

Hate Crime and Hate Incidents in the Commonwealth



2011



Prepared by the
Kentucky Statistical Analysis Center

Foreword

Dear Policymaker:

Under KRS 15A.040 the Kentucky Justice and Public Safety Cabinet is tasked with disseminating information on criminal justice issues and crime trends. As a result, I am pleased to present the following report detailing Kentucky's hate based incidents and crimes for the 2011 calendar year. *Hate Crime and Hate Incidents in the Commonwealth, 2011* reflects the Cabinet's ongoing efforts to provide policymakers, state officials, and the citizens of the Commonwealth with a collection of statewide hate crime data.

This publication draws together official statistics from law enforcement as well as anecdotal evidence provided by state and national human rights organizations. By gathering information from a variety of sources, we can gain a more comprehensive understanding of how hate crime impacts citizens within the Commonwealth. This is especially true since official data may be a better indicator of how well we are reporting hate crime rather than its actual incidence.

The Kentucky Justice and Public Safety Cabinet would like to express our continuing appreciation to the organizations whose data contributions made this report possible, and looks forward to additional efforts to broaden our knowledge of this critical issue. I 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 in advance for your interest in this important 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 were 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.

According to the most recent information from the United States Department of Justice, Bureau of Justice Statistics (Sandholtz, Langton, & Planty, 2013) 65% of hate crimes were not reported to police during the years 2007-2011, a significantly greater proportion than the 54% of unreported incidents in the period between 2003-2006. 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 of re-victimization by the system, or fear of the resulting public response or stigma. 24% of victims of violent hate crimes between 2007 and 2011 reported that they did not report the offense to police because of a belief that members of law enforcement would be unable and/or unwilling to help (Sandholtz et al., 2013). This is a 10% increase from those reporting the same barrier in 2003-2006 (Sandholtz et al., 2013). Homosexual, bisexual, or transgender victims 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



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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).

According to victim reports, hate crimes tend to be more violent than other crimes. The NCVS data analyzed from the period between 2007 and 2011 revealed that almost 92% of hate crimes reported in the NCVS were violent offenses such as sexual assault, robbery, or aggravated assault (Sandholtz et al., 2013). In comparison, the NCVS typically finds that about one-quarter of non-hate crimes involved violent incidents (Harlow, 2005; Sandholtz et al., 2013). Because of the difficulty substantiating the motivation behind a particular offense, we often find that the data on self-report measures like the NCVS does not parallel official tracking methods including the Uniform Crime Report (UCR) or National Incident Based Reporting System (NIBRS). Thus, incidents that are reported on the NCVS as involving bias are not always confirmed by law enforcement as hate crimes (Sandholtz, 2013). For example, 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 addition to the difficulty in identifying an individual's motivation for a particular offense, further 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. The section of this report, Anecdotal Evidence of Hate Activity, provides additional information on hate crime reporting in Kentucky and the surrounding states.



Hate Group Activity in 2011

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 2003 and 2011, hate crime victims reported that more than half of offenders acted alone and were strangers or unknown to the victim (Sandholtz et al., 2013). 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; Standholtz et al., 2013). 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 continued to rise slightly in 2011, reaching 1,018 (Potok, 2012). This is a 1.5% increase from the 1,002 reported in 2010. The number of hate groups in the United States has risen almost 70% between 2000 and 2011, largely fueled by the resurgence of so-called Patriot organizations (Potok, 2011; Potok, 2012). 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. Potok (2012) suggests that anti-immigration groups, which often go "beyond mere advocacy of restrictive immigration policy to actually confront or harass suspected immigrants" may be related to economic globalization and the population changes which are often associated. 2011 saw a significant decrease in nativist extremist groups; however, with the SPLC reporting only 184 such organizations. This was a 42.4% decrease from the 319 groups documented in 2010, and reverses a staggering five year trend (Potok, 2012). According to the SPLC, the reduction is likely the product of "bad press, internecine quarrels, and the co-optation of the immigration issue by state legislatures" (Potok, 2012). Despite a significant reduction in nativist groups, the number of Patriot and Militia organizations continued the expansion exhibited over the past several years. For example, during the period between 2008-2010, a 453% increase of these organizations occurred (Potok, 2011). 2011 statistics suggest that these numbers have continued to rise, with a total of 1,274 Patriot groups and 334 Militia organizations throughout the United States. This total of 1,608 is a 738% increase over the 192 such groups reported in 2008 (Potok, 2012).

A number of factors may contribute to creating a climate of hate such as: fear, alienation, economic prejudice, negative stereotypes, and increasing cultural diversity. A single incident within a community may exacerbate



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existing tensions and trigger escalating violence and a potential for hate crime incidents. The SPLC and other organizations like the U.S. Department of Homeland Security 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, 2011).

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). For example, in 2010 the SPLC reported 16 Patriot groups in Kentucky during 2010 and the 2011 statistics suggest that these numbers have increased to 20 active groups (Potok, 2011; Potok, 2012). Hate crimes against Hispanics, who are often perceived to be undocumented immigrants regardless of their actual status, have also risen across the nation as groups opposing immigration reform move 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, 2011).

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 2011, the SPLC identified 10 active hate groups in Kentucky, down from 15 such groups in 2010 (Table One). Figure 1 depicts the trend in the number of active hate groups as identified by the SPLC, between 2002 and 2011.

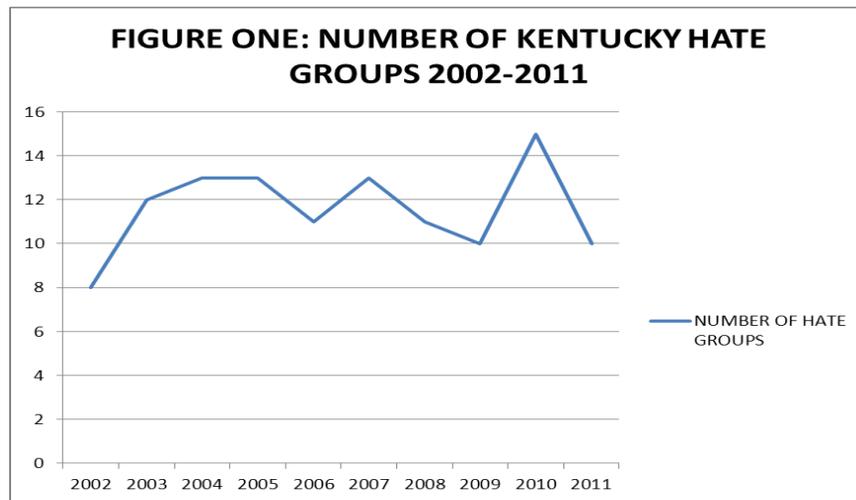
Table One: Number of Hate Groups in Kentucky, 2002-2011

	2011	2010	2009	2008	2007	2006	2005	2004	2003	2002
Number of Kentucky Hate Groups	10	15	10	11	13	11	13	13	12	8

Source: Southern Poverty Law Center



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Source: Southern Poverty Law Center

Table Two provides a list of hate groups active in Kentucky during 2011.

Table Two: Hate Groups in Kentucky, 2011

Chapter	Group	City
Ku Klos Knights of the Ku Klux Klan	Ku Klux Klan	
Loyal White Knights of the Ku Klux Klan	Ku Klux Klan	
United Klans of America	Ku Klux Klan	Lexington
National Socialist Movement	Neo-Nazi	
National Socialist Movement	Neo-Nazi	
Aryan Terror Brigade	Racist Skinhead	
Fellowship of God's Covenant People	Christian Identity	Union
Kinsman Redeemer Ministries	Christian Identity	Alexandria
League of the South	Neo-Confederate	Crofton
Protestant White Nationalist Party of Kentucky	White Nationalist	

Source: Southern Poverty Law Center

Nationwide, the number of KKK groups decreased 31.3%, from 221 in 2010 to 152 in 2011 (Potok, 2012). The second largest KKK organization in the U.S., the Brotherhood of Klans Knights of the Ku Klux Klan, which had a chapter in Kentucky, disappeared after its leader, Jeremy Parker, joined the Aryan Nations (Potok, 2012). Likewise, the Dawson Springs, Kentucky based Imperial Klans of America (IKA) experienced significant problems during 2011. These included a \$2.5 million judgment against the group for a hate-related assault and the arrest and eventual plea bargain accepted by the group's leader, Ron Edwards, for narcotics trafficking and firearms related charges (Associated Press, 2011). These changes appear to have affected not only the IKA but the climate of the Ku Klux Klan within Kentucky. In 2011, the number of chapters decreased by almost 58% from seven to three chapters (Potok, 2011, Potok, 2012). The IKA also experienced changes to their annual gathering known as Nordic Fest, a concert and party that typically occurs over Memorial Day weekend. The "spring gathering" in 2011 still involved a "cross lighting" and barbeque, but was much smaller in scale (Associated Press, 2011).

Despite the apparent reduction of Kentucky based KKK groups, the group continues to have a national presence. According to the SPLC, other Ku Klux Klan groups returned to prominence, merged, or greatly expanded during 2011 (Potok, 2012). In past years there was a greater presence of Neo-Nazi organizations



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within Kentucky and the surrounding states of Ohio, Tennessee, Illinois, and Indiana, particularly by those groups affiliated with the Supreme White Alliance (SWA). This appears to have changed in 2011; however, with no reported chapters of the SWA in the states directly bordering Kentucky (Potok, 2012).

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, 2011, the ADL documented 2 events in Kentucky (see Table Three). Information about extremist events in was developed from publicly available information on the Anti-Defamation League’s website, www.adl.org, as well as from media and internet searches.

Table Three: Extremist Events in Kentucky, 2011

Date	Location	Event	Description
May 28-30, 2011	Kentucky	Spring Gathering	Barbeque and Cross Lighting carried out by members of the IKA and other organizations.
November 19, 2011	Independence, Kentucky	Neo-Nazi Annual Barbeque	Neo-Nazi gathering organized by the National Socialist Movement for members in the surrounding area.

Source: Anti-Defamation League, Associated Press

In addition to holding meetings and hosting events, many hate groups rely upon the Internet to recruit and 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). Many hate-based and extremist groups are actively using the Internet to share their message, recruit new members, and improve the coordination and communication among current members. According to information available on the ADL website, evidence suggests that some international extremist organizations have created U.S. based websites to recruit members and circumvent their own country’s laws regarding hate-based speech and internet transmissions. Although the SPLC did not report on the specific number of hate-based websites within the U.S. during 2011, at least two of the previously identified Kentucky based sites were still in operation at the time this document was created. These included:

- Kinsman Redeemer Ministries- <http://kinsmanredeemer.com> (Alexandria, KY)
- Supreme White Alliance- <http://swa43.com> (Central City, KY)

This may not be a complete list; however, since many sites do not identify the locations from which they originate, or may be relatively difficult to locate. The increased availability of YouTube® as well as the proliferation of social networking sites and blogs indicates that the Internet provides an ideal and ever-changing mechanism for the spread of extremist content and ideas, however.



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.



Hate Crime and Hate Incidents in the Commonwealth

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 “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. Kentucky’s hate crime legislation also does not include homicide or kidnapping as a qualifying offense within the statute. This omission was brought to the attention of authorities during the retrial of Michael Stone in April, 2010. According to police, court records, and media reports Stone, in partnership with four other white men, fatally stabbed a 17 year old African-American, Lamartez Griffin in July, 2004. Stone, who had a shaved head as well as tattoos of a white power symbol and confederate flag, reportedly used racial slurs while attacking the victim. He was not able to be convicted of a hate crime under the current Kentucky statute, however, since it excluded homicide offenses. During the sentencing phase of Stone’s 2010 trial the court ruled that they “must refer to the words used in a statute, and not speculate on what the legislature might have intended but did not express” (Riley, 2010). Future revisions to the Kentucky legislation may help to address this oversight.



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 2011, more than 18,000 city, county, tribal, state, and federal law enforcement agencies participated in the national UCR program (Federal Bureau of Investigation, 2012). According to FBI figures, this represents 97.8% of the nation's total population. During the same period, 14,575 of these agencies participated in the UCR's hate crime reporting program, accounting for the experiences of over 286,010,000 U.S. residents (Federal Bureau of Investigation, 2012). This represents a 2.7% decrease in the number of participating agencies from 2010. Of those agencies participating in the program, 13.3% reported incidents of hate crime (see Table 4). In total, during 2011 6,222 incidents were reported throughout the United States, a 6.2% decrease from 2010 numbers. According to the FBI's UCR data, Kentucky reported 186 hate incidents in 2011. This is up from 173 reported hate incidents in 2010. Of the 374 local Kentucky law enforcement agencies who participated in the data collection, 86, or 23.0% reported at least one 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, during the 2011 calendar year Mississippi reported 1 bias-related incident and Louisiana reported 5. This is significantly fewer than those reported in surrounding states and vastly less than those in other areas of the nation. For example, the state of Tennessee reported 144 bias related incidents, Florida reported 123, and Massachusetts reported 367 hate/bias incidents in 2011. 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. It also must be understood that some states have an extremely low number of agencies that submit incident reports to the FBI. New Mexico had only 3 participating agencies in 2011 and Nevada accounted for only 5 of the almost 1,950 agencies which submitted reports (Federal Bureau of Investigation, 2012).

According to UCR data for the states surrounding Kentucky (presented in Table Four), Illinois (69), Missouri (117), Indiana (100), Tennessee (144), Virginia (144), and West Virginia (18) reported fewer hate crimes than Kentucky (186) in 2011. Ohio (228) was the only surrounding state to report more hate crimes in 2011, although Kentucky's population is at least 60% smaller. 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.



Hate Crime and Hate Incidents in the Commonwealth

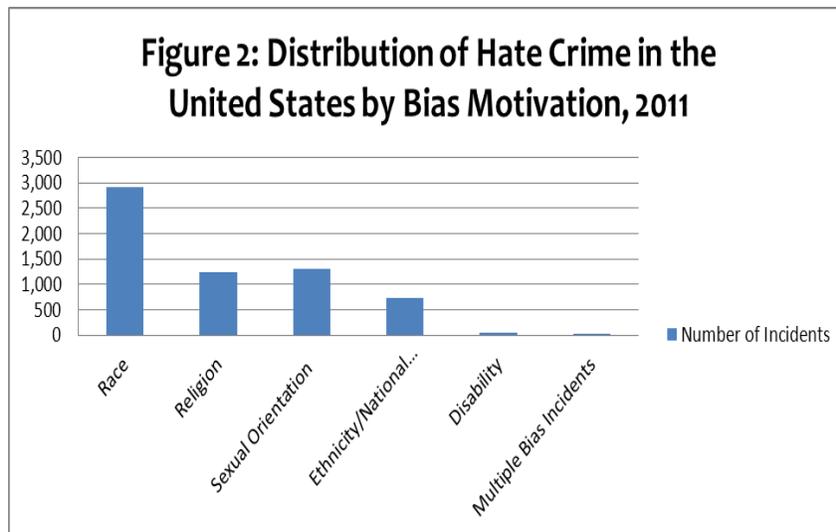
Table Four: Law Enforcement Agencies Reporting Hate Crime, Kentucky and Surrounding States, 2011

State	Total Number of Incidents Reported	Agencies Submitting Incident Reports	Number of Participating Agencies	Population Covered
Illinois	69	39	563	9,959,109
Indiana	100	17	137	3,701,222
Kentucky	155	86	374	3,581,320
Missouri	117	34	633	6,001,755
Ohio	228	83	588	9,879,527
Tennessee	144	62	463	6,403,353
Virginia	144	54	408	8,087,318
West Virginia	18	14	281	5,669,896
United States	6,222	1,944	14,575	286,010,550

Source: Federal Bureau of Investigation, *Hate Crime Statistics, 2011*

B. Federal Law Enforcement Data

The figures and tables that follow present official law enforcement data published by the FBI’s UCR program for 2011. The UCR program reports that in 2011, 46.9% of all hate crime incidents in the United States were racially motivated, while 19.8% were motivated by religion, and 20.8% by sexual orientation. Figure Two reports the bias motivation of hate crimes in the United States. Of the 2,917 racially motivated incidents, 71.2% (2,076) were anti-black. Of the 1,233 incidents motivated by religion, 62.5% were anti-Jewish. Table Five documents the bias motivation for all 2011 reported hate crime incidents. In the United States during 2011, about 32.0% of all hate crimes occurred at a residence/home and another 18.0% on a highway/road/street/alley. Taken together these locations account for half of all U.S. hate incidents (see Table Six). 60.3% of the hate crime incidents in the U.S. during 2011 involved crimes against persons, and the remainder involved crimes against property and/or society. The majority of hate crimes involved the offenses of destruction, damage, or vandalism (34.2%); intimidation (33.9%) and simple assault (25.6%) were the next most common offenses. This information is further broken down in Table Eight. During 2011, the majority of known hate crime offenders were white (see Table Seven), and over 82.9% of victims were individuals (see Table Nine).



Source: Federal Bureau of Investigation, *Hate Crime in the United States, 2011*



Hate Crime and Hate Incidents in the Commonwealth

Table Five: Hate Crime in the United States by Bias Motivation, 2011

Targeted Group	Incidents	Offenses	Victims ¹	Known Offenders ²
Single Bias Incidents	6,216	7,240	7,697	5,724
Race	2,917	3,465	3,645	2,787
Anti-White	504	577	593	594
Anti-Black	2,076	2,494	2,619	1,935
Anti- American Indian/Alaska Native	61	67	70	60
Anti-Asian/Pacific Islander	138	165	175	120
Anti-Multiple Races, Group	138	162	188	78
Religion	1,233	1,318	1,480	590
Anti-Jewish	771	820	936	287
Anti-Catholic	67	68	84	21
Anti-Protestant	44	49	51	32
Anti-Islamic	157	175	185	138
Anti-Other Religion	130	139	155	74
Anti-Multiple Religions, Group	60	63	65	37
Anti-Atheism/Agnosticism, etc...	4	4	4	1
Sexual Orientation	1,293	1,508	1,572	1,511
Anti-Male Homosexual	760	871	891	978
Anti-Female Homosexual	137	168	174	123
Anti-Homosexual	359	429	465	362
Anti-Heterosexual	16	17	19	19
Anti-Bisexual	21	23	23	29
Ethnicity/National Origin	720	891	939	749
Anti-Hispanic	405	506	534	452
Anti-Other Ethnicity/National Origin	315	385	405	297
Disability	53	58	61	87
Anti-Physical	19	23	26	29
Anti-Mental	34	35	35	58
Multiple Bias Incidents	6	14	16	7

Source: Federal Bureau of Investigation, *Hate Crime Statistics, 2011*

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.



Hate Crime and Hate Incidents in the Commonwealth

Table Six: Location of Hate Crime Incidents in the United States, 2011

Location	Number of Incidents	Percent of Total
Abandoned/Condemned Structure	2	<0.1%
Air/Bus/Train Terminal	59	1.0%
Amusement Park	2	<0.1%
Arena/Stadium/Fairgrounds/Coliseum	2	<0.1%
ATM Separate from Bank	1	<0.1%
Auto Dealership New/Used	2	<0.1%
Bank/Savings and Loan	13	0.2%
Bar/Nightclub	153	2.5%
Camp/Campground	2	<0.1%
Church/Synagogue/Temple	276	4.4%
Commercial Office Building	114	1.8%
Construction Site	8	0.1%
Convenience Store	79	1.3%
Daycare Facility	1	<0.1%
Department/Discount Store	72	1.2%
Drug Store/Dr.'s Office/Hospital	62	1.0%
Farm Facility	2	<0.1%
Field/Woods	52	0.8%
Gambling Facility/Casino/Race Track	1	<0.1%
Government/Public Building	89	1.4%
Grocery/Supermarket	59	1.0%
Highway/Road/Alley/Street	1,121	18.0%
Hotel/Motel	43	1.0%
Industrial Site	3	<0.1%
Jail/Prison/Penitentiary/Corrections Facility	38	0.6%
Lake/Waterway	14	0.2%
Liquor Store	10	0.2%
Multiple Locations	7	0.1%
Other/Unknown	704	11.3%
Park/Playground	36	0.6%
Parking Lot/Garage	366	5.9%
Rental Storage Facility	13	0.2%
Residence/Home	1,993	32.0%
Rest Area	5	<0.1%
Restaurant	115	1.8%
School/College ¹	375	6.0%
School- College/University	53	0.9%
School- Elementary/Secondary	150	2.4%
Service/Gas Station	48	0.8%
Shelter- Mission/Homeless	1	<0.1%
Shopping Mall	27	0.4%
Specialty Store (TV, Fur, etc...)	48	0.8%
Tribal Lands	1	<0.1%
TOTAL	6,222	100%

Source: Federal Bureau of Investigation, *Hate Crime Statistics, 2011*

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

¹ According to 2012 reports from the FBI this location has been retained for those agencies that have not updated their records management systems to include the new designations of *School- College/University* and *School- Elementary/Secondary*, which allows for more specificity in reporting.



Hate Crime and Hate Incidents in the Commonwealth

Table Seven: Hate Crime Offenders in the United States by Race, 2011

Known Offender's Race ¹	Number of Offenders	Percent of Total
White	3,384	59.0%
Black	1,195	20.9%
American Indian/Alaska Native	46	0.8%
Asian/Pacific Islander	83	1.4%
Multiple Races, Group ²	406	7.1%
Unknown Race	617	10.8%
TOTAL KNOWN OFFENDERS	5,731	100%

Source: Federal Bureau of Investigation, *Hate Crime Statistics, 2011*

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 2,374 incidents involving an unknown offender in 2011 representing 32.7% of total offenses.

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

Table Eight: Hate Crimes in the United States by Offense Type, 2011

Offense Type	Number of Incidents ¹	Percent of Incidents
Crimes Against Persons	3,754	60.3%
Murder and Non-Negligent Manslaughter	4	<0.01%
Forcible Rape	7	0.01%
Aggravated Assault	677	10.9%
Simple Assault	1,336	21.5%
Intimidation	1,720	27.6%
Other ²	10	0.02%
Crimes Against Property	2,611	42.0%
Robbery	131	2.1%
Burglary	124	2.0%
Larceny-Theft	152	2.4%
Motor Vehicle Theft	6	0.01%
Arson	42	0.07%
Destruction/Damage/Vandalism	2,125	34.2%
Other ²	31	0.05%
Crimes Against Society³	20	0.3%

Source: Federal Bureau of Investigation, *Hate Crime Statistics, 2011*

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

¹The actual number of incidents is 6,222. 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.



Hate Crime and Hate Incidents in the Commonwealth

Table Nine: Hate Crime Offenses in the United States by Victim Type, 2011

Victim Type	Number of Offenses	Percent of Total
Individual	6,016	82.9%
Other/Unknown/Multiple	499	6.9%
Business/Financial Institution	305	4.2%
Government	206	2.8%
Religious Organization	208	2.9%
Society/Public	20	0.3%
TOTAL	7,254	100%

Source: Federal Bureau of Investigation, *Hate Crime Statistics*, 2011

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 155 hate crime incidents in 2011, the state police reported 205 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 to KSP by each individual agency. Although KSP has subsequently created a mechanism to assess hate crime incidents using electronic reports during 2011, the alternative methods of capturing data explain the vast difference in reported hate crime incidents within the Commonwealth. As a consequence, comparison with data from previous years is difficult if not altogether impossible. For example, between 2009 and 2011 the number of hate crimes reported to the Kentucky State Police rose 197% from 69 in 2010 to 205 in 2011. Table Ten and Figure Three present the number of hate crimes that were reported to KSP between 2002 and 2011. In the nine previous years the total number of reported incidents peaked at 80 in 2003, and fell to a low of 47 incidents in 2005.

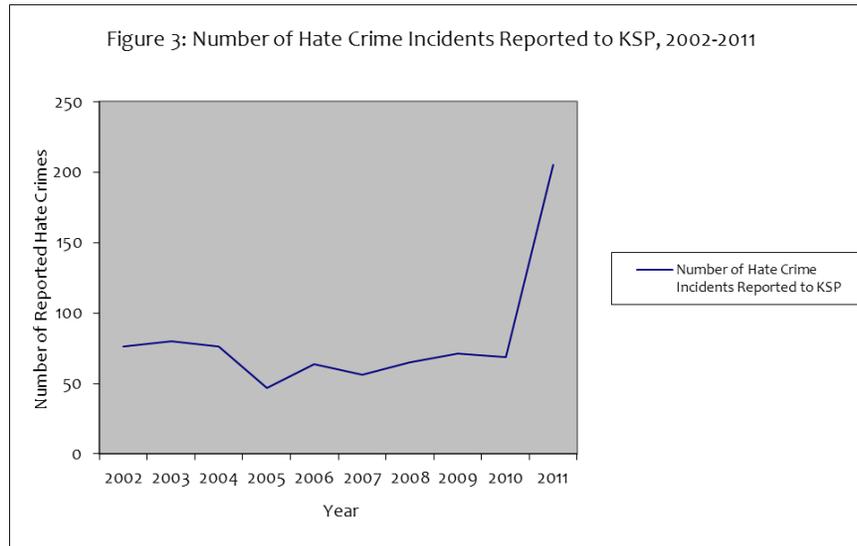
Table Ten: Number of Hate Crimes Reported to Kentucky State Police, 2002-2011

	2011	2010	2009	2008	2007	2006	2005	2004	2003	2002
Hate Crimes Reported to Kentucky State Police	205	69	71	65	56	64	47	76	80	76

Source: Kentucky State Police

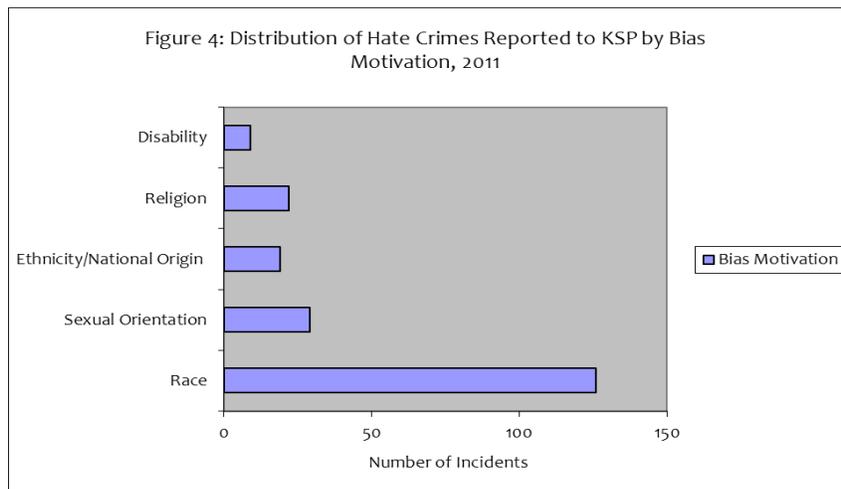


Hate Crime and Hate Incidents in the Commonwealth



Source: Kentucky State Police, *Crime in Kentucky, 2011*

Figure Four depicts the distribution of hate crimes reported to Kentucky State Police by bias motivation. In 2011, race was the most common motivation for reported hate crimes (62.0%), and of those incidents 63.5% were anti-black. The second most common hate crime motivation was sexual orientation, representing 14.2% of incidents. Of the 29 reported incidents documented in Table Thirteen, 23 (79.3%) were anti-male homosexual, 2 (7.0%) were anti-female homosexual, and 3 (10.4%) was both anti-homosexual male and female. The majority (76.6%) of victims in Kentucky’s reported hate crimes during 2011 were individuals, and are further outlined in Table Fifteen. Table Eleven provides information about the locations of reported hate crime incidents for 2011. During that time 31.2% of reported hate crimes occurred in a residence/home, 15.6% on a highway/road/alley/street, and 11.7% in a school/college. Of all hate crimes reported to KSP in 2011, nearly half involved the offense of assault (see Table Twelve). 77.9% (141) of 181 suspected offenders were white; these results are further outlined in Table Fourteen.



Source: Kentucky State Police, *Crime in Kentucky, 2011*



Hate Crime and Hate Incidents in the Commonwealth

Table Eleven: Location of Hate Crime Incidents Reported to Kentucky State Police, 2011

Location	Number of Incidents	Percent of Total
Air/Bus/Train Terminal	1	0.5%
Auto Dealership New/Used	1	0.5%
Bank/Savings and Loan	4	2.0%
Bar/Nightclub	2	1.0%
Church/Synagogue/Temple	1	0.5%
Commercial Office Building	4	2.0%
Convenience Store	5	2.4%
Daycare Facility	1	0.5%
Department/Discount Store	3	1.5%
Drug Store/Dr.'s Office/Hospital	3	1.5%
Field/Woods	3	1.5%
Government/Public Building	7	3.4%
Grocery/Supermarket	6	2.9%
Highway/Road/Alley/Street	32	15.6%
Hotel/Motel	4	2.0%
Industrial Site	2	1.0%
Jail/Prison /Corrections Facility	2	1.0%
Other/Unknown	11	5.4%
Park/Playground	1	0.5%
Parking Lot/Garage	10	4.9%
Rental Storage Facility	1	0.5%
Residence/Home	64	31.2%
Restaurant	5	2.4%
School- College/University	24	11.7%
Service/Gas Station	3	1.5%
Shopping Mall	1	0.5%
Specialty Store (TV, Fur, etc...)	4	2.0%
TOTAL	205	100%

Source: Kentucky State Police, *Crime in Kentucky, 2011*

Due to rounding percentages may not equal 100.

Table Twelve: Hate Crime Incidents Reported to Kentucky State Police, 2011

Offense	Number of Incidents	Percentage of Total
Arson	1	0.5%
Assault Offenses	102	49.8%
Burglary/Breaking and Entering	10	4.9%
Counterfeiting/Forgery	5	2.4%
Destruction/Damage/Vandalism of Property	53	25.9%
Drug/Narcotic Offenses	9	4.4%
Fraud Offenses	1	0.5%
Larceny/Theft Offenses	14	6.8%
Pornography/Obscene Material	1	0.5%
Robbery	4	2.0%
Sex Offenses, Forcible	3	1.5%
Stolen Property Offenses (Receiving, etc...)	1	0.5%
Weapon Law Violations	1	0.5%
TOTAL	205	100%

Source: Kentucky State Police, *Crime in Kentucky, 2011*

Due to rounding percentages may not equal 100



Hate Crime and Hate Incidents in the Commonwealth

Table Thirteen: Hate Crime Incidents Reported to Kentucky State Police by Bias Motivation, 2011

Targeted Group	Number of Incidents	Percent of Sub-Group	Percent of Total
Race	126	100%	61.5%
Anti-White	34	27.0%	16.6%
Anti-Black	80	63.5%	39.0%
Anti-American Indian/Alaska Native	2	1.6%	1.0%
Anti-Asian/Pacific Islander	3	2.4%	1.5%
Anti-Multi-Racial Group	7	5.6%	3.4%
Sexual Orientation	29	100%	14.2%
Anti-Male Homosexual	23	79.3%	11.2%
Anti-Female Homosexual	2	6.9%	1.0%
Anti Homosexual Male and Female	3	10.4%	1.5%
Anti-Heterosexual	1	3.5%	0.5%
Religion	22	100%	10.7%
Anti-Jewish	4	18.2%	2.0%
Anti-Catholic	2	9.1%	1.0%
Anti-Protestant	3	13.6%	1.5%
Anti-Islamic	10	45.5%	4.9%
Anti-Other Religion	3	13.6%	1.5%
Ethnicity/National Origin	19	100%	9.3%
Anti-Hispanic	15	79.0%	7.3%
Anti-Other Ethnicity/National Origin	4	21.0%	2.0%
Disability	9	100%	4.4%
Anti-Physical Disability	2	22.2%	1.0%
Anti-Mental Disability	7	77.8%	3.4%

Source: Kentucky State Police, *Crime in Kentucky, 2011*

Due to rounding percentages may not equal 100.

Table Fourteen: Hate Crime Offenders in KSP Reported Offenses by Race, 2011

Suspected Offender's Race ¹	Number of Offenders	Percent of Total
White	141	77.9%
Black	38	21.0%
Asian/Pacific Islander	1	0.6%
Unknown Race	1	0.6%
TOTAL	181	100%

Source: Kentucky State Police, *Crime in Kentucky, 2011*

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. 61 of the offenses reported to Kentucky State Police during 2011 involved an offender of an unknown race.



Hate Crime and Hate Incidents in the Commonwealth

Table Fifteen: Hate Crimes Incidents Reported to KSP by Victim Type, 2011

Victim Type	Number of Incidents	Percent of Total
Individual	157	76.6%
Business	21	10.2%
Financial Institution	1	0.5%
Government	6	2.9%
Religious Organization	2	1.0%
Society/Public	10	4.9%
Other	8	3.9%
TOTAL	205	100%

Source: Kentucky State Police, *Crime in Kentucky, 2011*

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. Kentucky Hate Incidents and Information Reported in News Outlets during 2011

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 as are those releases involving recognized extremist groups within the state.

January (Louisville)- The Kentucky Court of Appeals overturned a \$1.3 million civil judgment against the former leader of the Imperial Klans of America (IKA), Ron Edwards for the beating of a non-white teen. The original jury ruled that Edwards, as Imperial Wizard, had cultivated an atmosphere of hate and violence within the IKA. The Court of Appeals ruled that there was not enough evidence to hold Edwards, who was not present at the time, liable for the incident. (*Lexington Herald-Leader*)

January (Oxford, OH)- Police charged 20 year old, Grant Rose, a resident of Alexandria, KY, with assault. Police assert that Rose used physical violence and derogatory language against Benjamin Collings, during an incident which occurred in April, 2010 outside of a Miami, OH bar. Collings’ assault led to a hate crime rally on Miami University of Ohio’s campus. Despite the offensive remarks and significant facial injuries suffered by the victim, investigators chose not to file any Federal hate crime charges against Rose. (*Journal News*)



Hate Crime and Hate Incidents in the Commonwealth

February (Georgetown)- Georgetown Police were called to provide additional security on the Georgetown College campus after several bias related events occurred during the preceding week. These included a racial slur, which was directed at a black student by a campus group, as well as hostile remarks within a classroom setting, and the placement of race related symbols and graffiti in campus locations. (*Lexington Herald-Leader*)

February (Louisville)- A Murray State Political Science professor, Mark Wattier, planned to retire after a career of more than 30 years. Wattier had been suspended without pay earlier in the semester after referring to slavery when discussing an African-American student's tardiness to class. (*Lexington Herald-Leader*)

February (Pikeville)- Membership applications and flyers for the Ku Klux Klan were distributed at various locations throughout the town. (*Floyd County Times*)

March (Lexington)- At least two signs were posted around the University of Kentucky campus which called President Barack Obama a racial epithet. (*Lexington Herald-Leader*)

April (Lexington)- Students engaged in two small-scale protests on the University of Kentucky campus in response to the March sign-posting incident. Student participants in the demonstrations questioned the university's response and commitment to creating a climate of racial inclusivity and sensitivity. (*Lexington Herald-Leader*)

April (Lexington)- Lincoln County School Administrators called a meeting after a series of apparently bias related issues occurred among students at the local middle school. (*Lexington Herald-Leader*)

April (Lexington)- A billboard featuring a picture of former First Lady, Laura Bush, was replaced after vandals painted a swastika on it. (*Lexington Herald-Leader*)

May (Covington)- Devlin Burke, the individual responsible for several assaults that occurred outside of a gay-friendly bar in Covington last August, was sentenced to 17 years in prison. The offenses were also officially designated as hate crimes. Burke had been convicted of a federal hate crime in the past for making terroristic threats against an African-American who lived across the street from him, and was on supervised release from Federal prison when the attack occurred. Although Kentucky law does not provide additional penalties for hate crime offenses, the designation will be considered during any future parole hearings, and may impact his eligibility for early release. (*The Kentucky Post and Lexington Herald-Leader*)

May (Owensboro)- Ron Edwards, the founder of the Imperial Klans of America, was sentenced to four years in federal prison after accepting a plea deal for drug trafficking in methamphetamine and prescription narcotics and possession of a firearm. Edwards was sentenced to an additional three years of supervised release upon completion of his incarceration. His girlfriend, Christina Ann Gillette, was also sentenced, receiving one year and one day in federal prison and one year of supervised release for possession of methamphetamine with intent to distribute. (*The Madisonville Messenger*)

June (Hazard)- Two city workers were disciplined after asking two gay men with intellectual disabilities to leave a public pool, The Hazard Pavilion. (*Louisville Courier-Journal and Lexington Herald-Leader*)

July (Berea)- Racial slurs were spray-painted on vehicles belonging to an interracial couple. The vehicles were vandalized in the parking area of the couple's apartment complex. (*Lexington Herald-Leader*)

September (Pathfork)- A lesbian couple requested that the United States Department of Justice become involved with an investigation related to an assault which occurred in July, 2011. The victims assert that they



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were attacked and beaten because of their sexual orientation, and that during the incident members of the group used derogatory language and slurs. (*Lexington Herald-Leader*)

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.

Through the Louisville headquarters and a Northern Kentucky office in Covington, KCHR's primary purpose is to act as a guardian of the civil rights of people in Kentucky. 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 who are appointed by the Governor of Kentucky, as well as 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. The Board of Commissioners meets monthly to hear and rule on discrimination complaints.

Upon receipt of a potential violation, the KCHR 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 2011, KCHR's Education and Outreach Unit conducted civil rights workshops and trainings, participated in Fair Housing workshops, and facilitated various summits, forums, discussion panels, listening tours, as well as the largest civil and human rights conference in Kentucky's history. KCHR staff issued 34 press releases during 2011 in addition to participating in 106 out of office events.

According to KCHR's 2011 Annual Report, in FY 2011 the agency processed 3,269 intakes for potential victims of discrimination in Kentucky; 140 of which were conducted in Spanish. Commission investigators processed 631 cases. A total of 333 complaints alleging illegal discrimination were filed in FY 2011 by the KCHR including 229 involving discriminatory employment practices, 53 related to housing violations, and 51 for unequal public accommodations. The most common bases for discrimination complaints were for race and color, disability, and sex (see Table Sixteen).

Table Sixteen: Kentucky Commission on Human Rights Basis of Cases Filed, FY 2011

Basis	TOTAL
Age (40+)	35
Disability	94
Familial Status	6
National Origin	23
Race and Color	143



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Religion	9
Retaliation	27
Sex	38
Smoking	0
TOTALS*	375

Source: Kentucky Commission on Human Rights

*Some complaints allege more than one basis of discrimination. Therefore, the total number of complaints filed (333) does not equal the total number of bases for complaints filed (375).

The total number of complaints closed in FY 2011 was 422, up 20.9% from 349 in 2010. In 2011 the average employment and public accommodation case age was 242 days, while in 2010 it was 283 days. The average housing case continued to decrease from 119 days in 2010 to 103 days in 2011, a reduction of 13.5%. The majority of closed complaints were found to have no probable cause, and the next most common outcome was withdrawal with settlement (see Table Seventeen). In FY 2011, KCHR staff negotiated a total of 25 conciliation agreements, up from 14 in FY 2010. Five 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 in 2011 was \$160,750. KCHR's Mediation Program successfully mediated 17 cases involving discriminatory employment practices or unequal public accommodations in 2011, resulting in \$55,512 in settlements.

Table Seventeen: Kentucky Commission on Human Rights Outcomes of Complaints Closed, FY 2010-FY 2011

Complaint Outcome	FY 2011		FY 2010	
	Number	Percent	Number	Percent
No Probable Cause	337	79.9%	252	72.2%
Conciliation	25	5.9%	10	2.9%
Withdrawal with Right to Sue	23	5.5%	39	11.2%
Withdrawal with Settlement	37	8.8%	42	12.0%
Finding of Discrimination	0	0.0%	2	0.6%
Probable Cause Conciliation	0	0.0%	4	1.1%
TOTAL	422	100%	349	100%

Source: Kentucky Commission on Human Rights

Complaints may not total 100 due to rounding



Appendix A: State Hate Crime Statutory Provisions



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Comparison of Hate Crime Statutory Provisions, Kentucky and Nationally, 2011

Statutory Provision	Kentucky	National Count
Bias-Motivated Violence and Intimidation- Criminal Penalty ¹	√	46
Civil Action		31
Race, Religion, Ethnicity	√	45
Sexual Orientation	√	31
Gender		27
Gender Identity		14
Disability		31
Other ²		20
Institutional Vandalism	√	43
Cross Burning		20
Data Collection ³	√	31
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) and age (CA, DC, FL, IA, HI, KS, LA, ME, MN, NE, NM, NY, 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, 2011

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		√		√		√		√
Gender Identity				√				
Disability		√		√		√		
Other ²				√				√
Institutional Vandalism	√	√	√	√	√	√	√	
Cross Burning		√		√			√	
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 Only Illinois has data collection statutes which include sexual orientation and gender.

⁴ Some other states have administrative regulations mandating such training.



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State Hate Crime Statutory Provisions, 2011

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		√	√		√		√	√				√		√		√			√	√	
Gender Identity					√	√	√	√				√									√
Disability	√	√	√		√	√	√	√	√	√		√		√		√	√		√	√	
Other ²					√	√	√	√		√		√				√	√		√	√	√
Institutional Vandalism	√		√	√	√	√	√	√	√	√	√	√	√	√	√		√	√	√	√	√
Cross Burning	√		√		√		√	√	√	√	√		√	√					√		
Data Collection ³			√		√		√	√		√		√	√	√		√		√	√	√	√
Training for Law Enforcement Personnel ⁴			√		√		√							√		√		√	√		



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State Hate Crime Statutory Provisions, 2011, 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		√	√	√	√		√		√	√	√	√	√	√					√	
Gender Identity	√			√						√	√						√			
Disability	√		√		√		√	√	√	√	√	√				√			√	
Other ²			√		√		√			√	√	√					√			
Institutional Vandalism	√	√	√	√	√	√	√	√		√	√	√	√		√	√	√	√	√	√
Cross Burning					√					√			√			√				√
Data Collection ³	√	√	√				√	√		√	√					√	√	√	√	
Training for Law Enforcement Personnel ⁴	√		√							√	√						√		√	



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State Hate Crime Statutory Provisions, 2011, Continued

Statutory Provision	SD	TN	TX	UT	VT	VA	WA	WV	WI	WY
Bias-Motivated Violence and Intimidation -- Criminal Penalty¹	√	√	√	√ ⁵	√	√	√	√	√	
Civil Action	√	√	√		√	√	√		√	
Race, Religion, Ethnicity	√	√	√		√	√	√	√	√	
Sexual Orientation		√	√		√		√		√	
Gender		√	√		√		√	√		
Gender Identity					√		√			
Disability		√	√		√		√		√	
Other²					√			√		
Institutional Vandalism	√	√	√			√	√		√	
Cross Burning	√				√	√	√			
Data Collection³			√			√	√	√		
Training for Law Enforcement Personnel⁴							√			

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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