just 5 anti-Islamic (Muslim) hate crime offenses are recorded in *Crime in Missouri*. Discrepancies occur between state and federal anti-Arab and anti-Islamic (Muslim) hate crime statistics for 2015 as well: the anti-Arab hate crime reported in *Crime in Missouri* does not appear in FBI data. Missouri law enforcement agencies submit hate crime data to the FBI UCR Program through the CJIS.

## FBI HATE CRIME STATISTICS (2015-2016)

| Bias motivation       | '15 | '16 |
|-----------------------|-----|-----|
| Anti-Arab             | 0   | 1   |
| Anti-Islamic (Muslim) | 5   | 6   |

<sup>7</sup> Missouri State Highway Patrol, Statistical Analysis Ctr., [http://www.mshp.dps.missouri.gov/MSHPWeb/SAC/index\\_960grid.html](http://www.mshp.dps.missouri.gov/MSHPWeb/SAC/index_960grid.html).

<sup>8</sup> CJIS Div., Fed. Bureau of Investigation, SRS to NIBRS: The Path to Better UCR Data, <https://www.fbi.gov/services/cjis/cjis-link/srs-to-nibrs-the-path-to-better-ucr-data>.

<sup>9</sup> Bureau of Justice Statistics, U.S. Dep't of Justice, 2017 NCS-X Estimation Project (Jul. 27, 2017), available at <https://www.bjs.gov/content/pub/pdf/17ncsxep.pdf>.

<sup>10</sup> Uniform Crime Reporting Program, Fed. Bureau of Investigation, NIBRS Participation by State (2013), available at <https://ucr.fbi.gov/nibrs/2013/resources/nibrs-participation-by-state>.

<sup>11</sup> Bureau of Justice Statistics, U.S. Dep't of Justice, National Crime Statistics Exchange (last updated Jun. 2017), <https://www.bjs.gov/content/ncsx.cfm>.

## FBI HATE CRIME STATISTICS

Pursuant to the Hate Crime Statistics Act (HCSA) of 1990 the FBI UCR Program collects data on "crimes that manifest evidence of prejudice based on race, gender or gender identity, religion, disability, sexual orientation, or ethnicity."<sup>12</sup>

Since 1993, the FBI UCR Program has published the annual report, *Hate Crime Statistics*, which is based on voluntary submissions from participating law enforcement agencies. In 2016, agencies from 49 states and the District of Columbia participated in the national hate crime statistics program.

For the most part, hate crime data is collected at the state level and forwarded to the FBI UCR Program. A total of 48 states maintain a state-level UCR data collection. UCR programs in 38 states publish annual hate crime statistics. Some participating law enforcement agencies submit hate crime data directly to the FBI UCR program.<sup>13</sup>



## FBI HATE CRIME STATISTICS PARTICIPANT

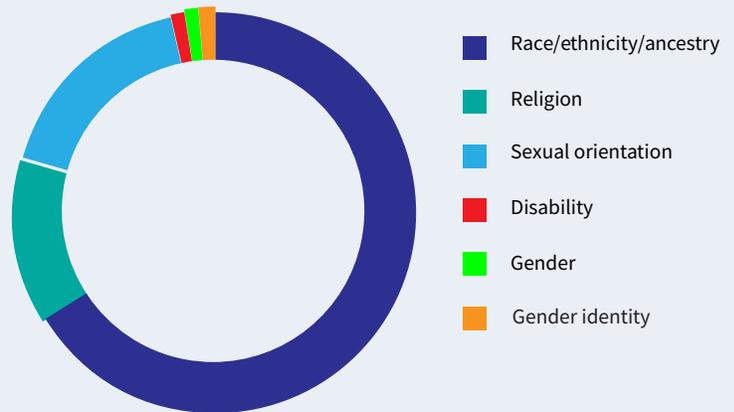
Law enforcement agencies in Missouri submit hate crime data to the FBI UCR Program through the CJIS. According to the FBI UCR Program's annual report, *Hate Crime Statistics*, 88 hate crime incidents, involving 114 offenses, were reported in Missouri in 2016.

In 2016, 24 of the 612 Missouri law enforcement agencies participating in the national hate crime statistics program submitted incident reports to the FBI UCR Program. Agencies representing two of the five largest cities in Missouri either submitted only zero data or failed to provide data in at least one quarterly submission period.

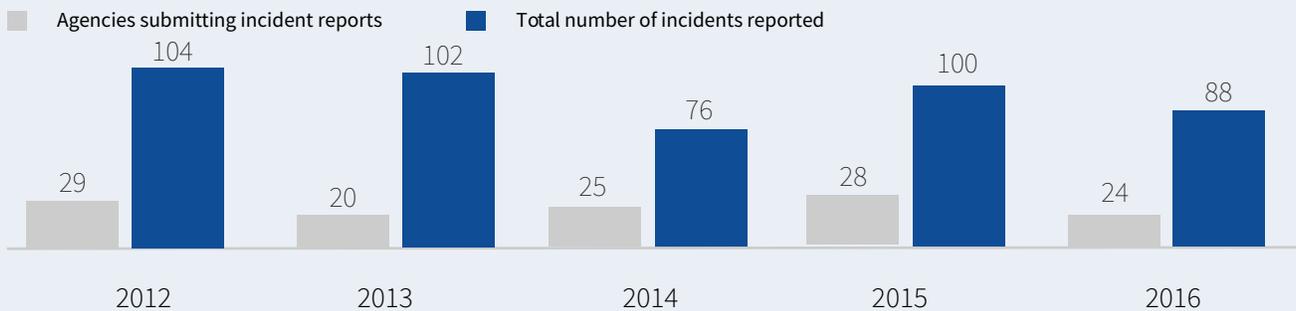
According to annual hate crime statistics published by the SAC, 98 hate crime offenses were reported in Missouri in 2016. This total conflicts with the FBI UCR Program's annual report, *Hate Crime Statistics, 2016*. Discrepancies occur between state and federal hate crime statistics for 2012-2015 as well.

## FBI HATE CRIME STATISTICS: MISSOURI 2012-2016

| Incidents per bias motivation | 2012       | 2013       | 2014      | 2015       | 2016      | Total      |
|-------------------------------|------------|------------|-----------|------------|-----------|------------|
| Race/ethnicity/ancestry       | 70         | 57         | 50        | 70         | 65        | 312        |
| Religion                      | 10         | 11         | 10        | 19         | 13        | 63         |
| Sexual orientation            | 22         | 27         | 13        | 8          | 10        | 80         |
| Disability                    | 2          | 1          | 1         | 1          | 0         | 5          |
| Gender                        | -          | 4          | 0         | 0          | 1         | 5          |
| Gender identity               | -          | 2          | 2         | 2          | 0         | 6          |
| <b>Total</b>                  | <b>104</b> | <b>102</b> | <b>76</b> | <b>100</b> | <b>89</b> | <b>471</b> |



## PARTICIPATION IN UCR HATE CRIME STATISTICS PROGRAM



## SUMMARY

While the state has an inclusive hate crime statute, Missouri does not have statutes that require reporting, data collection, or specific law enforcement training on hate crime. The Missouri State Highway Patrol, Criminal Justice Information Services Division, maintains the state clearinghouse for all police-reported crime data, including hate crime. Housed within the MSHP, the Missouri Statistical Analysis Center publishes hate crime statistics in an annual report. Copies of *Crime in Missouri* can be found on the MSHP website and include both anti-Arab and anti-Islamic (Muslim) hate crime statistics. In 2016, 24 Missouri law enforcement agencies submitted hate crime incident reports to the FBI UCR Program. The remaining 588 participating agencies provided only zero data. A total of 46 participating agencies recorded blank data in at least one quarterly submission period. Missouri receives an overall score of 70 points, denoting an average response to hate crime.

<sup>16</sup> 28 U.S.C. § 534 (JUSTIA 2016), available at <https://law.justia.com/codes/us/2016/title-28/part-ii/chapter-33/sec.-534>.

<sup>17</sup> Uniform Crime Reporting Program, Fed. Bureau of Investigation, Data Quality Guidelines, [https://ucr.fbi.gov/data\\_quality\\_guidelines](https://ucr.fbi.gov/data_quality_guidelines).

# ADVOCACY RESOURCES - Missouri

## IMPROVING THE RESPONSE

Most states have failed to enact sufficient legislation to address, prevent, and counteract hate crime in American communities. To accompany our federal hate crime laws, state legislatures must pass the following:

1. **An inclusive hate crime statute**, which covers a wide range of criminal offenses and provides enhanced penalties for crimes motivated because of citizenship status, race, ethnicity, color, disability, age, ancestry or national origin, gender or gender identity, sexual orientation, religion, or homelessness. Such protections are pursuant to model hate crime legislation drafted by the Arab American Institute. According to the model statute, penalty enhancement may incorporate alternatives to fines or increased prison sentences. Alternatives include restitution for victims and communities, participation in educational programs, and restorative justice.
2. **Statutes that require reporting, data collection, and specific law enforcement training on hate crime.** Centralized state agencies must publish comprehensive, accessible statistics on the nature and extent of hate crime occurring within their state. These statistics must conform to national UCR standards and include the bias motivation categories identified in the FBI's annual report, *Hate Crime Statistics*. States must also require law enforcement training schools to provide comprehensive training to ensure that officers are prepared to investigate, report, and respond to hate crime incidents.

## STATE RECOMMENDATIONS

According to our rating methodology, Missouri receives an overall score of 70, denoting an average response to hate crime. Advocates for an improved response to hate crime in Missouri should promote the following:

1. The current Missouri hate crime statute offers protections for race, color, religion, national origin, sex, sexual orientation, which is defined so as to include gender identity, and disability. **The Missouri hate crime statute should be amended** to include protections for citizenship status, ethnicity, age, ancestry, homelessness, or association with a person or group with one of these actual or perceived characteristics.
2. While Missouri publishes statistics in the form of an annual hate crime report, state code does not require hate crime reporting and data collection. Of the 612 Missouri law enforcement agencies participating in the national hate crime statistics program, only 24 agencies submitted incident reports for *Hate Crime Statistics, 2016*. **Legislation should be introduced** to address these shortcomings.
  - Law enforcement agencies must report hate crimes to the Missouri Criminal Justice Information Services Division, which is responsible for publishing annual hate crime statistics;
  - Missouri must transition to the National Incident-Based Reporting System to facilitate hate crime reporting and data collection. By January 2021, all law enforcement agencies in the United States will be required to report crime information through the NIBRS.
3. Missouri state code does not require specific law enforcement training on hate crime. The Missouri Peace Officers Standards and Training Commission must prescribe basic police training relating to investigating and reporting hate crime incidents.

## STATE CONTACTS

Advocates for an improved response to hate crime in Missouri should contact current state legislators and members of Congress.

### Missouri General Assembly

Senate: <http://www.senate.mo.gov>

House: <http://www.house.mo.gov>

### United States Senate

Contact: Missouri

<https://www.senate.gov/senators/contact>

### United States House of Representatives

Directory of Representatives: Missouri

<https://www.house.gov/representatives#state-missouri>

# MONTANA

Total population: 1,042,520

Rank of Arab American population by state: 46



0 anti-Arab hate crime incidents were reported in MT in 2016.

**Montana** is the 44th most populated state and has the 46th largest Arab American population.

The Montana Board of Crime Control (MBCC), Statistical Analysis Center, is the state agency responsible for the collection and publication of hate crime data. According to the MBCC, there were no anti-Arab hate crime incidents reported in Montana in 2016.

## HATE CRIME STATUTE

Mont. Code Ann. § 45-5-222 provides enhanced sentencing for “offenses committed because of victim’s race, creed, religion, color, national origin, or involvement in civil rights or human rights activities.”<sup>1</sup>

The current Montana hate crime statute is not sufficiently inclusive, as it does not offer protections for sexual orientation, disability, gender, or gender identity.

## DATA COLLECTION STATUTE

**There is no Montana statute that requires hate crime reporting or data collection.** Mont. Code Ann. § 2-15-2306 established the Montana Board of Crime Control (MBCC).<sup>2</sup> The mission of the MBCC is to “promote public safety by strengthening the coordination and performance of the criminal and juvenile justice systems.”<sup>3</sup>

## LAW ENFORCEMENT TRAINING STATUTE

**There is no Montana statute that requires specific law enforcement training on hate crime.** Pursuant to Mont. Code Ann. § 44-10-202, the Montana Department of Justice is required to “determine the curriculum and methods of training for officers” attending the state’s law enforcement academy.<sup>4</sup>

| MONTANA  |              |
|--|--------------|
| <b>Hate Crime Statute</b>                       | <b>20/40</b> |
| No statute; civil action or civil rights law   | -            |
| Hate crime statute, with protections for:  | 10           |
| Race/ethnicity/ancestry  | 5            |
| Religion   | 5            |
| Sexual orientation   | -            |
| Disability   | -            |
| Gender   | -            |
| Gender identity  | -            |
| <b>Data Collection Statute</b>                | <b>0/15</b>  |
| Data collection (voluntary reporting)  | -            |
| Mandatory reporting and data collection  | -            |
| <b>Law Enforcement Training Statute</b>       | <b>0/15</b>  |
| No statute; comprehensive training   | -            |
| Mandatory training   | -            |
| <b>Annual Hate Crime Report</b>               | <b>20/20</b> |
| Annual hate crime report, including:   | 10           |
| Anti-Arab hate crime statistics  | 5            |
| Anti-Islamic (Muslim) hate crime statistics  | 5            |
| <b>FBI Hate Crime Statistics Participant</b>  | <b>10/10</b> |
| <b>TOTAL</b>   | <b>50</b>    |

<sup>1</sup> Mont. Code Ann. § 45-5-222 (JUSTIA 2017), available at <https://law.justia.com/codes/montana/2017/title-45/chapter-5/part-2/section-45-5-222>.

<sup>2</sup> Mont. Code Ann. § 2-15-2306 (JUSTIA 2017), available at <https://law.justia.com/codes/montana/2017/title-2/chapter-15/part-23/section-2-15-2306>.

<sup>3</sup> Montana Legislative Fiscal Div., The Montana Board of Crime Control: Agency Description (last updated Dec. 2012), available at [http://leg.mt.gov/content/Publications/fiscal/ba-2015/section\\_d/Crime-Control.pdf](http://leg.mt.gov/content/Publications/fiscal/ba-2015/section_d/Crime-Control.pdf).

<sup>4</sup> Mont. Code Ann. § 44-10-202 (JUSTIA 2017), available at <https://law.justia.com/codes/montana/2017/title-44/chapter-10/part-2/section-44-10-202>.

## DATA COLLECTION & STATISTICS

Housed within the state's Department of Justice, the MBCC Statistical Analysis Center publishes annual hate crime statistics in a specialized report. The 1992-2015 editions of *Hate Crime in Montana*, along with incident-based statistics for 2016, can be found on the MBCC website.<sup>5</sup>

## ANNUAL STATEWIDE HATE CRIME REPORT



State-level hate crime statistics published by the MBCC include data on both anti-Arab and anti-Islamic (Muslim) hate crime. The MBCC tabulates hate crime data according to the number of incidents per disaggregated bias motivation category in the 1992-2003 reports and offenses per disaggregated category in all but two subsequent editions (2012-2013). The Montana Incident-Based Reporting System (MTIBRS) online reporting database provides incident-based hate crime data tabulated according to disaggregated bias motivation categories.<sup>6</sup>

- ### ANTI-ARAB HATE CRIME STATISTICS

Anti-Arab hate crime statistics for 2005-2016 are provided in the MTIBRS online reporting database. A single anti-Arab hate crime incident is reported in the 2007 edition of *Hate Crime in Montana*, which, according to the report's authors, is based on FBI Hate Crime Incident Reports submitted to the MBCC.<sup>7</sup>

- ### ANTI-ISLAMIC (MUSLIM) HATE CRIME STATISTICS

Anti-Islamic (Muslim) hate crime statistics are provided in the MTIBRS online reporting database and *Hate Crime in Montana*. Discrepancies occur between the two data sources. Incident totals from the 2000-2004 editions of *Hate Crime in Montana* and 2005-2016 data from MTIBRS Online Reporting are provided in the table below.

## UNIFORM CRIME REPORTING (UCR)

By January 2021, the FBI Uniform Crime Reporting (UCR) Program will depend solely on the National Incident-Based Reporting System (NIBRS) to collect nationwide crime data.<sup>8</sup> This transition entails the sunset of summary-based crime reporting (SRS) and requires cooperation on the part of state UCR programs and individual reporting agencies.

The Montana UCR program is one of 16 state programs that rely exclusively on NIBRS data.<sup>9</sup>

NIBRS reporting enables criminal justice agencies to acquire a better understanding of crime, including hate crime, occurring within their respective jurisdictions. This in turn has positive implications for effective law enforcement response and policy implementation.

## CONTACT

Montana Board of Crime Control  
 Statistical Analysis Center  
 Post Office Box 201408  
 Helena, Montana 59620-1408  
 (406) 444-4298  
[www.mbcc.mt.gov](http://www.mbcc.mt.gov)

## MBCC HATE CRIME INCIDENTS (2000-2016)

| Bias motivation                    | '00 | '01 | '02 | '03 | '04 | '05 | '06 | '07 | '08 | '09 | '10 | '11 | '12 | '13 | '14 | '15 | '16 |
|------------------------------------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| Anti-Arab                          | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | 0   | 0   |
| Anti-Islamic (Muslim)              | 0   | 0   | 0   | 0   | 0   | 1   | 2   | 0   | 0   | 0   | 1   | 0   | 0   | 0   | 0   | 0   | 0   |
| Anti-other race/ethnicity/ancestry | 0   | 0   | 0   | 0   | 0   | 4   | 3   | 3   | 4   | 0   | 1   | 1   | 2   | 1   | 1   | 2   | 1   |

According to supplemental data from the FBI, no anti-Arab or anti-Islamic (Muslim) hate crime incidents were reported in Montana from 2015 to 2016. This total is consistent with MBCC statistics. Montana law enforcement agencies submit hate crime data to the FBI UCR Program through the MBCC.

## FBI HATE CRIME STATISTICS (2015-2016)

| Bias motivation       | '15 | '16 |
|-----------------------|-----|-----|
| Anti-Arab             | 0   | 0   |
| Anti-Islamic (Muslim) | 0   | 0   |

<sup>5</sup> Montana Board of Crime Control, *Hate Crimes in Montana*, <http://mbcc.mt.gov/Data/Montana-Reports/Hate-Crimes>.

<sup>6</sup> Montana Board of Crime Control, *Crime Data*, <http://mbcc.mt.gov/Data/Crime-Data>.

<sup>7</sup> Montana Board of Crime Control, *Montana Hate Crimes 1997*, available at <http://mbcc.mt.gov/Portals/130/Data/HateCrimes/hate1997.pdf>.

<sup>8</sup> CJIS Div., Fed. Bureau of Investigation, *SRS to NIBRS: The Path to Better UCR Data*, <https://www.fbi.gov/services/cjis/cjis-link/srs-to-nibrs-the-path-to-better-ucr-data>.

<sup>9</sup> Bureau of Justice Statistics, U.S. Dep't of Justice, *2017 NCS-X Estimation Project (Jul. 27, 2017)*, available at <https://www.bjs.gov/content/pub/pdf/17ncsxp.pdf>.

## FBI HATE CRIME STATISTICS

Pursuant to the Hate Crime Statistics Act (HCSA) of 1990 the FBI UCR Program collects data on "crimes that manifest evidence of prejudice based on race, gender or gender identity, religion, disability, sexual orientation, or ethnicity."<sup>10</sup>

Since 1993, the FBI UCR Program has published the annual report, *Hate Crime Statistics*, which is based on voluntary submissions from participating law enforcement agencies. In 2016, agencies from 49 states and the District of Columbia participated in the national hate crime statistics program.

For the most part, hate crime data is collected at the state level and forwarded to the FBI UCR Program. A total of 48 states maintain a state-level UCR data collection. UCR programs in 38 states publish annual hate crime statistics. Some participating law enforcement agencies submit hate crime data directly to the FBI UCR program.<sup>11</sup>



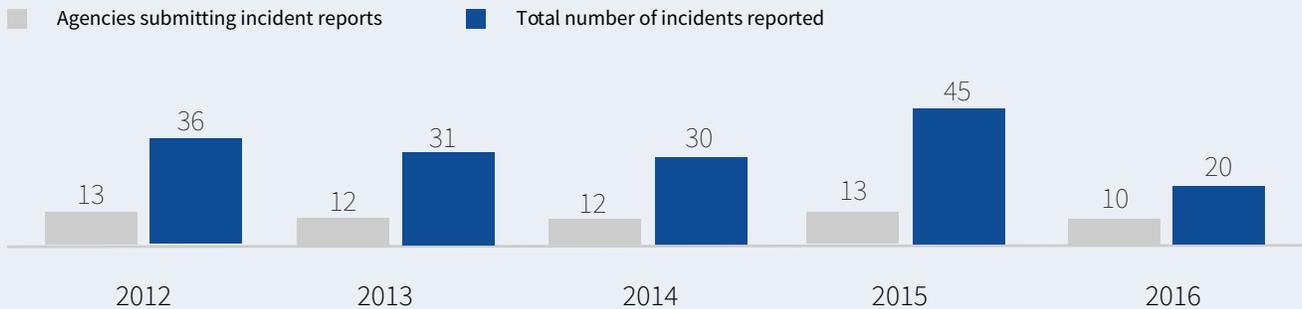
## FBI HATE CRIME STATISTICS PARTICIPANT

Law enforcement agencies in Montana submit hate crime data to the FBI UCR Program through the MBCC. According to the FBI UCR Program's annual report, *Hate Crime Statistics*, 20 hate crime incidents were reported in Montana in 2016.

In 2016, 10 of the 109 Montana law enforcement agencies participating in the national hate crime statistics program submitted incident reports to the FBI UCR Program. Agencies representing four of the five largest cities either in Montana did not participate in the national hate crime statistics program or submitted only zero data.

According to MTIBRS Online Reporting, 23 hate crime incidents were reported in Montana in 2016. This total conflicts with the FBI UCR Program's annual report, *Hate Crime Statistics, 2016*. Discrepancies occur between state and federal hate crime statistics for 2012-2015 as well.

## PARTICIPATION IN UCR HATE CRIME STATISTICS PROGRAM

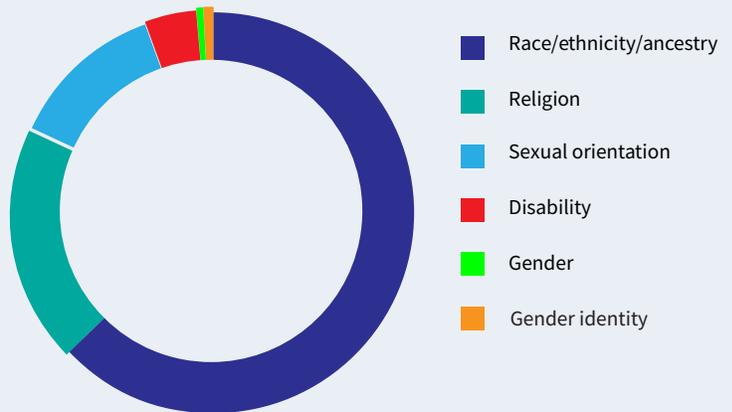


## SUMMARY

The current Montana hate crime statute is not sufficiently inclusive, as it does not offer protections for sexual orientation, disability, gender, or gender identity. Furthermore, Montana does not have statutes that require reporting, data collection, or specific law enforcement training on hate crime. The Montana Bureau of Crime Control, Statistical Analysis Center, maintains the state clearinghouse for all police-reported crime data, including hate crime, and is responsible for publishing annual statistics. Copies of *Hate Crime in Montana*, as well as the MTIBRS online reporting database, can be found on the MBCC website and include both anti-Arab and anti-Islamic (Muslim) hate crime statistics. In 2016, 10 Montana law enforcement agencies submitted hate crime incident reports to the FBI UCR Program. The remaining 99 participating agencies provided only zero data. A total of 9 participating agencies recorded blank data in at least one quarterly submission period. Montana receives an overall score of 50 points, denoting a limited response to hate crime.

## FBI HATE CRIME STATISTICS: MONTANA 2012-2016

| Incidents per bias motivation | 2012 | 2013 | 2014 | 2015 | 2016 | Total |
|-------------------------------|------|------|------|------|------|-------|
| Race/ethnicity/ancestry       | 17   | 26   | 21   | 28   | 10   | 102   |
| Religion                      | 7    | 2    | 3    | 14   | 5    | 31    |
| Sexual orientation            | 8    | 3    | 3    | 2    | 4    | 20    |
| Disability                    | 4    | 0    | 2    | 1    | 0    | 7     |
| Gender                        | -    | 0    | 0    | 0    | 1    | 1     |
| Gender identity               | -    | 0    | 1    | 0    | 0    | 1     |
| Total                         | 36   | 31   | 30   | 45   | 20   | 162   |



<sup>10</sup> 28 U.S.C. § 534 (JUSTIA 2016), available at <https://law.justia.com/codes/us/2016/title-28/part-ii/chapter-33/sec.-534>.

<sup>11</sup> Uniform Crime Reporting Program, Fed. Bureau of Investigation, Data Quality Guidelines, [https://ucr.fbi.gov/data\\_quality\\_guidelines](https://ucr.fbi.gov/data_quality_guidelines).

# ADVOCACY RESOURCES - Montana

## IMPROVING THE RESPONSE

Most states have failed to enact sufficient legislation to address, prevent, and counteract hate crime in American communities. To accompany our federal hate crime laws, state legislatures must pass the following:

1. **An inclusive hate crime statute**, which covers a wide range of criminal offenses and provides enhanced penalties for crimes motivated because of citizenship status, race, ethnicity, color, disability, age, ancestry or national origin, gender or gender identity, sexual orientation, religion, or homelessness. Such protections are pursuant to model hate crime legislation drafted by the Arab American Institute. According to the model statute, penalty enhancement may incorporate alternatives to fines or increased prison sentences. Alternatives include restitution for victims and communities, participation in educational programs, and restorative justice.
2. **Statutes that require reporting, data collection, and specific law enforcement training on hate crime.** Centralized state agencies must publish comprehensive, accessible statistics on the nature and extent of hate crime occurring within their state. These statistics must conform to national UCR standards and include the bias motivation categories identified in the FBI's annual report, *Hate Crime Statistics*. States must also require law enforcement training schools to provide comprehensive training to ensure that officers are prepared to investigate, report, and respond to hate crime incidents.

## STATE RECOMMENDATIONS

According to our rating methodology, Montana receives an overall score of 50, denoting a limited response to hate crime. Advocates for an improved response to hate crime in Montana should promote the following:

1. The current Montana hate crime statute offers protections for race, creed, religion, color, national origin, and involvement in civil rights or human rights activities. **The Montana hate crime statute should be amended** to include protections for citizenship status, ethnicity, disability, age, ancestry, gender or gender identity, sexual orientation, homelessness, or association with a person or group with one of these actual or perceived characteristics.
2. While Montana publishes statistics in the form of an annual hate crime report, state code does not require hate crime reporting or data collection. Of the 109 Montana law enforcement agencies participating in the national hate crime statistics program, only 10 agencies submitted incident reports for *Hate Crime Statistics, 2016*. **Legislation should be introduced** to address these shortcomings.
  - Law enforcement agencies must report hate crimes to the Montana Board of Crime Control, which is responsible for publishing annual hate crime statistics;
  - The MBCC should be required by law to collect data and publish statistics, conforming to national standards, on the nature and extent of hate crime within the state. The Montana hate crime report currently provides statistics in accordance with the bias motivation categories identified in *Hate Crime Statistics*.
3. Montana state code does not require specific law enforcement training on hate crime. The Montana Department of Justice must require the curriculum and methods of training for the state's law enforcement academy to include instruction relating to investigating and reporting hate crime incidents.

## STATE CONTACTS

Advocates for an improved response to hate crime in Montana should contact current state legislators and members of Congress.

### Montana Legislature

Senate: <http://leg.mt.gov/css/senate>

House: <http://leg.mt.gov/css/house>

### United States Senate

Contact: Montana

<https://www.senate.gov/senators/contact>

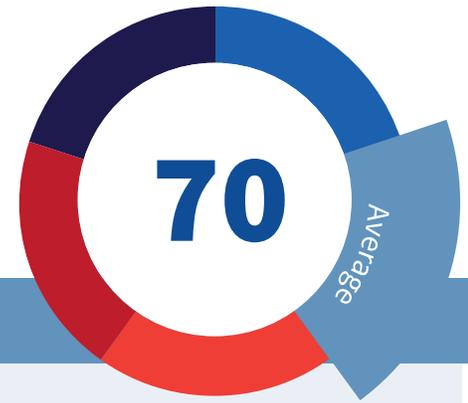
### United States House of Representatives

Directory of Representatives: Montana

<https://www.house.gov/representatives#state-montana>

# NEBRASKA

Total population: 1,907,116  
Rank of Arab American population by state: 32



1 anti-Arab hate crime incident was reported in NE in 2016.

**Nebraska** is the 37th most populated state and has the 32nd largest Arab American population.

The Nebraska Crime Commission (NCC) is the state agency responsible for the collection and publication of hate crime data. According to the NCC, there was a single anti-Arab hate crime incident reported in Nebraska in 2016.

## HATE CRIME STATUTE

Neb. Rev. Stat. § 28-111 provides enhanced penalties for certain criminal offenses against a person or a person's property because of their "race, color, religion, ancestry, national origin, gender, sexual orientation, age, or disability," or because of their association with a person "of a certain race, color, religion, ancestry, national origin, gender, sexual orientation, age, or disability."<sup>1</sup>

The current Nebraska hate crime statute is not sufficiently inclusive, as it does not offer protections for gender identity.

## DATA COLLECTION STATUTE

Neb. Rev. Stat. § 28-114 requires the Nebraska Commission on Law Enforcement and Criminal Justice, also known as the Nebraska Crime Commission, to collect and analyze "information regarding criminal offenses committed against a person because of the person's race, color, religion, ancestry, national origin, gender, sexual orientation, age, or disability or because of the person's association with a person of a certain race, color, religion, ancestry, national origin, gender, sexual orientation, age, or disability."<sup>2</sup>

Neb. Rev. Stat. § 81-1426 permits the NCC to request all Nebraska public officers and agencies to submit information, records, or reports "as the commission determines relevant to its functions."<sup>3</sup> Nebraska Law enforcement agencies are not statutorily required to submit hate crime reports to the NCC.

## LAW ENFORCEMENT TRAINING STATUTE

**There is no Nebraska statute that requires specific law enforcement training on hate crime.** Pursuant to Neb. Rev. Stat. § 81-1406, the Nebraska Police Standards Advisory Council is required to oversee all law enforcement training schools and academies.<sup>4</sup> The Council serves the Nebraska Commission on Law Enforcement and Criminal Justice "in all matters relating to law enforcement, the [Nebraska Law Enforcement Training Center], and continuing education."<sup>5</sup>

| NEBRASKA   |              |
|--|--------------|
| <b>Hate Crime Statute</b>                       | <b>35/40</b> |
| No statute; civil action or civil rights law   | -            |
| Hate crime statute, with protections for:  | 10           |
| Race/ethnicity/ancestry  | 5            |
| Religion   | 5            |
| Sexual orientation   | 5            |
| Disability   | 5            |
| Gender   | 5            |
| Gender identity  | -            |
| <b>Data Collection Statute</b>                | <b>5/15</b>  |
| Data collection (voluntary reporting)  | 5            |
| Mandatory reporting and data collection  | -            |
| <b>Law Enforcement Training Statute</b>       | <b>0/15</b>  |
| No statute; comprehensive training   | -            |
| Mandatory training   | -            |
| <b>Annual Hate Crime Report</b>               | <b>20/20</b> |
| Annual hate crime report, including:   | 10           |
| Anti-Arab hate crime statistics  | 5            |
| Anti-Islamic (Muslim) hate crime statistics  | 5            |
| <b>FBI Hate Crime Statistics Participant</b>  | <b>10/10</b> |
| <b>TOTAL</b>   | <b>70</b>    |

<sup>1</sup> Neb. Rev. Stat. § 28-111 (JUSTIA 2017), available at <https://law.justia.com/codes/nebraska/2017/chapter-28/statute-28-111>.

<sup>2</sup> Neb. Rev. Stat. § 28-114 (JUSTIA 2017), available at <https://law.justia.com/codes/nebraska/2017/chapter-28/statute-28-114>.

<sup>3</sup> Neb. Rev. Stat. § 81-1426 (JUSTIA 2017), available at <https://law.justia.com/codes/nebraska/2017/chapter-81/statute-81-1426>.

<sup>4</sup> Neb. Rev. Stat. § 81-1406 (JUSTIA 2017), available at <https://law.justia.com/codes/nebraska/2017/chapter-81/statute-81-1406>.

<sup>5</sup> *Id.*

## DATA COLLECTION & STATISTICS

Pursuant to 78 Neb. Admin. Code, ch. 5, § 009.04, the NCC publishes an “annual report on crime in Nebraska.”<sup>6</sup> The 1998-2016 editions of *Crime in Nebraska* can be found on the NCC website and include hate crime statistics.<sup>7</sup> As Nebraska state code does not require law enforcement agencies to report hate crimes to the NCC, the reports are based on voluntary UCR submissions.<sup>8</sup>



## ANNUAL STATEWIDE HATE CRIME REPORT

State-level hate crime statistics published by the NCC include data on both anti-Arab and anti-Islamic (Muslim) hate crime. The NCC tabulates hate crime data according to the number of incidents per disaggregated bias motivation category.

- ANTI-ARAB HATE CRIME STATISTICS**  
 Anti-Arab hate crime statistics are provided in the 2016 edition of *Crime in Nebraska*. According to the NCC, a single anti-Arab hate crime incident was reported in Nebraska in 2016.
- ANTI-ISLAMIC (MUSLIM) HATE CRIME STATISTICS**  
 Anti-Islamic (Muslim) hate crime statistics are provided in the 2003-2016 editions of *Crime in Nebraska*. From 2000 to 2001 there was a significant increase of reported anti-other religion hate crime incidents (1 to 7). According to the NCC, 2 anti-Islamic (Muslim) hate crime incidents were reported in Nebraska in 2016.

## UNIFORM CRIME REPORTING (UCR)

By January 2021, the FBI Uniform Crime Reporting (UCR) Program will depend solely on the National Incident-Based Reporting System (NIBRS) to collect nationwide crime data.<sup>9</sup> This transition entails the sunset of summary-based crime reporting (SRS) and requires cooperation on the part of state UCR programs and individual reporting agencies.

The Nebraska UCR program is one of 18 state programs that rely on both SRS and NIBRS data.<sup>10</sup> As of 2013, there were 68 Nebraska law enforcement agencies reporting crime data via the NIBRS.<sup>11</sup> According to the Bureau of Justice Statistics, the state of Nebraska has been awarded funding through the National Crime Statistics Exchange (NCS-X) Initiative and is in the midst of NIBRS implementation.<sup>12</sup>

NIBRS reporting enables criminal justice agencies to acquire a better understanding of crime, including hate crime, occurring within their respective jurisdictions. This in turn has positive implications for effective law enforcement response and policy implementation.

## CONTACT

Nebraska Crime Commission  
 Post Office Box 94946  
 Lincoln, Nebraska 68509-4946  
 (402) 471-3982  
[www.ncc.state.ne.us](http://www.ncc.state.ne.us)

## CRIME IN NEBRASKA HATE CRIME INCIDENTS (2000-2016)

| Bias motivation                    | '00 | '01 | '02 | '03 | '04 | '05 | '06 | '07 | '08 | '09 | '10 | '11 | '12 | '13 | '14 | '15 | '16 |
|------------------------------------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| Anti-Arab                          | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | 1   |
| Anti-Islamic (Muslim)              | -   | -   | -   | 3   | 2   | 3   | 1   | 3   | 0   | 1   | 4   | 0   | 2   | 0   | 0   | 0   | 2   |
| Anti-other race/ethnicity/ancestry | 0   | 2   | 3   | 5   | 5   | 4   | 1   | 6   | 6   | 1   | 5   | 0   | 3   | 2   | 5   | 0   | 1   |

According to supplemental data from the FBI, a single anti-Arab hate crime incident and 2 anti-Islamic (Muslim) hate crime incidents were reported in Nebraska in 2016. This total is consistent with NCC statistics. Nebraska law enforcement agencies submit hate crime data to the FBI UCR Program through the NCC.

## FBI HATE CRIME STATISTICS (2015-2016)

| Bias motivation       | '15 | '16 |
|-----------------------|-----|-----|
| Anti-Arab             | 0   | 1   |
| Anti-Islamic (Muslim) | 0   | 2   |

<sup>6</sup> 78 Neb. Admin. Code, ch. 5, § 009.04, available at [http://www.sos.ne.gov/rules-and-regs/regsearch/Rules/Law\\_Enforcement\\_and\\_Criminal\\_Justice/Title-78/Chapter-5.pdf](http://www.sos.ne.gov/rules-and-regs/regsearch/Rules/Law_Enforcement_and_Criminal_Justice/Title-78/Chapter-5.pdf).

<sup>7</sup> Nebraska Crime Commission, Stat Reports, <https://ncc.nebraska.gov/stat-reports>.

<sup>8</sup> Nebraska Crime Commission, *Crime in Nebraska 2016* (Jul. 3, 2017), available at [https://ncc.nebraska.gov/sites/ncc.nebraska.gov/files/doc/2016-Crime-in-Nebraska\\_0.pdf](https://ncc.nebraska.gov/sites/ncc.nebraska.gov/files/doc/2016-Crime-in-Nebraska_0.pdf).

<sup>9</sup> CJIS Div., Fed. Bureau of Investigation, SRS to NIBRS: The Path to Better UCR Data, <https://www.fbi.gov/services/cjis/cjis-link/srs-to-nibrs-the-path-to-better-ucr-data>.

<sup>10</sup> Bureau of Justice Statistics, U.S. Dep't of Justice, 2017 NCS-X Estimation Project (Jul. 27, 2017), available at <https://www.bjs.gov/content/pub/pdf/17ncsxep.pdf>.

<sup>11</sup> Uniform Crime Reporting Program, Fed. Bureau of Investigation, NIBRS Participation by State (2013), available at <https://ucr.fbi.gov/nibrs/2013/resources/nibrs-participation-by-state>.

<sup>12</sup> Bureau of Justice Statistics, U.S. Dep't of Justice, National Crime Statistics Exchange (last updated Jun. 2017), <https://www.bjs.gov/content/ncsx.cfm>.

## FBI HATE CRIME STATISTICS

Pursuant to the Hate Crime Statistics Act (HCSA) of 1990 the FBI UCR Program collects data on "crimes that manifest evidence of prejudice based on race, gender or gender identity, religion, disability, sexual orientation, or ethnicity."<sup>13</sup>

Since 1993, the FBI UCR Program has published the annual report, *Hate Crime Statistics*, which is based on voluntary submissions from participating law enforcement agencies. In 2016, agencies from 49 states and the District of Columbia participated in the national hate crime statistics program.

For the most part, hate crime data is collected at the state level and forwarded to the FBI UCR Program. A total of 48 states maintain a state-level UCR data collection. UCR programs in 38 states publish annual hate crime statistics. Some participating law enforcement agencies submit hate crime data directly to the FBI UCR program.<sup>14</sup>



## FBI HATE CRIME STATISTICS PARTICIPANT

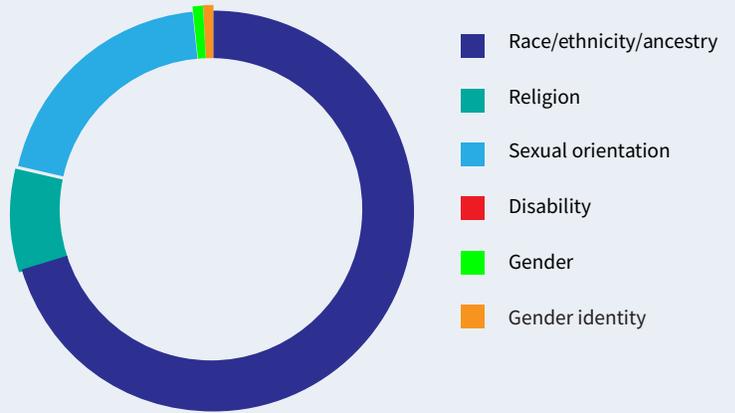
Law enforcement agencies in Nebraska submit hate crime data to the FBI UCR Program through the NCC. According to the FBI UCR Program's annual report, *Hate Crime Statistics*, 31 hate crime incidents were reported in Nebraska in 2016.

In 2016, 7 of the 235 Nebraska law enforcement agencies participating in the national hate crime statistics program submitted incident reports to the FBI UCR Program. The Bellevue Police Department, which represents one of Nebraska's five largest cities, submitted only zero data.

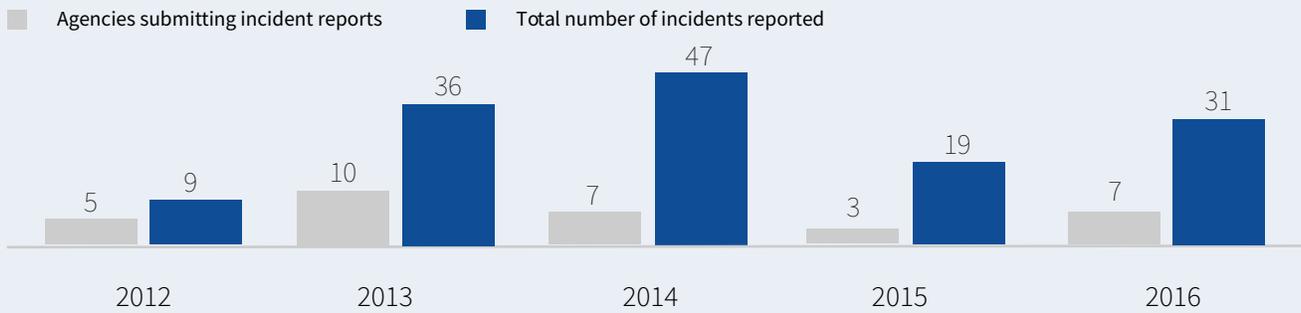
According to annual hate crime statistics published by the NCC, 26 hate crime incidents were reported in Nebraska in 2016. This total conflicts with the FBI UCR Program's annual report, *Hate Crime Statistics, 2016*. Discrepancies occur between state and federal hate crime statistics for 2012-2014 as well.

## FBI HATE CRIME STATISTICS: NEBRASKA 2012-2016

| Incidents per bias motivation | 2012     | 2013      | 2014      | 2015      | 2016      | Total      |
|-------------------------------|----------|-----------|-----------|-----------|-----------|------------|
| Race/ethnicity/ancestry       | 8        | 23        | 36        | 10        | 23        | 100        |
| Religion                      | 1        | 5         | 1         | 1         | 4         | 12         |
| Sexual orientation            | 0        | 8         | 10        | 7         | 3         | 28         |
| Disability                    | 0        | 0         | 0         | 0         | 0         | 0          |
| Gender                        | -        | 0         | 0         | 0         | 1         | 1          |
| Gender identity               | -        | 0         | 0         | 1         | 0         | 1          |
| <b>Total</b>                  | <b>9</b> | <b>36</b> | <b>47</b> | <b>19</b> | <b>31</b> | <b>142</b> |



## PARTICIPATION IN UCR HATE CRIME STATISTICS PROGRAM



## SUMMARY

The current Nebraska hate crime statute is not sufficiently inclusive, as it does not offer protections for gender identity. While Nebraska has a statute requiring the NCC to collect hate crime-related data, the state's law enforcement agencies are not required to submit hate crime reports. Furthermore, there is no state law regarding mandatory police training on hate crime. The Nebraska Crime Commission maintains the state clearinghouse for all police-reported crime data, including hate crime, and is responsible for publishing annual statistics. Copies of *Crime in Nebraska* can be found on the NCC website and include both anti-Arab and anti-Islamic (Muslim) hate crime statistics. In 2016, 7 Nebraska law enforcement agencies submitted hate crime incident reports to the FBI UCR Program. The remaining 228 participating agencies provided only zero data. A total of 4 participating agencies recorded blank data in at least one quarterly submission period. Nebraska receives an overall score of 70 points, denoting an average response to hate crime.

<sup>13</sup> 28 U.S.C. § 534 (JUSTIA 2016), available at <https://law.justia.com/codes/us/2016/title-28/part-ii/chapter-33/sec.-534>.

<sup>14</sup> Uniform Crime Reporting Program, Fed. Bureau of Investigation, Data Quality Guidelines, [https://ucr.fbi.gov/data\\_quality\\_guidelines](https://ucr.fbi.gov/data_quality_guidelines).

# ADVOCACY RESOURCES - Nebraska

## IMPROVING THE RESPONSE

Most states have failed to enact sufficient legislation to address, prevent, and counteract hate crime in American communities. To accompany our federal hate crime laws, state legislatures must pass the following:

1. **An inclusive hate crime statute**, which covers a wide range of criminal offenses and provides enhanced penalties for crimes motivated because of citizenship status, race, ethnicity, color, disability, age, ancestry or national origin, gender or gender identity, sexual orientation, religion, or homelessness. Such protections are pursuant to model hate crime legislation drafted by the Arab American Institute. According to the model statute, penalty enhancement may incorporate alternatives to fines or increased prison sentences. Alternatives include restitution for victims and communities, participation in educational programs, and restorative justice.
2. **Statutes that require reporting, data collection, and specific law enforcement training on hate crime.** Centralized state agencies must publish comprehensive, accessible statistics on the nature and extent of hate crime occurring within their state. These statistics must conform to national UCR standards and include the bias motivation categories identified in the FBI's annual report, *Hate Crime Statistics*. States must also require law enforcement training schools to provide comprehensive training to ensure that officers are prepared to investigate, report, and respond to hate crime incidents.

## STATE RECOMMENDATIONS

According to our rating methodology, Nebraska receives an overall score of 70, denoting an average response to hate crime. Advocates for an improved response to hate crime in Nebraska should promote the following:

1. The current Nebraska hate crime statute offers protections for race, color, religion, ancestry, national origin, gender, sexual orientation, age, and disability. **The Nebraska hate crime statute should be amended** to include protections for citizenship status, ethnicity, gender identity, homelessness, or association with a person or group with one of these actual or perceived characteristics.
2. While the Nebraska Crime Commission is required to collect data on hate crime, law enforcement agencies in Nebraska are not required to report hate crime incidents. Of the 235 Nebraska law enforcement agencies participating in the national hate crime statistics program, only seven agencies submitted incident reports for *Hate Crime Statistics, 2016*. **Legislation should be introduced** to address these shortcomings.
  - Law enforcement agencies must report hate crimes to the Nebraska Crime Commission, which is responsible for publishing annual hate crime statistics;
  - Nebraska's annual hate crime report does not conform to national standards. The NCC must publish statistics in accordance with the bias motivation categories identified in *Hate Crime Statistics*;
  - Nebraska must transition to the National Incident-Based Reporting System to facilitate hate crime reporting and data collection. By January 2021, all law enforcement agencies in the United States will be required to report crime information through the NIBRS.
3. Nebraska state code does not require specific law enforcement training on hate crime. The Nebraska Police Standards Advisory Council must promote instruction relating to investigating and reporting hate crime incidents in all law enforcement training schools and academies throughout the state.

## STATE CONTACTS

Advocates for an improved response to hate crime in Nebraska should contact current state legislators and members of Congress.

### Nebraska Legislature

Senate (unicameral): <https://nebraskalegislature.gov>

### United States Senate

Contact: Nebraska

<https://www.senate.gov/senators/contact>

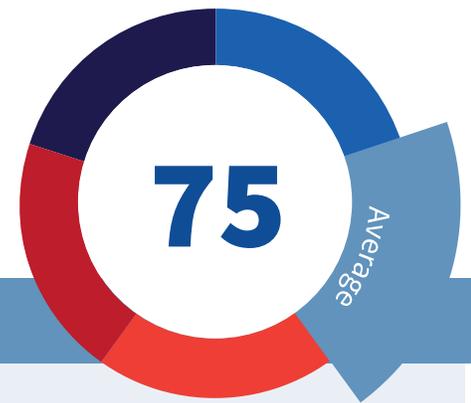
### United States House of Representatives

Directory of Representatives: Nebraska

<https://www.house.gov/representatives#state-nebraska>

# NEVADA

Total population: 2,940,058  
Rank of Arab American population by state: 26



1 anti-Arab hate crime incident was reported in NV in 2016.

**Nevada** is the 34th most populated state and has the 26th largest Arab American population.

Housed within the Department of Public Safety, the Nevada Records, Communications and Compliance Division (RCCD) is the state agency responsible for the collection and publication of hate crime data. According to the RCCD, there was a single anti-Arab hate crime incident reported in Nevada in 2016.

## HATE CRIME STATUTE

Nev. Rev. Stat. § 193.1675 provides enhanced penalties for certain crimes committed because the “actual or perceived race, color, religion, national origin, physical or mental disability, sexual orientation or gender identity or expression of the victim was different from that characteristic of the perpetrator.”<sup>1</sup> Nev. Rev. Stat. § 207.185 provides enhanced penalties for “certain unlawful acts” committed “by reason of the actual or perceived race, color, religion, national origin, physical or mental disability, sexual orientation or gender identity or expression of another person or group of persons.”<sup>2</sup>

Pursuant to Nevada criminal code, gender identity or expressions is defined so as to include gender.

## DATA COLLECTION STATUTE

Nev. Rev. Stat. § 179A.175 requires the state’s central repository for crime information to maintain a program “designed to collect, compile, and analyze statistical data” about hate crime.<sup>3</sup> The central repository is required to include a separate section on hate crime in the annual crime statistics report pursuant to Nev. Rev. Stat. § 179A.075.7(g).<sup>4</sup> In 2005, the Central Repository was renamed to the Records Bureau.<sup>5</sup>

Nev. Rev. Stat. § 179A.075.2(a) requires criminal justice and law enforcement agencies to submit “records, reports, and compilations of statistical data” to the Central Repository for Nevada Records of Criminal History.<sup>6</sup> There is no clearly-defined provision for mandatory law enforcement reporting on hate crime.

## LAW ENFORCEMENT TRAINING STATUTE

**There is no Nevada statute that requires specific law enforcement training on hate crime.** Pursuant to Nev. Rev. Stat. § 289.510, the Peace Officers Standards and Training Commission is required to establish minimum standards for the training of law enforcement officers, including minimum courses of study, and other requirements for certification.<sup>7</sup> Training in cultural awareness is mandatory per Nev. Admin. Code §§ 289.140 through 289.160.<sup>8</sup>

| NEVADA   |              |
|--|--------------|
| <b>Hate Crime Statute</b>                       | <b>40/40</b> |
| No statute; civil action or civil rights law   | -            |
| Hate crime statute, with protections for:  | 10           |
| Race/ethnicity/ancestry  | 5            |
| Religion   | 5            |
| Sexual orientation   | 5            |
| Disability   | 5            |
| Gender   | 5            |
| Gender identity  | 5            |
| <b>Data Collection Statute</b>                | <b>5/15</b>  |
| Data collection (voluntary reporting)  | 5            |
| Mandatory reporting and data collection  | -            |
| <b>Law Enforcement Training Statute</b>       | <b>0/15</b>  |
| No statute; comprehensive training   | -            |
| Mandatory training   | -            |
| <b>Annual Hate Crime Report</b>               | <b>20/20</b> |
| Annual hate crime report, including:   | 10           |
| Anti-Arab hate crime statistics  | 5            |
| Anti-Islamic (Muslim) hate crime statistics  | 5            |
| <b>FBI Hate Crime Statistics Participant</b>  | <b>10/10</b> |
| <b>TOTAL</b>   | <b>75</b>    |

<sup>1</sup> Nev. Rev. Stat § 193.1675 (JUSTIA 2017), available at <https://law.justia.com/codes/nevada/2017/chapter-193/statute-193.1675>.

<sup>2</sup> Nev. Rev. Stat § 207.185 (JUSTIA 2017), available at <https://law.justia.com/codes/nevada/2017/chapter-207/statute-207.185>.

<sup>3</sup> Nev. Rev. Stat § 179A.175 (JUSTIA 2017), available at <https://law.justia.com/codes/nevada/2017/chapter-179a/statute-179a.175>.

<sup>4</sup> Nev. Rev. Stat § 179A.075.7(g) (JUSTIA 2017), available at <https://law.justia.com/codes/nevada/2017/chapter-179a/statute-179a.075>.

<sup>5</sup> Records, Communication and Compliance Div., Nevada Dep’t of Pub. Safety, Mission Statement and History, <http://rccd.nv.gov/About/Mission>.

<sup>6</sup> Nev. Rev. Stat § 179A.075.2(a), *supra* note 4.

<sup>7</sup> Nev. Rev. Stat § 289.510 (JUSTIA 2017), available at <https://law.justia.com/codes/nevada/2017/chapter-289/statute-289.510>.

<sup>8</sup> Nev. Admin. Code §§ 289.140 – 160, available at <http://www.leg.state.nv.us/NAC/NAC-289.html#NAC289Sec110>.

## DATA COLLECTION & STATISTICS

Pursuant to Nev. Rev. Stat. § 179A.175, the RCCD publishes an annual crime report that includes hate crime statistics. The 1994-2016 editions of *Crime in Nevada* can be found on the RCCD website.<sup>9</sup>

## ANNUAL STATEWIDE HATE CRIME REPORT



State-level hate crime statistics published by the RCCD include data on both anti-Arab and anti-Islamic (Muslim) hate crime. The RCCD tabulates hate crime data according to the number of incidents per disaggregated bias motivation category.

- ### ANTI-ARAB HATE CRIME STATISTICS

Anti-Arab hate crime statistics are provided in the 2001-2016 editions of *Crime in Nevada*. Between 2001 and 2013 the RCCD recorded incident reporting data under the categories of “anti-Iraqi” and “anti-Middle East.” The RCCD did not provide statistics on a uniform anti-Arab bias motivation category until 2014. According to the RCCD, a single anti-Arab hate crime incident was reported in Nevada in 2016.

- ### ANTI-ISLAMIC (MUSLIM) HATE CRIME STATISTICS

Anti-Islamic (Muslim) hate crime statistics are provided in the 1999-2016 editions of *Crime in Nevada*. According to the RCCD, 3 anti-Islamic (Muslim) hate crime incidents were reported in Nevada in 2016.

## UNIFORM CRIME REPORTING (UCR)

By January 2021, the FBI Uniform Crime Reporting (UCR) Program will depend solely on the National Incident-Based Reporting System (NIBRS) to collect nationwide crime data.<sup>10</sup> This transition entails the sunset of summary-based crime reporting (SRS) and requires cooperation on the part of state UCR programs and individual reporting agencies.

The Nevada state UCR program is one of 15 state programs that rely exclusively on SRS data.<sup>11</sup> According to the Bureau of Justice Statistics, Nevada has received funding through the National Crime Statistics Exchange (NCS-X) Initiative and is planning a statewide NIBRS transition.<sup>12</sup>

NIBRS reporting enables criminal justice agencies to acquire a better understanding of crime, including hate crime, occurring within their respective jurisdictions. This in turn has positive implications for effective law enforcement response and policy implementation.

### CONTACT

Nevada Department of Public Safety  
 General Services Division  
 Suite 100  
 333 West Nye Lane  
 Carson City, Nevada 89706  
 (775) 684-6222  
[www.nvrepository.state.nv.us](http://www.nvrepository.state.nv.us)

## CRIME IN NEVADA HATE CRIME INCIDENTS (2000-2016)

| Bias motivation                    | '00 | '01 | '02 | '03 | '04 | '05 | '06 | '07 | '08 | '09 | '10 | '11 | '12 | '13 | '14 | '15 | '16 |
|------------------------------------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| Anti-Arab                          | 0   | 1   | 0   | 5   | 0   | 0   | 1   | 0   | 0   | 0   | 0   | 0   | 0   | 0   | 0   | 0   | 1   |
| Anti-Islamic (Muslim)              | 0   | 0   | 2   | 1   | 0   | 3   | 0   | 3   | 0   | 0   | 2   | 0   | 1   | 2   | 0   | 1   | 3   |
| Anti-other race/ethnicity/ancestry | 0   | 6   | 3   | 0   | 1   | 1   | 2   | 0   | 2   | 4   | 0   | 1   | 5   | 0   | 0   | 1   | 0   |

According to supplemental data from the FBI, a single anti-Arab hate crime incident and 2 anti-Islamic (Muslim) hate crime incidents were reported in Nevada in 2016. This total conflicts with RCCD statistics, as 3 anti-Islamic (Muslim) hate crime incidents are recorded in 2016 *Crime in Nevada*. Nevada law enforcement agencies submit hate crime data to the FBI UCR Program through the RCCD.

## FBI HATE CRIME STATISTICS (2015-2016)

| Bias motivation       | '15 | '16 |
|-----------------------|-----|-----|
| Anti-Arab             | 0   | 1   |
| Anti-Islamic (Muslim) | 1   | 2   |

<sup>9</sup> Records, Communication and Compliance Div., Nevada Dep’t of Pub. Safety, Crime in Nevada, <http://rccd.nv.gov/About/UCR/Crime-In-Nevada>.

<sup>10</sup> CJIS Div., Fed. Bureau of Investigation, SRS to NIBRS: The Path to Better Data (Mar. 28, 2017), <https://www.fbi.gov/services/cjis/cjis-link/srs-to-nibrs-the-path-to-better-ucr-data>.

<sup>11</sup> Bureau of Justice Statistics, U.S. Dep’t of Justice, 2017 NCS-X Estimation Project (Jul. 27, 2017), available at <https://www.bjs.gov/content/pub/pdf/17ncsxep.pdf>.

<sup>12</sup> Bureau of Justice Statistics, U.S. Dep’t of Justice, National Crime Statistics Exchange (last updated Jun. 2017), <https://www.bjs.gov/content/ncsx.cfm>.

## FBI HATE CRIME STATISTICS

Pursuant to the Hate Crime Statistics Act (HCSA) of 1990 the FBI UCR Program collects data on "crimes that manifest evidence of prejudice based on race, gender or gender identity, religion, disability, sexual orientation, or ethnicity."<sup>13</sup>

Since 1993, the FBI UCR Program has published the annual report, *Hate Crime Statistics*, which is based on voluntary submissions from participating law enforcement agencies. In 2016, agencies from 49 states and the District of Columbia participated in the national hate crime statistics program.

For the most part, hate crime data is collected at the state level and forwarded to the FBI UCR Program. A total of 48 states maintain a state-level UCR data collection. UCR programs in 38 states publish annual hate crime statistics. Some participating law enforcement agencies submit hate crime data directly to the FBI UCR program.<sup>14</sup>



## FBI HATE CRIME STATISTICS PARTICIPANT

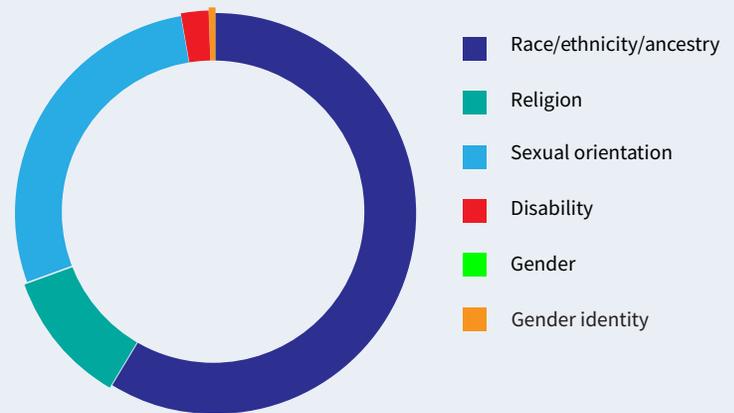
Law enforcement agencies in Nevada submit hate crime data to the FBI UCR Program through the RCCD. According to the FBI UCR Program's annual report, *Hate Crime Statistics*, 41 hate crime incidents were reported in Nevada in 2016.

In 2016, 4 of the 51 Nevada law enforcement agencies participating in the national hate crime statistics program submitted incident reports to the FBI UCR Program. The Sparks Police Department, which represents Nevada's fifth largest city, submitted only zero data.

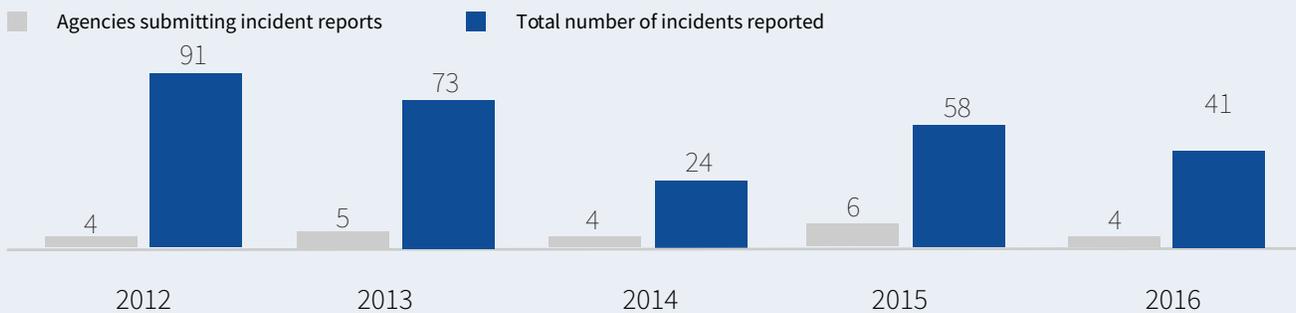
According to annual hate crime statistics published by the RCCD, 48 hate crime incidents were reported in Nevada in 2016. This total conflicts with the FBI UCR Program's annual report, *Hate Crime Statistics, 2016*. Discrepancies occur between state and federal hate crime statistics for 2012-2014 as well.

## FBI HATE CRIME STATISTICS: NEVADA 2012-2016

| Incidents per bias motivation | 2012      | 2013      | 2014      | 2015      | 2016      | Total      |
|-------------------------------|-----------|-----------|-----------|-----------|-----------|------------|
| Race/ethnicity/ancestry       | 57        | 31        | 14        | 36        | 31        | 169        |
| Religion                      | 11        | 10        | 1         | 5         | 4         | 31         |
| Sexual orientation            | 23        | 25        | 9         | 17        | 6         | 80         |
| Disability                    | 0         | 7         | 0         | 0         | 0         | 7          |
| Gender                        | -         | 0         | 0         | 0         | 0         | 0          |
| Gender identity               | -         | 0         | 0         | 0         | 1         | 1          |
| <b>Total</b>                  | <b>91</b> | <b>73</b> | <b>24</b> | <b>58</b> | <b>42</b> | <b>288</b> |



## PARTICIPATION IN UCR HATE CRIME STATISTICS PROGRAM



## SUMMARY

Nevada has an inclusive hate crime statute. While Nevada has a statute requiring the state's central repository to collect data on hate crime, law enforcement agencies are not statutorily required to report hate crimes to the repository. There is no Nevada statute that requires specific law enforcement training on hate crime. The Nevada Records, Communications and Compliance Division maintains the state clearinghouse for all police-reported crime data, including hate crime, and is responsible for publishing annual statistics. Copies of *Crime in Nevada* can be found on the RCCD website and include both anti-Arab and anti-Islamic (Muslim) hate crime statistics. In 2016, 4 Nevada law enforcement agencies submitted hate crime incident reports to the FBI UCR Program. The remaining 47 participating agencies provided only zero data. A total of 8 participating agencies recorded blank data in at least one quarterly submission period. Nevada receives an overall score of 75 points, denoting an average response to hate crime.

<sup>13</sup> 28 U.S.C. § 534 (JUSTIA 2016), available at <https://law.justia.com/codes/us/2016/title-28/part-ii/chapter-33/sec.-534>.

<sup>14</sup> Uniform Crime Reporting Program, Fed. Bureau of Investigation, Data Quality Guidelines, [https://ucr.fbi.gov/data\\_quality\\_guidelines](https://ucr.fbi.gov/data_quality_guidelines).

# ADVOCACY RESOURCES - Nevada

## IMPROVING THE RESPONSE

Most states have failed to enact sufficient legislation to address, prevent, and counteract hate crime in American communities. To accompany our federal hate crime laws, state legislatures must pass the following:

1. **An inclusive hate crime statute**, which covers a wide range of criminal offenses and provides enhanced penalties for crimes motivated because of citizenship status, race, ethnicity, color, disability, age, ancestry or national origin, gender or gender identity, sexual orientation, religion, or homelessness. Such protections are pursuant to model hate crime legislation drafted by the Arab American Institute. According to the model statute, penalty enhancement may incorporate alternatives to fines or increased prison sentences. Alternatives include restitution for victims and communities, participation in educational programs, and restorative justice.
2. **Statutes that require reporting, data collection, and specific law enforcement training on hate crime.** Centralized state agencies must publish comprehensive, accessible statistics on the nature and extent of hate crime occurring within their state. These statistics must conform to national UCR standards and include the bias motivation categories identified in the FBI's annual report, *Hate Crime Statistics*. States must also require law enforcement training schools to provide comprehensive training to ensure that officers are prepared to investigate, report, and respond to hate crime incidents.

## STATE RECOMMENDATIONS

According to our rating methodology, Nevada receives an overall score of 75, denoting an average response to hate crime. Advocates for an improved response to hate crime in Nevada should promote the following:

1. The current Nevada hate crime statute offers protections for race, color, religion, national origin, physical or mental disability, sexual orientation, and gender identity, including gender. **The Nevada hate crime statute should be amended** to include protections for citizenship status, ethnicity, age, ancestry, homelessness, or association with a person or group with one of these actual or perceived characteristics.
2. While the Nevada Records, Communication and Compliance Division is required to collect data on hate crime, law enforcement agencies in Nevada are not required to report hate crime incidents. Of the 51 Nevada law enforcement agencies participating in the national hate crime statistics program, only four agencies submitted incident reports for *Hate Crime Statistics, 2016*. **Legislation should be introduced** to address these shortcomings.
  - Law enforcement agencies must report hate crimes to the Nevada RCCD, which is responsible for publishing annual hate crime statistics;
  - Nevada must transition to the National Incident-Based Reporting System to facilitate hate crime reporting and data collection. By January 2021, all law enforcement agencies in the United States will be required to report crime information through the NIBRS.
3. Nevada state code does not require specific law enforcement training on hate crime. The Nevada Peace Officers Standards and Training Commission must establish minimum standards and courses of study for the training of law enforcement officers relating to investigating and reporting hate crime incidents. Training in cultural awareness is already required per Nevada Administrative Code.

## STATE CONTACTS

Advocates for an improved response to hate crime in Nevada should contact current state legislators and members of Congress.

### Nevada Legislature

Both Chambers: <https://www.leg.state.nv.us>

### United States Senate

Contact: Nevada

<https://www.senate.gov/senators/contact>

### United States House of Representatives

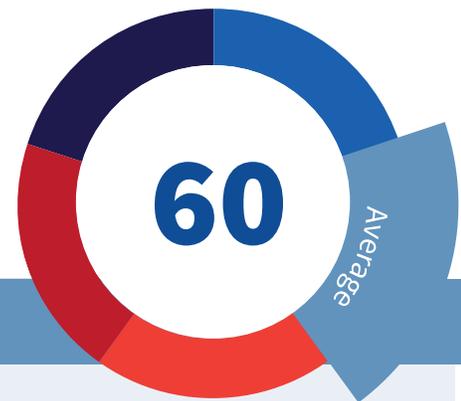
Directory of Representatives: Nevada

<https://www.house.gov/representatives#state-nevada>

# NEW HAMPSHIRE

Total population: 1,334,795

Rank of Arab American population by state: 33



0 anti-Arab hate crime incidents were reported in NH in 2016.

**New Hampshire** is the 41st most populated state and has the 33rd largest Arab American population.

The New Hampshire Uniform Crime Reporting Unit (NH UCR Unit) is the state agency responsible for the collection and publication of hate crime data. According to the NH UCR Unit, there were no anti-Arab hate crime incidents reported in New Hampshire in 2016.

## HATE CRIME STATUTE

N.H. Rev. Stat. Ann. § 651:6(f) provides enhanced penalties for a person who is “substantially motivated” to commit a crime because of “hostility towards the victim’s religion, race, creed, sexual orientation as defined in RSA 21:49, national origin or sex.”<sup>1</sup> Pursuant to N.H. Rev. Stat. Ann. § 21:49, sexual orientation means “having or being perceived as having an orientation for heterosexuality, bisexuality, or homosexuality.”<sup>2</sup>

New Hampshire criminal code provides enhanced penalties for crimes that are committed with the intention of taking advantage of the victim’s age or physical disability. These provisions do not constitute hate crime protections.

The current New Hampshire hate crime statute is not sufficiently inclusive, as it does not offer protections for disability or gender identity.

## DATA COLLECTION STATUTE

**There is no New Hampshire statute that requires hate crime reporting or data collection.** N.H. Rev. Stat. § 106-B:14-c requires New Hampshire law enforcement agencies to submit crime reports “containing the number and nature of criminal offenses, arrests, and clearances, and any other data determined to be appropriate relating to the method, frequency, cause, and prevention of crime,” through the state’s Uniform Crime Reporting (UCR) program.<sup>3</sup>

## LAW ENFORCEMENT TRAINING STATUTE

**There is no New Hampshire statute that requires specific law enforcement training on hate crime.** Pursuant to N.H. Rev. Stat. § 106-L:5, the New Hampshire Police Standards and Training Council (PSTC) is required to “establish minimum educational and training standards for employment as a police officer.”<sup>4</sup> The current New Hampshire PSTC training calendar does not include a course on hate crime or cultural awareness.<sup>5</sup>

| NEW HAMPSHIRE  |              |
|--|--------------|
| <b>Hate Crime Statute</b>                       | <b>30/40</b> |
| No statute; civil action or civil rights law   | -            |
| Hate crime statute, with protections for:  | 10           |
| Race/ethnicity/ancestry  | 5            |
| Religion   | 5            |
| Sexual orientation   | 5            |
| Disability   | -            |
| Gender   | 5            |
| Gender identity  | -            |
| <b>Data Collection Statute</b>                | <b>0/15</b>  |
| Data collection (voluntary reporting)  | -            |
| Mandatory reporting and data collection  | -            |
| <b>Law Enforcement Training Statute</b>       | <b>0/15</b>  |
| No statute; comprehensive training   | -            |
| Mandatory training   | -            |
| <b>Annual Hate Crime Report</b>               | <b>20/20</b> |
| Annual hate crime report, including:   | 10           |
| Anti-Arab hate crime statistics  | 5            |
| Anti-Islamic (Muslim) hate crime statistics  | 5            |
| <b>FBI Hate Crime Statistics Participant</b>  | <b>10/10</b> |
| <b>TOTAL</b>   | <b>60</b>    |

<sup>1</sup> N.H. Rev. Stat. Ann. § 651:6(f) (JUSTIA 2017), available at <https://law.justia.com/codes/new-hampshire/2017/title-lxii/chapter-651/section-651-6>.

<sup>2</sup> N.H. Rev. Stat. Ann. § 21:49 (JUSTIA 2017), available at <https://law.justia.com/codes/new-hampshire/2017/title-i/chapter-21/section-21-49>.

<sup>3</sup> N.H. Rev. Stat. Ann. § 106-B:14-c (JUSTIA 2017), available at <https://law.justia.com/codes/new-hampshire/2017/title-vii/chapter-106-b/section-106-b-14-c>.

<sup>4</sup> N.H. Rev. Stat. Ann. § 106-L:5 (JUSTIA 2017), available at <https://law.justia.com/codes/new-hampshire/2017/title-vii/chapter-106-l/section-106-l-5>.

<sup>5</sup> New Hampshire Police Standards & Training Council, Training Calendar 2017 – 2018 (Sept. 20, 2017), available at <http://www.pstc.nh.gov/TrainingCalendar.pdf>.

## DATA COLLECTION & STATISTICS

Housed within the Division of State Police (NHSP), the NH UCR Unit operates a public access website for NIBRS crime statistics.<sup>6</sup> The NIBRS On-line Reports System can be accessed through the New Hampshire Department of Safety website and includes hate crime statistics for 1997-2016.<sup>7</sup>

## ANNUAL STATEWIDE HATE CRIME REPORT



State-level hate crime statistics published by the NH UCR Unit include data on both anti-Arab and anti-Islamic (Muslim) hate crime. The NH UCR Unit tabulates hate crime data according to the number of incidents per disaggregated bias motivation category.

- ANTI-ARAB HATE CRIME STATISTICS**  
 Anti-Arab hate crime statistics are provided on the NIBRS On-line Reporting System website. According to the UCR Unit, a single anti-Arab hate crime incident was reported in New Hampshire in 2013.
- ANTI-ISLAMIC (MUSLIM) HATE CRIME STATISTICS**  
 Anti-Islamic (Muslim) hate crime statistics are provided on the NIBRS On-line Reporting System website. From 2000 to 2001 there was an increase of reported anti-Islamic (Muslim) hate crime incidents. According to the UCR Unit, a single anti-Islamic (Muslim) hate crime incident was reported in New Hampshire in 2016.

## UNIFORM CRIME REPORTING (UCR)

By January 2021, the FBI Uniform Crime Reporting (UCR) Program will depend solely on the National Incident-Based Reporting System (NIBRS) to collect nationwide crime data.<sup>8</sup> This transition entails the sunset of summary-based crime reporting (SRS) and requires cooperation on the part of state UCR programs and individual reporting agencies.

The New Hampshire UCR program is one of 16 state programs that rely exclusively on NIBRS data.<sup>9</sup>

NIBRS reporting enables criminal justice agencies to acquire a better understanding of crime, including hate crime, occurring within their respective jurisdictions. This in turn has positive implications for effective law enforcement response and policy implementation.

## CONTACT

Uniform Crime Reporting Unit  
 New Hampshire State Police  
 New Hampshire Department of Public Safety  
 33 Hazen Drive  
 Concord, New Hampshire 03305  
 (603) 223-8423

## NEW HAMPSHIRE CRIME STATISTICS HATE CRIME INCIDENTS (2000-2016)

| Bias motivation                    | '00 | '01 | '02 | '03 | '04 | '05 | '06 | '07 | '08 | '09 | '10 | '11 | '12 | '13 | '14 | '15 | '16 |
|------------------------------------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| Anti-Arab                          | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | 1   | 0   | 0   | 0   |
| Anti-Islamic (Muslim)              | 1   | 5   | 0   | 0   | 1   | 0   | 3   | 0   | 1   | 0   | 0   | 1   | 1   | 1   | 0   | 2   | 1   |
| Anti-other race/ethnicity/ancestry | 3   | 4   | 1   | 1   | 8   | 0   | 0   | 0   | 2   | 1   | 0   | 5   | 5   | 1   | 0   | 4   | 0   |

According to supplemental data from the FBI, 2 anti-Islamic (Muslim) hate crime incidents were reported in New Hampshire from 2015 to 2016. This total conflicts with NH UCR Unit statistics. New Hampshire law enforcement agencies submit hate crime data to the FBI UCR Program through the NH UCR Unit.

## FBI HATE CRIME STATISTICS (2015-2016)

| Bias motivation       | '15 | '16 |
|-----------------------|-----|-----|
| Anti-Arab             | 0   | 0   |
| Anti-Islamic (Muslim) | 1   | 1   |

<sup>6</sup> Div. of State Police, New Hampshire Dep't of Pub. Safety, Uniform Crime Reporting (UCR)/National Incident Based Reporting System (NIBRS), <https://www.nh.gov/safety/divisions/nhsp/ssb/crimrecords/index.html#uniform>.  
<sup>7</sup> New Hampshire Dep't of Pub. Safety, NIBRS On-line Reports System, <https://crimestats.dos.nh.gov>.  
<sup>8</sup> CJIS Div., Fed. Bureau of Investigation, SRS to NIBRS: The Path to Better UCR Data, <https://www.fbi.gov/services/cjis/cjis-link/srs-to-nibrs-the-path-to-better-ucr-data>.  
<sup>9</sup> Bureau of Justice Statistics, U.S. Dep't of Justice, 2017 NCS-X Estimation Project (Jul. 27, 2017), available at <https://www.bjs.gov/content/pub/pdf/17ncsxp.pdf>.

## FBI HATE CRIME STATISTICS

Pursuant to the Hate Crime Statistics Act (HCSA) of 1990 the FBI UCR Program collects data on "crimes that manifest evidence of prejudice based on race, gender or gender identity, religion, disability, sexual orientation, or ethnicity."<sup>10</sup>

Since 1993, the FBI UCR Program has published the annual report, *Hate Crime Statistics*, which is based on voluntary submissions from participating law enforcement agencies. In 2016, agencies from 49 states and the District of Columbia participated in the national hate crime statistics program.

For the most part, hate crime data is collected at the state level and forwarded to the FBI UCR Program. A total of 48 states maintain a state-level UCR data collection. UCR programs in 38 states publish annual hate crime statistics. Some participating law enforcement agencies submit hate crime data directly to the FBI UCR program.<sup>11</sup>



## FBI HATE CRIME STATISTICS PARTICIPANT

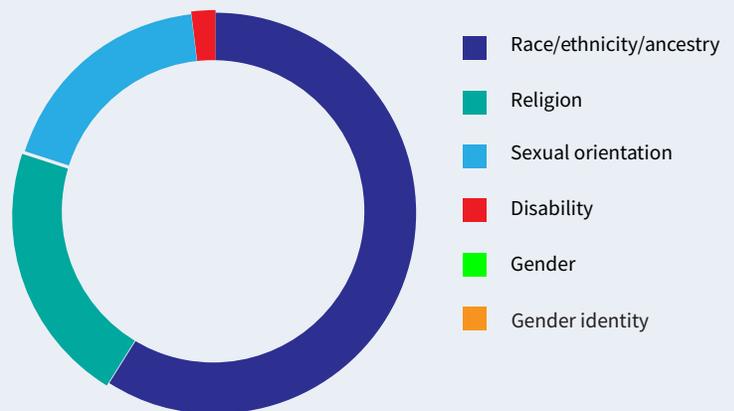
Law enforcement agencies in New Hampshire submit hate crime data to the FBI UCR Program through the NH UCR Unit. According to the FBI UCR Program's annual report, *Hate Crime Statistics*, 28 hate crime incidents were reported in New Hampshire in 2016.

In 2016, 19 of the 174 New Hampshire law enforcement agencies participating in the national hate crime statistics program submitted incident reports to the FBI UCR Program. The Nashua Police Department, which represents New Hampshire's second largest city, submitted only zero data.

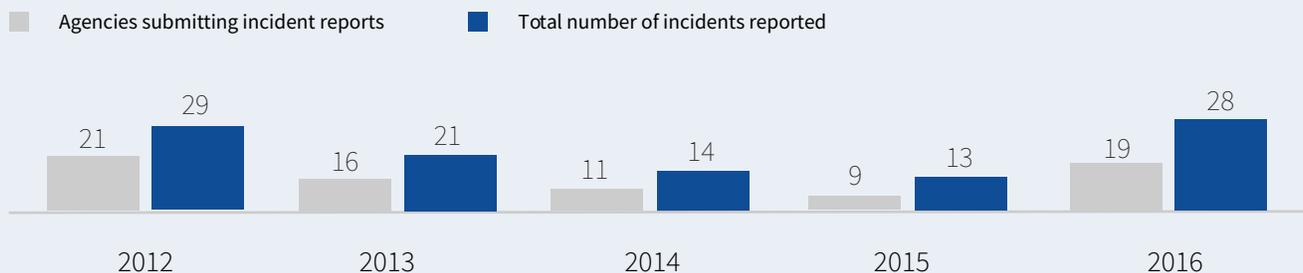
According to annual hate crime statistics published by the NH UCR Unit, 21 hate crime incidents were reported in New Hampshire in 2016. This total conflicts with the FBI UCR Program's annual report, *Hate Crime Statistics*, 2016. Discrepancies occur between state and federal hate crime statistics for 2012-2015 as well.

## FBI HATE CRIME STATISTICS: NEW HAMPSHIRE 2012-2016

| Incidents per bias motivation | 2012 | 2013 | 2014 | 2015 | 2016 | Total |
|-------------------------------|------|------|------|------|------|-------|
| Race/ethnicity/ancestry       | 18   | 12   | 9    | 8    | 15   | 62    |
| Religion                      | 7    | 5    | 1    | 3    | 6    | 22    |
| Sexual orientation            | 4    | 4    | 4    | 2    | 5    | 19    |
| Disability                    | 0    | 0    | 0    | 0    | 2    | 2     |
| Gender                        | -    | 0    | 0    | 0    | 0    | 0     |
| Gender identity               | -    | 0    | 0    | 0    | 0    | 0     |
| Total                         | 29   | 21   | 14   | 13   | 28   | 105   |



## PARTICIPATION IN UCR HATE CRIME STATISTICS PROGRAM



## SUMMARY

The current New Hampshire hate crime statute is not sufficiently inclusive, as it does not offer protections for disability or gender identity. New Hampshire does not have statutes that require reporting, data collection, or specific law enforcement training on hate crime. The New Hampshire Uniform Crime Reporting Unit maintains the state clearinghouse for all police-reported crime data, including hate crime, and is responsible for publishing annual statistics. The NIBRS On-line Reporting System can be found on the New Hampshire Department of Safety Website and includes both anti-Arab and anti-Islamic (Muslim) hate crime statistics. In 2016, 19 New Hampshire law enforcement agencies submitted hate crime incident reports to the FBI UCR Program. The remaining 155 participating agencies provided only zero data. New Hampshire receives an overall score of 60 points, denoting an average response to hate crime.

<sup>10</sup> 28 U.S.C. § 534 (JUSTIA 2016), available at <https://law.justia.com/codes/us/2016/title-28/part-ii/chapter-33/sec.-534>.

<sup>11</sup> Uniform Crime Reporting Program, Fed. Bureau of Investigation, Data Quality Guidelines, [https://ucr.fbi.gov/data\\_quality\\_guidelines](https://ucr.fbi.gov/data_quality_guidelines).

# ADVOCACY RESOURCES - New Hampshire

## IMPROVING THE RESPONSE

Most states have failed to enact sufficient legislation to address, prevent, and counteract hate crime in American communities. To accompany our federal hate crime laws, state legislatures must pass the following:

1. **An inclusive hate crime statute**, which covers a wide range of criminal offenses and provides enhanced penalties for crimes motivated because of citizenship status, race, ethnicity, color, disability, age, ancestry or national origin, gender or gender identity, sexual orientation, religion, or homelessness. Such protections are pursuant to model hate crime legislation drafted by the Arab American Institute. According to the model statute, penalty enhancement may incorporate alternatives to fines or increased prison sentences. Alternatives include restitution for victims and communities, participation in educational programs, and restorative justice.
2. **Statutes that require reporting, data collection, and specific law enforcement training on hate crime.** Centralized state agencies must publish comprehensive, accessible statistics on the nature and extent of hate crime occurring within their state. These statistics must conform to national UCR standards and include the bias motivation categories identified in the FBI's annual report, *Hate Crime Statistics*. States must also require law enforcement training schools to provide comprehensive training to ensure that officers are prepared to investigate, report, and respond to hate crime incidents.

## STATE RECOMMENDATIONS

According to our rating methodology, New Hampshire receives an overall score of 60, denoting an average response to hate crime. Advocates for an improved response to hate crime in New Hampshire should promote the following:

1. The current New Hampshire hate crime statute offers protections for religion, race, creed, sexual orientation, national origin, and sex. **The New Hampshire hate crime statute should be amended** to include protections for citizenship status, ethnicity, color, disability, age, ancestry, gender identity, homelessness, or association with a person or group with one of these actual or perceived characteristics.
2. While the New Hampshire Uniform Crime Reporting Unit publishes hate crime statistics through an online database, state code does not require hate crime reporting or data collection. Of the 174 New Hampshire law enforcement agencies participating in the national hate crime statistics program, only 19 agencies submitted incident reports for *Hate Crime Statistics, 2016*. **Legislation should be introduced** to address these shortcomings.
  - Law enforcement agencies must report hate crimes to the New Hampshire UCR Unit, which currently publishes annual statistics;
  - The New Hampshire UCR Unit should be required by law to collect data and publish statistics, conforming to national standards, on the nature and extent of hate crime within the state. The New Hampshire hate crime database currently provides statistics in accordance with the bias motivation categories identified in *Hate Crime Statistics*;
  - The New Hampshire Department of Public Safety must ensure that law enforcement officers are prepared to report hate crime incidents relating to disability and gender identity. According to the online database, no hate crimes relating to gender identity have been reported to the New Hampshire UCR Unit.
3. New Hampshire state code does not require specific law enforcement training on hate crime. The New Hampshire Police Standards and Training Council must establish minimum educational and training standards for police officers relating to investigating and reporting hate crime incidents.

## STATE CONTACTS

Advocates for an improved response to hate crime in New Hampshire should contact current state legislators and members of Congress.

### New Hampshire General Court

Senate: <http://www.gencourt.state.nh.us/senate>

House: <http://www.gencourt.state.nh.us/house>

### United States Senate

Contact: New Hampshire

<https://www.senate.gov/senators/contact>

### United States House of Representatives

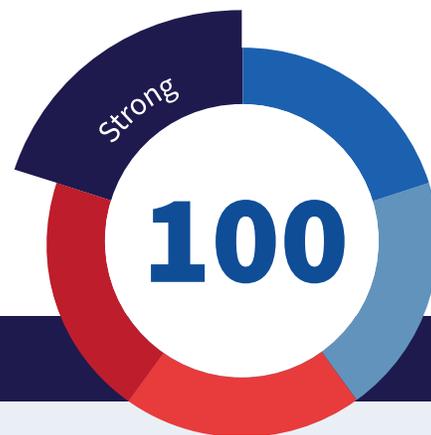
Directory of Representatives: New Hampshire

<https://www.house.gov/representatives#state-new-hampshire>

# NEW JERSEY

Total population: 8,944,469

Rank of Arab American population by state: 7



## 5 anti-Arab hate crime offenses were reported in NJ in 2016.

**New Jersey** is the 11th most populated state and has the 7th largest Arab American population.

The New Jersey State Police (NJSP), Uniform Crime Reporting Unit, is the state agency responsible for the collection and publication of hate crime data. The NJSP has yet to release hate crime statistics for 2016.

### HATE CRIME STATUTE

N.J. Rev. Stat. § 2C:16-1 provides enhanced penalties for the crime of “bias intimidation,” which is defined as an offense committed “with a purpose to intimidate an individual or group of individuals because of race, color, religion, gender, disability, sexual orientation, gender identity or expression, national origin, or ethnicity.”<sup>1</sup> Pursuant to Section 2C:16-1, a court may order the convicted person take counseling programs and other civil rights training, as well as “make payments or other compensation to a community-based program or local agency that provides services to victims of bias intimidation.”<sup>2</sup>

### DATA COLLECTION STATUTE

N.J. Rev. Stat. § 52:17B-5.1 established a uniform crime reporting system under the “direction, control, and supervision of the Attorney General in the Department of Law and Public Safety.”<sup>3</sup> According to N.J. Rev. Stat. § 52:17B-5.3, all local and county police authorities are required to submit “information relating to any offense directed against a person or group, or their property, by reason of their race, color, religion, gender, disability, sexual orientation, gender identity or expression, national origin, or ethnicity and such other information as the Attorney General may require.”<sup>4</sup>

N.J. Rev. Stat. § 52:17B-5.5 requires the Attorney General to “render an annual report” on information collected through the uniform crime reporting system.<sup>5</sup>

### LAW ENFORCEMENT TRAINING STATUTE

N.J. Rev. Stat. § 52:9DD-9 requires the New Jersey Human Relations Council (NJHRC) to develop cultural diversity training for police officers in conjunction with law enforcement agencies, including the Office of Bias Crimes and Community Relations in the Division of Criminal Justice.<sup>6</sup>

In accordance with N.J. Rev. Stat. § 52:17B-77.12, all new police officers in New Jersey are required to complete two hours of

training on “identifying, responding to, and reporting bias intimidation crimes.”<sup>7</sup> The training course must be developed in consultation with the NJHRC.

| NEW JERSEY   |              |
|--|--------------|
| <b>Hate Crime Statute</b>                       | <b>40/40</b> |
| No statute; civil action or civil rights law   | -            |
| Hate crime statute, with protections for:  | 10           |
| Race/ethnicity/ancestry  | 5            |
| Religion   | 5            |
| Sexual orientation   | 5            |
| Disability   | 5            |
| Gender   | 5            |
| Gender identity  | 5            |
| <b>Data Collection Statute</b>                | <b>15/15</b> |
| Data collection (voluntary reporting)  | -            |
| Mandatory reporting and data collection  | 15           |
| <b>Law Enforcement Training Statute</b>       | <b>15/15</b> |
| No statute; comprehensive training   | -            |
| Mandatory training   | 15           |
| <b>Annual Hate Crime Report</b>               | <b>20/20</b> |
| Annual hate crime report, including:   | 10           |
| Anti-Arab hate crime statistics  | 5            |
| Anti-Islamic (Muslim) hate crime statistics  | 5            |
| <b>FBI Hate Crime Statistics Participant</b>  | <b>10/10</b> |
| <b>TOTAL</b>   | <b>100</b>   |

<sup>1</sup> N.J. Rev. Stat. § 2C:16-1 (JUSTIA 2017), available at <https://law.justia.com/codes/new-jersey/2017/title-2c/section-2c-16-1>.

<sup>2</sup> *Id.*

<sup>3</sup> N.J. Rev. Stat. § 52:17B-5.1 (JUSTIA 2017), available at <https://law.justia.com/codes/new-jersey/2017/title-52/section-52-17b-5.1>.

<sup>4</sup> N.J. Rev. Stat. § 52:17B-5.3 (JUSTIA 2017), available at <https://law.justia.com/codes/new-jersey/2017/title-52/section-52-17b-5.3>.

<sup>5</sup> N.J. Rev. Stat. § 52:17B-5.5 (JUSTIA 2017), available at <https://law.justia.com/codes/new-jersey/2017/title-52/section-52-17b-5.5>.

<sup>6</sup> N.J. Stat. § 52:9DD-9 (JUSTIA 2017), available at <https://law.justia.com/codes/new-jersey/2017/title-52/section-52-9dd-9>.

<sup>7</sup> N.J. Stat. § 52:17B-77.12 (JUSTIA 2017), available at <https://law.justia.com/codes/new-jersey/2017/title-52/section-52-17b-77.12>.

## DATA COLLECTION & STATISTICS

Pursuant to N.J. Rev. Stat. § 52:17B-5.1, and in conjunction with the Office of the Attorney General, the NJ UCR Unit publishes annual reports on statewide crime statistics, including a specialized report on hate crime. The 2006-2015 editions of *New Jersey Bias Incident Report* can be found on the NJSP website.<sup>8</sup> Bias incident summaries are provided in the 1990-2010 editions of *Crime in New Jersey*.<sup>9</sup> The New Jersey State Library has archived older versions of the report online.<sup>10</sup>



## ANNUAL STATEWIDE HATE CRIME REPORT

State-level hate crime statistics published by the NJ UCR Unit include data on anti-Arab and anti-Islamic (Muslim) hate crime. The NJ UCR Unit tabulates hate crime data according to the number of offenses per disaggregated bias motivation category.

- ### ANTI-ARAB HATE CRIME STATISTICS

Anti-Arab hate crime statistics are provided in the 1995-2016 editions of *Bias Incidents in New Jersey*. From 2000 to 2001 there was a significant increase of reported anti-Arab hate crime offenses. According to the NJ UCR Unit, 5 anti-Arab hate crime offenses were reported in New Jersey in 2016.

- ### ANTI-ISLAMIC (MUSLIM) HATE CRIME STATISTICS

Anti-Islamic (Muslim) hate crime statistics are provided in the 1988-2016 editions of *Bias Incidents in New Jersey*. From 2000 to 2001 there was a significant increase of reported anti-Islamic (Muslim) hate crime offenses. According to the NJ UCR Unit, 26 anti-Islamic (Muslim) hate crime offenses were reported in New Jersey in 2016.

## UNIFORM CRIME REPORTING (UCR)

By January 2021, the FBI Uniform Crime Reporting (UCR) Program will depend solely on the National Incident-Based Reporting System (NIBRS) to collect nationwide crime data.<sup>11</sup> This transition entails the sunset of summary-based crime reporting (SRS) and requires cooperation on the part of state UCR programs and individual reporting agencies.

The New Jersey UCR is one program of 15 state programs that still rely exclusively on SRS data.<sup>12</sup> According to the Bureau of Justice Statistics, New Jersey has been awarded grants through the National Crime Statistics Exchange (NCS-X) Initiative and is in the midst of NIBRS implementation.

NIBRS reporting enables criminal justice agencies to acquire a better understanding of crime, including hate crime, occurring within their respective jurisdictions. This in turn has positive implications for effective law enforcement response and policy implementation.<sup>13</sup>

### CONTACT

Uniform Crime Reporting Unit  
 New Jersey State Police  
 Post Office Box 7068  
 West Trenton, New Jersey 08628-0068  
 (609) 882-2000 x2382  
[www.njsp.org](http://www.njsp.org)

## NEW JERSEY BIAS INCIDENT REPORT OFFENSES (2000-2016)

| Bias motivation                    | '00 | '01 | '02 | '03 | '04 | '05 | '06 | '07 | '08 | '09 | '10 | '11 | '12 | '13 | '14 | '15 | '16 |
|------------------------------------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| Anti-Arab                          | 5   | 92  | 14  | 19  | 18  | 11  | 11  | 9   | 9   | 14  | 12  | 15  | 0   | 6   | 5   | 7   | -   |
| Anti-Islamic (Muslim)              | 1   | 53  | 15  | 17  | 15  | 14  | 10  | 11  | 13  | 9   | 19  | 17  | 11  | 10  | 4   | 14  | -   |
| Anti-other race/ethnicity/ancestry | 11  | 4   | 15  | 4   | 6   | 6   | 21  | 7   | 9   | 9   | 7   | 12  | 13  | 6   | 5   | 5   | -   |

According to supplemental data from the FBI, 0 anti-Arab and 17 anti-Islamic (Muslim) hate crime incidents were reported in New Jersey in 2016. This total conflicts with NJ UCR Unit statistics. While *Bias Incidents in New Jersey* provides offense-based statistics, reporting officers must record only one offense per incident.<sup>14</sup> New Jersey law enforcement agencies submit hate crime data to the FBI UCR Program through the NJ UCR Unit.

## FBI HATE CRIME STATISTICS (2015-2016)

| Bias motivation       | '15 | '16 |
|-----------------------|-----|-----|
| Anti-Arab             | 0   | 0   |
| Anti-Islamic (Muslim) | 11  | 17  |

<sup>8</sup> New Jersey State Police, Bias Incident Reports, <http://www.njsp.org/ucr/bias-incident-reports.shtml>.

<sup>9</sup> New Jersey State Police, Uniform Crime Reports, <http://www.njsp.org/ucr/uniform-crime-reports.shtml>.

<sup>10</sup> New Jersey State Library Digital Collections, Uniform Crime Reports, <https://dspace.njstatelib.org/xmlui/handle/10929/15851>.

<sup>11</sup> CJIS Div., Fed. Bureau of Investigation, SRS to NIBRS: The Path to Better Data (Mar. 28, 2017), <https://www.fbi.gov/services/cjis/cjis-link/srs-to-nibrs-the-path-to-better-ucr-data>.

<sup>12</sup> Bureau of Justice Statistics, U.S. Dep't of Justice, 2017 NCS-X Estimation Project (Jul. 27, 2017), available at <https://www.bjs.gov/content/pub/pdf/17ncsxep.pdf>.

<sup>13</sup> Bureau of Justice Statistics, U.S. Dep't of Justice, National Crime Statistics Exchange (last updated Jun. 2017), <https://www.bjs.gov/content/ncsx.cfm>.

<sup>14</sup> New Jersey Dep't of Law and Pub. Safety, Supplementary Bias Incident Offense Report (last revised Oct. 2015), available at [http://www.njsp.org/ucr/pdf/forms/20160812\\_ucr-bi1.pdf](http://www.njsp.org/ucr/pdf/forms/20160812_ucr-bi1.pdf).

### FBI HATE CRIME STATISTICS

Pursuant to the Hate Crime Statistics Act (HCSA) of 1990 the FBI UCR Program collects data on "crimes that manifest evidence of prejudice based on race, gender or gender identity, religion, disability, sexual orientation, or ethnicity."<sup>14</sup>

Since 1993, the FBI UCR Program has published the annual report, *Hate Crime Statistics*, which is based on voluntary submissions from participating law enforcement agencies. In 2016, agencies from 49 states and the District of Columbia participated in the national hate crime statistics program.

For the most part, hate crime data is collected at the state level and forwarded to the FBI UCR Program. A total of 48 states maintain a state-level UCR data collection. UCR programs in 38 states publish annual hate crime statistics. Some participating law enforcement agencies submit hate crime data directly to the FBI UCR program.<sup>15</sup>



### FBI HATE CRIME STATISTICS PARTICIPANT

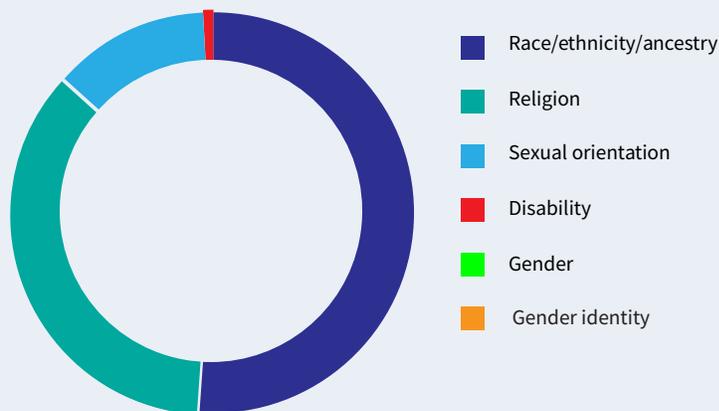
Law enforcement agencies in New Jersey submit hate crime data to the FBI UCR Program through the NJ UCR Unit. According to the FBI UCR Program's annual report, *Hate Crime Statistics*, 282 hate crime incidents were reported in New Jersey in 2016.

In 2016, 117 of the 507 New Jersey law enforcement agencies participating in the national hate crime statistics program submitted incident reports to the FBI UCR Program. A total of 6 agencies representing populations greater than 100,000 either submitted only zero data or failed to provide data in at least one quarterly submission period.

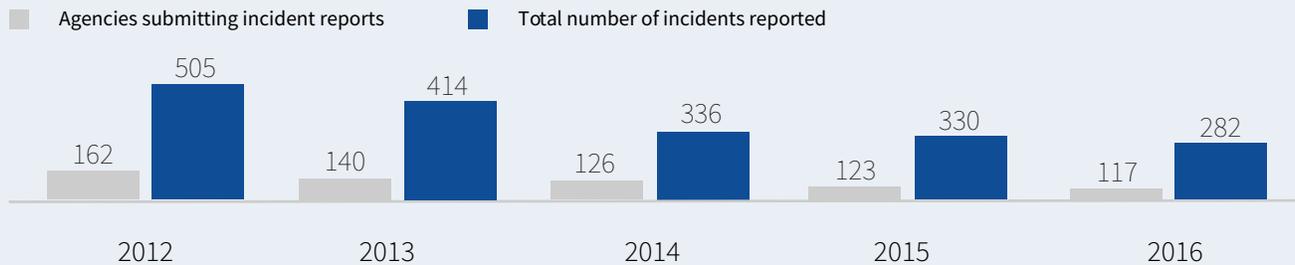
According to annual hate crime statistics published by the NJ UCR Unit, 417 hate crime offenses, involving 417 incidents, were reported in New Jersey in 2016. This total conflicts with the FBI UCR Program's annual report, *Hate Crime Statistics, 2016*. Discrepancies occur between state and federal hate crime statistics for 2012-2015 as well.

### FBI HATE CRIME STATISTICS: NEW JERSEY 2012-2016

| Incidents per bias motivation | 2012       | 2013       | 2014       | 2015       | 2016       | Total        |
|-------------------------------|------------|------------|------------|------------|------------|--------------|
| Race/ethnicity/ancestry       | 239        | 225        | 189        | 169        | 137        | 959          |
| Religion                      | 189        | 121        | 115        | 125        | 110        | 660          |
| Sexual orientation            | 74         | 64         | 32         | 33         | 34         | 237          |
| Disability                    | 3          | 4          | 0          | 3          | 1          | 11           |
| Gender                        | -          | 0          | 0          | 0          | 0          | 0            |
| Gender identity               | -          | 0          | 0          | 0          | 0          | 0            |
| <b>Total</b>                  | <b>505</b> | <b>414</b> | <b>336</b> | <b>330</b> | <b>282</b> | <b>1,867</b> |



### PARTICIPATION IN UCR HATE CRIME STATISTICS PROGRAM



### SUMMARY

New Jersey has an inclusive hate crime statute. Furthermore, New Jersey has statutes that require reporting, data collection, and specific law enforcement training on hate crime. The New Jersey State Police, Uniform Crime Reporting Unit, maintains the state clearinghouse for all police-reported crime data, including hate crime, and is responsible for publishing annual statistics. Copies of *Bias Incidents in New Jersey* can be found on the New Jersey State Police website and include both anti-Arab and anti-Islamic (Muslim) hate crime statistics. In 2016, 117 New Jersey law enforcement agencies submitted hate crime incident reports to the FBI UCR Program. The remaining 390 participating agencies provided only zero data. A total of 276 participating agencies recorded blank data in at least one quarterly submission period. New Jersey receives an overall score of 100 points, denoting a strong response to hate crime.

<sup>14</sup> 28 U.S.C. § 534 (JUSTIA 2016), available at <https://law.justia.com/codes/us/2016/title-28/part-ii/chapter-33/sec.-534>.

<sup>15</sup> Uniform Crime Reporting Program, Fed. Bureau of Investigation, Data Quality Guidelines, [https://ucr.fbi.gov/data\\_quality\\_guidelines](https://ucr.fbi.gov/data_quality_guidelines).

# ADVOCACY RESOURCES - New Jersey

## IMPROVING THE RESPONSE

Most states have failed to enact sufficient legislation to address, prevent, and counteract hate crime in American communities. To accompany our federal hate crime laws, state legislatures must pass the following:

1. **An inclusive hate crime statute**, which covers a wide range of criminal offenses and provides enhanced penalties for crimes motivated because of citizenship status, race, ethnicity, color, disability, age, ancestry or national origin, gender or gender identity, sexual orientation, religion, or homelessness. Such protections are pursuant to model hate crime legislation drafted by the Arab American Institute. According to the model statute, penalty enhancement may incorporate alternatives to fines or increased prison sentences. Alternatives include restitution for victims and communities, participation in educational programs, and restorative justice.
2. **Statutes that require reporting, data collection, and specific law enforcement training on hate crime.** Centralized state agencies must publish comprehensive, accessible statistics on the nature and extent of hate crime occurring within their state. These statistics must conform to national UCR standards and include the bias motivation categories identified in the FBI's annual report, *Hate Crime Statistics*. States must also require law enforcement training schools to provide comprehensive training to ensure that officers are prepared to investigate, report, and respond to hate crime incidents.

## STATE RECOMMENDATIONS

According to our rating methodology, New Jersey receives an overall score of 100, denoting a strong response to hate crime. Some room for improvement remains. Advocates for an improved response to hate crime in New Jersey should promote the following:

1. The current New Jersey hate crime statute offers protections for race, color, religion, gender, disability, sexual orientation, gender identity or expression, national origin, and ethnicity. **The New Jersey hate crime statute should be amended** to include protections for citizenship status, age, ancestry, homelessness, or association with a person or group with one of these actual or perceived characteristics.
2. While the New Jersey Uniform Crime Reporting Unit publishes statistics in the form of an annual hate crime report, such statistics do not conform to national standards. Anti-Arab hate crime statistics are provided in the 2015 edition of *Bias Incidents in New Jersey*. The report does not indicate whether anti-Buddhist, anti-Eastern Orthodox, anti-Hindu, anti-Jehovah's Witness, anti-Mormon, anti-other Christian, or anti-Sikh hate crimes occurred within the state that year. The FBI Uniform Crime Reporting Program introduced these religious anti-bias categories, alongside the anti-Arab category, in 2015. Hate crime statistics relating to gender nonconformity are also not included in the annual report.
  - New Jersey's annual hate crime report should provide statistics relating to the bias motivation categories described above;
  - New Jersey must transition to the National Incident-Based Reporting System to facilitate hate crime reporting and data collection. By January 2021, all law enforcement agencies in the United States will be required to report crime information through the NIBRS.

## STATE CONTACTS

Advocates for an improved response to hate crime in New Jersey should contact current state legislators and members of Congress.

### New Jersey Legislature

Both Chambers: <http://www.njleg.state.nj.us>

### United States Senate

Contact: New Jersey

<https://www.senate.gov/senators/contact>

### United States House of Representatives

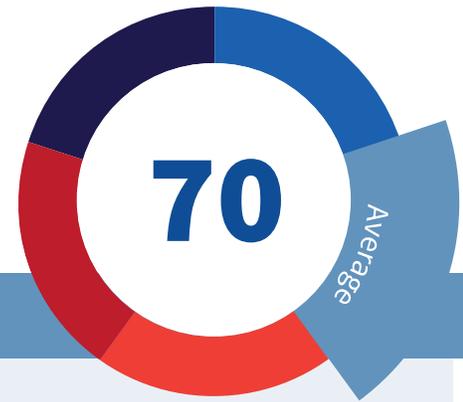
Directory of Representatives: New Jersey

<https://www.house.gov/representatives#state-new-jersey>

# NEW MEXICO

Total population: 2,081,015

Rank of Arab American population by state: 40



NM does not publish annual hate crime statistics.

**New Mexico** is the 36th most populated state and has the 40th largest Arab American population.

The New Mexico Department of Public Safety, Law Enforcement Records Bureau, is the state agency responsible for the collection and publication of crime data. The LERB does not publish annual hate crime statistics.

## HATE CRIME STATUTE

N.M. Stat. Ann. § 31-18B-3 permits increased sentencing for “noncapital felonies, misdemeanors or petty misdemeanors committed because of the victim’s actual or perceived race, religion, color, national origin, ancestry, age, disability, gender, sexual orientation or gender identity.”<sup>1</sup> Sentencing may also require “community service, treatment, education or any combination thereof.”<sup>2</sup>

## DATA COLLECTION STATUTE

N.M. Stat. Ann. § 31-18B-4 requires all New Mexico district attorneys and law enforcement agencies to provide the FBI with “data concerning the commission of a crime motivated by hate.”<sup>3</sup>

N.M. Stat. Ann. § 29-3-11 requires the Department of Public Safety (DPS) to collect and analyze “crime incident and arrest reports generated by all law enforcement agencies in [the] state.”<sup>4</sup> Crime incident and arrest reports are submitted to the DPS Law Enforcement Records Bureau (LERB). Pursuant to Section 29-3-11, the DPS is required to compile statistical data, provide reporting guidance to law enforcement agencies, and publish an annual report on the “nature and extent of crime in New Mexico.”<sup>5</sup>

## LAW ENFORCEMENT TRAINING STATUTE

N.M Stat. Ann. § 31-18B-5 requires each certified regional law enforcement agency in the state to incorporate a training course on “crimes motivated by hate” into its basic and in-service training curricula.<sup>6</sup>

The most recent edition of New Mexico’s basic training curriculum is provided on the New Mexico Law Enforcement Academy website.<sup>7</sup>

| NEW MEXICO   |              |
|--|--------------|
| <b>Hate Crime Statute</b>                       | <b>40/40</b> |
| No statute; civil action or civil rights law   | -            |
| Hate crime statute, with protections for:  | 10           |
| Race/ethnicity/ancestry  | 5            |
| Religion   | 5            |
| Sexual orientation   | 5            |
| Disability   | 5            |
| Gender   | 5            |
| Gender identity  | 5            |
| <b>Data Collection Statute</b>                | <b>5/15</b>  |
| Mandatory reporting  | 5            |
| Mandatory reporting and data collection  | -            |
| <b>Law Enforcement Training Statute</b>       | <b>15/15</b> |
| No statute; comprehensive training   | -            |
| Mandatory training   | 15           |
| <b>Annual Hate Crime Report</b>               | <b>0/20</b>  |
| Annual hate crime report, including:   | -            |
| Anti-Arab hate crime statistics  | -            |
| Anti-Islamic (Muslim) hate crime statistics  | -            |
| <b>FBI Hate Crime Statistics Participant</b>  | <b>10/10</b> |
| <b>TOTAL</b>   | <b>70</b>    |

<sup>1</sup> N.M. Stat. Ann. § 31-18B-3 (JUSTIA 2017), available at <https://law.justia.com/codes/new-mexico/2017/chapter-31/article-18b/section-31-18b-3>.

<sup>2</sup> *Id.*

<sup>3</sup> N.M. Stat. Ann. § 31-18B-4 (JUSTIA 2017), available at <https://law.justia.com/codes/new-mexico/2017/chapter-31/article-18b/section-31-18b-4>.

<sup>4</sup> N.M. Stat. Ann. § 29-3-11 (JUSTIA 2017), available at <https://law.justia.com/codes/new-mexico/2017/chapter-29/article-3/section-29-3-11>.

<sup>5</sup> *Id.*

<sup>6</sup> N.M. Stat. Ann. § 31-18B-4, *supra* note 3.

<sup>7</sup> NM Law Enforcement Academy, New Mexico Dep’t of Pub. Safety, NM DPS 675 Basic Training Curriculum Goals and Objectives (last revised 2017), available at <http://nmlea.dps.state.nm.us/wp-content/uploads/2017/01/NM-DPS-675-HOUR-Bloc-Curriculum-GOALS-AND-OBJECTIVES.pdf>.

## DATA COLLECTION & STATISTICS

While New Mexico law enforcement agencies are required to submit hate crime data to the FBI in accordance with N.M. Stat. Ann. § 31-18B-4, the New Mexico DPS is not required to publish hate crime statistics. Pursuant to N.M. Stat. Ann. § 29-3-11, the New Mexico DPS does publish an annual report on the nature and extent of crime in the state. The reports are compiled and prepared by the LERB. The 2008-2017 editions of *NM Uniform Crime Report Summary* can be found on the DPS website.<sup>8</sup>



## ANNUAL STATEWIDE HATE CRIME REPORT

The LERB does not publish annual state-level hate crime statistics. A statewide transition to NIBRS would facilitate hate crime reporting and data collection.

- ANTI-ARAB HATE CRIME STATISTICS**  
 The LERB does not publish annual statistics on anti-Arab hate crime. While state code requires law enforcement agencies in New Mexico to submit hate crime data to the FBI UCR Program, the LERB is not required to publish state-level statistics.
- ANTI-ISLAMIC (MUSLIM) HATE CRIME STATISTICS**  
 The LERB does not publish annual statistics on anti-Islamic (Muslim) hate crime. While state code requires law enforcement agencies in New Mexico to submit hate crime data to the FBI UCR Program, the LERB is not required to publish state-level statistics.

## UNIFORM CRIME REPORTING (UCR)

By January 2021, the FBI Uniform Crime Reporting (UCR) Program will depend solely on the National Incident-Based Reporting System (NIBRS) to collect nationwide crime data.<sup>9</sup> This transition entails the sunset of summary-based crime reporting (SRS) and requires cooperation on the part of state UCR programs and individual reporting agencies.

The New Mexico UCR program is one of 15 state programs that still rely exclusively on SRS data.<sup>10</sup> According to the Bureau of Justice Statistics, New Mexico has not received any funding to support a statewide transition to NIBRS-compliant reporting.<sup>11</sup>

Traditional summary-based crime reporting is constrained with respect to the various data elements that serve to put a particular incident in context, such as victim and offender demographics, the location of the incident, and whether an arrest occurred.

NIBRS reporting enables criminal justice agencies to acquire a better understanding of crime, including hate crime, occurring within their respective jurisdictions. This in turn has positive implications for effective law enforcement response and policy implementation.

### CONTACT

New Mexico Department of Public Safety  
 NM Law Enforcement Records Bureau  
 4491 Cerrillos Road  
 Santa Fe, New Mexico 87507  
 505-827-9181  
<http://www.dps.state.nm.us/index.php/lerb/>

## THE LAW ENFORCEMENT RECORDS BUREAU DOES NOT PUBLISH ANNUAL HATE CRIME STATISTICS.

| Bias motivation                    | '00 | '01 | '02 | '03 | '04 | '05 | '06 | '07 | '08 | '09 | '10 | '11 | '12 | '13 | '14 | '15 | '16 |
|------------------------------------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| Anti-Arab                          | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   |
| Anti-Islamic (Muslim)              | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   |
| Anti-other race/ethnicity/ancestry | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   |



According to supplemental data from the FBI, 6 anti-Islamic (Muslim) hate crime incidents were reported in New Mexico in 2016. New Mexico law enforcement agencies submit hate crime data to the FBI UCR Program through the LERB.

## FBI HATE CRIME STATISTICS (2015-2016)

| Bias motivation       | '15 | '16 |
|-----------------------|-----|-----|
| Anti-Arab             | 0   | 0   |
| Anti-Islamic (Muslim) | 0   | 6   |

<sup>8</sup> Law Enforcement Records Bureau, New Mexico Dep't of Pub. Safety, Uniform Crime Reports, <https://www.dps.nm.gov/index.php/107-uniform-crime-reports>.

<sup>9</sup> CJIS Div., Fed. Bureau of Investigation, SRS to NIBRS: The Path to Better UCR Data, <https://www.fbi.gov/services/cjis/cjis-link/srs-to-nibrs-the-path-to-better-ucr-data>.

<sup>10</sup> Bureau of Justice Statistics, U.S. Dep't of Justice, 2017 NCS-X Estimation Project (Jul. 27, 2017), available at <https://www.bjs.gov/content/pub/pdf/17ncsxep.pdf>.

## FBI HATE CRIME STATISTICS

Pursuant to the Hate Crime Statistics Act (HCSA) of 1990 the FBI UCR Program collects data on "crimes that manifest evidence of prejudice based on race, gender or gender identity, religion, disability, sexual orientation, or ethnicity."<sup>12</sup>

Since 1993, the FBI UCR Program has published the annual report, *Hate Crime Statistics*, which is based on voluntary submissions from participating law enforcement agencies. In 2016, agencies from 49 states and the District of Columbia participated in the national hate crime statistics program.

For the most part, hate crime data is collected at the state level and forwarded to the FBI UCR Program. A total of 48 states maintain a state-level UCR data collection. UCR programs in 38 states publish annual hate crime statistics. Some participating law enforcement agencies submit hate crime data directly to the FBI UCR program.<sup>13</sup>



## FBI HATE CRIME STATISTICS PARTICIPANT

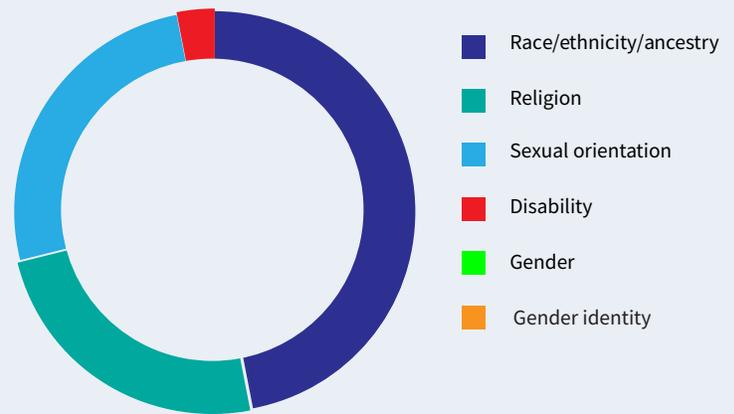
Law enforcement agencies in New Mexico participating in the national hate crime statistics program submit hate crime data to the FBI UCR Program through the LERB. According to the FBI UCR Program's annual report, *Hate Crime Statistics*, 26 hate crime incidents were reported in New Mexico in 2016.

According to the Bureau of Justice Statistics, there are nearly 150 state and local law enforcement agencies in New Mexico.<sup>14</sup> In 2016, 2 of the 18 New Mexico law enforcement agencies participating in the national hate crime statistics program submitted incident reports to the FBI UCR Program. Agencies representing four of the five largest cities in New Mexico did not participate in the national hate crime statistics program.

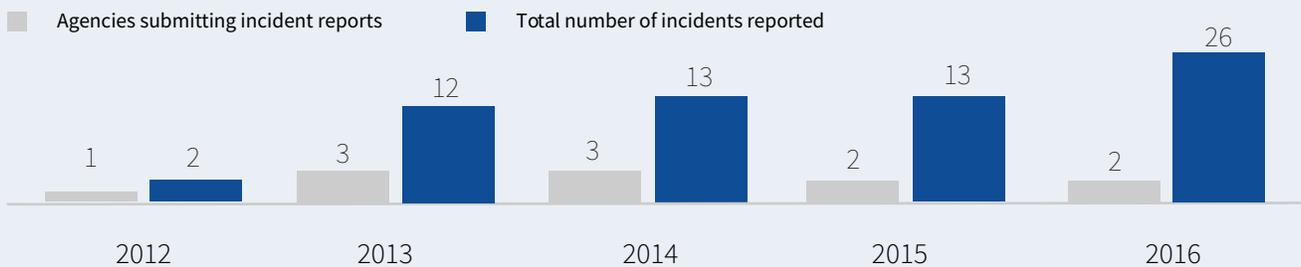
As the LERB does not publish an annual hate crime report, we are unable to make comparisons between state and federal hate crime statistics.

## FBI HATE CRIME STATISTICS: NEW MEXICO 2012-2016

| Incidents per bias motivation | 2012     | 2013      | 2014      | 2015      | 2016      | Total     |
|-------------------------------|----------|-----------|-----------|-----------|-----------|-----------|
| Race/ethnicity/ancestry       | 0        | 7         | 8         | 8         | 8         | 31        |
| Religion                      | 0        | 1         | 4         | 2         | 9         | 16        |
| Sexual orientation            | 0        | 4         | 1         | 3         | 9         | 17        |
| Disability                    | 2        | 0         | 0         | 0         | 0         | 2         |
| Gender                        | -        | 0         | 0         | 0         | 0         | 0         |
| Gender identity               | -        | 0         | 0         | 0         | 0         | 0         |
| <b>Total</b>                  | <b>2</b> | <b>12</b> | <b>13</b> | <b>13</b> | <b>26</b> | <b>66</b> |



## PARTICIPATION IN UCR HATE CRIME STATISTICS PROGRAM



## SUMMARY

New Mexico has an inclusive hate crime statute. Furthermore, New Mexico has statutes that require reporting and specific law enforcement training on hate crime. There is no state law regarding the collection and publication of hate crime data, as reported by law enforcement agencies in accordance with N.M. Stat. Ann. § 31-18B-4. Housed within the Department of Public Safety, the New Mexico Law Enforcement Records Bureau maintains the state clearinghouse for all police-reported crime data and is responsible for publishing annual statistics. Copies of *NM Uniform Crime Report Summary* can be found on the DPS website but do not include hate crime statistics. In 2016, 2 New Mexico law enforcement agencies submitted hate crime incident reports to the FBI UCR Program. The remaining 16 participating agencies provided only zero data. A single participating agency recorded blank data in at least one quarterly submission period. New Mexico receives an overall score of 70 points, denoting an average response to hate crime.

<sup>11</sup> 28 U.S.C. § 534 (JUSTIA 2016), available at <https://law.justia.com/codes/us/2016/title-28/part-ii/chapter-33/sec.-534>.

<sup>12</sup> Uniform Crime Reporting Program, Fed. Bureau of Investigation, Data Quality Guidelines, [https://ucr.fbi.gov/data\\_quality\\_guidelines](https://ucr.fbi.gov/data_quality_guidelines).

<sup>13</sup> Brian A. Reaves, Ph.D., Bureau of Justice Statistics, Census of State and Local Law Enforcement Agencies (Jul. 2011), available at <https://www.bjs.gov/content/pub/pdf/cslea08.pdf>.

# ADVOCACY RESOURCES - New Mexico

## IMPROVING THE RESPONSE

Most states have failed to enact sufficient legislation to address, prevent, and counteract hate crime in American communities. To accompany our federal hate crime laws, state legislatures must pass the following:

1. **An inclusive hate crime statute**, which covers a wide range of criminal offenses and provides enhanced penalties for crimes motivated because of citizenship status, race, ethnicity, color, disability, age, ancestry or national origin, gender or gender identity, sexual orientation, religion, or homelessness. Such protections are pursuant to model hate crime legislation drafted by the Arab American Institute. According to the model statute, penalty enhancement may incorporate alternatives to fines or increased prison sentences. Alternatives include restitution for victims and communities, participation in educational programs, and restorative justice.
2. **Statutes that require reporting, data collection, and specific law enforcement training on hate crime.** Centralized state agencies must publish comprehensive, accessible statistics on the nature and extent of hate crime occurring within their state. These statistics must conform to national UCR standards and include the bias motivation categories identified in the FBI's annual report, *Hate Crime Statistics*. States must also require law enforcement training schools to provide comprehensive training to ensure that officers are prepared to investigate, report, and respond to hate crime incidents.

## STATE RECOMMENDATIONS

According to our rating methodology, New Mexico receives an overall score of 70 points, denoting an average response to hate crime. Advocates for an improved response to hate crime in New Mexico should promote the following:

1. The current New Mexico hate crime statute offers protections for race, religion, color, national origin, ancestry, age, disability, gender, sexual orientation, and gender identity. The New Mexico hate crime statute should be amended to include protections for **citizenship status, ethnicity, homelessness**, or association with a person or group with one of these actual or perceived characteristics.
2. New Mexico law enforcement agencies are required to submit hate crime data to the FBI. New Mexico state code, however, does not require hate crime data collection or statistical publication at the state level. There are nearly 150 law enforcement agencies in New Mexico. In 2016, 2 of the 18 New Mexico law enforcement agencies participating in the national hate crime statistics program submitted incident reports to the FBI UCR Program. Agencies representing 9 of New Mexico's 10 largest cities did not participate in the national hate crime statistics program.
  - Law enforcement agencies must report hate crimes to the New Mexico Law Enforcement Records Bureau (LERB).
  - The LERB must collect data and publish statistics, conforming to national UCR standards, on the nature and extent of hate crime within the state.
  - New Mexico must transition to the National Incident-Based Reporting System (NIBRS) to facilitate hate crime reporting and data collection. By January 2021, all law enforcement agencies in the United States will be required to report crime information through NIBRS.

## STATE CONTACTS

Advocates for an improved response to hate crime in New Mexico should contact current state legislators and members of Congress.

### New Mexico Legislature

Senate: (505) 986-4714 | House: (505) 986-4751

Both Chambers: <https://www.nmlegis.gov>

### United States Senate

Contact: New Mexico

<https://www.senate.gov/senators/contact>

### United States House of Representatives

Directory of Representatives: New Mexico

<https://www.house.gov/representatives#state-new-mexico>

# NEW YORK

Total population: 19,745,289

Rank of Arab American population by state: 3



1 anti-Arab hate crime incident was reported in NY in 2016.

**New York** is the 4th most populated state and has the 3rd largest Arab American population in the US.

The New York Division of Criminal Justice Services (DCJS), Office of Justice Research and Performance, is the state agency responsible for the collection and publication of hate crime data. According to the OJRP, there was a single anti-Arab hate crime incident reported in New York in 2016.

## HATE CRIME STATUTE



N.Y. Pen. Law § 485.10. provides enhanced sentencing for a person convicted of a hate crime. The court may also require defendants to “complete a program, training session or counseling session directed at hate crime prevention and education.”<sup>1</sup> Pursuant to N.Y. Pen. Law § 485.05, hate crime sentencing can be applied to certain offenses that are committed “in whole or in substantial part because of a belief or perception regarding the race, color, national origin, ancestry, gender, religion, religious practice, age, disability or sexual orientation of a person, regardless of whether the belief or perception is correct.”<sup>2</sup>

The current New York hate crime statute is not sufficiently inclusive, as it does not offer protections for gender identity.

## DATA COLLECTION STATUTE



N.Y. Exec. Law § 837(4-c) requires the DCJS to collect and analyze “statistical and all other information and data with respect to the number of hate crimes reported to or investigated by the division of state police, and all other police or peace officers,” and to include this information in an annual report.<sup>3</sup>

Law enforcement agencies are not required to submit hate crime data to the DCJS.

## LAW ENFORCEMENT TRAINING STATUTE



**There is no New York statute that requires specific law enforcement training on hate crime.** Pursuant to N.Y. Exec. Law § 840, the New York Municipal Police Training Council is authorized to establish the minimum courses of study and basic training for law enforcement officers in the state.<sup>4</sup>

The current DCJS basic training curriculum for New York law enforcement officers includes instruction on cultural diversity and bias-related incidents.<sup>5</sup>

### NEW YORK

#### Hate Crime Statute 35/40

|  |    |
|--|----|
| No statute; civil action or civil rights law | -  |
| Hate crime statute, with protections for:    | 10 |
| Race/ethnicity/ancestry                      | 5  |
| Religion                                     | 5  |
| Sexual orientation                           | 5  |
| Disability                                   | 5  |
| Gender                                       | 5  |
| Gender identity                              | -  |

#### Data Collection Statute 5/15

|   |   |
|---|---|
| Data collection (voluntary reporting)   | 5 |
| Mandatory reporting and data collection | - |

#### Law Enforcement Training Statute 5/15

|                                    |   |
|------------------------------------|---|
| No statute; comprehensive training | 5 |
| Mandatory training                 | - |

#### Annual Hate Crime Report 20/20

|   |    |
|---|----|
| Annual hate crime report, including:        | 10 |
| Anti-Arab hate crime statistics             | 5  |
| Anti-Islamic (Muslim) hate crime statistics | 5  |

#### FBI Hate Crime Statistics Participant 10/10

#### TOTAL 75

<sup>1</sup> N.Y. Pen. Law § 485.10 (JUSTIA 2017), available at <https://law.justia.com/codes/new-york/2017/pen/part-4/title-y/article-485/485.10>. Fix statute in accompanying text.

<sup>2</sup> N.Y. Pen. Law § 485.05 (JUSTIA 2017), available at <https://law.justia.com/codes/new-york/2017/pen/part-4/title-y/article-485/485.05>. Fix statute in accompanying text.

<sup>3</sup> N.Y. Exec. Law § 837(4-c) (JUSTIA 2017), available at <https://law.justia.com/codes/new-york/2017/exc/article-35/837>.

<sup>4</sup> N.Y. Exec. Law § 840 (JUSTIA 2017), available at <https://law.justia.com/codes/new-york/2017/exc/article-35/840>.

<sup>5</sup> New York State Div. of Criminal Justice Services, Basic Course for Police Officers (Sept. 2016), available at <http://www.criminaljustice.ny.gov/ops/docs/training/pubs/basicpolice/bcpoutline.pdf>.

## DATA COLLECTION & STATISTICS

Pursuant to N.Y. Exec. Law § 837(4-c), the DCJS publishes an annual report on statewide hate crime statistics. The 2008-2016 editions of *Hate Crime in New York* can be found on the DCJS website.<sup>6</sup>



## ANNUAL STATEWIDE HATE CRIME REPORT

State-level hate crime statistics published by the DCJS include data on both anti-Arab and anti-Islamic (Muslim) hate crime. The DCJS tabulates hate crime data according to the number of incidents per disaggregated bias motivation category. *Hate Crime in New York* is based on voluntary UCR submissions from law enforcement agencies across the state.

- ### ANTI-ARAB HATE CRIME STATISTICS

Anti-Arab hate crime statistics are provided in the 2008-2016 editions of *Hate Crime in New York*. According to the DCJS, a single anti-Arab hate crime incident was reported in New York in 2016.

- ### ANTI-ISLAMIC (MUSLIM) HATE CRIME STATISTICS

Anti-Islamic (Muslim) hate crime statistics are provided in the 2008-2016 editions of *Hate Crime in New York*. According to the DCJS, 41 anti-Islamic (Muslim) hate crime incidents were reported in New York in 2016.

## UNIFORM CRIME REPORTING (UCR)

By January 2021, the FBI Uniform Crime Reporting (UCR) Program will depend solely on the National Incident-Based Reporting System (NIBRS) to collect nationwide crime data.<sup>7</sup> This transition entails the sunset of summary-based crime reporting (SRS) and requires cooperation on the part of state UCR programs and individual reporting agencies.

The New York UCR program is not NIBRS-certified. As of July 5, 2016, more than half of New York's law enforcement agencies were participating in the state's incident-based reporting system (NYSIBR), which collects 54 of the 58 data elements captured by the NIBRS.<sup>8</sup> According to the Bureau of Justice Statistics, New York has received funding through the National Crime Statistics Exchange (NCS-X) Initiative and is in the midst of NIBRS implementation.<sup>9</sup>

NIBRS reporting enables criminal justice agencies to acquire a better understanding of crime, including hate crime, occurring within their respective jurisdictions. This in turn has positive implications for effective law enforcement response and policy implementation.

### CONTACT

Office of Justice Research and Performance  
 New York State Division of Criminal Justice Services  
 Alfred E. Smith Building  
 80 South Swan Street  
 Albany, New York 12210-8002  
 (518) 485-7942  
<http://www.criminaljustice.ny.gov/>

## HATE CRIME IN NEW YORK INCIDENTS (2000-2016)

| Bias motivation                        | '00 | '01 | '02 | '03 | '04 | '05 | '06 | '07 | '08 | '09 | '10 | '11 | '12 | '13 | '14 | '15 | '16 |
|--|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| Anti-Arab                              | -   | -   | -   | -   | -   | -   | -   | -   | 5   | 10  | 6   | 9   | 6   | 3   | 3   | 0   | 1   |
| Anti-Islamic (Muslim)                  | -   | -   | -   | -   | -   | -   | -   | -   | 8   | 11  | 29  | 19  | 31  | 22  | 24  | 33  | 41  |
| Anti-other race/<br>ethnicity/ancestry | -   | -   | -   | -   | -   | -   | -   | -   | 18  | 10  | 17  | 13  | 14  | 13  | 19  | 14  | 30  |

According to supplemental data from the FBI, a single anti-Arab hate crime incident and 41 anti-Islamic (Muslim) hate crime incidents were reported in New York in 2016. This total is consistent with DCJS statistics. New York law enforcement agencies submit hate crime data to the FBI UCR Program through the DCJS.

## FBI HATE CRIME STATISTICS (2015-2016)

| Bias motivation       | '15 | '16 |
|-----------------------|-----|-----|
| Anti-Arab             | 0   | 1   |
| Anti-Islamic (Muslim) | 33  | 41  |

<sup>6</sup> New York State Div. of Criminal Justice Services, DCJS Publications, <http://www.criminaljustice.ny.gov/crimnet/pubs.htm>.

<sup>7</sup> CJIS Div., Fed. Bureau of Investigation, SRS to NIBRS: The Path to Better UCR Data, <https://www.fbi.gov/services/cjis/cjis-link/srs-to-nibrs-the-path-to-better-ucr-data>.

<sup>8</sup> Letter from Adam Dean, Chief of New York State Crime Reporting Program, to All Crime Reporting Agencies (Jul. 5, 2016), available at <http://www.criminaljustice.ny.gov/crimnet/ojsa/crimreporting/NIBRS-Transition-07-2016.pdf>.

<sup>9</sup> Bureau of Justice Statistics, U.S. Dep't of Justice, National Crime Statistics Exchange (last updated Jun. 2017), <https://www.bjs.gov/content/ncsx.cfm>.

## FBI HATE CRIME STATISTICS

Pursuant to the Hate Crime Statistics Act (HCSA) of 1990 the FBI UCR Program collects data on "crimes that manifest evidence of prejudice based on race, gender or gender identity, religion, disability, sexual orientation, or ethnicity."<sup>10</sup>

Since 1993, the FBI UCR Program has published the annual report, *Hate Crime Statistics*, which is based on voluntary submissions from participating law enforcement agencies. In 2016, agencies from 49 states and the District of Columbia participated in the national hate crime statistics program.

For the most part, hate crime data is collected at the state level and forwarded to the FBI UCR Program. A total of 48 states maintain a state-level UCR data collection. UCR programs in 38 states publish annual hate crime statistics. Some participating law enforcement agencies submit hate crime data directly to the FBI UCR program.<sup>11</sup>



## FBI HATE CRIME STATISTICS PARTICIPANT

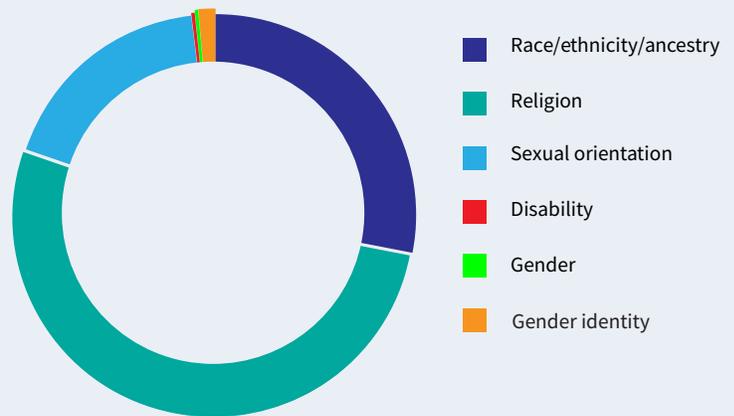
Law enforcement agencies in New York submit hate crime data to the FBI UCR Program through the DCJS. According to the FBI UCR Program's annual report, *Hate Crime Statistics*, 595 hate crime incidents were reported in New York in 2016.

In 2016, 72 of the 584 New York law enforcement agencies participating in the national hate crime statistics program submitted incident reports to the FBI UCR Program. The Syracuse Police Department, which represents the fourth largest city in New York, submitted only zero data.

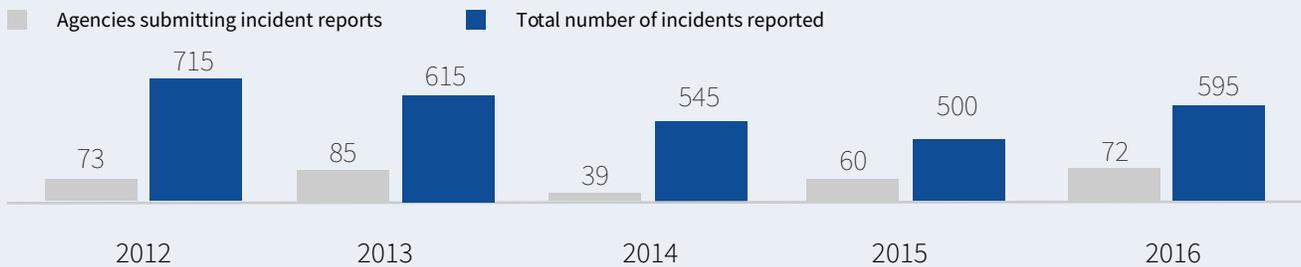
According to annual hate crime statistics published by the DCJS, 598 hate crime incidents were reported in New York in 2016. This total conflicts with the FBI UCR Program's annual report, *Hate Crime Statistics, 2016*. Discrepancies occur between state and federal hate crime statistics for 2012-2015 as well.

## FBI HATE CRIME STATISTICS: NEW YORK 2012-2016

| Incidents per bias motivation | 2012       | 2013       | 2014       | 2015       | 2016       | Total        |
|-------------------------------|------------|------------|------------|------------|------------|--------------|
| Race/ethnicity/ancestry       | 215        | 186        | 143        | 136        | 155        | 835          |
| Religion                      | 406        | 294        | 287        | 256        | 311        | 1,554        |
| Sexual orientation            | 94         | 122        | 110        | 104        | 99         | 529          |
| Disability                    | 0          | 2          | 1          | 1          | 1          | 5            |
| Gender                        | -          | 6          | 0          | 0          | 5          | 11           |
| Gender identity               | -          | 5          | 4          | 3          | 24         | 36           |
| <b>Total</b>                  | <b>715</b> | <b>615</b> | <b>545</b> | <b>500</b> | <b>595</b> | <b>2,970</b> |



## PARTICIPATION IN UCR HATE CRIME STATISTICS PROGRAM



## SUMMARY

The current New York hate crime statute is not sufficiently inclusive, as it does not offer protections for gender identity. While there is a New York statute requiring the Division of Criminal Justice Services to collect data on hate crime, law enforcement agencies are not statutorily required to report such data to the DCJS. Despite the lack of a statutory provision regarding mandatory law enforcement training on hate crime, the basic training curriculum for New York law enforcement officers includes instruction on investigating, reporting, and responding to bias-motivated criminal activity. The Division of Criminal Justice Services, Office of Justice Research and Performance, maintains the state clearinghouse for all police-reported crime data, including hate crime, and is responsible for publishing annual statistics. Copies of *Hate Crime in New York* can be found on the DCJS website and include both anti-Arab and anti-Islamic (Muslim) hate crime statistics. In 2016, 72 New York law enforcement agencies submitted hate crime incident reports to the FBI UCR Program. The remaining 512 participating agencies provided only zero data. A total of 36 participating agencies recorded blank data in at least one quarterly submission period. New York receives an overall score of 75 points, denoting an average response to hate crime.

<sup>10</sup> 28 U.S.C. § 534 (JUSTIA 2016), available at <https://law.justia.com/codes/us/2016/title-28/part-ii/chapter-33/sec.-534>.

<sup>11</sup> Uniform Crime Reporting Program, Fed. Bureau of Investigation, Data Quality Guidelines, [https://ucr.fbi.gov/data\\_quality\\_guidelines](https://ucr.fbi.gov/data_quality_guidelines).

# ADVOCACY RESOURCES - New York

## IMPROVING THE RESPONSE

Most states have failed to enact sufficient legislation to address, prevent, and counteract hate crime in American communities. To accompany our federal hate crime laws, state legislatures must pass the following:

1. **An inclusive hate crime statute**, which covers a wide range of criminal offenses and provides enhanced penalties for crimes motivated because of citizenship status, race, ethnicity, color, disability, age, ancestry or national origin, gender or gender identity, sexual orientation, religion, or homelessness. Such protections are pursuant to model hate crime legislation drafted by the Arab American Institute. According to the model statute, penalty enhancement may incorporate alternatives to fines or increased prison sentences. Alternatives include restitution for victims and communities, participation in educational programs, and restorative justice.
2. **Statutes that require reporting, data collection, and specific law enforcement training on hate crime.** Centralized state agencies must publish comprehensive, accessible statistics on the nature and extent of hate crime occurring within their state. These statistics must conform to national UCR standards and include the bias motivation categories identified in the FBI's annual report, *Hate Crime Statistics*. States must also require law enforcement training schools to provide comprehensive training to ensure that officers are prepared to investigate, report, and respond to hate crime incidents.

## STATE RECOMMENDATIONS

According to our rating methodology, New York receives an overall score of 75 points, denoting an average response to hate crime. Advocates for an improved response to hate crime in New York should promote the following:

1. The current New York hate crime statute offers protections for race, color, national origin, ancestry, gender, religion, religious practice, age, disability, and sexual orientation. The New York hate crime statute should be amended to include protections for **citizenship status, ethnicity, gender identity, homelessness**, or association with a person or group with one of these actual or perceived characteristics.
2. While the New York Division of Criminal Justice Services (DCJS) is required to collect data on hate crimes, law enforcement agencies in New York are not required to report hate crime incidents. Furthermore, New York state code does not require specific law enforcement training on hate crime.
  - Law enforcement agencies must report hate crimes to the DCJS, which is currently responsible for publishing annual statistics.
  - While the DCJS basic training curriculum for New York law enforcement officers includes instruction on bias-related incidents, instruction relating to investigating and reporting hate crime incidents should be required by law. The Municipal Police Training Council is authorized to establish minimum courses of study and basic training for law enforcement officers throughout the state.
3. In 2016, 72 of the 584 New York law enforcement agencies participating in the national hate crime statistics program submitted incident reports to the FBI UCR Program.
  - New York must transition to the National Incident-Based Reporting System (NIBRS) to facilitate hate crime reporting and data collection. By January 2021, all law enforcement agencies in the United States will be required to report crime information through NIBRS.

## STATE CONTACTS

Advocates for an improved response to hate crime in New York should contact current state legislators and members of Congress.

### New York State Legislature

Senate: <https://www.nysenate.gov>

Assembly: <http://assembly.state.ny.us>

### United States Senate

Contact: New York

<https://www.senate.gov/senators/contact>

### United States House of Representatives

Directory of Representatives: New York

<https://www.house.gov/representatives#state-new-york>

# NORTH CAROLINA

Total population: 10,146,788

Rank of Arab American population by state: 14



NC does not publish annual hate crime statistics.

**North Carolina** is the 9th most populated state and has the 14th largest Arab American population.

The North Carolina State Bureau of Investigation is the state agency responsible for the collection and publication of crime data. The NCSBI does not publish annual statewide hate crime statistics.

## HATE CRIME STATUTE

N.C. Gen. Stat. § 14-3 provides enhanced penalties for misdemeanors committed “because of the victim’s race, color, religion, nationality, or country of origin.”<sup>1</sup> Pursuant to N.C. Gen. Stat. § 14-401.14, such offenses are defined as “ethnic animosity,” or “ethnic intimidation,” and include assault, damaging or defacing property, or threatening to do any such act.<sup>2</sup> The North Carolina hate crime statute does not provide enhanced penalties for felony offenses motivated by ethnic animosity.

North Carolina’s civil rights law, N.C. Gen. Stat. § 99D-1, permits the North Carolina Human Relations Commission to bring a civil action on behalf of a person subjected to any attempt, “motivated by race, religion, ethnicity, or gender,” to interfere with their civil rights.<sup>3</sup> The court may award compensatory or punitive damages to the plaintiff.<sup>4</sup>

The current North Carolina hate crime statute is not sufficiently inclusive, as it does not offer protections for sexual orientation, disability, or gender identity. While the statute does not have a provision on gender, the state’s civil rights law permits the award of punitive damages to a plaintiff when subjected to any interference or attempt to interfere with their civil rights on the basis of gender.

## DATA COLLECTION STATUTE

**There is no North Carolina statute that requires hate crime reporting or data collection.** N.C. Gen. Stat. § 143B-906 requires the State Bureau of Investigation (NCSBI) to collect criminal information and compile and publish “crime statistics and other information,” both local and national, for the availability of law enforcement agencies and other state officials.<sup>5</sup> North Carolina law enforcement agencies voluntarily submit crime data to the NCSBI.<sup>6</sup>

## LAW ENFORCEMENT TRAINING STATUTE

**There is no North Carolina statute that requires specific law enforcement training on hate crime.** Pursuant to N.C. Gen. Stat. § 17C-6, the Basic Law Enforcement Training Commission (BLETC) is required to “establish minimum educational and training

standards” for North Carolina law enforcement officers.<sup>7</sup> The current BLETC basic training curriculum does not appear to include hate crime as a topic of instruction.<sup>8</sup>

### NORTH CAROLINA

| Hate Crime Statute                       | 25/40 |
|---|-------|
| No statute; civil action or civil rights law  | -     |
| Hate crime statute, with protections for:   | 10    |
| Race/ethnicity/ancestry   | 5     |
| Religion  | 5     |
| Sexual orientation  | -     |
| Disability  | -     |
| Gender  | 5     |
| Gender identity   | -     |
| Data Collection Statute                | 0/15  |
| Data collection (voluntary reporting)   | -     |
| Mandatory reporting and data collection   | -     |
| Law Enforcement Training Statute       | 0/15  |
| No statute; comprehensive training  | -     |
| Mandatory training  | -     |
| Annual Hate Crime Report               | 0/20  |
| Annual hate crime report, including:  | -     |
| Anti-Arab hate crime statistics   | -     |
| Anti-Islamic (Muslim) hate crime statistics   | -     |
| FBI Hate Crime Statistics Participant  | 10/10 |
| TOTAL   | 35    |

<sup>1</sup> N.C. Gen. Stat. § 14-3 (JUSTIA 2016), available at <https://law.justia.com/codes/north-carolina/2016/chapter-14/article-1/section-14-3>.

<sup>2</sup> N.C. Gen. Stat. § 14-401.14 (JUSTIA 2016), available at <https://law.justia.com/codes/north-carolina/2016/chapter-14/article-52/section-14-401.14>.

<sup>3</sup> N.C. Gen. Stat. § 99D-1 (JUSTIA 2016), available at <https://law.justia.com/codes/north-carolina/2016/chapter-99d/section-99d-1>.

<sup>4</sup> *Id.*

<sup>5</sup> N.C. Gen. Stat. § 143B-906 (JUSTIA 2016), available at <https://law.justia.com/codes/north-carolina/2016/chapter-143b/article-13/section-143b-906>.

<sup>6</sup> North Carolina State Bureau of Investigation, SBI Statistics, <http://www.ncsbi.gov/Services/SBI-Statistics.aspx>.

<sup>7</sup> N.C. Gen. Stat. § 17C-6 (JUSTIA 2016), available at <https://law.justia.com/codes/north-carolina/2016/chapter-17c/section-17c-6>.

<sup>8</sup> North Carolina Justice Academy, Basic Law Enforcement Training Topic List, <http://ncja.ncdoj.gov/getdoc/c5459b4a-7d9b-4627-a3c9-1807483b3150/BLET-Topic-List.aspx>.

## DATA COLLECTION & STATISTICS

Pursuant to N.C. Gen Stat. § 143B-906, the NCSBI collects data and publishes annual statistics based on voluntary UCR submissions from law enforcement agencies across the state. The 1993-2016 editions of *Crime in North Carolina* can be found on the NCSBI website.<sup>9</sup> While the 1995-2008 reports provide hate crime statistics, subsequent editions do not.



## ANNUAL STATEWIDE HATE CRIME REPORT

The NCSBI does not publish annual state-level hate crime statistics. While the introduction *Crime in North Carolina, 2015*, includes a section on hate crime data collections, the language has not been updated since the 1999 edition.<sup>10</sup> The section proceeds with a discussion of law enforcement training, stating that the North Carolina Justice Academy (NCJA) conducts training relating to investigating and reporting hate crime incidents. The current NCJA training catalog does not include hate crime-related training.<sup>11</sup> The NCSBI provides no information relating to hate crime in *Crime in North Carolina, 2016*.

- **ANTI-ARAB HATE CRIME STATISTICS**

The NCSBI does not publish annual statistics on anti-Arab hate crime.

- **ANTI-ISLAMIC (MUSLIM) HATE CRIME STATISTICS**

Anti-Islamic (Muslim) hate crime statistics are provided in the 1995-2007 editions of *Crime in North Carolina*. The NCSBI tabulated hate crime data according to the number of incidents per disaggregated bias motivation category. From 2000 to 2001 there was a significant increase of reported anti-Islamic (Muslim) hate crime incidents.

## UNIFORM CRIME REPORTING (UCR)

By January 2021, the FBI Uniform Crime Reporting (UCR) Program will depend solely on the National Incident-Based Reporting System (NIBRS) to collect nationwide crime data.<sup>12</sup> This transition entails the sunset of summary-based crime reporting (SRS) and requires cooperation on the part of state UCR programs and individual reporting agencies.

The North Carolina UCR program is one of 15 state programs that still rely exclusively on SRS data.<sup>13</sup> According to the Bureau of Justice Statistics, North Carolina has received funding through the National Crime Statistics Exchange (NCS-X) Initiative and is in the midst of NIBRS implementation.<sup>14</sup>

NIBRS reporting enables criminal justice agencies to acquire a better understanding of crime, including hate crime, occurring within their respective jurisdictions. This in turn has positive implications for effective law enforcement response and policy implementation.

## CONTACT

Crime Reporting and Criminal Statistics  
State Bureau of Investigation  
Post Office Box 29500  
Raleigh, North Carolina 27626-0500  
(919) 662-4509  
www.ncdoj.gov

## CRIME IN NORTH CAROLINA HATE CRIME INCIDENTS (2000-2016)

| Bias motivation                        | '00 | '01 | '02 | '03 | '04 | '05 | '06 | '07 | '08 | '09 | '10 | '11 | '12 | '13 | '14 | '15 | '16 |
|--|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| Anti-Arab                              | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   |
| Anti-Islamic (Muslim)                  | 0   | 9   | 1   | 0   | 0   | 1   | 1   | 0   | -   | -   | -   | -   | -   | -   | -   | -   | -   |
| Anti-other race/<br>ethnicity/ancestry | 2   | 12  | 3   | 7   | 3   | 1   | 1   | 1   | -   | -   | -   | -   | -   | -   | -   | -   | -   |

According to supplemental data from the FBI, 12 anti-Islamic (Muslim) hate crime incidents were reported in North Carolina in 2016. North Carolina law enforcement agencies submit hate crime data to the FBI UCR Program through the NCSBI.

## FBI HATE CRIME STATISTICS (2015-2016)

| Bias motivation       | '15 | '16 |
|-----------------------|-----|-----|
| Anti-Arab             | 2   | 0   |
| Anti-Islamic (Muslim) | 8   | 12  |

<sup>9</sup> North Carolina State Bureau of Investigation, Crime Reporting, <http://crimereporting.ncsbi.gov/Reports.aspx>.

<sup>10</sup> North Carolina State Bureau of Investigation, 2015 Annual Summary Report (Jun. 2017), available at <http://crimereporting.ncsbi.gov/Reports.aspx>.

<sup>11</sup> North Carolina Justice Academy, Course Catalog: July 1, 2018 – June 30, 2019 (2018), available at <http://ncja.ncdoj.gov/getdoc/43fe3c66-706d-42e6-a9a1-d86c9ede104f/Training-Calendar.aspx>.

<sup>12</sup> CJIS Div., Fed. Bureau of Investigation, SRS to NIBRS: The Path to Better Data (Mar. 28, 2017), <https://www.fbi.gov/services/cjis/cjis-link/srs-to-nibrs-the-path-to-better-ucr-data>.

<sup>13</sup> Bureau of Justice Statistics, U.S. Dep't of Justice, 2017 NCS-X Estimation Project (Jul. 27, 2017), available at <https://www.bjs.gov/content/pub/pdf/17ncsxep.pdf>.

<sup>14</sup> Bureau of Justice Statistics, U.S. Dep't of Justice, National Crime Statistics Exchange (last updated Jun. 2017), <https://www.bjs.gov/content/ncsx.cfm>.

## FBI HATE CRIME STATISTICS

Pursuant to the Hate Crime Statistics Act (HCSA) of 1990 the FBI UCR Program collects data on "crimes that manifest evidence of prejudice based on race, gender or gender identity, religion, disability, sexual orientation, or ethnicity."<sup>15</sup>

Since 1993, the FBI UCR Program has published the annual report, *Hate Crime Statistics*, which is based on voluntary submissions from participating law enforcement agencies. In 2016, agencies from 49 states and the District of Columbia participated in the national hate crime statistics program.

For the most part, hate crime data is collected at the state level and forwarded to the FBI UCR Program. A total of 48 states maintain a state-level UCR data collection. UCR programs in 38 states publish annual hate crime statistics. Some participating law enforcement agencies submit hate crime data directly to the FBI UCR program.<sup>16</sup>



## FBI HATE CRIME STATISTICS PARTICIPANT

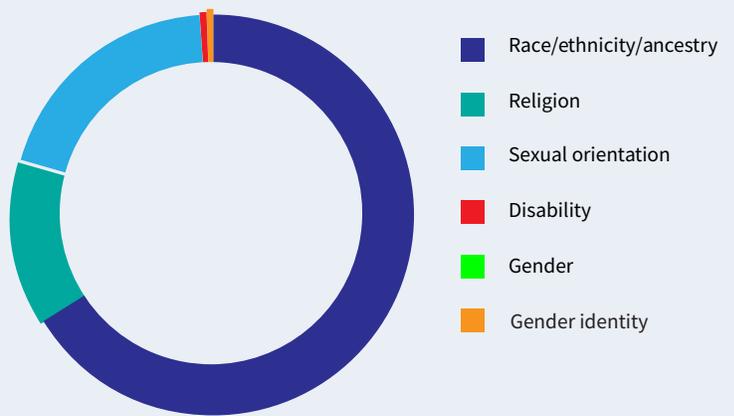
Law enforcement agencies in North Carolina submit hate crime data to the FBI UCR Program through the NCSBI. According to the FBI UCR Program's annual report, *Hate Crime Statistics*, 148 hate crime incidents were reported in North Carolina in 2016.

In 2016, 41 of the 528 North Carolina law enforcement agencies participating in the national hate crime statistics program submitted incident reports to the FBI UCR Program. A total of 2 agencies representing populations greater than 100,000 submitted only zero data.

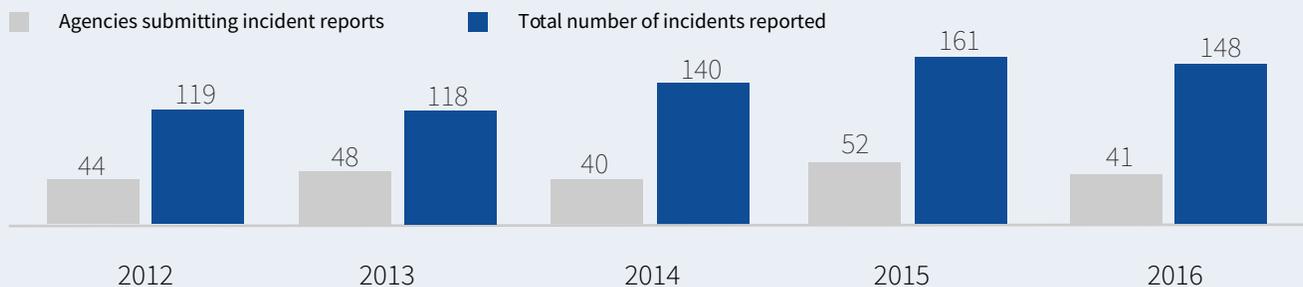
As the NCSBI does not publish an annual hate crime report, we are unable to make comparisons between state and federal hate crime statistics.

## FBI HATE CRIME STATISTICS: NORTH CAROLINA 2012-2016

| Incidents per bias motivation | 2012       | 2013       | 2014       | 2015       | 2016       | Total      |
|-------------------------------|------------|------------|------------|------------|------------|------------|
| Race/ethnicity/ancestry       | 76         | 78         | 96         | 106        | 99         | 455        |
| Religion                      | 19         | 17         | 19         | 17         | 21         | 93         |
| Sexual orientation            | 24         | 23         | 23         | 37         | 26         | 133        |
| Disability                    | 0          | 0          | 2          | 2          | 0          | 4          |
| Gender                        | -          | 0          | 0          | 0          | 1          | 1          |
| Gender identity               | -          | 0          | 0          | 0          | 2          | 2          |
| <b>Total</b>                  | <b>119</b> | <b>118</b> | <b>140</b> | <b>162</b> | <b>149</b> | <b>688</b> |



## PARTICIPATION IN UCR HATE CRIME STATISTICS PROGRAM



## SUMMARY

The current North Carolina hate crime statute is not sufficiently inclusive, as it does not offer protections for sexual orientation, disability, or gender identity. The state's civil rights law grants protections on the basis of gender. North Carolina does not have statutes that require reporting, data collection, or specific law enforcement training on hate crime. The North Carolina State Bureau of Investigation maintains the state clearinghouse for all police-reported crime data, including hate crime, and is responsible for publishing annual statistics. The 2008-2016 editions of the NCSBI report do not include hate crime statistics. In 2016, 41 North Carolina law enforcement agencies submitted hate crime incident reports to the FBI UCR Program. The remaining 487 participating agencies provided only zero data. North Carolina receives an overall score of 35 points, denoting a limited response to hate crime.

<sup>15</sup> 28 U.S.C. § 534 (JUSTIA 2016), available at <https://law.justia.com/codes/us/2016/title-28/part-ii/chapter-33/sec.-534>.

<sup>16</sup> Uniform Crime Reporting Program, Fed. Bureau of Investigation, Data Quality Guidelines, [https://ucr.fbi.gov/data\\_quality\\_guidelines](https://ucr.fbi.gov/data_quality_guidelines).

# ADVOCACY RESOURCES - North Carolina

## IMPROVING THE RESPONSE

Most states have failed to enact sufficient legislation to address, prevent, and counteract hate crime in American communities. To accompany our federal hate crime laws, state legislatures must pass the following:

1. **An inclusive hate crime statute**, which covers a wide range of criminal offenses and provides enhanced penalties for crimes motivated because of citizenship status, race, ethnicity, color, disability, age, ancestry or national origin, gender or gender identity, sexual orientation, religion, or homelessness. Such protections are pursuant to model hate crime legislation drafted by the Arab American Institute. According to the model statute, penalty enhancement may incorporate alternatives to fines or increased prison sentences. Alternatives include restitution for victims and communities, participation in educational programs, and restorative justice.
2. **Statutes that require reporting, data collection, and specific law enforcement training on hate crime.** Centralized state agencies must publish comprehensive, accessible statistics on the nature and extent of hate crime occurring within their state. These statistics must conform to national UCR standards and include the bias motivation categories identified in the FBI's annual report, *Hate Crime Statistics*. States must also require law enforcement training schools to provide comprehensive training to ensure that officers are prepared to investigate, report, and respond to hate crime incidents.

## STATE RECOMMENDATIONS

According to our rating methodology, North Carolina receives an overall score of 35 points, denoting a limited response to hate crime. Advocates for an improved response to hate crime in North Carolina should promote the following:

1. The current North Carolina hate crime statute offers protections for race, color, religion, nationality, and country of origin. North Carolina's civil rights law offers protections for gender. The North Carolina hate crime statute should be amended to include protections for **citizenship status, ethnicity, disability, age, ancestry, gender or gender identity, sexual orientation, homelessness**, or association with a person or group with one of these actual or perceived characteristics.
2. North Carolina state code does not require reporting, data collection, or specific law enforcement training on hate crime. In 2016, 41 of the 528 North Carolina law enforcement agencies participating in the national hate crime statistics program submitted incident reports to the FBI UCR Program.
  - Law enforcement agencies must report hate crimes to the North Carolina State Bureau of Investigation (SBI).
  - The SBI must collect data and publish statistics, conforming to national UCR standards, on the nature and extent of hate crime within the state.
  - North Carolina must transition to the National Incident-Based Reporting System (NIBRS) to facilitate hate crime reporting and data collection. By January 2021, all law enforcement agencies in the United States will be required to report crime information through NIBRS.
  - The North Carolina Basic Law Enforcement Training Commission must establish minimum education and training standards relating to investigating and reporting hate crime incidents for law enforcement officers throughout the state.

## STATE CONTACTS

Advocates for an improved response to hate crime in North Carolina should contact current state legislators and members of Congress.

### North Carolina General Assembly

Senate: <https://www.ncleg.net/Senate/Senate.html>

House: <https://www.ncleg.net/House/House.html>

### United States Senate

Contact: North Carolina

<https://www.senate.gov/senators/contact>

### United States House of Representatives

Directory of Representatives: North Carolina

<https://www.house.gov/representatives#state-north-carolina>

# NORTH DAKOTA

Total population: 757,952

Rank of Arab American population by state: 49



ND does not publish annual hate crime statistics.

**North Dakota** is the 47th most populated state and has the 49th largest Arab American population.

The North Dakota Bureau of Criminal Investigation is the state agency responsible for the collection and publication of crime data. The NDBCI does not publish annual hate crime statistics.

## HATE CRIME STATUTE

N.D. Cent. Code § 12.1-14-04 prohibits a person from intentionally injuring, intimidating, or interfering with “another because of his sex, race, color, religion, or national origin and because he is or has been exercising or attempting to exercise his right to full and equal enjoyment of any facility open to the public.”<sup>1</sup> The statute also prohibits a person from intentionally injuring, intimidating, or interfering with another person “in order to intimidate him or any other person” from the exercise of civil rights in public spaces as described above. Such an offense is considered a class B misdemeanor whether committed “by force, or threat of force or by economic coercion.”<sup>2</sup>

The current North Dakota hate crime statute is not sufficiently inclusive, as it does not offer protections for sexual orientation, disability, or gender identity.

## DATA COLLECTION STATUTE

**There is no North Dakota statute that requires hate crime reporting or data collection.** N.D. Cent. Code § 12-60-01 established the Bureau of Criminal Investigation within the Department of Justice as the “central repository for the collection, maintenance, and dissemination of criminal history record information.”<sup>3</sup>

According to the state’s Office of the Attorney General website, the NDBCI manages the state’s uniform crime reporting (UCR) program, which “involves the collection and analysis of crime statistics reported by local law enforcement agencies in North Dakota.”<sup>4</sup>

## LAW ENFORCEMENT TRAINING STATUTE

**There is no North Dakota statute that requires specific law enforcement training on hate crime.** Pursuant to N.D. Cent. Code § 12-62-02, the Attorney General is required “to ensure adequate training for law enforcement and...the comprehensive collection of crime statistics.”<sup>5</sup> Also in accordance with North Dakota law, the Peace Officer Standards and Training Board is authorized to “establish the curriculum for basic and advanced peace officer training.”<sup>6</sup>

### NORTH DAKOTA

| Hate Crime Statute                       | 25/40 |
|---|-------|
| No statute; civil action or civil rights law  | -     |
| Hate crime statute, with protections for:   | 10    |
| Race/ethnicity/ancestry   | 5     |
| Religion  | 5     |
| Sexual orientation  | -     |
| Disability  | -     |
| Gender  | 5     |
| Gender identity   | -     |
| Data Collection Statute                | 0/15  |
| Data collection (voluntary reporting)   | -     |
| Mandatory reporting and data collection   | -     |
| Law Enforcement Training Statute       | 0/15  |
| No statute; comprehensive training  | -     |
| Mandatory training  | -     |
| Annual Hate Crime Report               | 0/20  |
| Annual hate crime report, including:  | -     |
| Anti-Arab hate crime statistics   | -     |
| Anti-Islamic (Muslim) hate crime statistics   | -     |
| FBI Hate Crime Statistics Participant  | 10/10 |
| TOTAL   | 35    |

<sup>1</sup> N.D. Cent. Code § 12.1-14-04 (JUSTIA 2017), available at <https://law.justia.com/codes/north-dakota/2017/title-12.1/chapter-12.1-14>.

<sup>2</sup> *Id.*

<sup>3</sup> N.D. Cent. Code § 12-60-01 (JUSTIA 2017), available at <https://law.justia.com/codes/north-dakota/2017/title-12/chapter-12-60>.

<sup>4</sup> North Dakota Attorney General’s Office, Crime Data, <https://attorneygeneral.nd.gov/public-safety/crime-data>.

<sup>5</sup> N.D. Cent. Code § 12-62-02, *supra* note 3.

<sup>6</sup> N.D. Cent. Code § 12-63-02.1 (JUSTIA 2017), available at <https://law.justia.com/codes/north-dakota/2017/title-12/chapter-12-63>.

## DATA COLLECTION & STATISTICS

In coordination with the Office of the Attorney General, the NDBCI publishes an annual report on statewide crime statistics. The 1999-2016 editions of *Crime in North Dakota* can be found on the Office of the Attorney General website but do not include hate crime statistics.<sup>7</sup>

## ANNUAL STATEWIDE HATE CRIME REPORT



The NDBCI does not publish annual state-level hate crime statistics.

Bias motivation is a mandatory data element in all NIBRS submissions. As North Dakota is 100 percent NIBRS compliant, all crime data submissions from North Dakota law enforcement agencies indicate bias motivation. The NDBCI collects these submissions and forwards the data to the FBI UCR Program. Given the state's NIBRS status, North Dakota is better equipped to publish annual state-level hate crime statistics than other non-reporting states.

- **ANTI-ARAB HATE CRIME STATISTICS**  
The NDBCI does not publish annual statistics on anti-Arab hate crime.
- **ANTI-ISLAMIC (MUSLIM) HATE CRIME STATISTICS**  
The NDBCI does not publish annual statistics on anti-Islamic (Muslim) hate crime.

## UNIFORM CRIME REPORTING (UCR)

By January 2021, the FBI Uniform Crime Reporting (UCR) Program will depend solely on the National Incident-Based Reporting System (NIBRS) to collect nationwide crime data.<sup>8</sup> This transition entails the sunset of summary-based crime reporting (SRS) and requires cooperation on the part of state UCR programs and individual reporting agencies.

The North Dakota UCR program is one of 16 state programs that rely exclusively on NIBRS data.<sup>9</sup>

NIBRS reporting enables criminal justice agencies to acquire a better understanding of crime, including hate crime, occurring within their respective jurisdictions. This in turn has positive implications for effective law enforcement response and policy implementation.

## CONTACT

Information Services Section  
Attorney General's Office  
Bureau of Criminal Investigation  
Post Office Box 1054  
Bismarck, North Dakota 58502-1054  
(701) 328-5527  
www.ag.nd.gov

## THE NORTH DAKOTA BUREAU OF CRIMINAL INVESTIGATION DOES NOT PUBLISH ANNUAL HATE CRIME STATISTICS.

| Bias motivation                    | '00 | '01 | '02 | '03 | '04 | '05 | '06 | '07 | '08 | '09 | '10 | '11 | '12 | '13 | '14 | '15 | '16 |
|------------------------------------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| Anti-Arab                          | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   |
| Anti-Islamic (Muslim)              | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   |
| Anti-other race/ethnicity/ancestry | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   |

According to supplemental data from the FBI, a single anti-Islamic (Muslim) hate crime incident was reported in North Dakota in 2016. North Dakota law enforcement agencies submit hate crime data to the FBI UCR Program through the NDBCI.

## FBI HATE CRIME STATISTICS (2015-2016)

| Bias motivation       | '15 | '16 |
|-----------------------|-----|-----|
| Anti-Arab             | 0   | 0   |
| Anti-Islamic (Muslim) | 1   | 1   |

<sup>7</sup> North Dakota Attorney General's Office, Crime and Homicide Reports, <https://attorneygeneral.nd.gov/public-safety/crime-data/crime-reports>.

<sup>8</sup> CJIS Div., Fed. Bureau of Investigation, SRS to NIBRS: The Path to Better UCR Data, <https://www.fbi.gov/services/cjis/cjis-link/srs-to-nibrs-the-path-to-better-ucr-data>.

<sup>9</sup> Bureau of Justice Statistics, U.S. Dep't of Justice, 2017 NCS-X Estimation Project (Jul. 27, 2017), available at <https://www.bjs.gov/content/pub/pdf/17ncsxp.pdf>.

## FBI HATE CRIME STATISTICS

Pursuant to the Hate Crime Statistics Act (HCSA) of 1990 the FBI UCR Program collects data on "crimes that manifest evidence of prejudice based on race, gender or gender identity, religion, disability, sexual orientation, or ethnicity."<sup>10</sup>

Since 1993, the FBI UCR Program has published the annual report, *Hate Crime Statistics*, which is based on voluntary submissions from participating law enforcement agencies. In 2016, agencies from 49 states and the District of Columbia participated in the national hate crime statistics program.

For the most part, hate crime data is collected at the state level and forwarded to the FBI UCR Program. A total of 48 states maintain a state-level UCR data collection. UCR programs in 38 states publish annual hate crime statistics. Some participating law enforcement agencies submit hate crime data directly to the FBI UCR program.<sup>11</sup>



## FBI HATE CRIME STATISTICS PARTICIPANT

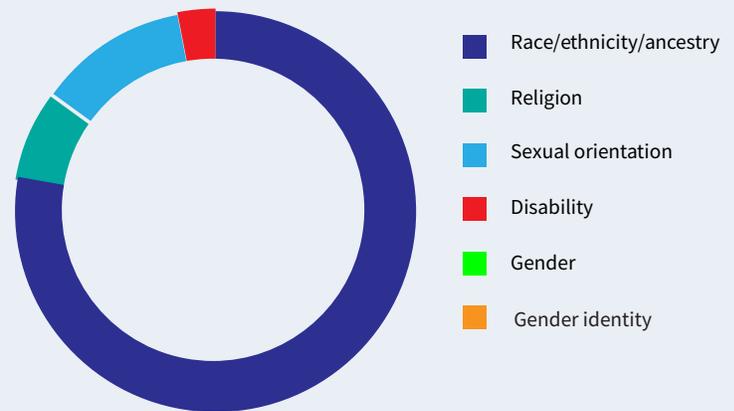
Law enforcement agencies in North Dakota submit hate crime data to the FBI UCR Program through the NDBCI. According to the FBI UCR Program's annual report, *Hate Crime Statistics*, 8 hate crime incidents were reported in North Dakota in 2016.

In 2016, 6 of the 108 North Dakota law enforcement agencies participating in the national hate crime statistics program submitted incident reports to the FBI UCR Program. Agencies representing three of North Dakota's five largest cities submitted only zero data.

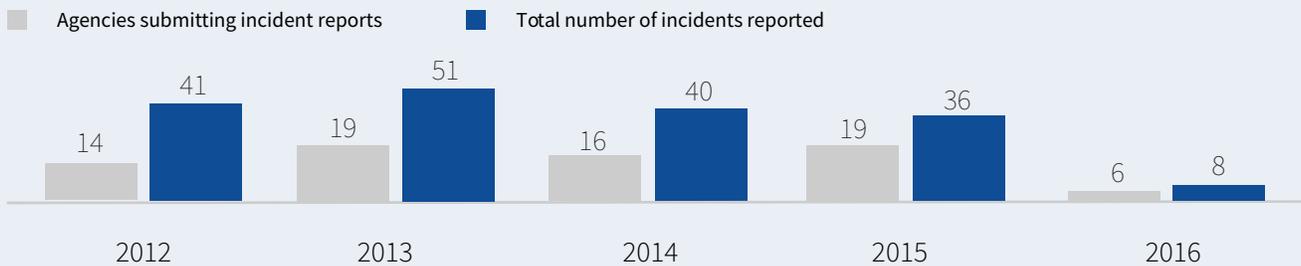
As the NCSBI does not publish an annual hate crime report, we are unable to make comparisons between state and federal hate crime statistics.

## FBI HATE CRIME STATISTICS: NORTH DAKOTA 2012-2016

| Incidents per bias motivation | 2012      | 2013      | 2014      | 2015      | 2016     | Total      |
|-------------------------------|-----------|-----------|-----------|-----------|----------|------------|
| Race/ethnicity/ancestry       | 31        | 37        | 33        | 29        | 7        | 137        |
| Religion                      | 1         | 5         | 3         | 3         | 1        | 13         |
| Sexual orientation            | 9         | 4         | 4         | 4         | 0        | 21         |
| Disability                    | 0         | 5         | 0         | 0         | 0        | 5          |
| Gender                        | -         | 0         | 0         | 0         | 0        | 0          |
| Gender identity               | -         | 0         | 0         | 0         | 0        | 0          |
| <b>Total</b>                  | <b>41</b> | <b>51</b> | <b>40</b> | <b>36</b> | <b>8</b> | <b>176</b> |



## PARTICIPATION IN UCR HATE CRIME STATISTICS PROGRAM



## SUMMARY

The current North Dakota hate crime statute is not sufficiently inclusive, as it does not offer protections for sexual orientation, disability, or gender identity. Furthermore, North Dakota does not have statutes that require reporting, data collection, or specific law enforcement training on hate crime. The North Dakota Bureau of Criminal Investigation maintains the state clearinghouse for all police-reported crime data, including hate crime, and is responsible for publishing annual statistics. Copies of *Crime in North Dakota* can be found on the Office of the Attorney General website but do not include hate crime statistics. In 2016, 6 North Dakota law enforcement agencies submitted hate crime incident reports to the FBI UCR Program. The remaining 102 participating agencies provided only zero data. A total of 2 participating agencies recorded blank data in at least one quarterly submission period. North Dakota receives an overall score of 35 points, denoting a limited response to hate crime.

<sup>10</sup> 28 U.S.C. § 534 (JUSTIA 2016), available at <https://law.justia.com/codes/us/2016/title-28/part-ii/chapter-33/sec.-534>.

<sup>11</sup> Uniform Crime Reporting Program, Fed. Bureau of Investigation, Data Quality Guidelines, [https://ucr.fbi.gov/data\\_quality\\_guidelines](https://ucr.fbi.gov/data_quality_guidelines).

# ADVOCACY RESOURCES - North Dakota

## IMPROVING THE RESPONSE

Most states have failed to enact sufficient legislation to address, prevent, and counteract hate crime in American communities. To accompany our federal hate crime laws, state legislatures must pass the following:

1. **An inclusive hate crime statute**, which covers a wide range of criminal offenses and provides enhanced penalties for crimes motivated because of citizenship status, race, ethnicity, color, disability, age, ancestry or national origin, gender or gender identity, sexual orientation, religion, or homelessness. Such protections are pursuant to model hate crime legislation drafted by the Arab American Institute. According to the model statute, penalty enhancement may incorporate alternatives to fines or increased prison sentences. Alternatives include restitution for victims and communities, participation in educational programs, and restorative justice.
2. **Statutes that require reporting, data collection, and specific law enforcement training on hate crime.** Centralized state agencies must publish comprehensive, accessible statistics on the nature and extent of hate crime occurring within their state. These statistics must conform to national UCR standards and include the bias motivation categories identified in the FBI's annual report, *Hate Crime Statistics*. States must also require law enforcement training schools to provide comprehensive training to ensure that officers are prepared to investigate, report, and respond to hate crime incidents.

## STATE RECOMMENDATIONS

According to our rating methodology, North Dakota receives an overall score of 35 points, denoting a limited response to hate crime. Advocates for an improved response to hate crime in North Dakota should promote the following:

1. The current North Dakota hate crime statute offers protections for sex, race, color, religion, and national origin. The North Dakota hate crime statute should be amended to include protections for **citizenship status, ethnicity, disability, age, ancestry, gender identity, sexual orientation, homelessness**, or association with a person or group with one of these actual or perceived characteristics.
2. North Dakota state code does not require reporting, data collection, or specific law enforcement training on hate crime. In 2016, 6 of the 108 North Dakota law enforcement agencies participating in the national hate crime statistics program submitted incident reports to the FBI UCR Program.
  - Law enforcement agencies must report hate crimes to the North Dakota Bureau of Criminal Investigation (BCI).
  - The BCI must collect data and publish statistics, conforming to national UCR standards, on the nature and extent of hate crime within the state.
  - The North Dakota Peace Officer Standards and Training Board must establish a curriculum for peace officer training that includes instruction relating to investigating and reporting hate crime incidents.

## STATE CONTACTS

Advocates for an improved response to hate crime in North Dakota should contact current state legislators and members of Congress.

### North Dakota Legislative Branch

Both Chambers: <http://www.legis.nd.gov/assembly>

### United States Senate

Contact: North Dakota

<https://www.senate.gov/senators/contact>

### United States House of Representatives

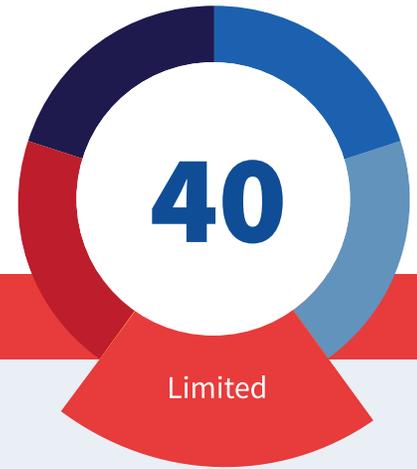
Directory of Representatives: North Dakota

<https://www.house.gov/representatives#state-north-dakota>

# OHIO

Total population: 11,614,373

Rank of Arab American population by state: 8



## OH does not publish anti-Arab hate crime statistics.

**Ohio** is the 7th most populated state and has the 8th largest Arab American population.

The Ohio Department of Public Safety, Office of Criminal Justice Services, is the state agency responsible for the collection and publication of crime data. The OCJS publishes an annual hate crime report based on data in *FBI Hate Crime Statistics*.

### HATE CRIME STATUTE

Ohio Rev. Code § 2927.12 provides enhanced penalties for certain crimes committed “by reason of the race, color, religion, or national origin of another person or group of persons.”<sup>1</sup>

The current Ohio hate crime statute is not sufficiently inclusive, as it does not offer protections for sexual orientation, disability, gender, or gender identity.

### DATA COLLECTION STATUTE

**There is no Ohio statute that requires hate crime reporting or data collection.** Ohio Rev. Code § 5502.62 established the Office of Criminal Justice Services (OCJS) within the Ohio Department of Public Safety. Pursuant to Section 5502.62, The OCJS is required to “collect, analyze, and correlate information and data concerning the criminal justice system in the state.”<sup>2</sup> The OCJS maintains the Ohio Incident-Based Reporting System (OIBRS).

Additionally, in accordance with Section 5502.62, all Ohio law enforcement agencies that receive federal criminal justice grants or general revenue funds through the OCJS are required to participate in the OIBRS or the FBI’s Uniform Crime Reporting (UCR) program.<sup>3</sup> The OCJS is also required to provide “assistance, advice, and reports requested by the governor, the general assembly, or the [FBI].”<sup>4</sup>

### LAW ENFORCEMENT TRAINING STATUTE

**There is no Ohio statute that requires specific law enforcement training on hate crime.** Pursuant to Ohio Rev. Code § 109.73, the Ohio Peace Officer Training Commission is required to consult the Attorney General with respect to the minimum basic training and advanced in-service training of law enforcement officers within the state.<sup>5</sup>

The Ohio Peace Officer Training Academy currently offers an elective course on bias crimes investigations.<sup>6</sup>

| OHIO   |              |
|--|--------------|
| <b>Hate Crime Statute</b>                       | <b>20/40</b> |
| No statute; civil action or civil rights law   | -            |
| Hate crime statute, with protections for:  | 10           |
| Race/ethnicity/ancestry  | 5            |
| Religion   | 5            |
| Sexual orientation   | -            |
| Disability   | -            |
| Gender   | -            |
| Gender identity  | -            |
| <b>Data Collection Statute</b>                | <b>0/15</b>  |
| Data collection (voluntary reporting)  | -            |
| Mandatory reporting and data collection  | -            |
| <b>Law Enforcement Training Statute</b>       | <b>0/15</b>  |
| No statute; comprehensive training   | -            |
| Mandatory training   | -            |
| <b>Annual Hate Crime Report</b>               | <b>10/20</b> |
| Annual hate crime report, including:   | 10           |
| Anti-Arab hate crime statistics  | -            |
| Anti-Islamic (Muslim) hate crime statistics  | -            |
| <b>FBI Hate Crime Statistics Participant</b>  | <b>10/10</b> |
| <b>TOTAL</b>   | <b>40</b>    |

<sup>1</sup> Ohio Rev. Code § 2927.12 (JUSTIA 2017), available at <https://law.justia.com/codes/ohio/2017/title-29/chapter-2927/section-2927.12>.

<sup>2</sup> Ohio Rev. Code § 5502.62 (JUSTIA 2017), available at <https://law.justia.com/codes/ohio/2017/title-55/chapter-5502/section-5502.62>.

<sup>3</sup> Ohio Rev. Code § 5502.62(D)(1), *Id.*

<sup>4</sup> Ohio Rev. Code § 5502.62(C)(6), *Id.*

<sup>5</sup> Ohio Rev. Code § 109.73 (JUSTIA 2017), available at <https://law.justia.com/codes/ohio/2017/title-1/chapter-109/section-109.73>.

<sup>6</sup> Ohio Peace Officer Training Academy, Ohio Attorney General’s Office, Investigations Courses, available at <http://www.ohioattorneygeneral.gov/Law-Enforcement/Ohio-Peace-Officer-Training-Academy/Course-Catalog/Course-Categories/Investigations-Courses>.

## DATA COLLECTION & STATISTICS

Housed within the OCJS, the Ohio Statistical Analysis Center (SAC) publishes annual crime statistics, including a specialized report on hate crime. The 2005-2016 editions of *Ohio Hate Crime Statistics* can be found on the OCJS website.<sup>7</sup>

Annual reports published by the OCJS, including *Ohio Hate Crime Statistics*, “summarize data contained in the FBI’s annual publications, with emphasis on Ohio data whenever possible.”<sup>8</sup>



## ANNUAL STATEWIDE HATE CRIME REPORT

State-level hate crime statistics published by the OCJS do not include data on anti-Arab or anti-Islamic (Muslim) hate crime. *Ohio Hate Crime Statistics* is a summary of the FBI UCR Program’s annual report, Hate Crime Statistics, with a focus on Ohio. Hate crime data in the OCJS reports is tabulated according to the number of incidents per aggregate bias motivation category.

In 1995, the Ohio Advisory Committee to the United States Commission on Civil Rights (USCCR) published a report on hate crime in the state’s five largest cities. *Hate Crime in Ohio* summarizes 1989-1993 data from Cleveland, Toledo, Dayton, Columbus, and Cincinnati and includes some accounts of anti-Arab hate crime.<sup>9</sup>

- **ANTI-ARAB HATE CRIME STATISTICS**  
The OCJS does not publish annual statistics on anti-Arab hate crime.
- **ANTI-ISLAMIC (MUSLIM) HATE CRIME STATISTICS**  
The OCJS does not publish annual statistics on anti-Islamic (Muslim) hate crime.

## UNIFORM CRIME REPORTING (UCR)

By January 2021, the FBI Uniform Crime Reporting (UCR) Program will depend solely on the National Incident-Based Reporting System (NIBRS) to collect nationwide crime data.<sup>10</sup> This transition entails the sunset of summary-based crime reporting (SRS) and requires cooperation on the part of state UCR programs and individual reporting agencies.

The Ohio UCR program is one of 18 state programs that rely on both SRS and NIBRS data.<sup>11</sup> According to the Bureau of Justice Statistics, more than 80 percent of law enforcement agencies in Ohio are NIBRS-certified.<sup>12</sup>

NIBRS reporting enables criminal justice agencies to acquire a better understanding of crime, including hate crime, occurring within their respective jurisdictions. This in turn has positive implications for effective law enforcement response and policy implementation.

## CONTACT

Ohio Department of Public Safety  
Office of Criminal Justice Services  
1970 West Broad Street  
Columbus, Ohio 43223  
(614) 644-6797  
[www.ocjs.ohio.gov](http://www.ocjs.ohio.gov)

## THE OFFICE OF CRIMINAL JUSTICE SERVICES DOES NOT PUBLISH ANNUAL DISAGGREGATED HATE CRIME STATISTICS.

| Bias motivation                    | '00 | '01 | '02 | '03 | '04 | '05 | '06 | '07 | '08 | '09 | '10 | '11 | '12 | '13 | '14 | '15 | '16 |
|------------------------------------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| Anti-Arab                          | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   |
| Anti-Islamic (Muslim)              | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   |
| Anti-other race/ethnicity/ancestry | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   |

According to supplemental data from the FBI, 2 anti-Arab and 15 anti-Islamic (Muslim) hate crime incidents were reported in Ohio in 2016. Ohio law enforcement agencies submit hate crime data to the FBI UCR Program through the OCJS.

## FBI HATE CRIME STATISTICS (2015-2016)

| Bias motivation       | '15 | '16 |
|-----------------------|-----|-----|
| Anti-Arab             | 2   | 2   |
| Anti-Islamic (Muslim) | 11  | 15  |

**NOT REPORTED**

<sup>7</sup> Office of Criminal Justice Services, Ohio Dep’t of Pub. Safety, Crime Statistics and Crime Reports, [http://www.ocjs.ohio.gov/crime\\_stats\\_reports.stm#tog](http://www.ocjs.ohio.gov/crime_stats_reports.stm#tog).

<sup>8</sup> *Id.*

<sup>9</sup> Ohio Advisory Committee to the United States Commission on Civil Rights, *Hate Crime in Ohio* (Jan. 1995), available at <https://www.hsdl.org/?view&did=473610>.

<sup>10</sup> CJIS Div., Fed. Bureau of Investigation, SRS to NIBRS: The Path to Better Data (Mar. 28, 2017), <https://www.fbi.gov/services/cjis/cjis-link/srs-to-nibrs-the-path-to-better-ucr-data>.

<sup>11</sup> Bureau of Justice Statistics, U.S. Dep’t of Justice, 2017 NCS-X Estimation Project (Jul. 27, 2017), available at <https://www.bjs.gov/content/pub/pdf/17ncsxep.pdf>.

<sup>12</sup> Bureau of Justice Statistics, U.S. Dep’t of Justice, National Crime Statistics Exchange (last updated Jun. 2017), <https://www.bjs.gov/content/ncsx.cfm>.

## FBI HATE CRIME STATISTICS

Pursuant to the Hate Crime Statistics Act (HCSA) of 1990 the FBI UCR Program collects data on "crimes that manifest evidence of prejudice based on race, gender or gender identity, religion, disability, sexual orientation, or ethnicity."<sup>13</sup>

Since 1993, the FBI UCR Program has published the annual report, *Hate Crime Statistics*, which is based on voluntary submissions from participating law enforcement agencies. In 2016, agencies from 49 states and the District of Columbia participated in the national hate crime statistics program.

For the most part, hate crime data is collected at the state level and forwarded to the FBI UCR Program. A total of 48 states maintain a state-level UCR data collection. UCR programs in 38 states publish annual hate crime statistics. Some participating law enforcement agencies submit hate crime data directly to the FBI UCR program.<sup>14</sup>



## FBI HATE CRIME STATISTICS PARTICIPANT

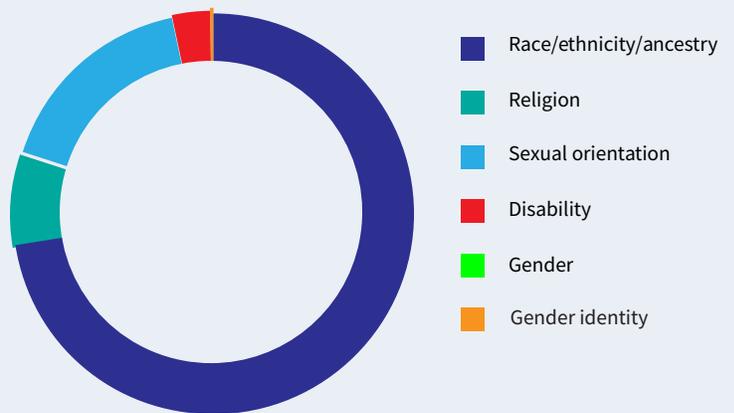
Law enforcement agencies in Ohio submit hate crime data to the FBI UCR Program through the OCJS. According to the FBI UCR Program's annual report, *Hate Crime Statistics*, 442 hate crime incidents were reported in Ohio in 2016.

In 2016, 115 of the 562 Ohio law enforcement agencies participating in the national hate crime statistics program submitted incident reports to the FBI UCR Program.

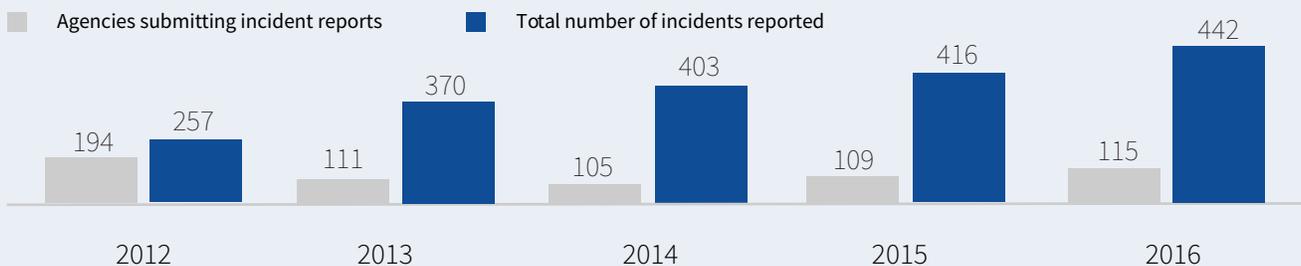
According to annual hate crime statistics published by the OCJS, 442 hate crime incidents were reported in Ohio in 2016. Ohio Hate Crime Statistics is a summary of the FBI UCR Program's annual report, *Hate Crime Statistics*, with a focus on Ohio.

## FBI HATE CRIME STATISTICS: OHIO 2012-2016

| Incidents per bias motivation | 2012       | 2013       | 2014       | 2015       | 2016       | Total        |
|-------------------------------|------------|------------|------------|------------|------------|--------------|
| Race/ethnicity/ancestry       | 158        | 268        | 300        | 309        | 336        | 1,371        |
| Religion                      | 27         | 17         | 26         | 39         | 35         | 144          |
| Sexual orientation            | 63         | 61         | 69         | 58         | 60         | 311          |
| Disability                    | 9          | 24         | 8          | 10         | 9          | 60           |
| Gender                        | -          | 0          | 0          | 0          | 1          | 1            |
| Gender Identity               | -          | 0          | 0          | 0          | 1          | 1            |
| <b>Total</b>                  | <b>257</b> | <b>370</b> | <b>403</b> | <b>416</b> | <b>442</b> | <b>1,888</b> |



## PARTICIPATION IN UCR HATE CRIME STATISTICS PROGRAM



## SUMMARY

The current Ohio hate crime statute is not sufficiently inclusive, as it does not offer protections for sexual orientation, disability, gender, or gender identity. While Ohio does not have statutes that require reporting, data collection, or specific law enforcement training on hate crime, the state does publish an annual statewide hate crime report and has introduced a course on bias crimes investigations into its basic police training curriculum. The Ohio Department of Public Safety, Office of Criminal Justice Services, maintains the state clearinghouse for all police-reported crime data, including hate crime, and is responsible for publishing annual statistics. Copies of *Hate Crime Statistics: Hate Crime in the U.S. and Ohio* can be found on the OCJS website. The reports provide neither anti-Arab nor anti-Islamic (Muslim) hate crime statistics. In 2016, 115 Ohio law enforcement agencies submitted hate crime incident reports to the FBI UCR Program. The remaining 447 participating agencies provided only zero data. A total of 90 participating agencies recorded blank data in at least one quarterly submission period. Ohio receives an overall score of 40 points, denoting a limited response to hate crime.

<sup>13</sup> 28 U.S.C. § 534 (JUSTIA 2016), available at <https://law.justia.com/codes/us/2016/title-28/part-ii/chapter-33/sec.-534>.

<sup>14</sup> Uniform Crime Reporting Program, Fed. Bureau of Investigation, Data Quality Guidelines, [https://ucr.fbi.gov/data\\_quality\\_guidelines](https://ucr.fbi.gov/data_quality_guidelines).

# ADVOCACY RESOURCES - Ohio

## IMPROVING THE RESPONSE

Most states have failed to enact sufficient legislation to address, prevent, and counteract hate crime in American communities. To accompany our federal hate crime laws, state legislatures must pass the following:

1. **An inclusive hate crime statute**, which covers a wide range of criminal offenses and provides enhanced penalties for crimes motivated because of citizenship status, race, ethnicity, color, disability, age, ancestry or national origin, gender or gender identity, sexual orientation, religion, or homelessness. Such protections are pursuant to model hate crime legislation drafted by the Arab American Institute. According to the model statute, penalty enhancement may incorporate alternatives to fines or increased prison sentences. Alternatives include restitution for victims and communities, participation in educational programs, and restorative justice.
2. **Statutes that require reporting, data collection, and specific law enforcement training on hate crime.** Centralized state agencies must publish comprehensive, accessible statistics on the nature and extent of hate crime occurring within their state. These statistics must conform to national UCR standards and include the bias motivation categories identified in the FBI's annual report, *Hate Crime Statistics*. States must also require law enforcement training schools to provide comprehensive training to ensure that officers are prepared to investigate, report, and respond to hate crime incidents.

## STATE RECOMMENDATIONS

According to our rating methodology, Ohio receives an overall score of 40 points, denoting a limited response to hate crime. Advocates for an improved response to hate crime in Ohio should promote the following:

1. The current Ohio hate crime statute offers protections for race, color, religion, and national origin. The Ohio hate crime statute should be amended to include protections for **citizenship status, ethnicity, disability, age, ancestry, gender or gender identity, sexual orientation, homelessness**, or association with a person or group with one of these actual or perceived characteristics.
2. Ohio state code does not require reporting, data collection, or specific law enforcement training on hate crime. In 2016, 115 of the 562 Ohio law enforcement agencies participating in the national hate crime statistics program submitted incident reports to the FBI UCR Program.
  - Law enforcement agencies must report hate crimes to the Ohio Office of Criminal Justice Services (OCJS).
  - The OCJS must collect data and publish statistics, conforming to national UCR standards, on the nature and extent of hate crime within the state. Currently, the OCJS publishes an annual data summary of the FBI UCR Program's annual report, *Hate Crime Statistics* with a focus on data from Ohio.
  - Ohio must transition to the National Incident-Based Reporting System (NIBRS) to facilitate hate crime reporting and data collection. By January 2021, all law enforcement agencies in the United States will be required to report crime information through NIBRS.
  - The Ohio Peace Officer Training Commission must promote instruction relating to investigating and reporting hate crime incidents for law enforcement officers throughout the state.

## STATE CONTACTS

Advocates for an improved response to hate crime in Ohio should contact current state legislators and members of Congress.

### Ohio Legislature

Both Chambers: <https://www.legislature.ohio.gov>

### United States Senate

Contact: Ohio

<https://www.senate.gov/senators/contact>

### United States House of Representatives

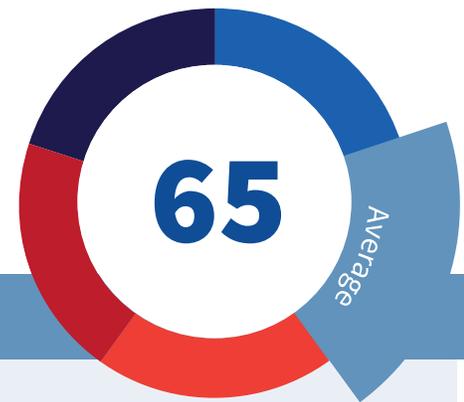
Directory of Representatives: Ohio

<https://www.house.gov/representatives#state-ohio>

# OKLAHOMA

Total population: 3,923,561

Rank of Arab American population by state: 27



OK does not publish anti-Arab hate crime statistics.

**Oklahoma** is the 28th most populated state and has the 27th largest Arab American population.

The Oklahoma State Bureau of Investigation is the state agency responsible for the collection and publication of hate crime data. The OSBI does not publish annual statistics on anti-Arab hate crime.



## HATE CRIME STATUTE

Okla. Stat. tit. 21, § 21-850(A) prohibits any person from committing an offense “maliciously and with specific intent to intimidate or harass another person because of that person’s race, color, religion, ancestry, national origin or disability.”<sup>1</sup> Punishable offenses include assault or battery, damage, destruction, vandalism, or defacement of property, or threatening by word or act to do so.

Okla. Stat. tit. 21, § 21-850(B) and 21-850(C) prohibit any person from inciting or producing imminent violence against another person because of their race, color, religion, ancestry, national origin or disability, whether by means of “telephonic, computerized, or electronic” communication or “broadcast, published, or distributed” material.<sup>2</sup> A first offense in violation of subsections A, B, or C is considered a misdemeanor and punishable by fine or imprisonment. Any subsequent offense is considered a felony and subject to increased punishment and civil liability on behalf of the victim.<sup>3</sup>

The current Oklahoma hate crime statute is not sufficiently inclusive, as it does not offer protections for sexual orientation, gender, or gender identity.



## DATA COLLECTION STATUTE

Okla. Stat. tit. 21, § 21-850(F) requires the OSBI to “develop a standard system for state and local law enforcement agencies to report incidents of crime which are apparently directed against members of racial, ethnic, religious groups or other groups specified by [Section 21-850].”<sup>4</sup> Pursuant to Section 21-850(F), all Oklahoma law enforcement agencies are required to submit a monthly report containing the “number and nature of the offenses committed within their respective jurisdictions, the disposition of such matters and any other information the Bureau may require.”<sup>5</sup>



## LAW ENFORCEMENT TRAINING STATUTE

**There is no Oklahoma statute that requires specific law enforcement training on hate crime.** Okla. Stat. tit. 70, § 70-3311.5 outlines the mandatory basic training courses for law enforcement certification as prepared by the state’s Council on Law Enforcement Education and Training (CLEET).<sup>6</sup>

| OKLAHOMA   |              |
|--|--------------|
| <b>Hate Crime Statute</b>                       | <b>25/40</b> |
| No statute; civil action or civil rights law   | -            |
| Hate crime statute, with protections for:  | 10           |
| Race/ethnicity/ancestry  | 5            |
| Religion   | 5            |
| Sexual orientation   | -            |
| Disability   | 5            |
| Gender   | -            |
| Gender identity  | -            |
| <b>Data Collection Statute</b>                | <b>15/15</b> |
| Data collection (voluntary reporting)  | -            |
| Mandatory reporting and data collection  | 15           |
| <b>Law Enforcement Training Statute</b>       | <b>0/15</b>  |
| No statute; comprehensive training   | -            |
| Mandatory training   | -            |
| <b>Annual Hate Crime Report</b>               | <b>15/20</b> |
| Annual hate crime report, including:   | 10           |
| Anti-Arab hate crime statistics  | -            |
| Anti-Islamic (Muslim) hate crime statistics  | 5            |
| <b>FBI Hate Crime Statistics Participant</b>  | <b>10/10</b> |
| <b>TOTAL</b>   | <b>65</b>    |

<sup>1</sup> Okla. Stat. tit. 21, § 21-850(A) (JUSTIA 2017), available at <https://law.justia.com/codes/oklahoma/2017/title-21/section-21-850>.

<sup>2</sup> Okla. Stat. tit. 21, §§ 21-850(B) – 21-850(C), *id.*

<sup>3</sup> Okla. Stat. tit. 21, § 21-850(D), *id.*

<sup>4</sup> Okla. Stat. tit. 21, § 21-850(F), *id.*

<sup>5</sup> Okla. Stat. tit. 21, § 21-850(F), *id.*

<sup>6</sup> Okla. Stat. tit. 70, § 70-3311.5 (JUSTIA 2017), available at <https://law.justia.com/codes/oklahoma/2017/title-70/section-70-3311.5>.

## DATA COLLECTION & STATISTICS

The OSBI publishes an annual report on crime statistics. The 2002-2016 editions of *Crime in Oklahoma* can be found on the OSBI website and include hate crime statistics.<sup>7</sup>

## ANNUAL STATEWIDE HATE CRIME REPORT



State-level hate crime statistics published by the OSBI include data on anti-Islamic (Muslim) hate crime. The OSBI tabulates hate crime data according to the number of incidents per disaggregated bias motivation category in the 2002-2013 reports and offenders per disaggregated category in subsequent editions. The OSBI does not provide anti-Arab hate crime statistics.

### ANTI-ARAB HATE CRIME STATISTICS

- The OSBI does not publish annual statistics on anti-Arab hate crime.

### ANTI-ISLAMIC (MUSLIM) HATE CRIME STATISTICS

- Anti-Islamic (Muslim) hate crime statistics are provided in the 2002-2016 editions of *Crime in Oklahoma*. According to the OSBI, 2 anti-Islamic (Muslim) hate crime offenders were reported in Oklahoma in 2016.

## UNIFORM CRIME REPORTING (UCR)

By January 2021, the FBI Uniform Crime Reporting (UCR) Program will depend solely on the National Incident-Based Reporting System (NIBRS) to collect nationwide crime data.<sup>8</sup> This transition entails the sunset of summary-based crime reporting (SRS) and requires cooperation on the part of state UCR programs and individual reporting agencies.

The Oklahoma UCR program is one of 18 state programs that rely on both SRS and NIBRS data.<sup>9</sup> As of 2013, there were 265 Oklahoma law enforcement agencies reporting crimes via the NIBRS, accounting for nearly half of the state's population.<sup>10</sup>

NIBRS reporting enables criminal justice agencies to acquire a better understanding of crime, including hate crime, occurring within their respective jurisdictions. This in turn has positive implications for effective law enforcement response and policy implementation.

### CONTACT

Uniform Crime Reporting Section  
 Oklahoma State Bureau of Investigation  
 6600 North Harvey, Suite 300  
 Oklahoma City, Oklahoma 73116  
 (405) 879-2533  
[www.ok.gov/osbi/](http://www.ok.gov/osbi/)

## CRIME IN OKLAHOMA HATE CRIME INCIDENTS (2002-2013); OFFENDERS (2014-2016)

| Bias motivation                        | '00 | '01 | '02 | '03 | '04 | '05 | '06 | '07 | '08 | '09 | '10 | '11 | '12 | '13 | '14 | '15 | '16 |
|--|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| Anti-Arab                              | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   |
| Anti-Islamic (Muslim)                  | -   | -   | 0   | 0   | 1   | 1   | 3   | 0   | 0   | 1   | 1   | 1   | 2   | 2   | 1   | 1   | 2   |
| Anti-other race/<br>ethnicity/ancestry | -   | -   | 10  | 6   | 4   | 0   | 2   | 1   | 1   | 0   | 0   | 0   | 4   | 1   | 1   | 1   | 3   |

According to supplemental data from the FBI, no anti-Arab or anti-Islamic (Muslim) hate crime incidents were reported in Oklahoma from 2015 to 2016. This total conflicts with OSBI statistics. Oklahoma law enforcement agencies submit hate crime data to the FBI UCR Program through the OSBI.

## FBI HATE CRIME STATISTICS (2015-2016)

| Bias motivation       | '15 | '16 |
|-----------------------|-----|-----|
| Anti-Arab             | 0   | 0   |
| Anti-Islamic (Muslim) | 1   | 0   |

<sup>7</sup> Oklahoma State Bureau of Investigation, Crime Statistics, [https://www.ok.gov/osbi/Publications/Crime\\_Statistics.html](https://www.ok.gov/osbi/Publications/Crime_Statistics.html).

<sup>8</sup> CJIS Div., Fed. Bureau of Investigation, SRS to NIBRS: The Path to Better UCR Data, <https://www.fbi.gov/services/cjis/cjis-link/srs-to-nibrs-the-path-to-better-ucr-data>.

<sup>9</sup> Bureau of Justice Statistics, U.S. Dep't of Justice, 2017 NCS-X Estimation Project (Jul. 27, 2017), available at <https://www.bjs.gov/content/pub/pdf/17ncsxp.pdf>.

<sup>10</sup> Uniform Crime Reporting Program, Fed. Bureau of Investigation, NIBRS Participation by State (2013), available at <https://ucr.fbi.gov/nibrs/2013/resources/nibrs-participation-by-state>.

## FBI HATE CRIME STATISTICS

Pursuant to the Hate Crime Statistics Act (HCSA) of 1990 the FBI UCR Program collects data on "crimes that manifest evidence of prejudice based on race, gender or gender identity, religion, disability, sexual orientation, or ethnicity."<sup>11</sup>

Since 1993, the FBI UCR Program has published the annual report, *Hate Crime Statistics*, which is based on voluntary submissions from participating law enforcement agencies. In 2016, agencies from 49 states and the District of Columbia participated in the national hate crime statistics program.

For the most part, hate crime data is collected at the state level and forwarded to the FBI UCR Program. A total of 48 states maintain a state-level UCR data collection. UCR programs in 38 states publish annual hate crime statistics. Some participating law enforcement agencies submit hate crime data directly to the FBI UCR program.<sup>12</sup>



## FBI HATE CRIME STATISTICS PARTICIPANT

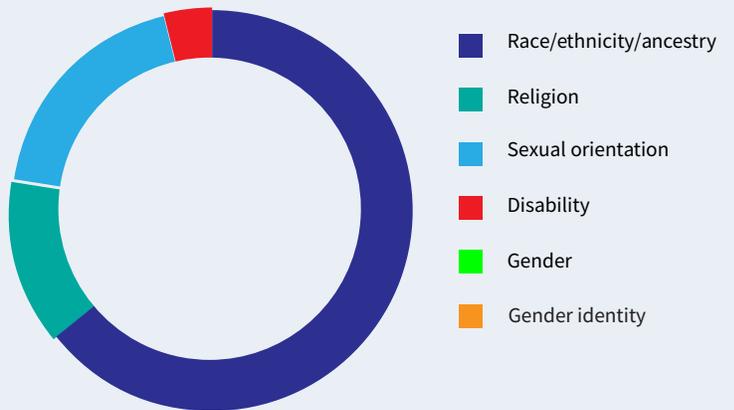
Law enforcement agencies in Oklahoma submit hate crime data to the FBI UCR Program through the OSBI. According to the FBI UCR Program's annual report, *Hate Crime Statistics*, 33 hate crime incidents were reported in Oklahoma in 2016.

In 2016, 22 of the 355 Oklahoma law enforcement agencies participating in the national hate crime statistics program submitted incident reports to the FBI UCR Program. Agencies representing two of the five largest cities in Oklahoma failed to provide data in at least one quarterly submission period.

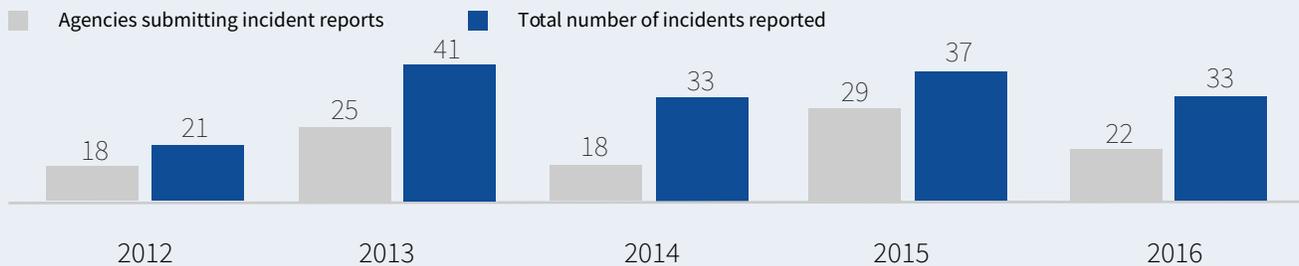
According to annual hate crime statistics published by the OSBI, 49 hate crime incidents were reported in Oklahoma in 2016. This total conflicts with the FBI UCR Program's annual report, *Hate Crime Statistics, 2016*. Discrepancies occur between state and federal hate crime statistics for 2012-2015 as well.

## FBI HATE CRIME STATISTICS: OKLAHOMA 2012-2016

| Incidents per bias motivation | 2012      | 2013      | 2014      | 2015      | 2016      | Total      |
|-------------------------------|-----------|-----------|-----------|-----------|-----------|------------|
| Race/ethnicity/ancestry       | 16        | 25        | 18        | 27        | 20        | 106        |
| Religion                      | 2         | 8         | 4         | 3         | 5         | 22         |
| Sexual orientation            | 2         | 7         | 10        | 7         | 5         | 31         |
| Disability                    | 1         | 1         | 1         | 0         | 3         | 6          |
| Gender                        | -         | 0         | 0         | 0         | 0         | 0          |
| Gender identity               | -         | 0         | 0         | 0         | 0         | 0          |
| <b>Total</b>                  | <b>21</b> | <b>41</b> | <b>33</b> | <b>37</b> | <b>33</b> | <b>165</b> |



## PARTICIPATION IN UCR HATE CRIME STATISTICS PROGRAM



## SUMMARY

The current Oklahoma hate crime statute is not sufficiently inclusive, as it does not offer protections for sexual orientation, gender, or gender identity. While Oklahoma has a statute that requires reporting and data collection, there is no state law regarding mandatory police training on hate crime. The Oklahoma State Bureau of Investigation maintains the state clearinghouse for all police-reported crime data, including hate crime, and is responsible for publishing annual statistics. Copies of *Crime in Oklahoma* can be found on the OSBI website and include anti-Islamic (Muslim) hate crime statistics. The OSBI does not publish annual statistics on anti-Arab hate crime. In 2016, 22 Oklahoma law enforcement agencies submitted hate crime incident reports to the FBI UCR Program. The remaining 333 participating agencies provided only zero data. A total of 46 participating agencies recorded blank data in at least one quarterly submission period. Oklahoma receives an overall score of 65 points, denoting an average response to hate crime.

<sup>11</sup> 28 U.S.C. § 534 (JUSTIA 2016), available at <https://law.justia.com/codes/us/2016/title-28/part-ii/chapter-33/sec.-534>.

<sup>12</sup> Uniform Crime Reporting Program, Fed. Bureau of Investigation, Data Quality Guidelines, [https://ucr.fbi.gov/data\\_quality\\_guidelines](https://ucr.fbi.gov/data_quality_guidelines).

# ADVOCACY RESOURCES - Oklahoma

## IMPROVING THE RESPONSE

Most states have failed to enact sufficient legislation to address, prevent, and counteract hate crime in American communities. To accompany our federal hate crime laws, state legislatures must pass the following:

1. **An inclusive hate crime statute**, which covers a wide range of criminal offenses and provides enhanced penalties for crimes motivated because of citizenship status, race, ethnicity, color, disability, age, ancestry or national origin, gender or gender identity, sexual orientation, religion, or homelessness. Such protections are pursuant to model hate crime legislation drafted by the Arab American Institute. According to the model statute, penalty enhancement may incorporate alternatives to fines or increased prison sentences. Alternatives include restitution for victims and communities, participation in educational programs, and restorative justice.
2. **Statutes that require reporting, data collection, and specific law enforcement training on hate crime.** Centralized state agencies must publish comprehensive, accessible statistics on the nature and extent of hate crime occurring within their state. These statistics must conform to national UCR standards and include the bias motivation categories identified in the FBI's annual report, *Hate Crime Statistics*. States must also require law enforcement training schools to provide comprehensive training to ensure that officers are prepared to investigate, report, and respond to hate crime incidents.

## STATE RECOMMENDATIONS

According to our rating methodology, Oklahoma receives an overall score of 65 points, denoting an average response to hate crime. Advocates for an improved response to hate crime in Oklahoma should promote the following:

1. The current Oklahoma hate crime statute offers protections for race, color, religion, ancestry, national origin, and disability. The Oklahoma hate crime statute should be amended to include protections for **citizenship status, ethnicity, age, gender or gender identity, sexual orientation, homelessness**, or association with a person or group with one of these actual or perceived characteristics.
2. While the Oklahoma State Bureau of Investigation (OSBI) publishes statistics in the form of an annual hate crime report, such statistics do not conform to national UCR standards. In 2016, 22 of the 355 Oklahoma law enforcement agencies participating in the national hate crime statistics program submitted incident reports to the FBI UCR Program.
  - OSBI hate crime data collections should be amended to include additional bias motivation categories, particularly categories relating to gender and gender identity. The OSBI must also provide hate crime data corresponding to the eight additional bias motivation categories, including Anti-Arab, introduced to national UCR data collections in 2015.
  - Oklahoma must transition to the National Incident-Based Reporting System (NIBRS) to facilitate hate crime reporting and data collection. By January 2021, all law enforcement agencies in the United States will be required to report crime information through NIBRS.
3. Oklahoma state code does not require specific law enforcement training on hate crime. The Oklahoma Council on Law Enforcement Education and Training must prepare mandatory basic training courses for law enforcement certification that include instruction relating to investigating and reporting hate crime incidents.

## STATE CONTACTS

Advocates for an improved response to hate crime in Oklahoma should contact current state legislators and members of Congress.

### Oklahoma State Legislature

Senate: <http://www.oksenate.gov/Senators>

House: <https://www.okhouse.gov/Members>

### United States Senate

Contact: Oklahoma

<https://www.senate.gov/senators/contact>

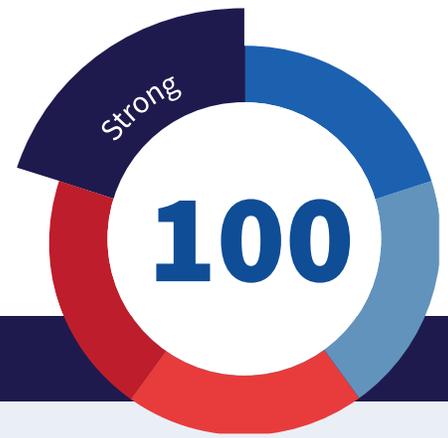
### United States House of Representatives

Directory of Representatives: Oklahoma

<https://www.house.gov/representatives#state-oklahoma>

# OREGON

Total population: 4,093,465  
Rank of Arab American population by state: 25



2 anti-Arab hate crime incidents were reported in OR in 2016.

**Oregon** is the 27th most populated state and has the 25th largest Arab American population.

The Oregon State Police, Criminal Justice Information Services Division, is the state agency responsible for the collection and publication of hate crime data. According to the CJS, there was a single anti-Arab hate crime incident reported in Oregon in 2016. According to the FBI, however, there were two incidents reported.

## HATE CRIME STATUTE

Or. Rev. Stat. § 166.155 prohibits any person from tampering or interfering with property, intentionally subjecting another to offensive physical contact, or threatening to inflict serious physical injury, any other felony, or substantial property damage to a person or the person's family members "because of [the defendant's] perception of race, color, religion, sexual orientation, disability or national origin of another or of a member of the other's family."<sup>1</sup> A more severe penalty is available for hate crimes perpetrated by two or more people under Or. Rev. Stat. § 166.165.A.<sup>2</sup>

Pursuant to Or. Rev. Stat. § 174.100(7), sexual orientation is defined in all Oregon statutes so as to include gender and gender identity, "regardless of whether the individual's gender identity, appearance, expression or behavior differs from that traditionally associated with the individual's sex at birth."<sup>3</sup>

## DATA COLLECTION STATUTE

Or. Rev. Stat. § 181A.225(1)(c) requires all Oregon law enforcement agencies to report statistics concerning crimes motivated by prejudice, including prejudice based on the perceived race, color, religion, national origin, sexual orientation, and physical or mental disability of the victim to the Department of State Police (OSP).<sup>4</sup> Other reportable bias motivations include marital status, political affiliation or beliefs, stance on labor organizations, age, economic or social status, and citizenship.<sup>5</sup>

Pursuant to Or. Rev. Stat. § 181A.225(2)(b), the OSP is required to prepare an annual public report of incident-based statistics on crimes motivated by prejudice as described above.<sup>6</sup>

## LAW ENFORCEMENT TRAINING STATUTE

Or. Rev. Stat. § 181A.470 requires the state's Board on Public Safety Standards and Training to ensure that law enforcement officers in Oregon are trained to "investigate, identify, and report" hate crimes.

| OREGON   |              |
|--|--------------|
| <b>Hate Crime Statute</b>                       | <b>40/40</b> |
| No statute; civil action or civil rights law   | -            |
| Hate crime statute, with protections for:  | 10           |
| Race/ethnicity/ancestry  | 5            |
| Religion   | 5            |
| Sexual orientation   | 5            |
| Disability   | 5            |
| Gender   | 5            |
| Gender identity  | 5            |
| <b>Data Collection Statute</b>                | <b>15/15</b> |
| Data collection (voluntary reporting)  | -            |
| Mandatory reporting and data collection  | 15           |
| <b>Law Enforcement Training Statute</b>       | <b>15/15</b> |
| No statute; comprehensive training   | -            |
| Mandatory training   | 15           |
| <b>Annual Hate Crime Report</b>               | <b>20/20</b> |
| Annual hate crime report, including:   | 10           |
| Anti-Arab hate crime statistics  | 5            |
| Anti-Islamic (Muslim) hate crime statistics  | 5            |
| <b>FBI Hate Crime Statistics Participant</b>  | <b>10/10</b> |
| <b>TOTAL</b>   | <b>100</b>   |

<sup>1</sup> Or. Rev. Stat. § 166.155 (JUSTIA 2017), available at <https://law.justia.com/codes/oregon/2017/volume-04/chapter-166/section-166.155>.

<sup>2</sup> Or. Rev. Stat. § 166.165.A (JUSTIA 2017), available at <https://law.justia.com/codes/oregon/2017/volume-04/chapter-166/section-166.165>.

<sup>3</sup> Or. Rev. Stat. § 174.100(7) (JUSTIA 2017), available at <https://law.justia.com/codes/oregon/2017/volume-05/chapter-174/section-174.100>.

<sup>4</sup> Or. Rev. Stat. § 181A.225(1)(c) (JUSTIA 2017), available at <https://law.justia.com/codes/oregon/2017/volume-05/chapter-181a/section-181a.225>.

<sup>5</sup> Or. Rev. Stat. § 181A.225(2)(b), *id.*

<sup>6</sup> Or. Rev. Stat. § 181A.225(2)(b), *id.*

<sup>7</sup> Or. Rev. Stat. § 181A.470 (JUSTIA 2017), available at <https://law.justia.com/codes/oregon/2017/volume-05/chapter-181a/section-181a.470>.

## DATA COLLECTION & STATISTICS

Pursuant to Oregon state code, the CJIS publishes state-level hate crime statistics in an annual report. The 1995-2016 editions of *Annual Oregon Crime Report* can be found on the official state government website and include hate crime statistics.<sup>8</sup>



## ANNUAL STATEWIDE HATE CRIME REPORT

State-level hate crime statistics published by the CJIS include data on both anti-Arab and anti-Islamic (Muslim) hate crime. The CJIS tabulates hate crime data according to the number of incidents per aggregate bias motivation category in the 1995-2012 reports and incidents per disaggregated category in subsequent editions.

### ANTI-ARAB HATE CRIME STATISTICS

- Anti-Arab hate crime statistics are provided in the 2014-2016 editions of *Annual Oregon Crime Report*. From 2001 to 2012 the CJIS provided hate crime victim data based on race and ethnicity. During this period, the CJIS reported 79 Arab victims of hate crime. The CJIS attributed a significant increase of Arab hate crime victims in 2001 to the “large number of anti-Arab / anti-Muslim offenses occurring after September 11th, 2001.”<sup>9</sup>

### ANTI-ISLAMIC (MUSLIM) HATE CRIME STATISTICS

- Anti-Islamic (Muslim) hate crime statistics are provided in the 2013-2016 editions of *Annual Oregon Crime Report*. While the CJIS provided hate crime victim data based on race and ethnicity from 2001 to 2012, a significant number of those victims were likely targeted because of their actual or perceived faith. The 2015-2016 CJIS reports suggest an increase of hate crimes targeting American Muslims.

## UNIFORM CRIME REPORTING (UCR)

By January 2021, the FBI Uniform Crime Reporting (UCR) Program will depend solely on the National Incident-Based Reporting System (NIBRS) to collect nationwide crime data.<sup>10</sup> This transition entails the sunset of summary-based crime reporting (SRS) and requires cooperation on the part of state UCR programs and individual reporting agencies.

The Oregon UCR program is one of 18 state programs that rely on both SRS and NIBRS data.<sup>11</sup> The CJIS discontinued the state’s summary UCR format in 2017. Agencies now submit via the NIBRS or the ONIBRS, the latter being Oregon’s own state-led incident-based reporting system.<sup>12</sup>

NIBRS reporting enables criminal justice agencies to acquire a better understanding of crime, including hate crime, occurring within their respective jurisdictions. This in turn has positive implications for effective law enforcement response and policy implementation.

### CONTACT

Oregon Uniform Crime Reporting  
Criminal Justice Information Services Division  
Oregon State Police  
3772 Portland Road NE, Building C  
Salem, Oregon 97301  
(503) 934-2342  
[www.oregon.gov/osp/cjis](http://www.oregon.gov/osp/cjis)

## ANNUAL OREGON CRIME REPORT HATE CRIME INCIDENTS (2000-2016)

| Bias motivation                        | '00 | '01 | '02 | '03 | '04 | '05 | '06 | '07 | '08 | '09 | '10 | '11 | '12 | '13 | '14 | '15 | '16 |
|--|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| Anti-Arab                              | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | 0   | 1   | 1   |
| Anti-Islamic (Muslim)                  | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | 0   | 0   | 5   | 6   |
| Anti-other race/<br>ethnicity/ancestry | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | 2   | 4   | 6   | 5   |

According to supplemental data from the FBI, 2 anti-Arab and 5 anti-Islamic (Muslim) hate crime incidents were reported in Oregon in 2016. This total conflicts with CJIS statistics. Discrepancies occur between state and federal anti-Islamic (Muslim) hate crime statistics for 2015 as well. Oregon law enforcement agencies submit hate crime data to the FBI UCR Program through the CJIS.

## FBI HATE CRIME STATISTICS (2015-2016)

| Bias motivation       | '15 | '16 |
|-----------------------|-----|-----|
| Anti-Arab             | 1   | 2   |
| Anti-Islamic (Muslim) | 0   | 5   |

<sup>8</sup> CJIS Div., Oregon State Police, Oregon Annual Uniform Crime Reports, [http://www.oregon.gov/osp/CJIS/Pages/annual\\_reports.aspx](http://www.oregon.gov/osp/CJIS/Pages/annual_reports.aspx).

<sup>9</sup> CJIS Div., Oregon State Police, Oregon Bias Crime Statistics Summary: January through December 2001 (Jul. 2002), available at [http://library.state.or.us/repository/2009/200912081306312/OSP\\_CJIS\\_docs\\_2001\\_annual\\_report\\_01.pdf](http://library.state.or.us/repository/2009/200912081306312/OSP_CJIS_docs_2001_annual_report_01.pdf).

<sup>10</sup> CJIS Div., Fed. Bureau of Investigation, SRS to NIBRS: The Path to Better UCR Data, <https://www.fbi.gov/services/cjis/cjis-link/srs-to-nibrs-the-path-to-better-ucr-data>.

<sup>11</sup> Bureau of Justice Statistics, U.S. Dep’t of Justice, 2017 NCS-X Estimation Project (Jul. 27, 2017), available at <https://www.bjs.gov/content/pub/pdf/17ncxep.pdf>.

<sup>12</sup> CJIS Div., Oregon State Police, State of Oregon Report of Criminal Offenses and Arrests: 2016 Annual Report (updated Oct. 10, 2017), available at <http://www.oregon.gov/osp/CJIS/docs/2016%20Annual%20Report/2016AnnualReport.pdf>.

## FBI HATE CRIME STATISTICS

Pursuant to the Hate Crime Statistics Act (HCSA) of 1990 the FBI UCR Program collects data on "crimes that manifest evidence of prejudice based on race, gender or gender identity, religion, disability, sexual orientation, or ethnicity."<sup>13</sup>

Since 1993, the FBI UCR Program has published the annual report, *Hate Crime Statistics*, which is based on voluntary submissions from participating law enforcement agencies. In 2016, agencies from 49 states and the District of Columbia participated in the national hate crime statistics program.

For the most part, hate crime data is collected at the state level and forwarded to the FBI UCR Program. A total of 48 states maintain a state-level UCR data collection. UCR programs in 38 states publish annual hate crime statistics. Some participating law enforcement agencies submit hate crime data directly to the FBI UCR program.<sup>14</sup>



## FBI HATE CRIME STATISTICS PARTICIPANT

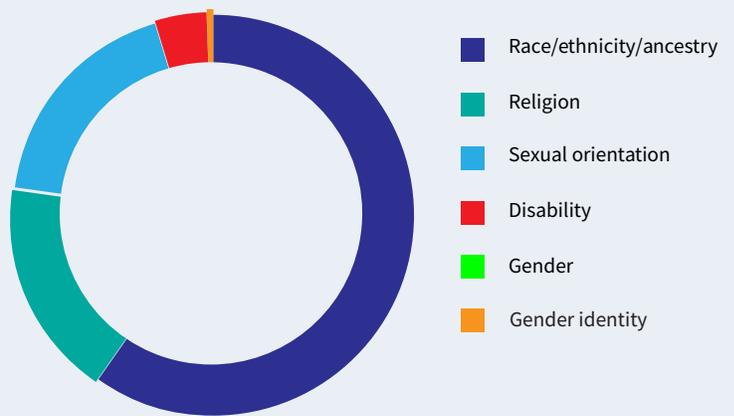
Law enforcement agencies in Oregon submit hate crime data to the FBI UCR Program through the CJIS. According to the FBI UCR Program's annual report, *Hate Crime Statistics*, 104 hate crime incidents were reported in Oregon in 2016.

In 2016, 28 of the 170 Oregon law enforcement agencies participating in the national hate crime statistics program submitted incident reports to the FBI UCR Program. The Hillsboro Police Department, which represents a population of 104,440, submitted only zero data.

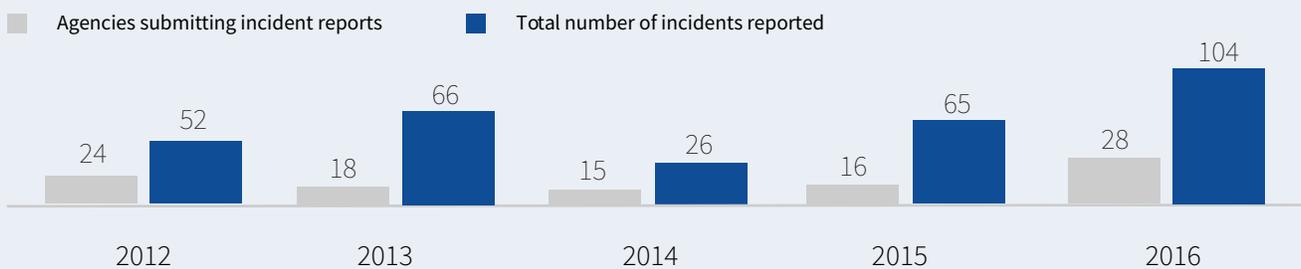
According to annual hate crime statistics published by the CJIS, 134 hate crime incidents were reported in Oregon in 2016. This total conflicts with the FBI UCR Program's annual report, *Hate Crime Statistics, 2016*. Discrepancies occur between state and federal hate crime statistics for 2012-2015 as well.

## FBI HATE CRIME STATISTICS: OREGON 2012-2016

| Incidents per bias motivation | 2012      | 2013      | 2014      | 2015      | 2016       | Total      |
|-------------------------------|-----------|-----------|-----------|-----------|------------|------------|
| Race/ethnicity/ancestry       | 28        | 41        | 17        | 41        | 61         | 188        |
| Religion                      | 10        | 10        | 3         | 9         | 23         | 55         |
| Sexual orientation            | 9         | 14        | 6         | 11        | 17         | 57         |
| Disability                    | 5         | 1         | 0         | 5         | 2          | 13         |
| Gender                        | -         | 0         | 0         | 0         | 0          | 0          |
| Gender identity               | -         | 0         | 0         | 0         | 1          | 1          |
| <b>Total</b>                  | <b>52</b> | <b>66</b> | <b>26</b> | <b>66</b> | <b>104</b> | <b>314</b> |



## PARTICIPATION IN UCR HATE CRIME STATISTICS PROGRAM



## SUMMARY

The state of Oregon has an inclusive hate crime statute. Furthermore, Oregon has statutes that require reporting, data collection, and specific law enforcement training on hate crime. The Oregon State Police, Criminal Justice Information Services Division, maintains the state clearinghouse for all police-reported crime data, including hate crime, and is responsible for publishing annual statistics. Copies of Annual Oregon Crime Report can be found on the official state government website and include both anti-Arab and anti-Islamic (Muslim) hate crime statistics. In 2016, 28 Oregon law enforcement agencies submitted hate crime incident reports to the FBI UCR Program. The remaining 142 participating agencies provided only zero data. A total of 10 participating agencies recorded blank data in at least one quarterly submission period. Oregon receives an overall score of 100 points, denoting a strong response to hate crime.

<sup>13</sup> 28 U.S.C. § 534 (JUSTIA 2016), available at <https://law.justia.com/codes/us/2016/title-28/part-ii/chapter-33/sec.-534>.

<sup>14</sup> Uniform Crime Reporting Program, Fed. Bureau of Investigation, Data Quality Guidelines, [https://ucr.fbi.gov/data\\_quality\\_guidelines](https://ucr.fbi.gov/data_quality_guidelines).

# ADVOCACY RESOURCES - Oregon

## IMPROVING THE RESPONSE

Most states have failed to enact sufficient legislation to address, prevent, and counteract hate crime in American communities. To accompany our federal hate crime laws, state legislatures must pass the following:

1. **An inclusive hate crime statute**, which covers a wide range of criminal offenses and provides enhanced penalties for crimes motivated because of citizenship status, race, ethnicity, color, disability, age, ancestry or national origin, gender or gender identity, sexual orientation, religion, or homelessness. Such protections are pursuant to model hate crime legislation drafted by the Arab American Institute. According to the model statute, penalty enhancement may incorporate alternatives to fines or increased prison sentences. Alternatives include restitution for victims and communities, participation in educational programs, and restorative justice.
2. **Statutes that require reporting, data collection, and specific law enforcement training on hate crime.** Centralized state agencies must publish comprehensive, accessible statistics on the nature and extent of hate crime occurring within their state. These statistics must conform to national UCR standards and include the bias motivation categories identified in the FBI's annual report, *Hate Crime Statistics*. States must also require law enforcement training schools to provide comprehensive training to ensure that officers are prepared to investigate, report, and respond to hate crime incidents.

## STATE RECOMMENDATIONS

According to our rating methodology, Oregon receives an overall score of 100 points, denoting a strong response to hate crime. Some room for improvement remains. Advocates for an improved response to hate crime in Oregon should promote the following:

1. The current Oregon hate crime statute offers protections for race, color, religion, sexual orientation, which is defined so as to include gender and gender identity, disability, and national origin. The Oregon hate crime statute should be amended to include **citizenship status, ethnicity, age, ancestry, homelessness**, or association with a person or group with one of these actual or perceived characteristics.

In 2016, 28 of the 170 Oregon law enforcement agencies participating in the national hate crime statistics program submitted incident reports to the FBI UCR Program.

- While Oregon state code already requires hate crime reporting and data collection, the Oregon State Police must ensure that law enforcement officers in the state are prepared to investigate, identify, and report hate crime incidents.

## STATE CONTACTS

Advocates for an improved response to hate crime in Oregon should contact current state legislators and members of Congress.

### Oregon State Legislature

Senate: <https://www.oregonlegislature.gov/senate>

House: <https://www.oregonlegislature.gov/house>

### United States Senate

Contact: Oregon

<https://www.senate.gov/senators/contact>

### United States House of Representatives

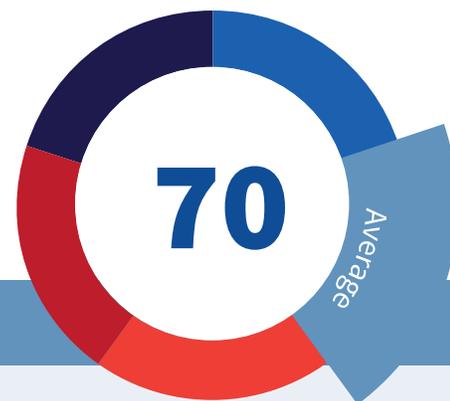
Directory of Representatives: Oregon

<https://www.house.gov/representatives#state-oregon>

# PENNSYLVANIA

Total population: 12,784,227

Rank of Arab American population by state: 11



0 anti-Arab hate crime incidents were reported in PA in 2016.

**Pennsylvania** is the 6th most populated state and has the 11th largest Arab American population in the US.

The Pennsylvania State Police (PSP), Bureau of Research and Development (BRD) is the state agency responsible for the collection and publication of hate crime data. According to the PSP, there were no reported anti-Arab hate crime incidents in Pennsylvania in 2016.

## HATE CRIME STATUTE

18 Pa. Cons. Stat. § 2710 provides enhanced penalties for the crime of “ethnic intimidation.” A person commits ethnic intimidation when, “with malicious intention toward the race, color, religion or national origin of another individual or group of individuals,” that person commits a certain offense “with respect to such individual or his or her property or with respect to one or more members of such group or to their property.”<sup>1</sup> Those offenses include any under the provisions of Article B. Offenses Involving Danger to the Person,<sup>2</sup> or under Chapter 33 (relating to arson, criminal mischief and other property destruction),<sup>3</sup> or under Section 3503 (relating to criminal trespass).<sup>4</sup>

The current Pennsylvania hate crime statute is not sufficiently inclusive, as it does not offer protections for sexual orientation, disability, gender, or gender identity.

## DATA COLLECTION STATUTE

037 Pa. Code § 53.11 requires law enforcement agencies in Pennsylvania to report hate crimes on a monthly basis to the state’s UCR program housed within the Pennsylvania State Police.<sup>5</sup> Pursuant to 037 Pa. Code § 53.12, the PSP is responsible for “collecting, preserving, protecting and disseminating” all hate crime-related information received from participating law enforcement agencies.<sup>6</sup>

## LAW ENFORCEMENT TRAINING STATUTE

**There is no Pennsylvania statute that requires specific law enforcement training on hate crime.** According to 037 Pa. Code § 203.51, the Pennsylvania Municipal Police Officers’ Education and Training Commission (MPOETC) is required to prescribe the basic training curriculum for law enforcement officers in the state.<sup>7</sup> The current MPOETC basic police training curriculum includes instruction on ethnic intimidation and bias crimes.<sup>8</sup>

### PENNSYLVANIA

| Hate Crime Statute                       | 20/40 |
|---|-------|
| No statute; civil action or civil rights law  | -     |
| Hate crime statute, with protections for:   | 10    |
| Race/ethnicity/ancestry   | 5     |
| Religion  | 5     |
| Sexual orientation  | -     |
| Disability  | -     |
| Gender  | -     |
| Gender identity   | -     |
| Data Collection Statute                | 15/15 |
| Data collection (voluntary reporting)   | -     |
| Mandatory reporting and data collection   | 15    |
| Law Enforcement Training Statute       | 5/15  |
| No statute; comprehensive training  | 5     |
| Mandatory training  | -     |
| Annual Hate Crime Report               | 20/20 |
| Annual hate crime report, including:  | 10    |
| Anti-Arab hate crime statistics   | 5     |
| Anti-Islamic (Muslim) hate crime statistics   | 5     |
| FBI Hate Crime Statistics Participant  | 10/10 |
| TOTAL   | 70    |

<sup>1</sup> 18 Pa. Cons. Stat. § 2710 (JUSTIA 2017), available at <https://law.justia.com/codes/pennsylvania/2017/title-18/chapter-27/section-2710>.

<sup>2</sup> 18 Pa. Cons. Stat. § 2301 (JUSTIA 2017), available at <https://law.justia.com/codes/pennsylvania/2017/title-18/chapter-23/section-2301>.

<sup>3</sup> 18 Pa. Cons. Stat. § 33 (JUSTIA 2017), available at <https://law.justia.com/codes/pennsylvania/2017/title-18/chapter-33>.

<sup>4</sup> 18 Pa. Cons. Stat. § 3503 (JUSTIA 2017), available at <https://law.justia.com/codes/pennsylvania/2017/title-18/chapter-35/section-3503>.

<sup>5</sup> 037 Pa. Code § 53.11 (JUSTIA 2017), available at <https://www.pacode.com/secure/data/037/chapter53/s53.11.html>.

<sup>6</sup> 037 Pa. Code § 53.12, available at <https://www.pacode.com/secure/data/037/chapter53/s53.12.html>.

<sup>7</sup> 037 Pa. Code § 203.51, available at <https://www.pacode.com/secure/data/037/chapter203/s203.51.html>.

<sup>8</sup> Municipal Police Officers’ Education & Training Commission, Pennsylvania State Police, Basic Police Training Syllabus (Aug. 7, 2017), available at <https://www.psp.pa.gov/MPOETC/training/Documents/Revised%20Training%20Documents/Basic%20Police%20Officer%20Training/Basic%20Police%20Training%20Syllabus.pdf>.

## DATA COLLECTION & STATISTICS

Pursuant to P.L. 1383, No. 180 § 506, the BRD publishes an annual report on crime statistics.<sup>9</sup> The 1999-2015 editions of *Crime in Pennsylvania* can be found on the state's UCR program website and include hate crime statistics.<sup>10</sup> The PSP also provides up-to-date Monthly Summary Hate Reports.<sup>11</sup>



## ANNUAL STATEWIDE HATE CRIME REPORT

State-level hate crime statistics published by the BRD include data on both anti-Arab and anti-Islamic (Muslim) hate crime. The BRD tabulates hate crime data according to the number of incidents per disaggregated bias motivation category.

- ANTI-ARAB HATE CRIME STATISTICS**  
 Anti-Arab hate crime statistics are provided in the 2015 edition of *Crime in Pennsylvania* and subsequent Monthly Summary Hate Reports. According to the BRD, 2 anti-Arab hate crime incidents were reported in Pennsylvania in 2015.
- ANTI-ISLAMIC (MUSLIM) HATE CRIME STATISTICS**  
 Anti-Islamic (Muslim) hate crime statistics are provided in the 1999-2015 editions of *Crime in Pennsylvania* and subsequent Monthly Summary Hate Reports. From 2000 to 2001 there was a significant increase of reported anti-Islamic (Muslim) hate crime incidents. According to the BRD, 2 anti-Islamic (Muslim) hate crime incidents were reported in Pennsylvania in 2016.

## UNIFORM CRIME REPORTING (UCR)

By January 2021, the FBI Uniform Crime Reporting (UCR) Program will depend solely on the National Incident-Based Reporting System (NIBRS) to collect nationwide crime data.<sup>12</sup> This transition entails the sunset of summary-based crime reporting (SRS) and requires cooperation on the part of state UCR programs and individual reporting agencies.

The Pennsylvania UCR program is one of 18 state programs that rely on both SRS and NIBRS data.<sup>13</sup> As of 2013, a total of 23 Pennsylvania law enforcement agencies were submitting crime data via NIBRS.<sup>14</sup> According to the Bureau of Justice Statistics, Pennsylvania has received funding through the National Crime Statistics Exchange (NCS-X) Initiative and is in the midst of NIBRS implementation.<sup>15</sup>

NIBRS reporting enables criminal justice agencies to acquire a better understanding of crime, including hate crime, occurring within their respective jurisdictions. This in turn has positive implications for effective law enforcement response and policy implementation.

## CONTACT

Bureau of Research and Development  
 Pennsylvania State Police  
 1800 Elmerton Avenue  
 Harrisburg, Pennsylvania 17110  
 (717) 783-4776  
<http://ucr.psp.state.pa.us>

## CRIME IN PENNSYLVANIA HATE CRIME INCIDENTS (2000-2016)

| Bias motivation                    | '00 | '01 | '02 | '03 | '04 | '05 | '06 | '07 | '08 | '09 | '10 | '11 | '12 | '13 | '14 | '15 | '16 |
|------------------------------------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| Anti-Arab                          | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | 2   | 0   |
| Anti-Islamic (Muslim)              | 0   | 16  | 5   | 3   | 1   | 1   | 1   | 2   | 2   | 1   | 2   | 2   | 2   | 2   | 5   | 6   | 2   |
| Anti-other race/ethnicity/ancestry | 3   | 9   | 4   | 0   | 2   | 3   | 2   | 5   | 4   | 3   | 0   | 1   | 1   | 0   | 0   | 4   | 1   |

According to supplemental data from the FBI, a single anti-Islamic (Muslim) hate crime incident was reported in Pennsylvania in 2016. This total conflicts with BRD statistics. Pennsylvania law enforcement agencies submit hate crime data to the FBI UCR Program through the BRD.

## FBI HATE CRIME STATISTICS (2015-2016)

| Bias motivation       | '15 | '16 |
|-----------------------|-----|-----|
| Anti-Arab             | 2   | 0   |
| Anti-Islamic (Muslim) | 4   | 1   |

<sup>9</sup> Pennsylvania Uniform Crime Reporting System, Pennsylvania State Police, Annual 'Crime in PA' Reports, <http://www.paucrs.pa.gov/UCR/Reporting/Annual/AnnualSumArrestUI.asp>.

<sup>10</sup> Pennsylvania Uniform Crime Reporting System, Pennsylvania State Police, Monthly Summary Hate Reports, <http://www.paucrs.pa.gov/UCR/Reporting/Monthly/Summary/MonthlySumHateUI.asp>.

<sup>11</sup> CJIS Div., Fed. Bureau of Investigation, SRS to NIBRS: The Path to Better UCR Data, <https://www.fbi.gov/services/cjis/cjis-link/srs-to-nibrs-the-path-to-better-ucr-data>.

<sup>12</sup> Bureau of Justice Statistics, U.S. Dep't of Justice, 2017 NCS-X Estimation Project (Jul. 27, 2017), available at <https://www.bjs.gov/content/pub/pdf/17ncsexp.pdf>.

<sup>13</sup> Uniform Crime Reporting Program, Fed. Bureau of Investigation, NIBRS Participation by State (2013), available at <https://ucr.fbi.gov/nibrs/2013/resources/nibrs-participation-by-state>.

<sup>14</sup> Bureau of Justice Statistics, U.S. Dep't of Justice, National Crime Statistics Exchange (last updated Jun. 2017), <https://www.bjs.gov/content/ncsx.cfm>.

## FBI HATE CRIME STATISTICS

Pursuant to the Hate Crime Statistics Act (HCSA) of 1990 the FBI UCR Program collects data on "crimes that manifest evidence of prejudice based on race, gender or gender identity, religion, disability, sexual orientation, or ethnicity."<sup>16</sup>

Since 1993, the FBI UCR Program has published the annual report, *Hate Crime Statistics*, which is based on voluntary submissions from participating law enforcement agencies. In 2016, agencies from 49 states and the District of Columbia participated in the national hate crime statistics program.

For the most part, hate crime data is collected at the state level and forwarded to the FBI UCR Program. A total of 48 states maintain a state-level UCR data collection. UCR programs in 38 states publish annual hate crime statistics. Some participating law enforcement agencies submit hate crime data directly to the FBI UCR program.<sup>17</sup>



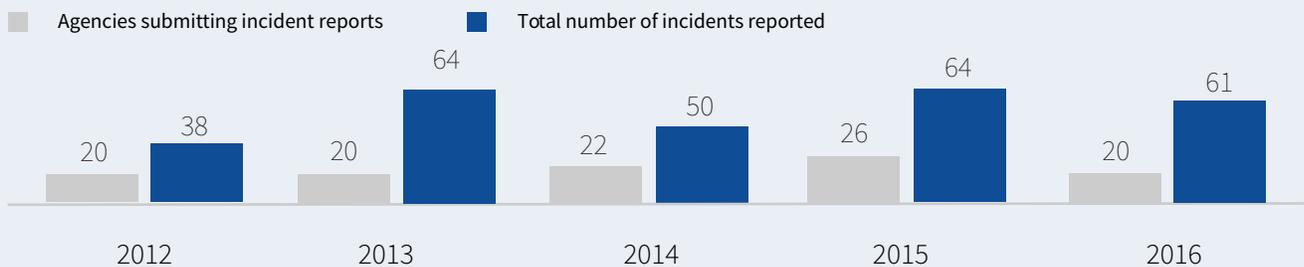
## FBI HATE CRIME STATISTICS PARTICIPANT

Law enforcement agencies in Pennsylvania submit hate crime data to the FBI UCR Program through the BRD. According to the FBI UCR Program's annual report, *Hate Crime Statistics*, 61 hate crime incidents were reported in Pennsylvania in 2016.

In 2016, 20 of the 1,463 Pennsylvania law enforcement agencies participating in the national hate crime statistics program submitted incident reports to the FBI UCR Program. Agencies representing two of the five largest cities in Pennsylvania submitted only zero data.

According to annual hate crime statistics published by the BRD, 72 hate crime incidents were reported in Pennsylvania in 2016. This total conflicts with the FBI UCR Program's annual report, *Hate Crime Statistics, 2016*. Discrepancies occur between state and federal hate crime statistics for 2012-2015 as well.

## PARTICIPATION IN UCR HATE CRIME STATISTICS PROGRAM

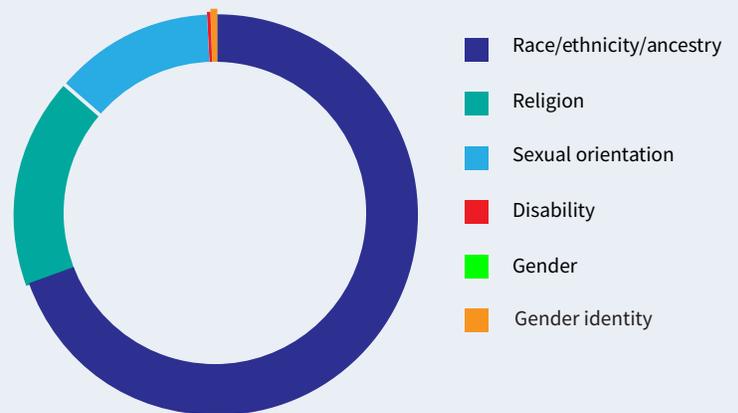


## SUMMARY

The current Pennsylvania hate crime statute is not sufficiently inclusive, as it does not offer protections for sexual orientation, disability, gender, or gender identity. While Pennsylvania has statutes that require reporting and data collection, there is no state law regarding mandatory police training on hate crime. The Pennsylvania Municipal Police Officers Education and Training Commission has, however, incorporated instruction on ethnic intimidation/bias crime into its basic training curriculum for law enforcement officers within the state. The Pennsylvania State Police maintains the state clearinghouse for all police-reported crime data, including hate crime, and is responsible for publishing annual statistics. Copies of *Crime in Pennsylvania* can be found on the state's UCR program website and include both anti-Arab and anti-Islamic (Muslim) hate crime statistics. In 2016, 20 Pennsylvania law enforcement agencies submitted hate crime incident reports to the FBI UCR Program. The remaining 1,443 participating agencies provided only zero data. A total of 292 participating agencies recorded blank data in at least one quarterly submission period. Pennsylvania receives an overall score of 70 points, denoting an average response to hate crime.

## FBI HATE CRIME STATISTICS: PENNSYLVANIA 2012-2016

| Incidents per bias motivation | 2012      | 2013      | 2014      | 2015      | 2016      | Total      |
|-------------------------------|-----------|-----------|-----------|-----------|-----------|------------|
| Race/ethnicity/ancestry       | 27        | 45        | 41        | 40        | 40        | 193        |
| Religion                      | 7         | 11        | 8         | 12        | 9         | 47         |
| Sexual orientation            | 4         | 8         | 1         | 11        | 11        | 35         |
| Disability                    | 0         | 0         | 0         | 0         | 1         | 1          |
| Gender                        | -         | 0         | 0         | 0         | 0         | 0          |
| Gender identity               | -         | 0         | 0         | 1         | 0         | 1          |
| <b>Total</b>                  | <b>38</b> | <b>64</b> | <b>50</b> | <b>64</b> | <b>61</b> | <b>277</b> |



<sup>15</sup> 28 U.S.C. § 534 (JUSTIA 2016), available at <https://law.justia.com/codes/us/2016/title-28/part-ii/chapter-33/sec.-534>.

<sup>16</sup> Uniform Crime Reporting Program, Fed. Bureau of Investigation, Data Quality Guidelines, [https://ucr.fbi.gov/data\\_quality\\_guidelines](https://ucr.fbi.gov/data_quality_guidelines).

# ADVOCACY RESOURCES - Pennsylvania

## IMPROVING THE RESPONSE

Most states have failed to enact sufficient legislation to address, prevent, and counteract hate crime in American communities. To accompany our federal hate crime laws, state legislatures must pass the following:

1. **An inclusive hate crime statute**, which covers a wide range of criminal offenses and provides enhanced penalties for crimes motivated because of citizenship status, race, ethnicity, color, disability, age, ancestry or national origin, gender or gender identity, sexual orientation, religion, or homelessness. Such protections are pursuant to model hate crime legislation drafted by the Arab American Institute. According to the model statute, penalty enhancement may incorporate alternatives to fines or increased prison sentences. Alternatives include restitution for victims and communities, participation in educational programs, and restorative justice.
2. **Statutes that require reporting, data collection, and specific law enforcement training on hate crime.** Centralized state agencies must publish comprehensive, accessible statistics on the nature and extent of hate crime occurring within their state. These statistics must conform to national UCR standards and include the bias motivation categories identified in the FBI's annual report, *Hate Crime Statistics*. States must also require law enforcement training schools to provide comprehensive training to ensure that officers are prepared to investigate, report, and respond to hate crime incidents.

## STATE RECOMMENDATIONS

According to our rating methodology, Pennsylvania receives an overall score of 70 points, denoting an average response to hate crime. Advocates for an improved response to hate crime in Pennsylvania should promote the following:

1. The current Pennsylvania hate crime statute offers protections for race, color, religion, and national origin. The Pennsylvania hate crime statute should be amended to include protections for **citizenship status, ethnicity, disability, age, ancestry, gender or gender identity, sexual orientation, homelessness**, or association with a person or group with one of these actual or perceived characteristics.

In 2016, 20 of the 1,463 Pennsylvania law enforcement agencies participating in the national hate crime statistics program submitted incident reports to the FBI UCR Program.

- Pennsylvania must transition to the National Incident-Based Reporting System (NIBRS) to facilitate hate crime reporting and data collection. By January 2021, all law enforcement agencies in the United States will be required to report crime information through NIBRS.
2. Pennsylvania state code does not require specific law enforcement training on hate crime. While the Pennsylvania Municipal Police Officers' Education and Training Commission has established a basic police training curriculum that includes instruction on ethnic intimidation and bias crime, instruction relating to investigating and reporting hate crime incidents should be required by law.

## STATE CONTACTS

Advocates for an improved response to hate crime in Pennsylvania should contact current state legislators and members of Congress.

### Pennsylvania General Assembly

Senate: <http://www.pasen.gov>

House: <http://www.house.state.pa.us>

### United States Senate

Contact: Pennsylvania

<https://www.senate.gov/senators/contact>

### United States House of Representatives

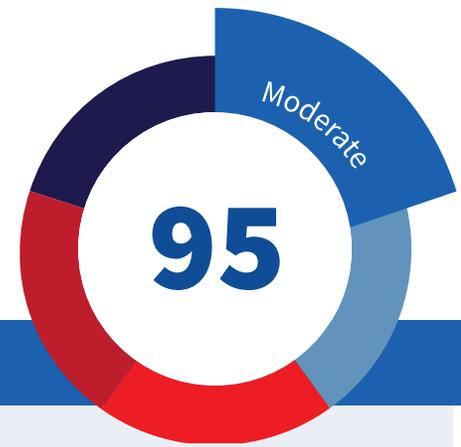
Directory of Representatives: Pennsylvania

<https://www.house.gov/representatives#state-pennsylvania>

# RHODE ISLAND

Total population: 1,056,426

Rank of Arab American population by state: 31



0 anti-Arab hate crime incidents were reported in RI in 2016.

**Rhode Island** is the 43rd most populated state and has the 31st largest Arab American population in the US.

The Rhode Island State Police, Uniform Crime Reporting Unit, is the state agency responsible for the collection and publication of hate crime data. According to the RISP, there were no anti-Arab hate crime incidents reported in Rhode Island in 2016.

## HATE CRIME STATUTE

12 R.I. Gen. Laws § 12-19-38 provides enhanced penalties for crimes committed against a person or property “because of the actor’s hatred or animus toward the actual or perceived disability, religion, color, race, national origin or ancestry, sexual orientation, or gender” of that person or owner or occupant of that property.<sup>1</sup>

The current Rhode Island hate crime statute is not sufficiently inclusive, as it does not offer protections for gender identity.

## DATA COLLECTION STATUTE

42 R.I. Gen. Laws § 42-28-46 requires law enforcement agencies to report the occurrence of crimes evidently motivated by “racial, religious, ethnic, sexual orientation, gender, gender identity or expression or disability prejudice or motivated by prejudice against a person who is homeless or is perceived to be homeless” to the Rhode Island State Police (RISP).<sup>2</sup> The RISP is required to maintain a permanent record of hate crime offenses and manage the “collection, analysis, and dissemination” of hate crime data.<sup>3</sup>

## LAW ENFORCEMENT TRAINING STATUTE

42 R.I. Gen. Laws § 42-28.2-8.1 requires the Rhode Island Police Officers Commission on Standards and Training to “prepare and publish mandatory training standards to provide instruction for police officers in identifying, responding to and reporting” hate crimes.<sup>4</sup> Pursuant to this section, the training must be included “in all curricula for recruits and in-service trainees, in all police academies operated or certified by the commission.”<sup>5</sup>

The basic recruit requirements for Rhode Island police officers are provided on the state’s municipal police training academy website.<sup>6</sup> Hate crimes are included as a mandatory topic of instruction.

### RHODE ISLAND

| Hate Crime Statute                       | 35/40 |
|---|-------|
| No statute; civil action or civil rights law  | -     |
| Hate crime statute, with protections for:   | 10    |
| Race/ethnicity/ancestry   | 5     |
| Religion  | 5     |
| Sexual orientation  | 5     |
| Disability  | 5     |
| Gender  | 5     |
| Gender identity   | -     |
| Data Collection Statute                | 15/15 |
| Data collection (voluntary reporting)   | -     |
| Mandatory reporting and data collection   | 15    |
| Law Enforcement Training Statute       | 15/15 |
| No statute; comprehensive training  | -     |
| Mandatory training  | 15    |
| Annual Hate Crime Report               | 20/20 |
| Annual hate crime report, including:  | 10    |
| Anti-Arab hate crime statistics   | 5     |
| Anti-Islamic (Muslim) hate crime statistics   | 5     |
| FBI Hate Crime Statistics Participant  | 10/10 |
| TOTAL   | 95    |

<sup>1</sup> 12 R.I. Gen. Laws § 12-19-38 (JUSTIA 2017), available at <https://law.justia.com/codes/rhode-island/2017/title-12/chapter-12-19/section-12-19-38>.

<sup>2</sup> 42 R.I. Gen. Laws § 42-28-46(a)(2) (JUSTIA 2017), available at <https://law.justia.com/codes/rhode-island/2017/title-42/chapter-42-28/section-42-28-46>.

<sup>3</sup> 42 R.I. Gen. Laws § 42-28-46(b), id.

<sup>4</sup> 42 R.I. Gen. Laws § 42-28.2-8.1 (JUSTIA 2017), available at <https://law.justia.com/codes/rhode-island/2017/title-42/chapter-42-28.2/section-42-28.2-8.1>.

<sup>5</sup> *Id.*

<sup>6</sup> Municipal Police Training Academy, Rhode Island Dep’t of Pub. Safety, Basic Recruit Requirements, <http://rimpa.ri.gov/basicrecruitment/requirements.php>.

## DATA COLLECTION & STATISTICS

Pursuant to 12 R.I. Gen. Laws § 12-24-3, the RISP publishes an annual report on crime statistics.<sup>7</sup> The 1997-2016 editions of *Crime in Rhode Island* can be found on the RISP website and include hate crime statistics.<sup>8</sup>



## ANNUAL STATEWIDE HATE CRIME REPORT

State-level hate crime statistics published by the RISP include data on both anti-Arab and anti-Islamic (Muslim) hate crime. The RISP tabulates hate crime data according to the number of incidents per disaggregated bias motivation category.

- ### ANTI-ARAB HATE CRIME STATISTICS

Anti-Arab hate crime statistics for are provided in the 1997-2004 and 2014-2016 editions of *Crime in Rhode Island*. From 2000 to 2001 there was a significant increase of reported anti-Arab hate crime incidents. According to the RISP, no anti-Arab hate crime incidents were reported in Rhode Island in 2016.

- ### ANTI-ISLAMIC (MUSLIM) HATE CRIME STATISTICS

Anti-Islamic (Muslim) hate crime statistics dating back to 1992 are provided in the 1997-2016 editions of *Crime in Rhode Island*. According to the RISP, a single anti-Islamic (Muslim) hate crime incident was reported in Rhode Island in 2016.

## UNIFORM CRIME REPORTING (UCR)

By January 2021, the FBI Uniform Crime Reporting (UCR) Program will depend solely on the National Incident-Based Reporting System (NIBRS) to collect nationwide crime data.<sup>9</sup> This transition entails the sunset of summary-based crime reporting (SRS) and requires cooperation on the part of state UCR programs and individual reporting agencies.

The Rhode Island UCR program is one of 18 state programs that rely on both SRS and NIBRS data.<sup>10</sup> According to the Bureau of Justice Statistics, more than 80 percent of the state's law enforcement agencies submit crime data via the NIBRS.<sup>11</sup>

NIBRS reporting enables criminal justice agencies to acquire a better understanding of crime, including hate crime, occurring within their respective jurisdictions. This in turn has positive implications for effective law enforcement response and policy implementation.

### CONTACT

Uniform Crime Reporting Unit  
Rhode Island State Police  
311 Danielson Pike  
North Scituate, Rhode Island 02857-1907  
(401) 444-1156  
[www.risp.ri.gov/stats/index.php](http://www.risp.ri.gov/stats/index.php)

## CRIME IN RHODE ISLAND HATE CRIME INCIDENTS (2000-2016)

| Bias motivation                    | '00 | '01 | '02 | '03 | '04 | '05 | '06 | '07 | '08 | '09 | '10 | '11 | '12 | '13 | '14 | '15 | '16 |
|------------------------------------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| Anti-Arab                          | 0   | 6   | 0   | 2   | 2   | -   | -   | -   | -   | -   | -   | -   | -   | -   | 0   | 0   | 0   |
| Anti-Islamic (Muslim)              | 0   | 1   | 1   | 1   | 0   | 0   | 0   | 0   | 0   | 2   | 2   | 1   | 0   | 0   | 2   | 2   | 1   |
| Anti-other race/ethnicity/ancestry | 0   | 1   | 0   | 1   | 1   | 0   | 1   | 4   | 1   | 1   | 0   | 0   | 0   | 0   | 0   | 1   | 0   |

According to supplemental data from the FBI, 3 anti-Islamic (Muslim) hate crime incidents were reported in Rhode Island from 2015 to 2016. This total is consistent with RISP statistics. Rhode Island law enforcement agencies submit hate crime data to the FBI UCR Program through the RISP.

## FBI HATE CRIME STATISTICS (2015-2016)

| Bias motivation       | '15 | '16 |
|-----------------------|-----|-----|
| Anti-Arab             | 0   | 0   |
| Anti-Islamic (Muslim) | 2   | 1   |

<sup>7</sup> 12 R.I. Gen. Laws § 12-24-3 (JUSTIA 2017), available at <https://law.justia.com/codes/rhode-island/2017/title-12/chapter-12-24/section-12-24-3>.

<sup>8</sup> State Police, Rhode Island Dep't of Pub. Safety, *Crime in Rhode Island Annual Reports*, <http://risp.ri.gov/ucr/index.php>.

<sup>9</sup> CJIS Div., Fed. Bureau of Investigation, *SRS to NIBRS: The Path to Better Data* (Mar. 28, 2017), <https://www.fbi.gov/services/cjis/cjis-link/srs-to-nibrs-the-path-to-better-ucr-data>.

<sup>10</sup> Bureau of Justice Statistics, U.S. Dep't of Justice, *2017 NCS-X Estimation Project* (Jul. 27, 2017), available at <https://www.bjs.gov/content/pub/pdf/17ncsxep.pdf>.

<sup>11</sup> Bureau of Justice Statistics, U.S. Dep't of Justice, *National Crime Statistics Exchange* (last updated Jun. 2017), <https://www.bjs.gov/content/ncsx.cfm>.

## FBI HATE CRIME STATISTICS

Pursuant to the Hate Crime Statistics Act (HCSA) of 1990 the FBI UCR Program collects data on "crimes that manifest evidence of prejudice based on race, gender or gender identity, religion, disability, sexual orientation, or ethnicity."<sup>12</sup>

Since 1993, the FBI UCR Program has published the annual report, *Hate Crime Statistics*, which is based on voluntary submissions from participating law enforcement agencies. In 2016, agencies from 49 states and the District of Columbia participated in the national hate crime statistics program.

For the most part, hate crime data is collected at the state level and forwarded to the FBI UCR Program. A total of 48 states maintain a state-level UCR data collection. UCR programs in 38 states publish annual hate crime statistics. Some participating law enforcement agencies submit hate crime data directly to the FBI UCR program.<sup>13</sup>



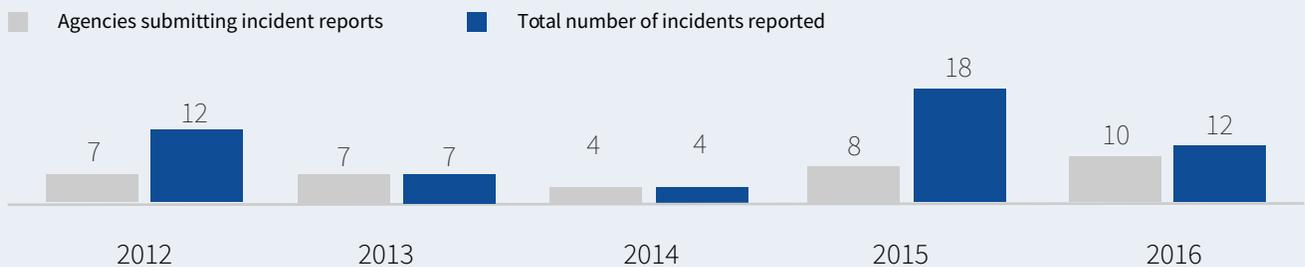
## FBI HATE CRIME STATISTICS PARTICIPANT

Law enforcement agencies in Rhode Island submit hate crime data to the FBI UCR Program through the RISP. According to the FBI UCR Program's annual report, *Hate Crime Statistics*, 12 hate crime incidents were reported in Rhode Island in 2016.

In 2016, 10 of the 49 Rhode Island law enforcement agencies participating in the national hate crime statistics program submitted incident reports to the FBI UCR Program. Agencies representing two of the five largest cities in Rhode Island submitted only zero data.

According to annual hate crime statistics published by the RISP, 12 hate crime incidents were reported in Rhode Island in 2016. This total is consistent with the FBI UCR Program's annual report, *Hate Crime Statistics, 2016*. Discrepancies occur between state and federal hate crime statistics for 2012-2014.

## PARTICIPATION IN UCR HATE CRIME STATISTICS PROGRAM

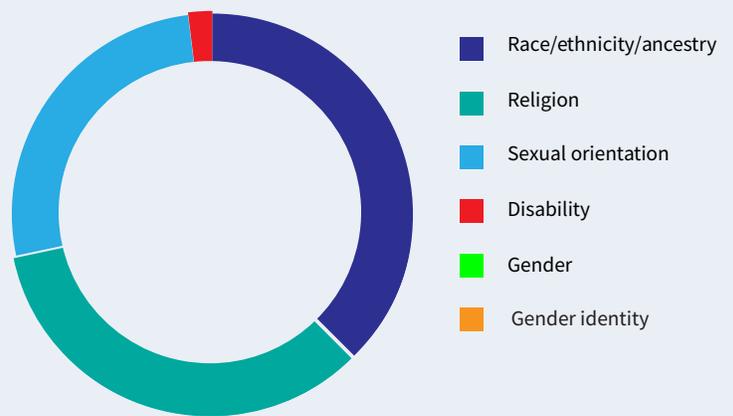


## SUMMARY

The current Rhode Island hate crime statute is not sufficiently inclusive, as it does not offer protections for gender identity. Rhode Island has statutes that require reporting, data collection, and specific law enforcement training on hate crime. The Rhode Island State Police, Uniform Crime Reporting Unit, maintains the state clearinghouse for all police-reported crime data, including hate crime, and is responsible for publishing annual statistics. In 2016, 10 Rhode Island law enforcement agencies submitted hate crime incident reports to the FBI UCR Program. The remaining 39 participating agencies provided only zero data. Rhode Island receives an overall score of 95 points, denoting a moderate response to hate crime.

## FBI HATE CRIME STATISTICS: RHODE ISLAND 2012-2016

| Incidents per bias motivation | 2012 | 2013 | 2014 | 2015 | 2016 | Total |
|-------------------------------|------|------|------|------|------|-------|
| Race/ethnicity/ancestry       | 5    | 5    | 2    | 6    | 2    | 20    |
| Religion                      | 2    | 2    | 1    | 7    | 6    | 18    |
| Sexual orientation            | 5    | 0    | 1    | 5    | 3    | 14    |
| Disability                    | 0    | 0    | 0    | 0    | 1    | 1     |
| Gender                        | -    | 0    | 0    | 0    | 0    | 0     |
| Gender identity               | -    | 0    | 0    | 0    | 0    | 0     |
| Total                         | 12   | 7    | 4    | 18   | 12   | 53    |



<sup>12</sup> 28 U.S.C. § 534 (JUSTIA 2016), available at <https://law.justia.com/codes/us/2016/title-28/part-ii/chapter-33/sec.-534>.

<sup>13</sup> Uniform Crime Reporting Program, Fed. Bureau of Investigation, Data Quality Guidelines, [https://ucr.fbi.gov/data\\_quality\\_guidelines](https://ucr.fbi.gov/data_quality_guidelines).

# ADVOCACY RESOURCES - Rhode Island

## IMPROVING THE RESPONSE

Most states have failed to enact sufficient legislation to address, prevent, and counteract hate crime in American communities. To accompany our federal hate crime laws, state legislatures must pass the following:

1. **An inclusive hate crime statute**, which covers a wide range of criminal offenses and provides enhanced penalties for crimes motivated because of citizenship status, race, ethnicity, color, disability, age, ancestry or national origin, gender or gender identity, sexual orientation, religion, or homelessness. Such protections are pursuant to model hate crime legislation drafted by the Arab American Institute. According to the model statute, penalty enhancement may incorporate alternatives to fines or increased prison sentences. Alternatives include restitution for victims and communities, participation in educational programs, and restorative justice.
2. **Statutes that require reporting, data collection, and specific law enforcement training on hate crime.** Centralized state agencies must publish comprehensive, accessible statistics on the nature and extent of hate crime occurring within their state. These statistics must conform to national UCR standards and include the bias motivation categories identified in the FBI's annual report, *Hate Crime Statistics*. States must also require law enforcement training schools to provide comprehensive training to ensure that officers are prepared to investigate, report, and respond to hate crime incidents.

## STATE RECOMMENDATIONS

According to our rating methodology, Rhode Island receives an overall score of 95 points, denoting a moderate response to hate crime. Advocates for an improved response to hate crime in Rhode Island should promote the following:

1. The current Rhode Island hate crime statute offers protections for disability, religion, color, race, national origin or ancestry, sexual orientation, and gender. The Rhode Island hate crime statute should be amended to include protections for **citizenship status, ethnicity, gender identity, homelessness**, or association with a person or group with one of these actual or perceived characteristics.

In 2016, 10 of the 49 Rhode Island law enforcement agencies participating in the national hate crime statistics program submitted incident reports to the FBI UCR Program.

- Rhode Island must transition to the National Incident-Based Reporting System (NIBRS) to facilitate hate crime reporting and data collection. By January 2021, all law enforcement agencies in the United States will be required to report crime information through NIBRS.

## STATE CONTACTS

Advocates for an improved response to hate crime in Rhode Island should contact current state legislators and members of Congress.

### Rhode Island General Assembly

Senate: <http://www.rilin.state.ri.us/senators>

House: <http://www.rilin.state.ri.us/representatives>

### United States Senate

Contact: Rhode Island

<https://www.senate.gov/senators/contact>

### United States House of Representatives

Directory of Representatives: Rhode Island

<https://www.house.gov/representatives#state-rhode-island>

# SOUTH CAROLINA

Total population: 4,961,119

Rank of Arab American population by state: 29



SC does not publish annual hate crime statistics.

**South Carolina** is the 23rd most populated state and has the 29th largest Arab American population.

The South Carolina Law Enforcement Division (SLED) is the state agency responsible for the collection and publication of crime data. The SLED does not publish annual hate crime statistics.

## HATE CRIME STATUTE

**South Carolina is one of five states, along with Arkansas, Georgia, Indiana, and Wyoming, that do not have a hate crime statute.** South Carolina does have a statute that provides enhanced penalties for “offenses against civil rights.” Pursuant to S.C. Code § 16-5-10, it is unlawful for two or more persons to conspire “with the intent to injure, oppress, or violate” another person or their property because of their political opinion or expression...or for those persons to “hinder, prevent, or obstruct a citizen in the free exercise” of their civil rights.<sup>1</sup>

The provisions in South Carolina’s civil rights law do not constitute hate crime protections.

## DATA COLLECTION STATUTE

**There is no South Carolina statute that requires hate crime reporting or data collection.** Pursuant to S.C. Code § 23-3-120, all South Carolina law enforcement agencies and court officials are required to report “all criminal data and related information within their respective jurisdictions” to the Central Records Repository housed within the SLED.<sup>2</sup>

## LAW ENFORCEMENT TRAINING STATUTE

**There is no South Carolina statute that requires specific law enforcement training on hate crime.** Pursuant to S.C. Code § 23-23-80, the South Carolina Law Enforcement Training Council (SCLETC) is authorized to consult with various state agencies and institutions, either within South Carolina or from another state, “concerning the development of police training schools, programs, or courses of instruction, selection, and training standards, or other pertinent matters relating to law enforcement.”<sup>3</sup>

The most up-to-date lesson plan catalog provided on the South Carolina Criminal Justice Academy’s website bears no indication of instruction on hate crime.<sup>4</sup> The SCLETC oversees the state’s criminal justice academy.<sup>5</sup>

### SOUTH CAROLINA

**Hate Crime Statute**  **5/40**

|  |   |
|--|---|
| No statute; civil action or civil rights law | 5 |
| Hate crime statute, with protections for:    | - |
| Race/ethnicity/ancestry                      | - |
| Religion                                     | - |
| Sexual orientation                           | - |
| Disability                                   | - |
| Gender                                       | - |
| Gender identity                              | - |

**Data Collection Statute**  **0/15**

|   |   |
|---|---|
| Data collection (voluntary reporting)   | - |
| Mandatory reporting and data collection | - |

**Law Enforcement Training Statute**  **0/15**

|                                    |   |
|------------------------------------|---|
| No statute; comprehensive training | - |
| Mandatory training                 | - |

**Annual Hate Crime Report**  **0/20**

|   |   |
|---|---|
| Annual hate crime report, including:        | - |
| Anti-Arab hate crime statistics             | - |
| Anti-Islamic (Muslim) hate crime statistics | - |

**FBI Hate Crime Statistics Participant**  **10/10**

**TOTAL** **15**

<sup>1</sup> S.C. Code § 16-5-10 (JUSTIA 2017), available at <https://law.justia.com/codes/south-carolina/2017/title-16/chapter-5/section-16-5-10>.

<sup>2</sup> S.C. Code § 23-3-120 (JUSTIA 2017), available at <https://law.justia.com/codes/south-carolina/2017/title-23/chapter-3/section-23-3-120>.

<sup>3</sup> S.C. Code § 23-23-80 (JUSTIA 2017), available at <https://law.justia.com/codes/south-carolina/2017/title-23/chapter-23/section-23-23-80>.

<sup>4</sup> South Carolina Criminal Justice Academy, South Carolina Law Enforcement Training, <http://sccja.sc.gov/training/Pages/default.aspx>.

<sup>5</sup> South Carolina Criminal Justice Academy, South Carolina Law Enforcement Training Act, <http://sccja.sc.gov/generalinfo/Pages/SCLawEnforcementTraining.aspx>.

## DATA COLLECTION & STATISTICS

In cooperation with the Department of Public Safety’s Office of Highway Safety and Justice Programs (OHSJP), the SLED publishes an annual report on crime statistics. The 2002-2015 editions of *Crime in South Carolina* can be found on the SLED website but do not include hate crime statistics.<sup>6</sup>



## ANNUAL STATEWIDE HATE CRIME REPORT

The SLED does not publish annual state-level hate crime statistics.

Bias motivation is a mandatory data element in all NIBRS submissions. As South Carolina is 100 percent NIBRS compliant, all crime data submissions from South Carolina law enforcement agencies indicate bias motivation. The SLED collects these submissions and forwards the data to the FBI UCR Program. Given the state’s NIBRS status, South Carolina is better equipped to publish annual state-level hate crime statistics than other non-reporting states.

- **ANTI-ARAB HATE CRIME STATISTICS**  
The SLED does not publish annual statistics on anti-Arab hate crime.
- **ANTI-ISLAMIC (MUSLIM) HATE CRIME STATISTICS**  
The SLED does not publish annual statistics on anti-Islamic (Muslim) hate crime.

## UNIFORM CRIME REPORTING (UCR)

By January 2021, the FBI Uniform Crime Reporting (UCR) Program will depend solely on the National Incident-Based Reporting System (NIBRS) to collect nationwide crime data.<sup>7</sup> This transition entails the sunset of summary-based crime reporting (SRS) and requires cooperation on the part of state UCR programs and individual reporting agencies.

The South Carolina UCR program is one of 16 state programs that rely exclusively on NIBRS data.<sup>8</sup>

NIBRS reporting enables criminal justice agencies to acquire a better understanding of crime, including hate crime, occurring within their respective jurisdictions. This in turn has positive implications for effective law enforcement response and policy implementation.

## CONTACT

South Carolina Law Enforcement Division  
Post Office Box 21398  
Columbia, South Carolina 29221-1398  
(803) 896-1639  
www.sled.sc.gov

## THE SOUTH CAROLINA LAW ENFORCEMENT DIVISION DOES NOT PUBLISH ANNUAL HATE CRIME STATISTICS.

| Bias motivation                    | '00 | '01 | '02 | '03 | '04 | '05 | '06 | '07 | '08 | '09 | '10 | '11 | '12 | '13 | '14 | '15 | '16 |
|------------------------------------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| Anti-Arab                          | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   |
| Anti-Islamic (Muslim)              | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   |
| Anti-other race/ethnicity/ancestry | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   |

According to supplemental data from the FBI, no anti-Arab or anti-Islamic (Muslim) hate crime incidents were reported in South Carolina from 2015 to 2016. South Carolina law enforcement agencies submit hate crime data to the FBI UCR Program through the SLED.

## FBI HATE CRIME STATISTICS (2015-2016)

| Bias motivation       | '15 | '16 |
|-----------------------|-----|-----|
| Anti-Arab             | 0   | 0   |
| Anti-Islamic (Muslim) | 0   | 0   |

<sup>6</sup> South Carolina Law Enforcement Div., Crime Statistics, <http://www.sled.sc.gov/SCCrimeBooks.aspx?MenuID=CrimeReporting>.

<sup>7</sup> CJIS Div., Fed. Bureau of Investigation, SRS to NIBRS: The Path to Better UCR Data, <https://www.fbi.gov/services/cjis/cjis-link/srs-to-nibrs-the-path-to-better-ucr-data>.

<sup>8</sup> Bureau of Justice Statistics, U.S. Dep’t of Justice, 2017 NCS-X Estimation Project (Jul. 27, 2017), available at <https://www.bjs.gov/content/pub/pdf/17ncsxp.pdf>.

## FBI HATE CRIME STATISTICS

Pursuant to the Hate Crime Statistics Act (HCSA) of 1990 the FBI UCR Program collects data on "crimes that manifest evidence of prejudice based on race, gender or gender identity, religion, disability, sexual orientation, or ethnicity."<sup>9</sup>

Since 1993, the FBI UCR Program has published the annual report, *Hate Crime Statistics*, which is based on voluntary submissions from participating law enforcement agencies. In 2016, agencies from 49 states and the District of Columbia participated in the national hate crime statistics program.

For the most part, hate crime data is collected at the state level and forwarded to the FBI UCR Program. A total of 48 states maintain a state-level UCR data collection. UCR programs in 38 states publish annual hate crime statistics. Some participating law enforcement agencies submit hate crime data directly to the FBI UCR program.<sup>10</sup>



## FBI HATE CRIME STATISTICS PARTICIPANT

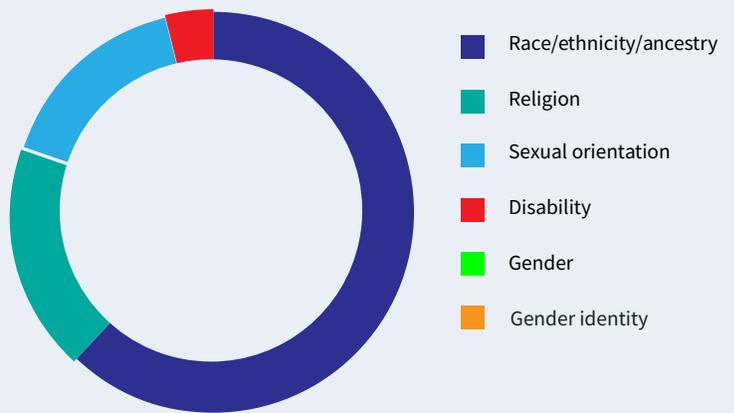
Law enforcement agencies in South Carolina submit hate crime data to the FBI UCR Program through the SLED. According to the FBI UCR Program's annual report, *Hate Crime Statistics*, 23 hate crime incidents were reported in South Carolina in 2016.

In 2016, 21 of the 440 South Carolina law enforcement agencies participating in the national hate crime statistics program submitted incident reports to the FBI UCR Program. Agencies representing the five largest cities in South Carolina submitted only zero data. Not since 2001 have fewer agencies in South Carolina submitted incident reports to the FBI UCR Program.

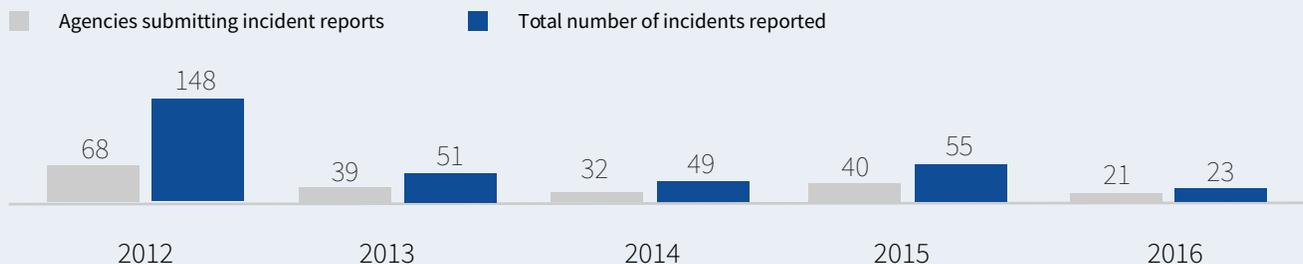
As the SLED does not publish an annual hate crime report, we are unable to make comparisons between state and federal hate crime statistics.

## FBI HATE CRIME STATISTICS: SOUTH CAROLINA 2012-2016

| Incidents per bias motivation | 2012       | 2013      | 2014      | 2015      | 2016      | Total      |
|-------------------------------|------------|-----------|-----------|-----------|-----------|------------|
| Race/ethnicity/ancestry       | 77         | 36        | 27        | 44        | 18        | 202        |
| Religion                      | 41         | 9         | 7         | 2         | 1         | 60         |
| Sexual orientation            | 26         | 6         | 10        | 7         | 3         | 52         |
| Disability                    | 4          | 0         | 5         | 2         | 1         | 12         |
| Gender                        | -          | 0         | 0         | 0         | 0         | 0          |
| Gender identity               | -          | 0         | 0         | 0         | 0         | 0          |
| <b>Total</b>                  | <b>148</b> | <b>51</b> | <b>49</b> | <b>55</b> | <b>23</b> | <b>325</b> |



## PARTICIPATION IN UCR HATE CRIME STATISTICS PROGRAM



## SUMMARY

South Carolina is one of five states, along with Arkansas, Georgia, Indiana, and Wyoming, that do not have a hate crime statute. While it does not qualify as a hate crime statute, South Carolina does have a law that provides enhanced penalties for certain offenses against civil rights. South Carolina lacks statutes that require reporting, data collection, or specific law enforcement training on hate crime. The South Carolina Law Enforcement Division maintains the state clearinghouse for all police-reported crime data, including hate crime, and is responsible for publishing annual statistics. Copies of *Crime in South Carolina* can be found on the SLED website but do not include hate crime statistics. In 2016, 21 South Carolina law enforcement agencies submitted hate crime incident reports to the FBI UCR Program. The remaining 419 participating agencies provided only zero data. A total of 9 participating agencies recorded blank data in at least one quarterly submission period. South Carolina receives an overall score of 15 points, denoting a minimal response to hate crime.

<sup>9</sup> 28 U.S.C. § 534 (JUSTIA 2016), available at <https://law.justia.com/codes/us/2016/title-28/part-ii/chapter-33/sec.-534>.

<sup>10</sup> Uniform Crime Reporting Program, Fed. Bureau of Investigation, Data Quality Guidelines, [https://ucr.fbi.gov/data\\_quality\\_guidelines](https://ucr.fbi.gov/data_quality_guidelines).

# ADVOCACY RESOURCES - South Carolina

## IMPROVING THE RESPONSE

Most states have failed to enact sufficient legislation to address, prevent, and counteract hate crime in American communities. To accompany our federal hate crime laws, state legislatures must pass the following:

1. **An inclusive hate crime statute**, which covers a wide range of criminal offenses and provides enhanced penalties for crimes motivated because of citizenship status, race, ethnicity, color, disability, age, ancestry or national origin, gender or gender identity, sexual orientation, religion, or homelessness. Such protections are pursuant to model hate crime legislation drafted by the Arab American Institute. According to the model statute, penalty enhancement may incorporate alternatives to fines or increased prison sentences. Alternatives include restitution for victims and communities, participation in educational programs, and restorative justice.
2. **Statutes that require reporting, data collection, and specific law enforcement training on hate crime.** Centralized state agencies must publish comprehensive, accessible statistics on the nature and extent of hate crime occurring within their state. These statistics must conform to national UCR standards and include the bias motivation categories identified in the FBI's annual report, *Hate Crime Statistics*. States must also require law enforcement training schools to provide comprehensive training to ensure that officers are prepared to investigate, report, and respond to hate crime incidents.

## STATE RECOMMENDATIONS

According to our rating methodology, South Carolina receives an overall score of 15 points, denoting a minimal response to hate crime. Advocates for an improved response to hate crime in South Carolina should promote the following:

1. **South Carolina is one of five states without a hate crime statute.** The South Carolina General Assembly must enact legislation for a new criminal statute prohibiting crimes motivated because of **citizenship status, race, ethnicity, color, disability, age, ancestry or national origin, gender or gender identity, sexual orientation, religion, homelessness**, or association with a person or group with one of these actual or perceived characteristics. Such protections are pursuant to model hate crime legislation drafted by the Arab American Institute.
2. South Carolina state code does not require reporting, data collection, or specific law enforcement training on hate crime. In 2016, 21 of the 440 South Carolina law enforcement agencies participating in the national hate crime statistics program submitted incident reports to the FBI UCR Program.
  - Law enforcement agencies must report hate crimes to the South Carolina Law Enforcement Division (SLED).
  - The SLED must collect data and publish statistics, conforming to national UCR standards, on the nature and extent of hate crime within the state.
  - The South Carolina Law Enforcement Training Council must prescribe instruction relating to investigating and reporting hate crime incidents for police training schools throughout the state.

## STATE CONTACTS

Advocates for an improved response to hate crime in South Carolina should contact current state legislators and members of Congress.

### South Carolina General Assembly

Senate: <https://www.scstatehouse.gov/senate.php>

House: <https://www.scstatehouse.gov/house.php>

### United States Senate

Contact: South Carolina

<https://www.senate.gov/senators/contact>

### United States House of Representatives

Directory of Representatives: South Carolina

<https://www.house.gov/representatives#state-south-carolina>

# SOUTH DAKOTA

Total population: 865,454

Rank of Arab American population by state: 45



0 anti-Arab hate crime incidents were reported in SD in 2016.

**South Dakota** is the 46th most populated state and has the 45th largest Arab American population.

Housed within the state's Bureau of Criminal Statistics, the South Dakota Criminal Statistical Analysis Center is the state agency responsible for the collection and publication of hate crime data. According to the SAC, there were no anti-Arab hate crime incidents reported in South Dakota in 2016.

## HATE CRIME STATUTE



S.D. Codified Laws § 22-19B-1 prohibits any person from committing a crime “maliciously and with specific intent to intimidate or harass” another person or group of persons because of their “race, ethnicity, religion, ancestry, or national origin.”<sup>1</sup> A violation of Section 22-19B-1, whether by assault, damaging or defacing property, or threatening to do so, is considered a felony and is defined as malicious intimidation or harassment.<sup>2</sup>

The current South Dakota hate crime statute is not sufficiently inclusive, as it does not offer protections for sexual orientation, disability, gender, or gender identity.

## DATA COLLECTION STATUTE



**There is no South Dakota statute that requires hate crime reporting or data collection.** S.D. Codified Laws § 23-6-4 requires the Bureau of Criminal Statistics (BCS), housed within the South Dakota Office of the Attorney General, to “collect and compile information, statistical and otherwise, which will...present an accurate survey of the number and character of crimes committed in the state.”<sup>3</sup>

S.D. Codified Laws § 23-6-16 requires South Dakota law enforcement agencies to submit reports and information relating to crime as requested by the director of the BCS.<sup>4</sup> Housed within the BCS, the Criminal Statistical Analysis Center (SAC) fulfills the duties pursuant to S.D. Codified Laws § 23-6-4.

## LAW ENFORCEMENT TRAINING STATUTE



**There is no South Dakota statute that requires specific law enforcement training on hate crime.** Pursuant to S.D. Codified Laws § 23-3-35(4), the South Dakota Law Enforcement Officers Standards and Training Commission (LEOSTC) is authorized to “establish minimum curriculum requirements for preparatory, in-service, and advanced courses and programs for schools operated by or for the state or any political subdivisions of the state for the specific purpose of training recruits or other law enforcement officers.”<sup>5</sup> Hate crime does not appear to be a mandatory topic of instruction in the current LEOSTC basic training curriculum.<sup>6</sup>

## SOUTH DAKOTA

| Hate Crime Statute                           | 20/40 |
|--|-------|
| No statute; civil action or civil rights law | -     |
| Hate crime statute, with protections for:    | 10    |
| Race/ethnicity/ancestry                      | 5     |
| Religion                                     | 5     |
| Sexual orientation                           | -     |
| Disability                                   | -     |
| Gender                                       | -     |
| Gender identity                              | -     |
| Data Collection Statute                      | 0/15  |
| Data collection (voluntary reporting)        | -     |
| Mandatory reporting and data collection      | -     |
| Law Enforcement Training Statute             | 0/15  |
| No statute; comprehensive training           | -     |
| Mandatory training                           | -     |
| Annual Hate Crime Report                     | 20/20 |
| Annual hate crime report, including:         | 10    |
| Anti-Arab hate crime statistics              | 5     |
| Anti-Islamic (Muslim) hate crime statistics  | 5     |
| FBI Hate Crime Statistics Participant        | 10/10 |
| TOTAL  | 50    |

<sup>1</sup> S.D. Codified Laws § 22-19B-1 (JUSTIA 2017), available at <https://law.justia.com/codes/south-dakota/2017/title-22/chapter-19b/section-22-19b-1>.

<sup>2</sup> *Id.*

<sup>3</sup> S.D. Codified Laws § 23-6-4 (JUSTIA 2017), available at <https://law.justia.com/codes/south-dakota/2017/title-23/chapter-06/section-23-6-4>.

<sup>4</sup> S.D. Codified Laws § 23-6-16 (JUSTIA 2017), available at <https://law.justia.com/codes/south-dakota/2017/title-23/chapter-06/section-23-6-16>.

<sup>5</sup> S.D. Codified Laws § 23-3-35(4) (JUSTIA 2017), available at <https://law.justia.com/codes/south-dakota/2017/title-23/chapter-03/section-23-3-35>.

<sup>6</sup> Law Enforcement Officers Standards and Training Commission, South Dakota Office of the Attorney General, available at <https://atg.sd.gov/LawEnforcement/Training/Certification/basic.aspx#>.

## DATA COLLECTION & STATISTICS

Pursuant to S.D. Codified Laws § 23-6-4, the SAC publishes an annual report on crime statistics. The 1997-2016 editions of *Crime in South Dakota* can be found on the state's Office of the Attorney General website and, excluding the 2004-2007 reports, provide hate crime statistics.<sup>7</sup>



## ANNUAL STATEWIDE HATE CRIME REPORT

State-level hate crime statistics published by the SAC include data on both anti-Arab and anti-Islamic (Muslim) hate crime. The SAC published a specialized report on hate crime from 1998 to 2003.<sup>8</sup> The SAC tabulates hate crime data according to the number of offenses per disaggregated bias motivation category.

- ANTI-ARAB HATE CRIME STATISTICS**  
 Anti-Arab hate crime statistics are provided in the 2014-2016 editions of *Crime in South Dakota*. According to the SAC, no anti-Arab hate crime offenses were reported in South Dakota in 2016.
- ANTI-ISLAMIC (MUSLIM) HATE CRIME STATISTICS**  
 Anti-Islamic (Muslim) hate crime statistics are provided in the 2008-2016 editions of *Crime in South Dakota*. According to the SAC, a single anti-Islamic (Muslim) hate crime offense was reported in South Dakota in 2015.

## UNIFORM CRIME REPORTING (UCR)

By January 2021, the FBI Uniform Crime Reporting (UCR) Program will depend solely on the National Incident-Based Reporting System (NIBRS) to collect nationwide crime data.<sup>9</sup> This transition entails the sunset of summary-based crime reporting (SRS) and requires cooperation on the part of state UCR programs and individual reporting agencies.

The South Dakota UCR program one of 16 state programs that rely exclusively on NIBRS data.<sup>10</sup>

NIBRS reporting enables criminal justice agencies to acquire a better understanding of crime, including hate crime, occurring within their respective jurisdictions. This in turn has positive implications for effective law enforcement response and policy implementation.

## CONTACT

South Dakota Statistical Analysis Center  
 George S. Mickelson Building  
 Suite 5  
 1302 East Highway 14  
 Pierre, South Dakota 57501-8505  
 (605) 773-6312  
[www.dci.sd.gov](http://www.dci.sd.gov)

## CRIME IN SOUTH DAKOTA HATE CRIME OFFENSES (2000-2016)

| Bias motivation                        | '00 | '01 | '02 | '03 | '04 | '05 | '06 | '07 | '08 | '09 | '10 | '11 | '12 | '13 | '14 | '15 | '16 |
|--|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| Anti-Arab                              | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | 0   | 0   | 0   |
| Anti-Islamic (Muslim)                  | 0   | 0   | 0   | 0   | -   | -   | -   | -   | 0   | 0   | 0   | 0   | 1   | 0   | 0   | 1   | 0   |
| Anti-other race/<br>ethnicity/ancestry | 0   | 2   | 0   | 1   | -   | -   | -   | -   | 3   | 2   | 7   | 0   | 0   | 1   | 1   | 1   | 0   |

According to supplemental data from the FBI, a single anti-Arab hate crime incident was reported in South Dakota in 2015. This total conflicts with SAC statistics. South Dakota law enforcement agencies submit hate crime data to the FBI UCR Program through the SAC.

## FBI HATE CRIME STATISTICS (2015-2016)

| Bias motivation       | '15 | '16 |
|-----------------------|-----|-----|
| Anti-Arab             | 1   | 0   |
| Anti-Islamic (Muslim) | 0   | 0   |

<sup>7</sup> Statistical Analysis Ctr., South Dakota Office of the Attorney General, *Crime in South Dakota Publications*, <https://atg.sd.gov/OurOffice/Departments/DCI/SAC/CrimeinSouthDakota.aspx>.

<sup>8</sup> Statistical Analysis Ctr., South Dakota Office of the Attorney General, *Hate Crime Summaries*, <https://atg.sd.gov/OurOffice/Departments/DCI/SAC/HateCrimes.aspx>.

<sup>9</sup> CJIS Div., Fed. Bureau of Investigation, *SRS to NIBRS: The Path to Better UCR Data*, <https://www.fbi.gov/services/cjis/cjis-link/srs-to-nibrs-the-path-to-better-ucr-data>.

<sup>10</sup> Bureau of Justice Statistics, U.S. Dep't of Justice, *2017 NCS-X Estimation Project (Jul. 27, 2017)*, available at <https://www.bjs.gov/content/pub/pdf/17ncsxp.pdf>.

## FBI HATE CRIME STATISTICS

Pursuant to the Hate Crime Statistics Act (HCSA) of 1990 the FBI UCR Program collects data on "crimes that manifest evidence of prejudice based on race, gender or gender identity, religion, disability, sexual orientation, or ethnicity."<sup>10</sup>

Since 1993, the FBI UCR Program has published the annual report, *Hate Crime Statistics*, which is based on voluntary submissions from participating law enforcement agencies. In 2016, agencies from 49 states and the District of Columbia participated in the national hate crime statistics program.

For the most part, hate crime data is collected at the state level and forwarded to the FBI UCR Program. A total of 48 states maintain a state-level UCR data collection. UCR programs in 38 states publish annual hate crime statistics. Some participating law enforcement agencies submit hate crime data directly to the FBI UCR program.<sup>11</sup>



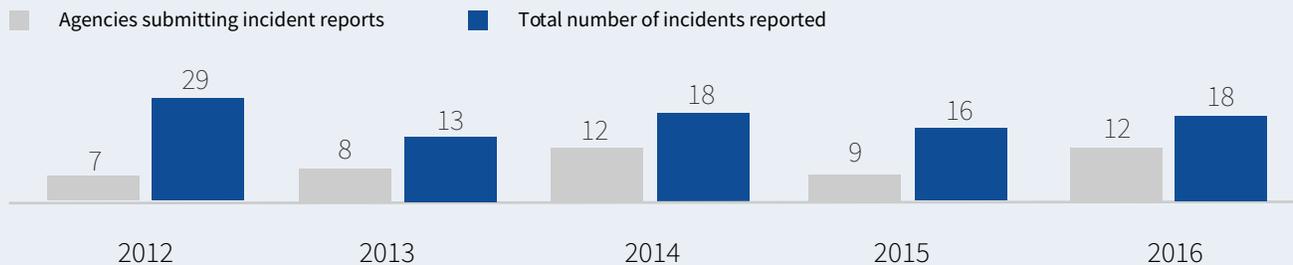
## FBI HATE CRIME STATISTICS PARTICIPANT

Law enforcement agencies in South Dakota submit hate crime data to the FBI UCR Program through the SAC. According to the FBI UCR Program's annual report, *Hate Crime Statistics*, 18 hate crime incidents, involving 21 offenses, were reported in South Dakota in 2016.

In 2016, 12 of the 112 South Dakota law enforcement agencies participating in the national hate crime statistics program submitted incident reports to the FBI UCR Program. The Watertown Police Department, which represents the fifth largest city in South Dakota, submitted only zero data.

According to annual hate crime statistics published by the SAC, 21 hate crime offenses were reported in South Dakota in 2016. This total is consistent with the FBI UCR Program's annual report, *Hate Crime Statistics, 2016*. Discrepancies occur between state and federal hate crime statistics for 2012-2013 and 2015.

## PARTICIPATION IN UCR HATE CRIME STATISTICS PROGRAM

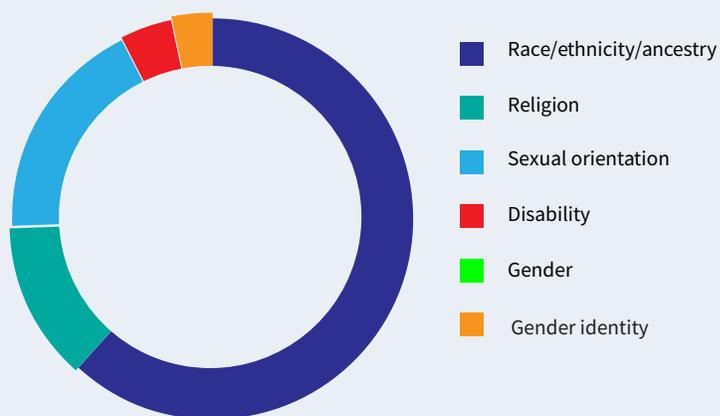


## SUMMARY

The current South Dakota hate crime statute is not sufficiently inclusive, as it does not offer protections for sexual orientation, disability, gender, or gender identity. Furthermore, South Dakota does not have statutes that require reporting, data collection, or specific law enforcement training on hate crime. The South Dakota Division of Criminal Investigation, Criminal Statistical Analysis Center, maintains the state clearinghouse for all police-reported crime data, including hate crime, and is responsible for publishing annual statistics. Copies of *Crime in South Dakota* can be found on the state's Office of the Attorney General website and include both anti-Arab and anti-Islamic (Muslim) hate crime statistics. In 2016, 12 South Dakota law enforcement agencies submitted hate crime incident reports to the FBI UCR Program. The remaining 100 participating agencies provided only zero data. A total of 4 participating agencies recorded blank data in at least one quarterly submission period. South Dakota receives an overall score of 50 points, denoting a limited response to hate crime.

## FBI HATE CRIME STATISTICS: SOUTH DAKOTA 2012-2016

| Incidents per bias motivation | 2012 | 2013 | 2014 | 2015 | 2016 | Total |
|-------------------------------|------|------|------|------|------|-------|
| Race/ethnicity/ancestry       | 22   | 10   | 11   | 9    | 6    | 58    |
| Religion                      | 4    | 2    | 2    | 2    | 2    | 12    |
| Sexual orientation            | 3    | 1    | 3    | 5    | 5    | 17    |
| Disability                    | 0    | 0    | 1    | 0    | 3    | 4     |
| Gender                        | -    | 0    | 0    | 0    | 0    | 0     |
| Gender identity               | -    | 0    | 1    | 0    | 2    | 3     |
| Total                         | 29   | 13   | 18   | 16   | 18   | 94    |



<sup>10</sup> 28 U.S.C. § 534 (JUSTIA 2016), available at <https://law.justia.com/codes/us/2016/title-28/part-ii/chapter-33/sec.-534>.

<sup>11</sup> Uniform Crime Reporting Program, Fed. Bureau of Investigation, Data Quality Guidelines, [https://ucr.fbi.gov/data\\_quality\\_guidelines](https://ucr.fbi.gov/data_quality_guidelines).

<sup>12</sup> CJIS Div., Fed. Bureau of Investigation, Table 11: Offenses, *Hate Crime Statistics, 2016* (Nov. 13, 2017), <https://ucr.fbi.gov/hate-crime/2016/tables/table-11>.

# ADVOCACY RESOURCES - South Dakota

## IMPROVING THE RESPONSE

Most states have failed to enact sufficient legislation to address, prevent, and counteract hate crime in American communities. To accompany our federal hate crime laws, state legislatures must pass the following:

1. **An inclusive hate crime statute**, which covers a wide range of criminal offenses and provides enhanced penalties for crimes motivated because of citizenship status, race, ethnicity, color, disability, age, ancestry or national origin, gender or gender identity, sexual orientation, religion, or homelessness. Such protections are pursuant to model hate crime legislation drafted by the Arab American Institute. According to the model statute, penalty enhancement may incorporate alternatives to fines or increased prison sentences. Alternatives include restitution for victims and communities, participation in educational programs, and restorative justice.
2. **Statutes that require reporting, data collection, and specific law enforcement training on hate crime.** Centralized state agencies must publish comprehensive, accessible statistics on the nature and extent of hate crime occurring within their state. These statistics must conform to national UCR standards and include the bias motivation categories identified in the FBI's annual report, *Hate Crime Statistics*. States must also require law enforcement training schools to provide comprehensive training to ensure that officers are prepared to investigate, report, and respond to hate crime incidents.

## STATE RECOMMENDATIONS

According to our rating methodology, South Dakota receives an overall score of 50 points, denoting a limited response to hate crime. Advocates for an improved response to hate crime in South Dakota should promote the following:

1. The current South Dakota hate crime statute offers protections for race, ethnicity, religion, ancestry, and national origin. The South Dakota hate crime statute should be amended to include protections for **citizenship status, color, disability, age, gender or gender identity, sexual orientation, homelessness**, or association with a person or group with one of these actual or perceived characteristics.
2. While South Dakota publishes statistics in the form of an annual hate crime report, state code does not require hate crime reporting or data collection. In 2016, 12 of the 112 South Dakota law enforcement agencies participating in the national hate crime statistics program submitted incident reports to the FBI UCR Program.
  - Law enforcement agencies must report hate crimes to the South Dakota Bureau of Criminal Statistics (BCS), which is currently responsible for publishing annual hate crime statistics.
  - The BCS should be required by law to collect data and publish statistics, conforming to national UCR standards, on the nature and extent of hate crime within the state. The BCS currently provides hate crime data corresponding to the bias motivation categories identified in the FBI UCR Program's annual report, *Hate Crime Statistics*.
3. South Dakota state code does not require specific law enforcement training on hate crime. The South Dakota Law Enforcement Officers Standards and Training Commission must establish minimum standards and curriculum requirements, which include instruction relating to investigating and reporting hate crime incidents, for law enforcement training throughout the state.

## STATE CONTACTS

Advocates for an improved response to hate crime in South Dakota should contact current state legislators and members of Congress.

### South Dakota Legislature

Both Chambers: <http://www.sdlegislature.gov>

### United States Senate

Contact: South Dakota

<https://www.senate.gov/senators/contact>

### United States House of Representatives

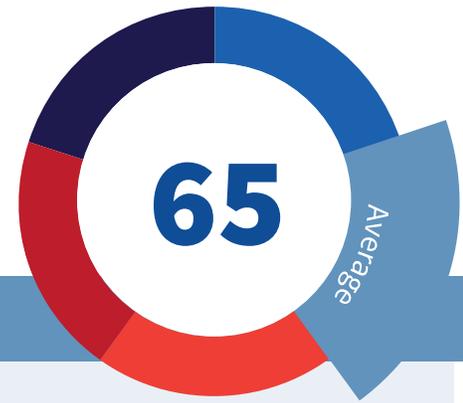
Directory of Representatives: South Dakota

<https://www.house.gov/representatives#state-south-dakota>

# TENNESSEE

Total population: 6,651,194

Rank of Arab American population by state: 16



3 anti-Arab hate crime offenses were reported in TN in 2016.

**Tennessee** is the 16th most populated state and has the 16th largest Arab American population.

The Tennessee Bureau of Investigation is the state agency responsible for the collection and publication of hate crime data. According to the TBI, there were three anti-Arab hate crime offenses reported in Tennessee in 2016.

## HATE CRIME STATUTE

Tenn. Code § 40-35-114(17) provides enhanced sentencing for criminal offenses in which the defendant intentionally selects a person or property “because of the defendant’s belief or perception regarding the race, religion, color, disability, sexual orientation, national origin, ancestry or gender of that person or the owner or occupant of that property.”<sup>1</sup>

Tenn. Code § 39-17-309 prohibits any person, whether by assault, destroying or defacing property, or threatening to do so, from intimidating another person from the free exercise or enjoyment of their civil rights.<sup>2</sup> Pursuant to Section 39-17-309, “the advocacy of unlawful acts by groups or individuals against other persons or groups for the purpose of inciting and provoking damage to property and bodily injury or death to persons is not constitutionally protected, poses a threat to public order and safety, and should be subject to criminal sanctions.”<sup>3</sup>

The current Tennessee hate crime statute is not sufficiently inclusive, as it does not offer protections for gender identity.

## DATA COLLECTION STATUTE

**There is no Tennessee statute that requires hate crime reporting or data collection.** Tenn. Code § 38-10-102 requires Tennessee law enforcement agencies to submit “reports setting forth their activities in connection with law enforcement and criminal justice, including uniform crime reports,” to the Tennessee Bureau of Investigation.<sup>4</sup> The TBI is an independent agency within the state government of Tennessee.<sup>5</sup> Pursuant to Tenn. Code § 38-10-104, the TBI compiles and submits an annual report based on information received from Tennessee law enforcement agencies through the Tennessee Incident Based Reporting System (TIBRS).<sup>6</sup>

## LAW ENFORCEMENT TRAINING STATUTE

**There is no Tennessee statute that requires specific law enforcement training on hate crime.** Pursuant to Tenn. Code § 38-8-104(a)(5), the Tennessee Peace Officers Standards and Training Commission is required to “establish minimum standards and curriculum requirements for the courses of study” at Tennessee law enforcement training schools.<sup>7</sup>

### TENNESSEE

| Hate Crime Statute                       | 35/40 |
|---|-------|
| No statute; civil action or civil rights law  | -     |
| Hate crime statute, with protections for:   | 10    |
| Race/ethnicity/ancestry   | 5     |
| Religion  | 5     |
| Sexual orientation  | 5     |
| Disability  | 5     |
| Gender  | 5     |
| Gender identity   | -     |
| Data Collection Statute                | 0/15  |
| Data collection (voluntary reporting)   | -     |
| Mandatory reporting and data collection   | -     |
| Law Enforcement Training Statute       | 0/15  |
| No statute; comprehensive training  | -     |
| Mandatory training  | -     |
| Annual Hate Crime Report               | 20/20 |
| Annual hate crime report, including:  | 10    |
| Anti-Arab hate crime statistics   | 5     |
| Anti-Islamic (Muslim) hate crime statistics   | 5     |
| FBI Hate Crime Statistics Participant  | 10/10 |
| TOTAL   | 65    |

<sup>1</sup> Tenn. Code § 40-35-114(17) (JUSTIA 2017), available at <https://law.justia.com/codes/tennessee/2017/title-40/chapter-35/part-1/section-40-35-114>.

<sup>2</sup> Tenn. Code § 39-17-309 (JUSTIA 2017), available at <https://law.justia.com/codes/tennessee/2017/title-39/chapter-17/part-3/section-39-17-309>.

<sup>3</sup> *Id.*

<sup>4</sup> Tenn. Code § 38-10-102 (JUSTIA 2017), available at <https://law.justia.com/codes/tennessee/2017/title-38/chapter-10/section-38-10-102>.

<sup>5</sup> Tennessee Bureau of Investigation, Our History, <https://www.tn.gov/tbi/who-we-are/our-history.html>.

<sup>6</sup> Tenn. Code § 38-10-104 (JUSTIA 2017), available at <https://law.justia.com/codes/tennessee/2017/title-38/chapter-10/section-38-10-104>.

<sup>7</sup> Tenn. Code § 38-8-104(a)(5) (JUSTIA 2017), available at <https://law.justia.com/codes/tennessee/2017/title-38/chapter-8/part-1/section-38-8-104>.

## DATA COLLECTION & STATISTICS

Pursuant to Tenn. Code § 38-10-104 the TBI publishes an annual report on crime statistics and a specialized report on hate crime. The 2001-2016 editions of *Hate Crime in Tennessee* can be found on the official state government website.<sup>8</sup>

## ANNUAL STATEWIDE HATE CRIME REPORT



State-level hate crime statistics published by the TBI include data on both anti-Arab and anti-Islamic (Muslim) hate crime. The TBI tabulates hate crime data according to the number of offenses and victims per disaggregated bias motivation category.

- ANTI-ARAB HATE CRIME STATISTICS**  
 Anti-Arab hate crime statistics are provided in the 2015-2016 editions of *Hate Crime in Tennessee*. According to the TBI, 3 anti-Arab hate crime offenses were reported in Tennessee in 2016.
- ANTI-ISLAMIC (MUSLIM) HATE CRIME STATISTICS**  
 Anti-Islamic (Muslim) hate crime statistics are provided in the 2001-2016 editions of *Hate Crime in Tennessee*. The 2014-2016 TBI reports suggest an escalation of hate crimes targeting American Muslims.

## UNIFORM CRIME REPORTING (UCR)

By January 2021, the FBI Uniform Crime Reporting (UCR) Program will depend solely on the National Incident-Based Reporting System (NIBRS) to collect nationwide crime data.<sup>9</sup> This transition entails the sunset of summary-based crime reporting (SRS) and requires cooperation on the part of state UCR programs and individual reporting agencies.

The Tennessee UCR program is one of the 16 state programs that rely exclusively on NIBRS data.<sup>10</sup>

NIBRS reporting enables criminal justice agencies to acquire a better understanding of crime, including hate crime, occurring within their respective jurisdictions. This in turn has positive implications for effective law enforcement response and policy implementation.

## CONTACT

Tennessee Bureau of Investigation  
 Crime Statistics Unit  
 901 R. S. Gass Boulevard  
 Nashville, Tennessee 37216-2639  
 (615) 744-4014  
[www.tbi.state.tn.us](http://www.tbi.state.tn.us)

## HATE CRIME IN TENNESSEE OFFENSES (2000-2016)

| Bias motivation                    | '00 | '01 | '02 | '03 | '04 | '05 | '06 | '07 | '08 | '09 | '10 | '11 | '12 | '13 | '14 | '15 | '16 |
|------------------------------------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| Anti-Arab                          | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | 0   | 0   | 3   |
| Anti-Islamic (Muslim)              | 0   | 0   | 0   | 0   | -   | -   | -   | -   | 0   | 0   | 0   | 0   | 1   | 0   | 6   | 9   | 3   |
| Anti-other race/ethnicity/ancestry | 0   | 2   | 0   | 1   | -   | -   | -   | -   | 3   | 2   | 7   | 0   | 0   | 1   | 49  | 51  | 2   |

According to supplemental data from the FBI, 2 anti-Arab and 3 anti-Islamic (Muslim) hate crime incidents, involving 5 offenses, were reported in Tennessee in 2016. This total is consistent with TBI statistics. Tennessee law enforcement agencies submit hate crime data to the FBI UCR Program through the TBI.

## FBI HATE CRIME STATISTICS (2015-2016)

| Bias motivation       | '15 | '16 |
|-----------------------|-----|-----|
| Anti-Arab             | 0   | 2   |
| Anti-Islamic (Muslim) | 8   | 3   |

<sup>8</sup> CJIS Div., Tennessee Bureau of Investigation, Publications, <https://www.tn.gov/tbi/divisions/cjis-division/recent-publications.html>.

<sup>9</sup> CJIS Div., Fed. Bureau of Investigation, SRS to NIBRS: The Path to Better UCR Data, <https://www.fbi.gov/services/cjis/cjis-link/srs-to-nibrs-the-path-to-better-ucr-data>.

<sup>10</sup> Bureau of Justice Statistics, U.S. Dep't of Justice, 2017 NCS-X Estimation Project (Jul. 27, 2017), available at <https://www.bjs.gov/content/pub/pdf/17ncsxep.pdf>.

## FBI HATE CRIME STATISTICS

Pursuant to the Hate Crime Statistics Act (HCSA) of 1990 the FBI UCR Program collects data on "crimes that manifest evidence of prejudice based on race, gender or gender identity, religion, disability, sexual orientation, or ethnicity."<sup>11</sup>

Since 1993, the FBI UCR Program has published the annual report, *Hate Crime Statistics*, which is based on voluntary submissions from participating law enforcement agencies. In 2016, agencies from 49 states and the District of Columbia participated in the national hate crime statistics program.

For the most part, hate crime data is collected at the state level and forwarded to the FBI UCR Program. A total of 48 states maintain a state-level UCR data collection. UCR programs in 38 states publish annual hate crime statistics. Some participating law enforcement agencies submit hate crime data directly to the FBI UCR program.<sup>12</sup>



## FBI HATE CRIME STATISTICS PARTICIPANT

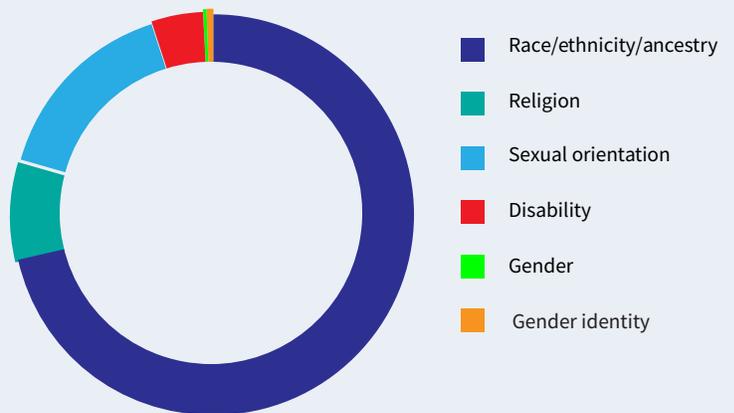
Law enforcement agencies in Tennessee submit hate crime data to the FBI UCR Program through the TBI. According to the FBI UCR Program's annual report, *Hate Crime Statistics*, 142 hate crime incidents were reported in Tennessee in 2016.

In 2016, 55 of the 463 Tennessee law enforcement agencies participating in the national hate crime statistics program submitted incident reports to the FBI UCR Program.

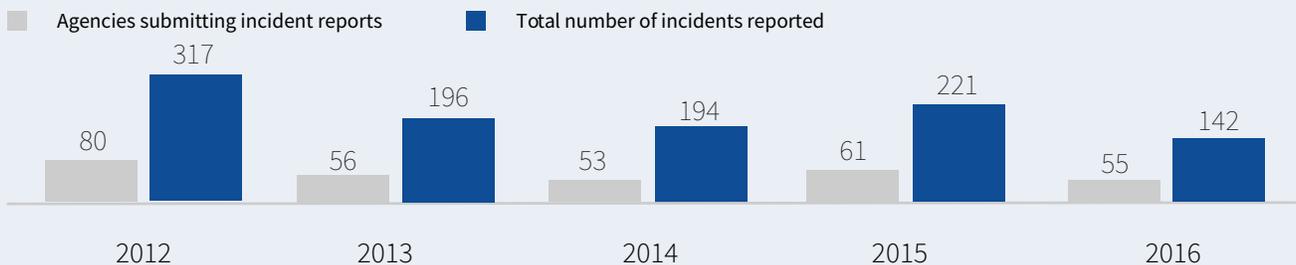
According to the Tennessee Crime Online statistics website, which provides incident-based hate crime data tabulated according to disaggregated bias motivation categories, 146 hate crime incidents were reported in Tennessee in 2016.<sup>13</sup> This total conflicts with the FBI UCR Program's annual report, *Hate Crime Statistics, 2016*. Discrepancies occur between state and federal hate crime statistics for 2012-2015 as well.

## FBI HATE CRIME STATISTICS: TENNESSEE 2012-2016

| Incidents per bias motivation | 2012       | 2013       | 2014       | 2015       | 2016       | Total        |
|-------------------------------|------------|------------|------------|------------|------------|--------------|
| Race/ethnicity/ancestry       | 219        | 140        | 155        | 157        | 93         | 764          |
| Religion                      | 20         | 8          | 14         | 28         | 18         | 88           |
| Sexual orientation            | 55         | 38         | 20         | 26         | 25         | 164          |
| Disability                    | 22         | 9          | 5          | 5          | 6          | 47           |
| Gender                        | -          | 0          | 0          | 1          | 0          | 1            |
| Gender identity               | -          | 1          | 0          | 4          | 0          | 5            |
| <b>Total</b>                  | <b>316</b> | <b>196</b> | <b>194</b> | <b>221</b> | <b>142</b> | <b>1,069</b> |



## PARTICIPATION IN UCR HATE CRIME STATISTICS PROGRAM



## SUMMARY

The current Tennessee hate crime statute is not sufficiently inclusive, as it does not offer protections for gender identity. Furthermore, Tennessee lacks statutes that require reporting, data collection, or specific law enforcement training on hate crime. The Tennessee Bureau of Investigation, Criminal Justice Information Services Division, maintains the state clearinghouse for all police-reported crime data, including hate crime, and is responsible for publishing annual statistics. Copies of *Hate Crime in Tennessee* can be found on the Tennessee.gov website and include both anti-Arab and anti-Islamic (Muslim) hate crime statistics. In 2016, 55 Tennessee law enforcement agencies submitted hate crime incident reports to the FBI UCR Program. The remaining 408 participating agencies provided only zero data. A single participating agency recorded blank data in at least one quarterly submission period. Tennessee receives an overall score of 65 points, denoting an average response to hate crime.

<sup>11</sup> 28 U.S.C. § 534 (JUSTIA 2016), available at <https://law.justia.com/codes/us/2016/title-28/part-ii/chapter-33/sec.-534>.

<sup>12</sup> Uniform Crime Reporting Program, Fed. Bureau of Investigation, Data Quality Guidelines, [https://ucr.fbi.gov/data\\_quality\\_guidelines](https://ucr.fbi.gov/data_quality_guidelines).

# ADVOCACY RESOURCES - Tennessee

## IMPROVING THE RESPONSE

Most states have failed to enact sufficient legislation to address, prevent, and counteract hate crime in American communities. To accompany our federal hate crime laws, state legislatures must pass the following:

1. **An inclusive hate crime statute**, which covers a wide range of criminal offenses and provides enhanced penalties for crimes motivated because of citizenship status, race, ethnicity, color, disability, age, ancestry or national origin, gender or gender identity, sexual orientation, religion, or homelessness. Such protections are pursuant to model hate crime legislation drafted by the Arab American Institute. According to the model statute, penalty enhancement may incorporate alternatives to fines or increased prison sentences. Alternatives include restitution for victims and communities, participation in educational programs, and restorative justice.
2. **Statutes that require reporting, data collection, and specific law enforcement training on hate crime.** Centralized state agencies must publish comprehensive, accessible statistics on the nature and extent of hate crime occurring within their state. These statistics must conform to national UCR standards and include the bias motivation categories identified in the FBI's annual report, *Hate Crime Statistics*. States must also require law enforcement training schools to provide comprehensive training to ensure that officers are prepared to investigate, report, and respond to hate crime incidents.

## STATE RECOMMENDATIONS

According to our rating methodology, Tennessee receives an overall score of 65 points, denoting an average response to hate crime. Advocates for an improved response to hate crime in Tennessee should promote the following:

1. The current Tennessee hate crime statute offers protections for race, religion, color, disability, sexual orientation, national origin, ancestry, and gender. The Tennessee hate crime statute should be amended to include protections for **citizenship status, ethnicity, age, gender identity, homelessness**, or association with a person or group with one of these actual or perceived characteristics.
2. While the Tennessee Bureau of Investigation (TBI) publishes statistics in the form of an annual hate crime report, state code does not require hate crime reporting or data collection. In 2016, 55 of the 463 Tennessee law enforcement agencies participating in the national hate crime statistics program submitted incident reports to the FBI UCR Program.
  - Law enforcement agencies must report hate crimes to the TBI, which is currently responsible for publishing annual hate crime statistics.
  - The TBI should be required by law to collect data and publish statistics, conforming to national UCR standards, on the nature and extent of hate crime within the state. The TBI currently provides hate crime data corresponding to the bias motivation categories identified in the FBI UCR Program's annual report, *Hate Crime Statistics*.
3. Tennessee state code does not require specific law enforcement training on hate crime. The Tennessee Peace Officers Standards and Training Commission must establish minimum standards and curriculum requirements for courses of study at Tennessee law enforcement training schools relating to investigating and reporting hate crime incidents.

## STATE CONTACTS

Advocates for an improved response to hate crime in Tennessee should contact current state legislators and members of Congress.

### Tennessee General Assembly

Senate: <http://www.capitol.tn.gov/senate/members>

House: <http://www.capitol.tn.gov/house/members>

### United States Senate

Contact: Tennessee

<https://www.senate.gov/senators/contact>

### United States House of Representatives

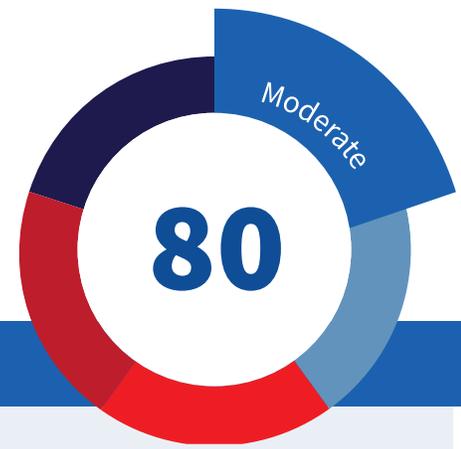
Directory of Representatives: Tennessee

<https://www.house.gov/representatives#state-tennessee>

# TEXAS

Total population: 27,862,596

Rank of Arab American population by state: 4



## 5 anti-Arab hate crime incidents were reported in TX in 2016.

Texas is the 2nd most populated state and has the 4th largest Arab American population.

The Texas Department of Public Safety, Crime Information Bureau (CIB), is the state agency responsible for the collection and publication of hate crime data. According to the TXDPS, there were five anti-Arab hate crime incidents reported throughout Texas in 2016.

### HATE CRIME STATUTE

Texas Code of Crim. Proc. Ann. § 42.014 permits a sentencing judge to “require attendance in an educational program to further tolerance and acceptance of others” for any person found to have committed an offense because of “bias or prejudice against a group identified by race, color, disability, religion, national origin or ancestry, age, gender, or sexual preference.”<sup>1</sup>

Texas Pen. Code § 12.47 provides enhanced penalties for any offense, excluding a first-degree felony, found to have been committed because of bias or prejudice as described in Article 42.014.<sup>2</sup> Article 42.014 of the Texas Code of Criminal Procedure was amended to provide increased penalties for any criminal offense committed because of bias or prejudice “on the basis of status as a peace officer or judge.”<sup>3</sup>

The current Texas hate crime statute is not sufficiently inclusive, as it does not offer protections for gender identity.

### DATA COLLECTION STATUTE

Texas Gov. Code § 411.046 requires Texas law enforcement agencies to report offenses “motivated by prejudice, hatred, or advocacy of violence, including, but not limited to, incidents for which statistics are or were kept under [the Hate Crime Statistics Act]” to the Texas Department of Public Safety (TXDPS).<sup>4</sup> The TXDPS is in turn required to “file an annual report to the Governor and Legislature containing the summary and analysis” of information received in accordance with Section 411.046.<sup>5</sup>

### LAW ENFORCEMENT TRAINING STATUTE

**There is no Texas statute that requires specific law enforcement training on hate crime.** Pursuant to Texas OC Code § 1701.253(c), the Texas Commission on Law Enforcement (TCOLE) is required to “establish a statewide comprehensive education and training program on civil rights, racial sensitivity, and cultural diversity” for all law enforcement officers in the state.<sup>6</sup> The current TCOLE course curriculum does not appear to include hate crime as a mandatory topic of instruction.<sup>7</sup>

| TEXAS  |              |
|--|--------------|
| <b>Hate Crime Statute</b>                       | <b>35/40</b> |
| No statute; civil action or civil rights law   | -            |
| Hate crime statute, with protections for:  | 10           |
| Race/ethnicity/ancestry  | 5            |
| Religion   | 5            |
| Sexual orientation   | 5            |
| Disability   | 5            |
| Gender   | 5            |
| Gender identity  | -            |
| <b>Data Collection Statute</b>                | <b>15/15</b> |
| Data collection (voluntary reporting)  | -            |
| Mandatory reporting and data collection  | 15           |
| <b>Law Enforcement Training Statute</b>       | <b>0/15</b>  |
| No statute; comprehensive training   | -            |
| Mandatory training   | -            |
| <b>Annual Hate Crime Report</b>               | <b>20/20</b> |
| Annual hate crime report, including:   | 10           |
| Anti-Arab hate crime statistics  | 5            |
| Anti-Islamic (Muslim) hate crime statistics  | 5            |
| <b>FBI Hate Crime Statistics Participant</b>  | <b>10/10</b> |
| <b>TOTAL</b>   | <b>80</b>    |

<sup>1</sup> Texas Code of Crim. Proc. Ann. § 42.014 (JUSTIA 2017), available at <https://law.justia.com/codes/texas/2017/code-of-criminal-procedure/title-1/chapter-42>.

<sup>2</sup> Texas Pen. Code § 12.47 (JUSTIA 2017), available at <https://law.justia.com/codes/texas/2017/penal-code/title-3/chapter-12>.

<sup>3</sup> Tex. Legis. H.B. No. 2908, Reg. Sess. 2017, available at <https://capitol.texas.gov/tlodocs/85R/billtext/html/HB02908F.HTM>.

<sup>4</sup> Texas Gov. Code § 411.046 (JUSTIA 2017), available at <https://law.justia.com/codes/texas/2017/government-code/title-4/subtitle-b/chapter-411>.

<sup>5</sup> Texas Gov. Code § 411.046(b), *id.*

<sup>6</sup> Texas OC Code § 1701.253(c) (JUSTIA 2017), available at <https://law.justia.com/codes/texas/2017/occupations-code/title-10/chapter-1701>.

<sup>7</sup> Texas Commission on Law Enforcement, Course Curriculum Materials and Updates, <https://www.tcole.texas.gov/content/course-curriculum-materials-and-updates-0>.

## DATA COLLECTION & STATISTICS

Pursuant to Texas state code, the CIB publishes an annual crime report that includes hate crime statistics. The 1999-2016 editions of *Crime in Texas* can be found on the TXDPS website.<sup>8</sup> Archived 1994-1998 reports are provided on the University of North Texas digital library.<sup>9</sup>



## ANNUAL STATEWIDE HATE CRIME REPORT

State-level hate crime statistics published by the CIB include data on both anti-Arab and anti-Islamic (Muslim) hate crime. The CIB tabulates hate crime data according to the number of incidents per disaggregated bias motivation category in the 1994-1999 reports and offenses per disaggregated category in subsequent editions.

- ANTI-ARAB HATE CRIME STATISTICS**  
 Anti-Arab hate crime statistics are provided in the 1994-2016 editions of *Crime in Texas*. From 2000 to 2001 there was a significant increase of reported anti-Arab hate crime offenses. According to the CIB, 5 anti-Arab hate crime offenses, corresponding to 5 separate incidents, were reported in Texas in 2016.
- ANTI-ISLAMIC (MUSLIM) HATE CRIME STATISTICS**  
 Anti-Islamic (Muslim) hate crime statistics are provided in the 1994-2016 editions of *Crime in Texas*. From 2000 to 2001 there was a significant increase of reported anti-Islamic (Muslim) hate crime offenses. The 2014-2016 CIB reports suggest an increase of hate crimes targeting American Muslims.

## UNIFORM CRIME REPORTING (UCR)

By January 2021, the FBI Uniform Crime Reporting (UCR) Program will depend solely on the National Incident-Based Reporting System (NIBRS) to collect nationwide crime data.<sup>10</sup> This transition entails the sunset of summary-based crime reporting (SRS) and requires cooperation on the part of state UCR programs and individual reporting agencies.

The Texas UCR program is one of 18 state programs that rely on both SRS and NIBRS data.<sup>11</sup> Pursuant to Texas Gov. Code §411.054, the TXDPS is required to submit an annual report to the legislature regarding the number of law enforcement agencies reporting NIBRS-compliant data.<sup>12</sup> As stipulated in this section, Texas will be 100 percent NIBRS-certified by 2019.<sup>13</sup> As of 2017, a total of 97 law enforcement agencies, representing 14.4 percent of the state's population, have achieved NIBRS status.<sup>14</sup>

NIBRS reporting enables criminal justice agencies to acquire a better understanding of crime, including hate crime, occurring within their respective jurisdictions. This in turn has positive implications for effective law enforcement response and policy implementation.

## CONTACT

Uniform Crime Reporting  
 Crime Information Bureau  
 Texas Department of Public Safety  
 Post Office Box 4143  
 Austin, Texas 78765-4143  
 (512) 424- 2418  
[www.txdps.state.tx.us](http://www.txdps.state.tx.us)

## CRIME IN TEXAS HATE CRIME OFFENSES (2000-2016)

| Bias motivation                        | '00 | '01 | '02 | '03 | '04 | '05 | '06 | '07 | '08 | '09 | '10 | '11 | '12 | '13 | '14 | '15 | '16 |
|--|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| Anti-Arab                              | 4   | 64  | 19  | 13  | 12  | 10  | 4   | 4   | 6   | 6   | 5   | 1   | 1   | 2   | 1   | 0   | 5   |
| Anti-Islamic (Muslim)                  | 3   | 29  | 11  | 4   | 8   | 9   | 5   | 4   | 2   | 3   | 5   | 6   | 4   | 3   | 12  | 17  | 12  |
| Anti-other race/<br>ethnicity/ancestry | 3   | 29  | 21  | 17  | 17  | 9   | 10  | 10  | 4   | 3   | 4   | 7   | 6   | 6   | 3   | 12  | 3   |

According to supplemental data from the FBI, no anti-Arab hate crime incidents were reported in Texas in 2016. This total conflicts with CIB statistics, as 5 anti-Arab hate crime incidents are recorded in 2016 *Crime in Texas*. Texas law enforcement agencies submit hate crime data to the FBI UCR Program through the CIB.

## FBI HATE CRIME STATISTICS (2015-2016)

| Bias motivation       | '15 | '16 |
|-----------------------|-----|-----|
| Anti-Arab             | 0   | 0   |
| Anti-Islamic (Muslim) | 17  | 12  |

<sup>8</sup> Texas Dep't of Pub. Safety, 2016 Crime in Texas (revised Feb. 22, 2018), available at [http://www.dps.texas.gov/administration/crime\\_records/pages/crimestatistics.htm](http://www.dps.texas.gov/administration/crime_records/pages/crimestatistics.htm).

<sup>9</sup> Univ. of North Texas Digital Library, Texas Crime Report, <https://digital.library.unt.edu/search/?q=Texas+Crime+Report&t=fulltext&sort=&fq>.

<sup>10</sup> CJIS Div., Fed. Bureau of Investigation, SRS to NIBRS: The Path to Better UCR Data, <https://www.fbi.gov/services/cjis/cjis-link/srs-to-nibrs-the-path-to-better-ucr-data>.

<sup>11</sup> Bureau of Justice Statistics, U.S. Dep't of Justice, 2017 NCS-X Estimation Project (Jul. 27, 2017), available at <https://www.bjs.gov/content/pub/pdf/17ncsxep.pdf>.

<sup>12</sup> Tex. Gov. Code § 411.054 (JUSTIA 2017), available at <https://law.justia.com/codes/texas/2017/government-code/title-4/subtitle-b/chapter-411>.

<sup>13</sup> The Texas Uniform Crime Reporting Program, Texas Dep't of Pub. Safety, National Incident Based Reporting (NIBRS) Migration Packet, <https://www.dps.texas.gov/ucr/indexnibrs.htm>.

<sup>14</sup> Letter from the Texas Dep't of Pub. Safety to Members of the Texas Legislature (Jan. 1, 2017), available at <https://www.dps.texas.gov/ucr/documents/nibrsMigrationRptToLegis.pdf>.

## FBI HATE CRIME STATISTICS

Pursuant to the Hate Crime Statistics Act (HCSA) of 1990 the FBI UCR Program collects data on "crimes that manifest evidence of prejudice based on race, gender or gender identity, religion, disability, sexual orientation, or ethnicity."<sup>15</sup>

Since 1993, the FBI UCR Program has published the annual report, *Hate Crime Statistics*, which is based on voluntary submissions from participating law enforcement agencies. In 2016, agencies from 49 states and the District of Columbia participated in the national hate crime statistics program.

For the most part, hate crime data is collected at the state level and forwarded to the FBI UCR Program. A total of 48 states maintain a state-level UCR data collection. UCR programs in 38 states publish annual hate crime statistics. Some participating law enforcement agencies submit hate crime data directly to the FBI UCR program.<sup>16</sup>



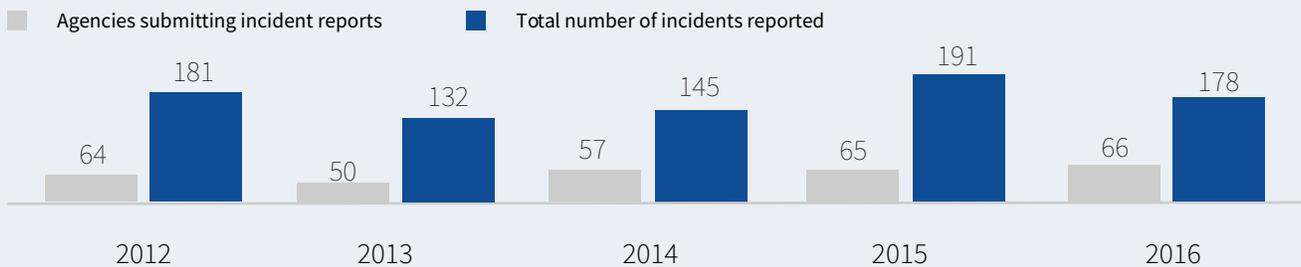
## FBI HATE CRIME STATISTICS PARTICIPANT

Law enforcement agencies in Texas submit hate crime data to the FBI UCR Program through the CIB. According to the FBI UCR Program's annual report, *Hate Crime Statistics*, 178 hate crime incidents were reported in Texas in 2016.

In 2016, 66 of the 1,097 Texas law enforcement agencies participating in the national hate crime statistics program submitted incident reports to the FBI UCR Program. A total of 19 agencies representing populations greater than 100,000 submitted only zero data.

According to annual hate crime statistics published by the CIB, 178 hate crime incidents were reported in Texas in 2016. While this total is consistent with the FBI UCR Program's annual report, *Hate Crime Statistics, 2016*, the CIB report indicates that a greater number of agencies (67) submitted incident reports in 2016, and that some agencies reported different hate crime totals. Discrepancies occur between state and federal hate crime statistics for 2012-2015 as well.

## PARTICIPATION IN UCR HATE CRIME STATISTICS PROGRAM

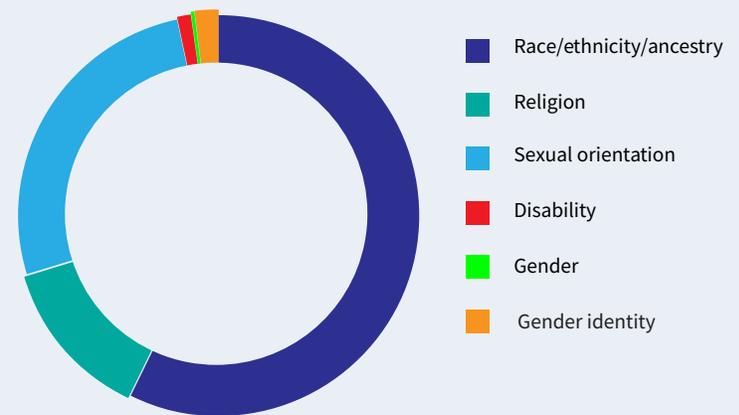


## SUMMARY

The current Texas hate crime statute is not sufficiently inclusive, as it does not offer protections for gender identity. While Texas has statutes that require reporting and data collection, there is no state law regarding mandatory police training on hate crime. The Texas Department of Public Safety, Uniform Crime Reporting Bureau, maintains the state clearinghouse for all police-reported crime data, including hate crime, and is responsible for publishing annual statistics. In 2016, 66 Texas law enforcement agencies submitted hate crime incident reports to the FBI UCR Program. The remaining 1,031 participating agencies provided only zero data. Texas receives an overall score of 80 points, denoting a moderate response to hate crime.

## FBI HATE CRIME STATISTICS: TEXAS 2012-2016

| Incidents per bias motivation | 2012       | 2013       | 2014       | 2015       | 2016       | Total      |
|-------------------------------|------------|------------|------------|------------|------------|------------|
| Race/ethnicity/ancestry       | 101        | 79         | 83         | 107        | 104        | 474        |
| Religion                      | 23         | 7          | 19         | 36         | 23         | 108        |
| Sexual orientation            | 57         | 44         | 40         | 41         | 37         | 219        |
| Disability                    | 0          | 2          | 0          | 1          | 5          | 8          |
| Gender                        | -          | 0          | 1          | 1          | 1          | 3          |
| Gender identity               | -          | 0          | 2          | 5          | 8          | 15         |
| <b>Total</b>                  | <b>181</b> | <b>132</b> | <b>145</b> | <b>191</b> | <b>178</b> | <b>827</b> |



<sup>15</sup> 28 U.S.C. § 534 (JUSTIA 2016), available at <https://law.justia.com/codes/us/2016/title-28/part-ii/chapter-33/sec.-534>.

<sup>16</sup> Uniform Crime Reporting Program, Fed. Bureau of Investigation, Data Quality Guidelines, [https://ucr.fbi.gov/data\\_quality\\_guidelines](https://ucr.fbi.gov/data_quality_guidelines).

# ADVOCACY RESOURCES - Texas

## IMPROVING THE RESPONSE

Most states have failed to enact sufficient legislation to address, prevent, and counteract hate crime in American communities. To accompany our federal hate crime laws, state legislatures must pass the following:

1. **An inclusive hate crime statute**, which covers a wide range of criminal offenses and provides enhanced penalties for crimes motivated because of citizenship status, race, ethnicity, color, disability, age, ancestry or national origin, gender or gender identity, sexual orientation, religion, or homelessness. Such protections are pursuant to model hate crime legislation drafted by the Arab American Institute. According to the model statute, penalty enhancement may incorporate alternatives to fines or increased prison sentences. Alternatives include restitution for victims and communities, participation in educational programs, and restorative justice.
2. **Statutes that require reporting, data collection, and specific law enforcement training on hate crime.** Centralized state agencies must publish comprehensive, accessible statistics on the nature and extent of hate crime occurring within their state. These statistics must conform to national UCR standards and include the bias motivation categories identified in the FBI's annual report, *Hate Crime Statistics*. States must also require law enforcement training schools to provide comprehensive training to ensure that officers are prepared to investigate, report, and respond to hate crime incidents.

## STATE RECOMMENDATIONS

According to our rating methodology, Texas receives an overall score of 80 points, denoting a moderate response to hate crime. Advocates for an improved response to hate crime in Texas should promote the following:

1. The current Texas hate crime statute offers protections for race, color, disability, religion, national origin or ancestry, age, gender, and sexual preference. The Texas hate crime statute should be amended to include protections for **citizenship status, ethnicity, gender identity, homelessness**, or association with a person or group with one of these actual or perceived characteristics.
2. In 2016, 66 of the 1,097 Texas law enforcement agencies participating in the national hate crime statistics program submitted incident reports to the FBI UCR Program.
  - Texas must transition to the National Incident-Based Reporting System (NIBRS) to facilitate hate crime reporting and data collection. By January 2021, all law enforcement agencies in the United States will be required to report crime information through NIBRS.
3. Texas state code does not require specific law enforcement training on hate crime. The Texas Commission on Law Enforcement must prescribe a statewide comprehensive education and police training program that includes instruction relating to investigating and reporting hate crime incidents. Instruction relating to civil rights, racial sensitivity, and cultural diversity is already required by law.

## STATE CONTACTS

Advocates for an improved response to hate crime in Texas should contact current state legislators and members of Congress.

### Texas Legislature

Senate: <http://www.capitol.state.tx.us/MnuSenate.aspx>

House: <http://www.capitol.state.tx.us/MnuHouse.aspx>

### United States Senate

Contact: Texas

<https://www.senate.gov/senators/contact>

### United States House of Representatives

Directory of Representatives: Texas

<https://www.house.gov/representatives#state-texas>

# UTAH

Total population: 3,051,217

Rank of Arab American population by state: 36



## UT does not publish anti-Arab hate crime statistics.

**Utah** is the 31st most populated state and has the 36th largest Arab American population.

The Utah Department of Public Safety, Bureau of Criminal Identification (BCI), is the state agency responsible for the collection and publication of hate crime data. The Utah DPS does not publish annual statistics on anti-Arab hate crimes.

### HATE CRIME STATUTE

Utah Code § 76-3-203.3 provides enhanced penalties for certain misdemeanors committed “with intent to intimidate or terrorize” another person from freely exercising their civil rights.<sup>1</sup> Pursuant to Utah Code § 76-3-203.4, the sentencing judge is required to consider “the public harm resulting from the commission of the offense” as an aggravating factor.<sup>2</sup>

The current Utah hate crime statute is not sufficiently inclusive, as it does not offer protections for race, ethnicity, ancestry, religion, sexual orientation, disability, gender, or gender identity. Proposed legislation for a hate crime statute that is more definitive with respect to its protections, and more expansive regarding its punishable criminal offenses, has faced significant push back in the Utah statehouse.

Utah S.B. 72 (2017), which sought penalty enhancement for crimes motivated by a victim’s actual or perceived “ancestry, disability, ethnicity, gender, gender identity, national origin, race, religion, or sexual orientation,” never received a committee hearing.<sup>3</sup>

### DATA COLLECTION STATUTE

Utah Code § 53-10-202(2) requires the BCI to establish a statewide uniform crime reporting system that includes “statistics concerning crimes that exhibit evidence of prejudice based on race, religion, ancestry, national origin, ethnicity, or other categories that the division finds appropriate.”<sup>4</sup> Pursuant to Utah Code § 53-10-202(5), the BCI is required to “publish an annual report concerning the extent, fluctuation, distribution, and nature of crime in Utah.”<sup>5</sup> Utah law enforcement officers are not required to submit hate crime data to the BCI.

### LAW ENFORCEMENT TRAINING STATUTE

**There is no Utah statute that requires specific law enforcement training on hate crime.** Utah Code § 53-6-105 requires the director of the Utah Peace Officer Standards and Training (POST) Council to prescribe the standards and minimum qualifications for certification as a law enforcement officer in the state.<sup>6</sup> Pursuant to Utah Code § 53-6-107, the council is required to advise the director regarding the minimum courses of study and basic training requirements for certification as a law enforcement officer.<sup>7</sup>

| UTAH   |              |
|--|--------------|
| <b>Hate Crime Statute</b>                       | <b>10/40</b> |
| No statute; civil action or civil rights law   | -            |
| Hate crime statute, with protections for:  | 10           |
| Race/ethnicity/ancestry  | -            |
| Religion   | -            |
| Sexual orientation   | -            |
| Disability   | -            |
| Gender   | -            |
| Gender identity  | -            |
| <b>Data Collection Statute</b>                | <b>5/15</b>  |
| Data collection (voluntary reporting)  | 5            |
| Mandatory reporting and data collection  | -            |
| <b>Law Enforcement Training Statute</b>       | <b>0/15</b>  |
| No statute; comprehensive training   | -            |
| Mandatory training   | -            |
| <b>Annual Hate Crime Report</b>               | <b>15/20</b> |
| Annual hate crime report, including:   | 10           |
| Anti-Arab hate crime statistics  | -            |
| Anti-Islamic (Muslim) hate crime statistics  | 5            |
| <b>FBI Hate Crime Statistics Participant</b>  | <b>10/10</b> |
| <b>TOTAL</b>   | <b>40</b>    |

<sup>1</sup> Utah Code § 76-3-203.3 (JUSTIA 2017), available at <https://law.justia.com/codes/utah/2017/title-76/chapter-3/part-2/section-203.3>.

<sup>2</sup> Utah Code § 76-3-203.4 (JUSTIA 2017), available at <https://law.justia.com/codes/utah/2017/title-76/chapter-3/part-2/section-203.4>.

<sup>3</sup> S.B. 72, Victim Selection Penalty Enhancement, Gen. Sess. 2017 (UT 2017), available at <https://le.utah.gov/~2017/bills/static/SB0072.html>.

<sup>4</sup> Utah Code § 53-10-202(2) (JUSTIA 2017), available at <https://law.justia.com/codes/utah/2017/title-53/chapter-10/part-2/section-202>.

<sup>5</sup> Utah Code § 53-10-202(5), *id.*

<sup>6</sup> Utah Code § 53-6-105 (JUSTIA 2017), available at <https://law.justia.com/codes/utah/2017/title-53/chapter-6/part-1/section-105>.

<sup>7</sup> Utah Code § 53-6-107 (JUSTIA 2017), available at <https://law.justia.com/codes/utah/2017/title-53/chapter-6/part-1/section-107>.

## DATA COLLECTION & STATISTICS

Pursuant to Utah Code § 53-10-202(5), the BCI publishes an annual crime report that includes hate crime statistics. The 1997-2015 editions of *Crime in Utah* can be found on the BCI website.<sup>8</sup>



## ANNUAL STATEWIDE HATE CRIME REPORT

State-level hate crime statistics published by the BCI include data on anti-Islamic (Muslim) hate crime. The BCI tabulates hate crime data according to the number of offenses per aggregate bias motivation category in the 1997 and 2002-2008 reports and offenses per disaggregated category in the 2001 and 2014-2015 reports. Hate crime statistics are not provided in the 1998-2000 and 2009-2013 editions of *Crime in Utah*. The BCI does not provide anti-Arab hate crime statistics.

- ### ANTI-ARAB HATE CRIME STATISTICS

The BCI does not publish annual statistics on anti-Arab hate crime.

- ### ANTI-ISLAMIC (MUSLIM) HATE CRIME STATISTICS

Anti-Islamic (Muslim) hate crime statistics are provided in the 2001 and 2014-2015 editions of *Crime in Utah*. According to the BCI, the 6 anti-Islamic (Muslim) hate crime incidents reported in 2001 occurred after 9/11.<sup>9</sup> The BCI has not published 2016 hate crime statistics.

## UNIFORM CRIME REPORTING (UCR)

By January 2021, the FBI Uniform Crime Reporting (UCR) Program will depend solely on the National Incident-Based Reporting System (NIBRS) to collect nationwide crime data.<sup>10</sup> This transition entails the sunset of summary-based crime reporting (SRS) and requires cooperation on the part of state UCR programs and individual reporting agencies.

The Utah UCR program one of 18 state programs that rely on both SRS and NIBRS data.<sup>11</sup> As of 2013, there were 75 Utah law enforcement agencies participating in the NIBRS.<sup>12</sup> According to the Bureau of Justice Statistics, Utah has received funding through the National Crime Statistics Exchange (NCS-X) and is in the midst of NIBRS implementation.<sup>13</sup>

NIBRS reporting enables criminal justice agencies to acquire a better understanding of crime, including hate crime, occurring within their respective jurisdictions. This in turn has positive implications for effective law enforcement response and policy implementation.

### CONTACT

Uniform Crime Reporting  
 Bureau of Criminal Identification  
 Utah Department of Public Safety  
 3888 West 5400 South  
 Salt Lake City, Utah 84129  
 (801) 965-4454  
<http://publicsafety.utah.gov/bci/index.html>

## CRIME IN UTAH HATE CRIME OFFENSES (2000-2016)

| Bias motivation                        | '00 | '01 | '02 | '03 | '04 | '05 | '06 | '07 | '08 | '09 | '10 | '11 | '12 | '13 | '14 | '15 | '16 |
|--|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| Anti-Arab                              | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   |
| Anti-Islamic (Muslim)                  | -   | 6   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | 2   | 2   | -   |
| Anti-other race/<br>ethnicity/ancestry | -   | 8   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | 0   | 3   | -   |

According to supplemental data from the FBI, no anti-Arab hate or anti-Islamic (Muslim) hate crime incidents were reported in Utah in 2016. In 2015, a single anti-Islamic (Muslim) hate crime incident, involving a single offense, was reported. This total conflicts with BCI statistics. Utah law enforcement agencies submit hate crime data to the FBI UCR Program through the BCI.

## FBI HATE CRIME STATISTICS (2015-2016)

| Bias motivation       | '15 | '16 |
|-----------------------|-----|-----|
| Anti-Arab             | 0   | 0   |
| Anti-Islamic (Muslim) | 1   | 0   |

<sup>8</sup> Bureau of Criminal Identification, Utah Dep't of Pub. Safety, Utah Crime Statistics, <https://bci.utah.gov/utah-crime-statistics>.

<sup>9</sup> Bureau of Criminal Identification, Utah Dep't of Pub. Safety, 2001 Crime in Utah, available at <https://site.utah.gov/dps-criminal/wp-content/uploads/sites/15/2015/01/2001-year-end.pdf>.

<sup>10</sup> CJIS Div., Fed. Bureau of Investigation, SRS to NIBRS: The Path to Better UCR Data, <https://www.fbi.gov/services/cjis/cjis-link/srs-to-nibrs-the-path-to-better-ucr-data>.

<sup>11</sup> Bureau of Justice Statistics, U.S. Dep't of Justice, 2017 NCS-X Estimation Project (Jul. 27, 2017), available at <https://www.bjs.gov/content/pub/pdf/17ncsxep.pdf>.

<sup>12</sup> Uniform Crime Reporting Program, Fed. Bureau of Investigation, NIBRS Participation by State (2013), available at <https://ucr.fbi.gov/nibrs/2013/resources/nibrs-participation-by-state>.

<sup>13</sup> Bureau of Justice Statistics, U.S. Dep't of Justice, Justice Statistics Improvement Program, <https://www.bjs.gov/content/nibrs2.cfm>.

## FBI HATE CRIME STATISTICS

Pursuant to the Hate Crime Statistics Act (HCSA) of 1990 the FBI UCR Program collects data on "crimes that manifest evidence of prejudice based on race, gender or gender identity, religion, disability, sexual orientation, or ethnicity."<sup>14</sup>

Since 1993, the FBI UCR Program has published the annual report, *Hate Crime Statistics*, which is based on voluntary submissions from participating law enforcement agencies. In 2016, agencies from 49 states and the District of Columbia participated in the national hate crime statistics program.

For the most part, hate crime data is collected at the state level and forwarded to the FBI UCR Program. A total of 48 states maintain a state-level UCR data collection. UCR programs in 38 states publish annual hate crime statistics. Some participating law enforcement agencies submit hate crime data directly to the FBI UCR program.<sup>15</sup>



## FBI HATE CRIME STATISTICS PARTICIPANT

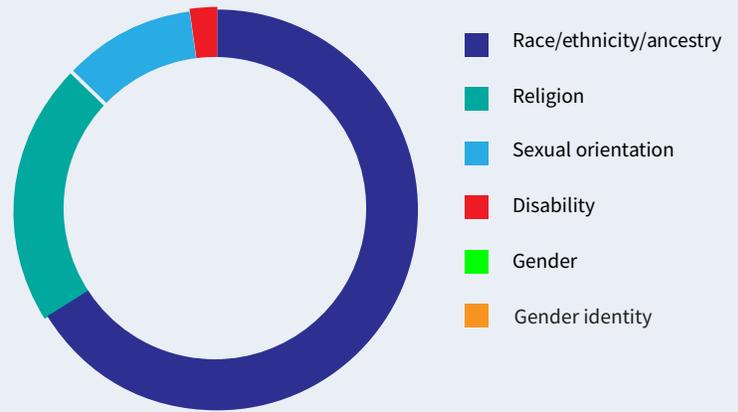
Law enforcement agencies in Utah submit hate crime data to the FBI UCR Program through the BCI. According to the FBI UCR Program's annual report, *Hate Crime Statistics*, 66 hate crime incidents were reported in Utah in 2016.

In 2016, 32 of the 130 Utah law enforcement agencies participating in the national hate crime statistics program submitted incident reports to the FBI UCR Program. Agencies representing two of the five largest cities in Utah submitted only zero data.

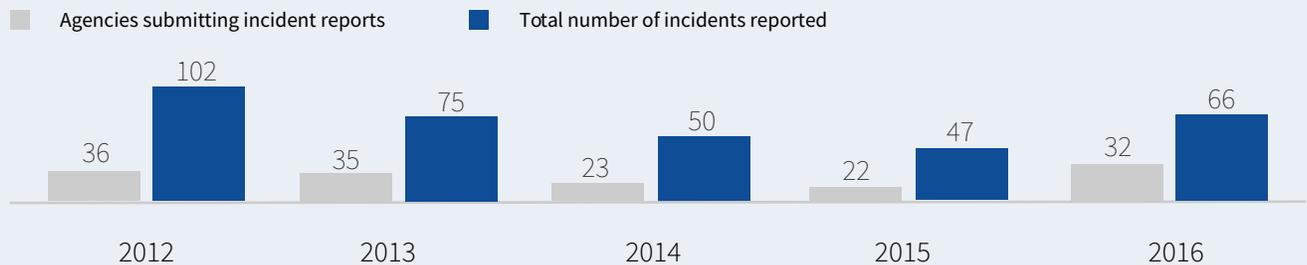
The BCI has not released 2016 hate crime statistics. Discrepancies occur between state and federal hate crime statistics for 2012-2015.

## FBI HATE CRIME STATISTICS: UTAH 2012-2016

| Incidents per bias motivation | 2012       | 2013      | 2014      | 2015      | 2016      | Total      |
|-------------------------------|------------|-----------|-----------|-----------|-----------|------------|
| Race/ethnicity/ancestry       | 64         | 55        | 30        | 29        | 47        | 225        |
| Religion                      | 26         | 10        | 17        | 11        | 8         | 72         |
| Sexual orientation            | 9          | 8         | 3         | 7         | 9         | 36         |
| Disability                    | 3          | 2         | 0         | 0         | 2         | 7          |
| Gender                        | -          | 0         | 0         | 0         | 0         | 0          |
| Gender identity               | -          | 0         | 0         | 0         | 0         | 0          |
| <b>Total</b>                  | <b>102</b> | <b>75</b> | <b>50</b> | <b>47</b> | <b>66</b> | <b>340</b> |



## PARTICIPATION IN UCR HATE CRIME STATISTICS PROGRAM



## SUMMARY

The current Utah hate crime statute is not sufficiently inclusive, as it does not offer protections for race, ethnicity, ancestry, religion, sexual orientation, disability, gender, or gender identity. Furthermore, the current statute only covers misdemeanor offenses. While Utah has a statute requiring the BCI to collect hate crime data, law enforcement officers in the state are not required to report hate crime, nor do they receive mandatory training. The Utah Department of Public Safety, Bureau of Criminal Investigation, maintains the state clearinghouse for all police-reported crime data, including hate crime, and is responsible for publishing annual statistics. Copies of *Crime in Utah* can be found on the BCI website and include anti-Islamic (Muslim) hate crime statistics. The BCI does not publish annual statistics on anti-Arab hate crime. In 2016, 32 Utah law enforcement agencies submitted hate crime incident reports to the FBI UCR Program.<sup>16</sup> The remaining 97 participating agencies provided only zero data. A total of 14 participating agencies recorded blank data in at least one quarterly submission period. Utah receives an overall score of 40 points, denoting a limited response to hate crime.

<sup>14</sup> 28 U.S.C. § 534 (JUSTIA 2016), available at <https://law.justia.com/codes/us/2016/title-28/part-ii/chapter-33/sec.-534>.

<sup>15</sup> Uniform Crime Reporting Program, Fed. Bureau of Investigation, Data Quality Guidelines, [https://ucr.fbi.gov/data\\_quality\\_guidelines](https://ucr.fbi.gov/data_quality_guidelines).

<sup>16</sup> CJIS Div., Fed. Bureau of Investigation, Table 11: Offenses, Hate Crime Statistics, 2016 (Nov. 13, 2017), <https://ucr.fbi.gov/hate-crime/2016/tables/table-11>.

# ADVOCACY RESOURCES - Utah

## IMPROVING THE RESPONSE

Most states have failed to enact sufficient legislation to address, prevent, and counteract hate crime in American communities. To accompany our federal hate crime laws, state legislatures must pass the following:

1. **An inclusive hate crime statute**, which covers a wide range of criminal offenses and provides enhanced penalties for crimes motivated because of citizenship status, race, ethnicity, color, disability, age, ancestry or national origin, gender or gender identity, sexual orientation, religion, or homelessness. Such protections are pursuant to model hate crime legislation drafted by the Arab American Institute. According to the model statute, penalty enhancement may incorporate alternatives to fines or increased prison sentences. Alternatives include restitution for victims and communities, participation in educational programs, and restorative justice.
2. **Statutes that require reporting, data collection, and specific law enforcement training on hate crime.** Centralized state agencies must publish comprehensive, accessible statistics on the nature and extent of hate crime occurring within their state. These statistics must conform to national UCR standards and include the bias motivation categories identified in the FBI's annual report, *Hate Crime Statistics*. States must also require law enforcement training schools to provide comprehensive training to ensure that officers are prepared to investigate, report, and respond to hate crime incidents.

## STATE RECOMMENDATIONS

According to our rating methodology, Utah receives an overall score of 40 points, denoting a limited response to hate crime. Advocates for an improved response to hate crime in Utah should promote the following:

1. The current Utah hate crime statute identifies no protected characteristics and applies only to misdemeanor offenses. The Utah State Legislature must enact legislation for a criminal statute prohibiting crimes motivated because of **citizenship status, race, ethnicity, color, disability, age, ancestry or national origin, gender or gender identity, sexual orientation, religion, homelessness**, or association with a person or group with one of these actual or perceived characteristics. This statute must cover a wide range of criminal offenses.
2. While the Utah Bureau of Criminal Identification (BCI) is required to collect data on hate crimes, law enforcement agencies in Utah are not required to report hate crime incidents. In 2016, 32 of the 130 Utah law enforcement agencies participating in the national hate crime statistics program submitted incident reports to the FBI UCR Program.
  - Law enforcement agencies must report hate crimes to the BCI, which is currently responsible for publishing annual statistics.
  - The BCI must collect data and publish statistics, conforming to national UCR standards, on the nature and extent of hate crime within the state. Utah's annual hate crime report does not ostensibly provide data corresponding to the bias motivation categories identified in the FBI UCR Program's annual report, *Hate Crime Statistics*.
  - Utah must transition to the National Incident-Based Reporting System to facilitate hate crime reporting and data collection. By January 2021, all law enforcement agencies in the United States will be required to report crime information through NIBRS.
3. Utah state code does not require specific law enforcement training on hate crime. The Utah Peace Officer Standards and Training Council must prescribe minimum courses of study and basic training requirements, relating to investigating and reporting hate crime incidents, for certification as a law enforcement officer in the state.

## STATE CONTACTS

Advocates for an improved response to hate crime in Utah should contact current state legislators and members of Congress.

### Utah State Legislature

Senate: <http://senate.utah.gov>

House: <http://house.utah.gov>

### United States Senate

Contact: Utah

<https://www.senate.gov/senators/contact>

### United States House of Representatives

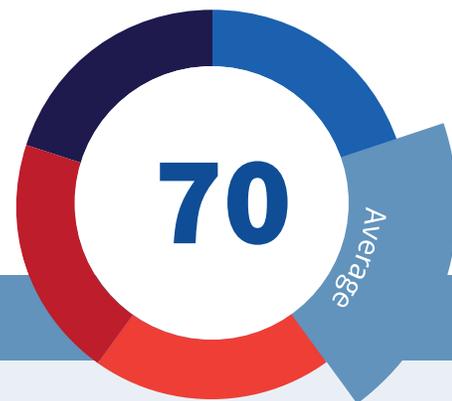
Directory of Representatives: Utah

<https://www.house.gov/representatives#state-utah>

# VERMONT

Total population: 624,594

Rank of Arab American population by state: 43



VT does not publish anti-Arab hate crime statistics.

**Vermont** is the 49th most populated state and has the 43rd largest Arab American population.

Housed within the state's Department of Public Safety, the Vermont Crime Information Center (VCIC) is the state agency responsible for the collection and publication of hate crime data. The VCIC does not publish annual statistics on anti-Arab hate crime.

## HATE CRIME STATUTE

Vt. Stat. Ann. tit. 13, § 1455 provides enhanced penalties for crimes and attempted crimes “maliciously motivated by the victim's actual or perceived race, color, religion, national origin, sex, ancestry, age, service in the U.S. Armed Forces, disability as defined by 21 V.S.A. § 495d(5), sexual orientation, or gender identity.”<sup>1</sup>

Pursuant to Vt. Stat. Ann. tit. 21, § 495d(5), disability is defined so as to include both “physical and mental impairments.”<sup>2</sup>

## DATA COLLECTION STATUTE

**There is no Vermont statute that requires hate crime reporting or data collection.** Pursuant to Vt. Stat. Ann. tit. 20, § 20151, the VCIC maintains the official state repository for all “criminal records, records of the commission of crimes...and such other information as the [head of the Vermont Department of Public Safety] deems pertinent to criminal activity.”<sup>3</sup>

In accordance with Vt. Stat. Ann. tit. 20, § 2057, the VCIC must publish “information relating to criminal activity, arrests, convictions” and other relevant information “from time to time, but at least annually.”<sup>4</sup> Furthermore, Vt. Stat. Ann. tit. 20, § 2054 requires all Vermont law enforcement agencies to comply with crime reporting standards as regulated by the VCIC.<sup>5</sup>

## LAW ENFORCEMENT TRAINING STATUTE

**There is no Vermont statute that requires specific law enforcement training on hate crime.** Pursuant to Vt. Stat. Ann. tit. 20, § 2358(e)(1), the minimum standards and basic training curriculum for law enforcement officers in the state must incorporate “anti-bias training approved by the Vermont Criminal Justice Training Council (VCJTC) and training on the State, county, or municipal law enforcement agency's fair and impartial policing policy.”<sup>6</sup> The current VCJTC's model fair and impartial policing policy includes guidance on “Bias-Based Reports or Reports Regarding Bias from the Community.”<sup>7</sup> According to the VCJTC model policy, mandatory basic police training must provide instruction on hate crime investigations.<sup>8</sup>

### VERMONT

| Hate Crime Statute                       | 40/40 |
|---|-------|
| No statute; civil action or civil rights law  | -     |
| Hate crime statute, with protections for:   | 10    |
| Race/ethnicity/ancestry   | 5     |
| Religion  | 5     |
| Sexual orientation  | 5     |
| Disability  | 5     |
| Gender  | 5     |
| Gender identity   | 5     |
| Data Collection Statute                | 0/15  |
| Data collection (voluntary reporting)   | -     |
| Mandatory reporting and data collection   | -     |
| Law Enforcement Training Statute       | 5/15  |
| No statute; comprehensive training  | 5     |
| Mandatory training  | -     |
| Annual Hate Crime Report               | 15/20 |
| Annual hate crime report, including:  | 10    |
| Anti-Arab hate crime statistics   | -     |
| Anti-Islamic (Muslim) hate crime statistics   | 5     |
| FBI Hate Crime Statistics Participant  | 10/10 |
| TOTAL   | 70    |

<sup>1</sup> Vt. Stat. Ann. tit. 13, § 1455 (JUSTIA 2017), available at <https://law.justia.com/codes/vermont/2017/title-13/chapter-31/section-1455>.

<sup>2</sup> Vt. Stat. Ann. tit. 21, § 495d(5) (JUSTIA 2017), available at <https://law.justia.com/codes/vermont/2017/title-21/chapter-5/section-495>.

<sup>3</sup> Vt. Stat. Ann. tit. 20, § 2051 (JUSTIA 2017), available at <https://law.justia.com/codes/vermont/2017/title-20/chapter-117/section-2051>.

<sup>4</sup> Vt. Stat. Ann. tit. 20, § 2057 (JUSTIA 2017), available at <https://law.justia.com/codes/vermont/2017/title-20/chapter-117/section-2057>.

<sup>5</sup> Vt. Stat. Ann. tit. 20, § 2054 (JUSTIA 2017), available at <https://law.justia.com/codes/vermont/2017/title-20/chapter-117/section-2054>.

<sup>6</sup> Vt. Stat. Ann. tit. 20, § 2358(e)(1) (JUSTIA 2017), available at <https://law.justia.com/codes/vermont/2017/title-20/chapter-151/section-2358>.

<sup>7</sup> State of Vermont Criminal Justice Training Council, Model Fair and Impartial Policing Policy (approved Dec. 7, 2017), available at <http://vcjtc.vermont.gov/content/model-fair-and-impartial-policing-policy>.

<sup>8</sup> Vermont Police Academy, State of Vermont Criminal Justice Training Council, Level III Basic Training Curriculum Summary, available at <http://vcjtc.vermont.gov/training/three/curriculum-summary>.

## DATA COLLECTION & STATISTICS

Pursuant to Vt. Stat. Ann. tit. 20, § 20157, the VCIC publishes an annual report on crime statistics. The 1997-2014 editions of Vermont Crime Report can be found on the VCIC website.<sup>9</sup> The reports do not provide data on hate crime. Statewide hate crime statistics are available, however, on a query-based website. Vermont Crime On-Line is based completely on NIBRS submissions from law enforcement agencies across the state. The Vermont Crime On-Line database provides incident-based hate crime data tabulated according to disaggregated bias motivation categories.<sup>10</sup>

## ANNUAL STATEWIDE HATE CRIME REPORT



State-level hate crime statistics published by the VCIC include data on anti-Islamic (Muslim) hate crime. The VCIC tabulates hate crime data according to the number of incidents per disaggregated bias motivation category. Hate crime statistics for 2004-2015 are provided in the Vermont Crime On-Line database. The VCIC does not provide anti-Arab hate crime statistics.

### ANTI-ARAB HATE CRIME STATISTICS

- The VCIC does not publish annual statistics on anti-Arab hate crime.

### ANTI-ISLAMIC (MUSLIM) HATE CRIME STATISTICS

- Anti-Islamic (Muslim) hate crime statistics for 2004-2015 are provided in the Vermont Crime On-Line database. According to the VCIC, a single anti-Islamic (Muslim) hate crime incident was reported in 2011. The VCIC has not published 2016 hate crime statistics.

## UNIFORM CRIME REPORTING (UCR)

By January 2021, the FBI Uniform Crime Reporting (UCR) Program will depend solely on the National Incident-Based Reporting System (NIBRS) to collect nationwide crime data.<sup>11</sup> This transition entails the sunset of summary-based crime reporting (SRS) and requires cooperation on the part of state UCR programs and individual reporting agencies.

The Vermont UCR program is one of 16 state programs that rely exclusively on NIBRS data.<sup>12</sup>

NIBRS reporting enables criminal justice agencies to acquire a better understanding of crime, including hate crime, occurring within their respective jurisdictions. This in turn has positive implications for effective law enforcement response and policy implementation.

### CONTACT

Vermont Crime Information Center  
 Department of Public Safety  
 103 South Main Street  
 Waterbury, Vermont 05671-2101  
 (802) 244-8727  
<http://vcic.vermont.gov/>

## VERMONT CRIME ON-LINE HATE CRIME INCIDENTS (2000-2016)

| Bias motivation                        | '00 | '01 | '02 | '03 | '04 | '05 | '06 | '07 | '08 | '09 | '10 | '11 | '12 | '13 | '14 | '15 | '16 |
|--|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| Anti-Arab                              | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   |
| Anti-Islamic (Muslim)                  | -   | -   | -   | -   | 0   | 0   | 0   | 0   | 0   | 0   | 0   | 1   | 0   | 0   | 0   | 0   | -   |
| Anti-other race/<br>ethnicity/ancestry | -   | -   | -   | -   | 4   | 1   | 1   | 0   | 0   | 0   | 0   | 0   | 0   | 0   | 0   | 0   | -   |

According to supplemental data from the FBI, a single anti-Islamic (Muslim) hate crime incident was reported in Vermont in 2016. Vermont law enforcement agencies submit hate crime data to the FBI UCR Program through the VCIC.

## FBI HATE CRIME STATISTIC (2015-2016)

| Bias motivation       | '15 | '16 |
|-----------------------|-----|-----|
| Anti-Arab             | 0   | 0   |
| Anti-Islamic (Muslim) | 0   | 1   |

<sup>9</sup> Vermont Crime Information Ctr., Dep't of Pub. Safety, Vermont Crime Report, <http://vcic.vermont.gov/ch-information/statistics/vt-crime-report>.

<sup>10</sup> Vermont Crime Information Ctr., Dep't of Pub. Safety, Vermont Crime On-Line, <http://vcic.vermont.gov/ch-information/statistics/online>.

<sup>11</sup> CJIS Div., Fed. Bureau of Investigation, SRS to NIBRS: The Path to Better UCR Data, <https://www.fbi.gov/services/cjis/cjis-link/srs-to-nibrs-the-path-to-better-ucr-data>.

<sup>12</sup> Bureau of Justice Statistics, U.S. Dep't of Justice, 2017 NCS-X Estimation Project (Jul. 27, 2017), available at <https://www.bjs.gov/content/pub/pdf/17ncxep.pdf>.

## FBI HATE CRIME STATISTICS

Pursuant to the Hate Crime Statistics Act (HCSA) of 1990 the FBI UCR Program collects data on "crimes that manifest evidence of prejudice based on race, gender or gender identity, religion, disability, sexual orientation, or ethnicity."<sup>13</sup>

Since 1993, the FBI UCR Program has published the annual report, *Hate Crime Statistics*, which is based on voluntary submissions from participating law enforcement agencies. In 2016, agencies from 49 states and the District of Columbia participated in the national hate crime statistics program.

For the most part, hate crime data is collected at the state level and forwarded to the FBI UCR Program. A total of 48 states maintain a state-level UCR data collection. UCR programs in 38 states publish annual hate crime statistics. Some participating law enforcement agencies submit hate crime data directly to the FBI UCR program.<sup>14</sup>



## FBI HATE CRIME STATISTICS PARTICIPANT

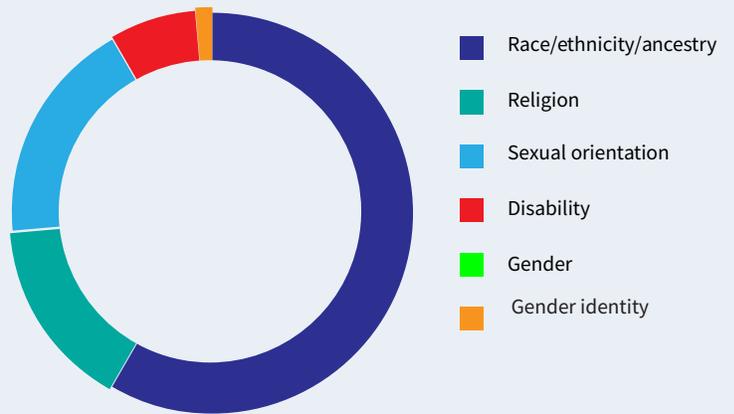
Law enforcement agencies in Vermont submit hate crime data to the FBI UCR Program through the VCIC. According to the FBI UCR Program's annual report, *Hate Crime Statistics*, 25 hate crime incidents were reported in Vermont in 2016.

In 2016, 15 of the 90 Vermont law enforcement agencies participating in the national hate crime statistics program submitted incident reports to the FBI UCR Program. Agencies representing three of the five largest cities in Vermont submitted only zero data.

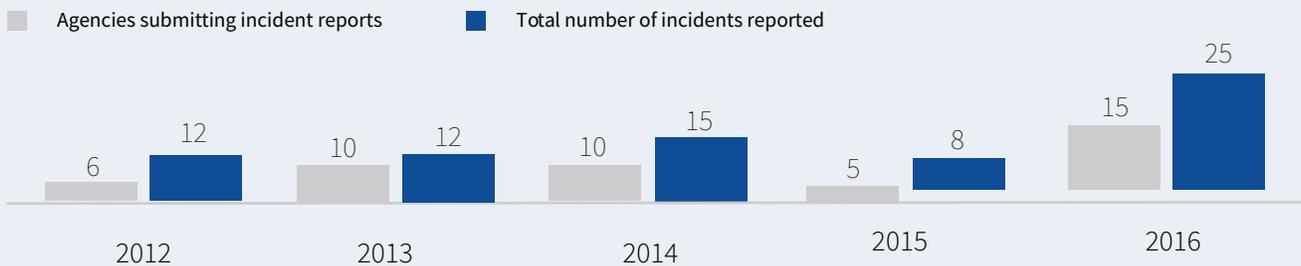
The VCIC has not released 2016 hate crime statistics. Discrepancies occur between state and federal hate crime statistics for previous years.

## FBI HATE CRIME STATISTICS: VERMONT 2012-2016

| Incidents per bias motivation | 2012      | 2013      | 2014      | 2015     | 2016      | Total     |
|-------------------------------|-----------|-----------|-----------|----------|-----------|-----------|
| Race/ethnicity/ancestry       | 6         | 8         | 7         | 5        | 16        | 42        |
| Religion                      | 2         | 1         | 3         | 0        | 5         | 11        |
| Sexual orientation            | 4         | 3         | 1         | 2        | 3         | 13        |
| Disability                    | 0         | 0         | 4         | 0        | 1         | 5         |
| Gender                        | -         | 0         | 0         | 0        | 0         | 0         |
| Gender identity               | -         | 0         | 0         | 1        | 0         | 1         |
| <b>Total</b>                  | <b>12</b> | <b>12</b> | <b>15</b> | <b>8</b> | <b>25</b> | <b>72</b> |



## PARTICIPATION IN UCR HATE CRIME STATISTICS PROGRAM



## SUMMARY

While Vermont has an inclusive hate crime statute, state code does not require hate crime reporting, data collection, or specific law enforcement training. Despite this lack of statutory requirements, the Vermont Crime Information Center (VCIC) publishes annual hate crime statistics and the Vermont Criminal Justice Training Council has set policies that require hate crime training. The VCIC maintains the state clearinghouse for all police reported crime data, including hate crime, and is responsible for publishing annual statistics. State-level hate crime statistics can be found on the Vermont Crime On-Line database and include anti-Islamic (Muslim) hate crime statistics. The VCIC does not publish annual statistics on anti-Arab hate crime. In 2016, 15 Vermont law enforcement agencies submitted hate crime incident reports to the FBI UCR Program. The remaining 75 participating agencies provided only zero data. A total of 11 participating agencies recorded blank data in at least one quarterly submission period. Vermont receives an overall score of 70 points, denoting an average response to hate crime.

<sup>13</sup> 28 U.S.C. § 534 (JUSTIA 2016), available at <https://law.justia.com/codes/us/2016/title-28/part-ii/chapter-33/sec.-534>.

<sup>14</sup> Uniform Crime Reporting Program, Fed. Bureau of Investigation, Data Quality Guidelines, [https://ucr.fbi.gov/data\\_quality\\_guidelines](https://ucr.fbi.gov/data_quality_guidelines).

# ADVOCACY RESOURCES - Vermont

## IMPROVING THE RESPONSE

Most states have failed to enact sufficient legislation to address, prevent, and counteract hate crime in American communities. To accompany our federal hate crime laws, state legislatures must pass the following:

1. **An inclusive hate crime statute**, which covers a wide range of criminal offenses and provides enhanced penalties for crimes motivated because of citizenship status, race, ethnicity, color, disability, age, ancestry or national origin, gender or gender identity, sexual orientation, religion, or homelessness. Such protections are pursuant to model hate crime legislation drafted by the Arab American Institute. According to the model statute, penalty enhancement may incorporate alternatives to fines or increased prison sentences. Alternatives include restitution for victims and communities, participation in educational programs, and restorative justice.
2. **Statutes that require reporting, data collection, and specific law enforcement training on hate crime.** Centralized state agencies must publish comprehensive, accessible statistics on the nature and extent of hate crime occurring within their state. These statistics must conform to national UCR standards and include the bias motivation categories identified in the FBI's annual report, *Hate Crime Statistics*. States must also require law enforcement training schools to provide comprehensive training to ensure that officers are prepared to investigate, report, and respond to hate crime incidents.

## STATE RECOMMENDATIONS

According to our rating methodology, Vermont receives an overall score of 70 points, denoting an average response to hate crime. Advocates for an improved response to hate crime in Vermont should promote the following:

1. The current Vermont hate crime statute offers protections for race, color, religion, national origin, sex, ancestry, age, service in the U.S. Armed Forces, disability, sexual orientation, and gender identity. The Vermont hate crime statute should be amended to include protections for **citizenship status, ethnicity, homelessness**, or association with a person or group with one of these actual or perceived characteristics.
2. While the Vermont Crime Information Center (VCIC) publishes hate crime statistics through an online database, state code does not require hate crime reporting or data collection. In 2016, 15 of the 90 Vermont law enforcement agencies participating in the national hate crime statistics program submitted incident reports to the FBI UCR Program.
  - Law enforcement agencies must report hate crimes to the VCIC, which is currently responsible for publishing annual statistics.
  - The VCIC should be required by law to collect data and publish statistics, conforming to national UCR standards, on the nature and extent of hate crime within the state. The Vermont online crime database does not currently provide hate crime data corresponding to the bias motivation categories identified in the FBI UCR Program's annual report, *Hate Crime Statistics*.
3. Vermont state code does not require specific law enforcement training on hate crime. While the Vermont Criminal Justice Training Council (VCJTC) model policy for mandatory basic police training includes instruction on hate crime investigations, mandatory statewide instruction relating to investigating and reporting hate crime incidents should be required by law. Pursuant to Vermont state code, statewide law enforcement training must already incorporate VCJTC-approved anti-bias training.

## STATE CONTACTS

Advocates for an improved response to hate crime in Vermont should contact current state legislators and members of Congress.

### Vermont General Assembly

Both Chambers: <https://legislature.vermont.gov>

### United States Senate

Contact: Vermont

<https://www.senate.gov/senators/contact>

### United States House of Representatives

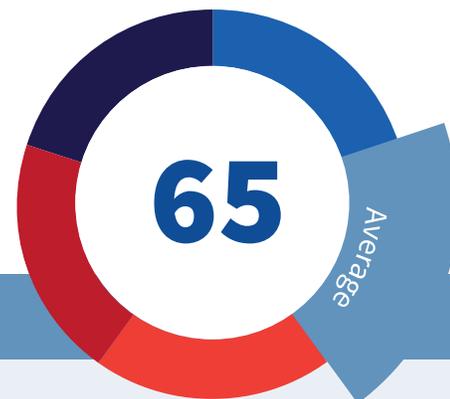
Directory of Representatives: Vermont

<https://www.house.gov/representatives#state-vermont>

# VIRGINIA

Total population: 8,411,808

Rank of Arab American population by state: 9



VA does not publish anti-Arab hate crime statistics.

**Virginia** is the 12th most populated state and has the 9th largest Arab American population.

The Virginia State Police, Criminal Justice Information Services Division (CJIS), is the state agency responsible for the collection and publication of hate crime data. The CJIS does not publish annual statistics on anti-Arab hate crime.

## HATE CRIME STATUTE

Va. Code § 18.2-57 provides enhanced penalties for assault and battery committed because of a victim’s “race, religious conviction, color or national origin.”<sup>1</sup> Pursuant to Va. Code § 52-8.5, hate crime is defined as a criminal act committed against a person or their property “with the specific intent of instilling fear or intimidation” in that person because of race, religion, or ethnic origin, in order to restrain them from the exercise of their civil rights, and furthermore, any illegal act directed against a person or their property because of their “race, religion, and national origin,” and all other incidents per the discretion of law enforcement intended to intimidate or harass any individual or group because of the reasons described above.<sup>2</sup>

The current Virginia hate crime statute is not sufficiently inclusive, as it does not offer protections for sexual orientation, disability, gender, or gender identity.

## DATA COLLECTION STATUTE

Va. Code § 52-8.5 also requires Virginia law enforcement agencies to report all hate crimes occurring within their jurisdictions to the Department of State Police (VSP).<sup>3</sup> In accordance with Va. Code § 52-25, the VSP maintains a “uniform crime reporting system for the purpose of receiving, compiling, classifying, analyzing and publishing crime statistics.”<sup>4</sup>

## LAW ENFORCEMENT TRAINING STATUTE

**There is no Virginia statute that requires specific law enforcement training on hate crime.** Pursuant to Va. Code § 15.2-1706, all Virginia law enforcement officers must be certified through “the successful completion of training at an approved criminal justice training academy.”<sup>5</sup> The current Virginia Criminal Justice Training Reference Manual includes hate crime as a topic of instruction.<sup>6</sup>

| VIRGINIA   |              |
|--|--------------|
| <b>Hate Crime Statute</b>                       | <b>20/40</b> |
| No statute; civil action or civil rights law   | -            |
| Hate crime statute, with protections for:  | 10           |
| Race/ethnicity/ancestry  | 5            |
| Religion   | 5            |
| Sexual orientation   | -            |
| Disability   | -            |
| Gender   | -            |
| Gender identity  | -            |
| <b>Data Collection Statute</b>                | <b>15/15</b> |
| Data collection (voluntary reporting)  | -            |
| Mandatory reporting and data collection  | 15           |
| <b>Law Enforcement Training Statute</b>       | <b>5/15</b>  |
| No statute; comprehensive training   | 5            |
| Mandatory training   | -            |
| <b>Annual Hate Crime Report</b>               | <b>15/20</b> |
| Annual hate crime report, including:   | 10           |
| Anti-Arab hate crime statistics  | -            |
| Anti-Islamic (Muslim) hate crime statistics  | 5            |
| <b>FBI Hate Crime Statistics Participant</b>  | <b>10/10</b> |
| <b>TOTAL</b>   | <b>65</b>    |

<sup>1</sup> Va. Code § 18.2-57 (JUSTIA 2017), available at <https://law.justia.com/codes/virginia/2017/title-18.2/chapter-4/section-18.2-57>.

<sup>2</sup> Va. Code § 52-8.5 (JUSTIA 2017), available at <https://law.justia.com/codes/virginia/2017/title-52/chapter-1/section-52-8.5>.

<sup>3</sup> Va. Code § 52-8.5B, id.

<sup>4</sup> Va. Code § 52-25 (JUSTIA 2017), available at <https://law.justia.com/codes/virginia/2017/title-52/chapter-6/section-52-25>.

<sup>5</sup> Va. Code § 15.2-1706 (JUSTIA 2017), available at <https://law.justia.com/codes/virginia/2017/title-15.2/chapter-17/section-15.2-1706>.

<sup>6</sup> Virginia Dep’t of Criminal Justice Services, Training Manual and Compulsory Minimum Training Standards, available at <https://www.dcs.virginia.gov/law-enforcement/manual>.

## DATA COLLECTION & STATISTICS

Pursuant to Va. Code § 52-25, the CJIS publishes an annual report on crime statistics. The 1999-2016 editions of *Crime in Virginia* can be found on the VSP website and include hate crime statistics.<sup>7</sup>



## ANNUAL STATEWIDE HATE CRIME REPORT

State-level hate crime statistics published by the CJIS include data on anti-Islamic (Muslim) hate crime. The CJIS tabulates hate crime data according to the number of offenses per disaggregated bias motivation category. The CJIS does not currently provide anti-Arab hate crime statistics.

### ANTI-ARAB HATE CRIME STATISTICS

- Anti-Arab hate crime statistics are provided in the 2001-2006 editions of *Crime in Virginia*. There was a significant number of reported anti-Arab hate crime offenses in 2001. The CJIS does not currently publish annual statistics on anti-Arab hate crime. In recent editions, anti-Arab hate crimes are recorded under a composite ethnicity/national origin category.

### ANTI-ISLAMIC (MUSLIM) HATE CRIME STATISTICS

Anti-Islamic (Muslim) hate crime statistics are provided in the 1999-2016 editions of *Crime in Virginia*. From 2000 to 2001 there was a significant increase of reported anti-Islamic (Muslim) hate crime offenses. According to the CJIS, 6 anti-Islamic (Muslim) hate crime offenses were reported in Virginia in 2016.

## UNIFORM CRIME REPORTING (UCR)

By January 2021, the FBI Uniform Crime Reporting (UCR) Program will depend solely on the National Incident-Based Reporting System (NIBRS) to collect nationwide crime data.<sup>8</sup> This transition entails the sunset of summary-based crime reporting (SRS) and requires cooperation on the part of state UCR programs and individual reporting agencies.

The Virginia UCR program is one of the 16 state programs that rely exclusively on NIBRS data.<sup>9</sup>

NIBRS reporting enables criminal justice agencies to acquire a better understanding of crime, including hate crime, occurring within their respective jurisdictions. This in turn has positive implications for effective law enforcement response and policy implementation.

### CONTACT

Criminal Justice Information Services Division  
Virginia State Police  
Post Office Box 27472  
Richmond, Virginia 23261-7472  
(804) 674-2143  
[www.vsp.state.va.us/Crime\\_in\\_Virginia.shtm](http://www.vsp.state.va.us/Crime_in_Virginia.shtm)

## CRIME IN VIRGINIA HATE CRIME OFFENSES (2000-2016)

| Bias motivation                        | '00 | '01 | '02 | '03 | '04 | '05 | '06 | '07 | '08 | '09 | '10 | '11 | '12 | '13 | '14 | '15 | '16 |
|--|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| Anti-Arab                              | -   | 28  | 8   | 5   | 17  | 8   | 16  | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   |
| Anti-Islamic (Muslim)                  | 3   | 25  | 5   | 10  | 10  | 4   | 4   | 4   | 2   | 1   | 4   | 5   | 6   | 5   | 5   | 7   | 6   |
| Anti-other race/<br>ethnicity/ancestry | 16  | 10  | 11  | 12  | 16  | 16  | 4   | 22  | 13  | 6   | 8   | 10  | 0   | 3   | 7   | 12  | 10  |

According to supplemental data from the FBI, 6 anti-Islamic (Muslim) hate crime incidents, involving 6 offenses, were reported in Virginia in 2016. This total is consistent with CJIS statistics. Virginia law enforcement agencies submit hate crime data to the FBI UCR Program through the CJIS.

## FBI HATE CRIME STATISTICS (2015-2016)

| Bias motivation       | '15 | '16 |
|-----------------------|-----|-----|
| Anti-Arab             | 0   | 0   |
| Anti-Islamic (Muslim) | 7   | 6   |

<sup>7</sup> Uniform Crime Reporting Section, Virginia Dep't of State Police, *Crime in Virginia*, [http://www.vsp.state.va.us/Crime\\_in\\_Virginia.shtm](http://www.vsp.state.va.us/Crime_in_Virginia.shtm).

<sup>8</sup> CJIS Div., Fed. Bureau of Investigation, SRS to NIBRS: The Path to Better UCR Data, <https://www.fbi.gov/services/cjis/cjis-link/srs-to-nibrs-the-path-to-better-ucr-data>.

<sup>9</sup> Bureau of Justice Statistics, U.S. Dep't of Justice, 2017 NCS-X Estimation Project (Jul. 27, 2017), available at <https://www.bjs.gov/content/pub/pdf/17ncsxep.pdf>.

## FBI HATE CRIME STATISTICS

Pursuant to the Hate Crime Statistics Act (HCSA) of 1990 the FBI UCR Program collects data on "crimes that manifest evidence of prejudice based on race, gender or gender identity, religion, disability, sexual orientation, or ethnicity."<sup>10</sup>

Since 1993, the FBI UCR Program has published the annual report, *Hate Crime Statistics*, which is based on voluntary submissions from participating law enforcement agencies. In 2016, agencies from 49 states and the District of Columbia participated in the national hate crime statistics program.

For the most part, hate crime data is collected at the state level and forwarded to the FBI UCR Program. A total of 48 states maintain a state-level UCR data collection. UCR programs in 38 states publish annual hate crime statistics. Some participating law enforcement agencies submit hate crime data directly to the FBI UCR program.<sup>11</sup>



## FBI HATE CRIME STATISTICS PARTICIPANT

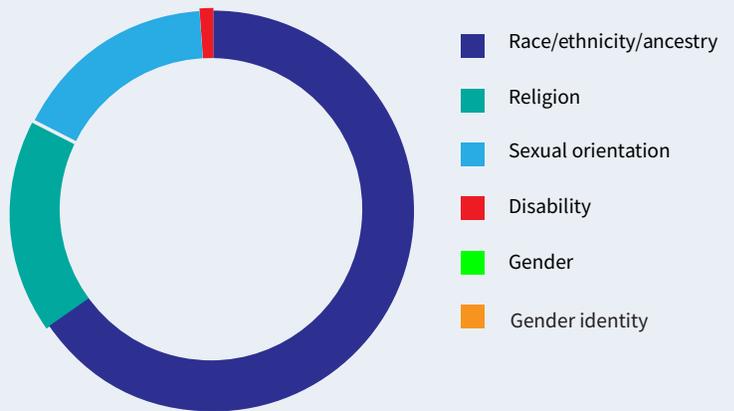
Law enforcement agencies in Virginia submit hate crime data to the FBI UCR Program through the CJIS. According to the FBI UCR Program's annual report, *Hate Crime Statistics*, 122 hate crime incidents, involving 150 offenses, were reported in Virginia in 2016.

In 2016, 55 of the 419 Virginia law enforcement agencies participating in the national hate crime statistics program submitted incident reports to the FBI UCR Program.

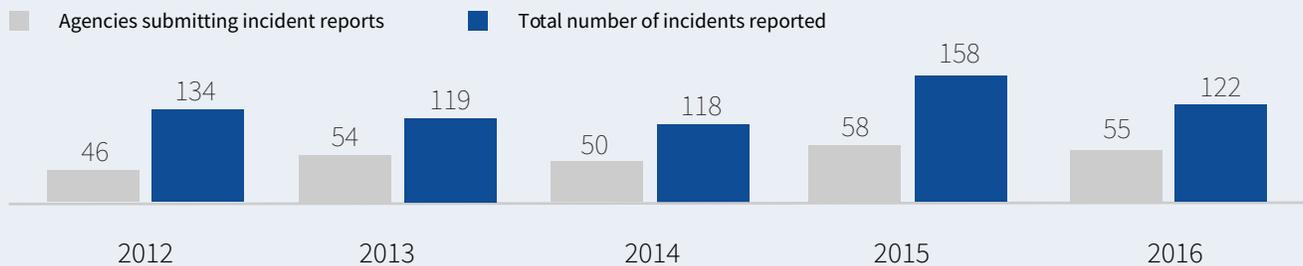
According to annual hate crime statistics published by the CJIS, 137 hate crime offenses were reported in Virginia in 2016. This total conflicts with the FBI UCR Program's annual report, *Hate Crime Statistics, 2016*. Discrepancies occur between state and federal hate crime statistics for 2012-2015 as well.

## FBI HATE CRIME STATISTICS: VIRGINIA 2012-2016

| Incidents per bias motivation | 2012       | 2013       | 2014       | 2015       | 2016       | Total      |
|-------------------------------|------------|------------|------------|------------|------------|------------|
| Race/ethnicity/ancestry       | 84         | 77         | 79         | 108        | 76         | 424        |
| Religion                      | 24         | 30         | 16         | 24         | 21         | 111        |
| Sexual orientation            | 26         | 12         | 22         | 24         | 22         | 106        |
| Disability                    | 0          | 0          | 1          | 2          | 3          | 6          |
| Gender                        | -          | 0          | 0          | 0          | 0          | 0          |
| Gender identity               | -          | 0          | 0          | 0          | 0          | 0          |
| <b>Total</b>                  | <b>134</b> | <b>119</b> | <b>118</b> | <b>158</b> | <b>122</b> | <b>651</b> |



## PARTICIPATION IN UCR HATE CRIME STATISTICS PROGRAM



## SUMMARY

The current Virginia hate crime statute is not sufficiently inclusive, as it does not offer protections for sexual orientation, disability, gender, or gender identity. While Virginia has statutes that require reporting and data collection, there is no state law regarding mandatory police training on hate crime. Despite the lack of a specific mandate, the *Virginia Criminal Justice Training Reference Manual* includes hate crime as a topic of instruction. The Virginia State Police, Criminal Justice Information Services Division, maintains the state clearinghouse for all police-reported crime data, including hate crime, and is responsible for publishing annual statistics. Copies of *Crime in Virginia* can be found on the VSP website and include anti-Islamic (Muslim) hate crime statistics. The CJIS does not currently publish statistics on anti-Arab hate crime. In 2016, 55 Virginia law enforcement agencies submitted hate crime incident reports to the FBI UCR Program. The remaining 364 participating agencies provided only zero data. A total of 7 participating agencies recorded blank data in at least one quarterly submission period. Virginia receives an overall score of 65 points, denoting an average response to hate crime.

<sup>10</sup> 28 U.S.C. § 534 (JUSTIA 2016), available at <https://law.justia.com/codes/us/2016/title-28/part-ii/chapter-33/sec.-534>.

<sup>11</sup> Uniform Crime Reporting Program, Fed. Bureau of Investigation, Data Quality Guidelines, [https://ucr.fbi.gov/data\\_quality\\_guidelines](https://ucr.fbi.gov/data_quality_guidelines).

<sup>12</sup> CJIS Div., Fed. Bureau of Investigation, Table 11: Offenses, Hate Crime Statistics, 2016 (Nov. 13, 2017), <https://ucr.fbi.gov/hate-crime/2016/tables/table-11>.

# ADVOCACY RESOURCES - Virginia

## IMPROVING THE RESPONSE

Most states have failed to enact sufficient legislation to address, prevent, and counteract hate crime in American communities. To accompany our federal hate crime laws, state legislatures must pass the following:

1. **An inclusive hate crime statute**, which covers a wide range of criminal offenses and provides enhanced penalties for crimes motivated because of citizenship status, race, ethnicity, color, disability, age, ancestry or national origin, gender or gender identity, sexual orientation, religion, or homelessness. Such protections are pursuant to model hate crime legislation drafted by the Arab American Institute. According to the model statute, penalty enhancement may incorporate alternatives to fines or increased prison sentences. Alternatives include restitution for victims and communities, participation in educational programs, and restorative justice.
2. **Statutes that require reporting, data collection, and specific law enforcement training on hate crime.** Centralized state agencies must publish comprehensive, accessible statistics on the nature and extent of hate crime occurring within their state. These statistics must conform to national UCR standards and include the bias motivation categories identified in the FBI's annual report, *Hate Crime Statistics*. States must also require law enforcement training schools to provide comprehensive training to ensure that officers are prepared to investigate, report, and respond to hate crime incidents.

## STATE RECOMMENDATIONS

According to our rating methodology, Virginia receives an overall score of 65 points, denoting an average response to hate crime. Advocates for an improved response to hate crime in Virginia should promote the following:

1. The current Virginia hate crime statute offers protections for race, religion, and national origin. The Virginia hate crime statute should be amended to include protections for **citizenship status, ethnicity, color, disability, age, ancestry, gender or gender identity, sexual orientation, homelessness**, or association with a person or group with one of these actual or perceived characteristics.
2. While the Virginia Criminal Justice Information Services (CJIS) Division publishes statistics in the form of an annual hate crime report, such statistics do not conform to national standards. In 2016, 55 of the 419 Virginia law enforcement agencies participating in the national hate crime statistics program submitted incident reports to the FBI UCR Program.
  - The CJIS must provide statistics on hate crimes relating to gender and gender identity, in addition to the eight bias motivation categories introduced to national UCR data collections in 2015.
  - Virginia must transition to the National Incident-Based Reporting System (NIBRS) to facilitate hate crime reporting and data collection. By January 2021, all law enforcement agencies in the United States will be required to report crime information through NIBRS.
3. Virginia state code does not require specific law enforcement training on hate crime. While the Virginia Criminal Justice Training Reference Manual includes material on hate crime, instruction relating to investigating and reporting hate crime incidents should be required by law for police officer certification throughout the state.

## STATE CONTACTS

Advocates for an improved response to hate crime in Virginia should contact current state legislators and members of Congress.

### Virginia General Assembly

Both Chambers: <https://viriniageneralassembly.gov>

### United States Senate

Contact: Virginia

<https://www.senate.gov/senators/contact>

### United States House of Representatives

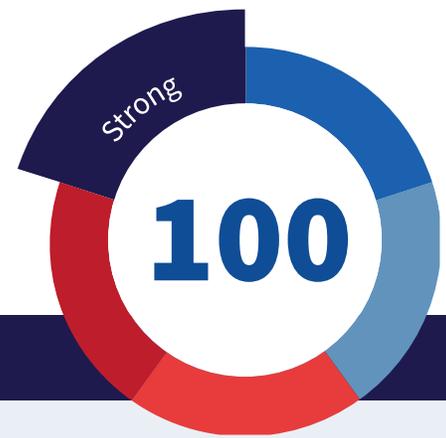
Directory of Representatives: Virginia

<https://www.house.gov/representatives#state-virginia>

# WASHINGTON

Total population: 7,288,000

Rank of Arab American population by state: 18



## 3 anti-Arab hate crime incidents were reported in WA in 2016.

**Washington** is the 13th most populated state and has the 18th largest Arab American population.

The Washington Association of Sheriffs and Police Chiefs, Criminal Justice and Information Support (CJIS), is the state agency responsible for the collection and publication of hate crime data. According to the CJIS, there were three anti-Arab hate crime incidents reported throughout Washington in 2016.

### HATE CRIME STATUTE

Wash. Rev. Code § 9A.36.080 prohibits any person from committing certain crimes, including assault, damaging or destroying property, or threatening to do so, because of their perception of the victim's "race, color, religion, ancestry, national origin, gender, sexual orientation, or mental, physical, or sensory handicap."<sup>1</sup> Defined as "malicious harassment," the offense is a class C felony. Pursuant to Wash. Rev. Code § 9A.36.083, any person who commits malicious harassment may be liable to civil action on behalf of the victim.<sup>2</sup>

According to Washington's hate crime statute, sexual orientation is defined so as to include gender identity or expression.

### DATA COLLECTION STATUTE

Wash. Rev. Code § 36.28A.030 requires all Washington law enforcement agencies to report information relating to malicious harassment and "any other crimes of bigotry or bias" to the Washington Association of Sheriffs and Police Chiefs (WASPC).<sup>3</sup> The WASPC must in turn "monitor, record, and classify" this information and file an annual report with select government entities.<sup>4</sup>

### LAW ENFORCEMENT TRAINING STATUTE

Wash. Rev. Code § 43.101.290 requires the Washington Criminal Justice Training Commission (WCJTC) to "provide training for law enforcement officers in identifying, responding to, and reporting all violations of [Washington's hate crime statute] and any other crimes of bigotry or bias."<sup>5</sup>

The current WCJTC basic law enforcement academy "720-hour core block syllabus" bears no mention of hate crime, malicious harassment, or bigotry as topics of instruction.<sup>6</sup>

| WASHINGTON   |              |
|--|--------------|
| <b>Hate Crime Statute</b>                       | <b>40/40</b> |
| No statute; civil action or civil rights law   | -            |
| Hate crime statute, with protections for:  | 10           |
| Race/ethnicity/ancestry  | 5            |
| Religion   | 5            |
| Sexual orientation   | 5            |
| Disability   | 5            |
| Gender   | 5            |
| Gender identity  | 5            |
| <b>Data Collection Statute</b>                | <b>15/15</b> |
| Data collection (voluntary reporting)  | -            |
| Mandatory reporting and data collection  | 15           |
| <b>Law Enforcement Training Statute</b>       | <b>15/15</b> |
| No statute; comprehensive training   | -            |
| Mandatory training   | 15           |
| <b>Annual Hate Crime Report</b>               | <b>20/20</b> |
| Annual hate crime report, including:   | 10           |
| Anti-Arab hate crime statistics  | 5            |
| Anti-Islamic (Muslim) hate crime statistics  | 5            |
| <b>FBI Hate Crime Statistics Participant</b>  | <b>10/10</b> |
| <b>TOTAL</b>   | <b>100</b>   |

<sup>1</sup> Wash. Rev. Code § 9A.36.080 (JUSTIA 2017), available at <https://law.justia.com/codes/washington/2017/title-9a/chapter-9a.36/section-9a.36.080>.

<sup>2</sup> Wash. Rev. Code § 9A.36.083 (JUSTIA 2017), available at <https://law.justia.com/codes/washington/2017/title-9a/chapter-9a.36/section-9a.36.083>.

<sup>3</sup> Wash. Rev. Code § 36.28A.030 (JUSTIA 2017), available at <https://law.justia.com/codes/washington/2017/title-36/chapter-36.28a/section-36.28a.030>.

<sup>4</sup> Wash. Rev. Code § 36.28A.030(2), *id.*

<sup>5</sup> Wash. Rev. Code § 43.101.290 (JUSTIA 2017), available at <https://law.justia.com/codes/washington/2017/title-43/chapter-43.101/section-43.101.290>.

<sup>6</sup> Basic Law Enforcement Academy, Washington State Criminal Justice Training Commission, 720-hour Core Block Syllabus (updated Jun. 13, 2017), available at <https://fortress.wa.gov/cjtc/www/images/BLEA%20720%20Hour%20Core%20Block%20Syllabus%20July%202017.pdf>.

## DATA COLLECTION & STATISTICS

As a division of the WASPC, the CJIS publishes an annual crime report that includes hate crime statistics. The 1995-2016 editions of *Crime in Washington* can be found on the WASPC website.<sup>7</sup>



### ANNUAL STATEWIDE HATE CRIME REPORT

State-level hate crime statistics published by the CJIS include data on both anti-Arab and anti-Islamic (Muslim) hate crime. The CJIS tabulates hate crime data according to the number of incidents per disaggregated bias motivation category.

- #### ANTI-ARAB HATE CRIME STATISTICS

Anti-Arab hate crime statistics are provided in the 1995-2011 and 2016 editions of *Crime in Washington*. From 2000 to 2001 there was a significant increase of reported anti-Arab hate crime incidents. According to the CJIS, 3 anti-Arab hate crime incidents were reported in Washington in 2016.

- #### ANTI-ISLAMIC (MUSLIM) HATE CRIME STATISTICS

Anti-Islamic (Muslim) hate crime statistics are provided in the 1995-2016 editions of *Crime in Washington*. The 2015-2016 CJIS reports suggest an escalation of hate crimes targeting American Muslims, with 20 incidents reported in 2015 and 21 in 2016.

## UNIFORM CRIME REPORTING (UCR)

By January 2021, the FBI Uniform Crime Reporting (UCR) Program will depend solely on the National Incident-Based Reporting System (NIBRS) to collect nationwide crime data.<sup>8</sup> This transition entails the sunset of summary-based crime reporting (SRS) and requires cooperation on the part of state UCR programs and individual reporting agencies.

The Washington UCR program is one of 18 state programs that rely on both SRS and NIBRS data.<sup>9</sup> According to the 2016 edition of *Crime in Washington*, a majority of participating law enforcement agencies in the state submit NIBRS-compliant crime data.<sup>10</sup>

NIBRS reporting enables criminal justice agencies to acquire a better understanding of crime, including hate crime, occurring within their respective jurisdictions. This in turn has positive implications for effective law enforcement response and policy implementation.

### CONTACT

Criminal Justice Information Support  
 Uniform Crime Reporting Program  
 Washington Association of Sheriffs and Police Chiefs  
 3060 Willamette Drive, NE  
 Lacey, Washington 98516  
 (360) 486-2380  
[www.waspc.org](http://www.waspc.org)

## CRIME IN WASHINGTON HATE CRIME INCIDENTS (2000-2016)

| Bias motivation                    | '00 | '01 | '02 | '03 | '04 | '05 | '06 | '07 | '08 | '09 | '10 | '11 | '12 | '13 | '14 | '15 | '16 |
|------------------------------------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| Anti-Arab                          | 1   | 37  | 8   | 18  | 1   | 2   | 2   | 5   | 5   | 2   | 3   | 0   | 0   | 0   | 0   | 0   | 3   |
| Anti-Islamic (Muslim)              | 0   | 0   | 4   | 4   | 7   | 2   | 4   | 2   | 3   | 6   | 3   | 6   | 7   | 6   | 9   | 20  | 21  |
| Anti-other race/ethnicity/ancestry | 13  | 19  | 14  | 9   | 9   | 6   | 7   | 13  | 18  | 9   | 15  | 13  | 2   | 16  | 15  | 17  | 12  |

According to supplemental data from the FBI, 2 anti-Arab and 22 anti-Islamic (Muslim) hate crime incidents were reported in Washington in 2016. This total conflicts with CJIS statistics. Discrepancies occur between state and federal anti-Arab and anti-Islamic (Muslim) hate crime statistics for 2015 as well. Washington law enforcement agencies submit hate crime data to the FBI UCR Program through the CJIS.

## FBI HATE CRIME STATISTICS (2015-2016)

| Bias motivation       | '15 | '16 |
|-----------------------|-----|-----|
| Anti-Arab             | 3   | 2   |
| Anti-Islamic (Muslim) | 18  | 22  |

<sup>7</sup> Washington Association of Sheriffs & Police Chiefs, CJIS Statistics and Reports, <http://www.waspc.org/crime-statistics-reports>.

<sup>8</sup> CJIS Div., Fed. Bureau of Investigation, SRS to NIBRS: The Path to Better UCR Data, <https://www.fbi.gov/services/cjis/cjis-link/srs-to-nibrs-the-path-to-better-ucr-data>.

<sup>9</sup> Bureau of Justice Statistics, U.S. Dep't of Justice, 2017 NCS-X Estimation Project (Jul. 27, 2017), available at <https://www.bjs.gov/content/pub/pdf/17ncxep.pdf>.

<sup>10</sup> Criminal Justice Information Support Dep't, Washington Association of Sheriffs & Police Chiefs, 2016 Crime in Washington (2017), available at <http://www.waspc.org/assets/CJIS/2016%20crime%20in%20washington.small.pdf>.

## FBI HATE CRIME STATISTICS

Pursuant to the Hate Crime Statistics Act (HCSA) of 1990 the FBI UCR Program collects data on "crimes that manifest evidence of prejudice based on race, gender or gender identity, religion, disability, sexual orientation, or ethnicity."<sup>11</sup>

Since 1993, the FBI UCR Program has published the annual report, *Hate Crime Statistics*, which is based on voluntary submissions from participating law enforcement agencies. In 2016, agencies from 49 states and the District of Columbia participated in the national hate crime statistics program.

For the most part, hate crime data is collected at the state level and forwarded to the FBI UCR Program. A total of 48 states maintain a state-level UCR data collection. UCR programs in 38 states publish annual hate crime statistics. Some participating law enforcement agencies submit hate crime data directly to the FBI UCR program.<sup>12</sup>



## FBI HATE CRIME STATISTICS PARTICIPANT

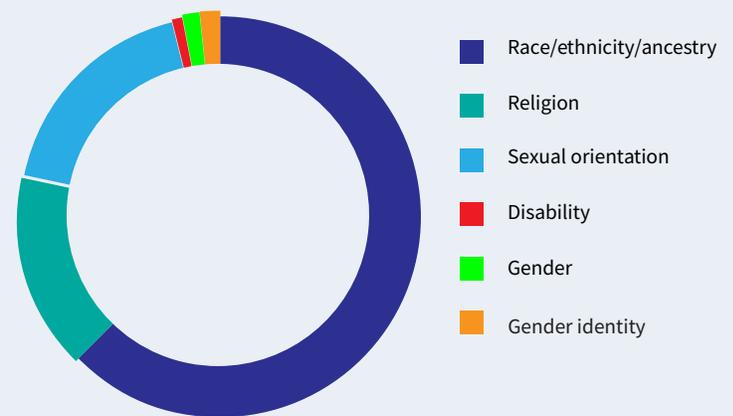
Law enforcement agencies in Washington submit hate crime data to the FBI UCR Program through the CJIS. According to the FBI UCR Program's annual report, *Hate Crime Statistics*, 387 hate crime incidents were reported in Washington in 2016.

In 2016, 80 of the 253 Washington law enforcement agencies participating in the national hate crime statistics program submitted incident reports to the FBI UCR Program. The Spokane Police Department, which represents a population of 214,028, failed to provide data during the third quarter.

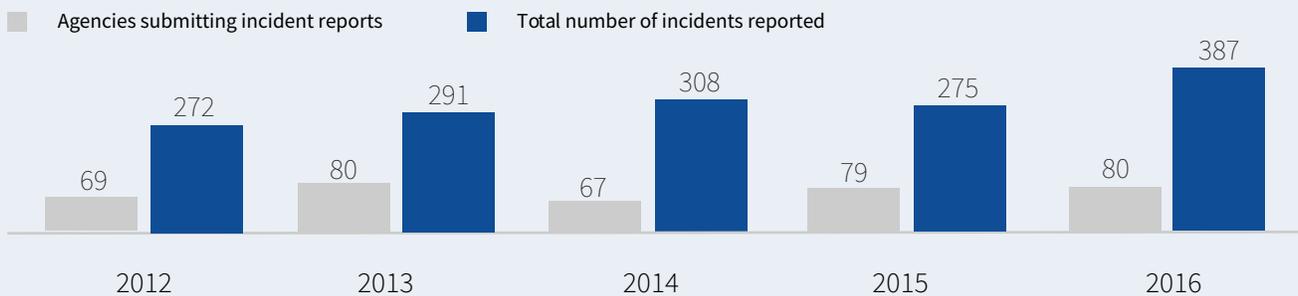
According to annual hate crime statistics published by the CJIS, 386 hate crime incidents were reported in Washington in 2016. This total conflicts with the FBI UCR Program's annual report, *Hate Crime Statistics, 2016*. Discrepancies occur between state and federal hate crime statistics for 2012-2015 as well.

## FBI HATE CRIME STATISTICS: WASHINGTON 2012-2016

| Incidents per bias motivation | 2012       | 2013       | 2014       | 2015       | 2016       | Total        |
|-------------------------------|------------|------------|------------|------------|------------|--------------|
| Race/ethnicity/ancestry       | 169        | 190        | 203        | 160        | 239        | 961          |
| Religion                      | 50         | 40         | 50         | 43         | 61         | 244          |
| Sexual orientation            | 52         | 49         | 43         | 57         | 70         | 271          |
| Disability                    | 1          | 7          | 3          | 3          | 2          | 16           |
| Gender                        | -          | 4          | 8          | 3          | 3          | 18           |
| Gender identity               | -          | 1          | 1          | 9          | 14         | 25           |
| <b>Total</b>                  | <b>272</b> | <b>291</b> | <b>308</b> | <b>275</b> | <b>389</b> | <b>1,535</b> |



## PARTICIPATION IN UCR HATE CRIME STATISTICS PROGRAM



## SUMMARY

Washington has an inclusive hate crime statute. Furthermore, Washington has statutes that require reporting, data collection, and specific law enforcement training on hate crime. The Washington Association of Sheriffs and Police Chiefs, Criminal Justice Information Support, maintains the state clearinghouse for all police-reported crime data, including hate crime, and is responsible for publishing annual statistics. Copies of *Crime in Washington* can be found on the WASPC website and include both anti-Arab and anti-Islamic (Muslim) hate crime statistics. In 2016, 80 Washington law enforcement agencies submitted hate crime incident reports to the FBI UCR Program. The remaining 173 participating agencies provided only zero data. A total of 14 participating agencies recorded blank data in at least one quarterly submission period. Washington receives an overall score of 100 points, denoting a strong response to hate crime.

<sup>11</sup> 28 U.S.C. § 534 (JUSTIA 2016), available at <https://law.justia.com/codes/us/2016/title-28/part-ii/chapter-33/sec.-534>.

<sup>12</sup> Uniform Crime Reporting Program, Fed. Bureau of Investigation, Data Quality Guidelines, [https://ucr.fbi.gov/data\\_quality\\_guidelines](https://ucr.fbi.gov/data_quality_guidelines).

# ADVOCACY RESOURCES - Washington

## IMPROVING THE RESPONSE

Most states have failed to enact sufficient legislation to address, prevent, and counteract hate crime in American communities. To accompany our federal hate crime laws, state legislatures must pass the following:

1. **An inclusive hate crime statute**, which covers a wide range of criminal offenses and provides enhanced penalties for crimes motivated because of citizenship status, race, ethnicity, color, disability, age, ancestry or national origin, gender or gender identity, sexual orientation, religion, or homelessness. Such protections are pursuant to model hate crime legislation drafted by the Arab American Institute. According to the model statute, penalty enhancement may incorporate alternatives to fines or increased prison sentences. Alternatives include restitution for victims and communities, participation in educational programs, and restorative justice.
2. **Statutes that require reporting, data collection, and specific law enforcement training on hate crime.** Centralized state agencies must publish comprehensive, accessible statistics on the nature and extent of hate crime occurring within their state. These statistics must conform to national UCR standards and include the bias motivation categories identified in the FBI's annual report, *Hate Crime Statistics*. States must also require law enforcement training schools to provide comprehensive training to ensure that officers are prepared to investigate, report, and respond to hate crime incidents.

## STATE RECOMMENDATIONS

According to our rating methodology, Washington receives an overall score of 100 points, denoting a strong response to hate crime. Some room for improvement remains. Advocates for an improved response to hate crime in Washington should promote the following:

1. The current Washington hate crime statute offers protections for race, color, religion, ancestry, national origin, gender, sexual orientation, which is defined so as to include gender identity, and mental, physical, or sensory handicap. The Washington hate crime statute should be amended to include protections for **citizenship status, ethnicity, age, homelessness**, or association with a person or group with one of these actual or perceived characteristics.

In 2016, 80 of the 253 Washington law enforcement agencies participating in the national hate crime statistics program submitted incident reports to the FBI UCR Program.

- Washington must transition to the National Incident-Based Reporting System (NIBRS) to facilitate hate crime reporting and data collection. By January 2021, all law enforcement agencies in the United States will be required to report crime information through NIBRS.
2. While Washington state code requires specific law enforcement training on hate crime, the current Washington Criminal Justice Training Commission basic law enforcement academy curriculum does not ostensibly include hate crime or malicious harassment training. The WCJTC must ensure that law enforcement officers throughout the state receive instruction relating to investigating and reporting hate crime incidents.

## STATE CONTACTS

Advocates for an improved response to hate crime in Washington should contact current state legislators and members of Congress.

### Washington State Legislature

Senate: <http://leg.wa.gov/Senate>

House: <http://leg.wa.gov/House>

### United States Senate

Contact: Washington

<https://www.senate.gov/senators/contact>

### United States House of Representatives

Directory of Representatives: Washington

<https://www.house.gov/representatives#state-washington>

# WEST VIRGINIA

Total population: 1,831,102

Rank of Arab American population by state: 38



WV does not publish anti-Arab hate crime statistics.

**West Virginia** is the 38th most populated state and has the 38th largest Arab American population.

The West Virginia State Police is the state agency responsible for the collection and publication of hate crime data. The WVSP does not publish annual statistics on anti-Arab hate crime.

## HATE CRIME STATUTE

W. Va. Code § 61-6-21 prohibits any attempted deprivation of another person’s civil rights, whether by force or threat of force, or by causing property damage, because of that person’s “race, color, religion, ancestry, national origin, political affiliation or sex.”<sup>1</sup> A violation of Section 61-6-21 amounts to a felony, and furthermore, may “be considered a circumstance in aggravation of any crime in imposing sentence.”<sup>2</sup>

The current West Virginia hate crime statute is not sufficiently inclusive, as it does not offer protections for sexual orientation, disability, or gender identity.

## DATA COLLECTION STATUTE

**There is no West Virginia statute that requires hate crime reporting or data collection.** Pursuant to W. Va. Code § 15-2-24, law enforcement agencies are required to submit uniform crime reports to the Criminal Identification Bureau (CIB), housed within the WVSP.<sup>3</sup> The CIB must in turn compile these submissions and present a semiannual report to the governor and state legislature.<sup>4</sup>

## LAW ENFORCEMENT TRAINING STATUTE

**There is no West Virginia statute that requires specific law enforcement training on hate crime.** According to W. Va. Code § 30-29-3(a)(6), the West Virginia Law-enforcement Professional Standards Subcommittee is required to “promulgate standards governing the training...and ongoing professional certification of law-enforcement officers and the entry-level law-enforcement training curricula.”<sup>5</sup>

The current WVSP training course schedule does not include hate crime as a mandatory topic of instruction.<sup>6</sup> An eight-hour class on “Terrorism, Hate Crimes, and Human Trafficking” is available for in-service training.<sup>7</sup>

### WEST VIRGINIA

| Hate Crime Statute                       | 25/40     |
|---|-----------|
| No statute; civil action or civil rights law  | -         |
| Hate crime statute, with protections for:   | 10        |
| Race/ethnicity/ancestry   | 5         |
| Religion  | 5         |
| Sexual orientation  | -         |
| Disability  | -         |
| Gender  | 5         |
| Gender identity   | -         |
| Data Collection Statute                | 0/15      |
| Data collection (voluntary reporting)   | -         |
| Mandatory reporting and data collection   | -         |
| Law Enforcement Training Statute       | 0/15      |
| No statute; comprehensive training  | -         |
| Mandatory training  | -         |
| Annual Hate Crime Report               | 15/20     |
| Annual hate crime report, including:  | 10        |
| Anti-Arab hate crime statistics   | -         |
| Anti-Islamic (Muslim) hate crime statistics   | 5         |
| FBI Hate Crime Statistics Participant  | 10/10     |
| <b>TOTAL</b>  | <b>50</b> |

<sup>1</sup> W. Va. Code § 61-6-21 (JUSTIA 2017), available at <https://law.justia.com/codes/west-virginia/2017/chapter-61/article-6/section-61-6-21>.

<sup>2</sup> W. Va. Code § 61-6-21(d), id.

<sup>3</sup> W. Va. Code § 15-2-24 (JUSTIA 2017), available at <https://law.justia.com/codes/west-virginia/2017/chapter-15/article-2/section-15-2-24>.

<sup>4</sup> W. Va. Code § 15-2-24(i), id.

<sup>5</sup> W. Va. Code § 30-29-3(a)(6) (JUSTIA 2017), available at <https://law.justia.com/codes/west-virginia/2017/chapter-30/article-29/section-30-29-3>.

<sup>6</sup> Professional Development Ctr., West Virginia State Police, 2018 Training Course Schedule, available at <http://djcs.wv.gov/law-enforcement-professional-standards/Documents/2018%20courses.pdf>.

<sup>7</sup> West Virginia Div. of Justice & Community Services, List of Available Training, <https://wvdjcs-portal.acadisonline.com/AcadisViewer/Registration/PublicTrainingList.aspx>.

## DATA COLLECTION & STATISTICS

The WVSP publishes an annual crime report that includes hate crime statistics. The 1996-2014 editions of *Crime in West Virginia* can be found on the WVSP website.<sup>8</sup>



### ANNUAL STATEWIDE HATE CRIME REPORT

State-level hate crime statistics published by the WVSP include data on anti-Islamic (Muslim) hate crime. The CJIS tabulates hate crime data according to the number of incidents, offenses, known offenders, and victims per disaggregated bias motivation category. The WVSP has not released 2015-2016 statistics. Provided WVSP hate crime data collections conform to national UCR standards, the 2015-2016 editions of *Crime in West Virginia* will include data on anti-Arab hate crime.

- #### ANTI-ARAB HATE CRIME STATISTICS

The WVSP does not publish annual statistics on anti-Arab hate crime.

- #### ANTI-ISLAMIC (MUSLIM) HATE CRIME STATISTICS

Anti-Islamic (Muslim) hate crime statistics are provided in the 1999-2014 editions of *Crime in West Virginia*. The WVSP has not released 2015-2016 statistics.

## UNIFORM CRIME REPORTING (UCR)

By January 2021, the FBI Uniform Crime Reporting (UCR) Program will depend solely on the National Incident-Based Reporting System (NIBRS) to collect nationwide crime data.<sup>9</sup> This transition entails the sunset of summary-based crime reporting (SRS) and requires cooperation on the part of state UCR programs and individual reporting agencies.

The West Virginia UCR program is one of 16 state programs that rely exclusively on NIBRS data.<sup>10</sup>

NIBRS reporting enables criminal justice agencies to acquire a better understanding of crime, including hate crime, occurring within their respective jurisdictions. This in turn has positive implications for effective law enforcement response and policy implementation.

### CONTACT

Uniform Crime Reporting Program  
 West Virginia State Police  
 725 Jefferson Road  
 South Charleston, West Virginia 25309  
 (304) 746-2474  
[www.wvstatepolice.com](http://www.wvstatepolice.com)

## CRIME IN WEST VIRGINIA HATE CRIME INCIDENTS (2000-2014)

| Bias motivation                    | '00 | '01 | '02 | '03 | '04 | '05 | '06 | '07 | '08 | '09 | '10 | '11 | '12 | '13 | '14 | '15 | '16 |
|------------------------------------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| Anti-Arab                          | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   | -   |
| Anti-Islamic (Muslim)              | 1   | 1   | 2   | 1   | 0   | 2   | 0   | 0   | 0   | 0   | 1   | 1   | 1   | 1   | 0   | -   | -   |
| Anti-other race/ethnicity/ancestry | 0   | 0   | 1   | 0   | 0   | 0   | 1   | 0   | 4   | 0   | 1   | 0   | 0   | 0   | 1   | -   | -   |

According to supplemental data from the FBI, no anti-Arab or anti-Islamic (Muslim) hate crime incidents were reported in West Virginia in 2016. The WVSP has not released 2015-2016 hate crime statistics. West Virginia law enforcement agencies submit hate crime data to the FBI UCR Program through the WVSP.

## FBI HATE CRIME STATISTICS (2015-2016)

| Bias motivation       | '15 | '16 |
|-----------------------|-----|-----|
| Anti-Arab             | 0   | 0   |
| Anti-Islamic (Muslim) | 0   | 0   |

<sup>8</sup> West Virginia State Police, Annual Reports, <https://www.wvsp.gov/about/Pages/Publications.aspx>.

<sup>9</sup> CJIS Div., Fed. Bureau of Investigation, SRS to NIBRS: The Path to Better UCR Data, <https://www.fbi.gov/services/cjis/cjis-link/srs-to-nibrs-the-path-to-better-ucr-data>.

<sup>10</sup> Bureau of Justice Statistics, U.S. Dep't of Justice, 2017 NCS-X Estimation Project (Jul. 27, 2017), available at <https://www.bjs.gov/content/pub/pdf/17ncsxep.pdf>.

## FBI HATE CRIME STATISTICS

Pursuant to the Hate Crime Statistics Act (HCSA) of 1990 the FBI UCR Program collects data on "crimes that manifest evidence of prejudice based on race, gender or gender identity, religion, disability, sexual orientation, or ethnicity."<sup>11</sup>

Since 1993, the FBI UCR Program has published the annual report, *Hate Crime Statistics*, which is based on voluntary submissions from participating law enforcement agencies. In 2016, agencies from 49 states and the District of Columbia participated in the national hate crime statistics program.

For the most part, hate crime data is collected at the state level and forwarded to the FBI UCR Program. A total of 48 states maintain a state-level UCR data collection. UCR programs in 38 states publish annual hate crime statistics. Some participating law enforcement agencies submit hate crime data directly to the FBI UCR program.<sup>12</sup>



## FBI HATE CRIME STATISTICS PARTICIPANT

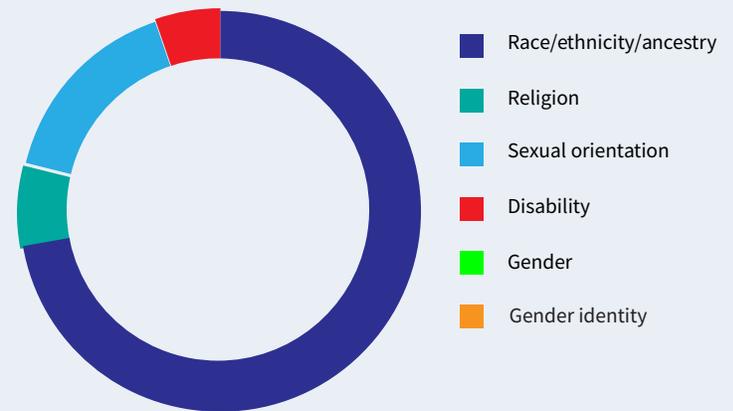
Law enforcement agencies in West Virginia submit hate crime data to the FBI UCR Program through the WVSP. According to the FBI UCR Program's annual report, *Hate Crime Statistics*, 41 hate crime incidents were reported in West Virginia in 2016.

In 2016, 19 of the 324 West Virginia law enforcement agencies participating in the national hate crime statistics program submitted incident reports to the FBI UCR Program. The Morgantown Police Department, which represents West Virginia's third largest city, submitted only zero data.

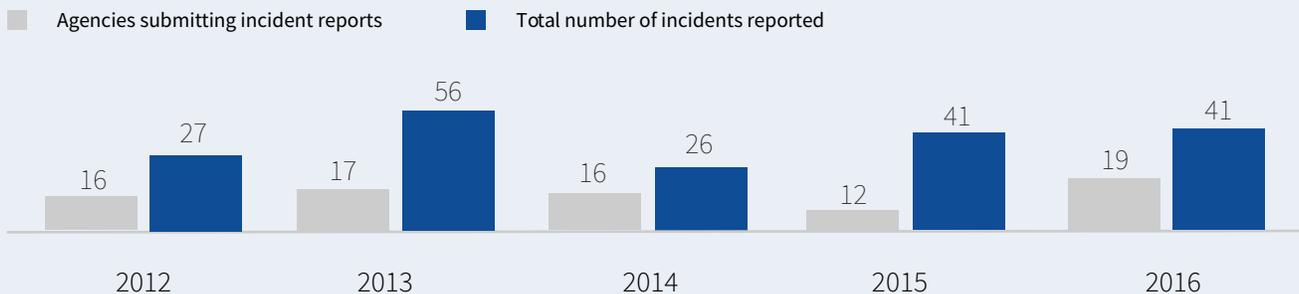
The WVSP has not released 2015-2016 hate crime statistics. Discrepancies occur between state and federal hate crime statistics for 2012-2014.

## FBI HATE CRIME STATISTICS: WEST VIRGINIA 2012-2016

| Incidents per bias motivation | 2012 | 2013 | 2014 | 2015 | 2016 | Total |
|-------------------------------|------|------|------|------|------|-------|
| Race/ethnicity/ancestry       | 20   | 42   | 18   | 28   | 30   | 138   |
| Religion                      | 1    | 6    | 2    | 3    | 1    | 13    |
| Sexual orientation            | 5    | 8    | 4    | 6    | 7    | 30    |
| Disability                    | 1    | 0    | 2    | 4    | 3    | 10    |
| Gender                        | -    | 0    | 0    | 0    | 0    | 0     |
| Gender identity               | 0    | 0    | 0    | 0    | 0    | 0     |
| Total                         | 27   | 56   | 26   | 41   | 41   | 191   |



## PARTICIPATION IN UCR HATE CRIME STATISTICS PROGRAM



## SUMMARY

The current West Virginia hate crime statute is not sufficiently inclusive, as it does not offer protections for sexual orientation, disability, or gender identity. West Virginia does not have statutes that require hate crime reporting, data collection, or specific law enforcement training. The West Virginia State Police maintains the state clearinghouse for all police-reported crime data, including hate crime, and is responsible for publishing annual statistics. The WVSP has not released the 2015-2016 editions of *Crime in West Virginia*. Previous reports do not provide statistics on anti-Arab hate crime. In 2016, 19 West Virginia law enforcement agencies submitted hate crime incident reports to the FBI UCR Program. The remaining 305 participating agencies provided only zero data. A total of 23 participating agencies recorded blank data in at least one quarterly submission period. West Virginia receives an overall score of 50 points, denoting a limited response to hate crime.

<sup>11</sup> 28 U.S.C. § 534 (JUSTIA 2016), available at <https://law.justia.com/codes/us/2016/title-28/part-ii/chapter-33/sec.-534>.

<sup>12</sup> Uniform Crime Reporting Program, Fed. Bureau of Investigation, Data Quality Guidelines, [https://ucr.fbi.gov/data\\_quality\\_guidelines](https://ucr.fbi.gov/data_quality_guidelines).

# ADVOCACY RESOURCES - West Virginia

## IMPROVING THE RESPONSE

Most states have failed to enact sufficient legislation to address, prevent, and counteract hate crime in American communities. To accompany our federal hate crime laws, state legislatures must pass the following:

1. **An inclusive hate crime statute**, which covers a wide range of criminal offenses and provides enhanced penalties for crimes motivated because of citizenship status, race, ethnicity, color, disability, age, ancestry or national origin, gender or gender identity, sexual orientation, religion, or homelessness. Such protections are pursuant to model hate crime legislation drafted by the Arab American Institute. According to the model statute, penalty enhancement may incorporate alternatives to fines or increased prison sentences. Alternatives include restitution for victims and communities, participation in educational programs, and restorative justice.
2. **Statutes that require reporting, data collection, and specific law enforcement training on hate crime.** Centralized state agencies must publish comprehensive, accessible statistics on the nature and extent of hate crime occurring within their state. These statistics must conform to national UCR standards and include the bias motivation categories identified in the FBI's annual report, *Hate Crime Statistics*. States must also require law enforcement training schools to provide comprehensive training to ensure that officers are prepared to investigate, report, and respond to hate crime incidents.

## STATE RECOMMENDATIONS

According to our rating methodology, West Virginia receives an overall score of 50 points, denoting a limited response to hate crime. Advocates for an improved response to hate crime in West Virginia should promote the following:

1. The current West Virginia hate crime statute offers protections for race, color, religion, ancestry, national origin, political affiliation, and sex. The West Virginia hate crime statute should be amended to include protections for **citizenship status, ethnicity, disability, age, gender identity, sexual orientation, homelessness**, or association with a person or group with one of these actual or perceived characteristics.
2. While the West Virginia State Police (WVSP) publishes statistics in the form of an annual hate crime report, state code does not require hate crime reporting or data collection. In 2016, 19 of the 324 West Virginia law enforcement agencies participating in the national hate crime statistics program submitted incident reports to the FBI UCR Program.
  - Law enforcement agencies must report hate crimes to the WVSP, which is currently responsible for publishing annual statistics.
  - The WVSP should be required by law to collect data and publish statistics, conforming to national UCR standards, on the nature and extent of hate crime within the state. Currently, the WVSP only provides statistics based on aggregate bias motivation categories. The WVSP has not historically provided data on hate crimes relating to gender or gender identity.
3. West Virginia state code does not require specific law enforcement training on hate crime. The West Virginia Law-enforcement Professional Standards Subcommittee must prescribe statewide standards for law enforcement training that include instruction relating to investigating and reporting hate crime incidents

## STATE CONTACTS

Advocates for an improved response to hate crime in West Virginia should contact current state legislators and members of Congress.

### West Virginia Legislature

Senate: <http://www.wvlegislature.gov/Senate1/roster.cfm>

House: <http://www.wvlegislature.gov/House/roster.cfm>

### United States Senate

Contact: West Virginia

<https://www.senate.gov/senators/contact>

### United States House of Representatives

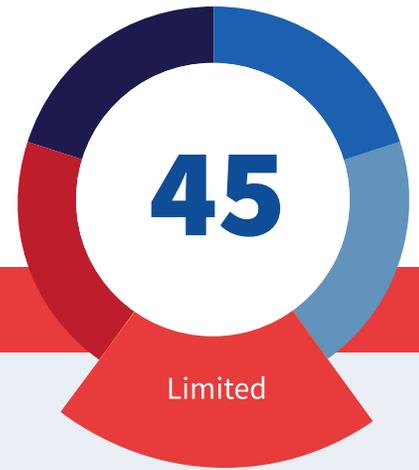
Directory of Representatives: West Virginia

<https://www.house.gov/representatives#state-west-virginia>

# WISCONSIN

Total population: 5,778,708

Rank of Arab American population by state: 28



WI does not publish annual hate crime statistics.

**Wisconsin** is the 20th most populated state and has the 28th largest Arab American population.

The Wisconsin Department of Justice (WDOJ), Bureau of Justice Information and Analysis (BJIA), is the state agency responsible for the collection and publication of hate crime data. The BJIA does not publish annual statistics on anti-Arab hate crime.

## HATE CRIME STATUTE

Wis. Stat. § 939.645 provides enhanced penalties for crimes in which the defendant selects a victim or their property because of the defendant's "belief or perception regarding the race, religion, color, disability, sexual orientation, national origin or ancestry of [the victim] or the owner or occupant of that property, whether or not the actor's belief or perception was correct."<sup>1</sup>

The current Wisconsin hate crime statute is not sufficiently inclusive, as it does not offer protections for gender or gender identity.

## DATA COLLECTION STATUTE

**There is no Wisconsin statute that requires hate crime reporting or data collection.** Wis. Stat. § 165.845(1)(a) requires the WDOJ to "collect information concerning the number and nature of offenses known to have been committed in this state and such other information as may be useful in the study of crime and the administration of justice."<sup>2</sup>

Pursuant to Wis. Stat. § 165.845(2), all law enforcement agencies are required to submit such information as described in subsection (1)(a) to the Department. As required by Section 165.83(2)(m), the Department must in turn publish reports, at least once a year, containing statistical information relating to crime and criminal justice.<sup>3</sup>

## LAW ENFORCEMENT TRAINING STATUTE

**There is no Wisconsin statute that requires specific law enforcement training on hate crime.** Pursuant to Wis. Stat. § 165.85(3)(b), the Wisconsin Law Enforcement Standards Board (LESB) is authorized to "establish minimum educational and training standards for admission to employment" as a law enforcement officer in the state.<sup>4</sup>

The current LESB basic training curriculum includes hate crime as a topic of instruction.<sup>5</sup>

## WISCONSIN

### Hate Crime Statute 30/40

|  |    |
|--|----|
| No statute; civil action or civil rights law | -  |
| Hate crime statute, with protections for:    | 10 |
| Race/ethnicity/ancestry                      | 5  |
| Religion                                     | 5  |
| Sexual orientation                           | 5  |
| Disability                                   | 5  |
| Gender                                       | -  |
| Gender identity                              | -  |

### Data Collection Statute 0/15

|   |   |
|---|---|
| Data collection (voluntary reporting)   | - |
| Mandatory reporting and data collection | - |

### Law Enforcement Training Statute 5/15

|                                    |   |
|------------------------------------|---|
| No statute; comprehensive training | 5 |
| Mandatory training                 | - |

### Annual Hate Crime Report 0/20

|   |   |
|---|---|
| Annual hate crime report, including:        | - |
| Anti-Arab hate crime statistics             | - |
| Anti-Islamic (Muslim) hate crime statistics | - |

### FBI Hate Crime Statistics Participant 10/10

**TOTAL 45**

<sup>1</sup> Wis. Stat. § 939.645 (JUSTIA 2017), available at <https://law.justia.com/codes/wisconsin/2017/chapter-939/section-939.645>.

<sup>2</sup> Wis. Stat. § 165.845(1)(a) (JUSTIA 2017), available at <https://law.justia.com/codes/wisconsin/2017/chapter-165/section-165.845>.

<sup>3</sup> Wis. Stat. § 165.845(2), *id.*

<sup>4</sup> Wis. Stat. § 165.85(3)(b) (JUSTIA 2017), available at <https://law.justia.com/codes/wisconsin/2017/chapter-165/section-165.85>.

<sup>5</sup> Training and Standards Bureau, Wisconsin Dep't of Justice, Law Enforcement Basic Training 720-Hour Curriculum (effective Jan. 1, 2016), available at <https://www.swtc.edu/uploadedpdfs/public-safety/law-enforcement/720-LE-Academy-Learning-Objectives.pdf>.

## DATA COLLECTION & STATISTICS

Pursuant to Wis. Stat. § 165.83(2)(m), the BJA is required to publish annual reports on crime statistics. The 2006-2007 editions of *Crime in Wisconsin*, along with the 2008-2009 editions of the specialized report, *Hate Crime in Wisconsin*, are provided on the Wisconsin Law Enforcement Network (WILENET) website.<sup>7</sup> Hate crime statistics for 2010-2016 are not provided online.

## ANNUAL STATEWIDE HATE CRIME REPORT



State-level hate crime statistics published by the BJA include data on both anti-Arab and anti-Islamic (Muslim) hate crime. The BJA, which tabulated hate crime data according to the number of incidents per disaggregated bias motivation category in the 2006-2009 reports, has not published 2010-2016 hate crime statistics. The 2006 edition of *Crime in Wisconsin* includes 1999-2005 hate crime data.

- ANTI-ARAB HATE CRIME STATISTICS**  
 Anti-Arab hate crime statistics are provided in the 2006-2007 editions of *Crime in Wisconsin*. The BJA does not currently publish annual statistics on anti-Arab hate crime.
- ANTI-ISLAMIC (MUSLIM) HATE CRIME STATISTICS**  
 Anti-Islamic (Muslim) hate crime statistics are provided in the 2006-2007 editions of *Crime in Wisconsin* and the 2008-2009 editions of *Hate Crime in Wisconsin*. From 2000 to 2001 there was a significant increase of reported anti-Islamic (Muslim) hate crime statistics.

## UNIFORM CRIME REPORTING (UCR)

By January 2021, the FBI Uniform Crime Reporting (UCR) Program will depend solely on the National Incident-Based Reporting System (NIBRS) to collect nationwide crime data.<sup>8</sup> This transition entails the sunset of summary-based crime reporting (SRS) and requires cooperation on the part of state UCR programs and individual reporting agencies.

The Wisconsin UCR program is one of 18 state programs that rely on both SRS and NIBRS data.<sup>9</sup> In 2013 there were 93 Wisconsin law enforcement agencies participating in the NIBRS.<sup>10</sup> According to the Bureau of Justice Statistics, Wisconsin has received funding through the National Crime Statistics Exchange (NCS-X) Initiative to assist with the statewide transition to NIBRS-compliant reporting.<sup>11</sup>

NIBRS reporting enables criminal justice agencies to acquire a better understanding of crime, including hate crime, occurring within their respective jurisdictions. This in turn has positive implications for effective law enforcement response and policy implementation.

### CONTACT

Uniform Crime Reporting Program  
 Bureau of Justice Information and Analysis  
 Wisconsin Department of Justice  
 Post Office Box 2718  
 Madison, Wisconsin 53701-2718  
 (608) 266-7185  
[www.doj.state.wi.us/dles/bureau-justice-information-and-analysis](http://www.doj.state.wi.us/dles/bureau-justice-information-and-analysis)

## CRIME IN WISCONSIN HATE CRIME INCIDENTS (2000-2016)

| Bias motivation                    | '00 | '01 | '02 | '03 | '04 | '05 | '06 | '07 | '08 | '09 | '10 | '11 | '12 | '13 | '14 | '15 | '16 |
|------------------------------------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| Anti-Arab                          | 0   | 0   | 0   | 0   | 1   | 0   | 0   | 0   | -   | -   | -   | -   | -   | -   | -   | -   | -   |
| Anti-Islamic (Muslim)              | 1   | 7   | 1   | 0   | 2   | 0   | 0   | 1   | 1   | 0   | -   | -   | -   | -   | -   | -   | -   |
| Anti-other race/ethnicity/ancestry | 1   | 4   | 3   | 1   | 0   | 4   | 5   | 5   | 2   | 1   | -   | -   | -   | -   | -   | -   | -   |

According to supplemental data from the FBI, no anti-Arab or anti-Islamic (Muslim) hate crime incidents were reported in Wisconsin in 2016. The BJA has not released 2010-2016 hate crime statistics. Wisconsin law enforcement agencies submit hate crime data to the FBI UCR Program through the BJA.

## FBI HATE CRIME STATISTICS (2015-2016)

| Bias motivation       | '15 | '16 |
|-----------------------|-----|-----|
| Anti-Arab             | 0   | 0   |
| Anti-Islamic (Muslim) | 1   | 0   |

<sup>6</sup> Wisconsin Law Enforcement Network, Wisconsin Dep't of Justice, Justice Statistics Documents, <https://wilenet.org/html/justice-programs/programs/justice-stats/library.htm>.

<sup>7</sup> *Id.*

<sup>8</sup> CJIS Div., Fed. Bureau of Investigation, SRS to NIBRS: The Path to Better UCR Data, <https://www.fbi.gov/services/cjis/cjis-link/srs-to-nibrs-the-path-to-better-ucr-data>.

<sup>9</sup> Bureau of Justice Statistics, U.S. Dep't of Justice, 2017 NCS-X Estimation Project (Jul. 27, 2017), available at <https://www.bjs.gov/content/pub/pdf/17ncsxep.pdf>.

<sup>10</sup> Uniform Crime Reporting Program, Fed. Bureau of Investigation, NIBRS Participation by State (2013), available at <https://ucr.fbi.gov/nibrs/2013/resources/nibrs-participation-by-state>.

<sup>11</sup> Bureau of Justice Statistics, U.S. Dep't of Justice, National Crime Statistics Exchange (last updated Jun. 2017), <https://www.bjs.gov/content/ncsx.cfm>.

## FBI HATE CRIME STATISTICS

Pursuant to the Hate Crime Statistics Act (HCSA) of 1990 the FBI UCR Program collects data on "crimes that manifest evidence of prejudice based on race, gender or gender identity, religion, disability, sexual orientation, or ethnicity."<sup>12</sup>

Since 1993, the FBI UCR Program has published the annual report, *Hate Crime Statistics*, which is based on voluntary submissions from participating law enforcement agencies. In 2016, agencies from 49 states and the District of Columbia participated in the national hate crime statistics program.

For the most part, hate crime data is collected at the state level and forwarded to the FBI UCR Program. A total of 48 states maintain a state-level UCR data collection. UCR programs in 38 states publish annual hate crime statistics. Some participating law enforcement agencies submit hate crime data directly to the FBI UCR program.<sup>13</sup>



## FBI HATE CRIME STATISTICS PARTICIPANT

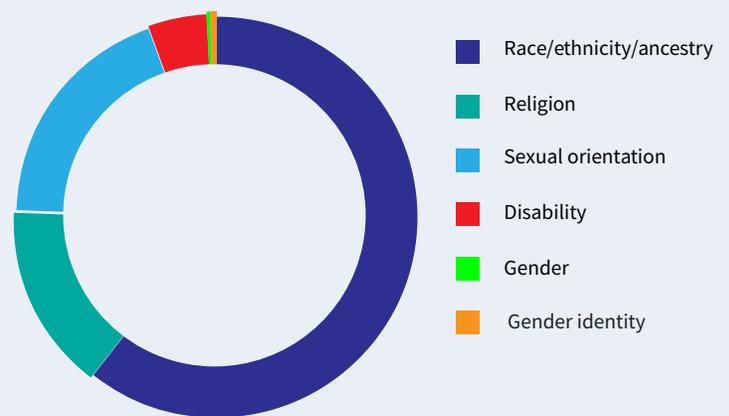
Law enforcement agencies in Wisconsin submit hate crime data to the FBI UCR Program through the BJIA. According to the FBI UCR Program's annual report, *Hate Crime Statistics*, 34 hate crime incidents were reported in Wisconsin in 2016.

In 2016, 18 of the 414 Wisconsin law enforcement agencies participating in the national hate crime statistics program submitted incident reports to the FBI UCR Program. Agencies representing two of the five largest cities in Wisconsin submitted only zero data.

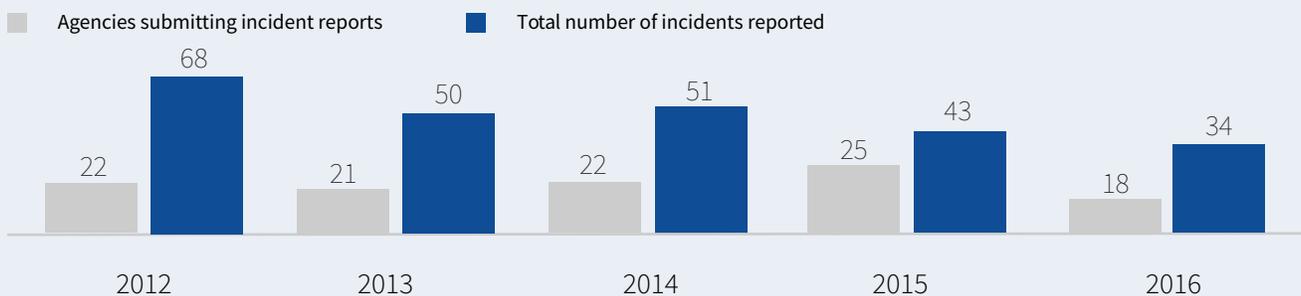
The BJIA has not released 2010-2016 hate crime statistics. Discrepancies occur between state and federal hate crime statistics for 2008-2009.

## FBI HATE CRIME STATISTICS: WISCONSIN 2012-2016

| Incidents per bias motivation | 2012      | 2013      | 2014      | 2015      | 2016      | Total      |
|-------------------------------|-----------|-----------|-----------|-----------|-----------|------------|
| Race/ethnicity/ancestry       | 37        | 30        | 33        | 27        | 22        | 149        |
| Religion                      | 10        | 5         | 6         | 8         | 8         | 37         |
| Sexual orientation            | 13        | 15        | 9         | 7         | 3         | 47         |
| Disability                    | 8         | 0         | 3         | 0         | 0         | 11         |
| Gender                        | -         | 0         | 0         | 1         | 0         | 1          |
| Gender identity               | -         | 0         | 0         | 0         | 1         | 1          |
| <b>Total</b>                  | <b>68</b> | <b>50</b> | <b>51</b> | <b>43</b> | <b>34</b> | <b>246</b> |



## PARTICIPATION IN UCR HATE CRIME STATISTICS PROGRAM



## SUMMARY

The current Wisconsin hate crime statute is not sufficiently inclusive, as it does not offer protections for gender or gender identity. Wisconsin does not have statutes that require hate crime reporting, data collection, or specific law enforcement training. Despite this lack of statutory requirements, the Wisconsin Law Enforcement Standards Board (LESB) has incorporated hate crime into its mandatory basic training curriculum. The current training appears minimal. The Wisconsin Department of Justice, Bureau of Justice Information and Analysis (BJIA), maintains the state clearinghouse for all police-reported crime data, including hate crime, and is responsible for publishing annual statistics. The BJIA has not published 2010-2016 hate crime statistics. In 2016, 18 Wisconsin law enforcement agencies submitted hate crime incident reports to the FBI UCR Program. The remaining 396 participating agencies provided only zero data. Wisconsin receives an overall score of 45 points, denoting a limited response to hate crime.

<sup>12</sup> 28 U.S.C. § 534 (JUSTIA 2016), available at <https://law.justia.com/codes/us/2016/title-28/part-ii/chapter-33/sec.-534>.

<sup>13</sup> Uniform Crime Reporting Program, Fed. Bureau of Investigation, Data Quality Guidelines, [https://ucr.fbi.gov/data\\_quality\\_guidelines](https://ucr.fbi.gov/data_quality_guidelines).

# ADVOCACY RESOURCES - Wisconsin

## IMPROVING THE RESPONSE

Most states have failed to enact sufficient legislation to address, prevent, and counteract hate crime in American communities. To accompany our federal hate crime laws, state legislatures must pass the following:

1. **An inclusive hate crime statute**, which covers a wide range of criminal offenses and provides enhanced penalties for crimes motivated because of citizenship status, race, ethnicity, color, disability, age, ancestry or national origin, gender or gender identity, sexual orientation, religion, or homelessness. Such protections are pursuant to model hate crime legislation drafted by the Arab American Institute. According to the model statute, penalty enhancement may incorporate alternatives to fines or increased prison sentences. Alternatives include restitution for victims and communities, participation in educational programs, and restorative justice.
2. **Statutes that require reporting, data collection, and specific law enforcement training on hate crime.** Centralized state agencies must publish comprehensive, accessible statistics on the nature and extent of hate crime occurring within their state. These statistics must conform to national UCR standards and include the bias motivation categories identified in the FBI's annual report, *Hate Crime Statistics*. States must also require law enforcement training schools to provide comprehensive training to ensure that officers are prepared to investigate, report, and respond to hate crime incidents.

## STATE RECOMMENDATIONS

According to our rating methodology, Wisconsin receives an overall score of 45 points, denoting a limited response to hate crime. Advocates for an improved response to hate crime in Wisconsin should promote the following:

1. The current Wisconsin hate crime statute offers protections for race, religion, color, disability, sexual orientation, and national origin or ancestry. The Wisconsin hate crime statute should be amended to include protections for **citizenship status, ethnicity, age, gender or gender identity, homelessness**, or association with a person or group with one of these actual or perceived characteristics.
2. Wisconsin state code does not require hate crime reporting or data collection. In 2016, 18 of the 414 Wisconsin law enforcement agencies participating in the national hate crime statistics program submitted incident reports to the FBI UCR Program.
  - Law enforcement agencies must report hate crime incidents to the Wisconsin Bureau of Justice Information and Analysis (BJIA), which formerly published annual hate crime statistics.
  - The BJIA must collect data and publish statistics, conforming to national UCR standards, on the nature and extent of hate crime within the state.
  - Wisconsin must transition to the National Incident-Based Reporting System (NIBRS) to facilitate hate crime reporting and data collection. By January 2021, all law enforcement agencies in the United States will be required to report crime information through NIBRS.
3. Wisconsin state code does not require specific law enforcement training on hate crime. While the Wisconsin Law Enforcement Standards Board's basic training curriculum includes instruction on hate crime, mandatory instruction for law enforcement officers relating to investigating and reporting hate crime incidents must be required by law.

## STATE CONTACTS

Advocates for an improved response to hate crime in Wisconsin should contact current state legislators and members of Congress.

### Wisconsin Legislature

Senate: <http://legis.wisconsin.gov/senate/>

House: <http://legis.wisconsin.gov/assembly/>

### United States Senate

Contact: Wisconsin

<https://www.senate.gov/senators/contact>

### United States House of Representatives

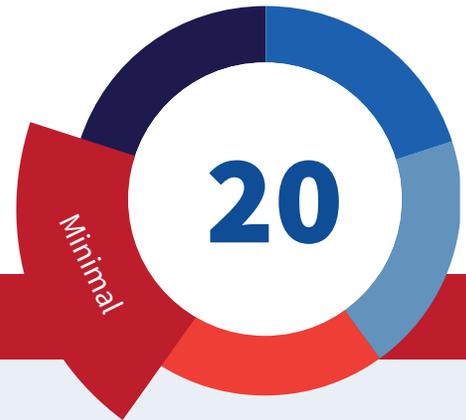
Directory of Representatives: Wisconsin

<https://www.house.gov/representatives#state-wisconsin>

# WYOMING

Total population: 585,501

Rank of Arab American population by state: 50



WY does not publish anti-Arab hate crime statistics.

**Wyoming** is the least populated state and has the smallest Arab American population.

The Wyoming Office of the Attorney General, Division of Criminal Investigation, is the state agency responsible for the collection and publication of hate crime data. The DCI does not currently publish annual statistics on anti-Arab hate crime.

## HATE CRIME STATUTE

**Wyoming is one of five states, along with Arkansas, Georgia, Indiana, and South Carolina, that do not have a hate crime statute.** Wyo. Stat. § 6-9-102 prohibits any person from denying another’s “right to life, liberty, pursuit of happiness or the necessities of life because of race, color, sex, creed or national origin.”<sup>1</sup> Defined as “discrimination,” a violation of Wyo. Stat § 6-9-102 amounts to a misdemeanor.

The provisions in Wyoming’s discrimination law do not constitute hate crime protections.

## DATA COLLECTION STATUTE

**There is no Wyoming statute that requires hate crime reporting or data collection.** Pursuant to Wyo. Stat. § 7-19-107, the DCI is “designated as the central repository for criminal history record information.”<sup>2</sup>

## LAW ENFORCEMENT TRAINING STATUTE

**There is no Wyoming statute that requires specific law enforcement training on hate crime.** Pursuant to Wyo. Stat. § 9-1-702(e), The Wyoming Peace Officers Standards and Training Commission is required to establish certification standards for law enforcement officers in the state, including basic training requirements and mandatory courses of study.<sup>3</sup>

### WYOMING

| Hate Crime Statute                       | 5/40  |
|---|-------|
| No statute; civil action or civil rights law  | 5     |
| Hate crime statute, with protections for:   | -     |
| Race/ethnicity/ancestry   | -     |
| Religion  | -     |
| Sexual orientation  | -     |
| Disability  | -     |
| Gender  | -     |
| Gender identity   | -     |
| Data Collection Statute                | 0/15  |
| Data collection (voluntary reporting)   | -     |
| Mandatory reporting and data collection   | -     |
| Law Enforcement Training Statute       | 0/15  |
| No statute; comprehensive training  | -     |
| Mandatory training  | -     |
| Annual Hate Crime Report               | 15/20 |
| Annual hate crime report, including:  | 10    |
| Anti-Arab hate crime statistics   | -     |
| Anti-Islamic (Muslim) hate crime statistics   | 5     |
| FBI Hate Crime Statistics Participant  | 0/10  |
| TOTAL   | 20    |

<sup>1</sup> Wyo. Stat. § 6-9-102 (JUSTIA 2017), available at <https://law.justia.com/codes/wyoming/2017/title-6/chapter-9/article-1/section-6-9-102>.

<sup>2</sup> Wyo. Stat. § 7-19-107 (JUSTIA 2017), available at <https://law.justia.com/codes/wyoming/2017/title-7/chapter-19/article-1/section-7-19-107>.

<sup>3</sup> Wyo. Stat. § 9-1-702(e) (JUSTIA 2017), available at <https://law.justia.com/codes/wyoming/2017/title-9/chapter-1/article-7/section-9-1-702>.

## DATA COLLECTION & STATISTICS

Housed within the Wyoming Office of the Attorney General, the DCI publishes an annual crime report that includes hate crime statistics. While there is no statute requiring hate crime reporting or data collection in Wyoming, the DCI compiles hate crime statistics for its annual report “in response to the Hate Crime Statistics Act of 1990.”<sup>4</sup> The 1999-2016 editions of *Crime in Wyoming* can be found on the DCI website.<sup>5</sup>

## ANNUAL STATEWIDE HATE CRIME REPORT



State-level hate crime statistics published by the DCI include data on anti-Islamic (Muslim) hate crime. The DCI tabulates hate crime data according to the number of offenses per disaggregated bias motivation category. The DCI does not currently provide anti-Arab hate crime statistics.

### ANTI-ARAB HATE CRIME STATISTICS

- A single anti-Arab hate crime offense was reported in the 2007 edition of *Crime in Wyoming*. The DCI does not currently publish annual statistics on anti-Arab hate crime.

### ANTI-ISLAMIC (MUSLIM) HATE CRIME STATISTICS

- Anti-Islamic (Muslim) hate crime statistics are provided in the 1999-2016 editions of *Crime in Wyoming*. According to the DCI, 4 anti-Islamic (Muslim) hate crime offenses were reported in Wyoming from 2001 to 2016.

## UNIFORM CRIME REPORTING (UCR)

By January 2021, the FBI Uniform Crime Reporting (UCR) Program will depend solely on the National Incident-Based Reporting System (NIBRS) to collect nationwide crime data.<sup>6</sup> This transition entails the sunset of summary-based crime reporting (SRS) and requires cooperation on the part of state UCR programs and individual reporting agencies.

The Wyoming UCR program is one of 15 state programs that still rely exclusively on SRS data.<sup>7</sup> According to the Bureau of Justice Statistics, Wyoming has received funding through the National Crime Statistics Exchange (NCS-X) Initiative to assist the statewide transition to NIBRS-compliant reporting.<sup>8</sup> More on Wyoming’s planned transition to the NIBRS can be found on the DCI website.<sup>9</sup>

NIBRS reporting enables criminal justice agencies to acquire a better understanding of crime, including hate crime, occurring within their respective jurisdictions. This in turn has positive implications for effective law enforcement response and policy implementation.

### CONTACT

Wyoming State Attorney General’s Office  
 Division of Criminal Investigation  
 208 South College Drive  
 Cheyenne, Wyoming 82002  
 (307) 777-7625  
<http://attorneygeneral.state.wy.us/dci/>

## CRIME IN WYOMING HATE CRIME OFFENSES (2000-2016)

| Bias motivation                    | '00 | '01 | '02 | '03 | '04 | '05 | '06 | '07 | '08 | '09 | '10 | '11 | '12 | '13 | '14 | '15 | '16 |
|------------------------------------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| Anti-Arab                          | -   | -   | -   | -   | -   | -   | -   | 1   | -   | -   | -   | -   | -   | -   | -   | -   | -   |
| Anti-Islamic (Muslim)              | 0   | 2   | 1   | 0   | 1   | 0   | 0   | 0   | 0   | 0   | 0   | 0   | 0   | 0   | 0   | 0   | 0   |
| Anti-other race/ethnicity/ancestry | 0   | 0   | 0   | 0   | 0   | 0   | 0   | 0   | 0   | 0   | 0   | 0   | 0   | 0   | 0   | 0   | 0   |

According to supplemental data from the FBI, no anti-Arab or anti-Islamic (Muslim) hate crime incidents were reported in Wyoming in 2016. This total is consistent with DCI statistics. Wyoming law enforcement agencies submit hate crime data to the FBI UCR Program through the DCI.

## FBI HATE CRIME STATISTICS (2015-2016)

| Bias motivation       | '15 | '16 |
|-----------------------|-----|-----|
| Anti-Arab             | 0   | 0   |
| Anti-Islamic (Muslim) | 0   | 0   |

<sup>4</sup> Div. of Criminal Investigation, Wyoming State Attorney General’s Office, *Crime in Wyoming 2016* (2017), available at <https://docs.google.com/a/wyo.gov/viewer?a=v&pid=sites&srcid=d3lvLmdvdnKxY2ktLS1wdWJ-saWN8Z3g6NGY3ZDJjMGRkMmRjMWMwYnQ>.

<sup>5</sup> Div. of Criminal Investigation, Wyoming State Attorney General’s Office, Uniform Crime Reporting/National Incident Based Reporting System, <http://wyomingdci.wyo.gov/dci-criminal-justice-information-systems-section/uniform-crime-reporting>.

<sup>6</sup> CJIS Div., Fed. Bureau of Investigation, SRS to NIBRS: The Path to Better Data (Mar. 28, 2017), <https://www.fbi.gov/services/cjis/cjis-link/srs-to-nibrs-the-path-to-better-ucr-data>.

<sup>7</sup> Bureau of Justice Statistics, U.S. Dep’t of Justice, 2017 NCS-X Estimation Project (Jul. 27, 2017), available at <https://www.bjs.gov/content/pub/pdf/17ncsexp.pdf>.

<sup>8</sup> Bureau of Justice Statistics, U.S. Dep’t of Justice, National Crime Statistics Exchange (last updated Jun. 2017), <https://www.bjs.gov/content/ncsx.cfm>.

<sup>9</sup> Div. of Criminal Investigation, Wyoming State Attorney General’s Office, NIBRS, <http://wyomingdci.wyo.gov/dci-criminal-justice-information-systems-section/nibrs>.

## FBI HATE CRIME STATISTICS

Pursuant to the Hate Crime Statistics Act (HCSA) of 1990 the FBI UCR Program collects data on "crimes that manifest evidence of prejudice based on race, gender or gender identity, religion, disability, sexual orientation, or ethnicity."<sup>10</sup>

Since 1993, the FBI UCR Program has published the annual report, *Hate Crime Statistics*, which is based on voluntary submissions from participating law enforcement agencies. In 2016, agencies from 49 states and the District of Columbia participated in the national hate crime statistics program.

For the most part, hate crime data is collected at the state level and forwarded to the FBI UCR Program. A total of 48 states maintain a state-level UCR data collection. UCR programs in 38 states publish annual hate crime statistics. Some participating law enforcement agencies submit hate crime data directly to the FBI UCR program.<sup>11</sup>



## FBI HATE CRIME STATISTICS PARTICIPANT

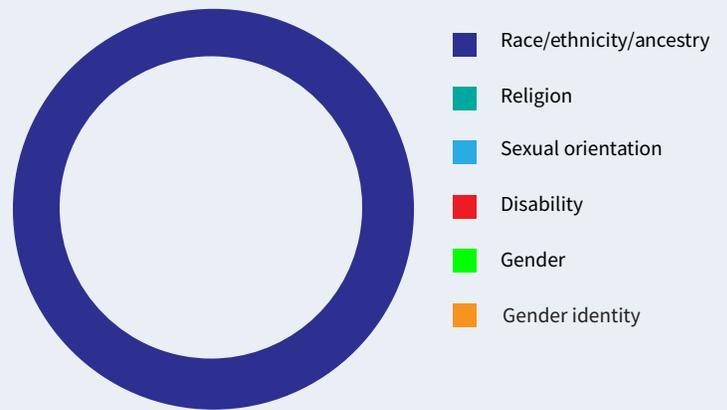
Law enforcement agencies in Wyoming submit hate crime data to the FBI UCR Program through the DCI. According to the FBI UCR Program's annual report, *Hate Crime Statistics*, 3 hate crime incidents, involving 4 offenses, were reported in Wyoming in 2016.

In 2016, 1 of the 55 Wisconsin law enforcement agencies participating in the national hate crime statistics program submitted incident reports to the FBI UCR Program. Agencies representing four of the five largest cities in Wyoming submitted only zero data.

According to annual hate crime statistics published by the DCI, 4 hate crime offenses were reported in Wyoming in 2016. This total is consistent with the FBI UCR Program's annual report, *Hate Crime Statistics, 2016*.

## FBI HATE CRIME STATISTICS: WYOMING 2012-2016

| Incidents per bias motivation | 2012     | 2013     | 2014     | 2015     | 2016     | Total    |
|-------------------------------|----------|----------|----------|----------|----------|----------|
| Race/ethnicity/ancestry       | 2        | 1        | 0        | 2        | 3        | 8        |
| Religion                      | 0        | 0        | 0        | 0        | 0        | 0        |
| Sexual orientation            | 0        | 0        | 0        | 0        | 0        | 0        |
| Disability                    | 0        | 0        | 0        | 0        | 0        | 0        |
| Gender                        | -        | 0        | 0        | 0        | 0        | 0        |
| Gender identity               | -        | 0        | 0        | 0        | 0        | 0        |
| <b>Total</b>                  | <b>2</b> | <b>1</b> | <b>0</b> | <b>2</b> | <b>3</b> | <b>8</b> |



## PARTICIPATION IN UCR HATE CRIME STATISTICS PROGRAM



## SUMMARY

Wyoming is one of five states, along with Arkansas, Georgia, Indiana, and South Carolina, that do not have a hate crime statute. The provisions in Wyoming's discrimination law do not constitute hate crime protections. Even though Wyoming does not have statutes that require reporting, data collection, or specific law enforcement training on hate crime, the state does publish an annual hate crime report. The Wyoming Office of the Attorney General, Division of Criminal Investigation, maintains the state clearinghouse for all police-reported crime data, including hate crime, and is responsible for publishing annual statistics. Copies of *Crime in Wyoming* can be found on the DCI website and include hate crime statistics. Given that law enforcement agencies in Wyoming are not required to report hate crimes, and that Wyoming is the least populated state, the DCI records a small number of hate crimes each year. The DCI has published data on both anti-Arab and anti-Islamic (Muslim) hate crime. In 2016, a single Wyoming law enforcement agency submitted hate crime incident reports to the FBI UCR Program. The remaining 54 participating agencies provided only zero data. A single participating agency recorded blank data in at least one quarterly submission period. No law enforcement agencies in Wyoming submitted incident reports to the FBI UCR Program in 2014. Wyoming receives an overall score of 20 points, denoting a minimal response to hate crime.

<sup>10</sup> 28 U.S.C. § 534 (JUSTIA 2016), available at <https://law.justia.com/codes/us/2016/title-28/part-ii/chapter-33/sec.-534>.

<sup>11</sup> Uniform Crime Reporting Program, Fed. Bureau of Investigation, Data Quality Guidelines, [https://ucr.fbi.gov/data\\_quality\\_guidelines](https://ucr.fbi.gov/data_quality_guidelines).

# ADVOCACY RESOURCES - Wyoming

## IMPROVING THE RESPONSE

Most states have failed to enact sufficient legislation to address, prevent, and counteract hate crime in American communities. To accompany our federal hate crime laws, state legislatures must pass the following:

1. **An inclusive hate crime statute**, which covers a wide range of criminal offenses and provides enhanced penalties for crimes motivated because of citizenship status, race, ethnicity, color, disability, age, ancestry or national origin, gender or gender identity, sexual orientation, religion, or homelessness. Such protections are pursuant to model hate crime legislation drafted by the Arab American Institute. According to the model statute, penalty enhancement may incorporate alternatives to fines or increased prison sentences. Alternatives include restitution for victims and communities, participation in educational programs, and restorative justice.
2. **Statutes that require reporting, data collection, and specific law enforcement training on hate crime.** Centralized state agencies must publish comprehensive, accessible statistics on the nature and extent of hate crime occurring within their state. These statistics must conform to national UCR standards and include the bias motivation categories identified in the FBI's annual report, *Hate Crime Statistics*. States must also require law enforcement training schools to provide comprehensive training to ensure that officers are prepared to investigate, report, and respond to hate crime incidents.

## STATE RECOMMENDATIONS

According to our rating methodology, Wyoming receives an overall score of 20 points, denoting a minimal response to hate crime. Advocates for an improved response to hate crime in Wyoming should promote the following:

1. Wyoming is one of five states without a hate crime statute. The Wyoming Legislature must enact legislation for a new criminal statute prohibiting crimes motivated because of **citizenship status, race, ethnicity, color, disability, age, ancestry or national origin, gender or gender identity, sexual orientation, religion, homelessness**, or association with a person or group with one of these actual or perceived characteristics. Such protections are pursuant to model hate crime legislation drafted by the Arab American Institute.
2. While the Wyoming Division of Criminal Investigation (DCI) publishes statistics in the form of an annual hate crime report, state code does not require hate crime reporting or data collection. In 2016, 1 of the 55 Wyoming law enforcement agencies participating in the national hate crime statistics program submitted incident reports to the FBI UCR Program.
  - Law enforcement agencies must report hate crimes to the DCI.
  - The DCI should be required by law to collect data and publish statistics, conforming to national UCR standards, on the nature and extent of hate crime within the state. Currently, Wyoming's annual hate crime report does not provide statistics relating to the eight additional bias motivation categories introduced to national UCR data collections in 2015.
  - Wyoming must transition to the National Incident-Based Reporting System (NIBRS) to facilitate hate crime reporting and data collection. By January 2021, all law enforcement agencies in the United States will be required to report crime information through NIBRS.
3. Wyoming state code does not require specific law enforcement training on hate crime. The Wyoming Peace Officers Standards and Training Commission must establish certification standards for law enforcement officers throughout the state that include instruction relating to investigating and reporting hate crime incidents.

## STATE CONTACTS

Advocates for an improved response to hate crime in Wyoming should contact current state legislators and members of Congress.

### Wyoming Legislature

Both Chambers: <http://legisweb.state.wy.us>

### United States Senate

Contact: Wyoming

<https://www.senate.gov/senators/contact>

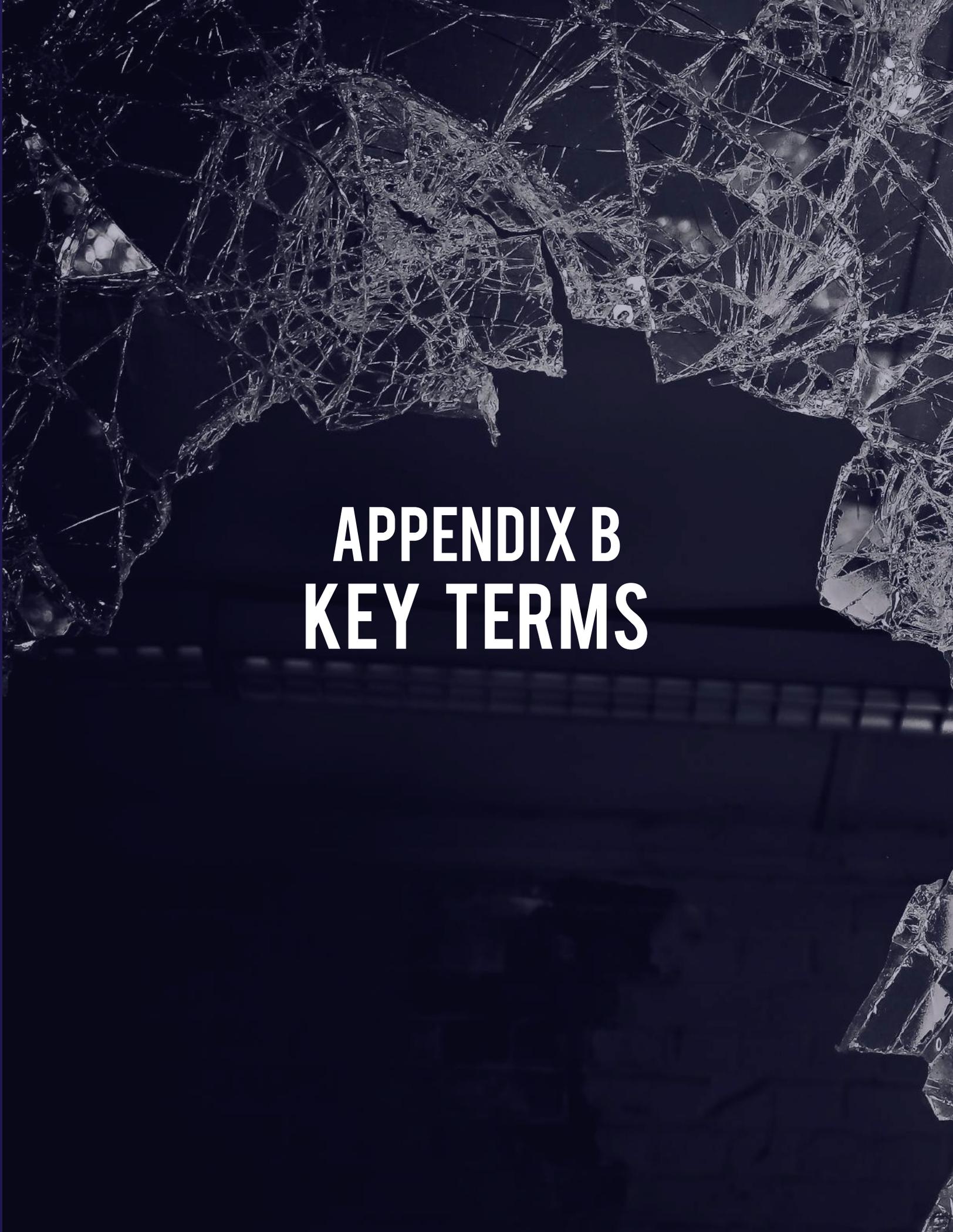
### United States House of Representatives

Directory of Representatives: Wyoming

<https://www.house.gov/representatives#state-wyoming>







# **APPENDIX B KEY TERMS**

*Appendix B provides additional information relating to key terms, concepts, legislation, or court cases that are central to this report in particular, or to hate crime prevention, reporting, and data collection more generally. Excluding the terms hate crime, hate crime incidents, and hate crime offenses, all key terms are written in bold.*

### **Actual or perceived identity**

Hate crime victims are targeted because of their actual or perceived identity. The classification of a hate crime is not only contingent upon a victim's actual identity, but also the offender's perception of the victim's identity, which is subjective and therefore potentially inaccurate. For example, in the aftermath of 9/11, many Sikh Americans, who are predominantly South Asian and practice a religious faith independent from Islam, were the targets of hate crimes because of their perceived identity as Arab or Muslim. Given the subjective nature of an offender's perception, **hate crime statutes** offer protections for crimes motivated because of a victim's actual or perceived identity.

### **Aggregate or disaggregated bias motivation category**

Pursuant to the **Hate Crime Statistics Act** (28 U.S.C. § 534), the **FBI UCR Program** collects data and publishes annual statistics on crimes motivated because of the offender's bias against a race, ethnicity, or ancestry, religion, sexual orientation, disability, gender, or gender identity. Consisting within these six broader categories are subcategories denoting specific bias types. These subcategories are coded into **UCR** data collections to facilitate hate crime data submissions with greater specificity. For example, when reporting a crime motivated because of the offender's bias against gender, a participating law enforcement agency can submit a **bias motivation code** for Anti-Male or Anti-Female. Subject to federal oversight, the Criminal Justice Information Services (CJIS) Division's Advisory Policy Board is authorized to amend **UCR** data collections with additional subcategories for bias motivation. We have adopted terms to distinguish the six categories of Race/Ethnicity/Ancestry, Religion, Sexual Orientation, Disability, Gender, and Gender Identity from their respective subcategories. Those terms are *aggregate* and *disaggregated* bias motivation categories.

**Example:** Anti-Arab and Anti-Islamic (Muslim) are disaggregated categories within the aggregate bias motivation categories of Race/Ethnicity/Ancestry and Religion.

### **Anti-Arab bigotry**

Hate crimes targeting Arab Americans, which include offenses against persons and property, are an extreme manifestation of anti-Arab bigotry. Assault, intimidation, rape, and murder are crimes against persons. Vandalism and arson, along with various forms of theft, are crimes against property. Crimes motivated because of hatred toward someone's **actual or perceived identity** inflict greater personal harm and terrorize communities. Discrimination, harassment, and intimidation of Arab Americans because of their ethnicity also constitute anti-Arab bigotry, as do threats and hate speech. Victims of anti-Arab bigotry are not always Arab American. Hate crimes, discrimination, exclusion, harassment, intimidation, and other harmful acts motivated because of an offender's bias against someone's actual or perceived Arab ethnicity, or association with a person or group with actual or perceived Arab ethnicity, amount to anti-Arab bigotry as well.

### **Anti-Arab hate crime**

In the context of **UCR** data collections, anti-Arab hate crimes are criminal incidents that demonstrate evidence of an offender's particular race/ethnicity/ancestry bias motivation against people of Arab descent. Law enforcement agencies report anti-Arab hate crimes using **bias motivation code 31 (Anti-Arab)**. Those data submissions are typically collected at the state level and forwarded to the FBI. The **FBI UCR Program** receives direct submissions from some reporting agencies. Anti-Arab hate crimes are recorded in both state-based and federal statistics.

The term anti-Arab hate crime refers more generally to crimes targeting Arab Americans because of their ethnicity. Crimes motivated because of an offender's bias against someone's actual or perceived Arab ethnicity, or association with a person or group with actual or perceived Arab ethnicity, also constitute anti-Arab hate crimes.

### Anti-Islamic (Muslim) hate crime

In the context of **UCR** data collections, anti-Islamic (Muslim) hate crimes are criminal incidents that demonstrate evidence of an offender's particular religious bias motivation against Muslims. Law enforcement agencies report anti-Islamic (Muslim) hate crimes using **bias motivation code 24**. Those data submissions are typically collected at the state level and forwarded to the FBI. The **FBI UCR Program** receives direct submissions from some reporting agencies. Anti-Islamic (Muslim) hate crimes are recorded in both state-based and federal statistics.

Only in the context of **UCR** data collections do we use the official category designation, Anti-Islamic (Muslim). Otherwise, we simply use the term anti-Muslim hate crime, which refers to crimes targeting American Muslims because of their faith. Crimes motivated because of an offender's bias against someone's actual or perceived Muslim faith, or association with a person or group with actual or perceived Muslim faith, also constitute anti-Muslim hate crimes.

### Anti-other ethnicity/national origin hate crime

Prior to 2015, all anti-Arab hate crimes reported to the FBI were published in *Hate Crimes Statistics* under a combined ethnicity category. Identified through **bias motivation code 33**, this combined category was originally named Anti-Other Ethnicity/National Origin. After the Office of Management and Budget revised its standards for federal data collections on race and ethnicity in 1997, the category was renamed to Anti-Not Hispanic or Latino. Those changes were administered for *Hate Crime Statistics, 2013*. Upon the reintroduction of a discrete anti-Arab bias motivation category in 2015, the category was renamed again to Anti-Other Race/Ethnicity/Ancestry.

While the 2015 edition of *Hate Crime Statistics* was the first FBI publication to provide data on anti-Arab hate crime, the FBI hate crime statistics program was originally designed to collect data on crimes motivated because of an offender's anti-Arab bias. Anti-Arab hate crimes were to be reported using **bias motivation code 31 (Anti-Arab)**, which is the exact same code used in modern **UCR** data collections. The category was removed in 1992 at the recommendation of the Office of Management and Budget. While the category did not receive authorization until 2015, from 1991 to 1993, law enforcement agencies in 32 states and the District of Columbia reported over 800 anti-Arab hate crime incidents to the **FBI UCR Program**. During this period, all code 31 submissions were converted to **bias motivation code 33** (Anti-Other Ethnicity/National Origin) for publication in the FBI's annual report, *Hate Crime Statistics*.

### Annual hate crime report

A total of 38 states and the District of Columbia publish statistics on hate crime. State-based hate crime statistics are typically provided either in a self-contained report or as a chapter within a more comprehensive report on crime statistics. Published annually, these reports are based on hate crime data submissions from law enforcement agencies and are compiled by **state-level UCR programs**, which are likewise responsible for transmitting data to the FBI for publication in *Hate Crime Statistics*. In lieu of these more static reports, some states provide hate crime statistics on a query-based digital website, which can be updated regularly to reflect new data submissions or revisions to annual totals. We use the term *annual hate crime report* in reference to state-level hate crime statistics more generally, thus including all three examples provided above. While most states publish annual hate crime reports, the amount of information prepared in these reports varies significantly. In order to rank, compare, and assess each state's overall response to hate crime, we have designed our rating system to differentiate between states according to their annual hate crime reports. Our rating system is explained in the Limitations and Methodology section at the beginning of this report.

### Backlash effect

Historically, Arab Americans have faced increased discrimination, exclusion, harassment, intimidation, or targeted violence in the wake of developments in the Middle East or incidents of terrorism. Such "backlashes" have even occurred in the aftermath of incidents with no relation to Arabs or Arab Americans, such as the Iranian hostage crisis in 1979, the 1995 Oklahoma City bombing, or the accidental explosion of TWA Flight 800 in 1996. The most severe upsurge of anti-Arab backlash transpired in the immediate aftermath of the tragic terrorist attacks on 9/11, when hundreds, if not thousands, of hate crimes targeting Arab Americans were committed across the country. Today, periodic backlash continues to affect Muslim, Arab, and South Asian (MASA) communities in the United States.

## Bias-motivated crime

An alternative term for hate crime, bias-motivated crime refers to a criminal act motivated because of an offender's bias against a victim's **actual or perceived identity**. While used interchangeably in this report, bias-motivated crime has a broader application than that of hate crime. Whereas the latter refers to a crime motivated because of an offender's bias against a protected characteristic identified in a criminal statute, bias-motivated crime refers to any criminal act motivated because of an offender's bias, whether or not that bias corresponds to a predefined characteristic. While all hate crimes are bias-motivated crimes, not all bias-motivated crimes are hate crimes. For example, a crime motivated because of an offender's bias against someone's actual or perceived environmentalism, while certainly a bias-motivated crime, would likely not be punishable under a hate crime statute.

## Bias motivation code

When reporting *bias motivation*, law enforcement agencies choose from a set of predefined data submission codes to indicate an offender's particular bias motivation. In the case of an anti-Arab hate crime, reporting agencies use bias motivation code 31 (Anti-Arab), which falls under the aggregate category of Race/Ethnicity/Ancestry. If the offense was not bias-motivated, or the offender's bias motivation does not correspond to the bias categories identified in **UCR** hate crime data collections, then reporting agencies enter the bias motivation code 88 (None).

Law enforcement agencies participating in the FBI hate crime statistics program currently have two options for submitting hate crime data. Those options include the **National Incident-Based Reporting System (NIBRS)** and the **Summary Reporting System (SRS)**. By January 2021, all law enforcement agencies in the United States will be required to report crime information through **NIBRS**.

For agencies that already report crimes through **NIBRS**, *bias motivation* is a mandatory **data element** in all electronic submissions. For agencies that still report crimes through **SRS**, *bias motivation* is not a mandatory **data element**. Hate crimes are instead reported through a supplemental electronic submission, either in the form of a Microsoft Excel worksheet or an encoded text file. Both formats utilize the same bias motivation codes identified in **NIBRS**.

## Bias motivation code 31 (Anti-Arab)

Law enforcement agencies use bias motivation code 31 (Anti-Arab) to report crimes that demonstrate evidence of an offender's bias against people of Arab descent. Bias motivation code 31 was reintroduced to national **UCR** hate crime data collections in 2015, thus enabling the FBI to publish annual statistics on **anti-Arab hate crime**. While the original **UCR** hate crime data collections were structured to receive code 31 data submissions from participating law enforcement agencies, the code was removed in 1992 at the recommendation of the Office of Management and Budget. While code 31 was not authorized until 2015, reporting agencies in 32 states and the District of Columbia submitted code 31 data to the **FBI UCR Program** from 1991 to 2003.

## Church Arson Prevention Act

Signed into law on July 3, 1996, The Church Arson Prevention Act (18 U.S.C. § 247) improved existing federal law that prohibited the intentional destruction of religious property or the intentional obstruction of someone's rights to religious freedom. The new legislation addressed the frequent racial or ethnic bias motivations underlying church arson offenses, which overwhelmingly targeted predominantly African American congregations in the southeastern United States. While the existing federal statute prohibited crimes motivated because of religious animus, episodes of church arson motivated because of racial or ethnic hatred were not covered under the statute. In addition to underscoring the racial and ethnic bias-motivated dimensions often associated with these crimes, the Church Arson Prevention Act reduced existing jurisdictional barriers to federal prosecution and permanently reauthorized the **Hate Crime Statistics Act** (28 U.S.C. § 534).

## Data collection statute

A data collection statute is a law that requires a centralized repository for crime information to collect hate crime data submissions from participating law enforcement agencies. In 1981, Maryland passed a law requiring

police departments to collect data relating to incidents apparently directed against racial, religious, or ethnic groups, and forward that data to the state's Human Relation Commission. Since then, an additional 29 states and the District of Columbia have passed some form of data collection statute. Wide variation exists among these statutes. In some states, law enforcement agencies are required to report hate crimes. In others, hate crime reporting is voluntary. Disparities also emerge with respect to what bias types are considered reportable. While a majority of states have some form of data collection statute, many do not require reporting on crimes motivated because of gender identity bias, and some prescribe additional bias motivation categories, such as marital status or political affiliation. In order to rank, compare, and assess each state's overall response to hate crime, we have designed a rating system to differentiate between states according to their data collection statute. Our rating system is explained in the Limitations and Methodology section at the beginning of this report.

### Data element

A data element is a unit of data that conveys the granular details of a particular incident, which would otherwise require a lengthy description, and condenses that information into a predefined code. **NIBRS** consists of 58 data elements, which, in addition to *bias motivation*, include *location type*, *ethnicity of victim*, *arrest date*, and many more. Due to the fact that *bias motivation* is a mandatory data element, every data submission through **NIBRS** must communicate whether a crime is motivated because of an offender's bias against someone's actual or perceived characteristics.

### FBI hate crime statistics participant

Law enforcement agencies participating in the FBI hate crime statistics program submit hate crime data, in the form of **incident reports or zero data**, to the **FBI UCR Program** for publication in the annual report, *Hate Crimes Statistics*. In 2016, a total of 15,254 law enforcement agencies, representing 49 states and the District of Columbia, participated in the FBI hate crime statistics program. Of these agencies, just 1,776, nearly 12 percent, submitted incident reports for publication in *Hate Crime Statistics*. The vast majority of participating agencies submitted zero data, indicating there were no hate crime incidents reported within their jurisdictions in 2016. Media accounts, data from the Bureau of Justice Statistics, and reporting from leading civil rights and advocacy organizations suggest that the overwhelming rate of zero data submissions belies the true nature and extent of hate crime in the United States. In some years, entire states have gone without reporting a single hate crime incident to the FBI. In order to rank, compare, and assess each state's overall response to hate crime, we have designed a rating system to differentiate between states according to their participation in the FBI hate crime statistics program. Our rating system is explained in the Limitations and Methodology section at the beginning of this report.

### Hate crime

The designation of particular **bias-motivated crimes** as "hate crimes" gained popularity in the 1980s, as civil rights and advocacy organizations pushed Congress to address a reported nationwide increase in bias-motivated violence. While Congress passed the **Hate Crime Statistics Act** (28 U.S.C. § 534) in 1990, the classification of a discrete hate crime offense was not coded into federal law until a few years later. Under the Violent Crime Control and Law Enforcement Act of 1994, "hate crime" was defined as a "crime in which the defendant intentionally selects a victim, or in the case of a property crime, the property that is the object of the crime, because of the actual or perceived race, color, religion, national origin, ethnicity, gender, disability, or sexual orientation of any person."

**The Matthew Shepard and James Byrd, Jr., Hate Crime Prevention Act** of 2009 (18 U.S.C. § 249) broadened the federal definition of hate crimes. The legislation expanded the breadth of the Civil Rights Act of 1968, which made it a crime to use, or threaten to use, force to willfully injure, intimidate, or interfere with—or attempt to do so—any person because of race, color, religion, or national origin and because the person is participating in federally protected activities. The new criminal code provided the federal government with additional resources to investigate and prosecute hate crimes, added protections for sexual orientation, gender, gender identity, and disability, and amended national hate crime data collections to include gender and gender identity **bias-motivated crimes**.

## Hate crime incident or hate crime offense

Not to be confused with the term *hate incident*, which refers to a noncriminal bias-motivated act, a *hate crime incident* refers to the specific occurrence of a hate crime. A single hate crime incident can involve multiple hate crime offenses, which explains the disparity between incident and offense totals reported in publications like *Hate Crime Statistics*. According to the most recent edition of *Hate Crime Statistics 2016*, law enforcement agencies participating in the national hate crime statistics program reported a total of 6,121 hate crime incidents, involving 7,321 offenses.

While the FBI provides annual statistics relating to both incidents and offenses, state-level statistics often do not, and instead tabulate hate crime data exclusively according to the number of incidents, offenses, offenders, or victims per **aggregate or disaggregated bias motivation category**. When comparing state-level hate crime statistics, it is important to be aware of these discrepancies. We discourage any tabulation of hate crime data that conflates offense-based and incident-based statistics. Readers should note we have abstained from this sort of conflation in our analysis of state-based hate crime data, and have furthermore identified whether a state provides incident-based or offense-based statistics in our resource guide.

## Hate Crime Statistics Act (HCSA)

Signed into law on April 23, 1990, the Hate Crime Statistics Act (28 U.S.C. § 534), or HCSA, is the federal equivalent to state-level **data collection statutes**. The law requires the Attorney General to collect data “about crimes that manifest evidence of prejudice based on race, gender and gender identity, religion, disability, sexual orientation, or ethnicity [including ancestry].” Following the passage of the HCSA, the **FBI UCR Program** assumed the responsibilities of developing a national hate crimes data collection. The data collections, which were designed in consultation with law enforcement agencies already collecting hate crime data under state authority and various stakeholders engaged in hate crime prevention, were formalized in 1992. **The FBI UCR Program** has since published annual statistics based on voluntary data submissions from law enforcement agencies participating in the FBI hate crime statistics program. According to the most recent edition of *Hate Crime Statistics*, a total of 1,776 law enforcement agencies, representing nearly 12 percent of the agencies participating in the national program, reported 6,121 hate crime incidents to the FBI in 2016. Readers can expect the FBI to publish its 2017 data in November 2018.

## Hate crime statute

A hate crime statute is a law that provides enhanced penalties for crimes motivated because of an offender’s bias against certain protected characteristics. A total of 45 states and the District of Columbia have hate crime statutes. Of these states, only 14 have inclusive hate crime statutes, which offer protections for race, ethnicity, or ancestry, religion, sexual orientation, disability, gender, and gender identity. The remainder offer near-inclusive or limited protections. Hate crime statutes in some states provide additional protections, such as for political affiliation, age, or homelessness. In order to rank, compare, and assess each state’s overall response to hate crime, we have designed our rating system to differentiate between states according to the protections offered in their hate crime statutes. Our rating system is explained in the Limitations and Methodology section at the beginning of this report.

Pursuant to model hate crime legislation drafted by the Arab American Institute, penalty enhancement may incorporate alternatives to fines or increased prison sentences. Alternatives include restitution for victims and communities, participation in educational programs, and restorative justice. In addition to increased sentencing, multiple states already offer such provisions in their existing hate crime statutes.

## Incident report or zero data

The **FBI UCR Program** collects hate crime data submissions consisting of incident reports or zero data. An incident report is a hate crime data submission referring to a single hate crime incident. Zero data is a hate crime data submission indicating that no hate crime incidents occurred within a jurisdiction during a particular reporting year. The FBI’s annual report, *Hate Crime Statistics*, provides information relating to incident reports and zero data submissions from participating law enforcement agencies. According to the most recent edition of *Hate Crime Statistics*, among the 15,254 law enforcement agencies participating in the FBI hate crime statistics

program, a total of 1,776 agencies submitted hate crime data in the form of incident reports. The remaining 13,478 agencies submitted zero data, indicating that no hate crime incidents occurred within their jurisdictions in 2016. Of these 13,478 agencies, a total of 1,192 agencies failed to submit zero data during each quarterly submission period of 2016. Law enforcement agencies representing nearly 90 percent of the U.S. population participate in the FBI hate crime statistics program.

### Law enforcement training statute

State agencies that oversee law enforcement training must ensure that certified officers are prepared to investigate, report, and respond to hate crime incidents that impact diverse communities. A total of 15 states require basic police officer training that includes mandatory instruction relating to investigating and reporting hate crime incidents. In most states, a designated agency is required by law to prescribe the curriculum for law enforcement academies or basic police training schools within the state. Independent from any statutory requirement, agencies in six additional states have authorized hate crime-related training for law enforcement certification. In order to rank, compare, and assess each state's overall response to hate crime, we have designed our rating system to differentiate between states according to their law enforcement training statutes. Our rating system is explained in the Limitations and Methodology section at the beginning of this report.

### Matthew Shepard and James Byrd, Jr., Hate Crimes Prevention Act

The Matthew Shepard and James Byrd, Jr., Hate Crime Prevention Act of 2009 (18 U.S.C. § 249) broadened the federal definition of hate crimes. The legislation improved existing federal law, which offered protections to victims of crimes motivated because of race, color, religion, or national origin and because of their participation in federally protected activities. The Shepard/Byrd Act expanded federal jurisdiction and facilitated the prosecution of hate crimes, introduced protections for sexual orientation, gender, gender identity, and disability, and added gender and gender identity **bias-motivated crimes** to national hate crime data collections.

### National Incident-Based Reporting System (NIBRS)

The National Incident-Based Reporting System, or NIBRS, is one of two systems available to law enforcement agencies in the United States for crime reporting and data collection. Technically superior to traditional **SRS** reporting, NIBRS communicates an array of important details relating to individual crime incidents, facilitating improved data and statistics, law enforcement transparency, and effective policymaking. As *bias motivation* is a mandatory **data element** pursuant to NIBRS, every data submission must indicate whether a crime is bias-motivated and, if so, the offender's particular bias motivation with respect to a set of predefined bias motivation categories. By January 2021, all law enforcement agencies in the United States will be required to report crime information through NIBRS. Currently, only 16 states have made a complete transition to a reporting system compliant with NIBRS. An additional 18 states utilize both **SRS** and NIBRS data.

### Summary Reporting System (SRS)

The Summary Reporting System, or SRS, is one of two systems available to law enforcement agencies in the United States for crime reporting and data collection. First implemented in 1930, SRS is technically inferior to **NIBRS** and communicates a limited set of information relating to each reported crime. While the advent of the Internet improved SRS, this more traditional form of crime reporting identifies only 10 offense classifications that are reported via Hierarchy Rule, meaning in the case of an incident with multiple offenses, only the most serious offense is reported. When reporting hate crimes, SRS agencies must complete a supplemental electronic submission in the form of a Microsoft Excel worksheet or an encoded text file. This additional barrier to reporting hate crimes could potentially contribute to underreporting. The **FBI UCR Program** will discontinue SRS by January 2021. Currently, 15 states rely exclusively on SRS to report crime information. Only 16 states have retired SRS completely.

### Uniform Crime Reporting (UCR)

Housed within the FBI, the Uniform Crime Reporting Program collects crime data submitted from law enforcement agencies throughout the United States and prepares annual statistics. *Hate Crime Statistics* is one of the FBI UCR Program's three major annual publications, which also include *Crime in the United States* and *Law Enforcement Officers Killed or Assaulted*. Law enforcement agencies typically submit crime data to the FBI through a state-level UCR program. Some agencies submit their crime data directly to the FBI UCR Program. This is the

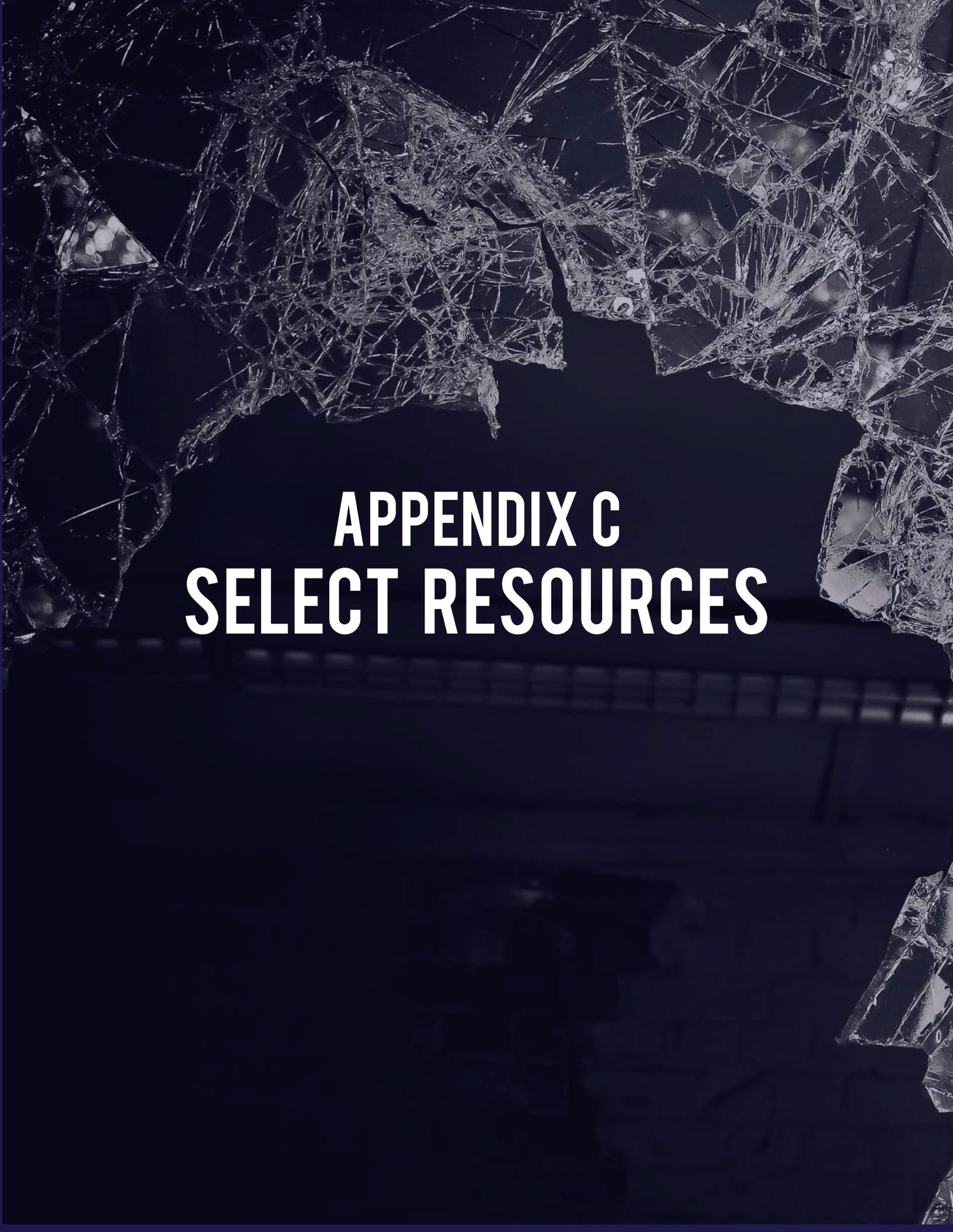
case for every participating agency in Mississippi, which is the only state without a UCR program besides Hawaii. Hawaii does not participate in the FBI hate crime statistics program.

### **Violence Against Women Act (VAWA)**

Signed into law on September 13, 1994, the Violence Against Women Act codified significant protections for victims of gender-based violence, particularly in the context of sexual and domestic assault against women. Following the passage of VAWA, the Office on Violence Against Women was established in the United States Department of Justice. Successive reauthorizations of VAWA, in 2000, 2005, and 2013, enhanced existing protections and provided assistance for a broader range of victims. In 2013, VAWA was amended with additional provisions for historically underserved populations, including Native American women and members of the LGBTQ community. The legislation also imposed new requirements relating to hate crime reporting and other measures to address gender-based violence on college campuses.

### **Wisconsin v. Mitchell**

*Wisconsin v. Mitchell*, 508 U.S. 476 (1993), is a landmark case in which the Supreme Court upheld the constitutionality of penalty enhancement statutes for hate crime offenses. Overruling the Wisconsin Supreme Court, the United States Supreme Court determined that **hate crime statutes**, which provide enhanced penalties for crimes motivated because of an offender's bias against certain protected characteristics, do not violate the First Amendment. The defendant, Mitchell, had argued that Wisconsin's hate crime law punished bigoted thought and had a "chilling effect" on free speech. The Supreme Court rejected this argument, placing the justification for penalty enhancement not on the content, but rather the conduct of bias-motivated offenses, which tend to "inflict greater individual and societal harm" than other crimes.



# **APPENDIX C SELECT RESOURCES**

We have identified the following organizations for their outstanding work on hate crime education and prevention.



The American-Arab Anti-Discrimination Committee is a civil rights organization dedicated to “defending the rights of people of Arab decent and promoting their rich cultural heritage.”  
<http://www.adc.org/about-us>



The Anti-Defamation League (ADL) is a national civil rights and human relations organization founded in 1913 to “stop the defamation of the Jewish people, and to secure justice and fair treatment for all.”  
<https://www.adl.org/who-we-are/our-mission>



Asian Americans Advancing Justice (AAJC) is a national advocacy group whose missions is to “advance the civil and human rights for Asian Americans and to build and promote a fair and equitable society for all.”  
<https://www.advancingjustice-aajc.org/who-we-are>



The Disability Rights Education and Defense Fund (DREDF) is a national disability rights law and policy center “directed by individuals with disabilities and parents who have children with disabilities.” DREDF advances the civil rights of people with disabilities through legal and public policy advocacy.  
<https://dredf.org/about-us>



As the nation’s largest civil rights organization dedicated to achieving LGBTQ equality, the Human Rights Campaign (HRC) works with individuals and communities to “end discrimination against LGBTQ people and realize a world that achieves fundamental fairness and equality for all.”  
<http://www.hrc.org/hrc-story/mission-statement>



The Lawyers’ Committee for Civil Rights Under Law was founded in 1963 to “secure equal justice for all through the rule of law, targeting in particular inequities towards African Americans and other racial and ethnic minorities.” The Lawyers Committee continues to work toward ending “racial discrimination and the resulting inequality of opportunity.”  
<https://lawyerscommittee.org/mission>



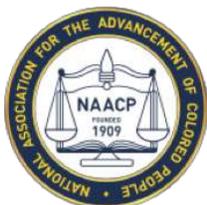
Founded in 1950, The Leadership Conference on Civil and Human Rights is “a coalition comprised of a diverse membership of more than 200 national organization to promote and protect the civil and human rights of all persons in the United States.”  
<https://civilrights.org/about-us>



Through local, regional, and national outreach, the Matthew Shepard Foundation empowers individuals and communities to “erase hate by replacing it with understanding, compassion and acceptance.” Established in the memory of Matthew Shepard, the foundation works to “share his story and embody his vigor for civil rights to change the hearts and minds of others to accept everyone as they are.”  
<https://www.matthewshepard.org/about-us>



Muslim Advocates is a “national legal advocacy and education organization that works towards guaranteeing freedom and justice for Americans of all faiths.” <https://www.muslimadvocates.org/about>



Founded in 1909, the National Association for the Advancement of Colored People is a civil rights organization that works to promote a “society in which all individuals have equal rights without discrimination based on race.” <http://www.naacp.org/about-us>



The NAACP Legal Defense and Educational Fund, Inc. is a legal organization that “seeks structural changes to expand democracy, eliminate disparities, and achieve racial justice in a society that fulfills the promise of equality for all Americans.” <http://www.naacpldf.org/about-ldf>



The National Center for Transgender Equality (NCTE) is “the nation’s leading social justice advocacy organization for transgender people.” The NCTE facilitates multiple initiatives on a range of issues, from anti-violence and hate crime reporting to housing and homelessness. <https://transequality.org/about>



The National Disability Rights Network (NDRN) is the nonprofit membership organization for the federally mandated Protection and Advocacy (P&A) Systems and the Client Assistance Programs (CAP) for individuals with disabilities, which work to improve the lives of people with disabilities." <http://www.ndrn.org/>



Established in response to a surge of hate crimes against Sikh Americans in aftermath of 9/11, the Sikh Coalition works “to secure safer schools, prevent hate and discrimination, create equal employment opportunities or empower local Sikh communities” towards the goal of a “world where Sikhs, and other religious minorities in America, may freely practice their faith without bias and discrimination.” <https://www.sikhcoalition.org/about-us>



South Asian Americans Leading Together is a national organization that focuses on “advocating for just public policies at the national and local level, strengthening grassroots South Asian organizations as catalysts for community change, and informing and influencing the national dialogue on trends impacting the community.” <http://saalt.org/about>



The Southern Poverty Law Center (SPLC) is a legal advocacy and education organization “dedicated to fighting hate and bigotry and to seeking justice for the most vulnerable members of our society.” <https://www.splcenter.org/what-we-do>



Since 1968, UnidosUS—formerly known as NCLR—has served the Hispanic community through research, policy analysis, work in civic engagement, immigration and other pertinent areas. UnidosUS envisions “an America where economic, political, and social advancement is a reality for all Latinos.” <https://www.unidosus.org/about-us>



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**AAIF Mission**

A not-for-profit affiliate of AAI, the Arab American Institute Foundation's goal is to encourage, recognize, and celebrate Arab American participation in American civic life, and to cultivate and mobilize a strong, educated, empowered Arab American community that can play a meaningful role in the betterment of our country. AAIF's programming provides communities with the platform and hard data necessary to strategically and successfully combat xenophobia, and anti-Arab and anti-Muslim bigotry. Through its numerous outreach programs AAIF builds leadership skills among students and young professionals and informs the public, policy makers, and organizations about the contributions and concerns of Arab Americans.



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