

Hate Crime and Hate Incidents in the Commonwealth



2012



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 2012 calendar year. *Hate Crime and Hate Incidents in the Commonwealth, 2012* 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).



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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 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 2012

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 2012, reaching 1,007 (Potok, 2013). This is a 1% decrease from the 1,018 reported in 2011. The number of hate groups in the United States has risen more than 70% between 2000 and 2012, largely fueled by the resurgence of so-called Patriot organizations (Potok, 2012; Potok, 2013). 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 (2011) 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. 2012 saw a significant decrease in nativist extremist groups; however, with the SPLC reporting only 38 such organizations. This was a 79.3% decrease from the 184 groups documented in 2011, and continues to reverse the staggering growth trend evidenced earlier in the decade (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



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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, 2012). 2012 statistics suggest that these numbers have continued to rise, with a total of 1,360 Patriot groups throughout the United States. This is a 6.8% increase over the 1,274 Patriot groups reported in 2011.

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 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, 2012).

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 2011 the SPLC reported 20 Patriot groups in Kentucky during 2010 and the 2012 statistics suggest that these numbers have remained relatively stable with 19 active groups (Potok, 2012; Potok, 2013). 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, 2012).

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 2012, the SPLC identified 10 active hate groups in Kentucky; this is the same number as in 2011. Figure 1 depicts the trend in the number of active hate groups as identified by the SPLC, between 2003 and 2012.

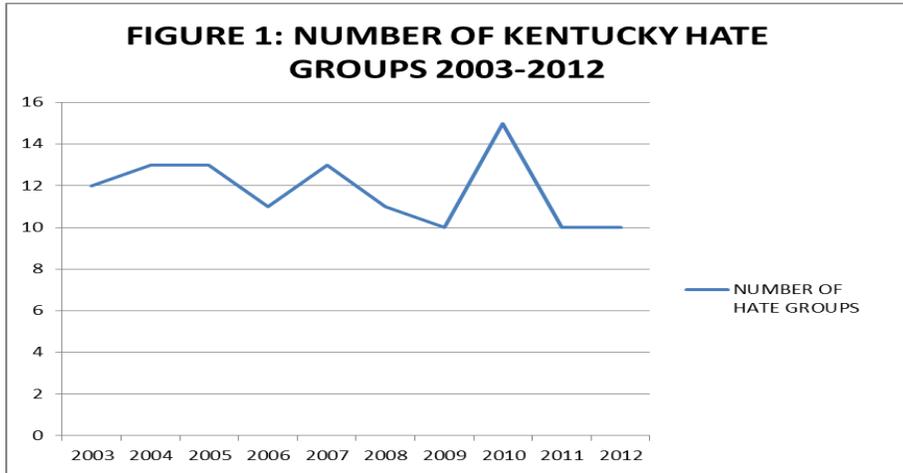
Table One: Number of Hate Groups in Kentucky, 2003-2012

	2012	2011	2010	2009	2008	2007	2006	2005	2004	2003
Number of Kentucky Hate Groups	10	10	15	10	11	13	11	13	13	12

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 2012.

Table Two: Hate Groups in Kentucky, 2012

Chapter	Group	City/Area
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	East Kentucky
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	Louisville

Source: Southern Poverty Law Center

Nationwide, the number of KKK groups increased 6.7%, from 152 in 2011 to 163 in 2012 (Potok, 2013). In 2011, the number of chapters decreased by almost 58% from seven to three chapters (Potok, 2011, 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, 2012, the ADL documented 4 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.



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Table Three: Extremist Events in Kentucky, 2011

Date	Location	Event	Description
April 20, 2012-April 21, 2012	Frankfort, Kentucky	Neo-Nazi Rally and Meeting	National event organized by the neo-Nazi group, the National Socialist Movement (NSM), that included a banquet, march, and rally.
June 11, 2012	Florence, Kentucky	White Supremacist Meeting	Meeting of a white supremacist group, the National Alliance.
August 13, 2012	Burlington, Kentucky	Resistance Television Program Showing	A meeting organized by the Neo-Nazi group, the National Alliance, at the Boone County Library. During this meeting an edition of the Resistance Television program entitled, "Straight Talk about How Jewish Power has Destroyed America," was aired.
October 20, 2012	Kentucky	Neo-Nazi Gathering	A gathering, which included a swastika burning, was organized by the white supremacist group, the National Alliance.

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 2012, 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



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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 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.



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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.

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.



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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 "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,



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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 2012, more than 18,000 city, county, tribal, state, and federal law enforcement agencies participated in the national UCR program (Federal Bureau of Investigation, 2013). According to FBI figures, this represents 98.1% of the nation's total population. During the same period, 13,022 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, 2013). This represents a 10.6% decrease in the number of participating agencies from 2011. Of those agencies participating in the program 1,730, or 13.3%, reported incidents of hate crime (see Table 4). In total, during 2011 6,718 incidents were reported throughout the United States, a 8.0% increase from 2011 numbers. According to the FBI's UCR data, Kentucky reported 230 hate incidents in 2012. This is up from 186 reported hate incidents in 2011. Of the 379 local Kentucky law enforcement agencies who participated in the data collection, 86, or 22.7% 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 2012 calendar year New Mexico reported 2 bias-related incident and Louisiana reported 4. 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 Arizona reported 176 bias related incidents, Nevada reported 91, and South Carolina reported 148 hate/bias incidents in 2012. This wide disparity between states and territories 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 participate. Alabama had only 8 participating agencies in 2012 and Nevada accounted for only 4 of the almost 13,022 agencies which submitted reports (Federal Bureau of Investigation, 2013).

According to UCR data for the states surrounding Kentucky (presented in Table Four), Illinois (37), Missouri (104), Indiana (37), Virginia (134), and West Virginia (27) reported fewer hate crimes than Kentucky (194) in 2011. Ohio (257) and Tennessee (317) were the only surrounding states to report more hate crimes in 2012, although Kentucky's population is significantly smaller than that of both locations. 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 Four: Law Enforcement Agencies Reporting Hate Crime, Kentucky and Surrounding States, 2012

State	Total Number of Incidents Reported	Agencies Submitting Incident Reports	Number of Participating Agencies	Population Covered
Illinois	84	49	711	12,297,695
Indiana	37	8	112	2,684,625
Kentucky	194	86	379	3,653,352
Missouri	104	29	636	6,019,690
Ohio	257	104	594	9,841,632
Tennessee	317	80	461	6,456,188
Virginia	134	46	420	8,185,867
West Virginia	27	16	285	1,733,977
United States	5,796	1,730	13,022	248,809,710

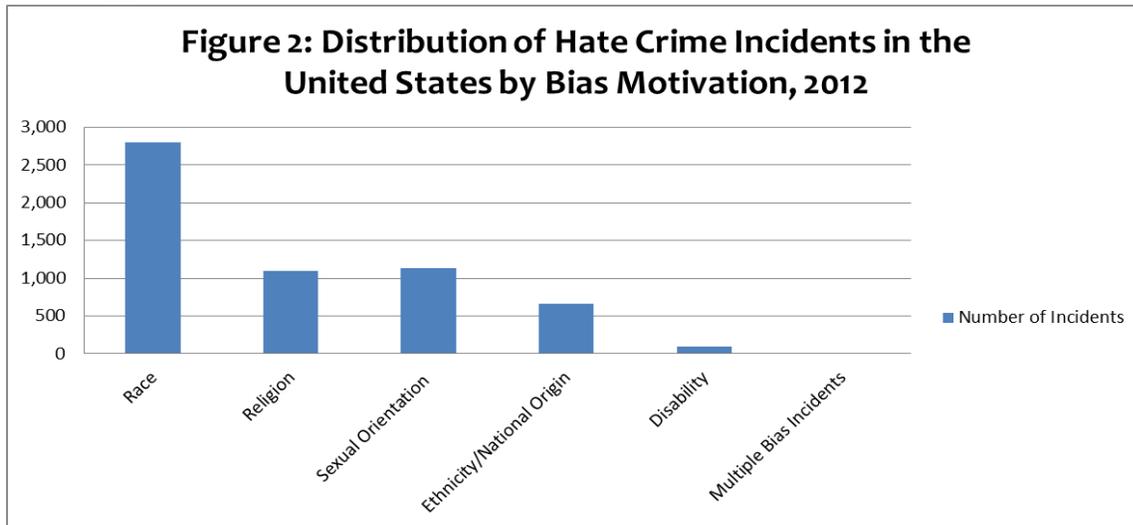
Source: Federal Bureau of Investigation, *Hate Crime Statistics, 2012*

B. Federal Law Enforcement Data

The figures and tables that follow present official law enforcement data published by the FBI's UCR program for 2012. The UCR program reports that in 2012, 48.3% of all hate crime incidents in the United States were racially motivated, while 19.0% were motivated by religion, and 19.6% by sexual orientation. Figure Two reports the bias motivation of hate crimes in the United States. Of the 2,797 racially motivated incidents, 64.6% (1,805) were anti-black. Of the 1,099 incidents motivated by religion, 61.4% were anti-Jewish. Table Five documents the bias motivation for all 2012 reported hate crime incidents. In the United States during 2012, about 32.6% of all hate crimes occurred at a residence/home and another 18.3% on a highway/road/street/alley. Taken together these locations account for half of all U.S. hate incidents (see Table Six). 56.3% of the hate crime incidents in the U.S. during 2012 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 (32.9%); simple assault (23.1%) and intimidation (21.3%) were the next most common offenses. This information is further broken down in Table Eight. During 2012, the majority of known hate crime offenders were white (see Table Seven), and over 79.7% of victims were individuals (see Table Nine).



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Source: Federal Bureau of Investigation, *Hate Crime in the United States, 2012*



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Table Five: Hate Crime in the United States by Bias Motivation, 2012

Targeted Group	Incidents	Offenses	Victims ¹	Known Offenders ²
Single Bias Incidents	5,790	6,705	7,151	5,322
Race	2,797	3,297	3,467	2,822
Anti-White	657	739	763	756
Anti-Black	1,805	2,180	2,295	1,771
Anti- American Indian/Alaska Native	101	109	115	92
Anti-Asian/Pacific Islander	121	134	143	119
Anti-Multiple Races, Group	113	135	151	84
Religion	1,099	1,166	1,340	484
Anti-Jewish	674	696	836	232
Anti-Catholic	70	79	86	27
Anti-Protestant	33	34	35	24
Anti-Islamic	130	149	155	110
Anti-Other Religion	92	107	115	36
Anti-Multiple Religions, Group	88	89	101	44
Anti-Atheism/Agnosticism, etc...	12	12	12	11
Sexual Orientation	1,135	1,318	1,376	1,281
Anti-Male Homosexual	605	720	741	754
Anti-Female Homosexual	146	162	175	116
Anti-Homosexual	321	369	393	358
Anti-Heterosexual	24	26	26	20
Anti-Bisexual	39	41	41	33
Ethnicity/National Origin	667	822	866	639
Anti-Hispanic	384	488	514	393
Anti-Other Ethnicity/National Origin	283	334	352	246
Disability	92	102	102	96
Anti-Physical	18	20	20	16
Anti-Mental	74	82	82	80
Multiple Bias Incidents	6	13	13	9

Source: Federal Bureau of Investigation, *Hate Crime Statistics, 2012*

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 Six: Location of Hate Crime Incidents in the United States, 2012

Location	Number of Incidents	Percent of Total
Abandoned/Condemned Structure	4	<0.1%
Air/Bus/Train Terminal	75	1.3%
Amusement Park	2	<0.1%
ATM Separate from Bank	1	<0.1%
Auto Dealership New/Used	2	<0.1%
Bank/Savings and Loan	15	0.3%
Bar/Nightclub	105	1.9%
Camp/Campground	4	<0.1%
Church/Synagogue/Temple	235	4.1%
Commercial Office Building	95	1.7%
Construction Site	12	0.2%
Convenience Store	72	1.3%
Daycare Facility	3	<0.1%
Department/Discount Store	51	0.9%
Dock/Wharf/Freight/Modal Terminal	1	<0.1%
Drug Store/Dr.'s Office/Hospital	44	0.8%
Farm Facility	3	<0.1%
Field/Woods	48	0.9%
Gambling Facility/Casino/Race Track	3	<0.1%
Government/Public Building	66	1.2%
Grocery/Supermarket	52	0.9%
Highway/Road/Alley/Street	1,058	18.3%
Hotel/Motel	39	0.7%
Industrial Site	5	0.1%
Jail/Prison/Penitentiary/Corrections Facility	46	0.8%
Lake/Waterway/Beach	10	0.2%
Liquor Store	10	0.2%
Multiple Locations	6	0.1%
Other/Unknown	743	12.9%
Park/Playground	53	1.0%
Parking Lot/Garage	330	5.7%
Rental Storage Facility	5	0.1%
Residence/Home	1,887	32.6%
Rest Area	7	0.2%
Restaurant	103	1.8%
School/College ¹	222	3.9%
School- College/University	76	1.4%
School- Elementary/Secondary	185	3.2%
Service/Gas Station	39	0.7%
Shelter- Mission/Homeless	1	<0.1%
Shopping Mall	27	0.5%
Specialty Store (TV, Fur, etc...)	51	0.9%
TOTAL	5,796	100%

Source: Federal Bureau of Investigation, *Hate Crime Statistics, 2012*

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.



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Table Seven: Hate Crime Offenders in the United States by Race, 2012

Known Offender's Race ¹	Number of Offenders	Percent of Total
White	2,909	54.6%
Black	1,242	23.3%
American Indian/Alaska Native	49	1.0%
Asian/Pacific Islander	47	0.9%
Multiple Races, Group ²	471	8.9%
Unknown Race	613	11.5%
TOTAL KNOWN OFFENDERS	5,331	100%

Source: Federal Bureau of Investigation, *Hate Crime Statistics, 2012*

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 2,042 incidents involving an unknown offender in 2012 representing 30.4% 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, 2012

Offense Type	Number of Incidents ¹	Percent of Incidents
Crimes Against Persons	3,258	56.3%
Murder and Non-Negligent Manslaughter	5	0.02%
Forcible Rape	15	0.05%
Aggravated Assault	644	19.8%
Simple Assault	1,336	41.0%
Intimidation	1,230	37.8%
Other ²	28	0.9%
Crimes Against Property	2,547	44.0%
Robbery	126	5.0%
Burglary	142	5.6%
Larceny-Theft	258	10.2%
Motor Vehicle Theft	23	0.9%
Arson	38	1.5%
Destruction/Damage/Vandalism	1,906	74.9%
Other ²	54	2.2%
Crimes Against Society³	203	3.5%

Source: Federal Bureau of Investigation, *Hate Crime Statistics, 2012*

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

¹The actual number of incidents is 6,008. 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.



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Table Nine: Hate Crime Offenses in the United States by Victim Type, 2012

Victim Type	Number of Offenses	Percent of Total
Individual	5,350	79.7%
Other/Unknown/Multiple	481	7.2%
Business/Financial Institution	310	4.7%
Government	193	2.9%
Religious Organization	181	2.7%
Society/Public	203	3.1%
TOTAL	6,718	100%

Source: Federal Bureau of Investigation, *Hate Crime Statistics, 2012*

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 230 hate crime incidents in 2012, the state police reported 281 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 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 2012 the number of hate crimes reported to the Kentucky State Police rose 307% from 69 in 2010 to 281 in 2012. Table Ten and Figure Three present the number of hate crimes that were reported to KSP between 2003 and 2012.

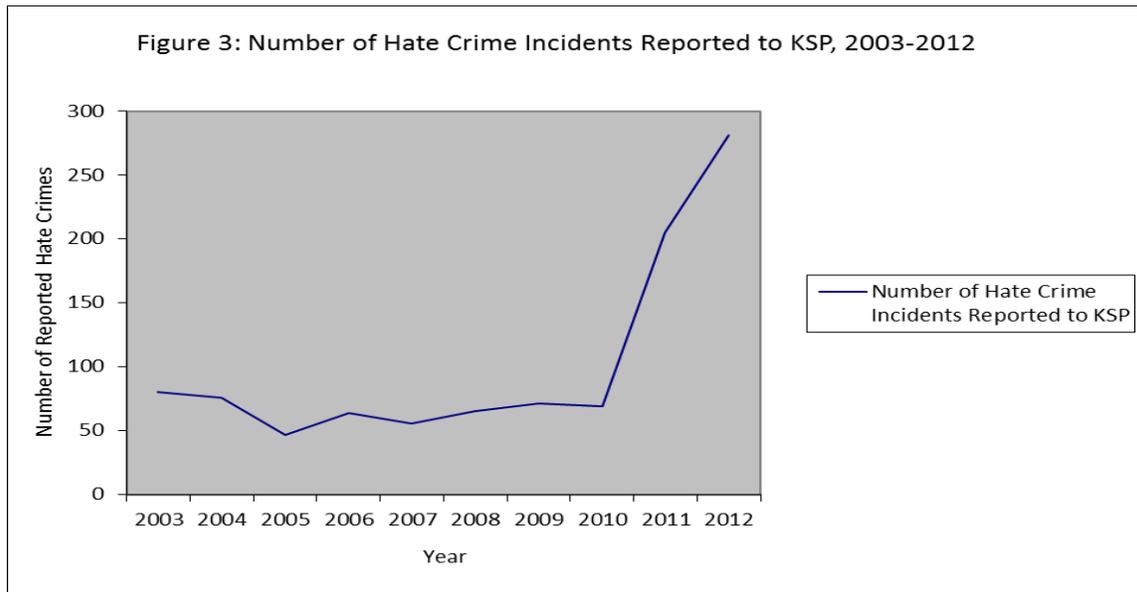
Table Ten: Number of Hate Crimes Reported to Kentucky State Police, 2003-2012

	2012	2011	2010	2009	2008	2007	2006	2005	2004	2003
Hate Crimes Reported to Kentucky State Police	281	205	69	71	65	56	64	47	76	80

Source: Kentucky State Police



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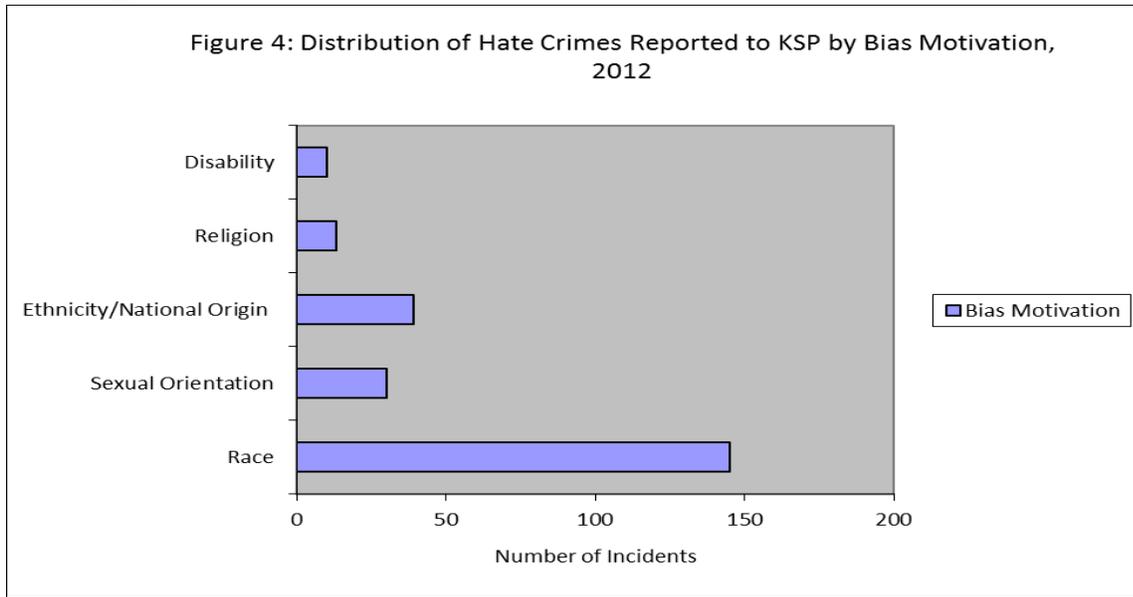


Source: Kentucky State Police, *Crime in Kentucky, 2012*

Figure Four depicts the distribution of hate crimes reported to Kentucky State Police by bias motivation. In 2012, race was the most common motivation for reported hate crimes (51.6%), and of those incidents 52.5% were anti-black. The second most common hate crime motivation was sexual orientation, representing 10.7% of incidents. Of the 30 reported incidents documented in Table Thirteen, 11 (36.7%) were anti-male homosexual, 8 (26.7%) were anti-female homosexual, and 10 (33.4%) was both anti-homosexual male and female. The majority (86.2%) of victims in Kentucky's reported hate crimes during 2012 were individuals, and are further outlined in Table Fifteen. Table Eleven provides information about the locations of reported hate crime incidents for 2012. During that time 41.7% of reported hate crimes occurred in a residence/home, 16.1% on a highway/road/alley/street, and 7.2% in a school/college. Of all hate crimes reported to KSP in 2012, nearly half involved the offense of assault (see Table Twelve). 76.7% (217) of 283 suspected offenders were white; these results are further outlined in Table Fourteen.



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Source: Kentucky State Police, *Crime in Kentucky, 2012*



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Table Eleven: Location of Hate Crime Incidents Reported to Kentucky State Police, 2012

Location	Number of Incidents	Percent of Total
Air/Bus/Train Terminal	1	0.4%
Bank/Savings and Loan	1	0.4%
Bar/Nightclub	5	1.8%
Church/Synagogue/Temple	6	2.1%
Commercial Office Building	5	1.8%
Convenience Store	2	0.7%
Department/Discount Store	3	1.1%
Drug Store/Dr.'s Office/Hospital	7	2.5%
Field/Woods	12	4.3%
Government/Public Building	3	1.1%
Grocery/Supermarket	4	1.4%
Highway/Road/Alley/Street	45	16.0%
Hotel/Motel	3	1.1%
Industrial Site	1	0.4%
Jail/Prison /Corrections Facility	2	0.7%
Other/Unknown	12	4.3%
Park/Playground	7	2.5%
Parking Lot/Garage	14	5.0%
Residence/Home	117	41.6%
Restaurant	4	1.4%
School- College/University	20	7.1%
Specialty Store (TV, Fur, etc...)	5	1.8%
TOTAL	281	100%

Source: Kentucky State Police, *Crime in Kentucky, 2012*

Due to rounding percentages may not equal 100.



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Table Twelve: Hate Crime Incidents Reported to Kentucky State Police, 2012

Offense	Number of Incidents	Percentage of Total
Arson	2	0.7%
Assault Offenses	129	45.9%
Burglary/Breaking and Entering	16	5.7%
Counterfeiting/Forgery	1	0.4%
Destruction/Damage/Vandalism of Property	45	16.0%
Drug/Narcotic Offenses	4	1.4%
Fraud Offenses	1	0.4%
Kidnapping/Abduction	1	0.4%
Larceny/Theft Offenses	64	22.8%
Motor Vehicle Theft	1	0.4%
Robbery	11	3.9%
Sex Offenses, Forcible	5	1.8%
Weapon Law Violations	1	0.4%
TOTAL	281	100%

Source: Kentucky State Police, *Crime in Kentucky, 2012*

Due to rounding percentages may not equal 100



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Table Thirteen: Hate Crime Incidents Reported to Kentucky State Police by Bias Motivation, 2012

Targeted Group	Number of Incidents	Percent of Sub-Group	Percent of Total
Race	145	100%	51.6%
Anti-White	55	38.0%	19.6%
Anti-Black	76	52.5%	27.1%
Anti-American Indian/Alaska Native	2	1.4%	0.8%
Anti-Asian/Pacific Islander	6	4.2%	2.2%
Anti-Multi-Racial Group	6	4.2%	2.2%
Sexual Orientation	30	100%	10.7%
Anti-Male Homosexual	11	36.7%	4.0%
Anti-Female Homosexual	8	26.7%	2.9%
Anti Homosexual Male and Female	10	33.4%	3.6%
Anti-Heterosexual	1	3.4%	0.4%
Religion	13	100%	4.7%
Anti-Jewish	6	46.2%	2.2%
Anti-Catholic	1	7.7%	0.4%
Anti-Islamic	2	15.4%	0.8%
Anti-Other Religion	4	30.8%	1.5%
Ethnicity/National Origin	39	100%	13.9%
Anti-Hispanic	37	94.9%	13.2%
Anti-Other Ethnicity/National Origin	2	5.2%	0.8%
Disability	10	100%	3.6%
Anti-Physical Disability	2	20.0%	0.8%
Anti-Mental Disability	8	80.0%	2.9%

Source: Kentucky State Police, *Crime in Kentucky, 2012*

Due to rounding percentages may not equal 100.

Table Fourteen: Hate Crime Offenders in KSP Reported Offenses by Race, 2012

Suspected Offender's Race ¹	Number of Offenders	Percent of Total
White	217	76.7%
Black	59	20.9%
Unknown Race	7	2.5%
TOTAL	283	100%

Source: Kentucky State Police, *Crime in Kentucky, 2012*

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.



Table Fifteen: Hate Crimes Incidents Reported to KSP by Victim Type, 2012

Victim Type	Number of Incidents	Percent of Total
Individual	242	86.2%
Business	9	3.2%
Government	4	1.5%
Religious Organization	2	0.8%
School (Staff/Student/Parent)	15	5.4%
Society/Public	6	2.2%
Other	3	1.1%
TOTAL	281	100%

Source: Kentucky State Police, *Crime in Kentucky, 2012*

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 2012

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.

February (Kentucky)- U.S. Attorney Kerry B. Harvey, who serves as the top federal prosecutor for Central and Eastern Kentucky, has designated a unit within the office to focus on the enforcement of the enforcement of civil rights laws. The office also held a training session this week to train about 100 members of law enforcement and local prosecutors about the changes to the federal hate crime laws. A



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similar training was held in the U.S. Attorney's Office that is responsible for cases within Western Kentucky last year. *Lexington Herald Leader Archives*

March (Shepherdsville, Kentucky)- The Iraqi owner of a local business, Jacob's Smoke Shop, officially filed paperwork with the Kentucky Secretary of State suggesting he intends to close the business after it was damaged by vandals. The incident is being investigated by the FBI as a hate crime. The owner, Ali Alboodi, suggested that he fears for his life after the incident, in which slurs such as "Hate Arabs" and "Go Home" were spray painted on the floors and walls and the fixtures of the store were damaged. *WDRB Louisville*

March (Melber, Kentucky)- Satanic symbols and messages were spray painted on a local church. *Southern Poverty Law Center*

April (Frankfort, Kentucky)- A Michigan-based white supremacist group, the National Socialist Movement, carried out a white pride rally which lasted about two hours and was attended by nearly 40 members of the group. The rally began at the steps of the state capital, with some participants carrying banners and others dressed in white robes that are typically associated with the Ku Klux Klan. Speeches were made on topics like the crime, illegal immigration, crime, and white civil rights. There were approximately 150 additional individuals gathered to protest the rally, but the police did not report any violence, arrests, or criminal incidents save for some verbal banter among the participants and protestors. *Larue County Herald News, Shelbyville Sentinel-News, and Lexington Herald-Leader*

June (Florence, Kentucky)- The Neo-Nazi group, the National Alliance, distributed leaflets advertising a meeting at the local library. *Southern Poverty Law Center*

July (Richmond, Kentucky)- More than 100 people participated in a rally at the Richmond City Hall to demand a citywide Fairness Ordinance after a lesbian couple was removed from a local park for sharing a public kiss. *Lexington Herald-Leader*

July (Louisville, Kentucky)- A Louisville female teenager and several friends were assaulted by a group of adults. Although initial reports suggested that the attackers were yelling anti-gay slurs at the primary victim, who identifies as a lesbian, later reports suggest that the incident was unlikely to be classified as a hate crime because later investigations did not substantiate that the victim's sexual identity was the motivation for the attack. *WAVE 3 Louisville, WHAS 11 Louisville*

August (Richmond, Kentucky)- Members of the Lexington-based Lexington-Fayette Urban County Human Rights Commission addressed the Richmond City Commission about a proposed Fairness Ordinance that would ban discrimination against gays, lesbians, and the transgendered. *Lexington Herald-Leader*

August (Madisonville, Kentucky)- Human remains which were located on a Barren County farm, may provide evidence of a potential hate crime. A forensic anthropologist suggested that the victim, a Native American woman between the ages of 20 and 50, had been scalped. At the time the article was published the remains had not yet been identified although authorities were combing through various missing persons cases in an attempt to locate additional information about the victim. *Associated Press State Wire Service*



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October (Bowling Green, Kentucky)- A former inmate of the Warren County Regional Jail, Brandon Milam, who is openly gay is filing charges against both the Warren County Jailer and an inmate for an incident which occurred as he was serving time for a probation violation. According to Milam, he was assaulted after a card game by a fellow inmate, Timothy Michael Schwartz, on the second of July. Prior to the attack Schwartz had yelled slurs at Milam because of his sexual identity, and during the fight bit off a portion of Milam's nose. Millam's lawsuit alleges that the jail failed to protect him from harm by placing him in a protective custody cell in which the other inmates were significantly prejudiced against his sexual identity. *Bowling Green Daily News, Lexington-Herald Leader, Associated Press State Wire Service*

October (Williamstown, Kentucky)- A suspicious fire destroyed the former A Rosenwald School, a historic one-room schoolhouse from the days of segregation. The building, which was built after a grant from the Rosenwald Foundation in 1923, had been moved to the current location in a Grant County Park. It contained historic artifacts from the various African-American students who had been educated there between 1925 to 1958. Investigators were unsure of the motivation for the incident at the time of the article, but do report that the building was painted with racial slurs earlier in the summer. *Grant County News and Express*

October (Louisville, Kentucky)- A fire was set in a historically black church in Corydon, St. Paul's AME on October 24. The church was occupied by a few individuals meeting in the basement during the incident who were alerted to the problem by the fire alarms. It was quickly extinguished, so the structure will be repaired. Police and the State Fire Marshall are investigating the incident, which they think is racially motivated. Although there was another racially motivated incident in the area last week in which a student at the local high school found a noose in her locker, there does not appear to be any link between the two crimes. *WHAS 11 Louisville*

November (Shelbyville, Kentucky)- A Fairness Ordinance is being proposed to the Shelbyville City Council, which represents a town of about 15,000, which would prohibit discrimination based on sexual orientation and gender identity in employment, housing, and public accommodations. *Associated Press State Wire Service*

December (Madisonville, Kentucky)- An individual was said to make at least one racial slur against a group of three men at a Huddle House restaurant, and as a result was physically assaulted. The victim, who was leaving the restaurant with his wife, Vilma Hagan, experienced a broken nose, fractured jaw, and other injuries as a result of the assault. Police are investigating the exact nature of the incident, including whether there were gang affiliations among the group that engaged in the assault. *Madisonville Messenger*

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



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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 2012, KCHR's Education and Outreach Unit conducted 19 civil rights workshops and trainings, participated in 21 Fair Housing workshops, and facilitated various summits, forums, discussion panels, listening tours, as well as the First Northern Kentucky Latino Summit and the Sixth Annual Hispanic, Immigrant, and Refugee Networking Summit. KCHR staff also issued more than 50 press releases during 2012.

According to KCHR's 2012 Annual Report, in FY 2012 the agency processed 2,331 intakes for potential victims of discrimination in Kentucky; 140 of which were conducted in Spanish. A total of 286 complaints alleging illegal discrimination were filed in FY 2012 by the KCHR including 212 involving discriminatory employment practices, 41 related to housing violations, and 33 for unequal public accommodations. The most common bases for discrimination complaints were for race and color, disability, and sex (see Table Sixteen).



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Table Sixteen: Kentucky Commission on Human Rights Basis of Cases Filed, FY 2012

Basis	TOTAL
Age (40+)	26
Disability	76
Familial Status	11
National Origin	17
Race and Color	97
Religion	4
Retaliation	29
Sex	119
Smoking	1
TOTALS*	380

Source: Kentucky Commission on Human Rights

*Some complaints allege more than one basis of discrimination. Therefore, the total number of complaints filed (286) does not equal the total number of bases for complaints filed (380).

The total number of complaints closed in FY 2012 was 292, down 30.8% from 422 in 2011. In 2012, the average employment and public accommodation case age was 250 days, while in 2011 it was 242 days. The average housing case remained steady, at 103 days in 2011 and 2012. 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 2012, KCHR staff negotiated a total of 26 conciliation agreements, up from 25 in FY 2011. Fourteen 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 2012 was \$91,600. KCHR's Mediation Program successfully mediated 28 cases involving discriminatory employment practices or unequal public accommodations in 2012, resulting in \$155,512 in settlements.

Table Seventeen: Kentucky Commission on Human Rights Outcomes of Complaints Closed, FY 2011-FY 2012

Complaint Outcome	FY 2011		FY 2012	
	Number	Percent	Number	Percent
No Probable Cause	337	79.9%	186	63.7%
Conciliation	25	5.9%	26	8.9%
Withdrawal with Right to Sue	23	5.5%	34	11.7%
Withdrawal with Settlement	37	8.8%	32	11.0%
Finding of Discrimination	0	0.0%	0	0.0%
Probable Cause Conciliation	0	0.0%	14	4.8%
TOTAL CLOSED CASES	422	100%	292	100%

Source: Kentucky Commission on Human Rights

Complaints may not total 100 due to rounding



C. United States v. Jenkins

On April 4, 2011 Kevin Pennington, age 28, experienced an assault at the Kingdom Come State Park in Harlan County, Kentucky. The attack occurred after Pennington was kidnapped by four individuals, David Jason Jenkins (age 37); his cousin Anthony Ray Jenkins (age 20); Anthony's wife, Alexis LeeAnn Jenkins (age 19); and Anthony's sister, Mable Ashley Jenkins (age 19). According to information included in the affidavit, sworn out by FBI Agent Anthony M. Sankey, the four individuals used a vehicle and a federal road, U.S. 119, during the incident, making it a federal offense. Likewise, the affidavit charges all four with a hate crime, suggesting that Pennington's sexual orientation was the reason for the attack. According to the victim, Kevin Pennington, he had been acquainted with his attackers for several years prior to the attack.

The version of events presented at the initial court appearance suggests that Pennington agreed to help Ashley and Alexis procure the pain medication Suboxone, and willingly left with the pair in a vehicle which contained two other individuals whose identities were unknown to him until the trip was already underway. At some point the parties called the Suboxone deal off, concerned that the seller was a police informant. Instead of returning Pennington to his home, the four continued on to Kingdom Come State Park despite Pennington's request to release him from the vehicle. After parking on a trail, Pennington was pulled from the truck by David "Jason" and Anthony Jenkins and the pair began assaulting him while Ashley and Mabel cheered them on with slurs related to his sexual orientation. Pennington escaped by running through the woods and jumping off of a steep slope when the males broke off the attack to procure a tire iron from the back of the truck. He waited until the four stopped looking for him, then called for help from a ranger station within the park after breaking a window to gain access. He sustained several injuries including a torn shoulder ligament, bruises and contusions over much of his body, a torn ear, and a closed head injury. The United States v. Jenkins case marks the first time that a case involving a hate crime related to the victim's sexual orientation is charged under the Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act of 2009. Figure Five contains an outline of United States v. Jenkins' major events compiled from available media sources.



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Figure Five: Timeline of Events, United States v. Jenkins

- April 4, 2011:** Kevin Pennington experiences an assault at Kingdom Come State Park after being kidnapped by 4 individuals. During the beating his assailants yell slurs about the victim's sexual orientation.
- March 14, 2012:** The four assailants: David "Jason" Jenkins; Anthony Ray Jenkins; Alexis LeeAnn Jenkins; and Mable Ashley Jenkins, are the first to be indicted for kidnapping and assault in federal court under the Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act of 2009. The act further expanded the definition of a hate crime to include those crimes motivated by an individual's perceived or actual sexual orientation, gender identity, gender, or disability status.
- April 13, 2012:** Mabel Ashley Jenkins and Alexis LeeAnn Jenkins plead guilty in U.S. District Court to aiding and abetting the kidnapping and assault against Kevin Pennington, a federal hate crime. As a condition of the agreement, the convicted parties may be asked to testify against David "Jason" and Anthony Ray Jenkins. They are to be sentenced in August, 2012.
- May 7, 2012:** A federal magistrate judge orders that Jason and Anthony Jenkins be held in federal custody until their trial, which is scheduled for June, 2012. During the pre-trial hearing information is presented that suggests Anthony Jenkins has a history of violent assaults including an incident in which he kicked his wife, Alexis LeeAnn Jenkins, in the stomach during her pregnancy causing her to miscarry.
- June 18, 2012:** U.S. District Judge Gregory Van Tatenhove delayed the federal hate crime trial for David Jason Jenkins and Anthony Ray Jenkins indefinitely.
- July 25, 2012:** The attorney for Anthony Ray Jenkins filed a legal challenge against the Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act of 2009 under which he is being charged. The challenge suggests the unconstitutionality of the law is based upon the fact that it provides additional, special protection for a limited class of victims based upon their sexual orientation.
- October 15, 2012:** U.S. District Judge Gregory Van Tatenhove upheld the constitutionality of the federal hate crimes law, ruling that the prosecution of Anthony Ray Jenkins and David Jason Jenkins can begin. A jury of 14 was selected.
- October 17, 2012:** Kevin Pennington testified that both Jason and David Jenkins were responsible for his attack at the Kingdom Come State Park, and that during the assault both men yelled slurs about his sexual orientation. Attorneys for the defense suggested that Pennington had come to the park willingly as a part of a planned drug deal; while those for the prosecution suggested that the crime was motivated by an anti-gay bias, and was a follow-up to an attack upon Pennington and his male partner in 2009.
- October 18, 2012:** Alexis Jenkins testified in U.S. District Court that the main motivation for the attack against Kevin Pennington was his sexual orientation.
- October 22, 2012:** Alex Jenkins, younger brother of Anthony Jenkins, was jailed for refusing to testify as a witness for the prosecution.
- October 23, 2012:** After spending the night in jail for civil contempt, Alex Jenkins testifies against his cousin, Jason Jenkins and his brother, Anthony Jenkins, stating that although the men initially stated that the attack was in response to a failed drug deal, they later disclosed to him that the actual motivation was the victim's sexual orientation.
- October 24, 2014:** After five hours of jury deliberation, Anthony Ray Jenkins and David Jason Jenkins were convicted on kidnapping and conspiracy charges but were acquitted of the charges that they had assaulted Kevin Pennington because of his sexual orientation, a federal hate crime.
- November 21, 2012:** Although he did not strike down the rule which prevents contact of jurors after criminal trials in federal court without court permission, U.S. District Judge Gregory F. Van Tatenhove gave permission for media sources to contact jurors in the hate crimes trial against Anthony and David Jenkins.
- June 19, 2013:** Sentencing occurs for the four individuals convicted of kidnapping and assaulting Kevin Pennington. David Jason Jenkins receives 30 years in prison, Anthony Ray Jenkins is sentenced to 17 years in prison, Mable Ashley Jenkins is sentenced to 100 months in prison, and Alexis LeeAnn Jenkins receives 8 years in prison.
- September 16, 2014:** A three judge panel of the U.S. 6th Circuit Court of Appeals upheld the sentences imposed on Anthony Ray and David Jason Jenkins by the lower court and U.S. District Judge Gregory F. Van Tatenhove.



Appendix A: State Hate Crime Statutory Provisions

Comparison of Hate Crime Statutory Provisions, Kentucky and Nationally, 2012

Statutory Provision	Kentucky
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

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, 2012

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, 2012

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 Penalty¹	√	√	√		√	√	√	√	√	√		√	√	√		√	√	√	√	√	√
Civil Action				√	√	√	√	√		√	√		√	√		√			√	√	
Race, Religion, Ethnicity	√	√	√		√	√	√	√	√	√		√	√	√		√	√	√	√	√	√
Sexual Orientation			√		√	√	√	√	√	√		√		√		√	√	√	√	√	√
Gender		√	√		√		√	√				√		√		√			√	√	
Gender Identity					√	√	√	√				√									√
Disability	√	√	√		√	√	√	√	√	√		√		√		√	√		√	√	
Other²					√	√	√	√		√		√				√	√		√	√	√
Institutional Vandalism	√		√	√	√	√	√	√	√	√	√	√	√	√	√		√	√	√	√	√
Cross Burning	√		√		√		√	√	√	√	√		√	√					√		
Data Collection³			√		√		√	√		√		√	√	√		√		√	√	√	√
Training for Law Enforcement Personnel⁴			√		√		√							√		√		√	√		



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State Hate Crime Statutory Provisions, 2012, 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 Penalty¹	√	√	√	√	√	√	√	√	√	√	√	√	√	√	√	√	√	√	√	
Civil Action	√	√	√		√		√	√		√			√		√	√	√	√	√	
Race, Religion, Ethnicity	√	√	√	√	√	√	√	√	√	√	√	√	√	√	√	√	√	√	√	
Sexual Orientation	√		√		√		√	√	√	√	√	√					√		√	
Gender		√	√	√	√		√		√	√	√	√	√	√					√	
Gender Identity	√			√						√	√						√			
Disability	√		√		√		√	√	√	√	√	√				√			√	
Other²			√		√		√			√	√	√					√			
Institutional Vandalism	√	√	√	√	√	√	√	√		√	√	√	√		√	√	√	√	√	√
Cross Burning					√					√			√			√				√
Data Collection³	√	√	√				√	√		√	√					√	√	√	√	
Training for Law Enforcement Personnel⁴	√		√							√	√						√		√	



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State Hate Crime Statutory Provisions, 2012, 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, FI, 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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