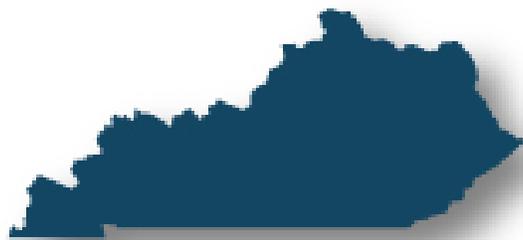


Hate Crime and Hate Incidents in the Commonwealth



2009



Prepared by the
Kentucky Statistical Analysis Center

Foreword

Dear Policymaker:

On behalf of the Kentucky Justice and Public Safety Cabinet, I am pleased to present the 2009 edition of the Commonwealth's report detailing hate crime and hate incidents in Kentucky. KRS 15A.040 charges the Justice and Public Safety Cabinet with disseminating information on Kentucky's criminal justice issues and crime trends. This report reflects the Cabinet's effort to provide policymakers, state officials, as well as the citizens of the Commonwealth with a collection of hate crime data that documents the scope of this issue both across the nation and within our state.

Hate Crime and Hate Incidents in the Commonwealth, 2009, incorporates official statistics from law enforcement and anecdotal evidence provided by state and national human rights organizations. Official data may be a better indicator of how well we are reporting hate crime rather than its actual incidence, thus the anecdotal evidence is included in an attempt to provide a more complete picture of Kentucky's hate activity.

This publication would not have been possible without the organizations which collect and report this data. The Justice and Public Safety Cabinet would like to express our appreciation for their essential work, and looks forward to continued efforts to broaden our understanding of this issue. We encourage you to contact the Kentucky Justice and Public Safety Cabinet at (502)564-3251 if you have any questions regarding this report, and thank you for your interest and concern regarding this crucial topic.

Sincerely,

A handwritten signature in black ink, appearing to read "J. Michael Brown", with a long horizontal flourish extending to the right.

J. Michael Brown, Secretary
Kentucky Justice and Public Safety Cabinet



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Introduction

The Kentucky Justice and Public Safety Cabinet is charged in KRS 15A.040 with the task of studying and making recommendations on a wide variety of criminal justice issues. This report reflects the Cabinet's effort to provide policymakers, state officials, and citizens of the Commonwealth with both official and anecdotal information on hate crime and hate incidents in order to document the scope of hate activity across Kentucky and the nation.

Hate crime reported through official channels does not reflect the full scope of hate activity in the Commonwealth. It is generally believed that official law enforcement data is a better measure of how well crime is being reported rather than a measure of the actual incidence of crime within a particular area. The reason for this is twofold: 1) hate crimes tend to be underreported by victims, and 2) even reported crimes may be difficult for law enforcement to classify as a hate crime.

In an attempt to improve the documentation of hate activity in the Commonwealth, this report combines official federal law enforcement data reported by the Federal Bureau of Investigation's (FBI) Uniform Crime Reporting (UCR) program and official state law enforcement data reported by the Kentucky State Police with anecdotal evidence gathered from local newspapers and human rights organizations (e.g., Kentucky Commission on Human Rights, Southern Poverty Law Center, and Anti-Defamation League). Human rights organizations across the nation collect data on bias motivated offenses. Such organizations work to raise awareness and educate the public about ways to reduce the incidence of hate crime in today's society. The information provided by these organizations can be used in conjunction with law enforcement data to provide a more comprehensive picture of hate activity in the Commonwealth. It is anticipated that this report will serve to inform public policy as it relates to the incidence and prevalence of hate crime and hate incidents.



The Nature of Hate Crime

Based on the federal definition used by the FBI, a hate crime, also called a bias crime, is, “a criminal offense committed against a person or property which is motivated, in whole or in part, by the offender’s bias against race, religion, disability, sexual orientation, or ethnicity/national origin.” While a person’s biases may compel them to pronounce their dislike for a particular group, as in the case of hate groups, this alone does not meet the definition of a hate crime. A hate crime must involve a criminal offense. Once it has been concluded that a criminal offense had been committed, determining whether the act is a hate crime is an especially arduous task given the inherent difficulty in determining a perpetrator’s motivation for committing a crime. As a result, the identification and prosecution of hate crimes is a challenge.

According to a 1999 publication from the U.S. Department of Justice, the FBI’s UCR program emphasizes a list of fourteen characteristics that should be considered when determining whether or not an offense is a hate crime.

1. The offender and victim are of a different race, religion, disability, ethnicity/national origin, and/or sexual orientation (hereinafter “group”).
2. Bias-related oral comments, written statement, or gestures were made by the offender which included or indicated his/her bias.
3. Bias-related drawings, markings, symbols, or graffiti were left at the crime scene.
4. Certain objects, items, or things which indicate bias was used.
5. The victim is a member of a group which is overwhelmingly outnumbered by other residents in the neighborhood where the victim lives and where the incident took place.
6. The victim was visiting a neighborhood where previous hate crimes were committed against other members of his/her group and where tensions remained high against his/her group.
7. Several incidents have occurred in the same locality, at or about the same time, and all the victims were understood to be members of the same group.
8. A substantial portion of the community where the crime occurred perceives that the incident was motivated by bias.
9. The victim was engaged in activities promoting his/her group.
10. The incident coincided with a holiday or a date of particular significance to the victim’s group.
11. The offender was previously involved in a similar hate crime or is a member of a hate group.
12. There are indications that a hate group was involved.
13. A historically established animosity exists between the victim’s and offender’s groups.
14. The victim, although not a member of the targeted group, was a member of an advocacy group supporting the precepts of the victim group.

Data from the National Crime Victimization Survey (NCVS), collected between July, 2000 and December, 2003, revealed that 44% of hate victimizations were reported to the police (Harlow, 2005). The underreporting of hate crime is fueled by a number of factors. Victims may decide not to report a crime because of fear of retribution by the offender, fear of the police, fear that the report will not be taken seriously, fear of re-victimization by the system, or fear of the resulting public response or stigma. In the case of homosexual, bisexual, or transgender victims, such individuals may be reluctant to come forward for fear that their privacy will be compromised, particularly to those to whom their sexual orientation or gender identity is unknown. Cultural and language barriers may also discourage victims from reporting a hate crime. This is especially true for undocumented immigrants who may fear deportation if they contact the authorities. Many of the aforementioned victims may also fear retaliation and re-victimization by perpetrators sharing a similar bias for which they were previously targeted. Drawing attention to their situation may single them out as a potential target for a future hate crime. Finally, for most victims, the crime is a humiliating and emotionally devastating event, and it is difficult to recount the event to others (Bureau of Justice Assistance, 1997).



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According to victim reports, hate crimes tend to be more violent than other crimes. The NCVS data analyzed from the period between July, 2000 and December, 2003 revealed that 84% of hate crimes reported in the NCVS were violent offenses such as sexual assault, robbery, or aggravated assault. In comparison, the NCVS reports that just 23% of non-hate crimes involved violent incidents (Harlow, 2005). Likewise, Harlow's 2005 publication, *Hate Crime Reporting by Victims and Police*, suggests that of the 44% of hate victimizations reported to police and documented in the NCVS, only 19% were actually validated by police and determined to be bias-related. The reasons for this are not defined in the study; however, the nature and current knowledge of bias crimes suggests that there are several potential influences. In many instances law enforcement may be unable to determine an offender's motivation for committing a crime. Likewise, additional barriers to law enforcement may exist including a lack of training and/or supervision, the need for an official and overt departmental policy, individual officer perceptions of minority communities, and varying interpretations of what constitutes a hate crime (Balboni & McDevitt, 2001).

In spite of these obstacles, the law enforcement community has made significant strides in identifying and reporting hate crimes. An increase in training efforts has played a key role in improving law enforcement's response to hate crimes. The International Association of Directors of Law Enforcement Standards and Training (IADLEST) established the Hate Crime Law Enforcement Resource Center to provide information about hate crime training to law enforcement professionals. The Center's website, www.HateCrimeTraining.net, provides numerous links to training information published by the federal government, state governments, non-profit, and private organizations. The National Center for State and Local Law Enforcement Training, the Anti-Defamation League (ADL), the Southern Poverty Law Center (SPLC), Partners Against Hate, and the Federal Law Enforcement Training Center (FLETC), are just some of the many entities providing hate crime training. The efforts that have been made by law enforcement in addressing hate crime are evidenced by the volume of training materials on the subject. Section V of this report provides additional information on hate crime reporting in Kentucky and the surrounding states.



Hate Group Activity in 2009

Throughout history, people have formed groups united in their hatred of those who differ from them in their views and characteristics including religion, race, ethnicity/national origin, sexual orientation, and gender identity, among others. Organized hate groups are defined by federal authorities as groups whose primary purpose is to promote animosity, hostility, and malice against persons belonging to a race, religion, ethnicity/national origin, sexual orientation, gender identity, or disability status which differs from that of the organization's members. These groups range from loosely organized and informal organizations to highly structured international organizations.

Despite popular beliefs, most hate crimes are not committed by members of an organized hate group, but rather by individuals acting upon racial or other stereotypes. In fact, according to the NCVS data collected between 2000 and 2003, hate crime victims reported that their offenders generally acted alone and were strangers (Harlow, 2005). Hate crimes tend to be unplanned and impulsive and are frequently facilitated by the use of alcohol or other drugs. These acts are committed by a diverse set of offenders such as groups of teenagers intent on thrill seeking, individuals who are reacting to a perceived threat to their way of life, or individuals suffering from mental disorders (Levin & McDevitt, 1993). Although hate crimes are not typically committed by organized hate groups, hate groups often commit some of the most brutal hate crimes (Lawson & Henderson, 2004). For this reason, it is necessary to study hate groups, monitor their activity, and document what fuels increases or decreases in membership. Hate group activity may serve as a measure of the climate of hate in society.

The Southern Poverty Law Center's (SPLC) *Intelligence Project* is one of the nation's most comprehensive sources of information on hate groups. The SPLC was established in 1971 as a civil rights law firm, and as a non-profit organization, the SPLC has been tracking hate activity since 1981. It is the primary source used to compile the information presented in the discussion of hate groups within this report. All of the information presented in this report is based on publicly available data and information from the Center's website, www.splcenter.com and other cited sources.

According to the SPLC, the number of hate groups operating in the United States rose to 932 in 2009. This is a 0.7% increase from the 926 reported in 2008, 5.0% over the 888 reported in 2007, and a 10.4% increase from the 844 reported by the SPLC in 2006. The number of hate groups in the United States has risen 54% between 2000 and 2008 (Potok, 2010). As defined by the SPLC, hate groups include neo-Nazis, nativist extremists, Ku Klux Klansmen, racist skinheads, neo-Confederates, white nationalists, and members of the Patriot movement including militia members. All of these groups are similar in that they spread messages of animosity, hostility, and malice against individuals whose demographic and social characteristics differ from those of members. 2009 saw a breakdown of a key neo-Nazi group, The American Nationalist Socialist Worker's Party, which had 35 chapters in 28 states including Kentucky, but the number of hate groups is on the rise. The proliferation includes nativist extremist groups which Potok (2010, p. 42) suggests move "beyond mere advocacy of restrictive immigration policy to actually confront or harass suspected immigrants." These types of nativist groups experienced a rapid increase, rising from 173 known groups in 2008 to 309 in 2009. A recent resurgence in the number of militia/Patriot groups also helped to explain the continuing expansion. For example, in 2009 a **244% increase** of these organizations occurred, rising from 149 (including 42 militias) in 2008 to 512 (including 127 militias) in 2009 (Potok, 2010).

A number of factors may contribute to creating a climate of hate such as: fear, alienation, economic prejudice, negative stereotypes, and increasing cultural diversity; and a single incident within a community may exacerbate existing tensions and trigger escalating violence and a potential for hate crime incidents. The SPLC and other organizations identified three primary issues responsible for fueling the increase in hate groups, hate crimes, and hate incidents: the economic climate and recession, non-white immigration, and the election of an African-American president (Department of Homeland Security, 2009; Kenning, 2009; Potok, 2010).



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Scapegoating, or blaming others for one’s own problems or frustrations, often occurs in times of economic distress (USDOJ, 1996). According to a 2009 report by the Department of Homeland Security, the economic issues of the past several years have led some individuals to direct their hostility outwards and to blame others for their economic frustrations. Racist extremists blame non-whites for the recession and believe that much of the issue stems from U.S. immigration policies (Department of Homeland Security, 2009). Within Kentucky, concern over these issues has spurred an increase in local militia groups (Kenning, 2009). Hate crimes against Hispanics, who are often perceived to be undocumented immigrants regardless of their actual status, continue to rise across the nation. Nativist extremist groups opposing immigration reform are moving beyond advocacy to utilize tactics of hate groups including spreading dehumanizing, racist stereotypes and incorporating harassment against those suspected of being immigrants, particularly Hispanic/Latino individuals (Potok, 2010).

In 2008, the United States elected its first African-American president, Barack Obama. Numerous racially charged incidents followed this historic event including graffiti, vandalism, intimidation, arson, and violence. Several white supremacists were arrested for threatening to assassinate President Obama. Don Black, a notorious former Ku Klux Klan Grand Wizard, reported that his website, Stormfront, which is one of the most well-known hate sites on the internet, received so many hits after election results that it crashed (Chen, 2009). Stormfront has over 100,000 members, and added 2,000 more the day after the election. Kentucky suffered racially charged incidents in the post-election climate including hanging an effigy of President Obama from a tree on the campus of the University of Kentucky.

The SPLC tracks active hate groups throughout the United States and maintains a state by state directory of where such groups have been established. Although the list is not exhaustive, it identifies known groups based on information gathered from publications, citizen’s reports, law enforcement agencies, field sources, news reports, and the Internet. In 2009, the SPLC identified 10 active hate groups in Kentucky during 2009, down from 11 in 2008 (Table One). Although the number of hate groups decreased between 2007 and 2009, Kentucky actually experienced a 26.8% increase in hate crime incidents during the same time period, when incidents reported to the Kentucky State Police increased from 56 in 2007 to 71 in 2009 (Kentucky State Police, 2007; Kentucky State Police, 2009). Figure 1 depicts the trend in the number of active hate groups as identified by the SPLC, between 2002 and 2009.

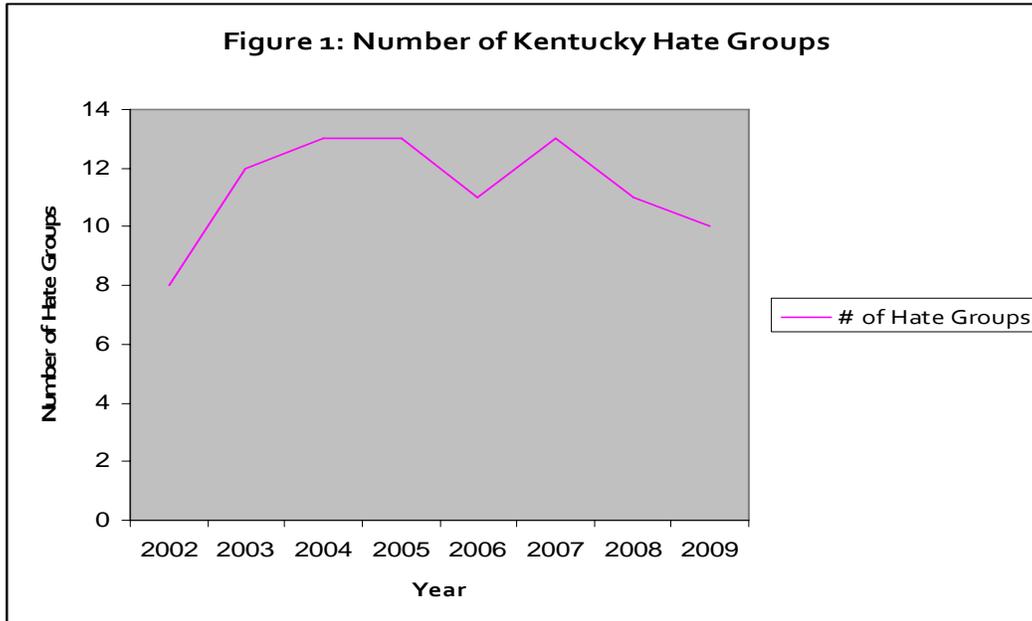
Table One: Number of Hate Groups in Kentucky, 2002-2009

	2009	2008	2007	2006	2005	2004	2003	2002
Number of Kentucky Hate Groups	10	11	13	11	13	13	12	8

Source: Southern Poverty Law Center



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Source: Southern Poverty Law Center

The three most active hate groups in the United States are Ku Klux Klan (KKK), Neo-Nazis, and White Nationalist groups (Potok, 2010). Table 2 provides a list of hate groups active in Kentucky during 2009.

Table Two: Hate Groups in Kentucky, 2009

Chapter	Group	City
Brotherhood of Klans Knights of the KKK	Ku Klux Klan	
Imperial Klans of America	Ku Klux Klan	Dawson Springs
National Knights of the Ku Klux Klan	Ku Klux Klan	
Fraternal White Knights of the Ku Klux Klan	Ku Klux Klan	Adolphus
National Socialist Movement	Neo-Nazi	
Supreme White Alliance	Racist Skinhead	
Fellowship of God's Covenant People	Christian Identity	Burlington
League of the South	Neo-Confederate	Lexington
Nation of Islam	Black Separatist	Louisville
New Black Panther Party	Black Separatist	Louisville

Source: Southern Poverty Law Center

Nationwide, the number of KKK groups increased slightly, from 186 in 2008 to 187 in 2009 (Potok, 2010). Despite the increase of chapters throughout the United States, the number of chapters in Kentucky declined from six in 2008 to four in 2009. These chapters are based in Dawson Springs and Adolphus, Kentucky, as well as in two unidentified locations within the state. Among hate groups in Kentucky, the KKK remains the most active. Once the largest Klan group in the country, the Kentucky-based Imperial Klans of America (IKA) continued to lose chapters in 2009 (Potok, 2010). This may, in part, have resulted from a civil lawsuit filed in 2007 by the SPLC against IKA Chief, Ron Edwards, and five of its members for a brutal attack on a 16 year old boy of Panamanian descent which occurred at the Meade County Fair in Brandenburg, Kentucky. In November, 2008, a jury awarded the victim \$2.5 million in compensatory and punitive damages. The jury found that Edwards had recklessly supervised the Klansmen who attacked the teenager and encouraged their violence. Each of the two IKA



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members responsible for the attack was sentenced in 2007 to three years in Kentucky prison (Kenning, 2007). The largest KKK organization in the U.S. is the Brotherhood of Klans Knights of the Ku Klux Klan, which has a chapter in Kentucky, although the city location is unknown. Also active in Kentucky are the National Knights of the Ku Klux Klan and the Fraternal White Knights of the Ku Klux Klan based in Adolphus, Kentucky.

Nationally, neo-Nazi group chapters decreased from 194 in 2008 to 161 in 2009. The SPLC attributed at least a portion of this to the dissolution of the National Vanguard after its leader was convicted in January, 2008 on child pornography charges (Holthouse, 2009). Another major explanation for the 17% decline was the demise of the American National Socialist Worker's Party (ANSWP), a neo-Nazi group with 35 chapters in 28 states (Potok, 2010). The group "imploded shortly after the October, 2008 arrest of founder, Bill White, for making threats against his enemies" (Potok, 2010 p.42). In 2008, the ANSWP had two Kentucky chapters located in Baxter and Louisville, but these appear to have disbanded or been absorbed by another similar organization.

In 2007, a new organization, the Supreme White Alliance (SWA), was co-founded by Steven Edwards, the son of IKA leader, Ron Edwards. By 2009, this racist skinhead organization could claim groups in eleven states including Kentucky and its surrounding neighbors: Illinois, Indiana, Ohio, and Tennessee. The SWA describes itself as an organization that brings together unaffiliated racist skinheads, neo-Nazis, neo-Confederates, and other white supremacists under one organization (Anti-Defamation League, 2008). Most members are in their 20's, but already have a long history of white supremacy and have belonged to other white supremacist groups prior to joining SWA (Anti-Defamation League, 2008).

As part of its mission to gather, analyze, and disseminate intelligence on extremism and hate activity, the Anti-Defamation League (ADL) documents extremist events that are held in each state across the United States. During the period January 1-December 31, 2009, the ADL did not document any events in Kentucky. Information about extremist events in other states is publicly available at the Anti-Defamation League's website, www.adl.org.

In addition to holding meetings and hosting events, many hate groups rely upon the Internet to gather their members together and spread their messages throughout cyberspace. The Internet has given extremists access to a potential audience of millions, including the vulnerable population of impressionable youth (Kaplan & Moss, 2003). These groups are actively using the Internet to share their message, recruit new members, and improve the coordination and communication among current members. In 2009, the SPLC reported that there were 670 active U.S. hate based sites on the Internet, a 6.3% increase from the 630 sites documented in 2008 (Potok, 2010). The following websites were identified by the SPLC as originating in Kentucky in 2009, but this may not be a complete list since not all sites had identified the locations from which they originate:

- Imperial Klans of America- <http://realmofky.blogspot.com> (Dawson Springs, KY)
- Supreme White Alliance- <http://swa43.com> (Central City, KY)



Hate Crime Legislation

In order to combat hate in our communities, the existing hate crime laws are leveraged to prosecute offenders and protect victims of hate crime. Since the civil rights era, policymakers have worked to pass legislation that allows the judicial system to seek justice for bias-motivated crimes. Hate crime legislation again evolved in 2009 as the scope and breadth of victim protection widened and legislation closed a loophole in federal hate crime law. The following section details hate crime legislation currently in place in Kentucky and throughout the United States.

A. Federal Legislation

Federal law defines a hate crime as any criminal offense against either a person or property in which the offender intentionally selects the victim because of his or her actual or perceived race, color, religion, national origin, ethnicity, gender identity, disability, or sexual orientation (Krouse, 2007). Under current federal law, a hate crime is not a separate and distinct offense. Instead it is a traditional crime, such as burglary, arson, robbery, or assault, committed by an individual motivated by one or more biases.

Prior to 2009, the law that served as the primary mechanism for prosecuting hate crimes at the federal level was 18 United States Code (U.S.C.) § 245, Federally Protected Activities. Enacted in 1968, this law grants federal officers the authority to investigate and prosecute crimes motivated by race, color, religion, or national origin. It stipulates that the victim must be engaging in a federally protected activity (e.g., attending public school or voting) in order for the law to apply.

On October 28, 2009, President Barack Obama signed into law a rider to the National Defense Authorization Act for 2010 (H.R. 2647) known as the Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act (HCPA). This measure expanded previous hate crimes legislation to provide coverage to those individuals who were targeted for violence based upon their actual or perceived gender identity, sexual orientation, gender, or disability. It closed an important gap in the previous law by removing the stipulation that a victim must have been attacked while he or she was engaging in a federally protected activity like serving on a jury. The HCPA also provided limited jurisdiction for the federal government to investigate certain bias motivated crimes in states where the current law is inadequate. Likewise, the HCPA provided training and direct monetary assistance to local law enforcement to ensure that bias motivated crimes are effectively investigated and prosecuted (Anti-Defamation League, 2009).

There are several other federal statutes that may be applied to a bias-motivated crime. These historic pieces of legislation were originally enacted to provide legal intervention and recourse for victims of discrimination. Therefore, although not created specifically as hate crimes statutes, they are still important to consider as part of the existing hate crime legislation.

Two federal statutes, Conspiracy against Rights (18 U.S.C. § 241) and Deprivation of Rights under Color of Law (18 U.S.C. § 242), were established in 1948 in response to incidents of racial and ethnic violence. These statutes were created to punish individuals and government officials who deprived, or threatened to deprive, citizens from exercising their constitutional rights. Conspiracy against Rights (18 U.S.C. § 241) makes it unlawful for two or more persons to conspire to injure, oppress, threaten, or intimidate any person in the free exercise or enjoyment of any right or privilege secured to him/her by the Constitution or the laws of the United States.

It is a federal crime for anyone acting under “color of law” to deprive a person of a right protected under the Constitution or U.S. law (18 U.S.C. § 242). If someone is acting under “color of law,” it means that the person is using authority given to him or her by a state, local, or federal government agency. This law further prohibits a person acting under color of law, statute, ordinance, regulation or custom to willfully subject or cause to be



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subjected any person to different punishments, pains, or penalties, than those prescribed for punishment of citizens on account of such person being an alien or by reason of his/her color or race.

Enacted in 1968, Criminal Interference with Right to Fair Housing (42 U.S.C. § 3631) makes it unlawful for any individual to use force or threaten to use force to injure, intimidate, or interfere with, or attempt to injure, intimidate, or interfere with, any person's housing rights because of that person's race, color, religion, sex, handicap, familial status or national origin. Among those housing rights enumerated in the statute are (1) the sale, purchase, or renting of a dwelling; (2) the occupation of a dwelling; (3) the financing of a dwelling; (4) contracting or negotiating for any of the rights enumerated above; (5) applying for or participating in any service, organization, or facility relating to the sale or rental of dwellings. This statute also makes it unlawful, by the use of force or threatened use of force, to injure, intimidate, or interfere with any person who is assisting an individual or class of persons in the exercise of their housing rights.

On April 23, 1990, as a result of heightened public awareness regarding the incidence of hate crime, Congress passed the Hate Crime Statistics Act, requiring the collection of data on crimes that manifest evidence of prejudice based on race, religion, sexual orientation, or ethnicity (28 U.S.C. § 534). The Hate Crime Statistics Act was subsequently amended in 1994 to include crimes motivated by bias against persons with mental and/or physical disabilities and again in 1996 to permanently extend the data collection mandate. While there is variation across states regarding the offenses covered under hate crime legislation, the offenses covered by the Hate Crimes Statistics Act include homicide, non-negligent manslaughter, forcible rape, assault, intimidation, arson, and destruction, damage, or vandalism of property.

The responsibility for collecting and managing hate crime data is delegated to the FBI's Uniform Crime Reporting (UCR) Program. Upon enactment of the Hate Crime Statistics Act, the collection of hate crime statistics was attached to the already established UCR data collection procedures in order to avoid increasing the burden on law enforcement. The UCR Program captures information on the types of biases that motivate crimes, the nature of the offenses, and profiles of both the victims and offenders.

As a part of the Violent Crime Control and Law Enforcement Act of 1994, the Hate Crimes Sentencing Enhancement Act (28 U.S.C. § 994) was established to provide for longer sentences for offenses determined to be hate crimes. As a result of this Act, the United States Sentencing Commission was required to increase the penalties for crimes in which the victim was selected because of his or her actual or perceived race, color, religion, national origin, ethnicity, gender, disability, or sexual orientation. This Act is limited to criminal offenses which interfere with an individual's right to engage in a federally-protected activity.

Enacted in 1996, the Church Arson Prevention Act (18 U.S.C. § 247) prohibits (1) intentional defacement, damage, or destruction of any religious real property, because of the religious, racial, or ethnic characteristics of that property, or (2) intentional obstruction by force or threat of force, or attempts to obstruct any person in the enjoyment of that person's free exercise of religious beliefs. If the intent of the crime is motivated for reasons of religious animosity, it must be proven that the religious real property has a sufficient connection with interstate or foreign commerce. However, if the intent of the crime is racially motivated, there is no requirement to satisfy the interstate or foreign commerce clause. The Act also created the National Church Arson Task Force (NCATF) to oversee the investigation and prosecution of arson at houses of worship around the country. In addition to establishing the NCATF, the law allowed for a broader federal criminal jurisdiction to aid criminal prosecutions, and established a loan guarantee recovery fund for rebuilding of damaged properties.

The Freedom of Access to Clinic Entrances Act (18 U.S.C. § 248), passed in 1994, prohibits the use of intimidation or physical force to prevent or discourage persons from (1) gaining access to a reproductive health care facility; or (2) exercising freedom to worship at a religious facility. The law also creates specific penalties for the destruction of, or damage to, a reproductive health care facility or place of religious worship.



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On August 14, 2008, the President signed The Higher Education Reauthorization and Opportunity Act (HEA) into law. The Act makes a number of changes to programs authorized under Higher Education Act of 1965, authorizes new programs, and enhances hate crime data collection procedures. The Higher Education Act of 1965 requires colleges and universities to report campus incidents, including violent, bias-motivated crimes, to the Office of Postsecondary Education (OPE). Before the Reauthorization and Opportunity Act was enacted, however, reporting requirements were less rigorous than those of the FBI and resulted in inconsistencies between FBI and OPE hate crime statistics. With the passage of this bill, the U.S. Congress mandated that the hate crimes data reported by campus security personnel must conform to the same standards as that reported by state and local authorities to the FBI.

B. Kentucky Legislation

During the 1980s, states began to enact their own hate crime legislation. By 2007, the majority of states had enacted some form of legislation that addresses hate crime. Only Wyoming is without a specific hate crime law. The laws vary significantly from state to state. For example, while most states specify race, religion, or ethnicity as protected classifications under their hate crime laws, the laws vary in terms of inclusion of classifications such as gender, sexual orientation, and disability. A state by state comparison of state hate crime statutory provisions, prepared by the Anti-Defamation League, is provided in Appendix A.

In 1992, following the enactment of federal hate crime legislation, Kentucky passed KRS 17.1523, legislation requiring the collection of data on bias-motivated crime on the uniform offense report. Based on the statute, "all law enforcement officers, when completing a uniform offense report, shall note thereon whether or not the offense appears to be caused as a result of or reasonably related to race, color, religion, sex, or national origin or attempts to victimize or intimidate another due to any of the foregoing causes." The legislation also requires the Justice and Public Safety Cabinet through the Kentucky State Police to incorporate data on hate crimes in its annual report of statewide crime statistics.

The crime of Desecration of Venerated Objects in the Second Degree (KRS 525.110), pertaining to public monuments or objects, places of worship, and the national or state flag or religious symbol, was originally enacted in 1988 in response to concerns regarding gravesite robberies. However in 1992, a separate offense of violating graves was established and the word burial was removed from the desecration statute.

In 1998, as part of comprehensive criminal justice legislation known as the Governor's Crime Bill (HB455), three additional provisions pertaining to hate crimes were enacted. These reforms included the following:

- Creation of a new section (KRS 532.031) which allows the sentencing judge to make a finding that hate in response to the victim's race, color, religion, sexual orientation, or national origin, was the primary motivation in the commission of a crime. The sentencing judge can then use that finding as the sole factor for denial of probation, shock probation, conditional discharge, or other form of non-imposition of a sentence of incarceration. The law also allows the finding to be utilized by the Parole Board in the decision to delay or deny parole.
- Creation of the offense of Institutional Vandalism (KRS 525.113) as a class D felony when an individual because of race, color, religion, sexual orientation, or national origin of another individual or group of individuals, knowingly vandalizes, defaces, damages, or desecrates objects defined in KRS 525.110.
- Amendment of KRS Chapter 346 to allow a victim who suffers personal injury resulting from a hate crime to be eligible for awards under the Kentucky Victims Compensation Board.

In June of 2005, KRS 15.331 was repealed and replaced by KRS 15.334. The new legislation requires mandatory training courses for law enforcement students and certified peace officers for a range of subjects including the



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"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." The statute also sets forth a requirement regarding the total number of courses that must be taken within an eight year period.

Although Kentucky is considered to be among the states which have enacted specific penalties for hate crime by virtue of the offenses established for institutional vandalism and desecration of objects, the state's primary hate crime statute (KRS 532.031) does not contain a penalty provision. Although KRS 532.031 does permit the judge to limit sentencing options and the Parole Board to delay or deny parole, these actions already fall within their respective powers of discretion. The statute did, however, allow for the identification of the offender as having committed a hate or bias-motivated crime, which represents an important first step.



Data Collection Statistics

A. Hate Crime Reporting

In accordance with the *Hate Crimes Statistics Act of 1990* (Public Law 102-275) the FBI's UCR program collects data "about crimes that manifest evidence of prejudice based on race, religion, sexual orientation, or ethnicity, including where appropriate the crimes of murder and non-negligent manslaughter; forcible rape; aggravated assault; simple assault; intimidation; arson; and destruction, damage, or vandalism of property." The UCR program relies on the voluntary participation of state and local law enforcement agencies across the country; therefore, the data compiled through the program may be a better reflection of how well hate crime is being reported rather than its actual incidence.

When the UCR program issued its first report on hate crimes in 1993, fewer than one in five of the nation's law enforcement agencies were providing data on such crimes. Participation has since increased and in 2009, 17,985 city, county, tribal, state, and federal law enforcement agencies participated in the national UCR program (Federal Bureau of Investigation, 2010). According to FBI figures, this represents 96.3% of the nation's population. During the same period, 14,422 of these agencies participated in the UCR's hate crime reporting program. This represents a 5.3% increase from 2008 figures and is the largest number of participants in the 19 year history of the program. Of those agencies participating in the program, 14.1% reported incidents of hate crime (see Table 3). In total, during 2009 6,604 incidents were reported throughout the United States, a 15.2% decline from 2008 numbers. According to the FBI's UCR data, Kentucky reported 150 hate incidents in 2009. This is up from 64 reported hate incidents in 2008. Of the 347 local Kentucky law enforcement agencies who participated in the data collection, 84, or 24.2% reported a hate incident.

Although an agency may participate in the UCR program, this does not necessarily mean that bias-related incidents are being accurately identified and reported. It is evident that some agencies are underreporting hate crime. For example, in 2009 Alabama reported 9 bias-related incidents and Mississippi reported 2. This is significantly fewer than those reported in surrounding states. For example, the neighboring state of Tennessee reported 169 bias related incidents and Arkansas reported 74 in 2009. This wide disparity between states suggests that hate crime is not being consistently reported by state officials to the UCR program. This is important to note because it emphasizes the caution that must be used in comparing the number of hate crimes from one state to another.

According to UCR data for states surrounding Kentucky (presented in Table 3), Illinois (129), Missouri (124), Indiana (55), and West Virginia (24) reported fewer hate crimes than Kentucky (150) in 2009. States reporting more hate crimes included Ohio (297) and Tennessee (169). Virginia reported the same number of incidents, 150, although the Kentucky's reported population was approximately 40.8% of Virginia's. With respect to the type of agency reporting hate crime incidents, Kentucky is similar to surrounding states in that the majority of incidents are reported by agencies at the city-level.



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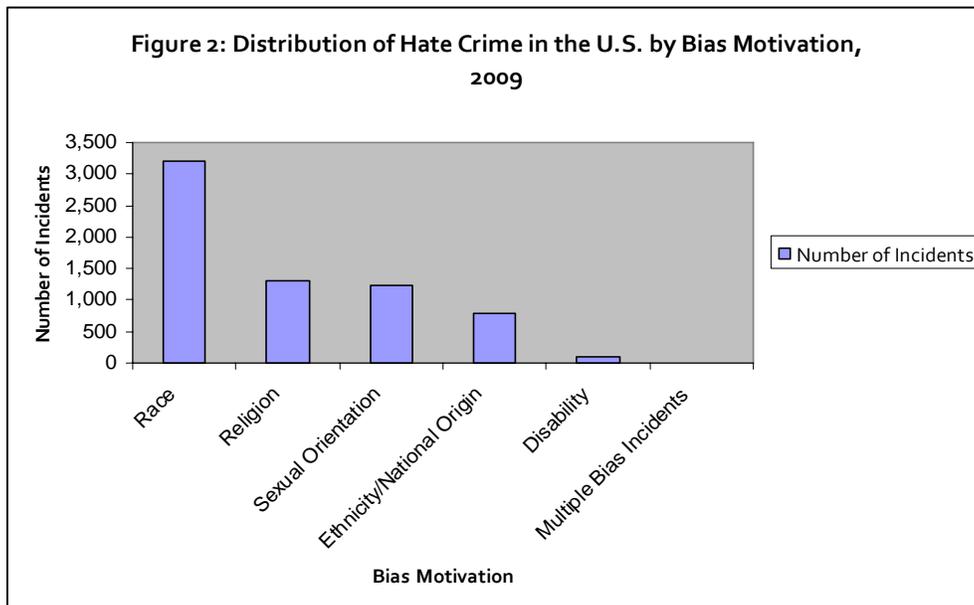
Table Three: Law Enforcement Agencies Reporting Hate Crime, Kentucky and Surrounding States, 2009

State	Total Number of Incidents Reported	Agencies Submitting Incident Reports	Number of Participating Agencies	Population Covered
Illinois	129	53	359	8,493,832
Indiana	55	17	139	3,735,359
Kentucky	150	84	347	3,213,237
Missouri	124	36	621	5,978,668
Ohio	297	105	588	9,477,815
Tennessee	169	60	462	6,296,254
Virginia	150	67	413	7,882,590
West Virginia	24	17	291	1,674,227
United States	6,604	2,034	14,422	278,948,317

Source: Federal Bureau of Investigation, *Hate Crime Statistics*, 2009

B. Federal Law Enforcement Data

The figures and tables that follow present official law enforcement data published by the FBI's UCR program. The UCR program reports that in 2009, 48.4% of all hate crime incidents in the United States were racially motivated, while 19.7% were motivated by religion, and 18.5% by sexual orientation. Figure Two reports the bias motivation of hate crimes in the United States. Of the 3,199 racially motivated incidents, 71.4% (2,284) were anti-black. Of the 1,303 incidents motivated by religion, 71.5% were anti-Jewish. Table Four documents the bias motivation for all 2009 reported hate crime incidents. In the United States during 2009, more than half of all hate crimes occurred at a residence/home or on a highway/road/street/alley (see Table Five). 3,875 of the hate crime incidents in the U.S. during 2009 involved crimes against persons, and the remaining 2,970 were crimes against property. The majority of hate crimes involved the offenses of destruction, damage, or vandalism (37.3%); intimidation (25.7%) and simple assault (21.9%) were the next most common offenses. This information is further broken down in Table Seven. During 2009, the majority of known hate crime offenders were white (see Table Six), and over 80.0% of victims were individuals (see Table Eight).



Source: Federal Bureau of Investigation, *Hate Crime in the United States*, 2009



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Table Four: Hate Crime in the United States by Bias Motivation, 2009

Targeted Group	Incidents	Offenses	Victims ¹	Known Offenders ²
Single Bias Incidents	6,598	7,775	8,322	6,219
Race	3,199	3,816	4,057	3,241
Anti-White	545	652	668	753
Anti-Black	2,284	2,724	2,902	2,160
Anti- American Indian/Alaska Native	65	84	87	88
Anti-Asian/Pacific Islander	126	147	149	108
Anti-Multiple Races, Group	179	209	251	132
Religion	1,303	1,376	1,575	586
Anti-Jewish	931	964	1,132	353
Anti-Catholic	51	55	59	25
Anti-Protestant	38	40	42	17
Anti-Islamic	107	128	132	95
Anti-Other Religion	109	119	131	51
Anti-Multiple Religions, Group	57	60	68	38
Anti-Atheism/Agnosticism, etc...	10	10	11	7
Sexual Orientation	1,223	1,436	1,482	1,394
Anti-Male Homosexual	682	798	817	817
Anti-Female Homosexual	185	216	227	197
Anti-Homosexual	312	376	391	349
Anti-Heterosexual	21	21	21	14
Anti-Bisexual	23	25	26	17
Ethnicity/National Origin	777	1,050	1,109	934
Anti-Hispanic	483	654	692	649
Anti-Other Ethnicity/National Origin	294	396	417	285
Disability	96	97	99	64
Anti-Physical	25	25	25	25
Anti-Mental	71	72	74	39
Multiple Bias Incidents	6	14	14	6

Source: Federal Bureau of Investigation, *Hate Crime Statistics, 2009*

¹The term victim may refer to a person, business, institution, or society as a whole.

²The term *known offender* does not imply that the identity of the suspect is known, only that an attribute of the suspect has been identified, which distinguishes him/her from an unknown offender.

³In a *multiple-bias incident*, two conditions must be met: (a) more than one offense type must occur in the incident and (b) at least two offense types must be motivated by different biases.



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Table Five: Location of Hate Crime Incidents in the United States, 2009

Location	Number of Incidents	Percent of Total
Air/Bus/Train Terminal	55	0.8%
Bank/Savings and Loan	8	0.1%
Bar/Nightclub	133	2.0%
Church/Synagogue/Temple	283	4.3%
Commercial Office Building	123	1.9%
Construction Site	13	0.2%
Convenience Store	64	1.0%
Department/Discount Store	59	0.9%
Drug Store/Dr.'s Office/Hospital	50	0.8%
Field/Woods	95	1.4%
Government/Public Building	108	1.6%
Grocery/Supermarket	44	0.7%
Highway/Road/Alley/Street	1,135	17.2%
Hotel/Motel	35	0.5%
Jail/Prison	48	0.7%
Lake/Waterway	12	0.2%
Liquor Store	12	0.2%
Multiple Locations	3	0.05%
Other/Unknown	877	13.3%
Parking Lot/Garage	403	6.1%
Rental Storage Facility	7	0.1%
Residence/Home	2,070	31.3%
Restaurant	107	1.6%
School/College	754	11.4%
Service/Gas Station	42	0.6%
Specialty Store	64	1.0%
TOTAL	6,604	100%

Source: Federal Bureau of Investigation, *Hate Crime Statistics, 2009*

Note: Due to rounding, percentages may not equal 100 percent.

Table Six: Hate Crime Offenders in the United States by Race, 2009

Known Offender's Race ¹	Number of Offenders	Percent of Total
White	3,885	62.4%
Black	1,150	18.5%
American Indian/Alaska Native	60	1.0%
Asian/Pacific Islander	45	0.7%
Multiple Races, Group ²	453	7.3%
Unknown Race	632	10.2%
TOTAL OFFENDERS (KNOWN AND UNKNOWN)	6,225	100%

Source: Federal Bureau of Investigation, *Hate Crime Statistics, 2009*

Note: Due to rounding, percentages may not equal 100.

¹The term *known offender* does not imply that the identity of the suspect is known, only that an attribute of the suspect has been identified, which distinguishes him/her from an unknown offender. There were 632 unknown offenders in 2009.

²The term Multiple Races, Group, is used to describe a group of offenders of varying races.



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Table Seven: Hate Crime Incidents in the United States by Offense Type, 2009

Offense Type	Number of Incidents ¹	Percent of Incidents
Crimes Against Persons	3,875	58.7%
Murder and Non-Negligent Manslaughter	8	0.1%
Forcible Rape	9	0.1%
Aggravated Assault	699	10.6%
Simple Assault	1,446	21.9%
Intimidation	1,700	25.7%
Other ²	13	0.2%
Crimes Against Property	2,970	45.0%
Robbery	124	1.9%
Burglary	137	2.1%
Larceny-Theft	163	2.5%
Motor Vehicle Theft	11	0.2%
Arson	41	0.6%
Destruction/Damage/Vandalism	2,465	37.3%
Other ²	29	0.4%
Crimes Against Society³	26	0.4%

Source: Federal Bureau of Investigation, *Hate Crime Statistics, 2009*

Note: Due to rounding, percentages may not equal 100.

¹The actual number of incidents is 6,604. However, the column figures will not add to the total because incidents may include more than one offense type, and these are counted in each appropriate offense type category.

²The law enforcement agencies that participate in the UCR Program via the National Incident Based Reporting System (NIBRS) collect data about additional offenses for crimes against persons and crimes against property, classified here as "other".

³The law enforcement agencies that participate in the UCR Program via NIBRS also collect hate crime data for the category "Crimes Against Society," which includes drug or narcotic offenses, gambling offenses, prostitution offenses, and weapon law violations.

Table Eight: Hate Crime Offenses in the United States by Victim Type, 2009

Victim Type	Number of Offenses	Percent of Total
Individual	6,234	80.0%
Other/Unknown/Multiple	658	8.4%
Business/Financial Institution	343	4.4%
Government	291	3.7%
Religious Organization	237	3.0%
Society/Public	26	0.3%
TOTAL	7,789	100%

Source: Federal Bureau of Investigation, *Hate Crime Statistics, 2009*

Note: Due to rounding, percentages may not equal 100.

C. State Law Enforcement Data

The figures that follow present official state law enforcement data as published by the Kentucky State Police (KSP). Although the FBI's UCR program reported 150 hate crime incidents in 2009, the state police reported only 71 incidents. The reason for this discrepancy is related to the mechanism of identifying cases within each agency. The FBI draws reports for hate crime incidents within each state directly from the National Incident Based Reporting System (NIBRS) while the Kentucky State Police rely upon reports submitted directly to KSP by each individual agency. Although KSP has subsequently created a mechanism to assess hate crime incidents using



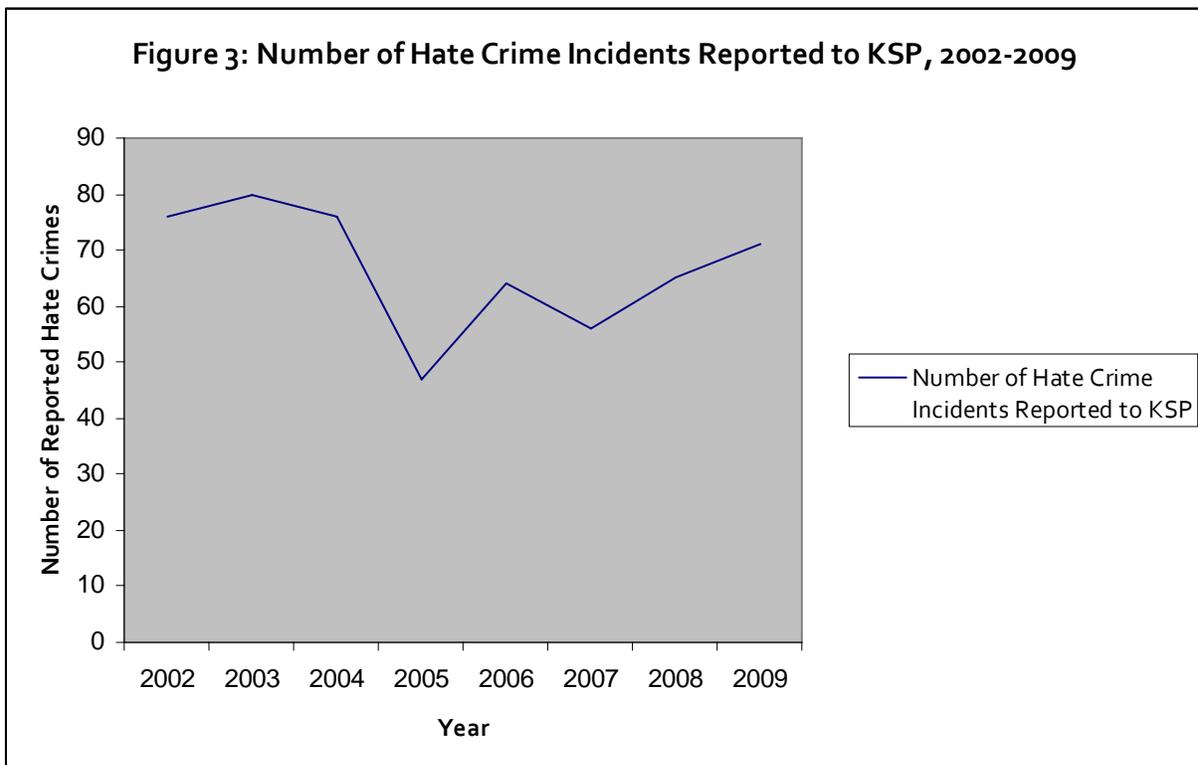
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electronic reports in 2011, the alternative methods of capturing data explain the vast difference in reported hate crime incidents within the Commonwealth. As a consequence, the information presented below only documents 47.3% of the hate related incidents within the state and makes comparison with previous years difficult if not altogether impossible. Between 2008 and 2009 the number of hate crimes reported to the Kentucky State Police rose 9.2% from 65 to 71 incidents. Table Nine and Figure Three present the number of hate crimes that were reported to KSP between 2002 and 2009. During this period the total number of reported incidents peaked at 80 in 2003, and fell to a low of 47 incidents in 2005.

Table Nine: Number of Hate Crimes Reported to Kentucky State Police, 2002-2009

	2009	2008	2007	2006	2005	2004	2003	2002
Hate Crimes Reported to Kentucky State Police	71	65	56	64	47	76	80	76

Source: Kentucky State Police

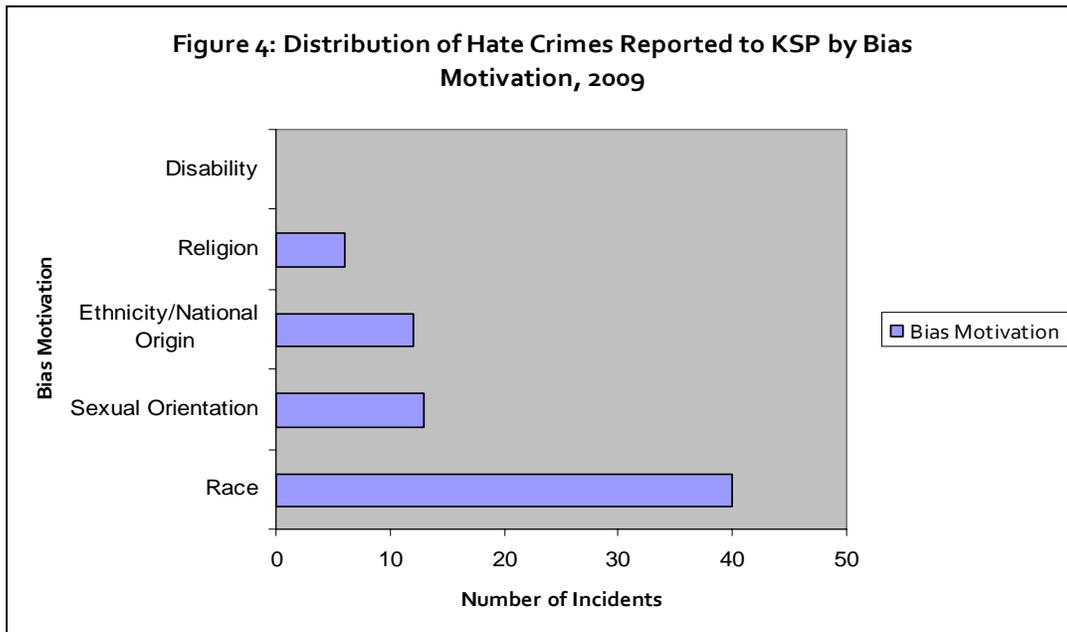


Source: Kentucky State Police



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Figure Four depicts the distribution of hate crimes reported to Kentucky State Police by bias motivation. In 2009, race was the most common motivation for reported hate crimes (56.3%), and of those incidents 82.5% were anti-black. The second most common hate crime motivation was sexual orientation, representing 18.3% of incidents. Of the 13 reported incidents documented in Table Eleven, 11 (84.6%) were anti-male homosexual, 1 (7.7%) was anti-female homosexual, and 1 (7.7%) was both anti-homosexual male and female. The majority (88.7%) of victims in Kentucky's reported hate crimes during 2009 were individuals, and are further outlined in Table Fourteen. Table Ten provides information about the locations of reported hate crime incidents for 2009. During that time 36.6% of reported hate crimes occurred in a residence/home, 16.9% on a highway/road/alley/street, and 14.1% in a school/college. Of all hate crimes reported to KSP in 2009, more than half involved the offense of intimidation (see Table Twelve). Although 37.7% (29) of 77 suspected offenders were white, 36% (28) were of unknown race. These results are further outlined in Table Thirteen.



Source: Kentucky State Police, *Crime in Kentucky, 2009*

Table Ten: Location of Hate Crime Incidents Reported to Kentucky State Police, 2009

Locations	Number of Incidents	Percentage of Total
Residence/Home	26	36.6%
Highway/Road/Alley/Street	12	16.9%
School/College	10	14.1%
Department/Discount Store	6	8.5%
Other/Unknown	5	7.0%
Restaurant	4	5.6%
Bar/Nightclub	3	4.2%
Parking Lot/Garage	2	2.8%
Church/Synagogue/Temple	1	1.4%
Commercial Office Building	1	1.4%
Government/Public Building	1	1.4%
TOTAL	71	100%

Source: Kentucky State Police, *Crime in Kentucky, 2009*

Due to rounding percentages may not equal 100.



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Table Eleven: Hate Crime Incidents Reported to Kentucky State Police by Bias Motivation, 2009

Targeted Group	Number of Incidents	Percent of Sub-Group	Percent of Total
Race	40	100%	56.3%
Anti-White	3	7.5%	4.2%
Anti-Black	33	82.5%	46.5%
Anti-American Indian/Alaska Native	1	2.5%	1.4%
Anti-Asian/Pacific Islander	2	5.0%	2.8%
Anti-Multi-Racial Group	1	2.5%	1.4%
Sexual Orientation	13	100%	18.3%
Anti-Male Homosexual	11	84.6%	15.5%
Anti-Female Homosexual	1	7.7%	1.4%
Anti Homosexual Male and Female	1	7.7%	1.4%
Religion	6	100%	8.5%
Anti-Jewish	3	50.0%	4.2%
Anti-Catholic	1	16.7%	1.4%
Anti-Other Religion	2	33.3%	2.8%
Ethnicity/National Origin	12	100%	16.9%
Anti-Hispanic	8	66.7%	11.3%
Anti-Other Ethnicity/National Origin	4	33.3%	5.6%

Source: Kentucky State Police, *Crime in Kentucky, 2009*

Due to rounding percentages may not equal 100.

Table Twelve: Hate Crime Incidents Reported to Kentucky State Police, 2009

Offense	Number of Incidents	Percentage of Total
Simple Assault	6	8.5%
Intimidation	37	52.1%
Destruction/Damage/Vandalism	19	26.8%
Aggravated Assault	5	7.0%
Burglary	4	5.6%
TOTAL	71	100%

Source: Kentucky State Police, *Crime in Kentucky, 2009*

Due to rounding percentages may not equal 100.

Table Thirteen: Hate Crime Offenders in KSP Reported Offenses by Race, 2009

Suspected Offender's Race ¹	Number of Offenders	Percent of Total
White	29	37.7%
Black	10	13.0%
Unknown Race	28	36.4%
Multiple Races, Group ²	10	13.0%
TOTAL	77	100%

Source: Kentucky State Police, *Crime in Kentucky, 2009*

Due to rounding percentages may not equal 100.

¹The term *suspected offender* implies that an attribute of the suspect has been identified, which distinguishes him/her from an unknown individual. 28 of the offenses reported to Kentucky State Police during 2009 involved an offender of an unknown race.

²The term Multiple Races, Group, is used to describe a group of offenders of varying races.



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Table Fourteen: Hate Crimes Incidents Reported to KSP by Victim Type, 2009

Victim Type	Number of Incidents	Percent of Total
Individual	63	88.7%
Business	1	1.4%
Government	2	2.8%
Religious Organization	2	2.8%
Society/Public	1	1.4%
Other	2	2.8%
TOTAL	71	100%

Source: Kentucky State Police, *Crime in Kentucky, 2009*

Due to rounding percentages may not equal 100.

Anecdotal Evidence of Hate Activity

Since the release of the first federal hate crime report, there has continued to be a wide disparity between the data provided by law enforcement agencies and information compiled by human rights organizations. Thus it is beneficial to consider the anecdotal information that can be gathered from alternative sources since it provides a more holistic picture of hate activity in the Commonwealth. The following sections provide additional information gathered from local media sources throughout the state as well as anecdotal evidence of bias related activity as reported by the Kentucky Commission on Human Rights.

A. Hate Incidents Reported in Kentucky News Outlets during 2009

The information gathered for this section is collected through a comprehensive search of the media using internet search engines and provides examples of both potential hate crimes as well as hate incidents. Hate incidents involve behaviors that are motivated by bias against a victim’s race, religion, ethnic/national origin, gender, age, disability, sexual orientation, but are not criminal acts (Turner, 2001). Hostile or hateful speech or other disrespectful/discriminatory behavior may be motivated by bias but is not illegal. Hate incidents become crimes only when they directly incite perpetrators to commit violence against a person or property or if they place a victim in reasonable fear of physical injury. Any incident in which hate is involved is considered for inclusion. It is important to identify hate incidents because they can escalate into criminal acts and may provide an indication of community unrest. For many of these incidents that did involve a criminal offense, law enforcement later determined that the motivation for the crime was not hate. However, for informational purposes, all relevant incidents are included.

June (Mount Washington)- Two juveniles faced over a dozen criminal mischief charges each for spray painting “KKK” and burning cross symbols on garage doors, cars, and street signs in the Autumn Glen subdivision. (*WHAS 11 news*)

July (Florence)- A white separatist group, the National Alliance, adopted a local highway placing a sign that honored the group’s late founder and author of *The Turner Diaries*, William Pierce. (*WCPO 9 news*)

July (Bullitt)- KKK literature “10 Steps to a Better America” was distributed among homes in Bullitt County by the United Northern and Southern Knights of the Ku Klux Klan. (*The Courier Journal* and *WHAS 11 News*)

October (Lexington)- Six people were arrested for a series of crimes committed against Hispanics including robberies, rape, and sexual assault. (*Lexington Herald-Leader*)



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November (Highland Heights)- A student newspaper at Northern Kentucky University provided a formal apology after an advertisement appeared in two editions for Resistance Records. This company, which is affiliated with the white supremacist group the National Alliance, sells neo-Nazi and white supremacist music. Members of the paper's staff decided to stop running the ad and to return any payments that were received as well as to provide a written apology for not researching the ad more thoroughly prior to going to press. (*The Courier-Journal*)

B. Kentucky Commission on Human Rights

The Kentucky General Assembly created the Kentucky Commission on Human Rights (KCHR) in 1960 and expanded its role in 1966 with the passage of the Kentucky Civil Rights Act (KRS 344). The Kentucky Civil Rights Act makes it illegal to discriminate against anyone because of race, sex, age (people who are 40 years of age or older), disability, color, religion, national origin, familial status (applies only to housing), and tobacco smoker or non-smoker status. Discrimination is defined in the Kentucky Civil Rights Act as any direct or indirect act or practice of exclusion, distinction, restriction, segregation, limitation, refusal, denial, or any act of practice of differentiation or preference in the treatment of a person or persons of the aiding, abetting, inciting, coercing, or compelling thereof made unlawful under this law. People in Kentucky are protected from these types of discrimination in housing, employment, public accommodations, financial transactions, and retaliation. Businesses that supply goods or services to the general public, or solicit and accept the patronage of the public and entities supported by government funds are considered public accommodations.

Headquartered in Louisville and the Northern Kentucky office in Covington, KCHR's primary purpose is to act as a guardian of people's civil rights. The mission of KCHR is to eradicate discrimination in the Commonwealth through enforcement of the Kentucky Civil Rights Act (KRS 344). KCHR is made up of an 11 member board of commissioners appointed by the Governor of Kentucky, the executive director, and 29 staff members. The commissioners have agency oversight and act as a judicial body in discrimination cases filed with the agency by members of the public. In FY 2009, the Board of Commissioners met monthly to hear and rule on discrimination complaints.

The KCHR receives, initiates, investigates, conciliates, and rules upon jurisdictional complaints alleging violations of the Kentucky Civil Rights Act. The Commission also enforces the policies set forth in federal civil rights laws including the U.S. Civil Rights Act, the U.S. Fair Housing Act, the U.S. Americans with Disabilities Act, and others. The commission works daily to encourage fair treatment, discourage discrimination, and foster mutual understanding and respect among all people. Through education, outreach, partnerships, and public affairs events, KCHR strives to ensure that people in Kentucky are knowledgeable about their civil rights. In FY 2009, KCHR's Education and Outreach Unit conducted 35 civil rights workshops and trainings, participated in 74 Fair Housing workshops, and held 19 human rights commission trainings and 13 forums and discussion panels.

According to KCHR's 2009 Annual Report, in FY 2009 the agency processed 2,372 intakes for potential victims of discrimination in Kentucky and commission investigators processed 705 cases. A total of 322 complaints alleging illegal discrimination were filed in FY 2009 by the KCHR. This was a significant (24%) decrease from the number of complaints in FY 2008 (421). The most common bases for discrimination complaints were for race and color, disability, and sex (see Table Fifteen).



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Table Fifteen: Kentucky Commission on Human Rights Basis of Cases Filed, FY 2009

Basis	Employment	Housing	Public Accommodations	Financial Transactions	TOTAL
Race and Color	82	20	23	0	125
Sex	59	6	2	0	67
Age (40+)	34	0	0	0	34
Religion	9	0	0	0	9
Disability	35	18	20	0	73
National Origin	19	2	3	0	24
Retaliation	27	1	0	0	28
Familial Status	0	8	0	0	8
Smoking	1	0	0	0	1
TOTALS*	266	55	48	0	369

Source: Kentucky Commission on Human Rights

*Some complaints allege more than one basis of discrimination. Therefore, the total number of complaints filed (322) does not equal the total number of bases for complaints filed (369).

The total number of complaints closed in FY 2009 was 406, up 8.0% from 376 in 2008. The KCHR's 2009 Annual Report attributes this increase to a shortage of housing enforcement staff, reporting that the average case increased from 73 days in 2008 to 247 days in 2009. The majority of complaints closed were found to have no probable cause; the next most common outcome was withdrawal with settlement (see Table Sixteen). In FY 2009, KCHR staff negotiated a total of 24 conciliation agreements, down from 27 in FY 2008. Seven of the conciliation agreements were reached after the commission determined that there was probable cause to believe that discrimination had occurred and the parties decided to conciliate for settlement rather than continue with litigation. The total compensation reported for conciliation agreements was \$43,600.

Table Sixteen: Kentucky Commission on Human Rights Outcomes of Complaints Closed, FY 2008-FY 2009

Complaint Outcome	FY 2008		FY 2009	
	Number	Percent	Number	Percent
No Probable Cause	263	69.9%	292	71.9%
Conciliation	11	2.9%	17	4.2%
Withdrawal with Right to Sue	60	16.0%	38	9.4%
Withdrawal with Settlement	22	5.9%	51	12.6%
Finding of Discrimination	4	1.1%	1	<1%
Probable Cause Conciliation	16	4.3%	7	1.7%
TOTAL	376	100%	406	100%

Source: Kentucky Commission on Human Rights



Appendix A: State Hate Crime Statutory Provisions



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Comparison of Hate Crime Statutory Provisions, Kentucky and Nationally, 2009

Statutory Provision	Kentucky	National Count
Bias-Motivated Violence and Intimidation- Criminal Penalty ¹	√	46
Civil Action		32
Race, Religion, Ethnicity	√	45
Sexual Orientation	√	31
Gender		27
Disability		31
Other ²		20
Institutional Vandalism	√	43
Data Collection ³	√	28
Training for Law Enforcement Personnel ⁴	√	14

Source: Anti-Defamation League

Note: National count represents the number of states that have the indicated statutory provision. Includes Kentucky and the District of Columbia.

¹ The following states also have statutes criminalizing interference with religious worship: AR, CA, DC, FL, ID, MD, MA, MI, MN, MS, MO, NV, NM, NY, NC, OK, RI, SC, SD, TN, VA, WV.

² "Other" includes political affiliation (CA, DC, IA, LA, WV), age (CA, DC, FL, IA, HI, KS, LA, ME, MN, NE, NM, NY, VT), and transgender/gender identity (CA, CO, CT, DC, HI, MD, MC, MO, NJ, NM, OR, VT).

³ States with data collection statutes which include sexual orientation are AZ, CA, CT, DC, FL, HI, IL, IA, MD, MI, MN, NV, NM, OR, TX, and WA; those which include gender are AZ, CA, DC, HI, IL, IA, MI, MN, NJ, RI, TX, and WA.

⁴ Some other states have administrative regulations mandating such training.



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Comparison of Hate Crime Statutory Provisions, Kentucky and Surrounding States, 2009

Statutory Provision	KY	IL	IN	MO	OH	TN	VA	WV
Bias-Motivated Violence and Intimidation- Criminal Penalty ¹	√	√		√	√	√	√	√
Civil Action		√		√	√	√	√	
Race, Religion, Ethnicity	√	√		√	√	√	√	√
Sexual Orientation	√	√		√		√		
Gender		√		√		√		√
Disability		√		√		√		
Other ²				√				√
Institutional Vandalism	√	√	√	√	√	√	√	
Data Collection ³	√	√					√	√
Training for Law Enforcement Personnel ⁴	√	√						

Source: Anti-Defamation League

¹ The following states also have statutes criminalizing interference with religious worship: MO, TN, VA, WV.

² "Other" includes political affiliation (WV) and age.

³ None of the states included in this table have data collection statutes which include sexual orientation or gender.

⁴ Some other states have administrative regulations mandating such training.



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State Hate Crime Statutory Provisions, 2009

Statutory Provision	AL	AK	AZ	AR	CA	CO	CT	DC	DE	FL	GA	HI	ID	IL	IN	IA	KS	KY	LA	ME	MD
Bias-Motivated Violence and Intimidation- Criminal Penalty ¹	√	√	√		√	√	√	√	√	√		√	√	√		√	√	√	√	√	√
Civil Action				√	√	√	√	√		√	√		√	√		√			√	√	
Race, Religion, Ethnicity	√	√	√		√	√	√	√	√	√		√	√	√		√	√	√	√	√	√
Sexual Orientation			√		√	√	√	√	√	√		√		√		√	√	√	√	√	√
Gender		√	√		√		√	√				√		√		√			√	√	
Disability	√	√	√		√	√	√	√	√	√		√		√		√	√		√	√	
Other ²					√	√	√	√		√		√				√	√		√	√	√
Institutional Vandalism	√		√	√	√	√	√	√	√	√	√	√	√	√	√		√	√	√	√	√
Data Collection ³			√		√		√	√		√		√	√	√		√		√	√	√	√
Training for Law Enforcement Personnel ⁴			√		√		√							√		√		√	√		



Hate Crime and Hate Incidents in the Commonwealth

State Hate Crime Statutory Provisions, 2009, Continued

Statutory Provision	MA	MI	MN	MS	MO	MT	NE	NV	NH	NJ	NM	NY	NC	ND	OH	OK	OR	PA	RI	SC
Bias-Motivated Violence and Intimidation -- Criminal Penalty ¹	√	√	√	√	√	√	√	√	√	√	√	√	√	√	√	√	√	√	√	
Civil Action	√	√	√		√		√	√		√			√		√	√	√	√	√	
Race, Religion, Ethnicity	√	√	√	√	√	√	√	√	√	√	√	√	√	√	√	√	√	√	√	
Sexual Orientation	√		√		√		√	√	√	√	√	√					√		√	
Gender		√	√	√	√		√		√	√	√	√	√	√					√	
Disability	√		√		√		√	√	√	√	√	√				√			√	
Other ²			√		√		√			√	√	√					√			
Institutional Vandalism	√	√	√	√	√	√	√	√		√	√	√	√		√	√	√	√	√	√
Data Collection ³	√	√	√				√	√		√	√					√	√	√	√	
Training for Law Enforcement Personnel ⁴	√		√							√	√						√		√	



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State Hate Crime Statutory Provisions, 2009, Continued

Statutory Provision	SD	TN	TX	UT	VT	VA	WA	WV	WI	WY
Bias-Motivated Violence and Intimidation -- Criminal Penalty ¹	√	√	√	√ ⁵	√	√	√	√	√	
Civil Action	√	√	√		√	√	√		√	
Race, Religion, Ethnicity	√	√	√		√	√	√	√	√	
Sexual Orientation		√	√		√		√		√	
Gender		√	√		√		√	√		
Disability		√	√		√		√		√	
Other ²					√			√		
Institutional Vandalism	√	√	√			√	√		√	
Data Collection ³			√			√	√	√		
Training for Law Enforcement Personnel ⁴							√			

Source: Anti-Defamation League

¹ The following states also have statutes criminalizing interference with religious worship: AR, CA, DC, FL, ID, MD, MA, MI, MN, MS, MO, NV, NM, NY, NC, OK, RI, SC, SD, TN, VA, WV.

² "Other" includes political affiliation (CA, DC, IA, LA, WV), age (CA, DC, FL, IA, HI, KS, LA, ME, MN, NE, NM, NY, VT), and transgender/gender identity (CA, CO, CT, DC, HI, MD, MC, MO, NJ, NM, OR, VT).

³ States with data collection statutes which include sexual orientation are AZ, CA, CT, DC, FL, HI, IL, IA, MD, MI, MN, NV, NM, OR, TX, and WA; those which include gender are AZ, CA, DC, HI, IL, IA, MI, MN, NJ, RI, TX, and WA.

⁴ Some other states have administrative regulations mandating such training.

⁵ The Utah statute ties penalties for hate crimes to violations of the victim's constitutional or civil rights.



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