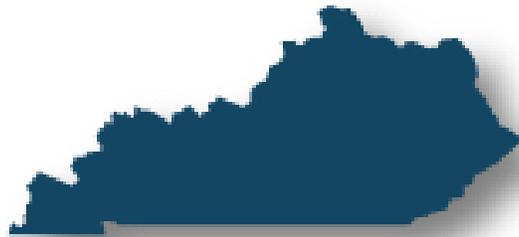


Hate Crime and Hate Incidents in the Commonwealth



2007



**Prepared by the
Kentucky Statistical Analysis Center**



Foreword

Dear Policymaker:

On behalf of the Kentucky Justice and Public Safety Cabinet, I am pleased to present our sixth report on the scope of hate crime and hate incidents in the Commonwealth of Kentucky. The Kentucky Justice and Public Safety Cabinet is charged in KRS 15A.040 with disseminating information on criminal justice issues and crime trends. This report reflects the Cabinet's effort to provide state officials with a collection of statewide hate crime data in order to document the scope of this type of crime across the Commonwealth.

Hate Crime and Hate Incidents in the Commonwealth, 2007, incorporates both official statistics from law enforcement and anecdotal evidence provided by state and national human rights organizations. Because official data may be a better indicator of how well we are reporting hate crime rather than its actual incidence, the anecdotal evidence is used to provide a more complete picture of statewide hate activity.

We would like to express our appreciation to the organizations contributing data to this report. Without their assistance, this publication would not have been possible. We look forward to continued efforts to broaden our understanding of the scope and implications of hate crime in the Commonwealth and encourage you to contact the Kentucky Justice and Public Safety Cabinet at (502)564-3251 if you have any questions regarding this report.

Sincerely,

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



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I. Introduction

The Kentucky Justice and Public Safety Cabinet is charged in KRS 15A.040 with studying and making recommendations on a wide range of criminal justice issues. This report reflects the Cabinet's efforts to provide state officials with a collection of statewide hate crime data, both official and anecdotal, in order to document the scope of hate crime and hate incidents across Kentucky and the nation.

The number of hate incidents being reported through official channels does not reflect the full scope of hate crime and hate incidents within the Commonwealth. It is generally believed that official law enforcement data is better used to indicate how well crime is being reported rather than provide an estimate of its actual incidence. The reason for this is twofold. Hate crimes tend to be underreported by victims. The reasons for this are discussed further in this report. Compounding the issue of underreporting is the fact that even when the crime is reported, it is often difficult for law enforcement to determine whether the crime can be classified as a hate crime.

In an attempt to improve the documentation of hate crimes and hate incidents, this report combines official federal law enforcement data reported by the Federal Bureau of Investigation's (FBI) Uniform Crime Reporting (UCR) program, official state law enforcement data reported by the Kentucky State Police, and anecdotal evidence gathered from local newspapers and human rights organizations (e.g. Kentucky Commission on Human Rights, the Southern Poverty Law Center, and the 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 understanding of the nature and frequency of hate crime. By incorporating these combined sources of data, it is the goal of the Cabinet to provide a 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.



II. 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 has 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.

Data from the National Crime Victimization Survey (NCVS), collected between July 2000 and December 2003, revealed that 44% of hate victimizations were reported to police (Harlow, 2005). The underreporting of hate crime is fueled by a number of factors. Victims may decide not to report a crime because of fear of retribution by the offender, fear of the police, fear that the report will not be taken seriously, fear of revictimization by the system, or fear of the resulting public response or stigma. In the case of homosexual, bisexual, or transgender victims, such individuals may be reluctant to come forward for fear that their privacy will be compromised, particularly to those to whom their sexual orientation is unknown. Cultural and language barriers may also discourage victims from reporting a hate crime. This is especially true for illegal immigrants who 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 the NCVS, of the 44% of hate victimizations reported to police, only 19% were actually validated by the police and determined to be bias-related (Harlow, 2005). The reasons for this are not defined in the study. However, based on what is known about the nature of this crime, it is likely that in many instances, law enforcement is unable to determine an offender’s motivation for committing a crime. Additional barriers to law enforcement reporting may include lack of training or supervision, lack of clear departmental or official 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 certainly 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,



and non-profit and private organizations. The National Center for State and Local Law Enforcement Training, the Anti-Defamation League (ADL), the Southern Poverty Law Center (SPLC), Partners Against Hate, and the Federal Law Enforcement Training Center (FLETC), are just some of the many entities providing hate crime training. The efforts that have been made by law enforcement in addressing hate crime are evidenced by the volume of training materials on the subject. Section V of this report provides additional information on hate crime reporting in Kentucky and surrounding states.

Despite popular belief, most hate crimes are not committed by members of an organized hate group, but rather by individuals acting upon racial or other stereotypes. In fact, according to the NCVS data collected between 2000 and 2003, hate crime victims reported that their offenders generally acted alone and were strangers (Harlow, 2005). Hate crimes tend to be unplanned and impulsive and are frequently facilitated by the use of alcohol or 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). While 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 may exacerbate existing tensions in a community and trigger the potential for a series of hate crimes and escalating violence.

According to victim reports, hate crimes tend to be more violent than other crimes. The NCVS data analyzed from the period between July 2000 and December 2003 revealed that 84% of hate crimes reported in the NCVS were violent offenses such as sexual assault, robbery, or aggravated assault. In comparison, the NCVS reports that just 23% of non-hate crimes involved violent offenses (Harlow, 2005).

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 also serve as a measure of the climate of hate in society. The following section details hate group activity in the nation and Kentucky in 2007.



III. Hate Group Activity in 2007

Throughout history, people have formed hate groups, united in their hatred of those of different races, religions, sexual orientations, and ethnicities/national origins. Organized hate groups are generally defined by federal authorities as groups whose primary purpose is to promote animosity, hostility, and malice against persons belonging to a race, religion, gender, disability, sexual orientation, or ethnicity group which differs from that of the members of the organization. These groups range from loosely organized and informal organizations to highly structured international organizations.

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

According to the SPLC, the number of hate groups operating in the United States rose from 844 in 2006 to 888 in 2007, a 5% increase. Since 2000, the number of hate groups in the U.S. has risen 48% (Holthouse & Potok, 2008). Across the nation, neo-Nazis, nativists, Ku Klux Klansmen, racist skinheads, neo-Confederates, and white nationalists continue to spread their message of hate. The SPLC tracks active hate groups and maintains a state-by-state directory of where such groups have been established. While not exhaustive, the list identifies known groups based on information from hate groups' publications, citizens' reports, law enforcement agencies, field sources, news reports, and the Internet.

Table 1 presents a list of the hate groups active in Kentucky in 2007. The SPLC identified 13 active hate groups in Kentucky in 2007, up from 11 groups identified in 2006. Although the number of hate groups has remained relatively stable over the past few years, Kentucky actually experienced a 13%¹ decrease in the total number of hate crimes perpetrated in the state in 2007 (Kentucky State Police, 2008).

¹ Calculated using Kentucky State Police data which reported 64 incidents in 2006 and 56 incidents in 2007.



Table 1: Hate Groups in Kentucky, 2007

Chapter	Group	City
Imperial Klans of America	Ku Klux Klan	Brandenburg
American National Socialist Workers' Party	Neo-Nazi	Baxter
American National Socialist Workers' Party	Neo-Nazi	Brooks
Fellowship of God's Covenant People	Christian Identity	Burlington
Appalachian Knights of the KKK	Ku Klux Klan	Caneyville
Master Klans of America	Ku Klux Klan	Corbin
Imperial Klans of America	Ku Klux Klan	Dawson Springs
League of the South	Neo-Confederate	Lexington
National Knights of the Ku Klux Klan	Ku Klux Klan	Lexington
Nation of Islam	Black Separatist	Louisville
United Northern and Southern Knights of the KKK	Ku Klux Klan	Newport
Appalachian Knights of the KKK	Ku Klux Klan	Pikeville
North American White Knights of the KKK	Ku Klux Klan	Tollesboro

Source:
Southern Poverty Law Center.

Nationwide, the Ku Klux Klan (KKK) continued to lose chapters in 2007. Falling from 179 in 2005 to 164 in 2006, the number of chapters declined further in 2007 to 155 (Holthouse & Potok, 2008). Despite the decline in chapters nationwide, Kentucky maintained eight chapters, the same number that it had in 2006. Based in the cities of Brandenburg, Caneyville, Corbin, Dawson Springs, Lexington, Newport, Pikeville, and Tollesboro, the KKK is the most active hate group in the state of Kentucky.

Once the largest Klan group, the Kentucky-based Imperial Klans of America (IKA) continued to lose chapters in 2007. Nationwide, the total number of chapters declined from 23 in 2006 to 16 in 2007 (Holthouse & Potok, 2008). This may, in part, have resulted from the civil lawsuit filed in 2007 by the SPLC against IKA Chief Ron Edwards and five of its members. Edwards lives at IKA's headquarters, a 28-acre piece of land in Dawson Springs, Kentucky. The lawsuit was filed in response to one of the most vicious hate crimes in Kentucky. In July 2006, two IKA members brutally attacked a 16-year old boy of Panamanian descent at a county fair at the Meade County



Fairgrounds in Brandenburg, Kentucky. The victim suffered broken ribs, a broken arm, multiple cuts and bruises, and jaw injuries requiring extensive dental work. The two IKA members responsible for the attack were later sentenced to three years in prison (Kenning, 2007).

Evidenced by several newspaper articles, the KKK was very active in the western part of the state in 2007. Residents in several western Kentucky cities found KKK business cards in their driveways and mailboxes (see Section VI). Table 2 provides a list of extremist events that took place in Kentucky in 2007 as documented by the Anti-Defamation League (ADL). Of these five events documented by the ADL, three events were hosted by groups affiliated with the KKK. As part of its mission to gather, analyze, and disseminate intelligence on extremism and hate activity, the ADL documents extremist events that are held in each state across the U.S. The ADL, founded in 1913, is one of the nation’s largest civil rights/human relations agencies working to fight anti-Semitism and all forms of bigotry. The information from the ADL presented in this report is publically available on their website, www.adl.org.

Table 2: Extremist Events in Kentucky, 2007

Date	Location	Event	Description
1/20/2007	Bardstown, KY	White supremacist demonstration	Picketing organized by the White Mountain Knights of the Ku Klux Klan to protest gay rights in the local schools.
2/3/2007	Louisa, KY	White supremacist demonstration	Picketing organized by Christian Identity Militia (CIM), a white supremacist group whose followers practice Christian Identity, a racist and anti-Semitic religion, scheduled outside an attorney's office to protest a defense action. Expected participation included Klan members and racist skinheads as well as CIM.
4/6/2007-4/8/2007	Dawson Springs, KY	Klan gathering	Annual spring gathering organized by Imperial Klans of America (IKA) with open invitation to other white supremacists.
5/25/2007-5/28/2007	Dawson Springs, KY	Nordic Fest 2007	Annual white power rally and music festival with bands, speakers, vendors, as well as cross and swastika lighting, organized by the Imperial Klans of America (IKA) and Blood & Honour U.S.A.
7/13/2007-7/15/2007	Northern Kentucky	National Conference/Party Congress	Gathering in northern Kentucky organized by neo-Nazi American National Socialist Workers Party (ANSWP).

Source:
Anti-Defamation League.



Formerly the driving forces behind the neo-Nazi movement, the National Alliance, Aryan Nations, and National Vanguard continued to lose chapters and members in 2007, a pattern that has been consistent over the last five years (Holthouse & Potok, 2008). However, despite facing a fair amount of internal turmoil throughout the year, neo-Nazi group chapters increased from 191 in 2006 to 207 in 2007.

With 73 chapters in 24 states, the National Socialist Movement (NSM) was the largest neo-Nazi organization in the country in 2007. Even so, the SPLC reports that NSM lost a number of chapters and members over the course of the year due to the departure of several high profile members. The neo-Nazi group the American National Socialist Workers Party (ANSWP) more than doubled its number of chapters in 2007, from 13 to 30, likely as a result of picking up several former NSM members (Holthouse & Potok, 2008). ANSWP has chapters in two Kentucky cities, Baxter and Brooks. The Anti-Defamation League reports that in July of 2007, ANSWP organized a gathering in northern Kentucky, the National Conference/Party Congress (see Table 2).

The SPLC attributes much of the recent growth in hate groups to the focus on immigration issues. Hate groups have exploited the immigration issue and capitalized on anti-immigration sentiments to grow their memberships. Unfortunately, this growth in anti-immigration activity is not just limited to the verbal attacks exhibited in rallies, protests, and leafleting campaigns. According to FBI statistics, hate crimes against Latinos rose 40% between 2003 and 2007 (Potok, 2008).

In recent years, well over 300 radical anti-immigration groups have been established (Holthouse & Potok, 2008). Anti-immigration hate groups espouse conspiracy theories and other racist propaganda about immigrants. The movement expanded rapidly following the 2005 Minuteman Project in Arizona, a month-long effort by volunteer armed civilians to patrol a stretch of the Arizona/Mexico border for illegal alien crossings (Buchanan & Kim, 2005). Often referred to as nativists, these anti-immigration activists are becoming more violent in their pursuit of vigilante justice.

It is important for policymakers to consider the role the Internet plays in advancing the cause of hate groups. An unregulated environment such as the Internet is a haven for bigots and extremists looking for an open forum to spread their beliefs. It is an inexpensive and efficient way to promote their message with few, if any, consequences. Though legal recourse for hate on the Internet is limited, other strategies can be employed. Public awareness may be the first step in a long process of combating this difficult problem.

In 2007, the SPLC reported that there were 643 U.S.-based hate sites on the Internet, up from 250 in 1999 (Holthouse & Potok, 2008). The Internet has given extremists access to a potential audience of millions, including the vulnerable population of impressionable youth (Kaplan & Moss, 2003). The Internet provides an accessible and inviting interface that allows extremists new ways to communicate, no longer with words alone but through pictures, graphics, sounds, animation, and video (Tiven, 2003). Websites, chat rooms, discussion boards, email, and instant messages comprise a virtual toolbox that extremists utilize to disperse their messages of hate.



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Social networking sites, such as MySpace and Facebook, have also become popular venues for propagating hate-filled messages and recruiting new members.

Groups operating in Kentucky are no exception. Examples include websites for the Imperial Klans of America, Knights of the KKK, <http://www.kkkk.net/kentucky1/index.htm>, and the Appalachian Knights of the KKK, www.appalachiankkk.blogspot.com. These groups are actively using the Internet to share their message, recruit new members, and improve the coordination and communication among current members.



IV. Hate Crime Legislation

In order to combat hate in our communities, the existing hate crime laws must be 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 continues to evolve as the scope and breadth of victim protection widens. The following section details both federal and Kentucky hate crime legislation currently in place.

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, 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, which is committed by an individual motivated to commit the crime by one or more biases.

The law that serves as the primary mechanism for prosecuting hate crimes at the federal level is 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.

Introduced in 2007, House Resolution (H.R.) 1592: Local Law Enforcement Hate Crimes Prevention (LLEHCP) Act of 2007 sought to expand the federal hate crime statute to cover crimes motivated by a bias against the victim's gender, sexual orientation, gender identity, and/or disability. Current federal law only covers hate crimes against individuals on the basis of race, color, religion, or national origin. According to a 2007 Gallup Poll, 68% of Americans support an expansion of the federal hate crime legislation to cover these additional characteristics (Newport, 2007). Anti-gay violence has increased in recent years, further bolstering the call for an expansion in the legislation. In fact, the National Coalition of Anti-Violence Programs (NCAVP) reported that hate crimes targeting the lesbian, gay, bi-sexual, and transgender community increased 24% in 2007 (NCAVP, 2008).

The LLEHCP Act also provided for funding to assist state and local law enforcement agencies in investigating and prosecuting hate crimes, required the FBI to track statistics on hate crimes against transgender people, and removed the current prerequisite that the hate crime victim must be engaging in a federally protected activity. On May 3, 2007, the bill passed the House of Representatives. It was then introduced in the Senate as an amendment to a separate defense authorization bill. Although the amendment was approved, it was later dropped from the bill. The LLEHCP Act is expected to be reintroduced in a future legislative session.



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, these statutes 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 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.

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.

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 nonimposition 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



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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.

The federal and state hate crime statutes discussed in this section are provided in Appendix A. A state by state comparison of state hate crime statutory provisions, prepared by the Anti-Defamation League, is provided in Appendix B.



V. Data Collection Statistics

A. Hate Crime Reporting

In accordance with the Hate Crimes Statistics Act of 1990, 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 2007, over 17,000 city, county, tribal, state, and federal law enforcement agencies participated in the national UCR Program. Of these agencies, 13,241 participated in the UCR's hate crime reporting program, representing 86.3% of the nation's population. Of the agencies participating in the program, 15% reported incidents of hate crime (see Table 3). In total, 7,624 incidents were reported in the U.S. According to the UCR data, Kentucky reported a total of 48 hate crime incidents in 2007, down from 64 incidents in 2006. Of the 324 agencies who participated in the reporting program, 23, or 7%, reported a documented hate crime.

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 many agencies are underreporting hate crime. For example, in 2007, Mississippi reported zero bias-related incidents and Alabama reported 6 bias-related incidents. This is significantly fewer incidents than were reported by surrounding states. For example, the neighboring state of Tennessee reported 239 bias-related incidents in 2007. 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 and hate incidents from one state to another.

According to UCR data presented in Table 4, both Indiana (40) and West Virginia (44) reported fewer hate crimes than Kentucky (48) in 2007. States reporting more hate crimes included Missouri (114), Illinois (167), Tennessee (239), Ohio (312), and Virginia (323). 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 (See Table 4).



Table 3: Law Enforcement Agencies Reporting Hate Crime, Kentucky and Surrounding States, 2007

State	Number of Participating Agencies	Population Covered	Agencies Submitting Incident Reports	Total Number of Incidents Reported	Percent of Agencies Reporting a Documented Hate Crime
Virginia	408	7,710,349	83	323	20%
Ohio	534	8,698,569	76	312	14%
Tennessee	461	6,156,260	58	239	13%
Illinois	60	4,945,770	45	167	75%
Missouri	561	5,699,738	39	114	7%
Kentucky	324	3,841,157	23	48	7%
West Virginia	338	1,686,872	21	44	6%
Indiana	127	2,899,537	13	40	10%
U.S.	13,241	260,229,972	2,025	7,624	15%

Source:
Federal Bureau of Investigation. *Hate Crime Statistics, 2007*.



Table 4: Number and Percent of Hate Crime Incidents by State and Agency Type, 2007

Reporting Agency	IN	WV	KY	MO	IL	TN	OH	VA
Cities								
Number of Incidents	35	30	36	95	154	186	274	165
Percent of Total	88%	68%	75%	83%	92%	78%	88%	51%
Metropolitan Counties								
Number of Incidents	1	9	7	11	5	35	15	124
Percent of Total	3%	20%	15%	10%	3%	15%	5%	38%
Nonmetropolitan Counties								
Number of Incidents	0	1	0	1	0	14	17	17
Percent of Total	0%	2%	0%	1%	0%	6%	5%	5%
Universities/Colleges								
Number of Incidents	4	1	2	7	8	4	5	13
Percent of Total	10%	2%	4%	6%	5%	2%	2%	4%
State Police								
Number of Incidents	0	2	2	0	0	0	0	1
Percent of Total	0%	5%	4%	0%	0%	0%	0%	0%
Other Agencies								
Number of Incidents	0	1	1	0	0	0	1	3
Percent of Total	0%	2%	2%	0%	0%	0%	0%	1%
Total	40	44	48	114	167	239	312	323

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

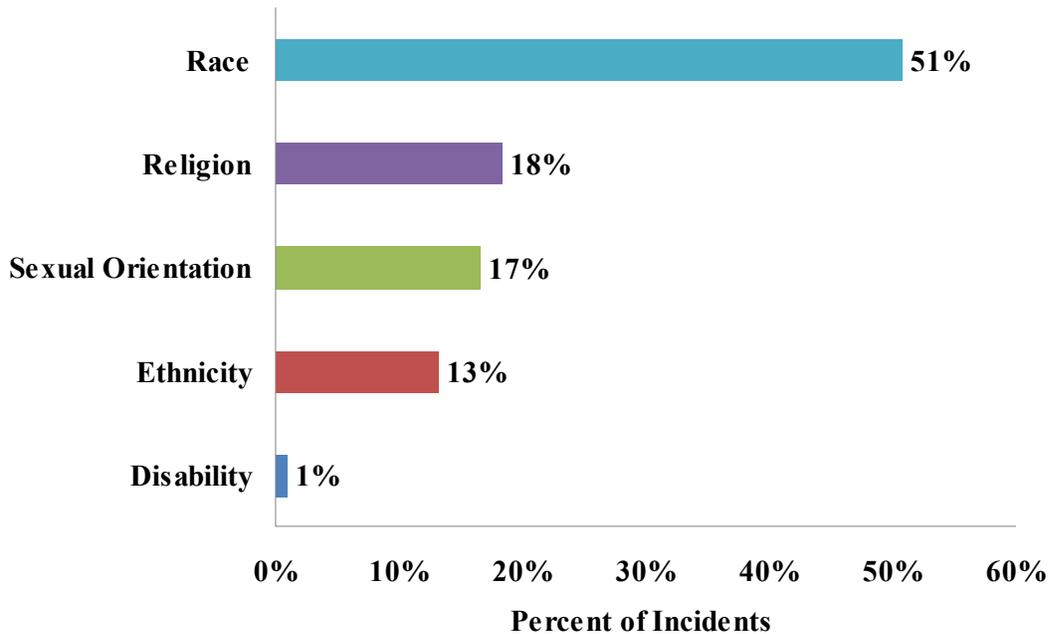
Source:
Federal Bureau of Investigation. *Hate Crime Statistics, 2007*.



B. Federal Law Enforcement Data

The figures and tables that follow present official national law enforcement data as published by the FBI UCR program. The UCR program reports that in 2007, 51% of all hate crime incidents were racially motivated while 18% were motivated by religion (see Figure 1). Of the racially motivated incidents, over two-thirds were anti-black. Of the religiously motivated incidents, over two-thirds were anti-Jewish (see Table 5). In the U.S., half of all hate crimes occurred either at a residence/home or a highway/road/alley/street (see Table 6). The majority of hate crimes involved the offenses of destruction, damage, or vandalism (38%). Intimidation (27%) and simple assault (18%) were the next most common offenses (see Table 7). In the U.S., 63% of known hate crime offenders were white (see Table 8). In terms of the type of victim, the majority were individuals (see Table 9).

Figure 1: Distribution of Hate Crime in the U.S. by Bias Motivation, 2007



Source:
Federal Bureau of Investigation. *Hate Crime Statistics, 2007*.



Table 5: Hate Crime in the U.S. by Bias Motivation, 2007

Targeted Group	Incidents	Offenses	Victims¹	Known Offenders²
Single-Bias Incidents	7,621	8,999	9,527	6,962
Race	3,870	4,724	4,956	3,707
Anti-White	749	871	908	828
Anti-Black	2,658	3,275	3,434	2,509
Anti-American Indian/Alaskan Native	61	75	76	63
Anti-Asian/Pacific Islander	188	219	234	165
Anti-Multiple Races, Group	214	284	304	142
Religion	1,400	1,477	1,628	576
Anti-Jewish	969	1,010	1,127	320
Anti-Catholic	61	65	70	31
Anti-Protestant	57	59	67	22
Anti-Islamic	115	133	142	104
Anti-Other Religion	130	140	148	62
Anti-Multiple Religions, Group	62	64	66	32
Anti-Atheism/Agnosticism/etc.	6	6	8	5
Sexual Orientation	1,265	1,460	1,512	1,454
Anti-Male Homosexual	772	864	890	923
Anti-Female Homosexual	145	184	197	147
Anti-Homosexual	304	362	375	349
Anti-Heterosexual	22	27	27	19
Anti-Bisexual	22	23	23	16
Ethnicity/National Origin	1,007	1,256	1,347	1,155
Anti-Hispanic	595	775	830	758
Anti-Other Ethnicity/National Origin	412	481	517	397
Disability	79	82	84	70
Anti-Physical Disability	20	20	20	27
Anti-Mental Disability	59	62	64	43
Multiple-Bias Incidents³	3	7	8	3
Total	7,624	9,006	9,535	6,965

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

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

³ In a multiple-bias incident two conditions must be met: 1) more than one offense type must occur in the incident and 2) at least two offense types must be motivated by different biases.

Source:
Federal Bureau of Investigation. *Hate Crime Statistics, 2007*.



Table 6: Location of Hate Crime Incidents in the U.S., 2007

Location	Number of Incidents	Percent of Total
Residence/Home	2,329	31%
Highway/Road/Alley/Street	1,438	19
Other/Unknown	875	11
School/College	859	11
Parking Lot/Garages	454	6
Church/Synagogue/Temple	309	4
Commercial Office Building	167	2
Restaurant	161	2
Bar/Nightclub	149	2
Government/Public Building	119	2
Field/Woods	109	1
Air/Bus/Train Terminal	80	1
Convenience Store	80	1
Service/Gas Station	75	1
Specialty Store	67	1
Department/Discount Store	61	1
Drug Store/Dr.'s Office/Hospital	57	1
Grocery/Supermarket	57	1
Jail/Prison	50	1
Hotel/Motel	37	0
Construction Site	36	0
Liquor Store	17	0
Bank/Savings and Loan	13	0
Lake/Waterway	11	0
Multiple Locations	9	0
Rental Storage Facility	5	0
Total	7,624	100%

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

Source:
Federal Bureau of Investigation. *Hate Crime Statistics, 2007*.



Table 7: Hate Crime Incidents in the U.S. by Offense Type, 2007

Offense type	Number of Incidents¹	Percent of Incidents
Crimes against persons:	4,347	57%
Murder and Nonnegligent Manslaughter	9	0
Forcible Rape	2	0
Aggravated Assault	853	11
Simple Assault	1,410	18
Intimidation	2,045	27
Other ²	28	0
Crimes against property:	3,579	47%
Robbery	178	2
Burglary	159	2
Larceny-Theft	221	3
Motor Vehicle Theft	22	0
Arson	40	1
Destruction/Damage/Vandalism	2,915	38
Other ²	44	1
Crimes against society³	19	0%

¹ The actual number of incidents is 7,624. However, this column's 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.

² The 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."

³ The 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.

Source:
Federal Bureau of Investigation. *Hate Crime Statistics, 2007*.



Table 8: Hate Crime Offenders in the U.S. by Race, 2007

Know Offender's Race¹	Number of Offenders	Percent of Total
White	4,378	63%
Black	1,448	21
Unknown	681	10
Multiple Races, Group ²	339	5
American Indian/Alaskan Native	69	1
Asian/Pacific Islander	50	1
Total	6,965	100%

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

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

²The term multiple races, group, is used to describe a group of offenders of varying races.

Source:

Federal Bureau of Investigation. *Hate Crime Statistics, 2007*.

Table 9: Hate Crime Incidents in the U.S. by Victim Type, 2007

Victim Type	Number of Incidents	Percent of Total
Individual	5,974	78%
Other/Unknown/Multiple	758	10
Business/Financial Institution	391	5
Government	253	3
Religious Organization	237	3
Society/Public	11	0
Total	7,624	100%

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

Source:

Federal Bureau of Investigation. *Hate Crime Statistics, 2007*.

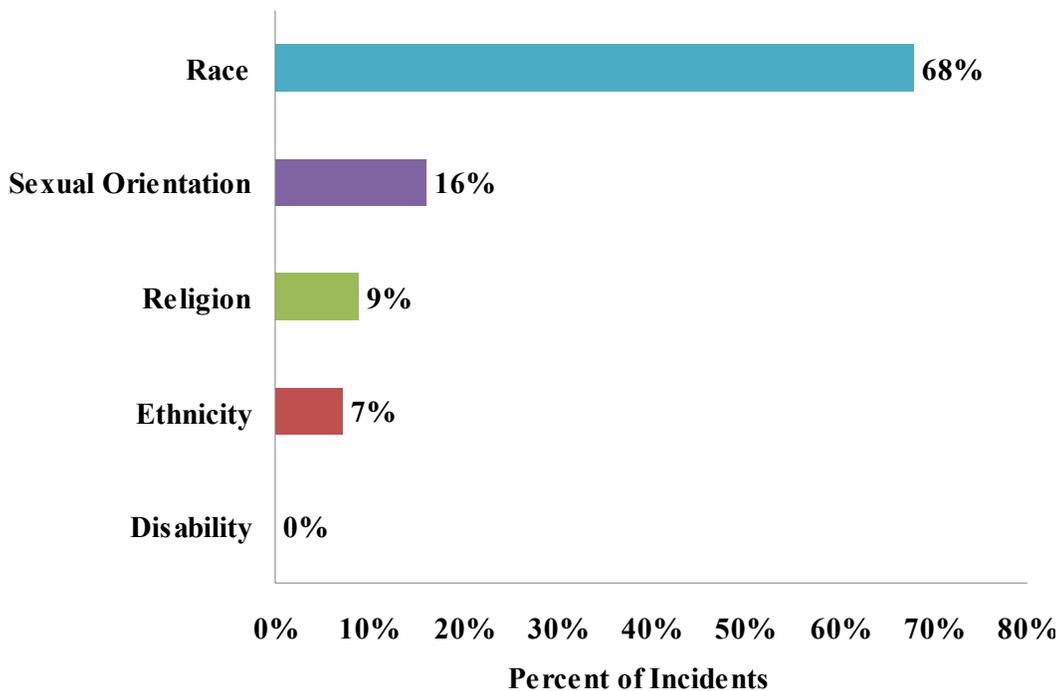


C. State Law Enforcement Data

The figures and tables that follow present official state law enforcement data as published by the Kentucky State Police. Although the FBI UCR Program reported 48 hate crime incidents in Kentucky in 2007, the state police reported 56 incidents. Figure 2 depicts the distribution of hate crime in Kentucky by bias motivation. In 2007, race was the most common motivation for hate crimes in Kentucky (68%). Of those incidents, 92% were anti-black (see Table 10). The second most common hate crime motivation was sexual orientation, representing 16% of incidents. Of those incidents, 67% were anti-male homosexual and 22% were anti-female homosexual (see Table 10).

In 2007, 30% of all hate crimes in Kentucky occurred in a residence/home, 20% occurred in a school/college, and 13% occurred in a highway/road/alley/street (see Table 11). Of all hate crimes reported in Kentucky, 54% involved the offense of intimidation and 27% involved the offenses of destruction/damage/vandalism (see Table 12). Like the U.S., in Kentucky, the majority of suspected offenders were white (53%). The race of 39% of suspected offenders was unknown (see Table 13). The majority of hate crime victims in 2007 in Kentucky were individuals (84%) (see Table 14).

Figure 2: Distribution of Hate Crime in Kentucky by Bias Motivation, 2007



Source:
Kentucky State Police. *Crime in Kentucky, 2007*.



Table 10: Hate Crime Incidents in Kentucky by Bias Motivation, 2007

Targeted Group	Number of Incidents	Percent of Sub-Group	Percent of Total
Race	38	100%	68%
Anti-White	1	3	2
Anti-Black	35	92	63
Anti-American Indian/Alaskan Native	0	0	0
Anti-Asian/Pacific Islander	0	0	0
Anti-Multi-Racial Group	2	5	4
Ethnicity	4	100	7
Anti-Arab	0	0	0
Anti-Hispanic	4	100	7
Anti-Other Ethnicity/National Origin	0	0	0
Sexual Orientation	9	100	16
Anti-Male Homosexual	6	67	11
Anti-Female Homosexual	2	22	4
Anti-Homosexual	0	0	0
Anti-Heterosexual	1	11	2
Anti-Bisexual	0	0	0
Religion	5	100	9
Anti-Jewish	2	40	4
Anti-Catholic	0	0	0
Anti-Protestant	1	20	2
Anti-Islamic	1	20	2
Anti-Other Religion	1	20	2
Disability	0	0	0
Anti-Physical Disability	0	0	0
Anti-Mental Disability	0	0	0
Total	56	100%	100%

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

Source:
Kentucky State Police. *Crime in Kentucky, 2007*.



Table 11: Location of Hate Crime Incidents in Kentucky, 2007

Location	Number of Incidents	Percent of Total
Residence/Home	17	30%
School/College	11	20
Highway/Road/Alley/Street	7	13
Parking Lot/Garages	5	9
Other Unknown	5	9
Church/Synagogue/Temple	3	5
Commercial/Office Building	2	4
Drug Store/Dr Office/Hospital	2	4
Government/Public Building	2	4
Bar/Nightclub	1	2
Department/Discount Store	1	2
Air/Bus/Train Terminal	0	0
Bank/Savings and Loan	0	0
Construction Site	0	0
Convenience Store	0	0
Field/Woods	0	0
Grocery/Supermarket	0	0
Hotel/Motel	0	0
Jail/Prison	0	0
Lake/Waterway	0	0
Liquor Store	0	0
Rental Storage Facility	0	0
Restaurant	0	0
Service/Gas Station	0	0
Specialty Store	0	0
Total	56	100%

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

Source:
Kentucky State Police. *Crime in Kentucky, 2007*.



Table 12: Hate Crime Incidents in Kentucky by Offense Type, 2007

Offense	Number of Incidents	Percent of Total
Intimidation	30	54%
Destruction/Damage/Vandalism	15	27
Aggravated Assault	4	7
Simple Assault	4	7
Burglary	2	4
Larceny/Theft	1	2
Robbery	0	0
Murder	0	0
Rape	0	0
Motor Vehicle Theft	0	0
Arson	0	0
Total	56	100%

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

Source:
Kentucky State Police. *Crime in Kentucky, 2007*.

Table 13: Hate Crime Offenders in Kentucky by Race, 2007

Suspected Offender's Race	Number of Offenders	Percent of Total
White	38	53%
Unknown	28	39
Black	6	8
Asian/Pacific Islander	0	0
American Indian/Alaskan Native	0	0
Multi-Racial Group	0	0
Total	72	100%

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

Source:
Kentucky State Police. *Crime in Kentucky, 2007*.



Table 14: Hate Crime Incidents in Kentucky by Victim Type, 2007

Victim Type	Number of Incidents	Percent of Total
Individual	47	84%
Business	3	5
Government	2	4
Religious Organization	2	4
Other	1	2
Society/Public	1	2
Financial Institution	0	0
Unknown	0	0
Total	56	100%

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

Source:
Kentucky State Police. *Crime in Kentucky, 2007*.



VI. Anecdotal Evidence of Hate Crime

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. As such, in addition to federal and state crime statistics, it is valuable to consider the anecdotal information that can be gathered from alternative sources. This information can be used to garner a more holistic picture of hate activity in the Commonwealth. This section presents information gathered from local newspapers throughout the state as well as provides additional evidence of bias-related activity as reported by the Kentucky Commission on Human Rights.

A. Hate Incidents Reported by Kentucky Newspapers in 2007

The information gathered for this section is collected through a comprehensive search of the media using Newsbank, a Web-based research database. This section includes examples of both potential hate crimes as well as hate incidents. Hate incidents can be defined as occurrences that 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). 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.

February (Bowling Green): A Bowling Green man reported that he was being intimidated after he received a suspicious text message on his cell phone and two vehicles on his car lot were damaged. The text message stated, "How are You? from KKK." One of the vandalized cars had KKK spray-painted on the hood. (*The Daily News*)

April (Paducah): An African-American flag was burned and a U.S. flag was stolen at Paducah's Martin Luther King memorial. (*The Paducah Sun*)

June (Bowling Green): A newly purchased home sustained \$2,550 in damage which included multiple cans of bleach and paint poured onto the carpet and "KKK" painted on the wall. (*The Daily News*)

June (Burlington): Five homes in two Burlington subdivisions were vandalized. Racial and religious epithets, swastikas, and other graffiti were spray-painted on the homes of two black families, two white families, and one Hispanic family. Police identified a juvenile person of interest in the investigation. (*The Kentucky Enquirer*)



June (Mayfield): A national civil rights organization accused officers from several law enforcement agencies of misconduct, harassment, racial profiling, and excessive force stemming from the arrest of nine people during a party. Some individuals at the party accused officers of using racial slurs during the arrests. The officers and agencies involved denied any wrong-doing associated with the incident. (*The Paducah Sun*)

July (Fairdale): Fliers using racially offensive language were mailed to Fairdale residents' homes or tossed on their lawns and driveways. In addition to racial slurs, the fliers encouraged residents to let a Metro Louisville Councilwoman know that they do not support rising crime in the area caused by illegal aliens and African Americans. The National Socialist Workers' website was printed on the fliers along with a Nazi swastika emblem. (*The Courier-Journal*)

July (Mayfield): A noose and confederate flag were left on an African-American family's lawn. (*The Paducah Sun*)

Summer (Bowling Green): Vandals spray-painted "Deport Illegal Immigrants" on a building that formerly housed a Mexican restaurant. (*The Daily News*)

August (Covington): The Cincinnati/Northern Kentucky chapter of the National Alliance sent letters to selected Covington residents and posted fliers on local utility poles in an effort to stop city officials from naming a street after Martin Luther King, Jr. (*The Kentucky Enquirer*)

August (Bowling Green): Expletives against Bosnians, accompanied by swastikas, were spray-painted on a home. (*The Daily News*)

September (Owensboro): Residents found business cards from the United Northern and Southern Knights of the Ku Klux Klan in their mailboxes and driveways. The cards were white with an American flag image on both sides along with the KKK logo on the front left side. The message on the front read, "For your safety, the Ku Klux Klan was watching over your neighborhood as you slept." The message on the back read, "You have been visited by the Ku Klux Klan." (*Owensboro Messenger-Inquirer*)

September (Owensboro): A 16-year old white male student was charged with second-degree terroristic threatening after making threats to shoot black students during lunchtime at school. (*Owensboro Messenger-Inquirer*)

September (Owensboro): A 15-year old boy was charged with third-degree criminal mischief after he admitted to writing the graffiti that was found in two boys' bathrooms at a local high school. The graffiti referenced September 11th and the Ku Klux Klan and threatened minorities with statements such as "(N-word) will die." (*Owensboro Messenger-Inquirer*)

September (Bowling Green): Residents found KKK business cards (similar to those described above) in their mailboxes. (*The Kentucky Post*)



September (Morgantown): Residents found KKK business cards (similar to those described above) in their mailboxes. (*The Kentucky Post*)

September (Louisville): A vacant school attached to a catholic church was vandalized. The vandals set numerous small fires, broke 22 windows, and left a swastika and a message “Hitler Rises.” The incident was classified by Metro Police as a burglary and arson, not as a hate crime. (*The Courier-Journal*)

October (Bowling Green): During a forum to discuss recent hate crimes and hate incidents, the Bowling Green Human Rights Commission reported receiving eight reports of anti-immigrant graffiti, a report of a cross-burning in the yard of a Hispanic family, KKK business cards left in mailboxes and driveways, and racist graffiti on a bridge during the past year. (*The Daily News*)

October (Lexington): A racially charged cartoon was published in the University of Kentucky student newspaper. The cartoon depicted a black man, bare-chested on a slave auction block, whose leg was bound by a chain. A white auctioneer refers to the “slave” as a “young buck” while taking bids from three fictitious fraternities whose names are meant to indicate that they are racist: Aryan Omega, Kappa Kappa Kappa (KKK), and Alpha Caucasian. The cartoon caused racial tension on campus following its publication. (*The Courier-Journal*)

October (Lexington): A threatening message including a racial slur was discovered on an African-American student’s dorm room door at the University of Kentucky. (*Lexington Herald-Leader*)

November (Mt. Sterling): A dispute over what to watch on television ignited a fistfight between inmates at the Montgomery County jail. According to some of the inmates involved, the fight was racially motivated. Seventeen white inmates jumped on three black inmates while using racial slurs after the black inmates tried to change the television channel. The jailer maintained that the fight was over the television, not race. (*Lexington Herald-Leader*)

December (Lexington): A fight at a local high school exposed racial tensions between black and Hispanic students. Hispanic students reported hearing statements such as “Go back to Mexico.” Following the fight, a group of more than 130 Hispanic parents raised concerns about the safety of their children and the relationship between African-American and Hispanic students. School officials maintained that the fight was not racially motivated. (*Lexington Herald-Leader*)



B. Kentucky Commission on Human Rights²

The Kentucky General Assembly created the Kentucky Commission on Human Rights 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 and 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 other act or practice of differentiation or preference in the treatment of a person or persons or the aiding, abetting, inciting, coercing, or compelling thereof made unlawful under this law. People in Kentucky are protected from these types of discrimination in housing, employment, public accommodations, financial transactions, and retaliation. Businesses that supply goods or services to the general public, or solicit and accept the patronage of the public, and entities supported by government funds are considered public accommodations.

Headquartered in Louisville, KCHR's primary purpose is to act as a guardian of people's civil rights. The mission of KCHR is to eradicate discrimination in the Commonwealth through enforcement of the Kentucky Civil Rights Act (KRS 344). KCHR is made up of an 11-member board of commissioners appointed by the Kentucky Governor, the executive director, and 33 staff members. Four department units carry out the day-to-day business of the agency: Administration, Enforcement, Research and Information, and Legal. The commissioners have agency oversight and act as a judicial body in discrimination cases filed with the agency by members of the public. The executive director oversees daily operations of KCHR. The executive director and commissioners also act as public affairs representatives, along with staff, in the important KCHR education and public outreach programs.

The commission works to encourage fair treatment, discourage discrimination, and foster mutual understanding and respect among all people. KCHR investigates and litigates unlawful discrimination complaints. The Commission rules on complaints, determines damages, and enforces the Civil Rights Act with all the authority of a court of law. The agency works diligently to inform the public about the right to equal and fair treatment, and equal opportunity in the Commonwealth. Through education, outreach, partnerships, and public affairs events, KCHR strives to ensure that people in Kentucky are knowledgeable about their civil rights.

In 2007, KCHR announced a new program established to standardize the documentation of hate-related incidents. The Hate Violence and Information Network (HAVIN) establishes a network of organizations and individuals and facilitates the sharing of information on hate crime. In addition to the network, the program has implemented a form designed to improve the documentation and reporting of hate-related activity. HAVIN is a pilot program based on the HAVIN program in North Carolina.

² All data within this section was retrieved from KCHR's website, <http://kchr.ky.gov/>. Data is reported for the fiscal year.



Hate Crime and Hate Incidents in the Commonwealth

According to KCHR’s 2007 Annual Report, in FY 2007, the agency received 2,850 phone calls and letters from potential victims of discrimination in Kentucky. A total of 423 complaints alleging illegal discrimination were filed. Up from 383 in 2006, this marked the highest number of complains in the agency’s 47-year history.

The most common bases for discrimination complaints were race and color, sex, and disability (see Table 15). The majority of complaints closed were found to have no probable cause; the next most common outcome was withdrawal (see Table 16). In FY 2007, KCHR staff negotiated a total of 31 conciliation agreements, down from 45 in FY 2006. Twenty-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 for all 31 agreements was \$185,096.00.

Table 15: Kentucky Commission on Human Rights: Basis of Cases Filed, FY 2007

Basis	Employment	Housing	Public Accommodations	Financial Transactions	Total
Race & Color	159	12	22	0	193
Sex	84	4	3	0	91
Disability	51	13	22	0	86
Age (40+)	47	0	0	0	47
Retaliation	34	5	0	0	39
National Origin	20	0	10	0	30
Familial Status	0	6	0	0	6
Religion	4	0	0	0	4
Smoker or Non-Smoker Status	0	0	0	0	0
Totals	399	40	57	0	496

Note: Some complaints alleged more than one basis of discrimination. Therefore, the total number of complaints filed (423) does not equal the total number of basis for complaints filed (496).

Source:
Kentucky Commission on Human Rights.



Table 16: Kentucky Commission on Human Rights: Outcomes of Complaints Closed, FY 2006-FY 2007

Complaint Outcome	2006		2007	
	Number	Percent	Number	Percent
No Probable Cause	209	64%	300	71%
Withdrawal	38	12%	65	15%
Withdrawal w/Settlement	25	8%	26	6%
PC Conciliation	10	3%	25	6%
Conciliation	45	14%	6	1%
Finding of Discrimination	2	1%	1	0%
Total	329	100%	423	100%

Source:
Kentucky Commission on Human Rights.



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Appendix A: State and Federal Hate Crime Statutes



Federal Statutory Language Pertaining to Hate Crime

18 U.S.C. § 241 Conspiracy against rights

If two or more persons conspire to injure, oppress, threaten, or intimidate any person in any State, Territory, Commonwealth, Possession, or District in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States, or because of his having so exercised the same; or

If two or more persons go in disguise on the highway, or on the premises of another, with intent to prevent or hinder his free exercise or enjoyment of any right or privilege so secured--

They shall be fined under this title or imprisoned not more than ten years, or both; and if death results from the acts committed in violation of this section or if such acts include kidnapping or

an attempt to kidnap, aggravated sexual abuse or an attempt to commit aggravated sexual abuse, or an attempt to kill, they shall be fined under this title or imprisoned for any term of years or for life, or both, or may be sentenced to death.

18 U.S.C. § 242 Deprivation of rights under color of law

Whoever, under color of any law, statute, ordinance, regulation, or custom, willfully subjects any person in any State, Territory, Commonwealth, Possession, or District to the deprivation of any rights, privileges, or immunities secured or protected by the Constitution or laws of the United States, or to different punishments, pains, or penalties, on account of such person being an alien, or by reason of his color, or race, than are prescribed for the punishment of citizens, shall be fined under this title or imprisoned not more than one year, or both; and if bodily injury results from the acts committed in violation of this section or if such acts include the use, attempted use, or threatened use of a dangerous weapon, explosives, or fire, shall be fined under this title or imprisoned not more than ten years, or both; and if death results from the acts committed in violation of this section or if such acts include kidnapping or an attempt to kidnap, aggravated sexual abuse, or an attempt to commit aggravated sexual abuse, or an attempt to kill, shall be fined under this title, or imprisoned for any term of years or for life, or both, or may be sentenced to death.

18 U.S.C. § 245. Federally protected activities

(a)

(1) Nothing in this section shall be construed as indicating an intent on the part of Congress to prevent any State, any possession or Commonwealth of the United States, or the District of Columbia, from exercising jurisdiction over any offense over which it would have jurisdiction in the absence of this section, nor shall anything in this section be construed as depriving State and local law enforcement authorities of responsibility for prosecuting acts that may be violations of this section and that are violations of State and local law. No prosecution of any offense described in this section shall be undertaken by the United States except upon the certification in writing of the Attorney General, the Deputy Attorney General, the Associate Attorney General, or any Assistant Attorney General specially designated by the Attorney General that in his judgment a prosecution by the United States is in the public interest and necessary to secure substantial justice, which function of certification may not be delegated.

- (2) Nothing in this subsection shall be construed to limit the authority of Federal officers, or a Federal grand jury, to investigate possible violations of this section.
- (b) Whoever, whether or not acting under color of law, by force or threat of force willfully injures, intimidates or interferes with, or attempts to injure, intimidate or interfere with--
- (1) any person because he is or has been, or in order to intimidate such person or any other person or any class of persons from--
- (A) voting or qualifying to vote, qualifying or campaigning as a candidate for elective office, or qualifying or acting as a poll watcher, or any legally authorized election official, in any primary, special, or general election;
 - (B) participating in or enjoying any benefit, service, privilege, program, facility, or activity provided or administered by the United States;
 - (C) applying for or enjoying employment, or any perquisite thereof, by any agency of the United States;
 - (D) serving, or attending upon any court in connection with possible service, as a grand or petit juror in any court of the United States;
 - (E) participating in or enjoying the benefits of any program or activity receiving Federal financial assistance; or
- (2) any person because of his race, color, religion or national origin and because he is or has been--
- (A) enrolling in or attending any public school or public college;
 - (B) participating in or enjoying any benefit, service, privilege, program, facility or activity provided or administered by any State or subdivision thereof;
 - (C) applying for or enjoying employment, or any perquisite thereof, by any private employer or any agency of any State or subdivision thereof, or joining or using the services or advantages of any labor organization, hiring hall, or employment agency;
 - (D) serving, or attending upon any court of any State in connection with possible service, as a grand or petit juror;
 - (E) traveling in or using any facility of interstate commerce, or using any vehicle, terminal, or facility of any common carrier by motor, rail, water, or air;
 - (F) enjoying the goods, services, facilities, privileges, advantages, or accommodations of any inn, hotel, motel, or other establishment which provides lodging to transient guests, or of any restaurant, cafeteria, lunchroom, lunch counter, soda fountain, or other facility which serves the public and which is principally engaged in selling food or beverages for consumption on the premises, or of any gasoline station, or of any motion picture house, theater, concert hall, sports arena, stadium, or any other place of exhibition or entertainment which serves the public, or of any other establishment which serves the public and (i) which is located within the premises of any of the aforesaid establishments or within the premises of which is physically located any of the aforesaid establishments, and (ii) which holds itself out as serving patrons of such establishments; or
- (3) during or incident to a riot or civil disorder, any person engaged in a business in commerce or affecting commerce, including, but not limited to, any person engaged in a business which sells or offers for sale to interstate travelers a substantial portion of the articles, commodities, or services which it sells or where a substantial portion of the articles or commodities which it sells or offers for sale have moved in commerce; or

(4) any person because he is or has been, or in order to intimidate such person or any other person or any class of persons from--

(A) participating, without discrimination on account of race, color, religion or national origin, in any of the benefits or activities described in subparagraphs (1)(A) through (1)(E) or subparagraphs (2)(A) through (2)(F); or

(B) affording another person or class of persons opportunity or protection to so participate; or

(5) any citizen because he is or has been, or in order to intimidate such citizen or any other citizen from lawfully aiding or encouraging other persons to participate, without discrimination on account of race, color, religion or national origin, in any of the benefits or activities described in subparagraphs (1)(A) through (1)(E) or subparagraphs (2)(A) through

(2)(F), or participating lawfully in speech or peaceful assembly opposing any denial of the opportunity to so participate--shall be fined under this title, or imprisoned not more than one year, or both; and if bodily injury results from the acts committed in violation of this section or if such acts include the use, attempted use, or threatened use of a dangerous weapon, explosives, or fire shall be fined under this title, or imprisoned not more than ten years, or both; and if death results from the acts committed in violation of this section or if such acts include kidnapping or an attempt to kidnap, aggravated sexual abuse or an attempt to commit aggravated sexual abuse, or an attempt to kill, shall be fined under this title or imprisoned for any term of years or for life, or both, or may be sentenced to death. As used in this section, the term "participating lawfully in speech or peaceful assembly" shall not mean the aiding, abetting, or inciting of other persons to riot or to commit any act of physical violence upon any individual or against any real or personal property in furtherance of a riot. Nothing in subparagraph (2)(F) or (4)(A) of this subsection shall apply to the proprietor of any establishment which provides lodging to transient guests, or to any employee acting on behalf of such proprietor, with respect to the enjoyment of the goods, services, facilities, privileges, advantages, or accommodations of such establishment if such establishment is located within a building which contains not more than five rooms for rent or hire and which is actually occupied by the proprietor as his residence.

(c) Nothing in this section shall be construed so as to deter any law enforcement officer from lawfully carrying out the duties of his office; and no law enforcement officer shall be considered to be in violation of this section for lawfully carrying out the duties of his office or lawfully enforcing ordinances and laws of the United States, the District of Columbia, any of the several States, or any political subdivision of a State. For purposes of the preceding sentence, the term "law enforcement officer" means any officer of the United States, the District of Columbia, a State, or political subdivision of a State, who is empowered by law to conduct investigations of, or make arrests because of, offenses against the United States, the District of Columbia, a State, or a political subdivision of a State.

(d) For purposes of this section, the term "State" includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.

18 U.S.C. § 247. The Church Arsons Prevention Act

- (a) Whoever, in any of the circumstances referred to in subsection (b) of this section--
- (1) intentionally defaces, damages, or destroys any religious real property, because of the religious character of that property, or attempts to do so; or
 - (2) intentionally obstructs, by force or threat of force, any person in the enjoyment of that person's free exercise of religious beliefs, or attempts to do so; shall be punished as provided in subsection (d).
- (b) The circumstances referred to in subsection (a) are that the offense is in or affects interstate or foreign commerce.
- (c) Whoever intentionally defaces, damages, or destroys any religious real property because of the race, color, or ethnic characteristics of any individual associated with that religious property, or attempts to do so, shall be punished as provided in subsection (d).
- (d) The punishment for a violation of subsection (a) of this section shall be--
- (1) if death results from acts committed in violation of this section or if such acts include kidnapping or an attempt to kidnap, aggravated sexual abuse or an attempt to commit aggravated sexual abuse, or an attempt to kill, a fine in accordance with this title and imprisonment for any term of years or for life, or both, or may be sentenced to death;
 - (2) if bodily injury results to any person, including any public safety officer performing duties as a direct or proximate result of conduct prohibited by this section, and the violation is by means of fire or an explosive, a fine under this title or imprisonment for not more than 40 years, or both;
 - (3) if bodily injury to any person, including any public safety officer performing duties as a direct or proximate result of conduct prohibited by this section, results from the acts committed in violation of this section or if such acts include the use, attempted use, or threatened use of a dangerous weapon, explosives, or fire, a fine in accordance with this title and imprisonment for not more than 20 years, or both; and
 - (4) in any other case, a fine in accordance with this title and imprisonment for not more than one year, or both.
- (e) No prosecution of any offense described in this section shall be undertaken by the United States except upon the certification in writing of the Attorney General or his designee that in his judgment a prosecution by the United States is in the public interest and necessary to secure substantial justice.
- (f) As used in this section, the term "religious real property" means any church, synagogue, mosque, religious cemetery, or other religious real property, including fixtures or religious objects contained within a place of religious worship.
- (g) No person shall be prosecuted, tried, or punished for any noncapital offense under this section unless the indictment is found or the information is instituted not later than 7 years after the date on which the offense was committed.

18 U.S.C. § 248 Freedom of Access to Clinic Entrances Act

- (a) Prohibited Activities.--Whoever--
- (1) by force or threat of force or by physical obstruction, intentionally injures, intimidates or interferes with or attempts to injure, intimidate or interfere with any person because that person is or has been, or in order to intimidate such person or any other person or any class of persons from, obtaining or providing reproductive health services;

(2) by force or threat of force or by physical obstruction, intentionally injures, intimidates or interferes with or attempts to injure, intimidate or interfere with any person lawfully exercising or seeking to exercise the First Amendment right of religious freedom at a place of religious worship; or

(3) intentionally damages or destroys the property of a facility, or attempts to do so, because such facility provides reproductive health services, or intentionally damages or destroys the property of a place of religious worship, shall be subject to the penalties provided in subsection (b) and the civil remedies provided in subsection (c), except that a parent or legal guardian of a minor shall not be subject to any penalties or civil remedies under this section for such activities insofar as they are directed exclusively at that minor.

(b) Penalties.--Whoever violates this section shall--

(1) in the case of a first offense, be fined in accordance with this title, or imprisoned not more than one year, or both; and (2) in the case of a second or subsequent offense after a prior conviction under this section, be fined in accordance with this title, or imprisoned not more than 3 years, or both; except that for an offense involving exclusively a nonviolent physical obstruction, the fine shall be not more than \$10,000 and the length of imprisonment shall be not more than six months, or both, for the first offense; and the fine shall, notwithstanding section 3571, be not more than \$25,000 and the length of imprisonment shall be not more than 18 months, or both, for a subsequent offense; and except that if bodily injury results, the length of imprisonment shall be not more than 10 years, and if death results, it shall be for any term of years or for life.

(c) Civil Remedies.--

(1) Right of action.--

(A) In general. Any person aggrieved by reason of the conduct prohibited by subsection (a) may commence a civil action for the relief set forth in subparagraph (B), except that such an action may be brought under subsection (a)(1) only by a person involved in providing or seeking to provide, or obtaining or seeking to obtain, services in a facility that provides reproductive health services, and such an action may be brought under subsection (a)(2) only by a person lawfully exercising or seeking to exercise the First Amendment right of religious freedom at a place of religious worship or by the entity that owns or operates such place of religious worship.

(B) Relief.--In any action under subparagraph (A), the court may award appropriate relief, including temporary, preliminary or permanent injunctive relief and compensatory and punitive damages, as well as the costs of suit and reasonable fees for attorneys and expert witnesses. With respect to compensatory damages, the plaintiff may elect, at any time prior to the rendering of final judgment, to recover, in lieu of actual damages, an award of statutory damages in the amount of \$5,000 per violation.

(2) Action by attorney general of the United States.--

(A) In general.--If the Attorney General of the United States has reasonable cause to believe that any person or group of persons is being, has been, or may be injured by conduct constituting a violation of this section, the Attorney General may commence a civil action in any appropriate United States District Court.

- (B) Relief.--In any action under subparagraph (A), the court may award appropriate relief, including temporary, preliminary or permanent injunctive relief, and compensatory damages to persons aggrieved as described in paragraph (1)(B). The court, to vindicate the public interest, may also assess a civil penalty against each respondent--
- (i) in an amount not exceeding \$10,000 for a nonviolent physical obstruction and \$15,000 for other first violations; and
 - (ii) in an amount not exceeding \$15,000 for a nonviolent physical obstruction and \$25,000 for any other subsequent violation.
- (3) Actions by state attorneys general.--
- (A) In general.--If the Attorney General of a State has reasonable cause to believe that any person or group of persons is being, has been, or may be injured by conduct constituting a violation of this section, such Attorney General may commence a civil action in the name of such State, as *parens patriae* on behalf of natural persons residing in such State, in any appropriate United States District Court.
- (B) Relief.--In any action under subparagraph (A), the court may award appropriate relief, including temporary, preliminary or permanent injunctive relief, compensatory damages, and civil penalties as described in paragraph (2)(B).
- (d) Rules of Construction.--Nothing in this section shall be construed--
- (1) to prohibit any expressive conduct (including peaceful picketing or other peaceful demonstration) protected from legal prohibition by the First Amendment to the Constitution;
 - (2) to create new remedies for interference with activities protected by the free speech or free exercise clauses of the First Amendment to the Constitution, occurring outside a facility, regardless of the point of view expressed, or to limit any existing legal remedies for such interference;
 - (3) to provide exclusive criminal penalties or civil remedies with respect to the conduct prohibited by this section, or to preempt State or local laws that may provide such penalties or remedies; or
 - (4) to interfere with the enforcement of State or local laws regulating the performance of abortions or other reproductive health services.
- (e) Definitions.--As used in this section:
- (1) Facility.--The term “facility” includes a hospital, clinic, physician's office, or other facility that provides reproductive health services, and includes the building or structure in which the facility is located.
 - (2) Interfere with.--The term “interfere with” means to restrict a person's freedom of movement.
 - (3) Intimidate.--The term “intimidate” means to place a person in reasonable apprehension of bodily harm to him- or herself or to another.
 - (4) Physical obstruction.--The term “physical obstruction” means rendering impassable ingress to or egress from a facility that provides reproductive health services or to or from a place of religious worship, or rendering passage to or from such a facility or place of religious worship unreasonably difficult or hazardous.
 - (5) Reproductive health services.--The term “reproductive health services” means reproductive health services provided in a hospital, clinic, physician's office, or other



facility, and includes medical, surgical, counseling or referral services relating to the human reproductive system, including services relating to pregnancy or the termination of a pregnancy.

(6) State.--The term "State" includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.

28 U.S.C. § 534 Hate Crime Statistics Act

(a) this Act may be cited as the 'Hate Crime Statistics Act'.

(b)

(1) Under the authority of section 534 of title 28, United States Code, the Attorney General shall acquire data, for each calendar year, about crimes that manifest evidence of prejudice based on race, religion, disability, sexual orientation, or ethnicity, including where appropriate the crimes of murder, non-negligent manslaughter; forcible rape; aggravated assault, simple assault, intimidation; arson; and destruction, damage or vandalism of property.

(2) The Attorney General shall establish guidelines for the collection of such data including the necessary evidence and criteria that must be present for a finding of manifest prejudice and procedures for carrying out the purposes of this section.

(3) Nothing in this section creates a cause of action or a right to bring an action, including an action based on discrimination due to sexual orientation. As used in this section, the term 'sexual orientation' means consensual homosexuality or heterosexuality. This subsection does not limit any existing cause of action or right to bring an action, including any action under the Administrative Procedure Act [5 U.S.C. 551 et seq., 701 et seq.] or the All Writs Act [see 28 U.S.C. 1651].

(4) Data acquired under this section shall be used only for research or statistical purposes and may not contain any information that may reveal the identity of an individual victim of a crime.

(5) The Attorney General shall publish an annual summary of the data acquired under this section.

(c) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section through fiscal year 2002.

Sec. 2.

(a) Congress finds that--

(1) the American family life is the foundation of American Society,

(2) Federal policy should encourage the well-being, financial security, and health of the American family,

(3) schools should not de-emphasize the critical value of American family life.

(b) Nothing in this Act shall be construed, nor shall any funds appropriated to carry out the purpose of the Act be used, to promote or encourage homosexuality."

28 U.S.C. § 994 Hate Crimes Sentencing Enhancement Act

As a part of the Violent Crime Control and Law Enforcement Act of 1994, the Hate Crimes Sentencing Enhancement Act provides for longer sentences where the offense is determined to be a hate crime. This provision required the United States Sentencing Commission to increase the penalties for crimes in which the victim was selected "because of the actual or perceived

race, color, religion, national origin, ethnicity, gender, disability, or sexual orientation of any person." This Act is limited to crimes under federal jurisdiction such as crimes involving interstate commerce, or associated with the commission of other federal offenses, interfering with an individual's access to a federally protected right or benefit, such as serving on a jury, voting, or going to school).

42 U.S.C. § 3631 Criminal Interference with Right to Fair Housing

Whoever, whether or not acting under color of law, by force or threat of force willfully injures, intimidates or interferes with, or attempts to injure, intimidate or interfere with-

(a) any person because of his race, color, religion, sex, handicap (as such term is defined in section 3602 of this title), familial status (as such term is defined in section 3602 of this title), or national origin and because he is or has been selling, purchasing, renting, financing, occupying, or contracting or negotiating for the sale, purchase, rental, financing or occupation of any dwelling, or applying for or participating in any service, organization, or facility relating to the business of selling or renting dwellings; or

(b) any person because he is or has been, or in order to intimidate such person or any other person or any class of persons from--

(1) participating, without discrimination on account of race, color, religion, sex, handicap (as such term is defined in section 3602 of this title), familial status (as such term is defined in section 3602 of this title), or national origin, in any of the activities, services, organizations or facilities described in subsection (a) of this section; or

(2) affording another person or class of persons opportunity or protection so to participate; or

(c) any citizen because he is or has been, or in order to discourage such citizen or any other citizen from lawfully aiding or encouraging other persons to participate, without discrimination on account of race, color, religion, sex, handicap (as such term is defined in section 3602 of this title), familial status (as such term is defined in section 3602 of this title), or national origin, in any of the activities, services, organizations or facilities described in subsection (a) of this section, or participating lawfully in speech or peaceful assembly opposing any denial of the opportunity to so participate-- shall be fined under title 18 or imprisoned not more than one year, or both; and if bodily injury results from the acts committed in violation of this section or if such acts include the use, attempted use, or threatened use of a dangerous weapon, explosives, or fire shall be fined under title 18 or imprisoned not more than ten years, or both; and if death results from the acts committed in violation of this section or if such acts include kidnapping or an attempt to kidnap, aggravated sexual abuse or an attempt to commit aggravated sexual abuse, or an attempt to kill, shall be fined under title 18 or imprisoned for any term of years or for life, or both.



Kentucky Statutory Language Pertaining to Hate Crime

532.031 Hate Crimes -- Finding -- Effect.

(1) A person may be found by the sentencing judge to have committed an offense specified below as a result of a hate crime if the person intentionally because of race, color, religion, sexual orientation, or national origin of another individual or group of individuals violates a provision of any one (1) of the following:

- (a) KRS 508.010, 508.020, 508.025, or 508.030;
- (b) KRS 508.050 or 508.060;
- (c) KRS 508.100 or 508.110;
- (d) KRS 509.020;
- (e) KRS 510.040, 510.050, 510.060, 510.070, 510.080, 510.090, 510.100, or 510.110;
- (f) KRS 512.020, 512.050, or 512.060;
- (g) KRS 513.020, 513.030, or 513.040; or
- (h) KRS 525.020, 525.050, 525.060, 525.070, or 525.080.

(2) At sentencing, the sentencing judge shall determine if, by a preponderance of the evidence presented at the trial, a hate crime was a primary factor in the commission of the crime by the defendant. If so, the judge shall make a written finding of fact and enter that in the court record and in the judgment rendered against the defendant.

(3) The finding that a hate crime was a primary factor in the commission of the crime by the defendant may be utilized by the sentencing judge as the sole factor for denial of probation, shock probation, conditional discharge, or other form of nonimposition of a sentence of incarceration.

(4) The finding by the sentencing judge that a hate crime was a primary factor in the commission of the crime by the defendant may be utilized by the Parole Board in delaying or denying parole to a defendant.

Effective: July 14, 2000

History: Amended 2000 Ky. Acts ch. 541, sec. 6, effective July 14, 2000. -- Created 1998 Ky. Acts ch. 606, sec. 51, effective July 15, 1998.

525.113 Institutional vandalism.

(1) A person is guilty of institutional vandalism when he, 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.

(2) Institutional vandalism is a Class D felony.

Effective: July 15, 1998

History: Created 1998 Ky. Acts ch. 606, sec. 52, effective July 15, 1998.

525.110 Desecration of venerated objects, second degree.

(1) A person is guilty of desecration of venerated objects in the second degree when he intentionally:

- (a) Desecrates any public monument or object or place of worship; or
- (b) Desecrates in a public place the national or state flag or other patriotic or religious symbol which is an object of veneration by the public or a substantial segment thereof.



(2) Desecration of venerated objects in the second degree is a Class A misdemeanor.

Effective: July 14, 1992

History: Amended 1992 Ky. Acts ch. 420, sec. 3, effective July 14, 1992. --Amended 1988 Ky. Acts ch. 119, sec. 2, effective March 30, 1988. -- Created 1974 Ky. Acts ch. 406, sec. 221, effective January 1, 1975.

346.055 Victim of hate crime deemed victim of criminally injurious conduct.

A person who suffers personal injury as a result of conduct in violation of KRS 532.031 is a victim of criminally injurious conduct as defined in KRS 346.020 and is eligible for awards pursuant to KRS Chapter 346.

Effective: July 15, 1998

History: Created 1998 Ky. Acts ch. 606, sec. 53, effective July 15, 1998.

17.1523 Uniform offense report to provide for indication of bias-related crime- Annual reporting.

(1) The uniform offense report shall contain provisions for obtaining information as to whether or not specific crimes appear from their facts and circumstances to be caused as a result of or reasonably related to race, color, religion, sex, or national origin.

(2) 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.

(3) The Justice Cabinet shall, annually, as a part of the crime reports report on crimes which appear to have been caused by the factors cited in subsections (1) and (2) of this section.

Effective: July 14, 1992

History: Created 1992 Ky. Acts ch. 413, sec. 2, effective July 14, 1992.

15.334 Mandatory training courses for law enforcement students and certified peace officers -- Administrative regulations -- Annual report.

(1) The Kentucky Law Enforcement Council shall approve mandatory training subjects to be taught to all students attending a law enforcement basic training course that include but are not limited to:

(a) Abuse, neglect, and exploitation of the elderly and other crimes against the elderly, including the use of multidisciplinary teams in the investigation and prosecution of crimes against the elderly;

(b) The dynamics of domestic violence, child physical and sexual abuse, and rape; child development; the effects of abuse and crime on adult and child victims, including the impact of abuse and violence on child development; legal remedies for protection;

lethality and risk issues; profiles of offenders and offender treatment; model protocols for addressing domestic violence, rape, and child abuse; available community resources and victim services; and reporting requirements. This training shall be developed in consultation with legal, victim services, victim advocacy, and mental health professionals with expertise in domestic violence, child abuse, and rape;

- (c) Human immunodeficiency virus infection and acquired immunodeficiency virus syndrome; and
 - (d) 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.
- (2) The council shall develop and approve mandatory professional development training courses to be presented to all certified peace officers. A mandatory professional development training course shall be first taken by a certified peace officer in the training year following its approval by the council and biennially thereafter. A certified peace officer shall be required to take these courses no more than two (2) times in eight (8) years.
- (3) The council shall promulgate administrative regulations in accordance with KRS Chapter 13A to establish mandatory basic training and professional development training courses.
- (4) The council shall make an annual report by December 31 each year to the Legislative Research Commission that details the subjects and content of mandatory professional development training courses established during the past year and the subjects under consideration for future mandatory training.

Effective: June 20, 2005

History: Created 2005 Ky. Acts ch. 132, sec. 11, effective June 20, 2005.



Appendix B: State Hate Crime Statutory Provisions



Comparison of Hate Crime Statutory Provisions, Kentucky and Nationally, 2008

Statutory Provision	Kentucky	National Count
Bias-Motivated Violence and Intimidation- Criminal Penalty¹	√	46
Civil Action		32
Race, Religion, Ethnicity	√	45
Sexual Orientation	√	31
Gender		27
Disability		31
Other²		20
Institutional Vandalism	√	43
Data Collection³	√	28
Training for Law Enforcement Personnel⁴	√	14

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

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

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

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

⁴ Some other states have administrative regulations mandating such training.

Source:
Anti-Defamation League.



Comparison of Hate Crime Statutory Provisions, Kentucky and Surrounding States, 2008

Statutory Provision	KY	IL	IN	MO	OH	TN	VA	WV
Bias-Motivated Violence and Intimidation- Criminal Penalty¹	√	√		√	√	√	√	√
Civil Action		√		√	√	√	√	
Race, Religion, Ethnicity	√	√		√	√	√	√	√
Sexual Orientation	√	√		√		√		
Gender		√		√		√		√
Disability		√		√		√		
Other²				√				√
Institutional Vandalism	√	√	√	√	√	√	√	
Data Collection³	√	√					√	
Training for Law Enforcement Personnel⁴	√	√						

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

² “Other” includes political affiliation (WV) and age.

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

⁴ Some other states have administrative regulations mandating such training.

Source:
Anti-Defamation League.



State Hate Crime Statutory Provisions, 2008

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		√	√		√		√	√				√		√		√			√	√	
Disability	√	√	√		√	√	√	√	√	√		√		√		√	√		√	√	
Other²					√	√	√	√		√		√				√	√		√	√	√
Institutional Vandalism	√		√	√	√	√	√	√	√	√	√	√	√	√	√		√	√	√	√	√
Data Collection³			√		√		√	√		√		√	√	√		√		√	√	√	√
Training for Law Enforcement Personnel⁴			√		√		√							√		√		√	√		



State Hate Crime Statutory Provisions, 2008, cont.

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		√	√	√	√		√		√	√	√	√	√	√					√	
Disability	√		√		√		√	√	√	√	√	√				√			√	
Other²			√		√		√			√	√	√					√			
Institutional Vandalism	√	√	√	√	√	√	√	√		√	√	√	√		√	√	√	√	√	√
Data Collection³	√	√	√				√	√		√	√					√	√	√	√	
Training for Law Enforcement Personnel⁴	√		√							√	√						√		√	



State Hate Crime Statutory Provisions, 2008, cont.

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		√	√		√		√	√		
Disability		√	√		√		√		√	
Other²					√			√		
Institutional Vandalism	√	√	√			√	√		√	
Data Collection³			√			√	√	√		
Training for Law Enforcement Personnel⁴							√			

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.

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

Source:
Anti-Defamation League.



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